

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 16.06.2016

Delivered on : 29.06.2016

Coram

The Honourable **Mr.Justice RAJIV SHAKDHER**

C.P.Nos.478 TO 480 of 2016

M/s.Bombay Rubber Products and
Services Privated Limited,
having its Registered Office at
No.12, Khader Nawaz Khan Road,
Chennai – 600 006

represented by its Director
Mr.Koshy Ninan Kanianthara

.. Petitioner in C.P.No.478/2015
/Transferor Company No.1

M/s.Bespoke Trading Company Private Limited
having its Registered Office at
No.12, Khader Nazaw Khan Road,
Chennai – 600 006

represented by its Authorised Signatory
Mr.C.I.Paul

.. Petitioner in C.P.No.479/2015
/Transferor Company No.2

M/s.M.M.Research Company Private Limited
having its Registered Office at
No.12, Khader Nawaz Khan Road,
Chennai – 600 006

Represented by its Director,
Mr.Mammen Philip

.. Petitioner in C.P.No.480/2015
Transferee Company

Petitions filed under sections 391 to 394 of the Companies Act,
1956 to sanction the scheme of amalgamation.

For Petitioners : Mr.C.Lovis Franco
for M/s.Franco & Louis Associates

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

Mr.Atchuta Ramaiah
Official Liquidator

COMMON ORDER

These company petitions are preferred under Sections 391 to 394 of the Companies Act, 1956, for sanctioning the scheme of amalgamation of two transferor companies with the transferee company with effect from 01.04.2016. The scheme of amalgamation (in short scheme) is appended as Annexure 4 to these petitions.

2. The petitioner in C.P.No.478 of 2015 is the first transferor company; the petitioner in C.P.No.479 of 2015 is the second transferor company and the petitioner in C.P.No.480 of 2015 is the transferee company.

3. A perusal of the records show that the petitioners have complied with the prescribed procedure. It is stated that there are no secured creditors as far as both the Transferor companies as well as the Transferee Company are concerned and the certificate of the Chartered Accountant confirming the same is annexed as Annexure 8 to C.P.Nos.478 and 479 of 2015 and Annexure 9 to C.P.No.480 of 2015.

3.1. The copies of the resolutions of even date of 12.12.2014 passed by the Board of Directors of both the transferor companies as well as the transferee company adopting the scheme is enclosed as Annexure '5' to these petitions.

4. The affidavits of equity shareholders giving their consent to the scheme is appended as Annexure '7' to C.P.Nos.478 and 479 of 2015.

4.1. This Court, in its order dated 02.07.2015, in C.A.No.509 of 2015 (first transferor company) and C.A.No.510 of 2015 (second transferor company), dispensed with the convening, holding and conducting of the meeting of the Equity Shareholders for the purpose

of considering and if thought fit, approving with or without modification, the scheme conceived by the petitioner companies involving amalgamation.

4.2. This Court, in its order dated 02.07.2015, in C.A.No.511 of 2015, directed the Transferee Company to convene a meeting of the Combined Shareholders for the purpose of considering, and if thought fit, approving with or without modification, the scheme conceived by the petitioner company involving amalgamation. This Court, in the said order, further directed the Chairman of the meeting to submit a report of the meeting within one week from the date of meeting. Accordingly, the Chairman of the meeting has submitted a report, which is appended as Annexure '8' to C.P.No.480 of 2015.

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

6. The Official Liquidator has also filed his comprehensive report along with the report of the Chartered Accountant. The report of the Chartered Accountant states that the affairs of both the transferor

companies have not been conducted in a manner prejudicial to the interest of its members or to public interest and they do 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 stated that the records maintained in the office of the Registrar of Companies were also caused to be inspected by the said Chartered Accountant.

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

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

7.1. 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.

8. Consequently, there shall be an order approving the scheme of amalgamation between the first transferor company, viz., M/s.Bombay Rubber Products and Services Private Limited, and second transferor company, viz., M/s.Bespoke Trading Company Private Limited, with the transferee company, viz., M/s.M.M.Research Company Private Limited, and their respective shareholders, with effect from 01.04.2014, as the procedure laid down under Sections 391 to 393 of the Companies Act are duly complied with. The petitions are allowed.

9. Taking note of the report by the Chartered Accountant as enclosed by the Official Liquidator, in terms of the order passed by this Court, both the transferor companies shall stand dissolved without winding up.

10. 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.

11. 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.

Index: Yes / No
Internet: Yes
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29.06.2016

RAJIV SHAKDHER,J.

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