
(202) 07 NCLT CK 0002

National Company Law Tribunal, Kolkata Bench

Case No: IA(COMPANIES.ACT)/58(KB)2022 In CA (CAA) No. 43/KB/2022

Thakur Prasad Sao & Sons Pvt
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)
- Companies Act, 2013 - Section 230, 230(1), 230(5), 232, 232(1)
- Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 - Rule 7, 8

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

Bench: Division Bench

Advocate: Barsha Dikshit

Final Decision: Disposed Of

Judgement

Rohit Kapoor, Member (Judicial)

1. The Court convened by video conference today.

2. It is submitted by the Ld. PCS appearing for the Applicants that, vide order dated 19th May, 2022 following directions were given by this Bench in

CA (CAA) No. 43/KB/2022:

a. In view of the consents given in the affidavit by all the shareholders of all the Applicant Companies, meeting of the shareholders of the Applicant Companies are hereby dispensed with under section 230 (1) with section 232 (1) of the Act.

b. In view of the fact that the First Applicant Company has no secured creditors, the question of convening/ dispensing the meeting the secured creditors of the First Applicant Company does not arise..

c. As regards the unsecured creditors of the First Applicant Company, the meeting shall be held on 01.07.2022, at 11.00 A.M., for the purpose of considering, and if thought fit, approving the said Scheme, with or without modification.

d. Mode of the Meeting: The meeting of the unsecured creditors of the First Applicant Company shall be held in a physical mode. At least 30 (thirty) clear days before the meeting to be held, as aforesaid, an advertisement of the notice of meeting be published once each in the "Business Standard"™ in English and "Aajkal"™ in Bengali, as per Rule 7 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

e. At least 30 (thirty) clear days before the date of the meeting to be held, as aforesaid, notice convening the said meeting, along with all documents required to be

sent with the same, including a copy of the said Scheme, and a statement prescribed under the provisions of the Act disclosing necessary details, shall be sent to

each of the said unsecured creditors of the First Applicant, as per Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, by

post or courier or email or through personal messenger at their respective or last known addresses.

â€¦â€¦.

j. In view of the fact that there are no creditors, secured or unsecured, in the Second Applicant Company, the question of convening/ dispensing with the meetings does not arise at all.

k. The Applicant Companies shall serve notice under section 230 (5) of the Companies Act, 2013 read with Rule 8 of the Companies (Compromise, Arrangements

and Amalgamations) Rules, 2016, with suitable changes, along with all accompanying documents, including a copy of the aforesaid Scheme and statement under

the provisions of the Companies Act, 2013 to the following authorities viz.

i. Central Government, through Regional Director, Eastern Region, Ministry of Corporate Affairs, Kolkata

ii. Registrar of Companies, West Bengal

iii. Official Liquidator, High Court, Kolkata

iv. Income Tax Department of the Office having jurisdiction over the respective Applicant Companies, complete with PAN of the company concerned;â€

3. It is further submitted that while the directions given w.r.t. newspaper publication and sending of copy of scheme along with relevant documents to

the statutory authorities have been duly complied with by the Applicant Companies, however directions w.r.t. sending of 30 clear days notice to the

unsecured creditors of the Transferee Company could not be complied with due to some technical exigencies that arose in the office of the

Transferee Company.

4. Accordingly, directions are sought to extend the date for holding the meeting of unsecured creditors of the Transferee Company.

5. Heard the Pr. C.S. for the Applicant Companies and have perused the application, the following orders are passed herein:-

a. Date of convening meeting of the unsecured creditors of the Transferee Company be and is hereby extended to 31st August, 2022. It is hereby

clarified that all the other directions w.r.t. convening the meeting, as were given in the order dated 19th May, 2022, shall remain unchanged.

b. Applicants are directed to once again publish an advertisement of the notice of meeting each in the â€~Business Standardâ€™™ in English and

â€~Aajkalâ€™™ in Bengali, as per Rule 7 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

c. Given that the Applicant Companies have already served a copy of Scheme along with other documents to the regulatory authorities, the

requirement to serve a copy of the scheme alongwith other documents to the regulatory authorities is hereby dispensed with, however, an intimation

regarding extension of date of convening meeting of unsecured creditors of the Transferee Company shall be given to all the regulatory authorities

along with a copy of this order, by hand delivery, through special messenger or by registered or speed post or by way of email within 7 days from the

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

the notice with a copy of such representation being sent simultaneously to the Applicants and/or their Authorised Representatives. If no such

representations are received by the Tribunal within the said period, it shall be presumed that such authorities have no representations to make on the proposed composite Scheme of Arrangement.

d. The Applicant Companies must, at least 7 days before the date of hearing of the petition, file an affidavit of service of notices on the Authorities

specified above including the Sectoral Regulators.

e. The Application being IA(COMPANIES.ACT)/58(KB)2022 is disposed of accordingly.

f. The Registry is directed to send e-mail copies of orders forthwith to all the parties inclusive of the Counsel.

g. Urgent certified copies of this Order, if applied for, be supplied to the parties upon compliance of all requisite formalities