

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH**

NEW DELHI

CA (CAA)-86(ND)/2017

Present: SHRI R.VARADHARAJAN, MEMBER (JUDICIAL)

IN THE MATTER OF SECTIONS 230-232 OF THE COMPANIES ACT, 2013

In the matter of:

Sections 230-232 and other applicable provisions of the Companies Act, 2013 read with
Companies (Compromises, Arrangements, and Amalgamations) Rules, 2016.

AND

IN THE MATTER OF SCHEME OF AMALGAMATION

OF

M/S REVEX POLYMERS PRIVATE LIMITED

(TRANSFEROR COMPANY)

WITH

M/S REVEX PLASTICISERS PRIVATE LIMITED

(TRANSFeree COMPANY)



AND

Their respective Shareholders and Creditors

MEMO OF PARTIES

M/S REVEX POLYMERS PRIVATE LIMITED

Company registered under the Companies Act, 1956

Having Registered Office at:

A-73, Naraina Industrial Area, Phase-1

New Delhi-110028

.....Transferor Company

M/S REVEX PLASTICISERS PRIVATE LIMITED

Company registered under the Companies Act, 1956

Having Registered Office at:

A-73, Naraina Industrial Area, Phase-1

New Delhi-110028

.....Transferee Company

For the Applicants: Mr. Santosh Giri, Advocate

Mr. Iswar Mahopatra, Advocate



ORDER

Order Delivered on: 08.08.2017

1. This is an application which is filed by the applicant companies herein M/S Revex Polymers Private Limited (for brevity "Transferor Company"), and M/S Revex Plasticizers Private Limited (for brevity Transferee Company") under sections 230-232 of Companies Act, 2013,(hereinafter called to brevity The "Act") and other applicable provisions of the Companies Act, 2013 read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (hereinafter for brevity called the "Rules "in relation to the Scheme of Arrangement by way of Amalgamation (hereinafter referred to as the "SCHEME") proposed between the applicants. The said Scheme is also annexed as Annexure "1" to the application. The applicants above named have preferred the instant application in effect for the following purpose as evident from the reliefs sought for in the Application, namely:-

- Dispensing with requirement for convening the meeting of the equity shareholders of the transferor and transferee companies and also to dispense with the requirement of issue and publication of notices of the same and appointment of chairman for the meetings;
- Dispensing with requirement for convening the meeting of the secured creditors of the transferor company and the transferee company and also to



dispense with the requirement of issue and publication of notices of the same and appointment of chairman for the meetings.

- Dispensing with requirement for convening the meeting of the unsecured creditors of the transferee company and transferee company in view of their consents of more than 90% and also to dispense with the requirement of issue and publication of notices of the same and appointment of chairman for the meetings;
 - That the leave may please be granted for filing the final Joint Petition for sanction of the Scheme of Amalgamation.
 - Issue such other orders or directions be given as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case.
2. An Affidavit in support of the above application sworn for and on behalf of the Transferor and Transferee Companies has been filed by one Mr. Ramesh Chand Gupta, being the authorized signatory of the Transferor and Transferee Companies along with the application. Counsel for the joint applicants took us through the averments made in the application as well as the typed set of documents annexed



there with. Learned Counsel represents that the Scheme does not contemplate any corporate debt restructuring exercise as contemplated under Section 230(2) of the Act. It is further represented that a joint application filed by the applicants are maintainable in view of Rule 3(2) of the Companies (Compromises, Arrangements and Amalgamations) Rules 2016 and it is also represented that the registered office of all the applicant companies are situated within the territorial jurisdiction of this Tribunal and falling within Registrar of Companies, NCT, New Delhi.

3. In relation to M/S Revex Polymers Private Limited being the Transferor Company, in the Scheme marked as Annexure – "1", it represented that it is having 7 (Seven) Equity Shareholders .It is further represented by the counsel for Applicants that the Transferor Company as on 28.02.2017 has 1 (One) Secured, and 29 Unsecured Creditors. In relation to the shareholders and secured creditors of the Transferor Company, the Transferor Company seeks dispensation from convening and holding of the meetings in view of consent affidavit being obtained and which are placed on record and in respect of unsecured creditors, the consents of 17, it is claimed have been obtained out of 29 constituting more than 90% in value of total creditor of the company and in the circumstances seeks dispensation of the meeting.
4. In relation to M/S Revex Plasticisers Private Limited being the Transferee Company in the Scheme marked as Annexure-"1", Learned Counsel represents that company



is having 6 (Six) Equity Shareholders. It is further represented by the counsel for Applicants that the Transferee Company as on 28.02.2017 has 3 (Three) secured and 53 Unsecured Creditors. In relation to the Equity Shareholders, and Secured Creditors of the Transferee Company, Transferee Company seeks dispensation of the meeting for the purpose of obtaining their approval to the proposed Scheme of Amalgamation in view of consent affidavit having been obtained and are placed on record or there being none which obviates the necessity of convening a meeting whereas in respect to the unsecured creditors, the consent of 16 unsecured creditors out of 53 constituting more than 90% in value have been obtained, hence seeks dispensation of the meeting .

5. Learned Counsel for the Applicants also represents that the provisions of Section 233 of 2013 Act will not apply to Scheme as stated by affidavit filed by the applicants dated 27.07.2017. The registered office of all the applicant Companies are situated within New Delhi and are subject to the jurisdiction Registrar of Companies, NCT, New Delhi and hence are amenable to the territorial jurisdiction of this Tribunal.
6. We have perused the joint application and the connected documents / papers filed therewith including the Scheme of Amalgamation contemplated between the Applicant companies.



7. From the certificate of incorporation filed, it is evident that Transferor Company was incorporated in the name and style of M/S Revex Polymers Private Limited on 7th August, 2002 under the Companies Act, 1956 in the NCT of Delhi.
8. The Authorized Share Capital of the Transferor Company is Rs.75,00,000 divided into 7,50,000 equity shares of Rs. 10 each and the Issued, Subscribed and Paid-up Share Capital of the Transferor Company is Rs.47,50,000 divided into 4,75,000 Equity Shares of Rs.10/- each.
9. The main objects of the Transferor Company is :
 1. To manufacture, buy, sell, resale, process formulate, export, import and deal in all kinds of politicizes including Di-octyl Pthalate, Di-Butyl Phthalate, Di-Octyl, Sebacate. Alkyd resins based on drying and non-drying oils and other products as polyester resins, Pthalates, Maleates, Iso phthalates, Bisphenol-A Derivatives, Epoxy Resins, Phenol-Formaldehyde condensation products, Urea-Formaldehyde condensation products, Chlorinated-Paraffin Wax, calcium Carbonate, Moulding and processing of various plastics as Polystyrene, ABS, Poly Vinylchloride), Nylon, Acetal-Co-Polymers Bakelite, Fibre-reinforced Plastic Products COBALT, MEKP, INKS and Polypropylene.



2. To carry on in India or elsewhere the business to manufacture, process, reduce, formulate, mix, disinfect, clean, wash, dilute, dye, concentrate, compound, segregate, pack, repack, add, remove, heat, grade, design, develop, distribute, display, melt, improve, mould, blow, extrude, draw, derive, discover, fabricate, treat, work, manipulate, prepare, promote, supervise, supply, import, export acquire, barer, sore, forward, buy, sell, turn to account market and to act as agent, broker, representative, concessionaries, consultant, collaborator, franchiser, applications, colours and uses of in all verities, characteristics, descriptions, strength, application clours and uses of PVC and things their compounds, by-products, co-products, formulations, intermediates, ingredients, residues, mixtures & Blends made of PVC, Nylon, HDPE, LDPE, LLDPE, polystyrene, polymers, monomers, elastomers, resins, polyesters and other allied chemicals.
3. To work as traders, agents, distributors of all kinds of plastic, plastic goods and related chemicals.
10. From the certificate of incorporation filed, it is evident that the Transferee Company was incorporated on 27th March, 1981 under the Companies Act, 1956 as M/S Revex Plasticizers Private Limited in the NCT of Delhi.

Q

11. The Authorized Share Capital of the Transferee Company is Rs. 1,50,00,000 divided into 15,00,000 equity shares of Rs. 10 each and the Issued, Subscribed and Paid-up Share Capital of the Transferee Company is Rs.69,79,000 divided into 6,97,900 Equity Shares of Rs.10/- each.

12. The main objects of the Transferee Company is:

1. To acquire and takeover all the works, undertakings and business of M/s Revex plastic Industries, Naraina, New Delhi a Partnership concern, as a going concern, as a going concern including all its assets, liabilities and obligations on such terms and conditions as may be agreed by the Directors of the Company and to make payment therefore in cash or in deferred payment basis or in shares or partly in cash and / or partly in deferred payment basis and / or partly by allotment of shares. The said firm shall cease to exist after such takeover.
2. To manufacture, buy, sell resale, process, formulate, export, import and deal in all kinds of plasticizers including Di-octyl1 Pthlate, Di-Butyl1 Phthalate, Di-Octyl1, Sebactate, Alkyd resins based on drying and non-drying oils and other products as polyester resins, Pthalates, Maleates, Iso Pthalates, Bis-phenol-A derivatives, Epoxy Resins, Phenol-Formaldehyde Condensation products, Urea-Formaldehyde condensation products, Chlorinated-Paraffin wax, calcium Carbonate, Moulding and Processing



of Various plastics as Plstyrene, A. A. S., Poly (Vinylchloride), Nylon, Acetal-Co-Polymers, Bakelite, Fibre-Reinforced Plastic Products and Polypropylene.

3. To work as traders, agents, distributors of all kinds of plastic, plastic goods and chemicals.

13. Both the applicants have filed their respective Memorandum and Articles of Association as well as their last available audited financial statements for the year ended 31.03.2016 for Applicant Companies. In addition the Applicant companies has also provided the provisional financial statements for the period ending 28.02.2017

19. The appointed date as specified in the Scheme is 01.04.2016 subject to the directions of this Tribunal.

20. The Board of Directors of the Applicant companies vide separate meetings held on 14.03.2017, have unanimously approved the proposed Scheme of Amalgamation as contemplated above and copies of resolutions passed thereat have been placed on record by the companies.

21. Both the companies have submitted that no investigation proceedings are pending against them under Sections 210 or any other applicable provisions of the Companies Act, 2013.



22. Taking into consideration the application filed jointly by the Transferor company and the Transferee company and the documents filed therewith, we propose to issue the following directions with respect to calling, convening and holding of the meetings of the shareholders, secured and Unsecured Creditors or dispensing with the same as well as issue of notices including by way of paper publication as follows:-

A) In relation to the Transferor Company:

(i) With respect to Equity shareholders:

Since it is represented by the Transferor Company that there are only 7 Equity shareholders in the Company whose consent affidavits have been obtained and are placed on record, therefore the necessity of convening and holding a meeting to consider and it thought fit, the approval of the scheme is dispensed with..

(ii) With respect to Secured Creditors:

Since it is represented by the Transferor Company that there is 1 Secured Creditor in the Company, whose consent affidavit has been obtained and are placed on record, therefore the necessity of convening and holding a meeting to consider and it thought fit, the approval of the scheme is dispensed with..

(iii) With respect to Unsecured Creditors:

Since it is represented by the Transferor Company that there are 29 Unsecured Creditor in the Company, out of which 17 unsecured creditors consent affidavits



constituting more than 90% in value have been obtained and are placed on record, therefore the necessity of convening and holding a meeting to consider and it thought fit, the approval of the scheme is dispensed with.

B) In relation to Transferee Company:

(i) With respect to Equity shareholders:

Since it is represented by the Transferee Company that there are only 6 Equity shareholders in the Company whose consent affidavits have been obtained and are placed on record, therefore the necessity of convening and holding a meeting to consider and it thought fit, the approval of the scheme is dispensed with.

(ii) With respect to Secured Creditors:

Since it is represented by the Transferee Company that there are only 3 secured creditors in the Company whose consent affidavits have been obtained and are placed on record, therefore the necessity of convening and holding a meeting to consider and it thought fit, the approval of the scheme is dispensed with.


(iii) With respect to Unsecured Creditors:

Since it is represented by the Transferee Company that there are 53 Unsecured Creditors in the Company out of which 16 unsecured creditors consent affidavits constituting more than 90% in value have been obtained and are placed on



record, therefore the necessity of convening and holding a meeting to consider and it thought fit, the approval of the scheme is dispensed with.

The application stands allowed on the aforesaid terms.


(R.VARADHARAJAN)
MEMBER (JUDICIAL)

U.D Mehta