

In Re: Goldstone Softech Ltd.; in Re: Goldstone Engineering Ltd.

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Court : Andhra Pradesh

Decided On : Jul-22-1999

Reported in : (2000)1CompLJ388(AP)

Judge : Krishna Saran Shrivastav, J.

Acts : [Companies Act, 1956](#) - Sections 391 and 394

Appeal No. : Company Petition Nos. 25 and 26 of 1999 and C.A. No. 756 of 1998

Appellant : In Re: Goldstone Softech Ltd.; in Re: Goldstone Engineering Ltd.

Advocate for Def. : B. Adinarayana Rao, Sr. Standing Counsel for Central Government

Advocate for Pet/Ap. : V.S. Raju, Adv.

Judgement :

ORDER

Krishna Saran Shrivastav, J.

1. These two applications are filed under Section 394 of the Indian Companies Act for approving the scheme of amalgamation of Goldstone Softech Ltd. (for short 'transferor company') with Goldstone Engineering Ltd. (for short 'transferee company').

2. The authorised capital of the transferor company is Rs. 25,00,000 divided into 2,50,000 equity shares of Rs. 10 each and paid-up capital is Rs. 23,68,000. The transferor company deals in buying, selling, hiring and letting on hire, leasing and taking on lease of office automation equipment, telecommunication equipments, tele-communication test equipment, electronic switching equipment, electronic equipment, computer hardware and software, computer peripherals, printed circuit boards, electronic computer systems, cable television systems, magnetic tapes, electronic control systems, process control systems and spare parts and accessories, etc. While the authorised capital of the transferee company is Rs. 10,00,00,000 divided into 1,00,00,000 equity shares of Rs. 10 each and issued, subscribed and paid up capital of transferee company is Rs. 7,37,09,000. The main object of the transferee company is to carry on the business of manufacture, sell, export and to deal in assembly and improve all kinds of engineering, electronic and tele-communication components, devices, equipment and accessories including cable jointing kits, etc. It also intends to set up and to carry on business of information technology and to set up software development centres for undertaking on site and off-shore consulting services and systems, etc. The reasons for the proposed amalgamation have been more particularly set out in para 12 of the petition. Some of the salient features of the scheme are to enable the transferor company to diversify into information technology business. The merger would provide job security and improved job satisfaction of personnel at various levels due to strong financial position of the transferee company, and better benefits to the employees. It would also enable the companies to raise adequate long term funds from financial institutions, banks, etc. The proposed amalgamation would be beneficial both to the transferor company and the transferee company as also to the creditors and the shareholders. All the assets and liabilities of transferor company would become the assets and liabilities of the transferee company. The transferee company shall allot one equity share of Rs. 10 each fully paid-up for every one equity share of Rs. 10 each fully paid-up held by the concerned member of transferor company.

3. The transferor company had filed CA No. 756 of 1998 for dispensing with the meeting of the shareholders, and it was allowed on 18.1.1999. The transferee company had also filed CA No. 757 of 1998 for holding the meeting of the

shareholders, and it was allowed on 18.1.1999. Sri J.B. Raju, Advocate, was appointed as Chairperson to hold meeting on 27.2.1999. Notice of meeting was published in newspapers, and it was also sent to all the shareholders under certificate of positing. The meeting was held accordingly on 27.2.1999 at 11 a.m. and a unanimous resolution was passed for the proposed amalgamation. Sri J.B. Raju, Advocate, has submitted his report on 5.3.1999. The petition filed in CP 25 of 1999 by the transferor company as also the petition filed in CP No. 26 of 1999 by the transferee company were advertised in one issue of News Time as also in one issue of Andhra Prabha. The liquidator and the Regional Director of the Company Law Board, Chennai, were noticed. The liquidator filed his report in which it is stated that the transferor company has not been conducting its business and affairs in a manner prejudicial to the interest of its members and to the public interest. The Regional Director of the Company Law Board in his report has stated that it is decided that no representation need be filed on behalf of the Central Government either to support or oppose the petition. Therefore, it can be safely inferred that the Regional Director of the Company Law Board has no comments to make, and he does not oppose and actually the proposed amalgamation, is not opposed by it.

4. The transferor company has no creditors, while the transferee company has got two secured creditors, namely, the State Bank of India and IFCI. They have given their consent and no objection to the amalgamation through letter, dated 3.7.1999 and 8.7.1999, respectively.

5. From the perusal of the record, it appears that the requisite statutory procedure has been complied with, that the scheme has been approved by the majority vote of shareholders, and that the secured creditors of the transferee company have given their consent for the proposed amalgamation. The shareholders of the transferor company have also filed affidavits through which they have approved the proposed amalgamation. The majority decision of the concerned class appears to be just and fair to the class as a whole. It does not appear that the proposed scheme of amalgamation is violative of any provisions of law and it does not appear to be against the public policy. The whole scheme appears to be just and fair and reasonable from the point of view of a prudent man of business. Under

these circumstances, both the petitions deserve to be allowed.

6. In the result, it is ordered that the transferor company, i.e., Goldstone Softech Ltd. be amalgamated with the transferee company, i.e., Goldstone Engineering Ltd., with effect from 1.7.1998 as per the proposed scheme of amalgamation annexed with the petition with consequential reliefs as sought in the petition and, consequently, all the rights, liabilities and duties of the transferor company shall stand transferred and vested in transferee company, namely, Goldstone Engineering Ltd., without any further act or deed and all the liabilities and duties of the transferor company shall also become the liabilities and duties of the transferee company, and, as a result, thereof, the transferor company shall stand dissolved without winding up, in view of the scheme of amalgamation being sanctioned.

7. The petitioner-transferee company is directed to file a copy of the order with the Registrar of Companies within a period of thirty days and the Registrar of Companies shall treat the transferor company as dissolved with effect from 1.7.1998. It is made clear that any person interested shall be entitled to apply to this court for any appropriate direction that may be necessary. Costs as incurred. Both the petitions are thus disposed of.