

IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, CHENNAI

**CA/161/CAA/2017
and
CA/162/CAA/2017**

Under Sections 230 to 232 of the Companies Act, 2013

In the matter of Scheme of Amalgamation

between

M/s. Faaber Paints Private Limited
(Transferor Company)

with

M/s. Verven Coatings Private Limited
(Transferee Company)

Order delivered on 25th of September, 2017

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CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)
S.VIJAYARAGHAVAN, MEMBER (TECHNICAL)

For Applicant(s) :Mr. S.R. Sankarshwaran, Counsel

ORDER

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

1. Under consideration are two Applications filed under Sections 230 to 232 of the Companies Act, 2013. The prayer made in both the Applications are to dispense with convening, holding and conducting of the meeting of equity shareholders, secured/unsecured

creditors in relation to the Transferor Company and the Transferee Company. Since, both the Applications pertain to the same Scheme, we take both of them together for disposal.

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i. The Transferor Company viz., M/s. Faaber Paints Private Limited, has two equity shareholders. The list of shareholders is placed at page 118 of the typed set filed with the Application. The consent affidavits given by both the equity shareholders are placed at pages 119 to 122, wherein it has been deposed that they do support the Scheme and consent to dispense with convening, holding and conducting the meeting of equity shareholders. Therefore, we order to dispense with the meeting of the equity shareholders of the Transferor company.

ii) The Transferor Company has no secured creditor. The certificate issued by the Chartered Accountant in

this regard is placed at page 78 of the typed set filed with the Application.

iii. As regards the unsecured creditors, there are 31 unsecured creditors in the Transferor Company, out of which, 16 unsecured have given consent affidavits, which constitutes 90.19% of total value of the credits. The list of unsecured creditors and Affidavits filed by the unsecured creditors are placed at pages 80 & 83 and 84 to 122 respectively. Therefore, we order to dispense with the meeting of the unsecured creditors of the Transferor Company under clause (9) of Section 230 of the Companies Act, 2013.

iv. We direct the Registry to issue notice to the Official Liquidator in respect of the Transferor Company. The Official Liquidator shall appoint Chartered Accountant on his own for the purpose of preparation of the reports which shall be submitted to this Bench within four weeks from the date the copy of this order is received.

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i. As regards the Transferee company viz., M/s. Verven Coatings Private Limited, there are three equity shareholders. The list of equity shareholders is placed at page 133 of the typed set filed with the Application. The consent affidavits given by all the three equity shareholders are placed at pages 134 to 139 of the typed set filed with the Application, wherein it has been deposed that they do support the Scheme and consent to dispense with convening, holding and conducting the meeting of equity shareholders. Therefore, we order to dispense with the meeting of the equity shareholders of the Transferee Company.

ii. There is one secured creditor in relation to the Transferee Company, whose consent has been obtained in the letterhead. The list of secured creditor and its consent letterhead are placed at pages 84 to 86 of the typed set filed with the Application. Therefore, we order to dispense with the meeting of the secured creditor of

the Transferee company under clause (9) of Section 230 of the Companies Act, 2013 subject to condition that at the time of hearing of the Petition the Affidavit of the consenting secured creditor shall be placed on record.

iii. As regards the unsecured creditors, there are 32 unsecured creditors in the Transferee Company, out of which, 20 unsecured creditors have given consent Affidavits, which constitute 90.38% of total value of the credits. The list of unsecured creditors and their Affidavits are placed at pages 87 to 131 of the typed set filed with the Application. Therefore, we order to dispense with the meeting of the unsecured creditors of the Transferee Company under clause (9) of Section 230 of the Companies Act, 2013.

2. We hereby direct the Registry to issue notice to the Regional Director, Ministry of Corporate Affairs, ROC and Income Tax Authorities in relation to both the Applicants separately. Since the Applicant companies are unlisted, there is no requirement to issue notice to

the SEBI and stock exchanges. As per the Counsel for the Applicants, the Scheme is exempted under Section 5 of the Competition Act, 2002. Therefore, there is no requirement to issue notice to CCI or other sectoral regulators. In case the statutory authorities are desirous of making any objection/ representation, they may do so within 30 days from the date of receipt of the notice. In case no objection/representation is made, it shall be presumed that they/any of them have/has no objection/representation to make.

3. The Applicant Companies are directed to issue private notice to the authorities/regulators by way of speed post/hand delivery separately. The proof of sending and effecting the service thereof upon them along with the newspaper publication be submitted along with an affidavit.

4. The Applicant companies are directed to effect publication separately in the newspapers one in English "The Trinity Mirror" (Tamilnadu Edition) and

another in vernacular language “Maalai Chudar” (Tamilnadu Edition) having wide circulation in the State of Tamilnadu, not less than 30 days before filing the Company Petition. The Applicants are directed to upload the notice on their websites and display the notice on the notice board at the Registered Office of their respective company. The Registry is also directed to display the notice on the notice board of this Bench.

5. Accordingly, the Applications are allowed. We direct the Applicant companies to present the Petition on or before 22.11.2017.

S. Vijayaraghavan

(S.VIJAYARAGHAVAN)
MEMBER (TECHNICAL)
PAM

CH. MOHD. SHARIEF TARIQ

(CH. MOHD. SHARIEF TARIQ)
MEMBER (JUDICIAL)