

IN THE HIGH COURT OF DELHI
COMPANY PETITION NO. 80/2016

Reserved on 2nd August, 2016
Date of pronouncement: 29th August, 2016

In the matter of

The Companies Act, 1956 & the Companies Act, 2013 (to the extent applicable):

And

**Petition under Sections 391(2) and 394 of the
Companies Act, 1956**

Scheme of Amalgamation of:

Masterji Metalloys Private Limited

Petitioner/Transferor Company

WITH

Good Luck Steel Tubes Limited

Petitioner/Transferee Company

**Through Mr. Rajeev K. Goel, Advocate
for the petitioners**

SUDERSHAN KUMAR MISRA, J.

1. This joint petition has been filed under Sections 391(2) and 394 of the Companies Act, 1956 by the petitioner companies seeking sanction of the Scheme of Amalgamation of Masterji Metalloys Private Limited (hereinafter referred to as the transferor company) with Good Luck Steel Tubes Limited (hereinafter referred to as the transferee company).

2. The registered offices of the transferor and transferee companies are situated at New Delhi, within the jurisdiction of this Court.

3. The transferor company was originally incorporated under the Companies Act, 1956 on 17th August, 2004 with the Registrar of Companies, NCT of Delhi & Haryana under the name and style of Masterji Metalloys Private Limited. The company changed its name to Saini Guarders and Alloys Private Limited and obtained the fresh certificate of incorporation on 3rd March, 2011. The company again changed its name to Masterji Metalloys Private Limited and obtained the fresh certificate of incorporation on 5th September, 2012.

4. The transferee company was originally incorporated under the Companies Act, 1956 on 6th November, 1986 with the Registrar of Companies, Uttar Pradesh at Kanpur under the name and style of Good Luck Steel Tubes Private Limited. The word 'Private' was deleted from the name of the company w.e.f. 10th July, 1990. Thereafter, the company shifted its registered office from the State of Uttar Pradesh to Delhi and obtained a certificate in this regard from the Registrar of Companies, NCT of Delhi & Haryana at New Delhi on 9th November, 1992.

5. The present authorized share capital of the transferor company is Rs.2,75,00,000/- divided into 27,50,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.2,38,45,000/- divided into 23,84,500 equity shares of Rs.10/- each.

6. The present authorized share capital of the transferee company is Rs.10,00,00,000/- divided into 5,00,00,000 equity shares of Rs.2/- each. The issued, subscribed and paid-up share capital of the company is Rs.4,40,12,500/- divided into 2,20,06,250 equity shares of Rs.2/- each.

7. Copies of the Memorandum and Articles of Association of the transferor and transferee companies have been filed on record with the joint application, being CA(M) 9/2016, earlier filed by the petitioners. The audited balance sheets, as on 31st March, 2015, of the transferor and transferee companies, along with the reports of the auditors, had also been filed.

8. A copy of the Scheme of Amalgamation has been placed on record and the salient features of the Scheme have been incorporated and detailed in the petition and the accompanying affidavit. It is submitted by the petitioners that the transferor is a wholly owned subsidiary of the transferee company and the proposed amalgamation would result in business synergy, consolidation and pooling of their resources. It is claimed that the proposed amalgamation will result in usual economies of a centralized and a large company including elimination of duplicate work, reduction in overheads, better and more productive utilization of human and other resources and enhancement of overall business efficiency. It will enable these companies to combine their managerial

and operating strength, to build a wider capital and financial base and to promote and secure overall growth of their businesses.

9. So far as the share exchange ratio is concerned, the Scheme provides that the entire share capital of the transferor company is held by the transferee company and upon the Scheme becoming effective, no shares of the transferee company shall be allotted in lieu of exchange of its holding in the transferor company.

10. It has been submitted by the petitioners that no proceedings under Sections 235 to 251 of the Companies Act, 1956 or under corresponding sections of the Companies Act, 2013 are pending against the petitioner companies.

11. The Board of Directors of the transferor company and the transferee company in their separate meetings held on 15th September, 2015 have unanimously approved the proposed Scheme of Amalgamation. Copies of the Resolutions passed at the meetings of the Board of Directors of the transferor and transferee companies have been placed on record.

12. The petitioner companies had earlier filed CA (M) No. 9/2016 seeking directions of this court to dispense with the requirement of

convening the meetings of their equity shareholders, secured and unsecured creditors, which are statutorily required for sanction of the Scheme of Amalgamation. Vide order dated 18th January, 2016, this court allowed the application and dispensed with the requirement of convening and holding the meetings of the equity shareholders and creditors of the transferor and transferee companies, there being no secured creditor of the transferor company, to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation.

13. The petitioner companies have thereafter filed the present petition seeking sanction of the Scheme of Amalgamation. Vide order dated 5th February, 2016, notice in the petition was directed to be issued to the Regional Director, Northern Region, and the Official Liquidator. Citations were also directed to be published in 'Business Standard' (English) and 'Jansatta' (Hindi) Delhi editions. Affidavit of service has been filed by the petitioners showing compliance regarding service on the Regional Director, Northern Region and the Official Liquidator, and also regarding publication of citations in the aforesaid newspapers on 24th February, 2016 and 9th July, 2016. Copies of the newspaper clippings containing the publications have been filed along with the affidavit of service.

14. Pursuant to the notices issued, the Official Liquidator sought information from the petitioner companies. Based on the information received, the Official Liquidator has filed a report dated 18th July, 2016 wherein he has stated that he has not received any complaint against the proposed Scheme of Amalgamation from any person/party interested in the Scheme in any manner and that the affairs of the transferor company do not appear to have been conducted in a manner prejudicial to the interest of its members, creditors or public interest, as per second proviso of Section 394(1) of the Companies Act, 1956.

15. In response to the notices issued in the petition, Mr. Narender Kumar Bhola, Regional Director, Northern Region, Ministry of Corporate Affairs has filed his report dated 9th July, 2016 stating that the Regional Director has no objection to the proposed Scheme of Amalgamation.

16. No objection has been received to the Scheme of Amalgamation from any other party. The petitioner companies, in the affidavits dated 15th July, 2016 of Sh. Ramesh Chandra Garg, Whole Time Director of the transferee company, have submitted that neither the petitioner companies nor their counsel have received any objection pursuant to the citations published in the newspapers on 24th February, 2016 and 9th July, 2016.

17. Considering the approval accorded by the equity shareholders and creditors of the petitioner companies to the proposed Scheme of Amalgamation and the affidavits filed by the Regional Director, Northern Region, and the Official Liquidator not raising any objection to the proposed Scheme of Amalgamation, there appears to be no impediment to the grant of sanction to the Scheme of Amalgamation. Consequently, sanction is hereby granted to the Scheme of Amalgamation under Sections 391 and 394 of the Companies Act, 1956. The petitioner companies will comply with the statutory requirements in accordance with law. Certified copy of this order be filed with the Registrar of Companies within 30 days. It is also clarified that this order will not be construed as an order granting exemption from payment of stamp duty as payable in accordance with law. Upon the sanction becoming effective from the appointed date of amalgamation, i.e. 1st April, 2015, the transferor company shall stand dissolved without undergoing the process of winding up.

18. Learned counsel for the Official Liquidator prays that costs of at least Rs.1,00,000/- should be paid by the petitioners keeping in view the fact that the matter has involved examination of extensive records and also prioritized hearings. Learned counsel for the petitioner companies states that the same is acceptable to him. As already directed vide order dated 02.08.2016, the petitioners shall deposit a sum of Rs.1,00,000/- by

way of costs with Delhi High Court Bar Association Lawyers Social Security and Welfare Fund, New Delhi.

19. The petition is allowed in the above terms.

Dasti.

SUDERSHAN KUMAR MISRA, J.

August 29, 2016