

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO. 842 OF 2014.

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 791 OF 2014.

Victor Gaskets India Limited

....Petitioner/Demerged Company

AND

COMPANY SCHEME PETITION NO. 843 OF 2014.

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 792 OF 2014

Anand I-Seal Limited

.....Petitioner/Resulting Company

In the matter of the Companies Act 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 Scheme of
Arrangement between Victor Gaskets
India Limited and Anand I-Seal
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. C.J. Joy, i/b Mr H.P. Chaturvedi for Regional Director in both
the Company Scheme Petitions.

CORAM: S.J. Kathawalla, J.

DATE: 13th February, 2015

1. Heard the learned counsel for the Petitioner Companies. No objector has come before the court to oppose the Scheme 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 read with Sections 100 to 103 of the Companies Act, 1956, to the Scheme of Arrangement between Victor Gaskets India Limited and Anand I-Seal limited and their respective shareholders and creditors.
3. Learned Counsel for the Petitioners states that the Demerged Company is presently engaged in the business of manufacturing of automotive components and in particular all types of Gaskets, heat shields, Oil Seals and components thereof. The Resulting Company is presently not engaged in any business.
4. The rational for the proposed Scheme of Arrangement is that VGIL together with its holding company Asia Investments Private Limited which holds 72,58,352 shares of the equity capital of VGIL, has signed an agreement with Federal-Mogul PTSB India Private Limited, a Company incorporated under the provisions of the Companies Act 1956 an ultimate subsidiary company of Federal Mogul Corporation, a company incorporated under the laws of Delaware, United States of America, for establishing a joint venture with respect to gaskets and heat shields business. The Federal Mogul Corporation i.e. ultimate Joint Venture Partner is a global leader in engine parts including gaskets and heat shields products for engine and allied applications for automotive and industrial sectors. This arrangement is proposed to induct

the Joint Venture partner into the business and leverage its world class skill sets in respect of contemporary technology, upgraded manufacturing processes and take advantage of economies of scale with optimum utilization of VGIL's manufacturing facilities. The induction of the JV partner with its global reach, state-of-the-art technology and brand value will enable access to global market for exploring business opportunities abroad. The tie up will also help to strengthen the position of the company in the highly competitive domestic market which now has almost all the global players operating in India. Pre 2008, VGIL was manufacturing gaskets by using asbestos and non- asbestos materials, however post 2008, VGIL has completely stopped using of asbestos material. As the ultimate joint venture partner is a US corporation and use of asbestos material is banned in USA, the JV partner desired to have joint venture business undertaking with no background of manufacturing activity done in past with asbestos material. In view of above, VGIL wants to carve-out the gaskets business into a separate entity to facilitate this strategic partnership.

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 Advocate for the Petitioners state that Petitioner Companies have complied with all directions passed in company summons for Directions and that the Company Scheme Petitions have been filed in consonance with the orders passed in respective Company summons for Directions.
7. Counsel appearing on behalf of the Petitioners has stated that they have complied with all requirements as per directions of this Court and they have filed necessary affidavits of compliance in the 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 10th February, 2015 stating therein that save and except as stated in paragraph 6(a) & (b) of the said affidavit, it appears that the Scheme is not prejudicial to the interest of shareholders and public.

In paragraph 6(a) and 6(b) of the said affidavit, it is stated that:

6. That the deponent further submits that :-

- (a) *Clause 10.2.1 of the scheme provides for adjustments for differences in Accounting Policies between Transferor Company and Transferee Company. In this regard, it is submitted that in addition to the Compliance of Accounting Standard-14, the Transferee Company shall pass such accounting entries which are necessary in connection with the scheme to comply with other applicable Accounting standard such as AS-5 etc.*
- (b) *That the deponent further submits that the tax issue if any arising out of this scheme shall be subject to final decision of the Income Tax Authority and approval of 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 amalgamation. The decision of the Income Tax Authority is binding on the Petitioner Company.*

9. As far as observations made in paragraph 6(a) of Affidavit of the Regional Director is concerned, the Petitioner Company undertakes it shall pass such accounting entries which are

necessary in connection with the Scheme of Arrangement and to comply with any other applicable accounting standards.

10. As far as observations made in paragraph 6(b) of Affidavit of the Regional Director is concerned, the Petitioner Company submits that the Petitioner Company is bound to comply with all applicable provisions of the Income Tax Act and all tax issues arising out of the Scheme of Arrangement 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 and submission given by the Petitioner Company. The said undertakings given by the Petitioner Company are 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. 842 of 2014 filed by the Petitioner /Demerged Company are made absolute in terms of prayer clause (a) and the Company Scheme Petition No. 843 of 2014 filed by the Petitioner/Resulting Company are made absolute in terms of prayer clauses (a) and (c).
14. The Petitioner Companies to lodge a copy of this order and the Scheme and form of minutes, 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 and form of minutes with the concerned Registrar of Companies, electronically, along with E-

Form 21 / E-Form INC 28 in addition to physical copy as per the provisions of the Companies Act 1956 / 2013.

16. 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.
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.J. Kathawalla. J.)