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Webneuron Services Ltd. Vs. Monster.Com (India) (P.) Ltd.

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Court : Delhi

Decided On : Apr-28-2008

Reported in : [2009]149CompCas61(Delhi); [2008]85SCL35(Delhi)

Judge : S.N. Aggarwal, J.

Acts : [Companies Act, 1956](#) - Sections 391, 391(2) and 394; Companies (Court) Rules, 1959

Appeal No. : C.P. No. 23 of 2006

Appellant : Webneuron Services Ltd.

Respondent : Monster.Com (India) (P.) Ltd.

Advocate for Def. : Manisha Tyagi, Adv.

Advocate for Pet/Ap. : R.D. Kashyap, Dy. ROC in Party-in-Perso; Vikrant Rohilla and;

Judgement :

ORDER

S.N. Aggarwal, J.

1. Webneuron Services Ltd. ('the transferor company') has filed this petition under Sections 391(2) and 394 of the [Companies Act, 1956](#) seeking approval to the

scheme of the amalgamation with Monster.com (India) (P.) Ltd. ('the transferee company').

2. The transferor company Webneuron Services Ltd. was incorporated on 28-7-1999 as a Public Limited Company under the provisions of the [Companies Act, 1956](#) vide certificate of incorporation No. 55-100870 of 1999-2000 issued by the Registrar of Companies, NCT of Delhi and Haryana. The authorised share capital of the said company is Rs. 30,00,000 divided into 3,00,000 equity share of Rs. 10 each. The issued, subscribed and paid up capital of the transferor company is Rs. 29,08,750 divided into 2,90,875 equity shares of Rs. 10 each fully paid up.

2A. The registered office of the Transferor Company is situated at 1105, Ashoka Estate, 24, Barakhamba Road, New Delhi-110001 within the jurisdiction of this Court. The registered office of the Transferee Companies is situated at Nos. 8020293/A/1024 & 1024/A, Road No. 45, Jubilee Hills, Hyderabad-500 033 within the jurisdiction of Andhra Pradesh High Court.

3. The High Court of Andhra Pradesh at Hyderabad has already approved the scheme proposed for the amalgamation of the transferor company with the transferee company vide its order dated 29-9-2006 passed in Company Petition No. 62/2006 subject to the approval of the said scheme by the High Court having jurisdiction over the transferor company.

4. The transferor company has now approached this Court for sanction of the proposed scheme of its amalgamation with the transferee company. The proposed scheme of amalgamation has been filed along with the present petition and the same has been perused by me.

The transferor company had earlier filed an application being Company Application (M) No. 10/2006 for dispensing with the requirement of convening and holding of meeting by the equity shareholders, secured and unsecured creditors of the transferor company. This application was allowed by this Court vide its order passed on 10-1-2006. The transferor company was exempted from convening and holding the statutory meetings of its equity shareholders because they have already given their consent to the proposed scheme of amalgamation.

5. Vide order passed by this Court on 23-1-2006, notices of the present petition were directed to be issued to the Official Liquidator and also to the Regional Director (Northern Region). The citation of the present petition was also got published in the newspapers 'The Statesman' (English edition) and 'Jarisata' (Hindi edition) in terms of Companies (Court) Rules, 1959. An affidavit dated 1-3-2006 has been filed stating that the publication as directed was effected on 22-2-2006. The paper cuttings containing the publication of the said citations were also filed along with the affidavit.

6. In response to notices issued to the Official Liquidator and to the Regional Director (Northern Region), they have filed their separate reports in regard to the proposed scheme of amalgamation. These reports along with the response of the transferor company thereto have been perused by me. During arguments, neither the counsel for the Official Liquidator nor the counsel for the ROC has opposed the proposed scheme of amalgamation which provides for amalgamation of the transferor company with the transferee company. However, the proposed amalgamation has been opposed by an ex-workman Mr. Rajiv Puri on the ground that the transferor company has not paid his alleged admitted dues of Rs. 4,48,040. Mr. Rajiv Puri, ex-workman of the transferor company has opposed the scheme by filing an application being Co. App, No. 571/2006. The transferor company in response to the aforesaid application of the ex-workman has set out the facts and circumstances to show that there is a bona fide dispute between the company and the ex-workman regarding payment of his alleged dues. The Court was appraised that the transferor company has filed a civil suit against the ex-workman Mr. Rajiv Puri for recovery of certain dues recoverable from him and in the said recovery suit, the ex-workman Mr. Rajiv Puri has also filed a counter claim. The suit as well as the counter claim of the ex-workman is admittedly pending adjudication before the trial court. The transferor company in order to show its bona fide on the asking of the Court has deposited an amount of Rs. 4,48,040 with the Registrar General of this Court on 22-4-2008 so that in case the ex-workman is found entitled to the said amount, he may get it with interest without any difficulty or anticipated delay. The Registrar General is directed that he should keep the said amount deposited by the transferor company in a fixed deposit initially for a period of one year and get the FDR renewed from time to time till the

disposal of the civil suit pending before the trial court. In this view of the matter, I am of the considered opinion that no prejudice is likely to be caused to the ex-workman Mr. Rajiv Puri by grant of sanction to the proposed scheme of amalgamation.

7. It appears that the proposed scheme of amalgamation, if accepted, would eliminate the multiple companies engaged in the similar activities as both the transferor company as well as the transferee company are engaged in the similar activities. The proposed scheme will result in reduction of the overhead expenses and also the administrative and procedural work. It will also result in elimination of duplication of work and improve efficiency and utilization of the existing resources, more productively and the same would benefit the shareholders as well as the employees and the public at large. The transferor-company as well as the transferee-company at their respective Board meetings held on 19/26-12-2005 are stated to have already approved the scheme as proposed.

8. A perusal of the proposed scheme of amalgamation would show that from the appointed date, if the scheme is approved, all the assets of the transferor company with its claims and liabilities would vest in the transferee company and it is for the transferee company to answer to the liabilities of the transferor company as well as to make a claim with reference to the rights on behalf of the transferor company. The employees of the transferor company would become the employees of the transferee company from the appointed date without affecting the terms and conditions of their services they were enjoying as on the appointed date, in any manner. The scheme of amalgamation also provides that on approval of the said scheme and its becoming effective, the transferor-company shall stand dissolved without winding up and all the shareholders of the transferor company would get allotted one equity share of Rs. 10 each for every one equity share of Rs. 10 held as on the appointed date.

9. In view of the above and having regard to the facts and circumstances of the case there does not appear to be any legal impediment in sanctioning the proposed scheme of amalgamation. Consequently, sanction is hereby granted to the proposed scheme of amalgamation under Sections 391 and 394 of the

[Companies Act, 1956](#) for amalgamation of the transferor company with the transferee company. The certified copy of this order shall be filed with the Registrar of Companies within five weeks. It is clarified that this order should not be construed as an order granting exemption from payment of stamp duty if payable in accordance with law in regard to increase in the share capital of the transferee company. Upon sanction becoming effective and from the appointed date, the transferor company shall stand dissolved without its formal winding up.

10. The transferor company is directed to deposit Rs. 20,000 towards costs in the Common Pool Fund of the Official Liquidator within a period of three weeks from today.

In view of the above, this petition stands disposed of.

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