

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SCHEME PETITION NO. 673 OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO 572 OF 2015

Songwon International - India Private Limited....Petitioner Company

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 Scheme of Amalgamation of Songwon International - India Private Limited (the Transferor Company) with Songwon Specialty Chemicals - India Private Limited (the Transferee Company) and their respective Shareholders and Creditors.

Called for hearing

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

Mr. B. B. Sharma i/b Mr. A.A. Ansari for Regional Director.

Mr. S. Ramakantha, Official Liquidator Present

CORAM: K. R. Shriram, J.

DATE: 20th November, 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 Songwon International - India Private Limited (the Transferor Company) with Songwon Specialty Chemicals - India Private Limited (the Transferee Company) and their respective Shareholders and Creditors.
3. The Learned Counsel for the Petitioner states that the Petitioner Company is presently engaged in the business of trading in polymer chemicals, chemical compound (organic and inorganic) in all forms, chemical products of any nature and kind whatsoever and all by-products and joint products thereof. Acids, anti-oxidants and UV Stabilizers and all other industry fine chemicals required by trade and industry and Transferee Company is engaged in the business of manufacturing, importing, exporting and trading in all kinds of chemicals, organic and inorganic chemicals and specialty chemicals whether basic or derived, oils, intermediates, colours. Whether in raw or processed form and intermediate materials, proprietary materials and formulations, their derivatives, by-products and compounds thereof.

4. Learned Counsel for the Petitioners states that the Scheme will result into following benefits namely synergy of operations and help to consolidate the resources of both the Companies to achieve better and more efficient utilization of resources and also reap benefits of internal economies.
5. Learned Counsel for the Petitioners further states that the Board of Directors of the Petitioner Company and the Transferee Company have approved the said Scheme of Amalgamation by passing Board Resolutions which are annexed to the Company Scheme Petition.
6. The Learned Counsel for the Petitioners further states that the Petitioner Company has complied with all the directions passed in the Company Summons for Direction and that the Company Scheme Petition has been filed in consonance with the order passed in Company Summons for Direction.
7. The Learned Counsel appearing on behalf of the Petitioner has stated that the Petitioner Company has complied with all requirements as per directions of this Court and they have filed necessary affidavit of compliance in the Court. Moreover, the Petitioner Company 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 on 6th November, 2015 stating therein that the affairs of the Transferor Company have been conducted in a proper manner and that the Transferor Company may be ordered to be dissolved by this Court.

9. The Regional Director has filed an Affidavit on 17th November, 2015 stating therein, save and except as stated in paragraphs 6 (a) & 6 (b) thereof, it appears that the Scheme is not prejudicial to the interest of shareholders and public. In paragraphs 6 (a) & 6 (b) of the said Affidavit, the Regional Director has stated that:-

“6. That the Deponent further submits that,

(a) That the Registered Office of the Transferee Company is situated in the State of Gujarat. Hence the Transferee Company has to file a similar Petition before the Hon'ble High Court of Gujarat for approving the said scheme.

(b) 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. As far as observations made in paragraph 6 (a) of Affidavit of the Regional Director is concerned, the Counsel for the Petitioner submits that Scheme has been approved by the Gujarat High Court on 3rd November 2015.
11. As far as observations made in paragraph 6(b) of Affidavit of the Regional Director, the Petitioners clarifies that the approval of the Scheme by this Court will not deter the Income Tax Authority to scrutinize the tax return filed by the Petitioner Company after giving effect to the Scheme and all issues arising out of the Scheme will be met and answered in accordance with law.
12. The Learned Counsel for Regional Director on instructions of Mr. M. Chandanamuthu, Joint Director, Legal in the Office of the Regional Director, Ministry of Corporate Affairs, Western Region, Mumbai, states that they are satisfied with the Clarifications given by the Petitioner Company. The said Clarifications given by the Petitioner Company are accepted.
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 is made absolute in terms of the prayer clause (a) of the Company Scheme Petition.
15. The Petitioner Company is directed to lodge a copy of this order and Scheme duly authenticated by the Company Registrar, High Court, 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 issuance of Order.
16. Petitioner is 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 relevant provisions of the Companies Act 1956 / 2013, whichever is applicable.
17. The Petitioner Company to pay costs of Rs.10,000/- each to the Regional Director, Western Region, Mumbai and to the Official Liquidator, High Court, Bombay. Costs to be paid within four weeks from today.
18. Filing and issuance of the drawn up order is dispensed with.

19. All concerned regulatory authorities to act on a copy of this order along with the Scheme 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 the original signed order.

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