(2020) 01 NCLT CK 0094

In the National Company Law Appellate Tribunal

Case No : Company Application (CAA) No. 181(ND) Of 2019

Sanwaria barter Pvt Ltd. And Ors. APPELLANT

Vs

Param Mitra Associates Pvt Ltd. RESPONDENT

Date of Decision : 08-01-2020

Acts Referred:
Companies Act, 2013 — Section 230, 231, 232

Citation : (2020) 01 NCLT CK 0094

Hon'ble Judges : Dr. Deepti Mukesh, J;Hemant Kumar Sarangi, Member (Technical)

Bench : Division Bench

Advocate : Videsh Vaish, M. Nhag, A.F. Faizi, Yasir Khan

Final Decision : Disposed Of

Judgement

Dr. Deepti Mukesh, J

1. The present joint application filed by, Sanwaria Barter Private Limited (""for brevity Transferor Company No. 1""), Satrishi Vinimay Private Limited

(""for brevity Transferor Company No. 2""), Greenfield Dealcom Private Limited (""for brevity Transferor Company No. 3""), Brightful Vincom Private

Limited (""for brevity Transferor Company No. 4""), Viksat Merchandise Private Limited (""for brevity Transferor Company No, 5""), Param Mitra

Assocaites Private Limited (""for brevity Transferee Company ""), under section 230-232 of Companies Act, 2013, and other applicable provisions of

the Companies Act, 2013 read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 in relation to the Scheme of

Arrangement by way of Amalgamation (hereinafter referred to as the ""SCHEME"") proposed between the applicants.

2. An affidavit in support of the above application sworn by Mr. Satyawan

Saharan on behalf of all the Applicant Companies being the authorized

representative for all the applicant companies, who has been authorized vide Board Resolutions dated 01.08,2019, by all the applicant companies, duly

filed, along with the application. It is also represented that the registered office of all the applicant companies are under the domain of Registrar of

Companies, NCT of New Delhi & Haryana and within the territorial jurisdiction of this Tribunal.

3. The Transferor Company No. 1 is a private limited company incorporated under the provisions of Companies Act, 2013 on 05th May, 2017, with

Registrar of Companies, New Delhi under the name and style of ""Sanwaria Barter Private Limited"", having CIN U51909DL2011PTC317269

registered with the Registrar of Companies, NCT of Delhi & Haryana. The registered office of the company is situated at F. No. 17, SFS Palam

Marg Basant Enclave Opposite 77, New Delhi110057. The Authorized Share Capital of the Transferor Company is Rs. 94,00,000/- and the Paid-up

Share Capital is Rs. 94,00,000/-.

4. The Transferor Company No. 2 is a private limited company in the name and style of ""Satrishi Vinimay Private Limited"", incorporated under the

provisions of Companies Act, 1956 on 5th August, 2011, vide CIN U51909DL2011PTC318106 with Registrar of Companies, NCT of Delhi &

Haryana. The registered office of the company is situated F. No. 17, SFS Palam Marg Basant Enclave Opposite 77, New Delhi-110057, The

Authorized Share Capital of the Transferor Company No. 2 is Rs. 94,00,000/- and the Paid-Up Share Capital is Rs. 94,00,000/-.

5. The Transferor Company No. 3 is a private limited company in the name and style of ""Greenfield Dealcom Private Limited"", incorporated under the

provisions of Companies Act, 1956 on 23' July, 2011, vide CIN U51909DL2011PTC317267 with Registrar of Companies, NCT of Delhi & Haryana.

The registered office of the company is situated F. No. 17, SFS Palam Marg Basant Enclave Opposite 77, New Delhi-110057. The Authorized Share

Capital of the Transferor Company No. 2 is Rs. 79,00,000/- and the Paid-Up Share Capital is Rs. 77,00,000/,

6. The Transferor Company No. 4 is a private limited company in the name and style of ""Brightful Vincom Private Limited"", incorporated under the

provisions of Companies Act, 1956 on 05thMay, 2017, vide CIN

U51909DL2011PTC317270 with Registrar of Companies, NCT of Delhi & Haryana.

The registered office of the company is situated F. No. 17, SFS Palam Marg Basant Enclave Opposite 77, New Delhi-110057. The Authorized Share

Capital of the Transferor Company No. 2 is Rs. 79,00,000/- and the Paid-Up Share Capital is Rs. 79,00,000/,

7. The Transferor Company No. 5 is a private limited company in the name and style of ""Viksat Merchandise Private Limited"", incorporated under the

provisions of Companies Act, 1956 on 01 th August, 2011, vide CIN U51909DL2011PTC318115 with Registrar of Companies, NCT of Delhi &

Haryana. The registered office of the company is situated F. No. 43, SFS Palam Marg Basant Enclave Opposite 77, New Delhi-110057. The

Authorized Share Capital of the Transferor Company No. 2 is Rs. 105,00,000/- and the Paid-Up Share Capital is Rs. 105,00,000/,

8. The Transferee Company is a private limited company in the name and style of ""Param Mitra Assocaites Private Limited"", incorporated under the

provisions of Companies Act, 1956 on 13thAugust, 2011, vide CIN U74140DL2011PTC217453 with Registrar of Companies, NCT of Delhi &

Haryana. The registered office of the company is situated 129, Transport Center, Rohtak Road, Punjabi Bagh, New Delhi-110035. The Authorized

Share Capital of the Transferor Company No. 2 is Rs. 10,00,000/- and the Paid-Up Share Capital is Rs. 5,00,000/,

9. All the applicants have filed their respective Memoranda and Articles of Association inter alia delineating their object clauses, as well as their last

Audited Annual Accounts for the year ended 31.03.2019.

10. The Board of Directors of all the Applicant companies, vide meetings held on 01.08.2019, have unanimously approved the proposed Scheme of

Amalgamation as contemplated above. Copies of resolutions passed of all the applicant companies in their respective board meetings have been

placed on record.

11. It is stated that the Transferor Company No. 1 is having four equity Shareholders, Certificate from Chartered Accountants certifying list of

shareholders is annexed and all of them have given their respective consents by way of affidavits which are annexed to the application. It is further

represented that the Company has NIL Secured Creditors and NIL Unsecured Creditors, Certificate from Chartered Accountants certifying list of creditors is annexed. In relation to the shareholders of the Company, it seeks for dispensing with holding/convening of the meetings as consent

affidavits are placed on record. Since there are no Secured Creditors and no Unsecured Creditors, therefore the necessity of convening and holding a

meeting does not arise.

12. In respect to Transferor Company No. 2 it is stated that the company is having three Shareholders, Certificate from Chartered Accountants

certifying list of shareholders is annexed and all of them have given their respective consents by way of affidavits which are annexed to the

application. It is further represented that the Company has NIL Secured Creditors and NIL Unsecured Creditors, Certificate from Chartered

Accountants certifying list of creditors is annexed. In relation to the shareholders of the Company, it seeks for dispensing with holding/convening of

the meetings as consent affidavits are placed on record. Since there are no Secured Creditors and no Unsecured Creditors, therefore the necessity of

convening and holding a meeting does not arise.

13. It is stated that the Transferor Company No. 3 is having three equity Shareholders, Certificate from Chartered Accountants certifying list of

shareholders is annexed and all of them have given their respective consents by way of affidavits which are annexed to the application. It is further

represented that the Company has NIL Secured Creditors and NIL Unsecured Creditors, Certificate from Chartered Accountants certifying list of

creditors is annexed. In relation to the shareholders of the Company, it seeks for dispensing with holding/convening of the meetings as consent

affidavits are placed on record. Since there are no Secured Creditors and no Unsecured Creditors, therefore the necessity of convening and holding a

meeting does not arise.

14. It is stated that the Transferor Company No. 4 is having four equity Shareholders, Certificate from Chartered Accountants certifying list of

shareholders is annexed and all of them have given their respective consents by way of affidavits which are annexed to, the application. It is further

represented that the Company has NIL Secured Creditors and one Unsecured Creditor, Certificate from Chartered Accountants certifying list of

creditors is annexed. The sole Unsecured Creditor has given its consent by way of affidavit which is annexed to the application. In relation to the shareholders and unsecured creditors of the Company, it seeks for dispensing with holding/convening of the meetings as consent affidavits are placed

on record. Since there are no Secured Creditors, therefore the necessity of convening and holding a meeting does not arise.

15. It is stated that the Transferor Company No. 5 is having two equity Shareholders, Certificate from Chartered Accountants certifying list of

shareholders is annexed and both of them have given their respective consents by way of affidavits which are annexed to the application. It is further

represented that the Company has NIL Secured Creditors and one Unsecured Creditor, Certificate from Chartered Accountants certifying list of

creditors is annexed. The sole Unsecured Creditor has given its consent by way of affidavit which is annexed to the application. In relation to the

shareholders and unsecured creditors of the Company, it seeks for dispensing with holding/convening of the meetings as consent affidavits are placed

on record. Since there are no Secured Creditors, therefore the necessity of convening and holding a meeting does not arise.

16. It is stated that the Transferee Company is having six equity Shareholders, Certificate from Chartered Accountants certifying list of shareholders

is annexed and all of them have given their respective consents by way of affidavits which are annexed to the application. It is further represented

that the Company has NIL Secured Creditors and one Unsecured Creditor, Certificate from Chartered Accountants certifying list of creditors is

annexed. The sole Unsecured Creditor has given its consent by way of affidavit which is annexed to the application. In relation to the shareholders

and unsecured creditors of the Company, it seeks for dispensing with holding/ convening of the meetings as consent affidavits are placed on record.

Since there are no Secured Creditors, therefore the necessity of convening and holding a meeting does not arise.

17. The appointed date as specified in the Scheme is 01st April, 2019 subject to the directions of this Tribunal.

18. Taking into consideration the submissions and the documents on record, we propose to issue the following directions with respect to calling,

convening and holding of the meetings of the Shareholders, Secured and Unsecured Creditors or dispensing with the same as well as issue of notices

including by way of paper publication as follows: -

A) In relation to the Transferor Company No. 1:

(1) With respect to Equity shareholders:

In view of consent affidavits, from all four equity shareholders having 100% voting share of the company, convening the meeting of

shareholders/members is dispensed with.

(ii) With respect to Secured Creditors:

There are no Secured Creditors, therefore the necessity of convening and holding a meeting does not arise.

iii) With respect to Unsecured Creditors:

There are no Unsecured Creditors, therefore the necessity of convening and holding a meeting does not arise.

B) In relation to Transferor Company No. 2:

(i) With respect to Equity shareholders:

In view of consent affidavits, from all three equity shareholders having 100% voting share of the company, convening the meeting of

shareholders/members is dispensed with.

(ii) With respect to Secured Creditors:

There are no Secured Creditors, therefore the necessity of convening and holding a meeting does not arise.

(iii) With respect to Unsecured Creditors:

There are no Unsecured Creditors, therefore the necessity of convening and holding a meeting does not arise.

C) In relation to Transferor Company No. 3:

(iv) With respect to Equity shareholders:

In view of consent affidavits, from all three equity shareholders having 100% voting share of the company, convening the meeting of

shareholders/members is dispensed with.

(v) With respect to Secured Creditors:

There are no Secured Creditors, therefore the necessity of convening and holding a meeting does not arise.

(vi) With respect to Unsecured Creditors:

There are no Unsecured Creditors, therefore the necessity of convening and holding a meeting does not arise.

D) In relation to Transferor Company No. 4:

(vii) With respect to Equity shareholders:

In view of consent affidavits, from all four equity shareholders having 100% voting share of the company, convening the meeting of

shareholders/members is dispensed with.

(viii) With respect to Secured Creditors:

There are no Secured Creditors, therefore the necessity of convening and holding a meeting does not arise.

(ix) With respect to Unsecured Creditors:

In view of consent affidavits, from the sole unsecured creditor having 100% voting share of the company, convening the meeting of

shareholders/members is dispensed with.

E) In relation to Transferor Company No. 5:

(x) With respect to Equity shareholders:

In view of consent affidavits, from both the equity shareholders having 100% voting share of the company, convening the meeting of

shareholders/members is dispensed with.

(xi) With respect to Secured Creditors:

There are no Secured Creditors, therefore the necessity of convening and holding a meeting does not arise.

(xii) With respect to Unsecured Creditors:

In view of consent affidavits, from the sole unsecured creditor having 100% voting share of the company, convening the meeting of

shareholders/members is dispensed with.

F) In relation to Transferee Company:

(xiii) With respect to Equity shareholders:

In view of consent affidavits, from all six equity shareholders having 100% voting share of the company, convening the meeting of

shareholders/members is dispensed with.

(xiv) With respect to Secured Creditors:

There are no Secured Creditors, therefore the necessity of convening and holding a meeting does not arise.

(xv) With respect to Unsecured Creditors:

In view of consent affidavits, from the sole unsecured creditor having 100% voting share of the company, convening the meeting of

shareholders/members is dispensed with.

Notice of this application shall also be served on the Regional Director, Ministry of Corporate Affairs, B-2 Wing, 2 Floor, Paryawaran Bhavan, CGO

Complex, New Delhi-110003; Registrar of Companies at 4 floor, IFCI Tower, 61, Nehru Place, New Delhi-110019; Official Liquidator, Lok Nayak

Bhavan, 8 Floor, Khan Market, New Delhi-110001; Income Tax Department, Nodal Office -DCIT (High Court Cell), Room No. 428 & 429, Lawyer's

Chamber's, Block No. 1, Delhi High Court, New Delhi, The notices to Income Tax Authorities shall disclose sufficient details like PAN card numbers,

ward numbers and assessing officers so that timely and proper reply may be filed.

The application stands allowed on the aforesaid terms. Let the petition for approval of the scheme of arrangement be filed within a period of seven

days from the date of this order.