IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 27.09.2016

DELIVERED ON : 18.10.2016

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The Honourable **Mr.Justice RAJIV SHAKDHER**

C.P.Nos.234 and 235 of 2016

M/s.Manuli Hydraulics Manufacturing
India Private Limited
S.No.1465/2-B, Sriperumbudur Village,
Sriperumbudur – 602 105.
represented by its Authorized Signatory
Mr.Rakesh CV.
.. Petitioner in C.P.No.234 of 2016
/ Transferor Company

M/s.Manuli Hydraulics India Private Limited
S.No.1465/2-B, Sriperumbudur Village,
Sriperumbudur – 602 105.
represented by its Director and Authorized Signatory
Mr.K.Chandru Pratap.
.. Petitioner in C.P.No.235 of 2016
/ Transferee Company

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

For Petitioners : Mr.B.Dhanaraj

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

Mr.Atchuta Ramaiah,
Official Liquidator

COMMON ORDER

1. These company petitions are 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 scheme) is appended as Annexure '6' to these petitions.

2. The petitioner in C.P.No.234 of 2016 is the transferor company and the petitioner in C.P.No.235 of 2016 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 is no secured creditor as far as transferor company as well as transferee company are concerned and the certificates of the Chartered Accountant confirming the same are appended as Annexure '7' to these petitions.

3.1. It is stated that there is one unsecured creditor as far as transferor company is concerned of a value equivalent to

Rs.1,44,774/- and a certificate of the Chartered Accountant confirming the same is appended to the affidavit filed by the transferor company. It is stated in the affidavit filed by the transferor company that the combined net worth of the merged entity comes to a sum of Rs.23,89,49,731/- and hence, the interest of the unsecured creditor is adequately protected.

3.2. Learned counsel for the transferee company says that the value of the unsecured creditors of the transferee company is a sum of Rs.22,25,76,572.14, which includes the debt owed to the sister concerns of the transferee company, to the value of Rs.19,68,23,265/- He further submits that the combined net worth of the merged entity comes to a sum of Rs.23,89,49,731/- and hence, the interest of the unsecured creditors is adequately protected.

4. Copies of two separate resolutions of even date, i.e., 05.01.2016, passed by the Board of Directors of both the transferor company as well as the transferee company approving the proposed scheme are enclosed as Annexure '5' to these petitions.

5. The affidavits of equity shareholders of both the transferor and the transferee company giving their consent to the proposed scheme are appended as Annexure '9' to these petitions.

5.1. This Court, by order dated 29.04.2016 passed in C.A.Nos.484 and 485 of 2016 dispensed with the convening, holding and conducting of the meeting of the shareholders of both the transferor and transferee company to consider the proposed Scheme, inter alia for the reason that its equity shareholders had given their consent to it.

6. 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.

7. 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 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 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.

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 the transferor company, viz., M/s.Manuli

Hydraulics Manufacturing India Private Limited with the transferee company, viz., M/s.Manuli Hydraulics India Private Limited, with effect from 01.04.2015, as per the procedure laid down under Sections 391 to 394 of the Companies Act.

11. 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.

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 petitions are disposed of in the aforementioned terms.

Index: Yes / No
Internet: Yes / No 18.10.2016
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RAJIV SHAKDHER,J.

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Pre-Delivery Common Order in

C.P.Nos.234 and 235 of 2016

Dated: 18.10.2016