

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2016

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

C.P. Nos. 150 to 152 of 2015

Omni Agates Holdings Private Limited
A Company incorporated under the
Companies Act, 1956, and
having its Registered Office at
No.99, Greams Road, II Floor,
M.N.Complex,,
Chennai-600 006
represented by its Director
Ilanhovan Ramajayam

..Petitioner in C.P. No.150 of 2015/
1st Transferor Company

Omne Agate Systems Private Limited
A Company incorporated under the
Companies Act, 1956, and
having its Registered Office at
No.99, Greams Road, II Floor,
M.N.Complex,,
Chennai-600 006
represented by its Managing Director
Ilanhovan Ramajayam

..Petitioner in C.P.No.151 of 2015/
/2nd Transferor Company .

OASYS Cybernetics Private Limited
A Company incorporated under the
Companies Act, 1956, and
having its Registered Office at
No.99, Greams Road, II Floor,
M.N.Complex, Chennai-600 006
represented by its Director
Ilanhovan Ramajayam

..Petitioner in C.P.No.152 of 2015/
/Transferee Company .

Prayer in all petitions: Petitions under Section 391 to 394 of the Act for
sanctioning the Scheme of Amalgamation.

For Petitioners : Mr.A.M.Ilango
For Regional Director: Mr.G.Venkatesan,
Central Government Standing Counsel
Official Liquidator : Mr. P.Atchuta Ramaiah

COMMON ORDER

These company petitions are filed praying for sanctioning a Scheme of Amalgamation of Omni Agates Holdings Private Limited/first transferor Company and Omne Agate Systems Private Limited/second Transferor Company, with the Company known as OASYS Cybernetics Private Limited/Transferee Company enclosed as Annexure 5, with effect from 1st April, 2013, so as to binding on all the shareholders of the Transferors Companies.

2. At the time of disposing of the Application in C.A.No.201 of 2015, to dispense with the convening of the meeting of the secured creditors, the petitioner/2nd transferor company has given an undertaking that the second transferor company will send individual notices to the 5 secured creditors at the time of hearing the main Company Petition for the purpose of considering and approving the scheme of amalgamation, as no objection certificate from those secured creditors were not furnished at that time. Today, no objection from those five secured creditors was furnished before this Court by way of additional typed set of papers.

3. The Official Liquidator has filed a report dated 19.11.2015. Insofar

as the 1st transferor company is concerned, it is stated therein that the Chartered Accounts have scrutinized and examined broadly the books of accounts and other records, statutory and other registers which are required to be maintained by the 1st transferor company under the Companies Act, 1956 and they have also scrutinized the Profit and Loss Account, Balance Sheet along with the relevant schedules and the Auditor's report thereon for the period from 01.04.2011 to 30.06.2013 and Unaudited Profit and Loss account and Balance Sheet for the period ended 31.12.2014 and 30.06.2015 of the 1st transferor Company. Insofar as the 2nd transferor company is concerned, it is stated that they have scrutinized the financial performance of the 2nd Transferor company for the past 5 financial years as per the audited annual report for the financial years from 30.06.2010 to 30.06.2014. The 2nd Transferor company has closed its books of accounts on 30.06.2014 and the Auditors of the Company have reviewed the accounts drawn upto 30.06.2014 and this has been approved by the Board of Directors. It is also stated that a review of significant transactions does not reveal any misfeasance on the part of the Directors. Further, it is reported by the Chartered Accountant that the books of accounts, and other registers maintained by the Transferor Companies were also scrutinized and found that they have maintained proper books of accounts and in accordance with normally accepted accounting principles and practices and that all entries have been made in the Statutory Registers in accordance with the requirements of the Companies Act, 1956.

4. The Regional Director filed an affidavit dated 19.06.2015, wherein he has stated that it has been decided not to make any objection to the scheme. It is submitted that this Court vide its order made in C.A.Nos.200 to 202 of 2015 has dispensed with the convening and holding of the meeting of the equity shareholders. It is submitted that the 1st Transferor Company and Transferee company have no secured creditors and furnished an auditors' certificate to that effect. The second transferor company has 5 secured creditors who has given their no objection certificate to the scheme. It is further submitted that Section 7 of the scheme of the petitioner Companies provided for the protection of the employees' interest. It is submitted that the ROC, Chennai, has reported that as per the records all the Companies are regular in filing their statutory returns. It is stated that no prosecution is filed, no complaints is pending and no investigation has been pending in respect of the transfer and transferee companies. The scheme of amalgamation have been examined and it has has been decided not to make any objection to the Scheme.

5. I have perused the report filed by the learned Official Liquidator as well as the affidavit filed by the Regional Director and the order passed by this Court dated 03.03.2015, made in Company Application Nos.200 to 202 of 2015 dispensing with the convening and holding of meeting of the equity shareholders of the respective applicant Companies, taking note of

the fact that the consent affidavits are filed by the equity shareholders of the respective companies consenting for the scheme of amalgamation.

6. I have also perused the scheme filed in the company petitions. The Scheme states that there is no objectionable feature in the scheme of amalgamation which is detrimental either to the employees of the transferors' company or of the transferee company. The said scheme is not violative of any statutory provisions. The scheme is fair, just and sound and is not against any public policy or public interest. No proceedings are pending under Sections 231 to 237 of the Companies Act, 1956. All the statutory provisions are complied with.

7. Considering all these facts and circumstances and considering the report of the learned Official Liquidator as well as the affidavit filed by the Regional Director, this Court is of the view that there cannot be any impediment for allowing these Company Petitions. Accordingly, there shall be an order, approving to the scheme of amalgamation of the transferors companies viz., Omni Agates Holdings Private Limited/first transferor Company and Omne Agate Systems Private Limited/second Transferor Company, with the Company known as OASYS Cybernetics Private Limited/Transferee Company, enclosed as Annexure 5, with effect from 1st April, 2013, as the procedure laid down under Sections 391 and 394 of the

K.RAVICHANDRABAABU,J.

companies act are duly complied with. The Company Petitions are allowed.

8. Taking note of the report of the Chartered Accountant as enclosed by the Official Liquidator, the transferors' companies shall stand dissolved without winding up.

9. The learned Central Government Standing Counsel appearing for the Regional Director shall be paid a sum of Rs. 10,000/- from the petitioner Company.

23.03.2016

vsi

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