

(1996) 01 AP CK 0012

In the Andhra Pradesh High Court

Case No : Company Petitions No's. 41 and 42 of 1995

Winfield Agro Services Pvt. Ltd.

Date of Decision : 25-01-1996

Acts Referred:

Companies Act, 1956 — Section 391

Citation : (1996) 2 ALT 309 : (1996) 86 CompCas 587(1)

Hon'ble Judges : G. Bikshapathy, J

Bench : Single Bench

Advocate : P. Innaiah Reddy, for The Central Government, S. Ravi and A. Sanjay Kishore, for the Appellant;

Judgement

G. Bikshapathy, J.—These two petitions are filed by the transferor-company and the transferee-company seeking sanction for the scheme of arrangement for amalgamation.

2. C. P. No. 41 of 1995 is filed by Winfield Agro Services Pvt. Ltd., Vijayawada (transferor-company), for which is being amalgamated with Hindustan Antipests Pvt. Ltd. (transferee-company). C. P. No. 42 of 1995 has been filed by the transferee-company. The transferee-company is having an object clause of that of transferor-company. It is stated that the transferor-company and the transferee-company belong to the same group of companies. The transferee-company is engaged in the business of distribution of pesticides while the transferor-company is engaged in the manufacture of pesticides. The amalgamation would result in the combined operation being carried on more advantageously, conveniently and economically and efficiently. The amalgamation is in the interest of both the companies and their respective shareholders, employees and all concerned. By an order made by this court on June 30, 1995, the transferor-company was directed to convene the meeting of the equity shareholders for considering and approving the scheme of compromise or arrangement. Sri Vemireddy Bhasker Reddy was appointed as the chairman by this court for the purpose of holding meeting. The meeting was held on July 30, 1995, and the scheme of amalgamation was approved unanimously without any

modification.

3. Similarly, as per the directions of this court dated June 30, 1995, a meeting of equity shareholders of the transferee-company was held on July 29, 1995, and Sri Harinder Pershad was appointed as the chairman for conducting the meeting. The resolution was unanimously approved. It is also submitted that no proceedings are pending u/s 235 or section 251 of the Companies Act against the transferor-company and the transferee-company.

4. The Central Government filed affidavits with two objections. It is stated under para 12(8)(ii) of the petition filed by the transferee-company provided that the authorised capital of the transferee-company is being increased in order to accommodate the allotment of the shares of the members of the transferor-company. As such the transferee-company has to take necessary steps to obtain approval of the members for increase in the authorised capital and also it is required to file Form No. V with requisite fee with the Registrar of Companies before making any allotment of shares to the members of the transferor-company in terms of the scheme. This objection is sought to be repelled by learned counsel for the transferee-company, stating that after the amalgamation the steps which are required to be taken in accordance with the provisions of the Companies Act will be taken by the transferee-company and that issue may not be a subject-matter in the present company petition. I am in agreement with the contention raised by learned counsel for the transferee-company. It is needless to mention that in the case of an increase in the authorised capital, the requirement that is contemplated under the Act has to be complied with by the transferee-company.

5. The second objection raised by the Central Government is that after giving effect to the scheme the total members of the transferee-company may exceed 50 and in which event the transferee-company would become a public company. Again, the same situation arises where it is for the transferee-company to conduct its operations within the parameters of the Act. The post-amalgamation events cannot be made a subject-matter of dispute in the present application. Therefore, the situation that may emerge with regard to the total number of members of the transferee-company is to be dealt with by the company in accordance with the Act.

6. No other objections have been raised to the scheme of amalgamation. In the circumstances, there is no reason why these applications should not be allowed.

7. Considering the facts and circumstances of the case, I sanction and confirm the scheme of arrangement for amalgamation as approved with effect from April 1, 1995. The transferor-company is directed to be dissolved without winding-up. A certified copy of this order shall be delivered to the Registrar of Companies within 30 days to take all necessary steps consequential action in respect of the dissolution of the transferor-company. A copy of the scheme of arrangement for amalgamation should be attached to this order. The parties to the scheme or any

other person interested shall be at liberty to approach this court for any direction that may be required for carrying out the scheme of arrangement for amalgamation. The petitions are ordered accordingly. No costs.