

(2021) 12 NCLT CK 0065

In the National Company Law Tribunal

Case No : Company Petition (CAA) No. 12 (PB) Of 2021

?Schablona India Ltd Vs

Date of Decision : 24-12-2021

Acts Referred:

Companies Act, 2013 — Section 133, 230, 232

Citation : (2021) 12 NCLT CK 0065

Hon'ble Judges : Bhaskara Pantula Mohan, Member (J); Hemant Kumar Sarangi, Member (T)

Bench : Division Bench

Advocate : Rajeev K Goel, Shankari Mishra

Final Decision : Disposed Of

Judgement

Bhaskara Pantula Mohan Member (Judicial)

1. The present Petition is filed by Petitioner Company viz., Schablona India Ltd (Transferor Company) under Sections 230 & 232 of the Companies Act, 2013 (Act, 2013) r/w the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (Rules) for the Sanction of the proposed Scheme of Amalgamation of the Petitioner Company, their respective Shareholders and Creditors (Scheme). The registered office of the Transferor Company is situated in the NCT of Delhi and is under the jurisdiction of this Tribunal.
2. It is stated that the registered office of the Transferee Company is situated in the State of West Bengal and therefore, it is under the jurisdiction of the National Company Law Tribunal, Kolkata Bench. It is stated that the Transferee Company has moved the necessary second motion Petition being CP (CAA) 95/KB/2021, connected with the first motion Application being CA (CAA) 731/KB/2020, before the National Company Law Tribunal, Kolkata Bench, Kolkata.
3. The Board of Directors of the Transferor Company on 22.08.2019 considered and unanimously approved the proposed Scheme.
4. The Transferor Company is a public Limited company listed on Bombay Stock Exchange having Company Identification Number L511 09DL 1983 PLC3 18655.

The Transferor Company is engaged in the business of manufacturing and trading of decorated tiles, transfers and stickers for decoration on ceramic articles, sanitaryware and other related activities.

5. It is stated that the Authorized, Issued, Subscribed and Paid up share Capital of the Transferor Company as per provisional Financial Statements for the period ended 30.09.2020 is as under:

Sl No.

Company

Authorised Share Capital

Issued, Subscribed and Paid-up Share Capital

1.

Transferor Company

Rs. 5,00,00,000 divided into 50,00,000 equity shares of Rs 10 each.

Rs 1,26,36,860 divided into 31,59,215 equity shares of Rs 4 each, fully paid.

The Rationale of the proposed Scheme of Amalgamation is elaborately described in the present Company Petition which may be summarized as under:

a. Both the Transferor and Transferee Companies are under common control and it would be advantageous to combine the activities and operations in a single Company and to build strong capability to effectively meet future challenges in competitive business environment.

b. The proposed Amalgamation would result in business synergy, pooling of physical, financial and human resource of these Companies for the most beneficial utilization of these factors in the combined entity.

c. The proposed amalgamation will enable the integration of the business activities of the Transferor Company with the Transferee Company

d. The proposed Scheme of Amalgamation will allow the Transferee Company to leverage these strengths in order to maximize the value creation.

e. The proposed Scheme of Amalgamation will result in usual economies of a centralized and a large company including elimination of duplicate work, reduction in overheads, better and more productive utilization of financial, human and other resource and enhancement of overall business efficiency. The proposed Scheme will enable these Companies to combine their managerial and operating strength, to build a wider capital and financial base and to promote and secure overall growth.

f. The amalgamation will result in significant reduction in multiplicity of legal and regulatory compliances which at present is required to be made separately by

the Transferee Company as well as by the Transferor Company.

g. The proposed amalgamation would enhance the Equity Shareholders' value of the Transferor and the Transferee Companies.

h. The proposed Scheme of Amalgamation will have beneficial impact on the Transferor and the Transferee Companies, their Equity Shareholders, employees and other stakeholders and all concerned.

7. It is stated by the Petitioner Companies that there are no pending proceedings for inspection, inquiry or investigation under the provisions of the Act, 2013 or under the provisions of Companies Act, 1956.

8. The Transferor Company has stated that the accounting treatment proposed in the Scheme of Amalgamation is in conformity with the accounting standards prescribed under Section 133 of the Companies Act, 2013. The Certificates from the respective Statutory Auditors of the Transferor Company and of the Non-Petitioner Transferee Company are annexed and collectively marked as Annexure P-8.

9. It is also submitted that the Board of Directors of the Petitioner Transferor Company has determined the share exchange ratio as under:

The Transferee Company viz., Somany Ceramics Ltd will issue 3 (three) Equity Shares of Rs. 2 each, credited as fully paid up, for every 100 (one hundred) Equity Shares of Rs. 4 each held in the Transferor Company viz., Schablona India Ltd.

10. The Petitioner Company has also annexed the valuation report dated 22.08.2019, issued by Mr. Vardhman Doogar, Chartered Accountant and Valuer registered with the Insolvency and Bankruptcy Board of India in respect of Securities or Financial Assets, in relation to the share exchange ratio.

11. As per records this Tribunal vide its Order dated 14.10.2020 r/w Order dated 05.11.2020 directed to convene separate meetings of Equity Shareholders, Secured Creditors and Un-secured Creditors of the Transferor Company, through video conferencing with facility of remote e-voting. Meetings were convened and held through Video Conferencing, on Monday, 28.12.2020, as per the following schedule:

Sl. No.

Particulars

Time

1.

Equity Shareholders

2:00 P.M.

2.

Secured Creditors

3:00 P.M.

3.

Un-secured Creditors

4:00 P.M.

12. The Scheme was approved unanimously by the Equity Shareholders, Secured Creditors and Un-secured Creditors of the Transferor Company, without any modifications. The common Chairperson appointed for the meetings has filed his reports dated 29.12.2020 which are annexed as Exhibit No. 1, 2 and 3 to the Petition.

13. This Tribunal vide its Order dated 26.02.2021 directed to issue notice of hearing in respect of present Company Petition to the Statutory Authorities and also to make paper publication in this respect in "Business Standard" (English and Hindi, Delhi Edition).

14. In compliance thereof, the Petitioner Company has filed Affidavit of service and publication, dated 02.04.2021, confirming that notices, have been duly published in "Business Standard" (English, Delhi Edition) and "Business Standard" (Hindi, Delhi Edition). The Petitioner Company has also served notice of the Company Petition to (a) the Central Government through the office of the Regional Director (Northern Region), Ministry of Corporate Affairs, New Delhi on 08.03.2021; (b) the Registrar of Companies, New Delhi on 08.03.2021; (c) the Official Liquidator, New Delhi on; (d) the Income Tax Department on 10.03.2021; (e) Securities and Exchange Board of India on 08.03.2021 (f) Bombay Stock Exchange Limited, Mumbai on 08.03.2021 (g) National Stock Exchange of India Limited, Mumbai on 08.03.2021.

15. In response to the above stated notice, the Regional Director has filed its report in the form of an affidavit dated 15.09.2021, along with the report of the Registrar of Companies wherein no objection has been raised against the Scheme of Amalgamation.

16. The Official Liquidator has also filed its report and stated that no complaint has been received against the proposed Scheme from any person/party interested in the Scheme in any manner and that the report is based on the documents submitted by the Petitioner Company. It is also stated that the affairs of the Transferee Company does not appear to have been conducted in a manner prejudicial to the interest of its members or to public interest as per the provisions of the Act, 2013 or Companies Act, 1956.

17. The Income Tax Department has also filed its report. It is stated that the Transferor Company has paid all its dues and no demand lies outstanding.

18. The Petitioner Company has filed the observation letter issued by the Bombay Stock Exchange, Mumbai and National Stock Exchange of India Limited dated 22.04.2020 wherein no adverse observations have been made.

19. On perusing the reports, it is observed that the sanction of the present Scheme is not against public policy, nor would it be prejudicial to the public interest at large.

20. The Petitioner Company is required to act upon as per terms and condition of the sanctioned Scheme and the same to be binding on its Shareholders, Secured Creditors and Un-secured Creditors of the above named Petitioner Company and also on the Petitioner Company with effect from the appointed date, i.e., 01.04.2019.

21. While approving the Scheme as above, it is clarified that this Order should not be construed as, in any way, granting exemption from payment of stamp duty (if any is applicable), taxes (including Income Tax, GST or any other taxes/charges, if any are applicable) and payment in accordance with law or in respect to any permission/compliance with any other requirement which may be specifically required under any law. The Transferor Company shall stand dissolved without undergoing the process of winding up.

22. The Petitioner Company shall within thirty days of the date of the receipt of this Order, file a certified copy of this Order with the Registrar of Companies.

23. Any person interested shall be at liberty to apply before this Tribunal in the above matter for such directions as may be necessary.

24. Accordingly, the Scheme stands sanctioned and CP (CAA)-12 (PB) of 2021 stands disposed of.