

Howe (India) Pvt Ltd Vs.

Howe (India) Pvt Ltd Vs.

SooperKanoon Citation : sooperkanoon.com/1159526

Court : Delhi

Decided On : Jul-30-2014

Judge : Sanjeev Sachdeva

Appellant : Howe (India) Pvt Ltd

Respondent :

Advocate for Pet/Ap. : Mr. Rajeev, Mr. Atma Sah

Judgement :

\$~23 *IN THE HIGH COURT OF DELHI AT NEW DELHI + CO.PET.606 /2013 IN THE MATTER OF HOWE (INDIA) PVT LTD Petitioner Through: Mr. Rajeev K Goel Advocate for the Petitioner. Mr. Atma Sah, Assistant Registrar of Companies for the Regional Director. CORA M: HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

3007.2014 % SANJEEV SACHDEVA, J (ORAL) 1. This second motion joint Petition has been filed under sections 391 to 394 of the Companies Act, 1956 (hereinafter referred to as Act), seeking sanction to the Scheme of Arrangement as Scheme) Consultancy of (hereinafter referred to De-merger Business of Howe of Engineering (India) Pvt Ltd (Demerged Company) into Howe Engineering Projects (India) Private (hereinafter limited collectively (Resulting refereed as Company) Petitioner

===== CO.PET. 606
/2013 1 Companies). A copy of the proposed Scheme is filed along with the present petition.

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

3. The details of respective dates of incorporation of the Petitioner Companies, their authorised, issued, subscribed and paid up capital have been set out in the petition 4. The copies of the Memorandum and Articles of Association of the Petitioner Companies have been enclosed with the Petition.

5. The copies of resolutions passed by the Board of Directors of the Petitioner Companies approving the Scheme have also been filed along with the petition.

6. Learned counsel for the Petitioner Companies submits that no proceedings under sections 235 to 251 of the Companies Act, 1956 is pending against the Petitioner Companies.

7. The Petitioner Companies had earlier filed CA (M) 139 of 2013 seeking directions of this Court for

===== CO.PET. 606
/2013 2 dispensation/convening of meetings. Vide order dated 22nd October, 2013, this Court allowed the Application and requirement of convening meetings of Shareholders of the Demerged Company and the Resultant Company was dispensed with. The Demerged Company and the Resultant Company did not have any Secured and Un-secured Creditors.

8. The Petitioner Companies had thereafter filed the present Petition seeking sanction to the Scheme of Arrangement. Vide Order dated 19 th November, 2013, read with Order dated 15 th January, 2014, notice of the Petition was directed to be issued to the Regional Director, Northern Region, Ministry of Corporate Affairs. Citations were also directed to be published in Business Standard (English, Delhi Edition), Dainik Bhaskar (Hindi, Delhi Edition). Affidavit of Service and Publication has been filed by the Petitioners showing compliance regarding service of the

Petition on the Regional Director, Northern Region and also regarding publication of citations in the aforesaid newspaper. Copies of the newspaper cuttings, in original, containing the publications have also been filed along with the Affidavit of Service.

=====

CO.PET. 606 /2013 3 9. In response to the notice issued in the Petition, Regional Director, Northern Region, Ministry of Corporate Affairs has filed his Affidavit/Report dated 17 th July, 2014. Relying on the Scheme of Arrangement, learned RD has stated that as per clause 4.2.1 of part-4 of the Scheme of arrangement all the staff/employees of the Demerged Company engaged in Engineering Consultancy Business shall become the employees of the Resulting Company upon sanctioning of the Scheme of Arrangement by the Honble Court. The Learned Regional Director has submitted that despite notice, the Income Tax Authorities have not raised any objection with regard to the proposed Scheme of Arrangement.

10. No objection has been received to the Scheme of Arrangement from any other party. Mr Mohinder Shukla Paul, Director of the Demerged Company has filed an affidavit confirming that neither the Petitioner Companies objection nor their pursuant to Counsel citations has received published any in the newspapers.

11. In view of the approval accorded by the Shareholders and Creditors of the Petitioner Companies;

=====

CO.PET. 606 /2013 4 representation/reports filed by the Regional Director, Northern Region to the proposed Scheme of Arrangement, there appears to be no impediment to the grant of sanction to the Scheme of Arrangement. Consequently, sanction is hereby granted to the Scheme of Arrangement under sections 391 and 394 of the Companies Act, 1956. The Petitioner Companies will comply with the statutory requirements in accordance with law.

12. Certified copy of the formal order be filed with the Registrar of Companies within 30 days from the date of receipt of the same. In terms of the provisions of sections 391 and 394 of the Companies Act, 1956, Further, all assets and liabilities including Income Tax and all other statutory liabilities, if any, of the

Engineering Consultancy Business of the Demerged Company (the demerged business) will be transferred to and vest in the Resultant Company.

13. It is, however, clarified that this order will not be construed as an order granting exemption from payment of stamp duty or any other charges, if payable, in accordance with any law; or permission/compliance
===== CO.PET. 606
/2013 5 with any other requirement which may be specifically required under any law.

14. The Petition is allowed in the above terms. Order Dasti. SANJEEV
SACHDEVA, J JULY30 2014
===== CO.PET. 606
/2013 6

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com