IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.06.2015

Coram

The Hon'ble **Mrs.Justice PUSHPA SATHYANARAYANA**

C.P.No.149 of 2015

Shasun Pharmaceuticals Limited
a Company incorporated under the Companies Act, 1956
having its Registered Office at 'Batra Centre'
3rd and 4th Floor
No.28, Sardar Patel Road
Guindy, Chennai-600 032
represented by its Company Secretary
S.Murali Krishna .. Petitioner /Transferor Company

Petition filed under Sections 391 to 394 of the Companies Act, 1956, to sanction the Scheme of Amalgamation between Shasun Pharmaceuticals Limited and Strides Arcolab Limited and their respective shareholders and creditors.

For Petitioner	:	M/s.Amarchand & Mangaldas
For Regional Director Ministry of Company Affairs, Chennai.	:	Mr.M.Gopikrishnan Additional Central Government Standing Counsel
Official Liquidator	:	Mr.Atchutha Ramaiah

O R D E R

This Company Petition is preferred under Sections 391 to 394 of the Companies Act, 1956, for sanctioning the Scheme of Amalgamation of the Transferor Company, viz., Shasun Pharmaceuticals Limited, the petitioner herein with the Transferee Company, viz., Strides Arcolab Limited, which a public limited company, incorporated under the provisions of the Companies Act, 1956 and having its registered office at 201, Devavrata Sector-17, Vashi, Navi Mumbai – 400 703, Maharastra, India, and their respective shareholders and creditors, with effect from 1st April 2015. Copy of the Memorandum and Articles of Association of the Petitioner/Transferor Company and the Copy of the Memorandum and Articles of Association of the Transferee Company are annexed as Annexure – B and Annexure -D respectively in the petition. Copy of the Scheme of Amalgamation is annexed as Annexure-G in the petition. Copy of the Amended Scheme of Amalgamation is annexed as Annexure-Q in the petition.

2. A perusal of the records shows that the petitioner has complied with the prescribed procedure. The copy of the board resolutions dated 29.09.2014 of the Board of Directors of the transferor company and the transferee company adopting the scheme of

amalgamation are enclosed as Annexures- 'H' & 'I' respectively to the petition.

3. There are 11 secured creditors to the petitioner/transferor company. As far the secured creditors of the petitioner company is concerned, this Court vide order dated 09.01.2015 made in Company Application No.34 of 2015, dispensed with the convening and holding of the meetings of the secured creditors of the petitioner/transferor company since the petitioner company has obtained consent in writing from 10 secured creditors prior to the approval of the scheme. Subsequently, the applicant company has obtained consent in writing from the remaining one secured creditor on 25.02.2015, agreeing to the scheme, which is marked as Annexure K11 to the Second Additional Index in Company Application No.34 of 2015. Thus, consent from all the secured creditors of the transferor company have been obtained.

4. This Court vide order dated 09.01.2015 in Company Application No.33 of 2015 directed the convening of the meeting of the equity shareholders of the petitioner company to consider and approve the scheme. Accordingly, the meeting of the shareholders of the petitioner company was held on 12th March 2015. The said meeting was

attended in person and by proxy by 81 equity shareholders of the petitioner company. In the said meeting 61 equity shareholders voted in favour of the scheme and 13 equity shareholders voted against the scheme and the votes of two equity shareholders was declared invalid. The Chairman's report on the meeting of the equity shareholders of the petitioner company, to that effect, is marked as Annexure-M. As per the Chairman's report, the scheme was approved by overwhelming majority.

5. On notice, the Regional Director, Ministry of Company Affairs has filed his report stating no objection for the scheme being sanctioned.

6. The Official Liquidator has also filed his report along with the report of the Chartered Accountant. The report of the Chartered Accountant states that BSE Limited and National Stock Exchange of India Limited have given their no objection to the proposed scheme vide their letters dated 10.12.2014 and 11.02 2014 respectively and the Competition Commission of India, vide its order dated 04.03.2015 has also approved the proposed scheme. The report of the Chartered Accountant further states that they have examined and audited the 'profit and loss account' and 'balance sheet' of the transferor company

and the transferee company for the past 3 years from 01.04.2012 to 31.03.2015. It is further stated that the accounts of the said transferor and transferee companies were audited by M/s. B S R Co. LLP & MS. DELOITTE HASKINS & SELLS respectively and they noticed that as per the Annexure to the financial statements, the Auditor reported a contingent liability as per AS-29 with various statutory authority as there may not be possible outflow through initiation of demand and they informed through "Management Representation Letter” that there is one industrial dispute pending in High Court vide W.P.No.18376/2013 for reinstatement of driver with back wages and they have not noticed any material for adverse comments. Further it is stated that the affairs of the transferor company have not been conducted in a manner prejudicial to the interest of its members or to public interest and they do not come across any act of misfeasance by the Directors attracting the provisions of Sections 542 and 543 of the Companies Act, 1956. It is further stated that the records maintained in the office of the Registrar of Companies were also caused to be inspected by the said Chartered Accountant and there are no materials to indicate that the affairs of the transferor company were being conducted in a manner prejudicial to the interest of its members or public interest .

7. From the perusal of Scheme filed in the Company Petition, it is seen that there is no objectionable feature in the Scheme of Amalgamation detrimental to the employees of the Transferor- Company. The said Scheme is not violative of any statutory provisions. The scheme is fair, just, sound and is not against any public policy or pubic interest. No proceedings are pending under Sections 210 to 229 of the Companies Act, 2013 or under the corresponding provisions of the erstwhile Companies Act, 1956. All the statutory provisions are complied with.

8. In the company petition, it is averred that the transferee company had filed Company Summons for Direction No.172 of 2015 before the Hon'ble High Court of Judicature at Bombay seeking directions to convene and hold the meeting of the equity shareholders of the transferee company and dispense with the convening and holding meetings of the secured and unsecured creditors of the transferee company.

9. Since the Transferee Company is situated at Mumbai, subject to the approval of the Scheme by the High Court of Mumbai, there shall be an order approving the Scheme of Amalgamation of the Transferor Company, viz., Shasun Pharmaceuticals Limited with the Transferee

Company viz., Strides Arcolab Limited and their respective shareholders and creditors, as provided in Annexure-Q (Amended Scheme of Amalgamation) in this Company Petition, with effect from 01.04.2015, as the procedure laid down under Sections 391 and 394 of the Companies Act are duly complied with. This Company Petition is allowed.

10. The learned Senior Central Government Standing Counsel is entitled to a fee of Rs.5,000/- from the Transferor- Company.

mra 16.06.2015

PUSHPA SATHYANARAYANA,J.

mra

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