

THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SCHEME PETITION NO.171OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO. 25 OF 2015

Exemplar Engineering Private Limited....Petitioner

With

COMPANY SCHEME PETITION NO.172OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO. 26 OF 2014

Deeco Mechatron Marketing Private Limited....Petitioner

In the matter of the Companies Act, 1956 (1
of 1956);

AND

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

AND

In the matter of the Scheme of Amalgamation
of Exemplar Engineering Private Limited with
Deeco Mechatron Marketing Private Limited

Called for hearing

Mr. Hemant Sethi, i/b M/s Hemant Sethi & Co. Advocate for the Petitioner
Company

Mr. S. Ramakantha, Official Liquidator Present

Mr. Y. R. Mishra i/b Mr. A.A. Ansari for Regional Director.

CORAM: S. C. Gupte, J.

DATE: 3rd July, 2015

PC:

1. Heard counsel for the parties. No objector has come before the court to oppose the Scheme of Amalgamation and nor any party has controverted any averments made in the Petition.
2. The sanction of the Court is sought under Sections 391 to 394 of the Companies Act, 1956, to the Scheme of Amalgamation of Exemplar Engineering Private Limited with Deeco Mechatron Marketing Private Limited.
3. The Learned Counsel for the Petitioners states that Petitioner / Transferor Company was incorporated with the main object of manufacturing of textile machines, investment and trading in securities and is presently carrying on business of an Investment Company and Petitioner / Transferee Company is engaged in the business of carrying on as an indenting agent and is also carrying on the business of trading in spare parts and components pertaining to the Textiles Industry.

4. Learned Counsel for the Petitioners states that the Scheme will result into following benefits namely integrating and combining the businesses of the Company will lead to greater and optimal utilization of resources, the amalgamation will reduce administrative costs and avoid duplication of costs, enable the amalgamated company to effect internal economies and optimize profitability as also to reduce administrative inefficiencies by reducing duplication of functions, the amalgamation will result in creation of a single larger unified entity in place of various entities under the same management and control, thus resulting in efficient synergies of operations and streamlined business transactions.
5. Learned Counsel for the Petitioners further states that the Board of Directors of the Petitioner Companies have approved the said Scheme of Amalgamation by passing Board Resolutions which are annexed to the respective Company Scheme Petitions.
6. The Learned Counsel for the Petitioners further states that the Petitioner Companies have complied with all the directions passed in the respective Company Summons for Direction and that the Company Scheme Petitions have been filed in consonance with the orders passed in respective Company Summons for Direction.
7. The Learned Counsel appearing on behalf of the Petitioners has stated that the Petitioner Companies have complied with all requirements as

per directions of this Court and they have filed necessary affidavit of compliance in the Court. Moreover, the Petitioner Companies undertakes to comply with all statutory requirements if any, as required under the Companies Act, 1956 / 2013 and rules made there under whichever is applicable. The said undertaking is accepted.

8. The Official Liquidator has filed his report dated 15th June, 2015 on 16th June, 2015 stating therein that the affairs of the Petitioner Company have been conducted in a proper manner and that the Petitioner Company may be ordered to be dissolved by this Court.
9. The Regional Director has filed an Affidavit on 12th day of June, 2015 stating therein, save and except as stated in paragraph 6 thereof, it appears that the Scheme is not prejudicial to the interest of shareholders and public. In paragraph 6 of the said Affidavit, the Regional Director has stated that:-

“6. *That the Deponent further submits that the Tax issue if any arising out of this scheme shall be subject to final decision of Income Tax Authority and approval of the scheme by Hon'ble High Court may not deter the Income Tax Authority to scrutinize the tax returns filed by the petitioner company after giving effect to the amalgamation The decision of the Income Tax Authority is binding on the petitioner company*

10. So far as the observations made in paragraph 6 of the Affidavit of the Regional Director is concerned, the Learned Counsel for the Petitioner Companies submit that the Petitioner Companies are bound to comply with all applicable provisions of Income Act and all tax issues arising out of the Scheme will be met and answered in accordance with law.
11. The Learned Counsel for Regional Director on instructions of Mr. M. Chandana Muthu, Joint Director (Legal) in the office of the Regional Director, Ministry of Corporate Affairs, Western Region, Mumbai states that they are satisfied with the undertaking given by the Petitioner Companies. The said undertaking given by the Petitioner Companies is accepted.
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, the Company Scheme Petition No. 171 of 2015 & 172 of 2015 are made absolute in terms of the prayer clause (a) of the respective Company Scheme Petition.
14. The Petitioner Companies are directed to file a copy of this order and the Scheme, duly authenticated by the Company Registrar, High Court (O.S.), Bombay with the concerned Superintendent of Stamps,

for the purpose of adjudication of stamp duty payable, if any, on the same within 60 days from the date of the Order.

15. Petitioner Companies are directed to file a copy of this order along with a copy of the Scheme with the concerned Registrar of Companies, electronically, along with concerned E-Form INC 28 in addition to physical copy as per the provisions of the Companies Act 1956 / 2013 whichever is applicable.
16. The Petitioner Companies in both the Company Scheme Petitions to pay costs of Rs.10,000/- each to the Regional Director, Western Region, Mumbai and the Petitioner Company in Company Scheme Petition No. 171 of 2015 to pay cost of Rs.10,000/- to the Official Liquidator, High Court, Bombay. Costs to be paid within four weeks from the date of the Order.
17. Filing and issuance of the drawn up order is dispensed with.
18. All concerned regulatory authorities to act on a copy of this order along with Scheme duly authenticated by the Company Registrar, High Court (O. S.), Bombay.

(S. C. Gupte, J.)