THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

Company Petition No.15 of 2015

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Dated 30th March, 2015

Between:

Vijai Bhavani Powertech Private Limited

…**Petitioner**

Counsel for the applicant: Sri Naresh Kumar Sangam

Counsel for Official Liquidator: Sri M.Anil Kumar

Counsel for Central Govt.,: Sri B.Appa Rao

for Sri B.Narayana Reddy

The Court made the following:

ORDER:

This company petition is filed under Sections 391 and 394 of the Companies Act, 1956 (for short 'the Act') for sanction of the proposed scheme of amalgamation of the petitioner (transferor company) with the transferee company, by name, M/s.Prakasa Spectro Cast Private Limited.

The petitioner has averred that it is incorporated on 18.10.2001 under the provisions of the Act with its Registered office situated at 2-34, Enikepadu, Vijayawada Rural Mandal, Krishna District in the State of Andhra Pradesh. That its authorised share capital is Rs.6.00 crore divided into 60,00,000 equity shares of Rs.10/- each. That the main objects of the petitioner *inter alia* are to generate electricity from natural gas and utilise the same by itself and its sister concerns for captive consumption etc., and that its Board of Directors in its meeting held on 10.11.2014 has approved the scheme of amalgamation.

The petitioner further averred that it is 100% subsidiary of the transferee company which along with its nominee has given its consent to the proposed scheme. That as per the provisional Balance Sheet upto 31.10.2014, the petitioner has only two secured creditors, namely, State Bank of India & Andhra Pradesh State Financial Corporation, and that both of them have given their consent to the proposed scheme vide Annexure-H. That as per the provisional Balance Sheet upto 31.10.2014, the petitioner has one unsecured creditor and other trade creditors to the tune of Rs.8,26,95,518/- and that out of the total unsecured creditors, it has already re-paid Rs.17,44,356/- and obtained NOCs for Rs.8,07,82,324/- amounting to 100% of the unsecured creditors and evidencing payment of the same, copies of the NOCs are filed as Annexure-I (pages 155 to 170).

The petitioner has also stated that this Court by order, dated 08.12.2014, in Company Application No.1412 of 2014, has dispensed with convening the meeting of the shareholders and both the secured and unsecured creditors of the petitioner. By order, dated 03.02.2015, this Court has ordered notices to the Regional Director, Ministry of Corporate Affairs, South Eastern Region, Government of India, Hyderabad and the Official Liquidator attached to this Court, besides publication of notices in 'Indian Express', English Daily, and 'Andhra Prabha', Telugu Daily. Proof of publication has accordingly been filed through a Memo vide USR No.869 of 2015. The Official Liquidator as well as the Regional Director have filed their respective reports.

In his report, dated 13.03.2015, the Official Liquidator has *inter alia* stated that based on the information made available by the petitioner, he is of the opinion that the affairs of the petitioner appeared to have not been conducted in a manner prejudicial to the interests of its members or to the public in general.

In his report, dated 19.03.2015, the Regional Director has stated that in pursuance of the General Circular No.1/2014, dated 15.01.2014, issued by the Ministry of Corporate Affairs, New Delhi comments from Income Tax Department were invited through letter, dated 26.02.2015, and that no comments/objections from the Commissioner of Income Tax, Vijayawada, Andhra Pradesh were received till the date of filing of the report. The Regional Director has, however, pointed out two aspects, namely, (1) that since as per Clause-1.4 of Definitions of the Scheme, the transfer date or the appointed date is fixed as 01.11.2014, the petitioner may file its financial reports for the period from 01.04.2014 to 31.10.2014 with the Registrar of Companies, Hyderabad under Section 137 of the Companies Act, 2013 and (2) that the details of the assets and liabilities of the petitioner furnished in Schedule (part-I & part-II) of the Scheme may be certified by the Auditors.

At the hearing, Sri Naresh Kumar Sangam, learned counsel for the petitioner, has submitted that both the above requirements pointed out by the Regional Director have been complied with by filing the documents referred to in the said report before the Registrar of Companies, Hyderabad.

In the light of the above facts pleaded by the petitioner and considering the reports filed by the Official Liquidator and the Regional Director, I do not find any legally sustainable objection for approving the proposed scheme of amalgamation. Accordingly, the Scheme is approved. The petitioner shall file a certified copy of this order with the Registrar of Companies within one month from the date of receipt of the same.

The company petition accordingly stands allowed.

C.V.NAGARJUNA REDDY, J

30th March, 2015

VGB