

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 07.11.2016

DELIVERED ON : 15.11.2016

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The Honourable **Mr.Justice RAJIV SHAKDHER**

C.P.Nos.264 and 265 of 2016

Ambadi Holdings Private Limited
Parry House No.43, 5th Floor,
Moore Street, Chennai - 600 001
Tamil Nadu represented by its Director
Mr.A.Vellayan

.. Petitioner in C.P.No.264 of 2016
/ Transferor Company

Murugappa Holdings Limited,
Parry House No.43, 5th Floor,
Moore Street, Chennai - 600 001
Tamil Nadu represented by its Director
Mr.A.Vellayan

.. Petitioner in C.P.No.265 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.Pawan Jabakh

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 seeking a sanction of the scheme of amalgamation concerning Ambadi Holdings Private Limited (in short transferor company) and Murugappa Holdings Limited (in short transferee company), with effect from 01.01.2016. The scheme of amalgamation (in short scheme) is appended as Annexure '5' to the respective petitions.

2. The petitioner in C.P.No.264 of 2016 is the transferor company and the petitioner in C.P.No.265 of 2016 is the transferee company.

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

3. A perusal of the record shows that the petitioners have complied with the prescribed procedure. It is stated that there is no secured creditor as far as the petitioners are concerned. The certificates of the Chartered Accountant confirming the same are appended as Annexure '7' to the respective petitions.

3.1. It is stated that there is one (1) unsecured creditor, viz., Ambadi Investments Private Limited, as far as transferor company is concerned of a value equivalent to Rs.65,19,00,000/-, who is none other than the shareholder of the transferor company. A certificate of the Chartered Accountant confirming the same is appended to typed set II. The said unsecured creditor has given its consent to the proposed Scheme.

3.2. As far as transferee company is concerned, likewise, it is stated that there is one (1) unsecured creditor, viz., ICICI Trustee Co. Limited, of a value equivalent to Rs.150,00,00,000/-. A certificate of the Chartered Accountant confirming the same is appended to typed set II. It is stated that HDFC Limited, being the custodian, has given its No Objection Certificate to the proposed Scheme. The said certificate is annexed at pages 2-3 of typed set II.

4. Copies of two separate resolutions of even date, i.e., 11.03.2016, 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 '4' to the respective petitions.

5. The affidavits of equity shareholders of the transferor company giving their consent to the proposed scheme are appended as Annexure '9' to C.P.No.264 of 2016.

5.1. This Court, by order dated 26.04.2016, passed in C.A.No.445 of 2016 dispensed with the convening, holding and conducting of the meeting of the shareholders of the transferor company to consider the proposed Scheme, inter alia, for the reason that its equity shareholders had given their consent to it.

5.2. It is stated that the transferee company has one thousand two hundred forty eight (1,248) shareholders. This Court, by order dated 26.04.2016, passed in C.A.No.466 of 2016, directed the transferee company to obtain approval from its shareholders by convening a meeting for the purpose of considering and, if, thought fit, approving with or without modification, the scheme conceived by the petitioners.

5.3. Accordingly, the transferee company, after due compliance with all formalities, had the meeting of its equity shareholders on

02.06.2016. It is averred that after scrutiny of ballots, the Chairman declared the result of the meeting through his report dated 02.06.2016. The said report of the Chairman is annexed as Annexure '9' to C.P.No.265 of 2016

5.4. The Chairperson has filed his report dated 02.06.2016, wherein, he states that out of 37,56,816 equity shares of face value of Rs.10/-, 46 shareholders, holding 35,73,401 equity shares of the face value of Rs.10/- (Rs.3,57,34,010/-), had attended the meeting and cast their votes in favour of the resolution.

6. Upon notice being issued, the Regional Director, Ministry of Company Affairs has filed his report, stating therein 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 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.

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., Ambadi Holdings Private Limited with the transferee company, viz., Murugappa Holdings Limited, with effect from 01.01.2016, 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
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15.11.2016

RAJIV SHAKDHER,J.

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Pre-Delivery Common Order in
C.P.Nos.264 and 265 of 2016

Dated: 15.11.2016