

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI BENCH

NEW DELHI

CA (CAA) 118 (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 AMALAGAMTION

BETWEEN

INTEGRAL PRIME SALES PRIVATE LIMITED

(TRANSFEROR COMPANY/ APPLICANT COMPANY-I)

WITH

GINNI ENERGY PRIVATE LIMITED

(TRANSFEEE COMPANY/ APPLICANT COMPANY-II)



MEMO OF PARTIES

1. Integral Prime Sales Private Limited

A company incorporated under the Companies Act, 1956

Through its authorized representative: Shri Pawan Kumar Singhal

Having registered office at:

62-A, Arya Nagar, Alwar, Rajasthan-301001

CIN: U51909RJ2012PTC040006

... Transferor Company /Applicant Company-I

2. Ginni Energy Private Limited

A company incorporated under the Companies Act, 1956

Through its authorized representative: Shri Pawan Kumar Singhal Having
registered office at:

62-A, Arya Nagar, Alwar, Rajasthan-301001

CIN: U74899RJ1991PTC058253

... Transferee Company/ Applicant Company-II

Advocate for Applicants: Mr. N.P.S Chawla, Advocate



ORDER

Order Delivered on: 24.10.17

1. This is a joint application filed by the Applicant Companies namely, Intergral Prime Sales Private Limited ("Transferor Company/ Applicant Company-I") and Ginni Energy Private Limited ("Transferee Company/ Applicant Company-II") under section 230 to 232 and other applicable provisions of the Companies Act, 2013 (hereinafter referred to as the "Act") read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (hereinafter referred to as the "Rules") in relation to the Scheme of Amalgamation (hereinafter referred to as the "Scheme") proposed between the Applicant Companies. The said Scheme is annexed as Annexure-A to the joint application. The Applicant Companies have preferred the instant joint application for the following purpose as is evident from the reliefs sought for in the joint application, namely:

- i. Dispensing with the requirement of convening, holding and conducting the meetings of the equity shareholders, secured and unsecured creditors of each of the Applicant Companies;
- ii. Dispensing with the requirement of convening, holding and conducting the meetings of the preference shareholders of the Applicant Company-I,
AND/OR

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- iii. Passing such other and further orders as are deemed necessary in the facts and circumstances of the case.
2. An affidavit in support of the joint application sworn for and on behalf of both the Applicant Companies has been filed by Shri Pawan Kumar Singhal, being the authorized representative of the respective Applicant Companies along with the joint application. Counsel for the Applicant Companies took us through the averments made in the joint application as well as the typed set of documents annexed there with. It is further represented that a joint application filed by the Applicant Companies is maintainable in view of Rule 3(2) of the Companies (Compromises, Arrangements and Amalgamations) Rules 2016.
3. In relation to Integral Prime Sales Private Limited being Applicant Company-I in the Scheme, it is represented that it has 3 (Three) equity shareholders and 1 (One) preference shareholder as on August 31, 2017. It is further represented that the Applicant Company-I has no secured and unsecured creditor as on August 29, 2017. In relation to equity shareholders, since consent affidavits of the equity shareholders and preference shareholders holding 100% having been obtained for the proposed Scheme, a prayer has been made for dispensing with holding of meeting. Since there is no secured and unsecured creditor of Applicant Company-



I, there is no requirement of convening the meetings of secured and unsecured creditors of Applicant Company-I.

4. In relation to Ginni Energy Private Limited being Applicant Company-II in the Scheme, it is represented that it has 3 (Three) equity shareholders as on August 31, 2017. It is further represented that the Applicant Company-II has no secured and unsecured creditor as on August 29, 2017. In relation to equity shareholders, since consent affidavits of the equity shareholders holding 100% having been obtained for the proposed Scheme, a prayer has been made for dispensing with holding of their respective meetings. Since there is no secured and unsecured creditor of Applicant Company-II, there is no requirement of convening the meetings of secured and unsecured creditors of Applicant Company-II.
5. Learned Counsel for the Applicants also represents that the provisions of Section 233 of 2013 Act will not apply as the Scheme is a composite Scheme. Further, it is also represented that the registered offices of both the Applicant Companies are situated within the territorial jurisdiction of this Tribunal and fall within domain of Registrar of Companies, 'Jaipur', Rajasthan.



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 Applicant Company-I is a private limited company incorporated under the provisions of Companies Act, 1956 on September 6, 2012.

8. The authorized share capital of the Applicant Company-I as on March 31, 2017 is Rs. 40,00,000/- divided into 50,000 equity shares of Rs.10/- each and 35,000 preference shares of Rs.100/- each. The issued, subscribed and paid up share capital of the Applicant Company-I as on March 31, 2017 is Rs. 38,00,000/- divided into 30,000 equity shares of Rs.10/- each fully paid up and 35,000 preference shares of Rs.100/- each fully paid up.

9. The main objects of the Applicant Company-I is as follows:

“1. To carry on all or any of the business as buyers, sellers, traders, distributors, merchants, agents, brokers, sub-brokers, stockiest, commission agents, franchisee, dealers, C & F agents, various types of agencies, network marketing and marketing associates of all kinds of textile, yarn, fabric, garments, agriculture products, electric and



electronics components, industrial goods, equipments and machinery, rubberized and leather and leather goods, leather garments, iron, stitching wires, wire, rod, other M.S.G.I. iron materials and every other type of iron and steel material, aluminum, minerals, ferrous and non-ferrous metals, developers and construction, jute products, packaging materials, chemicals, paints, industrial gases, edible and non-edible oils, sea food, wires, netting wires, mustard oil, sugar, marine products, hospital equipments, engineering goods and equipments, office computer accessories, oil and lubricants, industrial chain, soaps and detergents, cosmetic, jewellery, processed and packaged goods and automobile parts."

10. From the certificate of incorporation filed, it is evident that Applicant Company-II was incorporated as a private limited company incorporated under the provisions of Companies Act, 1956 under the name of 'Perfect Texknit Private Limited' on July 8, 1991 with registered office initially situated in the State of Delhi. The name of the Applicant Company-II was changed to 'Ginni Energy Private Limited' on July 29, 2008 and the registered office of Applicant Company-II was subsequently shifted to the State of Rajasthan on June 7, 2017.



11. The authorized share capital of the Applicant Company-II as on March 31, 2017 is Rs. 6,50,00,000/- divided into 65,00,000 equity shares of Rs. 10/- each. The issued, subscribed and paid up share capital of Applicant Company-II as on March 31, 2017 is Rs. 6,36,50,400/- divided into 63,65,040 equity shares of Rs. 10/- each.

12. The main objects of the Applicant Company-II is as follows:

- "1. To carry on the business of ginners, processors, combers, spinners, weavers, knitters, manufacturers, dyers, bleachers, finishers, laminators, balers and pressers of any fibrous of textile material whether an agricultural or animal or natural product or its bye-products or chemical, or synthetic fiber/continuous filaments such as jute, hemp, silk, cotton, wool, Mesta, nylon, polyester acrylic, viscose, such other synthetic fiber filaments or any combinations thereof and to manufacture textile material from such raw material.*
- 2. To manufacture, treat, buy, sell, import, export, alter or otherwise deal in all types of Yarn whether staple/ spun or continuous filament Yarn, fabrics whether woven or non-woven, or knitted; carpets whether hand knitted or axminster and textile goods of every description made from natural (Vegetable or animal), synthetic or man-made raw materials or any of their combinations and all such*



raw, processed or semi- processed material and mercantile related thereof.

3. *To carry on the business of drapers, costumers, robe, dress and princely wears, mantle makers, tailors, silk mercers, clothing, lingerie, trimmings of every, kind, corset makers, furriers, general drapers, haberdashers, milliners, hosiers, gloves, lace makers and dealers, and merchants, hatters, dealer in fabrics and materials, all kinds of synthetic fibers, hand spun, hand woven, khadi, cotton, silk and woolen fabrics and to deal in all other such kinds of materials related thereto.*
4. *To carry on the business of generation, accumulation, distribution and supply of electricity for the purpose of light, heat, motor power and for all other purposes for which electrical energy can be employed and to manufacture, and deal in all apparatuses and required for or capable of being used in connection with the generation, distribution, supply, accumulation and employment of electricity, including in the term electricity all power that may be directly or indirectly derived there from or may be incidentally hereinafter discovered in dealing with electricity.*
- 4A. *To establish operate and maintain power generating stations, tie-lines, sub stations and main transmission lines connected therewith.*

13. The copies of the Memorandum of Association and Articles of Association along with audited financial statements as on March 31, 2017 have been placed on record by both the Companies.
14. The appointed date as specified in the Scheme is 01.04.2017 subject to the directions of this Tribunal.
15. The Board of Directors of the Applicant companies vide separate meetings held on 29th August, 2017 have unanimously approved the proposed Scheme of Amalgamation as contemplated above and copies of resolutions passed there at have been placed on record by the companies.
16. Both the Applicant Companies have submitted that no investigation proceedings are pending under Sections 210 or any other applicable provisions of the Companies Act, 2013.
17. Taking into consideration the application filed jointly by the Applicant companies 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 Applicant Company-I/ Transferor Company

i. With respect to Equity Shareholders:

Since it is represented by the Transferor Company that there are only 3 Equity shareholders in the Transferor Company whose consents by way of affidavits have been obtained and placed on record, therefore the necessity of convening and holding a meeting to consider and if thought fit for the approval of the scheme is dispensed with.

ii. With respect to Preference Shareholder:

Since it is represented by the Transferor Company that there is only 1 (one) preference shareholders in the Transferor Company whose consents by way of affidavits have been obtained and placed on record, therefore the necessity of convening and holding a meeting to consider and if thought fit for the approval of the scheme is dispensed with.

iii. With respect to secured Creditor:

Since it is represented by the Transferor Company that there is no Secured Creditor in the Company, therefore the necessity of convening a meeting does not arise.



iv. With respect to Unsecured Creditor:

Since it is represented by the Transferor Company that there is no Unsecured Creditor in the Company, therefore the necessity of convening a meeting does not arise.

B. In relation to Applicant Company-II/ Transferee Company:

i. With respect to Equity Shareholders:

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

ii. With respect to secured creditors:

Since it is represented by the Transferee Company that there is no Secured Creditor in the Company, therefore the necessity of convening a meeting does not arise.

iii. With respect to Unsecured Creditor:

Since it is represented by the Transferee Company that there is no Unsecured Creditor in the Company, therefore the necessity of convening a meeting does not arise.

The application stands allowed on the aforesaid terms. Let the petition for approval of the scheme of Amalgamation be filed within a period of one week from the date of this order.

Sd -
24/10/17
(R.VARADHARAJAN)

MEMBER (JUDICIAL)

U.D Mehta