**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Company Petition No. 52 of 2015
Date of decision: 21.9.2015

IN THE MATTER OF :

Scheme of Amalgamation of
Ludhiana Steels Limited .... Transferor/ Petitioner Company No. 1
WITH
Aarti Steels Limited .... Transferee / Petitioner Company No. 2

Present: Mr. Puneet Kansal, Advocate, for the petitioner-Companies.

Mr. Deepak Aggarwal, Advocate, with
Mr. D. K. Singh, Official Liquidator.

Rajesh Bindal, J.

In this petition, the petitioner companies seek sanctioning of Scheme of Amalgamation **(Annexure P/1).** Both, the first and the second motion petitions have been filed together.

Main objects of the petitioner-Transferor Company and the Transferee Company are detailed in their respective Memorandum and Articles of Association annexed with the petition at **Annexures P-2 and P-4,** respectively.

It is averred in the petition that the registered offices of the petitioners-Transferor and Transferee Companies are situated at Ludhiana (Punjab), hence, the petition is within the jurisdiction of this Court.

The Board of Directors of the petitioner companies have approved the Scheme of Amalgamation vide resolutions Annexures P-6 and P-7, respectively.

Vide order dated 21.4.2015, passed by this Court in the present case, convening of the meetings of the equity shareholders and unsecured creditors of the Transferor Company and secured and unsecured creditors of the Transferee Company were dispensed with. Meetings of equity shareholders of the Transferee Company was directed to be held on 4.7.2015. Mr. Hemant Bassi and Mr. Birender Singh Khehar, Advocates, were appointed as Chairman and Co-chairman, respectively, for convening the meeting of equity shareholders. Vide order dated 20.7.2015, the report dated 10.7.2015 was taken on record. As per report, out of 21 equity shareholders, 20 equity shareholder were present and voted either in person or through proxy in favour of the scheme, constituting 99.30% in value of the total paid up share capital and 95.24% in number, have given their consent. The list of equity shareholders, who have attended the meeting, along with their consents are annexed with the report.

Notice of the petition was directed to be issued to Regional Director, Ministry of Corporate Affairs and the Official Liquidator. Notice was also directed to be published in 'Indian Express' (English) and 'Des Sewak' (Punjabi) and in the official Gazette of Government of Punjab. The aforesaid order has been complied with and affidavit to this effect has been placed on record.

In the report of the Official Liquidator, the following issues have been raised:-

i) Acceptance of deposits from the persons other than the Directors.

ii) Carry forward and set off of losses.

iii) Provision for internal audit system in the company.

In addition thereto, the Official Liquidator has placed on record the report dated 8.9.2015 by way of affidavit of A. K. Chaturvedi, Regional Director, Northren Region, Ministry of Corporate Affairs, Noida. The Regional Director in his report has emphasized non-compliance of Accounting Standard-14 (AS-14), issued by the Institute of Chartered Accountants of India.

In response to the objection raised by the Regional Director, Mahesh Kumar Mittal, Director of the Transferee company has filed additional affidavit dated 17.9.2015 undertaking therein that the Accounting Standard-14 (AS-14), shall be complied with.

Further in response to the objections raised by the Official Liquidator, Mahesh Kumar Mittal, Director of the Transferee Company has filed additional affidavit dated 17.9.2015, stating therein that the company shall be bound by the provisions of Section 79 of the Income Tax Act with reference to carry forward losses and set off of losses.

As regards acceptance of deposits from the persons other than the directors, learned counsel for the petitioners has filed additional affidavit of Mr. Dushyant Kumar Kapil, Director of the Transferor Company, dated 21.9.2015. It has been stated therein that the amount stands repaid on 14.11.2014 i.e. within one year as per provisions of Section 74(1) of the Companies Act, 2013 (for short, 'the 2013 Act'). It has been further stated that the statement of deposits has already been filed in requisite Form DPT-4 with the Registrar of Companies vide SRNC 64384738 dated 20.9.2015, with additional fee. Hence, the objection raised by the Official Liquidator does not survive. Further considering the provisions of Section 138 of the 2013 Act, the assets, turnover, loans or deposits of the petitioner company, internal auditor is not required to be appointed.

A perusal of the paper book shows that the assets, turnover, loans or deposits of the company are much less than what has been prescribed in the provisions.

The petitioner- companies have confirmed that there are no investigations or proceedings pending against them under the Act or under any provisions of Companies Act, 2013.

For the reasons afore-stated and on consideration of all the relevant facts, compliance of procedural requirements contemplated under the Act and the relevant Rules, on due consideration of the reports of Regional Director, Northern Region, Ministry of Corporate Affairs, and the Official Liquidator, the Scheme of Amalgamation is hereby sanctioned. The assets and liabilities of the Transferor Company shall stand vested in the Transferee Company. The Transferor Company shall be dissolved without being wound up. The Transferee Company shall be required to comply with the procedural requirements with regard to all conditions stipulated under the Income Tax Act, Accounting Standards issued by the Institute of Chartered Accountants of India.

The Scheme shall be binding on the Transferor and Transferee Companies, their respective Shareholders, Creditors and all concerned.

Let formal order of sanction of the Scheme of Amalgamation be drawn in accordance with law and its certified copy be filed with the Registrar of Companies within 30 days from the date of receipt thereof.

A notice of the order be published in the 'Indian Express' (English) and 'Des Sewak' (Punjabi) and in the official Gazette of Government of Punjab.

Any person interested shall be at liberty to apply to the Court for any direction(s) as per law.

Learned counsel for the petitioner companies states that the petitioner – Transferee Company would voluntarily deposit a sum of ₹ 30,000/- in the Common Pool Fund Account of the Official Liquidator within one month.

Statement is accepted.

The petition is disposed of accordingly.

21.9.2015 (**Rajesh Bindal**)
vs **Judge**