(2021) 03 NCLT CK 0030

In the National Company Law Tribunal

Case No : Company Petition (CAA) No. 1066 Of 2020 In CSA No. 144 Of 2020

Yojana Infrastructure Services Private Limited And Ors. APPELLANT

Vs

Equiptrans Logistics Private Limited RESPONDENT

Date of Decision : 26-03-2021

Acts Referred:

Companies Act, 2013 — Section 230, 231, 232
Companies (Compromises, Arrangements And Amalgamations) Rules, 2016 — Rule 16

Citation : (2021) 03 NCLT CK 0030

Hon'ble Judges : Janab Mohammed Ajmal, J;Ravikumar Duraisamy, Member (Technical)

Bench : Division Bench

Advocate : Ashish Parwani, Rajani

Final Decision : Disposed Of

Judgement

1. This is a second motion Petition in terms of sections 230 to 232 of Companies Act, 2013 (the Act) read with Rule 16 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (the Rules) and the order dated 27th April, 2020 passed in the Company Scheme Application No. 144 of 2020 by this Tribunal, seeking a date of hearing of the Company Petition as well as for issuance of direction for publication of notices in press and notice to the Regulatory Authorities. The prayer is also to fix a date of hearing of the Petition and calling for the objections, if any, to the Scheme of Merger by absorption (the Scheme) of Yojna Infrastructure Services Private Limited (the First Transferor Company), Deccan Equipment Management and Services Private Limited (the Second Transferor Company), Bhakti Earth Movers Private Limited (the Third Transferor Company), Shiv Bhakti Movers Private Limited (the Fourth Transferor Company) and Swift Lifter Private Limited (the Fifth Transferor Company) by Equiptrans Logistics Private Limited (the Transferee Company).

2. The Learned Advocate for the Petitioner Companies states that in pursuance of the directions contained in the Order dated 27th April 2020 passed by this

Hon'ble Tribunal in the Company Scheme Application No. 144 of 2020 the meeting of the Equity Shareholders of the Petitioner Companies was dispensed with in view of the consent provided by the Equity Shareholders of the Petitioner Companies. Based on the certificate given by the Statutory Auditor of the Petitioner Companies stating that the Petitioner Companies do not have any secured creditors, there was no need to convene a meeting of the secured creditors. In view of the Debenture Holders of the Petitioner Company(s) providing consent affidavits, the Tribunal dispensed with the meeting of the Debenture Holders.

3. Since the Scheme does not involve any compromise or arrangement with the creditors nor is there any diminution of their liability in any manner, the Tribunal dispensed with the meeting of the Unsecured Creditor of the Petitioner Company(s) with a direction to serve notice on the sole Unsecured Creditor.

4. The Learned Advocate for the Petitioner Companies further submits that as directed by this Tribunal notices along with copy of Scheme have been served upon the: -(i) Equity Shareholders, (ii) Unsecured Creditors, (iii) Debenture Holders, (iv) concerned Income Tax Authority with in whose jurisdiction the relevant Petitioner Company's assessments are made; (v) Central Government through the office of Regional Director, Western Region, Mumbai; (vi) Registrar of Companies and (vii) the Official Liquidator. The Company had filed an Affidavit of Service with proof of service upon the regulatory authorities. No representation objecting the Scheme has been received by the Petitioner Companies from any Regulatory Authorities or creditors.

5. We have heard the learned Advocate for the Petitioner Companies. It is hereby ordered as follows:

a. Petition admitted.

b. Petition listed for hearing and final disposal 19.04.2021.

c. At least 10 days before the date fixed for the hearing, Petitioner Company shall publish a notice of the hearing of the Petition in two local newspapers viz. "Business Standard" (English Edition) and "Navshakti" " (Marathi Edition), both having wide circulation in the State of Maharashtra, as per Rule 16 of the Rules.

d. The Petitioner Companies shall issue notices to (i) Income Tax Authority concerned (complete with PAN); (ii) The Central Government through the office of Regional Director (Western Region), Ministry of Corporate Affairs, Mumbai, and (iii) Registrar of Companies, Mumbai, informing the date fixed for hearing. All the transferee Companies shall additionally issue notice to the Official Liquidator, High Court, Bombay, informing the date fixed for hearing.

e. The Authorities concerned may file objections, if any, to the Scheme on or before the date of hearing. Failing which it will be considered that they have no objection to the approval of the Scheme under law.

f. The Petitioner Companies shall file affidavit of compliance of the order.