(2021) 12 NCLT CK 0066

In the National Company Law Tribunal

Case No : Company Petition (CAA) 25 (PB) Of 2021 Connected With Company Application (CAA) 125(PB) Of 2020

?Slocum Healthcare Private Limited Vs

Date of Decision : 24-12-2021

Acts Referred:
Companies Act, 2013 — Section 133, 230, 232

Citation : (2021) 12 NCLT CK 0066

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

Bench : Division Bench

Advocate : Rajeev Kumar, V.G. Sathiyamoorthy, Satya Pal Singh

Final Decision : Disposed Of

Judgement

Bhaskara Pantula Mohan, Member (Judicial)

1. Under consideration is Company Petition (CAA) 25 (PB)/2021 filed under Sections 230 to 232, of the Companies Act, 2013 ("the Act, 2013"), read with the Companies (Compromises, Arrangements 86 Amalgamations) Rules, 2016 (Rules, 2016). The purpose of the Company Petition is to obtain sanction of the Scheme of Amalgamation between Slocum Healthcare Private Limited (Transferor Company-1), HCL Investments and Finance Private Limited (Transferor Company-2), Vama Sundari Investments (Delhi) Private Limited (Transferee Company) and their respective shareholders and creditors.

2. The Transferor Company-1 is a private company limited by shares having its registered office at 44, Friends Colony (East), New Delhi-110065. The Transferor Company-1 is engaged in the business of family healthcare centers to provide medical relief to public in all branches of medical science including but not limited to diagnosis of various diseases.

3. The Transferor Company-2 is a private company limited by shares having its registered office at 44, Friends Colony (East), New Delhi-110065. The Transferor Company-2 is engaged in business as an investment company.

4. The Transferee Company 1 is a private company limited by shares having its registered office at CP-2, Sector 8, IMT Manesar, Haryana-122051 and therefore, falls within the jurisdiction of NCLT, Chandigarh Bench. The Transferee Company is engaged in the business of investment activity.

5. The details of the Petitioner Companies as stated including the Authorized, Subscribed and Paid-up Share Capital as per the last Audited Balance Sheet as on 31.03.2020 is as under:

Sl.

No

Company

Date of Incorporation

Company Identification Number

Authorised Share Capital

Subscribe, Issued and

Paid-up

Share

Capital

1.

Slocum Healthcare

Private

Limited

03.05.2013

U851 90DL

2013 PTC2

51598

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

Rs 3,01,00,000 divided into 30,10,000 equity

shares of Rs 10 each

2.

HCL Investments and

Finance Private Limited

12.09.2008

U659 20DL

2008 PTC1

83201

Rs 3,00,00,000 divided into 30,00,000 equity shares of Rs 10 each

Rs 2,51,00,000 divided into 25,10,000 equity shares of Rs

10 each.

6. It is stated that the Transferor Companies are wholly owned subsidiaries of the Transferee Company. The advantages of amalgamation are that (a) it would result in simplification of the corporate structure and reduction of shareholding tiers and (b) it would also result in overall reduction in administrative, managerial and other expenditure, operational rationalization, organizational efficiency and optimum utilization of various resources.

7. This Tribunal, vide its order dated 08.01.2021 disposed of the CA (CAA)-125(PB)/2020) and inter alia, dispensed with the meetings of the Equity Shareholders and Unsecured Creditors of the Transferor Companies. This Tribunal had further directed the Petitioner Companies to issue individual notices to the Statutory Authorities and the notices were accordingly issued.

8. The Regional Director has filed an affidavit and observed that with reference to Clause 17 of the Scheme, the Transferee Company needs to comply with Section 232(3) (i) of the Act, 2013 and pay the difference fee on consolidated authorized share capital of the Transferee Company after setting off the fee already paid by the Transferor Companies on their respective authorized share capital. It is further stated that no prosecution has been filed and no inspection or investigation has been conducted in respect of the petitioner Companies. The Petitioner Companies replied on 18.06.2021 to the observations made by the Regional Director.

9. The Official Liquidator filed its report on 10.03.2021, wherein, it is stated (in paragraph 15) that no complaint has been received against the proposed Scheme of Amalgamation of the Petitioner Companies, from any person/party interested in the Scheme, in any manner till the date of filing of this report. It has been further submitted in the said report (in paragraph 16) that on the basis of the information submitted by the Petitioner Companies, it is of the view that the affairs of the Petitioner Companies do not appear to have been conducted in a manner prejudicial to the interest of its members or to public interest.

10. As seen from records the Income Tax Department (IT Dept) has not filed any report however, in order to protect the interest of the Revenue, it is clarified that there shall be no limitation on the power of the IT Dept for recovery of

pending IT dues, including imposition of penalties etc. as provided in law. The Scheme [clause 14.1 at pg 37] provides for the treatment of taxes.

11. The Certificates of the respective statutory auditors of the Petitioner Companies have been placed on record, to the effect that the accounting treatment provided for in the Scheme, is in conformity with applicable accounting standards notified under Section 133 of the Act, 2013.

12. The appointed date of the Scheme is 01.04.2020 (pg 29 of the petition).

13. In view of the foregoing, there appears to be no impediment in sanctioning the Scheme, which appears to be fair and reasonable and not contrary to public policy or violative of any provisions of law. All the statutory requirements of Sections 230-232 of the Act, 2013 appear to have been complied with. Taking into consideration the above facts, the Company Petition is hereby allowed, and the Scheme annexed with the Petition is hereby sanctioned.

14. While approving the Scheme as above, we further clarify that this order should not be construed as an order in any way granting exemption from payment of stamp duty, taxes or any other charges, if any, 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. Further, the Petitioner Companies shall be bound to comply with the statutory requirements in accordance with law.

15. The Petitioner Companies shall be at liberty to apply to this Tribunal for any directions that may be necessary in the above matter.

16. The Petitioners shall, however, remain bound to comply with the statutory requirements in accordance with law.

17. Notwithstanding the above, if there is any deficiency found or, violation committed qua any enactment, statutory rule or regulation, the sanction granted by this court to the Scheme will not come in the way of action being taken, albeit, in accordance with law, against the concerned persons, directors and officials of the Petitioner Companies.

18. The Petitioner Companies shall file the certified copy of this Order with the Registrar of Companies within 30 days of the receipt of the order.

19. The Order of sanction to this Scheme shall be prepared by the Registry as per the relevant format provided under the Rules, 2016.

20. Accordingly, the Scheme stands sanctioned and CP (CAA) -25 (PB)/ 2021 stands disposed of.