

IN THE HIGH COURT OF DELHI
COMPANY PETITION NO. 617/2014

Reserved on 28th July, 2015
Date /of pronouncement: 9th September, 2015

In the matter of

The Companies Act, 1956 & the Companies Act, 2013 (to the extent applicable):

And

**Petition under Section 391(1) & 394 of the
Companies Act, 1956**

Scheme of Arrangement & Demerger between:

Stericat Gutstrings Private Limited

Petitioner/Demerged Company

AND

GBK Business Venture Private Limited

Petitioner/Resulting Company

**Through Mr. Sharad Tyagi and Mr. Amit
Goel, Advocates for the petitioners
Ms. Aparna Mudiam, Assistant
Registrar of Companies for the
Regional Director**

SUDERSHAN KUMAR MISRA, J.

1. This joint petition has been filed under Sections 391(1) & 394 of the Companies Act, 1956 by the petitioner companies seeking sanction of the Scheme of Arrangement & Demerger between Stericat Gutstrings Private Limited (hereinafter referred to as the demerged company) and GBK Business Venture Private Limited (hereinafter referred to as the resulting company).

2. The registered offices of the demerged and resulting companies are situated at New Delhi, within the jurisdiction of this court.

3. The demerged company was originally incorporated under the Companies Act, 1956 on 2nd June, 1983 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi under the name and style of Stericat Gutsrings Private Limited. The company changed its name to Stericat Gutstrings Private Limited and obtained the fresh certificate of incorporation on 27th December, 1984.

4. The resulting company was incorporated under the Companies Act, 2013 on 4th August, 2014 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

5. The present authorized share capital of the demerged company is Rs.50,00,000/- divided into 48,000 equity shares of Rs.100/- each aggregating to Rs.48,00,000/- and 2,000 preference shares of Rs.100/- each aggregating to Rs.2,00,000/-. The issued, subscribed and paid-up share capital of the company is Rs.25,00,000/- divided into 25,000 equity shares of Rs.100/- each.

6. The present authorized share capital of the resulting company is Rs.1,00,000/- divided into 10,000 equity shares of Rs.10/- each. The

issued, subscribed and paid-up share capital of the company is Rs.1,00,000/- divided into 10,000 equity shares of Rs.10/- each.

7. Copies of the Memorandum and Articles of Association of the demerged and resulting companies have been filed on record with the joint application, being CA(M) 129/2014, earlier filed by the petitioners. The audited balance sheet, as on 31st March, 2014, of the demerged company, along with the report of the auditors, and the unaudited balance sheet, as on 3rd August, 2014, of the demerged company, had also been filed. It has been submitted by the petitioners that since the resulting company has been incorporated only recently, no accounts have been prepared for the resulting company.

8. A copy of the Scheme of Arrangement & Demerger has been placed on record and the salient features of the Scheme have been incorporated and detailed in the petition and the accompanying affidavits. It has been submitted by the petitioners that the demerged company has several distinct and diverse businesses one of which is the textile business/undertaking which requires distinctive focus and strategic orientation. It is claimed that in order to harness the true potential of the business, it is necessary to reorganize the demerged company by demerging the textile undertaking and vesting it in the resulting company. It is claimed that the proposed demerger will provide greater business

focus for the petitioner companies and will contribute in furthering and fulfilling the objects of the petitioner companies and lead to the optimum growth and development of the business of the petitioner companies.

9. So far as the share exchange ratio is concerned, the Scheme provides that, upon coming into effect of this Scheme, the resulting company shall issue and allot equity shares to the shareholders of the demerged company in the following ratio:

“30 equity shares of Rs.10/- each at a premium of Rs.94/- per share of the resulting company, credited as fully paid up, for every 01 equity share of Rs.100/- each held by the shareholders in the demerged company”.

10. It has been submitted by the petitioners that no proceedings under Sections 235 to 251 of the Companies Act, 1956 are pending against the demerged and resulting companies.

11. The Board of Directors of the demerged and resulting companies in their separate meetings held on 4th August, 2014 have unanimously approved the proposed Scheme of Arrangement & Demerger. Copies of the Resolutions passed at the meetings of the Board of Directors of the demerged and resulting companies had been placed on record.

12. The petitioner companies had earlier filed CA (M) No. 129/2014 seeking directions of this court to dispense with the requirement of

convening the meetings of their shareholders, secured and unsecured creditors, which are statutorily required for sanction of the Scheme of Arrangement & Demerger. Vide order dated 16th September, 2014, this court allowed the application and dispensed with the requirement of convening and holding the meetings of the equity shareholders, secured and unsecured creditors of the demerged company and equity shareholders of the resulting company, there being no secured or unsecured creditors of the resulting company, to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Arrangement & Demerger. The Court, however, directed the petitioners to issue specific notice to Citibank N.A., Gurgaon, the secured creditor of the demerged company and Meta Biomed Co. Ltd., Korea, the unsecured creditor of the demerged company, at the time of moving of the second motion petition calling for their objections, if any, to the Scheme.

13. The petitioner companies have thereafter filed the present petition seeking sanction of the Scheme of Arrangement & Demerger. Vide order dated 10th October, 2014, notice in the petition was directed to be issued to the Regional Director, Northern Region. Citations were also directed to be published in 'Business Standard' (English) and 'Business Standard' (Hindi) editions. Affidavits have been filed by the petitioners showing compliance regarding service on Citibank N.A., Gurgaon and Meta Biomed Co. Ltd., Korea, and also regarding publication of citations in the

aforesaid newspapers on 29th December, 2014. Copies of the newspaper clippings containing the publications have been filed along with the affidavit.

14. In response to the notices issued in the petition, Mr. A. K. Chaturvedi, Regional Director, Northern Region, Ministry of Corporate Affairs has filed his report dated 12th January, 2015. Relying on Clause 5.16 of Part-C of the Scheme, he has stated that, upon sanction of the Scheme of Arrangement & Demerger, all the employees of the demerged company engaged in or in relation to the Demerged Undertaking shall become the employees of the resulting company without any break or interruption in their services.

15. No objection has been received to the Scheme of Arrangement & Demerger from any other party. The petitioner companies, in the affidavit dated 12th January, 2015 of Sh. Vikram Kapahi, Managing Director of the demerged company, have submitted that neither the petitioner companies nor their counsel have received any objection pursuant to the citations published in the newspapers on 29th December, 2014. So far as Citi Bank N.A., Gurgaon and Meta Biomed Co. Ltd., Korea are concerned, learned counsel for the applicants points out that their 'No Objections' to the Scheme of Arrangement and Demerger has been placed on record in the first motion petition itself.

16. Considering the approval accorded by the equity shareholders, secured and unsecured creditors of the petitioner companies to the proposed Scheme of Arrangement & Demerger and the affidavit filed by the Regional Director, Northern Region not raising any objection to the proposed Scheme of Arrangement & Demerger, there appears to be no impediment to the grant of sanction to the Scheme of Arrangement & Demerger. Consequently, sanction is hereby granted to the Scheme of Arrangement & Demerger under Sections 391 and 394 of the Companies Act, 1956. The petitioner companies will comply with the statutory requirements in accordance with law. Certified copy of this order be filed with the Registrar of Companies within 30 days. It is also clarified that this order will not be construed as an order granting exemption from payment of stamp duty as payable in accordance with law. Upon the sanction becoming effective from the appointed date of Arrangement, i.e. 4th August, 2014, the 'Demerged Undertaking' of the demerged company shall stand merged in the resulting company.

17. The petition is allowed in the above terms.

Dasti.

SUDERSHAN KUMAR MISRA, J.

September 09, 2015