
(2021) 11 NCLT CK 0074

In the National Company Law Tribunal

Case No : Company Petition (Caa) No. 11/Ald/2021 Connected With Company Application(Caa) No. 12/Ald/2021

Rajdarbar Realty Limited Vs

Date of Decision : 24-11-2021

Acts Referred:

Companies Act, 2013 — Section 230, 231, 232, 232(1)

Citation : (2021) 11 NCLT CK 0074

Hon'ble Judges : Rajshekhar,V.K, Member (J);Virendra Kumar Gupta, Member (T)

Bench : Division Bench

Advocate : Rahul Agarwal

Final Decision : Disposed Of

Judgement

Rajasekhar V.K., Member (Judicial)

1. The petitioners filed the joint application/petition under section 230-232 and other applicable provision of the Companies Act, 2013 praying for the sanctioning of the Scheme of Amalgamation amongst Rajdarbar Realty Limited (Petitioner Company No. 1/ "Transferor Company I"); Rajdarbar Securities Private Limited (Petitioner Company No. 2/ "Transferor Company 2"); Rajdarbar Commodities Private Limited (Petitioner Company No. 3/ "Transferor Company 3"); Rajdarbar Media Limited (Petitioner Company No. 4/ "Transferor Company 4"); Rajdarbar Securities Consultant Private Limited (Petitioner Company No. 5/ "Transferor Company 5"); Rajdarbar Buildtech Private Limited (Petitioner Company No. 6/ "Transferor Company 6"); VD Infrapromoter Private Limited (Petitioner Company No. 7/ "Transferor Company 7"); Rajdarbar Pan Masala Private Limited (Petitioner Company No. 8/ "Transferor Company 8"); Rajdarbar Biotech Limited (Petitioner Company No. 9/ "Transferor Company 9"); Rajdarbar Realty Ventures Private Limited (Petitioner Company No. 10/ "Transferor Company 10") (herein thereafter collectively referred as Transferor Companies) and Raidarbar Infotech Private Limited (Petitioner Company No. 11/ "Transferee Company") and their respective shareholders and creditors (`Scheme') under section 230-232

and other applicable provision of the Companies Act 2013.

2. It may be noted here that the Transferor Companies and the Transferee Company belong to the same group of companies. The Scheme of Amalgamation has been proposed on account of the following advantages and benefits:

- a) Consolidation of the Transferor Companies with the Transferee Company would result in simplification of the holding structure.
- b) There would be Reduction in management overlaps and duplication of legal and regulatory compliances due to operation of multiple entities.
- c) The pooling of common resources resulting in reduction of administrative and other operational overheads and is also need to among optimum utilization of resources.

3. Previously, the Petitioner Companies had filed Company Application No. 12/ALD/2021 under Section 230(1) read with Section 232(1) of the Companies Act, 2013 seeking to dispense the requirement of convening the separate meetings of the Equity Shareholders and Preference Shareholders (where applicable), Secured Creditors and Unsecured Creditors of the Petitioner Companies. This Tribunal, vide its order July 13, 2021 allowed the prayer for dispensation of the meetings made in C.A. No. 12/ALD/2021.

4. On July 19, 2021, the Petitioner Companies filed the Second Motion petition being Company Petition No. 11/ALD/2021. This Tribunal, vide its order dated July 27, 2021, directed the Petitioner Companies to serve notice upon the Regional Director, Registrar of Companies Kanpur, Income Tax Authorities of the respective Petitioner Companies; and other sectoral authorities for filing their representation and also directed to effect newspaper publication in "Hindustan Times" in English Agra edition, "Business Standard" in English Delhi edition and "Dainik Jagran" in Hindi, Agra, Mathura and Noida editions where the registered office of the Petitioner Companies is situated. The Petitioner Companies complied with the directions and filed an affidavit of service on August 27, 2021.

5. In response to such notice, the Regional Director (Northern Region), Ministry of Corporate Affairs, New Delhi submitted its report by way of representation/affidavit, appending thereto the report of the Registrar of Companies, Kanpur. The Official Liquidator also submitted its affidavit. The respective assessing authorities of Income Tax Department of the Petitioner Companies have not communicated any objection to the Tribunal during the statutory period for the purpose, from which it is presumed they have no objection to the Scheme of Amalgamation.

6. The Regional Director in his report only highlighted the share transfer ratio contained in Section C Para 3 of the Scheme, and has referred to the report of the Registrar of Companies in which certain prosecutorial actions have been forwarded to the Regional Director, Northern Region. However, in paragraph 12 of the report of Regional Director, it is specifically mentioned that the applicant

companies have filed compounding applications and deposited the compounding fees, where-upon all matters have been compounded. Photocopies of the compounding orders have been enclosed as Annexure-C (collectively) to the report of the Regional Director. The Official Liquidator in his report has not pointed out anything significant against the Scheme being given effect too.

7. Upon hearing counsel for the Petitioner Companies, and in view of the report of the Official Liquidator stating therein that the Official Liquidator has no objection to the dissolution of all the transferor companies without winding up pursuant to provisions of Sections 230-232 of the Companies Act, 2013 and other applicable Sections and Rules thereunder and the report of the Regional Director, Northern Region pointing out that all offences have been compounded, this Tribunal finds that the proposed Scheme of Arrangement annexed as Annexure-A to the Company Petition is to be sanctioned. The present Petition deserves to be allowed in terms of its Prayer clause. In the result, the Scheme of Arrangement annexed as Annexure-A to the Company Petition is duly approved and sanctioned.

8. It is further declared that upon the Scheme becoming effective, the Transferor Companies shall stand dissolved without being wound up and their names shall be struck off from the records of the Registrar of Companies.

9. It is further provided that upon the Scheme being effective, the authorized share capital of the Transferee Company shall automatically stand increased by merging the authorized share capital of all the Transferor Companies with the Transferee Company and the capital clause of the Memorandum of Association of the Transferee Company shall be replaced with the following:

"The Authorized Share Capital of the Company is INR 43,97,26,000 (Rupees Forty Three Crores Ninety Seven Lakh Twenty Six Thousand only) divided into 3,84,72,600 (Three Crores Eighty Four Lakh Seventy Two Thousand Six Hundred only) Equity Shares of INR 10 (Rupees Ten only) and 55,00,000 (Fifty Five Lakh only) Preferences Shares of INR 10 (Rupees Ten only) with power to increase, reduce and subdivide the Share Capital of the Compounded to divide the same into various classes of shares and attach thereto such preferential deferred, special rights and privileges as may be determined by the company in accordance with the provisions of the Companies Act, 2013 (or any statutory enactments thereof)."

10. Leave to be granted to the Petitioner Companies to file the Schedule of Assets within three weeks from today. The Petitioner Companies are further directed to cause a certified copy of this order to be delivered within 30 days from the date of its receipt to the Registrar of Companies for registration in terms of Section 230-232 of the Companies Act, 2013.

11. The Petitioner(s) shall supply legible print out of the scheme and schedule of assets in acceptable form to the Registry and the Registry will append such printout, after verification, to the certified copy of the order.

12. Urgent certified copy of this order, if applied or, be supplied to the parties, subject to compliance with all requisite formalities.
13. Company Petition (CAA) No. 11 /ALD/202 1 is disposed of accordingly.