

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 16.06.2016

DELIVERED ON : 05.07.2016

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The Honourable **Mr.Justice RAJIV SHAKDHER**

C.P.No.473 of 2015

M/s.RJN Software Private Limited
having its Registered Office at
No.77, Om Shakthi Nagar,
Ramanathapuram,
Coimbatore – 641 045
represented by its Managing Director
Mr.Rajkumar

.. Petitioner/Transferor Company

Vs.

M/s.Quadrant 4 Software
Solutions Private Limited,
having its Registered Office at
8th Floor, A-Wing, R.R.Towers IV,
T.V.K. Industrial Estate, Guindy,
Chennai – 600 032
represented by its Director
Mr.Srinivasan

.. Respondent/Transferee Company

Petition filed under Sections 391 to 394 of the Companies Act,
1956 to sanction the Scheme of Amalgamation.

For Petitioners : Mr.S.Gopalaratnam

Mr.G.Venkatesan
Central Government Standing Counsel
for Regional Director
Ministry of Company Affairs,Chennai

Mr.Achudha Ramaiah
Official Liquidator

COMMON ORDER

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 with the transferee company with effect from 01.04.2015. The scheme of amalgamation (in short the scheme) is appended as Annexure 'C' to this petition.

2. M/s.RJN Software Private Limited is the transferor company and M/s.Quadrant 4 Software Solutions Private Limited is the transferee company.

2.1. For the sake of convenience, the transferor company and the transferee company will be collectively referred to as companies.

2.2. To be noted, in paragraph No.6 of the petition, it is stated that the transferor company is a wholly owned subsidiary of the transferee company and therefore, in view of the judgment in the case of ***Mahamba Investments Vs. IDI Limited*** reported in **2001 (105) Comp Cases 16**, no separate petition, is being preferred on behalf of the transferee Company.

3. In the captioned petition, arguments were heard and orders were reserved on 29.04.2016. A perusal of the record, however, showed that the Chartered Accountant's report with regard to the position of the secured creditors vis-a-vis companies had not been filed. Accordingly, the captioned petition was posted under the caption "For Clarification" on 01.06.2016.

3.1. When the matter was taken up 16.06.2016, the learned counsel for the petitioner placed before this Court two certificates of the Chartered Accountant of even date, i.e., 08.06.2016 indicating that the transferor company had no secured creditor and insofar as the transferee company was concerned, it had only one secured creditor, viz. State Bank of India, SMECCC, Mount Road, Chennai (SBI). The report further indicated that SBI had accorded its consent

to proposed scheme. Accordingly, judgement in the petition was reserved on 16.06.2016.

4. A perusal of the record shows that the petitioner has complied with the prescribed procedure. The consent letter of the secured creditor of the transferee company is appended as Annexure K to the petition.

4.1. The copies of the resolution of even date, i.e., 20.05.2015, passed by the Board of Directors of both the transferor company as well as the transferee company respectively adopting the scheme is enclosed as Annexure 'D and E' to the petition.

5. The affidavit of equity shareholders of the transferor company as well as the transferee company giving their consent to the scheme are appended as Annexure 'L' to this petition.

5.1. This Court, in its order dated 28.09.2015 passed in C.A.No.1005 of 2015 dispensed with the convening, holding and conducting of the meeting of the equity shareholders of the transferor company for the purpose of considering and if thought fit, approving

with or without modification, the proposed scheme placed before the Court.

6. Upon notice being issued, the Regional Director, Ministry of Company Affairs, has filed his report stating that he has no objection to the proposed scheme being sanctioned.

7. The Official Liquidator has also filed his report along with the report of the Chartered Accountant. Chartered Accountant, in his report, states 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 that, he had 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 articulated that the records maintained in the office of the Registrar of Companies were also caused to be inspected by the said Chartered Accountant.

7.1. In the absence of any inference that the affairs of the transferor company were being conducted in a manner prejudicial to the interest of its members or public interest, the Official Liquidator has filed his report, before this Court, for appropriate orders.

8. I have perused the proposed scheme filed along with the company petition. I find that the Scheme as proposed is not prejudicial to the interest of any person or entity, which has a stake/interest in the petitioner company. The said scheme, as framed, is not violative of any statutory provisions.

9. The scheme as formulated is fair, just, sound and is not contrary to any public policy or public interest. No proceedings appear to be pending under the provisions of Sections 231 to 237 of the Companies Act, 1956. All the statutory provisions appear to have been complied with.

10. Consequently, there shall be an order approving the scheme of amalgamation between transferor company, viz., M/s.RJN Software Private Limited, with the transferee company, viz., M/s.Quadrant 4 Software Solutions Private Limited, with effect from 01.04.2015, as per the procedure laid down under Sections 391 to 393 of the Companies Act.

11. Taking note of the report filed by the Chartered Accountant as enclosed by the Official Liquidator, in terms of the order passed by this Court, the transferor company shall stand dissolved, albeit, without winding up.

12. It is made clear, that this order will not be construed as an order granting exemption from payment of stamp duty or, taxes or, any other charges, if any, payable, as per the relevant provisions of law or, from any applicable permissions that may have to be obtained or, even compliances that may have to be made, as per the mandate of law.

13. The learned Senior Central Government Standing Counsel will be entitled to a fee of Rs.5,000/-, which shall be paid by the transferee company.

14. The above petition is disposed of, in the aforementioned terms.

Index : Yes / No
Internet: Yes
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05.07.2016

RAJIV SHAKDHER, J.

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Order in

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