

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICITON

COMPANY SCHEME PETITION NO 643 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 308 OF 2015

Amarjyot Chemical Limited...Transferee/Demerged Company

AND

COMPANY SCHEME PETITION NO 644 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 309 OF 2015

Dilesh Logistics (India) Private Limited.....Resulting Company

AND

COMPANY SCHEME PETITION NO 645 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 310 OF 2015

Amrey Enterprises Private Limited....Transferor Company 1

AND

COMPANY SCHEME PETITION NO 646 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 311 OF 2015

Draagon Drugs Private Limited....Transferor Company 2

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

AND

In the matter of Sections 391 to 394 read with Sections 100 to
103 of the Companies Act, 1956;

AND

In the matter of Composite Scheme of Arrangement between Amarjyot Chemical Limited and Dilesh Logistics (India) Private Ltd. And Amrey Enterprises Private Limited and Draagon Drugs Private Limited and Their Respective Shareholders And Creditors

Called for Hearing

Mr. Hemant Sethi i/b. Hemant Sethi & Co., Advocates for the Petitioners in all the Petitions.

Mr. Anand O Singh i/b Mr A.A Ansari for Regional Director in both the Petitions.

Mr. S. Ramakantha, Official Liquidator Present in CSP No. 645 and 646 of 2015.

CORAM: K.R. SHRIRAM, J

DATE: 11th DECEMBER 2015

1. Heard the Learned Counsels for the Petitioner Companies. No objector has come before the Court to oppose the Composite Scheme of Arrangement and nor any party has controverted any averments made in the Petitions.
2. The sanction of the Court is sought under Sections 391 to 394 read with Sections 100 to 103 of the Companies Act, 1956, to the Composite Scheme of arrangement between Amarjyot Chemical Limited AND Dilesh Logistics (India) Private Ltd. And Amrey Enterprises Private Limited and Draagon Drugs Private Limited AND Their Respective Shareholders And Creditors.
3. Counsel for the Petitioner Companies states that Amarjyot Chemical Limited is engaged in the business of Chemicals and Chemical Products. Dilesh Logistics (India) Private Ltd. is presently exploring business opportunities to engage in the business authorised under its objects clause of carriers of goods and cargo. Amrey Enterprises Private Limited is mainly engaged in the business of lease of facilities owned by it. Draagon Drugs Private Limited is engaged in the business of manufacturing chemicals.
4. The Counsel for the Petitioners state that rationale of the Scheme is that Amarjyot and Dilesh are owned by the same shareholders. Amarjyot is engaged in business of manufacturing of chemicals, trading in chemical and

other allied business activities. Amrey has land and buildings facilities which are leased out for rent. Draagon is engaged in the business of manufacturing of chemicals. With a view to consolidate, focus, expand and avail the benefits of synergic manufacturing operations it is proposed to demerge non-manufacturing businesses of Amarjyot into Dilesh and amalgamate Amrey and Draagon with Amarjyot. The Scheme would inter alia achieve the following synergies which will benefit the shareholders, employees and all other stakeholders: (i) consolidation of all manufacturing activities / assets of Amarjyot, Amrey and Draagon into Amarjyot with better focus and potential for expansion; (ii) better utilisation of available resources; and (iii) economies on account of reduced administrative and managerial efforts and overheads.

5. The Petitioner Companies have approved the said Scheme by passing Board Resolutions which are annexed to the respective Company Scheme Petitions.
6. The Learned Counsel for the Petitioners state that Petitioner Companies have complied with all directions passed in Company Summons for Directions and that the Scheme has been filed in consonance with the orders passed in respective Company Summons for Directions.
7. The Learned Counsel appearing on behalf of the Petitioners has stated that they have complied with all requirements as per directions of this Hon'ble High Court and they have filed necessary Affidavits of compliance with the Hon'ble High Court. Moreover, Petitioner Companies undertake to comply with all statutory requirements, if any, as required under the Companies Act, 1956 / 2013 and the Rules made there under. The said undertakings given by the Petitioner Companies are accepted.
8. The Regional Director has filed an Affidavit on 6th November, 2015 stating therein that save and except as stated in paragraph 6(a) and 6(b) of the said

Affidavit, it appears that the Scheme is not prejudicial to the interest of shareholders and public. In paragraph 6 of the said Affidavit it is stated that:

6. That the Deponent further submits that:-

- (a) *The Income Tax Department vide two letters dated 08/09/2015 has informed that the Second Transferee Company and Resulting company are having outstanding demand of Rs.5,12,674/- and Rs.15,449 respectively. Copy of the said letters are annexed herewith as Exhibit 'D1 & D2'. In this regard , the Transferee Company and Resulting company may be directed to safeguard the interest of the Income Tax Department with respect to aforesaid income tax dues.*
- (b) *It is respectfully submitted that the tax implication, if any, arising out of the Scheme is subject to final decision of Income Tax Authorities. The approval of the Scheme by this Hon'ble Court may not deter the Income Tax Authority to scrutinize the tax returns filed by the Transferee Company and Resulting Company after giving effect to the Scheme. The decision of the Income Tax Authority is binding on the Petitioner Companies.*

9. In so far as observations in paragraph 6(a) of the Affidavit of Regional Director is concerned, the Petitioner through their counsel states that outstanding amount of Rs, 15,450/- has been already paid by Resulting Company. In so far as outstanding demand of Rs.5,12,674/- is concerned, the same is being taken up with the concerned department for reconciliation. However the Second Transferor Company through their Counsel undertakes to pay as soon as the amount is reconciled. The Counsel for the Petitioners further clarifies that in so far as the Scheme is concerned there is no Compromise or Arrangement with Creditors.

10. In so far as observations made in paragraph 6(b) of the Affidavit of Regional Director is concerned, the Petitioner Companies through their Counsel submits that approval of the scheme by this Court will not deter the Income Tax Authority to scrutinize the tax returns filed by the Petitioner companies after giving effect to the Arrangement and all tax issues arising out of the Scheme will be met and answered in accordance with law.
11. The Counsel for the Regional Director on instructions of Mr. M Chandanamuthu, Joint Director (Legal) in the office of Regional Director, Ministry of Corporate Affairs, Western Region, Mumbai, states that they are satisfied with the undertaking by the Petitioner Companies. The said undertakings given by the Petitioner Companies are accepted.
12. The Official Liquidator has filed his report on 30th November, 2015 stating therein that the Affairs of the Transferor Companies namely Amrey Enterprises Private Limited and Draagon Drugs Private Limited, being the Transferor Companies have been conducted in a proper manner and that the Transferor Companies may be ordered to be dissolved by this Hon'ble Court.
13. 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.
14. Since all the requisite statutory compliances have been fulfilled, the Company Scheme Petition No. 643 to 646 of 2015 filed by the Petitioner Companies are made absolute in terms of prayer clause (a) of the respective Petitions.
15. The Petitioner Companies to lodge 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 receipt of the Order.

16. 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 E-Form INC 28 in addition to physical copy as per the provisions of the Companies Act 1956 / 2013.
17. The Petitioner Companies to pay costs of Rs.10,000/- each to the Regional Director, Western Region, Mumbai. Costs to be paid within four weeks from the date of the Order.
18. The Petitioner Companies in Company Scheme Petition Nos. 645 and 646 of 2015 to pay sum of Rs. 10,000/- each to the Official Liquidator, High Court, Bombay. Costs to be paid within four weeks from the date of the Order.
19. Filing and issuance of the drawn up Order is dispensed with.
20. All concerned regulatory authorities to act on a copy of this Order along with Scheme and form of Minutes annexed to CSP No. 643 of 2015 duly authenticated by the Company Registrar, High Court (O. S.), Bombay.

(K.R. SHRIRAM, J.)

CERTIFICATE

I certify that this Order uploaded is a true and correct copy of original signed order.

Uploaded by: Shankar Gawde, Stenographer