IN THE HIGH COURT OF DELHI AT NEW DELHI

Order reserved on: 28.11.2016
Order delivered on:19.12.2016

CO. APPL. (M) 160/2016

IN THE MATTER OF:

MUSSOORIE TRADING COMPANY PRIVATE LIMITED
...Applicant/Transferor Company/Demerged Company

AND

JAIGEET TRADING PRIVATE LIMITED
… Applicant /Transferee Company/Resulting Company

Through: Mr. Anirudh Das and Mr. Vikram Shah, Advocates for the Applicants.

CORAM:
HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J.

1. The present application has been filed jointly, under Section 391 of the Companies Act, 1956 (hereinafter referred to as 'the Act') read with Rule 9 of the Companies (Court) Rules, 1959, by Mussoorie Trading Company Private Limited (hereinafter referred to as 'the Demerged/Transferor Company') and Jaigeet Trading Private Limited (hereinafter referred to as 'the Resulting/Transferee Company') in connection with the Scheme of Demerger and Arrangement (hereinafter referred to as ‘the Scheme’) between the Demerged/Transferor Company and the Resulting/Transferee Company.

2. The Demerged/Transferor Company and the Resulting/Transferee Company, shall hereinafter, collectively, be referred to as the ‘Applicant Companies’.

3. The registered offices of the Applicant Companies are situated within the National Capital Territory of Delhi, within the jurisdiction of this Court.

4. The Demerged/Transferor Company was incorporated under the Act, on 23.04.1975 vide certificate of Incorporation issued by the Registrar of Companies, Delhi.

5. The Resulting/Transferee Company was incorporated under the provisions of the Companies Act, 2013, vide certificate of incorporation dated 08.05.2015 issued by the Assistant Registrar of Companies, Delhi.

6. The authorized share capital of the Demerged/Transferor Company as on 31.03.2016, is Rs.4,00,00,000/-, divided into 40,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company as on 31.03.2016, is Rs.4,00,00,000/-, divided into 40,00,000 equity shares of Rs.10/- each.

7. The authorized share capital of the Resulting/Transferee Company as on 31.03.2016, is Rs.25,00,000/-, divided into 2,50,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company as on

31.03.2016, is Rs.10,00,000/-, divided into 1,00,000 equity shares of Rs.10/- each.

8. Copies of the Memorandum of Association and Articles of Association of the Applicant Companies have been filed on record. The audited balance sheets, as on 31.03.2016, pertaining to the Applicant Companies, along with the reports of the auditors, have also been filed and the same are on record.

9. A copy of the Scheme has been enclosed along with the application and the same is on record. It has been stated by the Applicant Companies in the affidavit filed in support of the summons for directions under section 391 of the Act read with Rule 67 of the Companies (Court) Rules, 1959, that the proposed Scheme will result in the transfer and vesting of the Demerged Undertaking of the Transferor Company in the Transferee Company. The Scheme shall result in development of a focused strategy for operation of the Demerged Undertaking (as defined in the Scheme) and the Residual Undertaking (as defined in the Scheme), which shall enable greater and specialized focus to be placed on their respective operations and growth, creation of greater management focus and easier, speedy decision process to achieve strategic advantage and effective legal compliances with respect to operations, optimal utilization of resources vesting in each of the Demerged Undertaking and the Residual Undertaking and alignment, coordination and streamlining of day-to-day operations of businesses of the Demerged Undertaking and the Residual Undertaking.

10. Learned Counsel appearing on behalf for the Applicant Companies would submit that no proceedings under sections 235 to 250A of the Act (or corresponding provisions of the Companies Act, 2013) are pending against the latter as on the date of institution of the present application.

11. It has been averred on behalf of the Applicant Companies that the Scheme has been approved by the respective Board of Directors of the Demerged/Transferor Company and Resulting/Transferee Company at their respective meetings held on 10.10.2016. Copies of the Resolutions passed at the meetings of the Board of Directors of the Transferor Company and Transferee Company have been filed with present application and the same are on record.

12. The status of the Shareholders, Secured Creditors and Unsecured Creditors of the Applicant Companies and the consents obtained from them for the proposed Scheme has been set out in a table forming part of the application which is reproduced hereinunder:-

Company	Nos. of Equity Share-holders	Consent Given	Nos. of Secured Creditors	Consent Given	Nos. of Unsecured Creditors	Consent Given
Demerged/ Transferor Company	2	ALL	NIL	N.A.	NIL	N.A.
Resulting/ Transferee Company	2	ALL	NIL	N.A.	NIL	N.A.

13. A prayer has been sought for dispensing with the requirement of convening the meetings of the equity shareholders of the Applicant Companies, to consider and if thought fit, approve, with or without modifications, the proposed Scheme.

14. Both the Applicant Companies do not have any Secured Creditors and Unsecured Creditors, therefore, the question of requirement of convening the meetings of the Secured Creditors and Unsecured Creditors of the Applicant Companies, to consider and if thought fit, approve, with or without modifications, the proposed Scheme, does not arise.

15. The Demerged/Transferor Company has 02 equity shareholders. Both the shareholders have given their written consents/NOCs, to the Scheme. The said written consents/NOCs have been placed on record. The same have been examined and found in order.

16. In view of the foregoing, the requirement of convening a meeting of the equity shareholders of the Demerged/Transferor Company, to consider and if thought fit, approve, with or without modifications, the proposed Scheme, is dispensed with.

17. The Resulting/Transferee Company has 02 equity shareholders. Both the shareholders have given their written consents/NOCs, to the Scheme. The said written consents/NOCs have been placed on record. The same have been examined and found in order.

18. In view of the foregoing, the requirement of convening a meeting of the equity shareholders of the Resulting/Transferee Company, to consider and if thought fit, approve, with or without modifications, the proposed Scheme, is dispensed with.

19. The application stands allowed in the aforesaid terms and is disposed of accordingly.

SIDDHARTH MRIDUL, J

DECEMBER 19, 2016
sb/mk/dn