HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

Company Application Nos.1390, 1391 & 1392 of 2015
Date:31.8.2015

Company Application No.1390 of 2015

Between:
M/s GAR Hotels & Estates Pvt Ltd.,
Hyderabad, reptd., by its Director-
N.Srinivas

..... Applicant/
Demerged Company

Company Application No.1391 of 2015

Between:
M/s Meera Sales Pvt Ltd.,
Hyderabad, reptd., by its Director-
Parmeshwarlal Jangid

..... Applicant/
Transferor Company

AND

Company Application No.1392 of 2015

Between:
M/s GAR Corporation Ltd.,
Hyderabad, reptd., by its Director-
N.Srinivas

..... Applicant/
Transferee Company

Counsel for the applicants: Mr. Ch.Pushyam Kiran

The Court made the following:
COMMON ORDER:

Company Application No.1390 of 2015 is filed by M/s GAR Hotels & Estates Private Limited (Demerged Company) for dispensing with the requirement of holding the meetings of its equity shareholders and unsecured creditors for considering the proposed composite scheme of arrangement and amalgamation.

Company Application No.1391 of 2015 is filed by M/s Meera Sales Private Limited (Transferor Company) for dispensing with the requirement of holding the meetings of its equity shareholders and unsecured creditors for considering the proposed composite scheme of arrangement and amalgamation.

Company Application No.1392 of 2015 is filed by M/s GAR Corporation Private Limited (Transferee Company) for dispensing with the requirement of holding the meetings of its equity shareholders and unsecured creditors for considering the proposed composite scheme of arrangement and amalgamation.

In Company Application No.1390 of 2015, the applicant averred that originally, it was incorporated under the Companies Act, 1956 (for short 'the Act') on 03.02.2003 under the name and style "M/s GAR Constructions Pvt Ltd" and later, on 07.5.2009, its name was changed as "M/s GAR Hotels & Estates Pvt Ltd"; that its authorized share capital as on 31.3.2015 is Rs.50 lakhs divided into 5,00,000 equity shares of the value of Rs.10/- each; that its issued, subscribed and paid up capital as on 31.3.2015 is Rs.11,19,000/- divided into 1,11,900 equity shares of the value of Rs.10/- each; that its main objects, as set out in the Memorandum of Association, are to establish, construct, manage and run hotels including restaurants and hotels, holiday homes, lodges, health resorts, service apartments, render hospitality services, consultancy services, etc; and that its Board of

Directors, vide its resolution, dated 24.7.2015, (filed as Annexure-A) approved the composite scheme of arrangement and amalgamation i.e., the demerger of its residuary divisions into M/s GAR Corporation Pvt Ltd (transferee company) with effect from the appointed date i.e., 01.4.2015.

The applicant has *inter alia* summarised the benefits of the proposed composite scheme of arrangement, *viz.*, (1) demerger of the demerged company's residuary units into the transferee company by stating that it would result in better and efficient utilization of resources of the demerged and transferee companies, (2) that it would result in better administrative and managerial control for the management, etc.

The applicant further averred it has three share holders, and all of them have given their Consent affidavits (filed as Annexures-F) pages-75 to 78; that it has eight unsecured creditors and all of them have given their consent letters (filed as Annexure-G, pages-79 to 92) to the proposed composite scheme of arrangement and amalgamation; and that it has no secured creditors.

The applicant further pleaded that it has 16 trade creditors to whom it owes Rs.10,06,158/- as on 31.7.2015. The applicant has undertaken to issue notices to the trade creditors to whom it owes more than Rs.1 lakh at the stage of the Company Petition. However, this Court feels that as the number of trade creditors is limited, it is desirable that the applicant shall issue notices to all the 16 trade creditors at the stage of filing the Company Petition.

The applicant has, therefore, sought for dispensing with the holding of the meeting of its equity shareholders and unsecured creditors for considering the proposed composite scheme of arrangement and amalgamation.

In Company Application No.1391 of 2015, the applicant averred that originally, it was incorporated under the Act as “M/s Meera Sales Ltd” on 21.71979 and later, on 07.4.2010, its name was changed as “M/s Meera Sales Pvt Ltd”; that its authorized share capital as on 31.3.2015 is Rs.10 lakhs divided into 10,000 equity shares of the value of Rs.100/- each; that its issued, subscribed and paid up capital as on 31.3.2015 is Rs.5 lakhs divided into 5,000 equity shares of the value of Rs.100/- each; that its main objects, as set out in the Memorandum of Association, are to carry on the business as distributors, representatives, agents, brokers, stockists, whether sole or for a particular territory of any firm, company, Government undertaking whether in India or foreign and to appoint distributors, stockists, dealers, agents, brokers, whether sole or for different territories of any goods and articles on such terms and conditions as the Company shall think fit; and that its Board of Directors, vide its resolution, dated 24.7.2015, (filed as Annexure-A) approved the composite scheme of arrangement and amalgamation i.e., amalgamation of the company with M/s GAR Corporation Pvt Ltd (transferee company) with effect from the appointed date i.e., 01.4.2015.

The applicant has *inter alia* summarised the benefits of the proposed composite scheme of arrangement, *viz.*, amalgamation into the transferee company by stating that it will lead to combined business of the transferor and transferee companies being carried on more advantageously and economically and conveniently, resulting in lower cost and increased opportunities to grow business with a marked improvement in the utilisation of resources, etc.

The applicant further averred it has two share holders, and both of them have given their Consent affidavits (filed as Annexures-F) pages-69 to 71; that it has lone unsecured creditor *viz.*, Mrs. G.Rekha Reddy, who has given her consent (filed as Annexure-G, pages-73) to the proposed composite scheme of arrangement and amalgamation; and that it has no secured creditors.

The applicant has, therefore, sought for dispensing with the holding of the meeting of its equity shareholders and lone unsecured creditor for considering the proposed composite scheme of arrangement and amalgamation.

In Company Application No.1392 of 2015, the applicant averred that it was incorporated under the Act on 31.3.2006; that its authorized share capital as on 31.3.2015 is Rs.11,75,00,000/- into 1,17,50,000 equity shares of the value of Rs.10/- each; that its issued, subscribed and paid up capital as on 31.3.2015 is Rs.4,59,41,020/- divided into 45,94,102 equity shares of the value of Rs.10/- each; that its main objects, as set out in the Memorandum of Association, are to provide all infrastructural facilities and services for setting up of information technology parks in India and abroad including providing air conditioning, false ceiling, supporting services required for information technology enabled services and the business process outsourcing, etc; and that its Board of Directors, vide its resolution, dated 24.7.2015, (filed as Annexure-A) approved the composite scheme of arrangement and amalgamation i.e., amalgamation of the transferor company with it and demerger of the residuary divisions of the demerger company into it with effect from the appointed date i.e., 01.4.2015.

In the affidavit, the applicant has *inter alia* summarised the benefits of the proposed scheme of arrangement and amalgamation, *viz*., demerger of the residuary divisions of the demerged company into it would result in better and efficient utilization of resources of both the companies and the amalgamation of the transferor company with it would lead to combined business of the transferor and transferee companies being carried on more advantageously and economically and conveniently, resulting in lower cost and increased opportunities to grow business with a marked improvement in the utilisation of resources, etc.

The applicant further averred it has three share holders, and all of them have given their Consent affidavits (filed as Annexures-F) pages-104 to 107; that it has five unsecured creditors and all of them have given their consent letters (filed as Annexure-G, page-108 to 113) to the proposed composite scheme of arrangement and amalgamation; and that it has no secured creditors.

The applicant further pleaded that it has 66 trade creditors to whom it owes Rs.1,14,30,219/- as on 31.7.2015. The applicant has undertaken to issue notices to the trade creditors to whom it owes more than Rs.1 lakh at the stage of the Company Petition.

The applicant has, therefore, sought for dispensing with the holding of the meeting of its equity shareholders and unsecured creditors for considering the proposed composite scheme of arrangement and amalgamation.

Having regard to the above facts, supported by the documentary evidence i.e., the consent letters filed by the respective equity shareholders and unsecured creditors of the applicants, whereunder they have given their consent to the composite scheme of arrangement and amalgamation, this Court is of the opinion that no purpose will be served by ordering to hold their meetings for considering the proposed composite scheme of arrangement and amalgamation.

Accordingly, in Company Application No.1390 of 2015, the holding of the meetings of the equity shareholders and unsecured creditors of the applicant is dispensed with for considering the proposed composite scheme of arrangement, subject to the applicant filing the no-objection letters of the 16 trade creditors at the stage of filing the Company Petition; in Company Application No.1391 of 2015, the holding of the meetings of the shareholders and unsecured creditors of the applicant is dispensed with for considering the proposed composite scheme of amalgamation; and in Company Application No.1392 of 2015, the holding of the meetings of the equity shareholders and unsecured creditors of the applicant is dispensed with, subject to the applicant filing the no-objection letters of the trade creditors to whom it owes more than Rs.1 lakh at the stage of filing the Company Petition.

The applications are accordingly allowed.

JUSTICE C.V.NAGARJUNA REDDY

31st August 2015
DR