

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH
TRANSFERRED COMPANY SCHEME PETITION NO. 140 of 2017
HIGH COURT COMPANY SCHEME PETITION NO. 641 OF 2016
CONNECTED WITH
HIGH COURT COMPANY SUMMONS FOR DIRECTION NO. 422 OF 2016
AASUTOSH DYEING MILLS PRIVATE LIMITED
....Petitioner/ the Transferor Company

AND
BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH
TRANSFERRED COMPANY SCHEME PETITION NO. 141 of 2017
HIGH COURT COMPANY SCHEME PETITION NO. 642 OF 2016
CONNECTED WITH
HIGH COURT COMPANY SUMMONS FOR DIRECTION NO. 423 OF 2016
SHREE JEENMATA DYEING AND PRINTING
MILLS PRIVATE LIMITED
....Petitioner/ the Transferee Company

In the matter of the Companies Act, 2013 (18 of 2013);

AND

In the matter of Sections 230 to 232 of the Companies Act, 2013 and other relevant provisions of the Companies Act, 2013

AND

In the matter of Sections 391 to 394 of the Companies Act, 1956;

AND

In the matter of Scheme of Amalgamation of AASUTOSH DYEING MILLS PRIVATE LIMITED, the Transferor Company with SHREE JEENMATA DYEING AND PRINTING MILLS PRIVATE LIMITED, the Transferee Company.

Called for hearing

Mr. Rajesh Shah with Mr. Ahmed M Chunawala i/b M/s. Rajesh Shah & Co.,
Advocate for the Petitioner.

Mr. Kamal Harjani, Deputy Director for the Regional Director.

Mr. Vinod Sharma, the Official Liquidator.

Coram: SH. B.S.V. Prakash Kumar, Member (J) and SH. V. Nallasenapathy,
Member (T)

Date: 1st March, 2017

MINUTES OF THE ORDER

1. Heard learned counsel for parties. No objector has come before this Tribunal to oppose the Scheme and nor has any party controverted any averments made in the Petitions.
2. The sanction of the Tribunal is sought under Sections 391 to 394 of the Companies Act, 1956 and Sections 230 to 232 of the Companies Act, 2013 to a Scheme of Amalgamation of AASUTOSH DYEING MILLS PRIVATE LIMITED, the Transferor Company with SHREE JEENMATA DYEING AND PRINTING MILLS PRIVATE LIMITED, the Transferee Company.
3. The Petitioner Companies have approved the said Scheme of Amalgamation by passing the Board Resolutions which are annexed to the respective Company Scheme Petitions.
4. The Learned Advocate appearing on behalf of the Petitioners states that the Petitions have been filed in consonance with the order passed in their Company Summons for Direction Nos. 422 of 2016 and 423 of 2016 of the Hon'ble Bombay High Court.

5. The Learned Advocate appearing on behalf of the Petitioners further states that the Petitioner Companies have complied with all requirements as per directions of the Hon'ble Bombay High Court and they have filed necessary affidavits of compliance in the Hon'ble Bombay High Court. Moreover, Petitioner Companies undertake to comply with all the statutory requirements if any, as required under the Companies Act, 1956/2013 and the Rules made there under whichever is applicable. The said undertaking is accepted.
6. The Learned Counsel for the Petitioners states that the Transferor Company at present is in the business as manufacturers and traders in textiles and the Transferee Company at present is in the business as traders in textiles goods and fabrics. As per the opinion of the management, the proposed scheme of Amalgamation would result in numerous benefits, viz., the combined operations offer better business opportunities owing to economies of scale, integrated operations and reductions in costs and that the amalgamation would enable optimum utilization of Funds & Resources and that the amalgamation would also enable the merged entity to grow much faster with consolidated resources and that the amalgamation will integrate all activities of management functions thereby achieving reduction in overhead costs and improving control over costs and it will also lead to administrative convenience and greater internal controls.
7. The Regional Director has filed a Report on 30th day of November, 2016 stating therein, save and except as stated in paragraph 6, it appears that the Scheme is not prejudicial to the interest of shareholders and public. In paragraph 6 of the said Report, the Regional Director has stated that:-
 - a) *The tax implication, if any arising out of the scheme is subject to final decision of Income Tax Authorities. The approval of the scheme by this*

Hon'ble Court may not deter the Income Tax Authority to scrutinize the tax return filed by the transferee company after giving effect to the scheme. The decision of the Income Tax Authority is binding on the petitioner Company.

- b) *The transferee Company shall make compliance of AS-14 and also pass such accounting entries which are necessary in connection with the scheme to comply with other applicable Accounting Standards such as AS-5 etc and ensure that the Financial Statements of the Transferee Company does not impair the true and fair view of the Financial Statements of the Transferee company after post-amalgamation.*
8. So far as the observation in paragraph 6 (a) of the Report of the Regional Director is concerned, the Learned Counsel for the Petitioner Companies submits that the tax implication if any arising out of the Scheme is subject to final decision of the Income Tax Authorities and the decision of the Income Tax Authority shall be binding on the Petitioner Companies.
9. So far as the observation in paragraph 6 (b) of the Report of the Regional Director is concerned, the Learned Counsel for the Petitioner Companies submits that the Transferee Company undertakes that it shall make compliance of AS-14 and also pass such accounting entries which are necessary in connection with the scheme to comply with other applicable Accounting Standards such as AS-5 etc and ensure that the Financial Statements of the Transferee Company does not impair the true and fair view of the Financial Statements of the Transferee company after post-amalgamation.
10. Mr. Kamal Harjani, Deputy Director, in the office of the Regional Director, Ministry of Corporate Affairs, Western region, Mumbai, is satisfied with the undertaking given by the Petitioner Companies. The said undertaking given by the Petitioner Companies are accepted.

11. The Official Liquidator has filed his report on 20th day of February, 2017 in the Transferred Company Scheme Petition No. 140 of 2017 inter alia, stating therein that the affairs of the Transferor Company have been conducted in a proper manner and that the Transferor Company may be ordered to be dissolved by this Tribunal.
12. From the material on record, the Scheme appears to be fair and reasonable and is not violative of any provisions of law and is not contrary to public policy.
13. Since all the requisite statutory compliances have been fulfilled, Transferred Company Scheme Petition No. 140 of 2017 is made absolute in terms of prayers clause (a) to (d) and 141 of 2017 is made absolute in terms of prayer clauses (a) to (c).
14. Petitioners are directed to lodge a copy of this order along with a copy of the Scheme of Amalgamation with the concerned Registrar of Companies, electronically along with E-Form INC-28, in addition to physical copy, as per the relevant provisions of the Companies Act 1956 / 2013.
15. The Petitioner Companies to pay costs of Rs.25,000/- each to the Regional Director, Western Region, Mumbai and the Petitioner in the Transferred Company Scheme Petition No. 140 of 2017 to pay costs of Rs.25,000/- to the Official Liquidator, High Court, Bombay. Cost to be paid within four weeks from the date of the Order.
16. All concerned regulatory authorities to act on a copy of this order along with Scheme duly authenticated by the Company Registrar, National Company Law Tribunal, Mumbai.

Sd/-

B.S.V. Prakash Kumar Member (Judicial)

Sd/-

V. Nallasenapathy Member (Technical)