

IN THE HIGH COURT OF DELHI AT NEW DELHI

Order reserved on:08.12.2016

Order delivered on:24.01.2017

CO. APPL. (M) 164/2016

IN THE MATTER OF:

GIRNAR INVESTMENT LIMITED

...Applicant No.1/Transferor Company

AND

SUVRAT TRADING CO. LIMITED

...Applicant No.2/Transferee Company

Through: Mr. Abhishek Rao, Mr. Shailesh
Suman, Ms. Bhavya Bharti and
Ms. Deepti Bhardwaj, Advocates.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J.

1. The present is an application filed jointly under Sections 391 to 394 of the Companies Act, 1956 (hereinafter referred to as 'the Act'), by Girnar Investment Limited (hereinafter referred to as 'Transferor Company') and Suvrat Trading Co. Limited (hereinafter referred to as 'Transferee Company') in

connection with the proposed Scheme of Arrangement and Demerger (hereinafter referred to as 'proposed scheme').

2. The Transferor Company and the Transferee Company are hereinafter collectively referred to as 'Applicant Companies'.

3. The registered offices of the Applicant Companies are situated at New Delhi, within the jurisdiction of this Court.

4. The Transferor Company was incorporated on 24.06.1972 under the Act, with the Registrar of Companies, N.C.T. of Delhi and Haryana.

5. The Transferee Company was incorporated on 04.06.2015 under the Companies Act, 2013 with the Registrar of Companies, N.C.T. of Delhi and Haryana.

6. The authorized share capital of the Transferor Company, as on 15.10.2016, is Rs.60,00,000/-, divided into 55,200 equity shares of Rs.100/- each; 400 class B shares of Rs.100/- each; and 4,400 4% Cumulative Redeemable Preference shares of Rs.100/- each. The issued, subscribed and paid-up share capital of the Transferor Company, as on 15.10.2016, is Rs.5,00,000/-, divided into 5,000 equity shares of Rs.100/- each.

7. The authorized share capital of the Transferee Company, as on 15.10.2016, is Rs.5,00,000/-, divided into 50,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the Transferee Company, as

on 15.10.2016, is Rs.5,00,000/-, divided into 50,000 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 Financial Statements for the period ending on 15.10.2016, 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 proposed scheme has been enclosed along with the present application and the same is on record. The rationale behind the proposed scheme, as stated in para 4 of the proposed scheme, is as follows: -

“GIL is engaged in the business of investment and financing. The company intends to start trading business and the relevant approval of the shareholder has already been accorded. It is therefore now proposed that the investment and financing business of the company should be carried out in the new subsidiary i.e. STCL through demerger process and the trading business be carried out in GIL. The demerger of investment and financing business of Transferor Company to the Transferee Company would lead to a more focused business approach and efficient utilization of resources between GIL's respective business i.e. trading Business and Demerged undertaking.

It will provide an opportunity to leverage assets and capital in a better way and to build stronger sustainable businesses.

Moreover, the restructuring of business will enable both the business segments of GIL to pursue their respective business plans with a reorganized capital and asset base more effectively and profitably. In addition, it will also enable the group to have more focused business approach in the financial sector to realize its potential to the fullest extent.

The demerger of the Investment & financing Business of GIL and its vesting in STCL with effect from Appointed Date is in the interest of the shareholders. The restructuring would enable a focused business approach and maximization of benefits to all the stakeholders along with providing an opportunity for growth in future.”

10. So far as the Share Exchange ratio is concerned, the proposed scheme provides as follows:

“1. Upon coming into effect of this Scheme, in consideration of transfer and vesting of the Demerged business of Transferor Company into Transferee Company pursuant to this Scheme, existing members of Transferor Company will receive 50,000 Equity Shares Rs. 10.00 each in the same proportion as they are holding shares in Transferor Company. The vesting of shares in the shareholders of Transferor Company would be by way of transfer of entire shares held by Transferor Company and its nominees & in case of further requirement, if any, the same can also be allotted by Transferee Company.

2. The Reserves equivalent to the book value of the demerged business transferred to Transferee Company will also be transferred from Transferor Company to Transferee Company.”

11. It has been stated on behalf of the Applicant Companies that no proceedings under Sections 235 to 251 of the Act or under corresponding provisions of the Companies Act, 2013 are pending against the Applicant Companies, as on the date of filing of the present application.

12. The proposed scheme has been approved by the Board of Directors of the Applicant Companies in their separate meetings held on 20.10.2016. Copies of the Resolutions passed at the Board of Directors meetings of the Applicant Companies have been placed on record.

13. The status of the shareholders and Creditors of the Applicant Companies and the consents obtained therefrom to the proposed scheme, are set out in a tabular form as hereinunder:

Company	No. of equity Shareholders	Consent Given	No. of Secured Creditors	Consent Given	No. of Unsecured Creditors	Consent Given
Transferor Company	7	ALL	NIL	N.A.	1	Consent Given
Transferee Company	7	ALL	NIL	N.A.	NIL	N.A.

14. A prayer has been sought in the present application for dispensing with the requirement of convening meetings of the equity shareholders and Unsecured Creditors of the Transferor Company; and the equity shareholders of the Transferee Company.

15. The Transferor Company has seven equity shareholders. All the equity shareholders have given their written consents/NOCs to the proposed 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 meeting of the equity shareholders of the Transferor Company to consider and, if thought fit, approve with or without modification, the proposed scheme is dispensed with.

17. The Transferor Company has one Unsecured Creditor. The sole Unsecured Creditor has given its written consent/NOC to the proposed scheme. The said written consent/NOC has been placed on record. The same have been examined and found in order.

18. In view of the foregoing, the requirement of convening meeting of the Unsecured Creditor of the Transferor Company to consider and, if thought fit, approve with or without modification, the proposed scheme is dispensed with. The Transferor Company does not have any secured creditors.

19. The Transferee Company has seven equity shareholders. All the equity shareholders have given their written consents/NOCs to the proposed scheme. The said written consents/NOCs have been placed on record. The same have been examined and found in order.

20. In view of the foregoing, the requirement of convening meeting of the equity shareholders of the Transferee Company to consider and, if thought fit, approve with or without modification, the proposed scheme is dispensed with. The Transferee Company does not have any secured or unsecured creditors.

21. Further, a prayer has also been sought in the present application, seeking dispensation of the requirement of publishing the notices for meetings in newspapers.

22. In view of the circumstance that the requirement of convening meetings of the shareholders and creditors has been dispensed with, the requirement of publishing notices for meetings in newspapers is also dispensed with.

23. Directed accordingly.

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

JANUARY 24, 2017
ap/mk

SIDDHARTH MRIDUL, J

