
(202) 07 NCLT CK 0001

National Company Law Tribunal, Kolkata Bench

Case No: CA (CAA) 101/KB/2022

B D J Stampings Industries Ltd

APPELLANT

Vs

Registrar of Companies

RESPONDENT

Date of Decision: July 27, 2022

Acts Referred:

- Companies Act, 2013 - Section 230, 230(1), 230(5), 232, 232(1)

Hon'ble Judges: Rohit Kapoor, Member (J); Balraj Joshi, Member (T)

Bench: Division Bench

Advocate: Aditi Jhunjhunwala

Final Decision: Disposed Of

Judgement

Rohit Kapoor, Member (Judicial):

1. The instant application has been filed in the first stage of the proceedings under Section 230(1) read with Section 232(1) of the Companies Act,

2013 (â€œActâ€) for orders and directions with regard to meetings of shareholders and creditors in connection with the Scheme of Amalgamation

between BDJ Stamping Industries Limited(Transferor Company 1 or Applicant Company 1), DOL Apartments Private Limited (Transferor

Company 2 or Applicant Company 2), Elvin Commercial Pvt. Ltd. (Transferor Company 3 or Applicant Company 3) with Radha Electricals Pvt.

Ltd. (Transferee Company) and their respective shareholders. The Scheme provides for merger of Applicants 1 to 3 with the Transferee Company

from the Appointed Date, viz 1st April, 2021 in the manner and on the terms and conditions stated in the said Scheme of Arrangement

(â€œSchemeâ€).

2. It is submitted by Ld. Authorised Representative appearing for the Applicants that the shares of none of the Applicant Companies are listed on any of the stock exchanges. Further, the Applicants have the following classes of shareholders and creditors:-

(i) Applicant No.1: 8 Equity Shareholders, NIL Preference Shareholders, NIL Secured Creditor and 1 Unsecured Creditor.

(ii) Applicant No.2: 2 Equity Shareholders, NIL Preference Shareholders, NIL Secured Creditor and NIL Unsecured Creditor.

(iii) Applicant No.3: 5 Equity Shareholders, NIL Preference Shareholders, NIL Secured Creditor and NIL Unsecured Creditor.

(iv) Applicant No.4: 2, ~Class A™, Equity Shareholders, 4, ~Class B™, Equity Shareholders, NIL Preference Shareholders, NIL Secured Creditor and 37 Unsecured Creditors.

3. The Board of Directors of the Applicants have, at their Board Meetings held on 17.03.2022, approved and resolved to carry out the Scheme of

Amalgamation and the copies of the same are attached to the Application at Annexure ~" N1 to N4 at page Nos. 419 to 426.

4. It is further submitted that all Equity Shareholders of all the Applicants and 100% in value of Unsecured Creditor of the Applicant 1 while 98.76%

of the value of Unsecured Creditors of Applicant 4 have already given their consent to the Scheme by way of affidavits which are annexed to the

Company Application. Ld. Authorized Representative submits that none of the Applicant Companies have secured creditors, hence, the requirement

of obtaining consent and/or holding meeting of secured creditors does not arise.

5. Directions are sought accordingly for dispensing with meetings of the equity shareholders and unsecured creditors who have already given their

consent to the Scheme.

6. Upon perusing the records and documents in the instant proceedings and considering the submissions made on behalf of the Applicant(s), we allow

the instant application and make the following orders:-

(a) In view of the consents given in affidavit form by all the equity shareholders of Applicants 1 to 4, meetings of the Equity Shareholders of Applicants 1 to 4 are

dispensed with under Section 230(1) read with Section 232(1) of the Act.

(b) In view of the fact Applicant 1, Applicant 2, Applicant 3, Applicant 4 have NIL Secured Creditors, the question of conducting and holding meetings of the Secured Creditors of such Applicants does not arise.

(c) In view of the fact that Applicant 2 and Applicant 3 have NIL Unsecured Creditors, the question of conducting and holding meetings of the Secured Creditors of such Applicants does not arise.

(d) In view of the fact that the 100% in value of Unsecured Creditors of the Applicant 1 and 98.76% of the Unsecured Creditors of Applicant 4 have given their consent, meeting of the Unsecured Creditors of Applicant 1 and Applicant 4 is dispensed with.

7. Notice under Section 230(5) of the Companies Act, 2013 along with all accompanying documents, including a copy of the aforesaid Scheme and

statement under the provisions of the Companies Act, 2013 shall also be served on the Regional Director, Eastern Region, Ministry of Corporate

Affairs, Kolkata; Registrar of Companies with whom the Applicant(s) are registered; Official Liquidator; and Income Tax Department having

jurisdiction over the Applicant(s), by sending the same by hand delivery through special messenger, by speed post and by email within two weeks from

the date of receiving this order. The notice shall specify that representation, if any, should be filed before this Tribunal within 30 days from the date of

receipt of the notice with a copy of such representation being simultaneously sent to the Authorised Representative of the said Applicant(s). If no such

representation is received by the Tribunal within such period, it shall be presumed that such authorities have no representation to make on the said

Scheme of Amalgamation. Such notice shall be sent pursuant to Section 230 (5) of the Companies Act, 2013 read with Rule 8(2) of the Companies

(Compromises, Arrangements and Amalgamations) Rules 2016 in Form No. CAA3 of the said Rules with disclosures required under Rule 6 &

incorporating the directions herein.

8. The application being CA (CAA) No. 101/KB/2022 is disposed of accordingly.

9. The applicants to file an affidavit proving service of notices to all statutory /sectoral authorities and compliance of all the directions contained.

10. Connected Company Petition should be filed within a period of Four weeks from the date of issue of this order.

11. Urgent Certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.