

OD-118

IN THE HIGH COURT AT CALCUTTA
Original Jurisdiction
ORIGINAL SIDE

IA NO. CA/2/2022
In CP/359/2016

IN THE MATTER OF :
NILANJANA FASHIONS PVT LTD & ANR

BEFORE:

The Hon'ble JUSTICE RAVI KRISHAN KAPUR

Date : 20th September, 2022.

Mrs. Manju Bhuteria, Adv.
Ms. Meeenakshi Manot, Adv.
Mr. Anirudhya Dutta, Adv.
...for the applicant

Mr. Rudraman Bhattachayya, Adv.
...for the respondents

The Court:- This is an application for modification of an order dated 14 June, 2016, sanctioning a Scheme of Amalgamation in CP/359/2016 connected with CA/257/2016.

Briefly, in or about 2016, one Nilanjana Designs Private Limited and Nilanjana Fashions Private Limited applied for sanction of a Scheme of Amalgamation.

By an order dated 14 June, 2016 the Scheme of Amalgamation was sanctioned by this Court.

Pursuant to sanction of the scheme, certified copies of the order sanctioning the Scheme of Amalgamation were filed with the Registrar of

Companies, West Bengal, by the transferor company and the applicant respectively on 3rd August, 2016.

In December, 2019, the applicant for the first time detected that there were certain inadvertent and bonafide mistakes in the Schedule of Assets which formed part of the certified copy of the order dated 14 June, 2016.

It appears that certain immovable properties belonging and owned by the company were not mentioned to the Schedule of Assets.

It is alleged that the error on the part of the applicant was unintentional, bonafide and accidental.

Thereafter, due to onset of the Covid-19 pandemic, the applicant was unable to approach this Court.

In this background, this application has been filed, inter alia, praying for modification of the Schedule of Assets.

It is submitted that the error on the part of the applicant was accidental, unintentional and bonafide. The only prayer which the applicant seeks is for modification of Part-I of the Schedule of Assets appearing at (internal page 17 of the certified copy of the order dated 14 June, 2016). The applicant submits that, the particulars of the properties belonging to the transferor company be now properly reflected in the Schedule of Assets.

The corrected Part-I of the Schedule of Assets is fully mentioned in paragraph 3 of the Affidavit-in-Reply filed by the applicant.

The Registrar of Companies is represented and submits that they have no objection to the aforesaid modification, subject to the applicant filing an

appropriate Form INC-28 in compliance with the provisions of the Companies Act, 2013.

I have considered the prayers made in this application.

I am satisfied that the modification sought for by the applicant is unintentional, accidental and bonafide. Moreover, in view of the submissions made on behalf of the Registrar of Companies there is no embargo in granting the reliefs as prayed for. Hence, the present application is allowed. There shall be an order in terms of prayers [a), [b] (subject to modification that instead of paragraph 10 of the Affidavit in Support of the Judge's summons, it should read as paragraph 3 of the Affidavit-in-Reply), [d] and [e] of the Judge's Summons.

It is further clarified that the applicant would necessarily comply with all statutory formalities including the filing of Form INC-28 within the stipulated time period with the Registrar of Companies.

In view of the aforesaid, CA/2/2022 stands disposed of.

It is clarified that the liberty granted to the applicant is to file the Schedule of Assets in terms of paragraph 3 of the Affidavit-in-Reply filed in this proceeding.

(RAVI KRISHAN KAPUR, J.)