

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL

BENCH AT MUMBAI

COMPANY SCHEME PETITION NO. 88 OF 2017

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 867 OF 2016

(HIGH COURT TRANSFERRED APPLICATION)

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

And

In the matter of Sections 230-232 and Section 52 of the Companies Act, 2013 and Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 and applicable provisions of the Companies Act, 1956;

And

In the matter of the Scheme of Arrangement amongst Deepak Fertilisers And Petrochemicals Corporation Limited; SCM Fertichem Limited and Smartchem Technologies Limited and their respective shareholders and creditors.

SCM Fertichem Limited, CIN No.: U24211PN2012PLC145023)

a company incorporated under the Companies Act, 1956,)

and having its registered office at Deepak Complex,)

Opposite Golf Course, Shastri Nagar, Yerawada,)

Pune, Maharashtra- 411006). **Petitioner**

Called for Admission of Petition:

Mr. Ravichandra Hegde along with Ms. Saeeda Bandukwala i/by J. Sagar Associates,

Advocates for the Petitioner.

Coram: SH. B.S.V. Prakash Kumar Hon'ble Member (J) and SH. V. Nallasenapathy
Hon'ble Member (T).

Date : 27th January, 2017

MINUTES OF THE ORDER

1. Petition admitted
2. Petition fixed for hearing and final disposal on 15th March 2017.
3. The Learned Advocate for the Petitioner states that in pursuance to the order dated 27th October, 2016 passed by the Hon'ble High Court, Bombay, in the Company Summons for Direction No.867 of 2016, the convening and holding of the meeting of the equity shareholders was dispensed with in view of the consent letters given by all the 8 equity shareholders. Since the Petitioner had no secured creditors the order recorded that the question of convening and holding the meeting of secured creditors did not arise. The convening of the meeting of the unsecured creditors was dispensed with on an undertaking to give individual notice of the hearing of the Petition by registered post A. D. to all its unsecured creditors and also to publish the same in two newspapers viz: Indian Express in English language and Loksatta in Marathi language both having circulation in Pune. The Petitioner has also given an undertaking that any modification or amendment proposed by the Board of Directors of the parties to the Scheme as provided in Clause 45 of the Scheme is subject to the prior approval of the Court/Tribunal.
4. The Learned Advocate for the Petitioner further submits that the Petition is filed in consonance with Sections 230 to 232 of the Companies Act 2013 and

Sections 391 to 394 of the Companies Act 1956 and along with the Order passed in Company Summons for Direction by the Bombay High Court.

5. At least 30 clear days before the date fixed for hearing, Petitioner to serve the notice of hearing of the Petition upon the Regional Director, Western Region, Ministry of Corporate Affairs, Mumbai, Maharashtra, pursuant to Section 230(5) of the Companies Act, 2013. If no response is received by the Tribunal from the Regional Director within 30 days it may be presumed that the Regional Director and /or Central Government has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
6. At least 30 clear days before the date fixed for hearing, Petitioner to serve the notice of hearing of the Petition on the concerned Registrar of Companies. If no response is received by the Tribunal from the Registrar of Companies within 30 days it may be presumed that the Registrar of Companies has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
7. At least 30 clear days before the date fixed for hearing, Petitioner Company to serve the notice of hearing of the Petition on the concerned Income Tax Authority within whose jurisdiction the Petitioner Company's assessments are made, with a direction that Income Tax Authority may submit their comments/views/remarks on the tax aspects of the Scheme to the concerned Regional Director within 15 days from the receipt of notice of hearing of the Petition, in terms of General Circular No. 1/2014, dated 15th January 2014 issued by Ministry of Corporate Affairs, Government of India.
8. At least 10 clear days before the date fixed for hearing, Petitioner to publish the notice of hearing of the Petition in two local newspapers viz: Indian Express in English language and translation thereof in Loksatta in Marathi

language both having circulation in Pune as per Rule 16 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

9. At least 14 clear days before the date fixed for hearing, the Petitioner Company to issue an individual notice of the date of the hearing of the Petition by Registered Post Acknowledgement Due upon all its unsecured creditors.
10. Publication of notice of hearing of the Petition in the Maharashtra Government Gazette is dispensed with.
11. Petitioner to file in this Registry an Affidavit of Service before 7 days from the date of final hearing of the Petition.

Sd/-

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

Sd/-

V. Nallasenapathy
Member (Technical)