

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment Reserved on: 14.12.2016

Judgment Delivered on: 31.01.2017

CO.PET. 889/2015

PETRO IT LIMITED

...Demerged Company/Petitioner No. 1

AND

PETRO IT SOLUTIONS PRIVATE LIMITED

...Resulting Company/Petitioner No. 2

Through: Ms. Malini Sud, Santosh Kumar and SP
Singh Chawla Advocate for the Petitioners
Ms. Aparna Mudiam, Assistant Registrar of
Companies for the Regional Director

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

J U D G M E N T

SIDDHARTH MRIDUL, J.

1. This second motion joint petition has been filed under Sections 391 to 394 of the Companies Act, 1956 (hereinafter referred to as 'the Act') by PETRO IT LIMITED (hereinafter referred to as 'Demerged Company') and PETRO IT SOLUTIONS PRIVATE LIMITED (hereinafter referred to as

‘Resulting Company’), seeking sanction of this Court to the proposed scheme of Arrangement (hereinafter referred to as ‘proposed scheme’) between the Demerged Company and the Resulting Company.

2. The Demerged Company and the Resulting Company are hereinafter collectively referred to as ‘Petitioner Companies’.

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

4. The Demerged Company was originally incorporated under the provisions of the Act, on 05.03.2004, with the Registrar of Companies, N.C.T. of Delhi & Haryana at New Delhi, under the name and style of ‘PL Petro IT Private Limited’. Thereafter, the Demerged Company changed its name to ‘Petro IT Private Limited’ and obtained the fresh certificate dated 14.09.2005, in this behalf. Subsequently, the Demerged Company changed its name to its present name and obtained a fresh certificate dated 04.05.2006, in this behalf.

5. The Resulting Company was incorporated under the provisions of the Act, on 06.06.2013, with the Registrar of Companies, N.C.T. of Delhi & Haryana at New Delhi.

6. The present authorized share capital of the Demerged Company is stated to be Rs.4,50,00,000/- divided into 45,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid up capital of the Demerged Company is stated to be Rs.3,90,00,000/- divided into 39,00,000 equity shares of Rs.10/- each.

7. The present authorized share capital of the Resulting Company is stated to be Rs.2,00,00,000/- divided into 20,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid up capital of the Resulting Company is stated to be Rs.1,01,00,000/- divided into 10,10,000 equity shares of Rs.10/- each.

8. Copies of the Memorandum and Articles of Association of the Petitioner-Companies have been filed on record. The audited balance sheets, as on 31.01.2014, of the Petitioner-Companies, along with the report of the auditors have also been filed on record.

9. A copy of the proposed scheme has been placed on record and the salient features thereof have been incorporated and detailed in the present petition. It is stated on behalf of the applicants that the proposed scheme, *inter-alia*, provides for merger of the Demerged Undertaking (as defined in the proposed scheme) of the Demerged Company into the Resulting

Company. It is claimed that transfer of the said Demerged Undertaking to a separate company will enable greater focus on the operation of the business and would enable unlocking value. It is further claimed that the proposed demerger shall enable the business activities comprised in the said Demerged Undertaking to be carried out with separate and independent management set-up and greater focus, attention and specialization for sustained growth. It is further claimed that the said Demerged Undertaking will also benefit from the synergies of combining with the similar and related business of the Resulting Company and its shareholders, thereby resulting in enhancement of shareholder value.

10. The Board of Directors of the Petitioner Companies in their separate meetings held on 29.03.2014 have unanimously approved the proposed scheme. Copies of the resolutions passed at the meetings of the Board of Directors of the Petitioner Companies have been placed on record.

11. So far as the share exchange ratio is concerned, the proposed scheme provides that upon coming into effect of the proposed scheme, the Resulting Company shall issue and allot equity shares to the shareholders of the Demerged Company in the following ratio:

"1.5 equity shares of Rs.10/- each of the Resulting Company, credited as fully paid up, for every 09 equity shares of Rs.10/- each fully paid up held in the Demerged Company."

12. It has been stated by the Petitioner Companies that no proceedings under Sections 235 to 251 of the Act are pending against the Petitioner Companies.

13. To recapitulate, the Petitioner Companies had earlier filed Company Application (M) No.120 of 2015, seeking directions of this Court to dispense with the requirement of convening meetings of the shareholders and creditors of the Petitioner-Companies to consider and if thought fit, approve, with or without modification, the proposed scheme. This Court, vide order dated 28.08.2015, allowed the said application and dispensed with the requirement of convening meetings of the shareholders and creditors of the Petitioner Companies.

14. The Petitioner Companies have thereafter filed the present petition seeking sanction of this Court to the proposed scheme. Vide order dated 30.11.2015, notice in the present petition was directed to be issued to the Regional Director. Notice was accepted by the Deputy Registrar of Companies on behalf of the Regional Director. Furthermore, citations were directed to be published in the newspapers, namely, "Statesman" (English) and "Veer Arjun" (Hindi). Affidavit of service and publication, dated 02.05.2016, has been filed on behalf of the Petitioners Companies showing

compliance regarding service of the petition on the Regional Director and the Registrar of Companies, Northern Region, Ministry of Corporate Affairs; and also regarding publication of citations in the aforesaid newspapers. Copies of the newspaper clippings, regarding publication carried out on 19.03.2016 have also been filed along with the said affidavit.

15. Pursuant to the notices issued in the present petition, the Regional Director, Northern Region, Ministry of Corporate Affairs, has filed affidavits dated 12.05.2016 and 18.11.2016, not raising any objection to the grant of sanction to the proposed scheme.

16. No objection has been received to the proposed scheme from any other party. Mr. Santosh Kumar, learned counsel for Petitioner Companies, has filed an affidavit dated 02.05.2016, stating that neither the Petitioner Companies nor has he received any objection to the proposed scheme, pursuant to publication of citations in the newspapers on 19.03.2016.

17. Considering the approval accorded by the shareholders and creditors of the Petitioner Companies; affidavit filed by the Regional Director not raising any objection to the proposed scheme, there appears to be no impediment to the grant of sanction to the proposed scheme. Consequently, sanction is hereby granted to the proposed scheme. The Petitioners will

comply with the statutory requirements in accordance with law. Upon the sanction becoming effective from the appointed date of the proposed scheme, the Demerged Undertaking (as defined in the proposed scheme) of the Demerged Company shall stand merged in the Resulting Company.

18. A certified copy of the order, sanctioning the proposed scheme, be filed with the ROC within 30 days from the date of receipt of the same.

19. 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 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.

20. 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.

21. The Petitioner Companies shall deposit a sum of Rs.1,00,000/- by way of costs in the Delhi High Court Bar Association Lawyers Social Security and Welfare Fund, New Delhi, within a period of two weeks from today.

22. Consequently, the petition is allowed in the aforesaid terms and is accordingly disposed of.

SIDDHARTH MRIDUL, J

JANUARY 31, 2017

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