

(2012) 08 DEL CK 0489

In the Delhi High Court

Case No : Co. Application (M) 125 of 2012

Tecpro Trema Ltd. and Tecpro Systems Limited

APPELLANT

Vs

Ambika Projects (India) Private Limited

RESPONDENT

Date of Decision : 08-08-2012

Acts Referred:

Companies Act, 1956 — Section 235, 236, 237, 238, 239

Citation : (2012) 08 DEL CK 0489

Hon'ble Judges : Indermeet Kaur, J

Bench : Single Bench

Advocate : Amit Goel, for the Appellant;

Final Decision : Allowed

Judgement

Hon"ble Ms. Justice Indermeet Kaur

1. This is a first motion joint Application under sections 391 & 394 of the Companies Act, 1956 (for short "the Act") in connection with the Scheme of Amalgamation (for short "the Scheme") of Tecpro Trema Limited and Ambika Projects (India) Private limited (hereinafter referred to as "Transferor Companies") with Tecpro Systems Limited (hereinafter referred to as "Transferee Company"). A copy of the proposed Scheme of Amalgamation has been filed as Annexure A- 9 along with the present Application. In this Application, details with regard to date of incorporation of Transferor Company No. 1 and Transferee Company, their authorized, issued, subscribed and paid up capital have been stated. The registered offices of the Transferor Company No. 1 and Transferee Company are situated within the National Capital Territory of Delhi. Since the Registered Office of the Transferee Company is situated in Chennai, it has been stated in the Application that the Transferor Company No. 2 is in the process of moving a separate application before the Chennai High Court.

2. Along with the Application, the Transferor Company No. 1 and Transferee Company have enclosed copies of their Memorandum and Articles of Association

as well as the latest audited Balance Sheet as on 31st March, 2011 and 31st March 2012.

3. The counsel for the Applicant Companies submits that no proceedings u/s 235 to 251 of the Act is pending against any of the Applicant Companies as on the date of the present Application.

4. The proposed Scheme has been approved by the Board of Directors of both the Applicant Companies. Copies of the Board Resolutions have been filed along with the Application.

5. The status of the Shareholders, Secured and Un-secured Creditors of the Transferor and Transferee Companies and the consents given for the proposed scheme is clearly apparent from the chart given below:

Company

No. of Shareholders

Consents Given

No. of Secured Creditors

Consents Given

No. of Unsecured Creditors

Consents Given

Transferor Company No. 1

7

All

Nil

N.A.

18

No

Transferee Company

28334

No

13

7 comprising 53.8 % in number and 81.65 % in value

2907

No

6. A prayer has been made for dispensation of the requirement of convening meetings of Shareholders of the Transferor Company No. 1 and the Secured Creditors of Transferee Company.

7. In view of the written consents/NOC given by all the Shareholders of the Transferor Company No. 1, the requirement of convening meeting of Shareholders of the Transferor Company No. 1 is dispensed with.

8. Since the Transferor Company No. 1 does not have any secured creditors, the question of convening meeting of Secured Creditors of the Transferor Company No. 1 does not arise.

9. The Transferor Company No.1 has 18 Unsecured Creditors. Consent has not been given by them. A prayer has been made for convening the meeting of the Unsecured Creditors. Consequently, I direct that a meeting of the Unsecured Creditors of the Transferor Company No.1 shall be held on 22nd September 2012 at 11.00 A.M. at Dr. Sarvepalli Radhakrishnan Auditorium, Kendriya Vidyalaya No. 2, APS Colony, Delhi Cantt., Delhi 110010.

10. Mr.V.P.Vaish, Officer of this Court, Cell No. 9910384604 is appointed as the Chairman and Mr.Kanwal Chaudhary, Advocate, Cell No. 9810050567 is appointed as the Alternate Chairman for the meeting of Unsecured Creditors of the Transferor Company No. 1. They would be paid a fee of Rs.50,000/- each. Mr.Balraj, Cell No. 8750000562 and Ms.Asha Rani, Cell No. 9811610345 shall provide secretarial assistance to the Chairman and the Alternate Chairman. They shall be paid a fee of Rs.10,000/- each for this purpose.

11. The Transferee Company has 28334 Shareholders, and none of them have given their No Objection to the Scheme of Amalgamation. Therefore, a prayer has been made for convening the meeting of the Shareholders. Consequently, I direct that a meeting of the Shareholders of the Transferee Company shall be held on 22nd September 2012 at 1.00 P.M. at Dr. Sarvepalli Radhakrishnan Auditorium, Kendriya Vidyalaya No. 2, APS Colony, Delhi Cantt., Delhi 110010.

12. Mr.Neeraj Gupta, Officer of this Court, Cell No. 9910384632 is appointed as the Chairman and Mr.Mayank Goel, Advocate, Cell No. 9810329623 is appointed as the Alternate Chairman for the meeting of Shareholders of the Transferee Company. They would be paid a fee of Rs.50,000/- each. Mr.Om Prakash Dwivedi, Cell No. 9911668058 and Mr. R.S. Negi, Cell No. 9971856058 shall provide secretarial assistance to the Chairman and the Alternate Chairman. They shall be paid a fee of Rs.10,000/- each for this purpose.

13. The Transferee Company has 13 Secured Creditors and out of the same 7 Secured Creditors comprising 53.8 % in number and 81.65 % in value have given their consent to the Scheme. In view of the written consents/NOC given by Secured Creditors comprising 53.8 % in number and 81.65 % in value of the Transferee Company, the requirement of convening meeting of Secured Creditors of the Transferee Company is dispensed with.

14. The Transferee Company has 2907 Unsecured Creditors, and none of them have given their No Objection to the Scheme of Amalgamation. Therefore, a prayer has been made for convening the meeting of the Unsecured Creditors. Consequently, I direct that a meeting of the Unsecured Creditors of the Transferee Company shall be held on 22nd September 2012 at 3.00 P.M. at Dr. Sarvepalli Radhakrishnan Auditorium, Kendriya Vidyalaya No. 2, APS Colony, Delhi Cantt., Delhi 110010.

15. Mr.P.K.Saxena, Officer of this Court, Cell No. 9910384668 is appointed as the Chairman and Ms.Payal Juneja, Advocate, Cell No. 9810650004 is appointed as the Alternate Chairman for the meeting of Unsecured Creditors of the Transferee Company. They would be paid a fee of Rs.50,000/- each. Mr.Ganga Rawat, Cell No. 9899974554 and Ms.Sujata Thapa, Cell No. 9958830336 shall provide secretarial assistance to the Chairman and the Alternate Chairman. They shall be paid a fee of Rs.10,000/- each for this purpose.

16. The Transferor and Transferee Companies are also directed to publish advance notice of the aforesaid proposed meetings in "The Business Standard" (English) and "Jansatta" (Hindi). The advertisements shall be published minimum three weeks in advance before the scheduled date of meeting.

17. The individual notices of the proposed meetings would be sent by post minimum three weeks in advance before the scheduled date of meeting.

18. The quorum of the meetings of the Unsecured Creditors of the Transferor Company and Shareholders, and Unsecured Creditors of the Transferee Company is fixed as follows:

Company

Shareholders

Secured Creditors

Un-Secured Creditors

No.

%

No.

%

No.

%

Transferor Company No. 1

-

-

-

-

5

15

Transferee Company

300

15

-

-

25

15

19. It is also directed that if the Quorum is not present in the meetings, the meetings would be adjourned for 30 minutes and the persons present in the meetings would be treated as proper quorum.

20. The voting by proxy is permitted provided that the proxy in the prescribed form and duly signed by the person entitled to attend and vote at the aforesaid meetings or by his authorised representative, is filed with the Company at its registered office, not later than 48 hours before the said meetings.

21. The Chairman/Alternate Chairman shall file his report within 2 weeks of the conclusion of the meetings. The Application stands allowed in the aforesaid terms.

Order Dasti.