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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CO.PET. 157/2011

IN THE MATTER OF
PEARL GLOBAL LTD.

..... Petitioner

Through: Mr. Darpan Wadhwa with Ms. Niti Dixit
& Mr. Vidur Bhatia, Advs. for petitioner
companies

Mr. Rajiv Bahl, Adv. for Official Liquidator

Mr. K.S. Pradhan, Deputy Registrar of Companies
for RD (NR)

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

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11.11.2011

1. This second motion joint petition has been filed under Sections 391(2) & 394 of the Companies Act, 1956 (for short 'Act') seeking sanction of the Scheme of Amalgamation (for short 'Scheme') of Pearl Global Limited ('Transferor Company') with House of Pearl Fashions Limited ('Transferee Company').
2. The registered offices of the Petitioner Companies are situated at New Delhi, within the jurisdiction of this Court.

Signature Not Verified

Digitally Signed By: AMULYA
Certify that the digital file and
physical file have been compared and
the digital data is as per the physical
file and no page is missing.

3. Details with regard to the date of incorporation of Transferor and Transferee Companies, their authorized, issued, subscribed and paid up capital have been given in the Petition.

4. Copies of the Memorandum and Articles of Association as well as the audited Annual Accounts for the year ended 31st March, 2010 of the Petitioner Companies have also been enclosed with the first motion application being CA (M) No. 209 of 2010.

5. Copies of the Resolutions passed by the Board of Directors of the Petitioner Companies approving the Scheme have also been placed on record.

6. It has been submitted that no proceeding under Sections 235 to 251 of the Act is pending against the Petitioner Companies.

7. So far as the share exchange ratio for amalgamation is concerned, the Scheme provides that, upon the Scheme finally coming into effect, the Transferee Company shall issue shares in the following manner:

- *two Equity Shares of Rs.10/- each, credited as fully paid-up, of the Transferee Company for every three Equity Shares of Rs.10/- each held in the Transferor Company.*

8. The Petitioner Companies had earlier filed CA (M) No. 209 of 2010 seeking directions of this Court for convening meetings of their equity shareholders and creditors and for dispensing with the requirement of

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convening a meeting of the preference shareholders of the Transferor Company. Vide order dated 3rd December, 2010, this Court had, *inter alia*:

- a. *directed separate meetings of equity shareholders, secured creditors and unsecured creditors of the Transferor and Transferee Companies to be convened;*
- b. *appointed Chairpersons and alternate Chairpersons for each of the meetings; and*
- c. *dispensed with the requirement of convening a meeting of the preference shareholders of the Transferor Company.*

9. The Chairpersons appointed to conduct the meetings have filed their respective reports stating that such meetings were duly convened in accordance with the order of this Court dated 3rd December, 2010, and that the Scheme has been approved in terms of Section 391(2) of the Act at each of such meetings.

10. Mr. Wadhwa, learned counsel for the petitioner companies states that after filing of the second motion petition, the Company Law Board has allowed all the compounding petitions filed by the Transferor Company and that now there are no pending petitions for compounding. The said statement is taken on record.

11. The Petitioner Companies have thereafter filed the present Petition seeking sanction of the Scheme. Vide order dated 4th April, 2011, notice in the Petition was directed to be issued to the Regional Director, Northern Region and the Official Liquidator. Citations were also directed to be published in 'Financial Express' (English Edition) and 'Navbharat Times' (Hindi Edition). Affidavit of Service and Publication has been filed by the Petitioners showing compliance regarding service of the Petition on the Regional Director, Northern Region and the Official Liquidator, and also regarding publication of citations in the aforesaid newspapers on 23rd September, 2011. Copies of the newspapers' cuttings, in original, containing the publications have been filed along with the Affidavit of Service.

12. Pursuant to the notices issued, the Official Liquidator sought information from the Petitioner Companies. Based on the information received, the Official Liquidator has filed his report on 4th July, 2011, wherein he has stated that he has not received any complaint against the proposed Scheme from any person/party interested in the Scheme in any manner and that the affairs of the Transferor Company do not appear to have been conducted in a manner prejudicial to the interest of its members, creditors or to public interest.

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13. In response to the notices issued in the Petition, Mr. B.K. Bansal, Regional Director, Northern Region, Ministry of Corporate Affairs has filed his Affidavit on 1st June, 2011. Relying on Clause 4.4.1 of the Scheme, he has stated that all the employees of the Transferor Company shall become the employees of the Transferee Company without any break or interruption in their services upon sanctioning of the Scheme by the Court.

14. He further submits that the Bombay Stock Exchange Limited ('BSE') in its letter dated September 1, 2010 has given its 'No Objection' to the proposed Scheme and stated that Transferee Company by letter dated 16th August, 2010 has undertaken to lock in 25% of the new equity shares to be issued pursuant to the Scheme for a period of three years from the date of listing of the new shares on the BSE and that the Transferee Company be advised to comply with the condition imposed by the BSE. The Petitioner Companies have filed a reply to the affidavit of the Regional Director on 16th September, 2011 stating that the Transferee Company has given such undertaking to the BSE on 16th August, 2010 and that the Transferee Company confirms it will comply with the undertaking. In view of the reply of the Petitioner Companies, the issue raised by the Regional Director does not survive.

15. No objection has been received to the Scheme from any other party. Mr. Sandeep Sabharwal, Company Secretary of the Transferee Company, has filed an affidavit dated 1st October, 2011, confirming that neither the Petitioner Companies nor their Legal Counsel has received any objection pursuant to citations published in the newspapers.

16. Even today, during the course of hearing, neither Mr. Rajiv Bahl, learned counsel for the Official Liquidator nor Mr. K.S. Pradhan, Deputy Registrar of Companies appearing for Regional Director (NR) have raised any objection to the present Scheme being sanctioned by the Court.

17. In view of the approval accorded by the Shareholders and Creditors of the Petitioner Companies; affidavit/report filed by the Regional Director, Northern Region and the Official Liquidator, attached with this Court to the proposed Scheme, there appears to be no impediment to the grant of sanction to the Scheme. Consequently, sanction is hereby granted to the Scheme under Sections 391 and 394 of the Act. The Petitioner Companies will comply with the statutory requirements in accordance with law. Certified copy of the order be filed with the Registrar of Companies within thirty days from the date of receipt of the same. In terms of the provisions of Sections 391 and 394 of the Act, and in terms of the Scheme, the whole or part of the undertakings, the properties, rights and powers of the Transferor Company

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be transferred to and vest in the Transferee Company without any further act or deed. Similarly, in terms of the Scheme, all the liabilities and duties of the Transferor Company be transferred to the Transferee Company without any further act or deed. Upon the Scheme coming into effect, the Transferor Company shall stand dissolved without winding up. It is, however, clarified that this order will not be construed as an order granting exemption from payment of stamp duty or taxes or any other charges, if payable in accordance with any law; or permission/compliance with any other requirement which may be specifically required under any law.

18. Learned Counsel for the Petitioners states that the Petitioner Companies would voluntarily deposit a sum of Rs.2,00,000/- with the Common Pool fund of the Official Liquidator within three weeks from today. The said statement is accepted.

19. The Petition is allowed in the above terms.

Order Dasti.


MANMOHAN, J

NOVEMBER 11, 2011
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- Fresh CA 392/12 for delays 33 days
filing of e-forms 21

IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CO.PET. 157/2011

IN THE MATTER OF
PEARL GLOBAL LTD.

..... Petitioner

Through: Mr. Mukesh Sukhija, Advocate with
Mr. Puneet Khanna, Advocate for
applicant.Mr. K.S. Pradhan, Deputy Registrar of
Companies for Registrar of Companies.**CORAM:****HON'BLE MR. JUSTICE MANMOHAN****ORDER**

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27.02.2012**Co. Appl. 395/2012 in Co. Pet. 157/2011**

Issue notice.

Mr. K.S. Pradhan, Deputy Registrar of Companies accepts notice on behalf of Registrar of Companies. He states that he has no objection to the present application being allowed.

Accordingly, keeping in view the aforesaid consent as well as the averments in the application, delay in filing E-Form 21 in compliance with the order dated 11th November, 2011 with respect to the Transferor and Transferee Companies before the Registrar of

Companies, NCT of Delhi and Haryana, is condoned.



The Registrar of Companies, NCT of Delhi and Haryana is directed to take the said E-Form 21 on record.

Accordingly, the application stands disposed of.


MANMOHAN, J

FEBRUARY 27, 2012

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