

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
SINGLE BENCH, CHENNAI**

CP/22 & 23/CAA/2018  
[CA/159 & 160/CAA/2017]

Under Section 230 to 232 of the Companies Act, 2013

In the matter of Scheme of Amalgamation

Between

**M/s. Vector Control Innovations Private Limited**  
(Transferor Company)

And

**M/s. V.K.A. Polymers Private Limited**  
(Transferee Company)

And

**Their respective shareholders**

Order delivered on: 06.03.2018

CORAM:

**CH. MOHD SHARIEF TARIQ, MEMBER (J)**

For the Petitioner(s): Mr. P.H.Arvind Pandiyan, Sr.Advocate  
M/s. C.Saravanan, Ms. S.Thenmozhi,  
Mr. R.Anishkumar &  
Mr. S.R.Sankareshwaran, Advocates.

**ORDER**

Per: CH. MOHD SHARIEF TARIQ, MEMBER (J)

1. Under consideration are the Company Petition Nos.22 & 23/CAA/2018 filed under Sections 230 to 232 of the Companies Act, 2013 r/w the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. As per the Scheme of Amalgamation (in Short, '**Scheme**'), M/s. Victor

Control Innovations Private Limited (hereafter referred to as **'Transferor Company'**) is proposed to be merged, amalgamated and vested with M/s. V.K.A.Polymers Private Limited, (hereafter referred to as **'Transferee Company'**) as a going concern.


2. The Transferor Company is Private Limited Company having registered Office at New No.28, Old No.29, Gandhipuram Middle Street, Karur-639 001. The Transferee Company is a Private Limited Company, having its Registered Office at 3A, Kovai Road, Sengunthapuram Post, Karur-639 002. The Transferor Company is engaged in business of manufacture, weave, prepare, process, repair, buy, sell, resell, export, import and market in high density polyethylene monofilament yarn and knitted fabrics and all kinds of plastics and plastic goods, ancillary and auxiliary materials and derivative, intermediates and compositions and all related items. The Transferee Company is engaged in the business of manufacture, weave, prepare, process, repair, buy, sell, resell, export, import and market in high density polyethylene monofilament yarn and knitted fabrics and all kinds of

plastics and plastic goods, ancillary and auxiliary materials and derivative, intermediates and compositions, etc. The Board of Directors of Petitioner Companies vide its Resolution dated 02.05.2017 approved the said Scheme of Amalgamation.

3. This Bench vide its Order dated 25.09.2017, in CA/159/CAA/2017 dispensed with the convening and holding of the meeting of the four Equity Shareholders, one Secured Creditor and 14 Unsecured Creditors of the Transferor Company, out of which 12 Unsecured Creditors have given their consent affidavits. In CA/160/CAA/2017 dispensed with the convening and holding of the meeting of the six Equity Shareholders of the Transferee Company and three Secured Creditors, and 36 Unsecured Creditors of the Transferee Company out of which 31 Unsecured Creditors have given their consent Affidavits. In short the Petitioner Companies complied with all the Orders passed by this Bench.

4. The Counsel appearing for the Petitioner Companies has submitted that the rationale and circumstances that have

necessitated the proposed scheme are that the amalgamation will enable consolidation of the business of the group into one entity which will facilitate in focussed growth, operational efficiencies, business synergies and better supervision of the business of the group and pooling of resources of aforesaid Companies with the resources of the Transferee Company to their advantage, resulting in more productive utilisation of resources. Further submitted that no investigation proceedings are pending against the Companies under sections 235 to 251 of the Companies Act, 1956 or corresponding provisions of the Companies Act, 2013.

5. The Regional Director, Southern Region (In short, '**RD**') in the Affidavit dated 08.02.2017 submitted that Clause 11 of Part II of the Scheme provides for the protection of the interest of the employees of the Transferor Company. It has further been submitted that as per report of the RoC, Chennai, the Transferor Company and Transferee Company are regular in filing their statutory returns and no complaints are pending and no inspection or 

investigation has been conducted against Petitioner Companies.

6. The RD has submitted that in respect of the Transferee Company, the RoC Chennai has stated that it has 6 (six) charges subsisting as per the MCA21 portal and the Transferee Company may be directed to resolve the issue with the RoC, Chennai by tendering necessary documents/clarifications as to why it has stated the number of Secured Creditors as three (3) instead of six (6) in its petition, so as to ensure that the RoC records which are public records reflect the correct position.
7. In relation to the observations made by the RD, an Affidavit has been filed by Mr. V.Ganesh, authorised person of the Petitioner Companies. He has stated that the 5 charges have been created by only three Charge holders/Secured Creditors, viz., State Bank of India, Karur Vysya Bank Ltd, and Indian Overseas Bank. He has further submitted that the Transferee Company had made an appropriate application in Form No.CHG-4 before the RoC, Chennai, for the registration of satisfied charges, along with the relevant


documentary evidence. One of the Charge holder/Secured Creditor i.e., Canara Bank had issued a No Due Certificate dated 20.02.2018 to the Transferee Company and the same is placed before this Bench.

8. The RD has also submitted that under Clause 6 of the Scheme, the authorised capital of the Transferor Company will be merged with the authorised capital of the Transferee Company. He suggested that the Transferee Company may be directed to file the amended MoA and AoA with the ROC, Chennai for records. In this regard, the authorised person of the Petitioner Companies has deposed in the Affidavit that the Transferee Company undertakes to file the amended MoA and AoA with the ROC, Chennai.

9. The RD further observed that the said clause of the Scheme of the Companies have stated that the Transferee Company would not be required to pay any fee or stamp duty for the increase of the authorised capital. He has mentioned that as provided under Clause (i) to Sub Section (3) of Section 232 of the Companies Act, 2013, the Transferee Company has to pay the fees, if any, for the enhanced authorised

capital subsequent to the amalgamation after setting off the fees paid by the Transferor Company. He has suggested that the Transferee Company may be directed to comply with the provisions of the Act, by making an application with the RoC, Chennai for payment of the balance fee as applicable under the provisions of the Act and Rules framed thereunder.

10. The Affidavit filed by the authorised person of the Petitioner Companies, undertakes to comply with the said observation by paying any amount as fees, if required and as may be applicable. It has been stated in the affidavit that the Scheme does not exceed the threshold limits specified under Section 5 of the Competition Act, 2002 as revised by S.O.No.675(E) dated, 4<sup>th</sup> March 2016. The RD has not raised any other objection.

11. The Official Liquidator (In short, '**OL**') in his Report dated 12.02.2018, submitted that as per Order dated 25.09.2017, he has nominated Mr.G.P.Jayaprakash, Chartered Accountant (Auditor), Gudiyattam, who is one of the empanelled Auditors by the Hon'ble High Court of 

Madras to look into the Scheme of Amalgamation and to scrutinize the books and accounts of the Transferor Company. The Auditor has broadly reviewed and observed that under Clause 11 of Part-II of the proposed Scheme, the interest of all staff, workmen and other employees in the service of the Transferor Company is safeguarded.

12. The Auditor's report has disclosed that the Records maintained at MCA 21 - Ministry of Corporate Affairs Website at the Office of the Registrar of Companies, shows that the Transferor Company has filed all the statutory returns with all Central and State Government authorities and no case is pending against the Transferor Company, and question of commenting on compliance of Section 205 A of the Companies Act, 1956, does not arise.

13. The OL has also stated that the Chartered Accountant have examined the Books of Accounts and records, other documents, annual reports and statutory books and registers of the Transferor Company. The affairs of the Company have not been conducted in a manner which is prejudicial to the interest of its members or to public

interest and that they did not come across any transactions involving act of misfeasance, which would attract the provision of Sections 339/340 of the Companies Act, 2013.

14. As mentioned in Part-II of Paras 8.1 to 8.4 of the Scheme, it appears that the Accounting Treatment is in conformity with the Accounting Standards. The Appointed date of the said Scheme is 01.11.2016.

15. There is no additional requirement for any modification and the said Scheme of Amalgamation appears to be fair and reasonable and is not contrary to public policy and not violative of any provisions of law. All the statutory compliances have been made under section 230 to 232 of the Companies Act, 2013. Taking into consideration the above facts, the Company Petitions are allowed and the scheme of Amalgamation annexed with the Petitions is hereby sanctioned which shall be binding on the shareholders, creditors and employees of the Companies.

16. While approving the Scheme as above, we further clarify that this Order will not be construed as an order granting exemption from payment of stamp duty or taxes or any

other charges, if payable, as per the relevant provisions of law or from any applicable permissions that may have to be obtained or, even compliances that may have to be made as per the mandate of law. The Transferee Company is directed to file the amended MoA and AoA with the RoC, Chennai, for records.

17. The Companies to the said Scheme or other person interested shall be at liberty to apply to this Bench for any direction that may be necessary with regard to the working of the said Scheme.

18. A certified copy of this Order shall be filed with the concerned Registrar of Companies within 30 days of the receipt of the Order.

19. The Transferor Company shall be dissolved without winding up from the date of the filing of the certified copy of this Order with the Registrar of Companies.

20. Upon receiving the certified copy of this Order, the RoC, Chennai, is directed to place all documents relating to the Transferor Company with that of the Transferee Company

and the files relating to the Transferor Company shall be consolidated with the files and records of the Transferee Company.

21. The Order of sanction to this Scheme shall be prepared by the Registry as per the relevant format provided under the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 notified on 14<sup>th</sup> December, 2016.

22. Accordingly, the Scheme stands sanctioned and CP/22 & 23/CAA/2018 **stand disposed of.**

  
(CH. MOHD SHARIEF TARIQ)  
MEMBER (JUDICIAL)

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