IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment Reserved On: 08.12.2016
Judgment Pronounced On: 30.01.2017

CO.PET.692/2016

JINDAL POLYMER PRODUCTS PRIVATE LIMITED
…..Petitioner/Transferor Company No.1

AND

SHATABDI PAPER MILLS PRIVATE LIMITED
…..Petitioner/Transferor Company No.2

AND

ANNAPURNA STEELS PRIVATE LIMITED
…..Petitioner/Transferee Company

Through: Mr. Rajeev K. Goel, Advocate for Petitioners.
Ms. Aparna Mudiam, Assistant ROC.

CORAM:
HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

J U D G M E N T

SIDDHARTH MRIDUL, J.

1. The present petition has been filed jointly under Sections 391 and 394 & sections 100 to 104 of the Companies Act, 1956 (hereinafter referred to as 'the Act') by Jindal Polymer Products Private Limited (hereinafter referred to as

'Transferor Company No.1'), Shatabdi Paper Mills Private Limited (hereinafter referred to as 'Transferor Company No.2') and Annapurna Steels Private Limited (hereinafter referred to as 'Transferee Company') seeking sanction of the scheme of arrangement (hereinafter referred to as 'the Scheme') for the Demerger of the Investments Business of Transferor Companies into the Transferee Company; and the Demerger of the Investments Business of the Transferee Company into Transferor Company No.1.

2. The registered offices of each of the Petitioner Companies are situated at Delhi, within the jurisdiction of this Court.

3. Transferor Company No.1 was incorporated under the Act and a certificate in this behalf was issued on 21.04.1980 by the Registrar of Companies, Uttar Pradesh at Kanpur. Thereafter, the registered office of Transferor Company No.1 was shifted to Delhi and a fresh certificate in this behalf was issued on 12.11.2015 by the Assistant Registrar of Companies, NCT of Delhi and Haryana at New Delhi.

4. Transferor Company No.2 was incorporated under the Act and a certificate in this behalf was issued on 19.04.1989 by the Registrar of Companies, NCT of Delhi and Haryana at New Delhi.

5. The Transferee Company was incorporated under the Act vide certificate of incorporation dated 05.09.1985, issued by the Registrar of Companies, NCT of Delhi and Haryana under the name of Annapurna Steels Private Limited. Thereafter, the name of the Transferee Company was changed to Annapurna Steels Limited and a fresh certificate was issued in this behalf on 15.12.2006. The name of the Transferee Company was again changed to Annapurna Steels Private Limited, its present name, and a fresh certificate in this behalf was obtained on 30.10.2014.

6. The authorized share capital of Transferor Company No.1 as on 31.03.2015 is Rs.1,20,00,000/- divided into 1,20,000 shares of Rs.100/- each. The issued, subscribed and paid up share capital of Transferor Company No.1 as on 31.03.2015 is Rs.98,05,700/- divided into 98,057 shares of Rs.100/- each.

7. The authorized share capital of Transferor Company No.2 as on 31.03.2015 is Rs.50,00,000/- divided into 5,00,000 shares of Rs.10/- each. The issued, subscribed and paid up share capital of Transferor Company No.2 as on 31.03.2015 is Rs.18,15,000/- divided into 1,81,500 shares of Rs.10/- each.

8. The authorized share capital of the Transferee Company as on 31.03.2015 is Rs.1,10,00,000/- divided into 1,10,000 equity shares of Rs.100/-

each. The issued, subscribed and paid up share capital of the Transferee Company as on 31.03.2015 is Rs.77,70,800/- divided into 77,708 equity shares of Rs.100/- each.

9. Copies of the Memorandum of Association and Articles of Association, the audited annual accounts for the year ended 31.03.2015, alongwith the reports of the Auditors, pertaining to the Transferor Companies and the Transferee Company have been enclosed with the application that earlier came to be filed by the Petitioner Companies, being Company Application (Main) No.87 of 2016.

10. Learned Counsel appearing on behalf of the Petitioner Companies has stated that no proceedings under sections 235 to 251 of the Act (or corresponding provisions of the Companies Act, 2013) are pending against them as on the date of institution of the present petition.

11. It has further been stated on behalf of the Petitioner Companies that the scheme has been approved by their respective Board of Directors (BOD). Copies of the resolutions dated 25.04.2016 of the Petitioner Companies, whereby the scheme has been approved have been filed with the present petition.

12. A copy of the Scheme has been enclosed with the petition and its salient features have been incorporated in the petition. It has stated on behalf of the Petitioners that the proposed Scheme, *inter alia*, provides for demerger of the respective Investments Business of Transferor Companies and their merger into the Transferee Company and demerger of the Investment Business of the Transferee Company and its merger into Transferor Company No.1. It has been stated on behalf of the Petitioner Companies that the proposed demerger will simplify the corporate structure and will ensure seamless integration of transferor business with the respective companies. It has been further stated that the proposed demerger will strengthen, consolidate and stabilize the business of these companies and will facilitate further expansion and growth of their business.

13. So far as the share exchange ratio is concerned, the Scheme provides that, upon coming into effect of this Scheme, the transferee company shall issue and allot shares to the shareholders of the transferor companies no. 1 & 2 in the following ratio:

> "22 10% non-cumulative compulsorily redeemable preference shares of Rs.100/- each of the Transferee Company, credited as fully paid up, for every 1000 equity shares of Rs.100/- each held in Transferor Company No.1. 10% non-cumulative compulsory redeemable preference shares of Rs.100/- each will be redeemed at a price of Rs.547.68/- per share [Rs.100/- face value and redemption premium of Rs.447.68/- per share] within a period of 20 years with a put and call option to the shareholders of the issuer company."

> "19 10% non-cumulative compulsorily redeemable preference shares of Rs.100/- each of the Transferee Company, credited as fully paid up, for every 1000 equity shares of Rs.10/- each held in Transferor Company No.2. 10% non-cumulative compulsory redeemable preference shares of Rs.100/- each will be redeemed at a price of Rs.547.68/- per share [Rs.100/- face value and redemption premium of Rs.447.68/- per share] within a period of 20 years with a put and call option to the shareholders of the issuer company."

It has been further provided that in consideration of the demerger of the Investment Business of the transferee company and its merger into the transferor company no. 1, the transferor company no. 1 shall issue and allot shares to the shareholders of the transferee company in the following ratio:

> "72 10% non-cumulative compulsorily redeemable preference shares of Rs.100/- each of Transferor Company No.1, credited as fully paid up, for every 100 equity shares of Rs.10/- each held in the Transferee Company. 10% noncumulative compulsory redeemable preference shares of Rs.100/- each will be redeemed at a price of Rs.396.29/- per share [Rs.100/- face value and redemption premium of Rs.296.29/- per share] within a period of 20 years with a put and call option to the shareholders of the issuer company."

14. The Petitioner Companies by way of Company Application (Main) No. 87 of 2016 sought directions of this Court for dispensation of meetings of the shareholders, secured creditors and unsecured creditors of the Petitioner Companies. This Court vide order dated 03.08.2016 dispensed with the requirement of convening meetings of the, shareholders of each of the Petitioner Companies; unsecured creditors of the Transferor Companies; and secured creditors of Transferor Company No.1 (there being no secured and unsecured creditors of the Transferee Company; and no secured creditor of Transferor Company No.2).

15. Thereafter, the present petition came to be filed by the Petitioner Companies. Notice in the present petition was issued to the Regional Director and the Registrar of Companies vide order dated 09.08.2016. Further, this Court by way of the said order directed that the citations be published in the Delhi editions of 'Business Standard' (English Edition) and 'Business Standard' (Hindi Edition).

16. An affidavit dated 22.09.2016 has been filed by the Petitioner Companies showing service of notice upon the Regional Director & the Registrar of Companies and showing that citations were published in the said newspapers on 30.08.2016. The said affidavit is on record.

17. Pursuant to the notice being issued in the Petition, the Regional Director has filed its representation/affidavit dated 06.12.2016, not raising any objections to the grant of the proposed Scheme.

18. An affidavit dated 03.12.2016 showing that no objections have been received by the Petitioner Companies or their counsel, from any person/party to the proposed Scheme, pursuant to the publication of citations in the newspapers has been filed by Transferor Company No.1 and the same is on record.

19. In view of the foregoing and in view of the approval accorded by the shareholders and creditors of the Petitioner Companies and the representation/affidavit filed by the Regional Director, raising no objections to the proposed Scheme; there appears to be no impediment to grant of sanction to the Scheme. Consequently, sanction is hereby granted to the Scheme the provisions of section 391 to 394 & sections 100 to 104 of the Act.

20. Notwithstanding the above, if there is any deficiency found or, violation committed *qua* any enactment, statutory rule or regulation, the sanction granted by this Court to the proposed scheme will not come in the way of action being taken, *albeit*, in accordance with law, against the concerned persons, directors and officials of the Petitioner Companies.

21. It is made clear, that this order shall not be construed as an order granting exemption, *inter alia*, from, payment of stamp duty or, taxes or, any other charges, if, 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.

22. Resultantly, it is hereby directed that the Petitioner Companies will comply with all the provisions of the proposed scheme and, in particular, those which are referred to hereinabove. The petitioners shall also comply with the statutory requirements in accordance with law.

23. A certified copy of this order be filed with the Registrar of Companies within 30 days from the date of receipt of the same.

24. The Petitioner Companies are directed to deposit a sum of Rs.25,000/- with the Delhi High Court Bar Association Lawyers' Social Security and Welfare Fund, New Delhi within a period of two weeks from today.

25. The Petition is allowed in the above terms and is accordingly disposed of.

SIDDHARTH MRIDUL, J

JANUARY 30, 2017
sb/mk