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Original Copy of Order Dated..... 31.5.13

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

AT JAIPUR BENCH, JAIPUR

S.B.COMPANY PETITION NO 15 OF 2012

CONNECTED WITH

S.B. COMPANY APPLICATION NO. 50 OF 2012

IN THE MATTER OF SECTIONS 391(2) TO 394 OF THE  
COMPANIES ACT, 1956 READ WITH RULE 9 OF THE  
COMPANIES (COURT) RULES, 1959;

AND

IN THE MATTER OF LLOYD ELECTRIC AND ENGINEERING  
LIMITED (PETITIONER/ TRANSFEREE COMPANY), A  
COMPANY INCORPORATED UNDER THE COMPANIES ACT,  
1956 HAVING ITS REGISTERED OFFICE AT A-146(B&C), RIICO  
INDUSTRIAL AREA, BHIWADI, DISTRICT ALWAR,  
RAJASTHAN;

AND

IN THE MATTER OF SCHEME OF ARRANGEMENT BETWEEN  
PERFECT RADIATORS AND OIL COOLERS PRIVATE LIMITED  
(TRANSFEROR COMPANY), A COMPANY INCORPORATED  
UNDER THE COMPANIES ACT, 1956 HAVING ITS REGISTERED  
OFFICE AT B-10/1, OKHLA INDUSTRIAL AREA, PHASE II, NEW  
DELHI AND LLOYD ELECTRIC AND ENGINEERING LIMITED  
(PETITIONER / TRANSFEREE COMPANY), A COMPANY  
INCORPORATED UNDER THE COMPANIES ACT, 1956 HAVING

For Lloyd Elect. & Engg. Ltd.  
Authorized Secretary

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN  
BENCH AT JAIPUR.

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S.B. Company Petition No.35/2012

DATE OF ORDER : 31/5/2013

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Kunal Sabharwal  
Mr. Sameer Jain, for petitioner.  
Mr. Shashank Sharma, for respondent.  
Mr. RK Meena, ROC.

Instant Company 2<sup>nd</sup> motion petition has been filed u/s 391(2) and 394 of the Companies Act, 1956 on behalf of the Lloyd Electric And Engineering Limited of (applicant transferee company) for seeking sanction of the Scheme of Arrangement of applicant-transferee Co. with Perfect Radiators & Oil Coolers (P) Ltd. (transferor Co.)

As reveals from the record the applicant transferee company earlier filed company application no.50/2012 u/ss. 391(2) & 394 of the Companies Act, 1956 seeking permission of this Court for holding meeting of the share holders, creditors & secured creditors of transferee Co. to examine the proposed scheme of Arrangement and that came to be decided vide order dt.11.10.2012 and pursuant to the order of the Court dt.11.10.2012 notice for holding meeting of share holders, creditors and secured creditors of the transferee Co. notices were published in the daily news papers

(1) Rajasthan Patrika (Jaipur & Alwar Edn.) (2) Financial Express (N.Delhi Edn.), and meeting was accordingly held after due notice on 24.11.2012 and the chairpersons appointed thereto have furnished their respective reports.

It is also relevant to record that the transferor Co. Perfect Radiators and Oil Coolers Private Limited filed company application (M) No. 166 of 2012 before the High Court of Delhi seeking direction of the Court to dispense with the requirement of holding the meetings of the shareholders and the creditors (secured and unsecured) of the transferor company which are statutorily required for sanctioning of the Scheme and that came to be allowed vide order dt.3.12.2012 and the requirement of convening and holding the meetings of the equity shareholders and of secured and unsecured creditors of the transferor company were dispensed with.

Thereafter, second motion petition no. 596/2012 was filed by the transferor Co. u/Ss. 391 and 394 of the Companies Act, 1956 and on meeting out objections by the transferor Co. pointed out by the Regional Director granted sanction to the Scheme of arrangement of the transferor Co. subject to sanction of the Scheme of transferee company u/Ss. 392 and 394 of the Companies Act as evident from the order dt.8.4.2013.

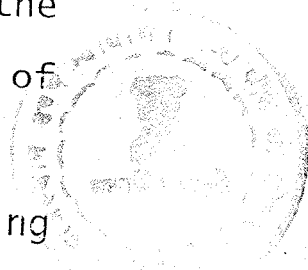
Notices of the present company petition of the transferee Co. were issued on 11.1.2013 and duly

published in daily news paper Raj. Patrika (Jaipur & Alwar Edn.) & Financial Express (New Delhi English Edn.) and after notices were duly served in the office of Regional Director, Ministry of Corporate Affairs, North-Western Region, Ahmedabad, reply has been filed raising certain objections;

(a) as per clause 1.2. of the Scheme, the appointed date referred to is 1.4.2011 and the financial positions of the petitioner company has been mentioned in the petition as well as in the scheme on the basis of the latest audited balance sheets for the year ended 31.3.2012 and by that time the petitioner transferee company also filed balance sheet for the year 31.3.2012 with the Registrar of Companies as such there is no justification in keeping the 'Appointed Date' as 01.04.2011 more so when the latest subsequent balance sheets for the year 31.3.2012 of petitioner company is available;

b) further objection raised is as per the scheme, Heat Exchanger Business is to be transferred to the petitioner transferee company. The Heat Exchanger Business is not provided in the object clause in the memorandum of association of the transferee company;

c) the further objection raised is if holding of pre-merger is 38.36% whereas the holding of promoters will increase up to 45.85% after the implementation of the said Scheme and if that change is given effect to, the shareholding of the



public will be affected since their shareholdings will be reduced accordingly.

d) it has been further pointed out that the transferee company is listed company at BSE and NSE and nothing has been placed on record, the documentary evidence which can indicate that the contents of the aforesaid BSE letter was ever brought to the notice of shareholders and all relevant authorities as per condition of NOC of BSE.

In meeting out the objections filed by the Regional Director, counsel for the petitioner submits that the appointed date as considered by the transferor company (Perfect Radiators & Oil Coolers Pvt. Ltd.) in connection with the scheme of arrangement by Delhi High Court remain 1<sup>st</sup> April, 2011 and that has been approved in company petition no.596/2012 by the High Court of Delhi in second motion petition filed u/ss. 391 and 394 of the Companies Act, 1956 vide order dt.8.4.2013, as such it was otherwise not be possible to have two different appointed dates for approval of scheme which is applicable for transferee & transferor company as such appointed date may be allowed to be deemed as 1.4.2011 and it is otherwise in no manner defeating the rights of the share holders.

In the opinion of this Court once the Scheme has been approved and the appointed date is 1.4.2011 there appears no justification to have any date other than the appointed date which has been

referred to in the Scheme dt.1.4.2011.

As regards further objections raised that whether the transferee company is a listed company at BSE and NSE and there is no documentary evidence available regarding the contents of BSE letter was brought to the notice of share holders, it has been brought to the notice of the Court that when the meeting was convened of the shareholders held on 24.11.2012 it was clearly notified in Para 20 that the inspection can be made of the documents carried out at the registered office of the transferee company on the working day and clause (iv) is regarding copy of the no objection dt.11.5.2012 obtained from the National Stock Exchange u/s. 24(f) of the listing agreement and clause (v) is copy of the no objection certificate dt.1.6.2012 obtained from the Bombay Stock Exchange u/s. 24(f) of the listing agreement and in the opinion of the Court the mandate of law was sufficiently complied with.

As regards other objections raised by the Regional Director in its reply referred to supra it has been informed that sufficient undertaking has been furnished by the transferee company to meet out the same and it no more remains to be examined by the Court.

No objection has been received regarding the Scheme from any other party. In view of the approval accorded by the shareholders, secured and unsecured creditors of the petitioner transferee

company to the proposed Scheme and there being no surviving objection to the same by the Regional Director, there appears no impediment to the grant of sanction to the Scheme.

Consequently, the company petition is allowed and sanction is hereby accorded to the Scheme of arrangement to the transferee company u/ss. 391(2) and 394 of the Companies Act. The petitioner company shall comply with the statutory requirements provided under the law. It is also clarified that this order may not be construed as an order granting exemption from payment of stamp duty payable under law and do hereby declare that the same is binding on the creditor & shareholders of the transferor and transferee Cos.

1) The parties to this arrangement or other persons interested shall be at liberty to apply to this Court for any directions that may be necessary regarding the working of compromise/arrangement.

2) The order in prescribed Form No.42 be issued separately by the Registrar as per R.84 of Companies (Court) Rules, 1959.

3) The said Companies may file with the Registrar of Companies a certified copy of this order within 14 days.

It is stated by the petitioner transferee company that it will voluntarily deposit a sum of Rs.1,00,000/- (one lac) in the office of the Secretary, Legal Services Authority, Jaipur Bench within a period of six weeks from today. The said



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statement is taken on record.

The Co petition is accordingly disposed of.

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*[Signature]*

(AJAY RASTOGI), J.

dsr/-



*[Signature]*  
3/6/13