

C.M.P.No.3420 of 2016
in Company Appeal No.12 of 2015

K.RAVICHANDRABAABU, J.,

C.M.P.No.3420 of 2016 is filed by the petitioner/appellant in Company Appeal No.12 of 2015. The relief sought for in this Miscellaneous Petition reads as follows:-

“It is prayed by the Appellant that the Order dated August 10,2015 passed by this Hon'ble Court in the above Company Appeal and modified by the Order dated September 10, 2015, passed by this Hon'ble Court in Miscellaneous Petition No.2 of 2015 in the above Company Appeal and further modified by the Order dated December 11,2015 passed by this Hon'ble Court in Miscellaneous Petition No.3 of 2015 in the above Company Appeal, be further modified to the limited extent of extending the time period fixed by this Hon'ble Court for disposal of Company Petition No.1/2015 pending on the file of the Hon'ble Company Law Board, Principal bench at New Delhi for such period as this Hon'ble Court may deem fit and

appropriate.”

2. Though the relief sought in this Miscellaneous Petition, in short, is seeking modification of the earlier order passed by this Court extending the time for disposal of Company Petition before the Company Law Board, Principal Bench, New Delhi, in fact, the actual relief sought for by the petitioner is nothing but seeking further extension of time limit passed by this Court earlier on 11.12.2015 in M.P.No.3 of 2015.

2. Certain undisputed facts which are not going into the merits of the rival contentions of the parties, are as follows:-

The Government of India filed Company Petition before the Principal Bench, Company Law Board, New Delhi under Sections 397 and 399 of the Companies Act against the Petitioner-Company. The main ground on which such petition filed was to the effect that the Directors of the Company did not co-operate for the proposed amalgamation with its subsidiary Company. The Company Law Board, New Delhi, pending disposal of the main petition, granted an Interim Injunction on 30.06.2015, restraining the Company from alienating any assets. Challenging the said order, Company Appeal No.12 of 2015 was filed by the petitioner herein before this Court. Pending appeal, this Court restricted Injunction granted by CLB

only in respect of immovable assets are concerned. However, the very Appeal, itself came to be disposed of later on 10.08.2015 with a direction to the Company Law Board to take up the main Company Petition and dispose the same by 11.09.2015, also by continuing the Interim Order already granted by this Court during such period. However, the Company Law Board could not dispose of the Company Petition within the time stipulated by this Court and consequently M.P.No.2 of 2015 was filed by the petitioner herein seeking for extension of time. By consent of both parties, this Court extended the time for disposal of the Company Petition till 10.12.2015, by its Order dated 10.09.2015. For some reasons, the Company Law Board could not dispose of the Company Petition within such time and therefore, yet another application was filed before this Court in M.P.No.3 of 2015 seeking for further extension. In the said application, an Order came to be passed on 11.12.2015 extending the time granted till 11.03.2016. Now, the present application is filed by contending that the Company petition could not be disposed by the Company Law Board, New Delhi within the time stipulated by this Court, even though pleadings are already completed in view of the subsequent developments which are as follows:-

a) On 12.02.2016, the Government of India passed an order for compulsory merger of the petitioner-company with its subsidiary company.

b) The said order passed by the Union of India has been challenged by the present petitioner before the Bombay High Court wherein the Stay of the merger order has been passed and the matter is posted for hearing on 17.03.2016 before the Bombay High Court.

Hence, the present petition is filed seeking the relief as stated supra.

3. The learned standing counsel appearing for the 1st respondent, Union of India, based on the instructions submitted that the 1st respondent, is not having any objection for extending the time. However, he submitted that CLB may be directed to conduct the hearing of the matter expeditiously preferably on day to-day basis and to dispose of the matter as early as possible, with a further direction to the petitioner and others to co-operate for the expeditious hearing of matter and not to seek any adjournment.

4. Heard both sides.

5. It is true that this Court, while passing order on 11.12.2015, fixed the time limit for the Company Law Board, New Delhi, to dispose of the Company petition on or before 11.03.2016. No doubt, now, the present petition is filed seeking for extension of time, by placing subsequent

developments as stated supra, taken place pursuant to the order passed by this Court on 11.12.2015. It is thus seen that after the order was passed by this Court on 11.12.2015, the Union of India passed a compulsory merger order on 12.02.2016, which is put to challenge before the Bombay High Court by the present petitioner and the matter is now pending before Bombay High Court. Therefore, under these circumstances, in my considered view, the Company Law Board can be directed to dispose of the Company Petition as early as possible, without fixing any upper time limit, however, subject to the outcome of the order to be passed by the Bombay High Court in respect of the proceedings challenging the compulsory merger. On the other hand, if any fixed time limit is ordered, I am of the view that under present scenario, it may not be possible or viable for the Company Law Board, Delhi to adhere to such fixed time when the other proceedings is pending before the Bombay High Court as stated supra. Therefore, this Application is disposed of by modifying the earlier order passed on 11.12.2015 thereby directing the Company Law Board to dispose of the Company Petition as expeditiously as possible subject to the outcome of the proceedings pending before the Bombay High Court.

07.03.2016

ssd/vsi

K.RAVICHANDRABAABU, J.,

ssd/vsi

C.M.P.No.3420 of 2016 in
Company Appeal No.12 of 2015

07.03.2016