

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2011

CORAM:

THE HONOURABLE MR. JUSTICE VINOD K. SHARMA

C.P.Nos.298 and 299 of 2010

M/s.Sree Rengaraaj Power India Private Limited,
99, Sankari Main Road,
Salem-636 002.
Rep. by its Director,
Mr.P.Sivakumar

... Petitioner / Transferor
Company in C.P.No.298 of 2010

M/s.Sree Rengaraj Ispat Industries Private Limited,
99, Sankari Main Road,
Salem-636 002.
Rep. by its Managing Director,
Mr.P.Sampath Kumar

.. Petitioner / Transferee
Company in C.P.No.299 of 2010

Company Petitions are filed under sections 391 to 394
of the Companies Act, 1956, to sanction the Scheme of
amalgamation.

For Petitioners : Mr.K.Moorthy
Mr.S.R.Sundar

: Mr.M.Gopikrishnan
Addl. Central Govt. Standing
Counsel

C O M M O N O R D E R

The petitioners, M/s.Sree Rengaraaj Power India Private
Limited, transferor company in C.P.No.298 of 2010 and
M/s.Sree Rengaraj Ispat Industries Private Limited,
transferee Company in C.P.No.299 of 2010, have filed these
petitions under Sections 391 to 394 of the Companies Act,
1956, for sanction of the scheme of amalgamation, proposing

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to amalgamate the transferor company with the transferee company, as a going concern.

2. The Board of Directors of the transferor company, in their meeting held on 18th February, 2010, approved and adopted the scheme of amalgamation. Whereas the Board of Directors of the transferee company, in their meetings held on 18th February, 2010 and 13th August, 2010, have also approved and adopted the scheme of amalgamation.

3. The members of the transferor and transferee companies consented to the scheme of amalgamation, by filing consent affidavit. In view of that, this Court had ordered for dispensation with the convening, holding and conducting of the meeting of shareholders with liberty to move petition for amalgamation. No investigation proceedings are pending against either of the petitioner companies under Sections 235 to 251 or any other provisions of the Companies Act.

4. Two of the secured creditors of the transferor company have also given their consent to the scheme of amalgamation. Similarly, all the secured creditors of the transferee company have also given no objection to the scheme of amalgamation.

5. The scheme of amalgamation will be in the interest of the Companies as well as its members and is not prejudicial to the interest of the creditors.

6. On notice, issued under Section 394(a) of the Companies Act, the Regional Director, Ministry of Corporate

Affairs, Chennai, has not objected to the scheme of amalgamation, except the following:

"4. I further submit that it is stated in clause 15 of the scheme, upon the scheme being sanctioned by the Court, authorized capital of the transferor company shall stand transferred to and added to the authorized share capital of the transferee company. The transferee company is required to file Form No.5 with the registration fees by complying with the provisions of Sections 94 and 97 of the Act.

7. This objection cannot be sustained, in view of the law, laid down by the Hon'ble Division Bench of this Court, in the case of Regional Director and another vs. Cavin Plastics and Chemicals P.Ltd, reported in (2008) 141 Comp. Cas. 475 (Mad), wherein, this Court held as under:

"Held, dismissing the appeal, that the issue was not whether the fee which was already paid by the transferor company would automatically be transferred to the transferee company. But, what was intended by Section 391 was to reconstitute the company without the company being required to make a number of applications under the Companies Act for various alternations which might be required in its memorandum and the articles of association "subject to filing no objection". As per the provisions of Section 394(e) of the Companies Act, 1956, the Regional Director has filed an affidavit dated 11.03.2011 by stating no objection to the scheme of arrangement."

8. For the reasons stated, the company petitions are ordered, as the scheme of amalgamation will benefit the companies and its shareholders and in any way cause prejudice to the interest of the creditors of the companies.

9. The remuneration to the Additional Central Government standing Counsel is fixed at Rs.2,500/- for each petition to be paid by the petitioner companies.

Sd/- V.K.S.J
28.04.2011

//Certified to be a true copy//
Dated this the 11th day of May 2011

P. Mune
COURT OFFICER

R.S/11.05.2011

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