

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(ORIGINAL JURISDICTION)

TUESDAY, THE 5TH DAY OF APRIL 2016
THE HON'BLE MR. JUSTICE K. RAVICHANDRABABU
COMP. APPLN. NOS. 266 AND 280 OF 2016

IN THE MATTER OF THE COMPANIES ACT, 1956;
AND
IN THE MATTER OF SECTIONS 391 TO 394 OF THE COMPANIES
ACT, 1956
AND
IN THE MATTER OF SCHEME OF ARRANGEMENT
BETWEEN
TITAN COMPANY LIMITED
(TRANSFEROR COMPANY)
AND
TITAN ENGINEERING & AUTOMATION LIMITED
(TRANSFeree COMPANY)
AND
THEIR RESPECTIVE SHAREHOLDERS AND CREDITORS

TITAN COMPANY LIMITED
a, Company incorporated under the Companies
Act, 1956 and having its registered office
at No. 3, SIPCOT Industrial Complex, Hosur
Tamil Nadu-635 126. Rep by its Director
Mr. Bhaskar Bhat.

.. Applicant/ Transferor Company
in both company application

COMP. APPLN. NO. 266 of 2016

This Company Application praying that this Hon'ble
Court be pleased to dispense with the convening of
meeting of the Equity Shareholders of the applicant
company and to issue direction for filing the company
petition to the Applicant Company.

COMP. APPLN. NO. 280 of 2016

This Company Application praying that this Hon'ble
Court be pleased to dispense with the convening of
meeting of the Secured Creditors of the applicant company

and to issue direction for filing the company petition to the Applicant Company.

These Company Applications coming on this day before this court for hearing the court made the following order:

This application is filed to dispense with the convening meeting of the equity shareholders and secured creditors of the applicant company.

2.Heard Mr.P.H.Arvind Pandian, learned Senior Counsel appearing for the applicant, apart from making his oral submission, submitted a written Notes containing reasons justifying the prayer sought for in this application.

3.It is the contention of the learned senior counsel that there are 1,17,385 equity shareholders as on 30.09.2015 in the applicant/transferor company whose interest is not going to be affected in any manner by the scheme of arrangement, since there is no proposal for reduction of share and the assets of the transferee company is not going to affected by the scheme of arrangement in any manner prejudicial to the interest of the shareholders. He invited this court's attention to the reasons specifically stated for dispensing with the meetings of the equity shareholders narrated at paragraph No.13 of the affidavit filed in support of the

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application, which reads as follows:

i) The Scheme of Arrangement is of an inter group restructuring wherein overall value of the group remains unchanged.

ii) The transfer of the PEB Undertaking by the applicant company is to its wholly owned subsidiary company, as a result of which the equity shareholders of the applicant will enjoy the same rights, interest, benefits, etc post transfer of PEB Undertaking to the Transferee Company.

iii) There will be no-dilution in the shareholding pattern of the shareholders of the applicant/Transferor Company as the Board approved Scheme of Arrangement inter alia provides for the discharge of the consideration in pursuance of such transfer of PEB Undertaking of the applicant company to the Transferee Company in cash.

iv) The applicant/Transferor Company submits that the assets of the Transferee Company post transfer of PEB Undertaking will be more than sufficient to meet the liabilities pertaining to the transferred PEB Undertaking and the said scheme will not adversely affect the rights of any creditors of the applicant/transferor company in any manner whatsoever.

v) The applicant/Transferor company submits that the transfer of its PEB undertaking to the Transferee Company under the Scheme of Arrangement will be in compliance with the provisions of Companies Act, 2013 wherein Section 180 of the said Act restricts the powers of the board of the

company, "to sell, lease or otherwise dispose of the whole or substantially the whole of the undertaking of the company or where the company owns more than one undertaking, of the whole or substantially the whole of any of such undertakings" where the undertaking shall mean, "an undertaking in which the investment of the company exceeds twenty per cent. of its net worth as per the audited balance sheet of the preceding financial year or an undertaking which generates twenty per cent of the total income of the company during the previous financial year". The applicant/Transferor Company further submits that the proposed transfer of PEB- undertaking of the Applicant/Transferor Company under the Scheme is not exceeding twenty percent of its networth or total income of the company as on 31st March 2015. CA Certificate confirming the above is enclosed in Annexure-8. Hence, the Board of Directors of the Applicant/Transferor Company is of the opinion that the proposed transfer of undertaking is within the power of the Board of the applicant/Transferor Company and need not require the approval of the shareholders as per the provisions of Section 180 of the Companies Act, 2013. The applicant/Transferor Company thus wishes to obtain direction of Hon'ble High Court of Judicature at Madras to dispense with the requirement of holding meeting of shareholders of the applicant/transferor company.

vi) The remaining undertaking of the applicant company will have sufficient

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realizable assets to provide safety and security to the remaining debts of the remaining creditors of the applicant company.

vii) The intention of the management of the Companies to subsidiarize PEB Undertaking of the applicant/transferor company to the Transferee Company is to ensure better financial, business and operational prospects and achieve efficient management of costs and improved administrative control of the Precision Engineering Business, which will result in progressive value/return to all their stake holders."

He further submitted that the applicant has also given an undertaking to submit the consent letters from the secured creditors shown in Annexure-10 before the final hearing of the company petition.

4. Considering the above referred reasons set out in the application seeking for dispensation of meeting of the equity shareholders and also considering the undertaking given by the applicant to file consent letters from the security creditors before the final hearing of the company application, this court is of the view that when the interest of the shareholders is not going to be affected or prejudiced in any manner by the scheme of arrangement, conducting of a formal meeting that too by issuing notice to all 1,17,385 equity shareholders may not be at the interest of the applicant company as the said process appears to incur heavy

financial burden. On the other hand, dispensing such meeting will not cause any prejudice to the shareholders. Accordingly, this application is allowed by recording the above undertaking and the reasons set out by the applicant as the terms for allowing such application. The applicant shall abide by the above terms. The company petition shall be presented on 20.04.2016.

sd/.K.R.C.B.J
05.04.2016

//Certified to be a true copy//

Dated this the 18th day of *may* 2016

S.s/17.05.2016

A. Ram
13/5/16
COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.

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