Barmalt (inida) Pvt Ltd Vs. ----

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SooperKanoon Citation : sooperkanoon.com/957999

Court : Delhi

Decided On : Nov-30-2012

Judge : Indermeet Kaur

Appellant : Barmalt (inida) Pvt Ltd

Respondent : ----

Judgement :
A41 * IN THE HIGH COURT OF DELHI AT NEW DELHI % Date of Judgment:

30. 11.2012 + CA(M) No.181/2012 IN THE MATTER OF BARMALT (INIDA) PVT LTD ..... Applicant company No.1/Transferor Company AND BARMALT MALTING (INDIA) PVT LTD Through: ......Applicant company No.1/Transferee Company Mr.Mohit Jolly, Adv. for the petitioner/applicant No.1 CORAM: HON'BLE MS. JUSTICE INDERMEET KAUR INDERMEET KAUR, J.

(Oral) 1. On the oral prayer made by the learned counsel for the petitioner, permission is granted to make correction in the paper book on page 10 and on page 23 of the affidavit which shall now read as no proceedings are pending under Sections 235 to 251 of the Companies Act instead of 235 to 250A of the Companies Act.

2. This joint application has been filed under Sections 391 and 394 of the Companies Act, 1956 in respect to the Scheme of Arrangement between Barmalt (India) Pvt. Ltd. (hereinafter referred to the Transferor Company) and Barmalt

Malting (India_ Pvt. Ltd. (hereinafter referred to the Transferee Company).

3. The scheme of Amalgamation is annexed as Exhibit-A to the applications. The Transferor Company and Transferee Company have been incorporated on 13.04.1967 and 27.06.2012 respectively and the registered offices of both the applicant companies are situated within the National Capital Territory of Delhi, within the jurisdiction of this Court.

4. The Memorandum of Association and Articles of Association of both the applicant companies have also been annexed as Exhibit-B (Colly) and Exihibit-H (Colly) respectively to the respective affidavits in support of summons of each of the Directors of the applicant companies.

5. It has been submitted by both the applicant companies that no proceedings under Sections 235 to 251 of the Act, are pending against either Transferor Company or Transferee Company.

6. The authorized share capital of the Transferor Company as on 30 th September, 2012 is Rs.2,00,00,000/- (Rupees Two Crores only) divided into 2,00,000 equity shares of Rs.100/- each. The issued and paid-up share capital as on 30th September, 2012 is Rs.55,00,000/divided into 55000 fully paid up equity share of Rs.100/- each.

7. The authorized share capital of the Transferee Company as on 30th September, 2012 is Rs.1,00,00,000/- (Rupees One Crore only) divided into 10,00,000 equity shares of Rs.10/- each. The issued and paid-up share capital as on 30th September, 2012 is Rs.5,50,000/divided into 55,000 fully paid up equity shares of Rs.10/- each.

8. The Transferor and Transferee Company, each have ten equity shareholders, all of whom have given their consent/no objection to the Scheme of Arrangement on 3rd October, 2012 which have annexed as Exhibit E (Colly) and Exhibit L (Colly) respectively to the affidavit in support of summons of each of the Directors of the applicant companies.

9. The share valuation certificate certifying the fair exchange ratio of equity share for the demerger of the applicant companies is annexed Exhibit-K to the affidavit in support of summons of each of the Directors of the applicant companies.

10. The Transferor and Transferee Company have Nil secured creditors as certified by their respective Chartered Accountants vide certificates dated 27.10.2012. The said certificates have been annexed as Exhibit-G and Exhibit-M respectively to the affidavit in support of summons of each of the Directors of the applicant companies.

11. The Transferor Company has a total of 282 unsecured creditors amounting to a total of Rs.23,08,26,081.24 as per its books of accounts as on 30th September, 2012. The Company has obtained consent from 57 secured creditors amounting to Rs.21,29,50,930.19 constituting 92.26% of the total unsecured creditors outstanding in its books as on 30th September, 2012. The certificate of the Chartered Accountant certifying the same is annexed as Exhibit F to the affidavit in support of summons of the Directors of the Transferor Company.

12. The Transferee Company has Nil un-secured creditors as certified by their Chartered Accountants vide certificates dated 08.11.2012. The sad certificate has been annexed as Exhibit-M respectively to the affidavit in support of summons of the Directors of the applicant companies.

13. In view of the shareholders resolutions granting 100% consent to the Scheme of Arrangement, the requirement for holding the meeting of the equity shareholders of both the Transferor and Transferee Companies is dispensed with.

14. Further, in view of the fact that the applicant companies have NIL secured creditors, no need arises for convening the meeting of the secured creditors.

15. In view of the fact that the Transferor Company has obtained consents/no objection from 92.26% of its unsecured creditors and Transferee Company has NIL unsecured creditors, the requirement for convening the meeting of unsecured creditors of the Transferor and Company is also dispensed with.

16. The applications stand allowed in the aforensaid terms. Order dasti. INDERMEET KAUR, J NOVEMBER 30 2012 rb