

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 08.11.2016

DELIVERED ON: 15.11.2016

Coram

The Honourable **Mr.Justice RAJIV SHAKDHER**

C.P.Nos.135 and 136 of 2016

LSR Enterprises Private Limited
16A, Kasturi Ranga Road,
Alwarpet
Chennai - 600 018
rep. by its Managing Director
Mr.Sandeep Suryanarayana Rao

.. Petitioner/ Transferor Company

Vastrakala Exports Private
No.10, Rutland Gate, 5th Street,
Nungambakkam, Chennai - 600 006
represented by its Director
Mr.Sandeep Suryanarayana Rao

.. Petitioner/Transferee Company

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

For Petitioner : Mr.A.M.Ilango

Mr.K.Raju
Central Government Standing Counsel
for Regional Director
Ministry of Company Affairs, Chennai

Mr.P.Achutha Ramaiah
Official Liquidator

ORDER

1. These Company Petitions are preferred under Sections 391 and 394 of the Companies Act, 1956, for seeking a sanction of the scheme of amalgamation concerning LSR Enterprises Private Limited (in short transferor company) and Vastrakala Exports Private Limited (in short transferee company), with effect from 01.04.2015. The scheme of amalgamation (in short scheme) is appended as Annexure '5' to C.P.No.135 of 2016 and Annexure '6' to C.P.No.136 of 2016.

2. The petitioner in C.P.No.135 of 2016 is the transferor company and the petitioner in C.P.No.136 of 2016 is the transferee company.

2.1. I may only note that hereafter the transferor and transferee companies will be collectively, referred to as petitioners.

3. A perusal of the record shows that the petitioners have complied with the prescribed procedure.

3.1. A copy of two (2) separate resolutions of even date, i.e., 18.01.2016, passed by the Board of Directors of the petitioners approving the scheme is enclosed as Annexure '4' to C.P.No.135 of 2016 and Annexure '5' to C.P.No.136 of 2016.

4. It is stated that there are no secured creditor in so far as the transferor company is concerned. The certificate of the Chartered Accountant confirming the same is appended as Annexure '6' to C.P.No.135 of 2016.

4.1. It is stated that there is no unsecured creditor as far as the transferor Company is concerned. The certificate of the Chartered Accountant confirming the said position is appended to first additional typed set of documents.

5. It is stated that the transferee company has two (2) secured creditors. A certificate of the Chartered Accountant confirming the same is appended as Annexure '7' to C.P.No.136 of 2016.

5.1. It is seen that the above-said secured creditors of the

transferee company have given their consent to the proposed Scheme, which are appended as Annexure '8' to C.P.No.136 of 2016.

5.2. It is averred that the transferee company has twenty nine (29) unsecured creditors, valued at Rs.35,88,952/-. A Chartered Accountant's certificate affirming the said position is appended second additional typed set of documents. In the said certificate, the Chartered Accountant has indicated the net worth of the transferee company, equivalent to a sum of Rs.15,59,82,259/-.

5.3. It is averred that the combined assets of the companies are more than sufficient to meet the liabilities of the petitioners and the Scheme will not adversely affect the rights of any of the creditors of the transferee company, in any manner.

6. The affidavits of the equity shareholders of the petitioners giving their consent to the scheme is appended as Annexure '8' to C.P.No.135 of 2016 and Annexure '10' to C.P.No.136 of 2016.

6.1. This Court, by order dated 17.03.2016, passed in C.A.Nos.263 and 264 of 2016, dispensed with the convening and

holding of the meeting of the shareholders of the transferor company and the transferee company respectively, to consider the proposed Scheme, inter alia, for the reason that its equity shareholders had given their consent to it.

7. 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.

8. The Official Liquidator has also filed his report along with the report of the Chartered Accountant. The 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 has 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. In the absence of any material 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.

9. I have perused the proposed scheme filed along with the company petitions as also the affidavits placed on record. 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 companies. The said scheme, as framed, is not violative of any statutory provisions.

10. 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.

11. Consequently, there shall be an order approving the scheme of amalgamation of the transferor company, viz., LSR Enterprises Private Limited with the transferee company, viz., Vastrakala Exports Private Limited, with effect from 01.04.2015, as per the procedure laid down under Sections 391 to 394 of the Companies Act.

12. Taking note of the report 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.

13. 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.

14. 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.

15. The above petitions are disposed of in the aforementioned terms.

Index: Yes / No
Internet: Yes / No
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15.11.2016

RAJIV SHAKDHER,J.

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Pre-Delivery Common Order in
C.P.Nos.135 and 136 of 2016

Dated: 15.11.2016

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