

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SCHEME PETITION 138 OF 2016

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO 61 OF 2016

CARTINI INDIA LIMITED

..... Petitioner / Transferor Company
and

COMPANY SCHEME PETITION 139 OF 2016

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO 62 OF 2016

GODREJ & BOYCE MANUFACTURING COMPANY LIMITED

..... Petitioner / Transferee 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 other
relevant provisions of Companies Act,
2013;

AND

In the matter of Scheme of Amalgamation
of
Cartini India Limited ("Cartini" or "the
Transferor Company")

WITH

Godrej & Boyce Manufacturing Company
Limited ("G&B" or "the Transferee
Company")

AND

their respective shareholders

Called for Final Hearing

Ms. Alpana Ghone along with Mr. Rajesh Shah i/b Rajesh Shah & Co.,
Advocates for the Petitioner.

Ms. Purnima Awasthi i/b Mr. Pankaj Kapoor for Regional Director in both the Company Scheme Petitions

Mr. Vinod Sharma Official Liquidator present in Company Scheme Petition No. 138 of 2016.

Mr. Santosh Sawant i/b M/s. Soham Surface Coatings Private Limited, the unsecured creditor of the Petitioner Company in CSP No.139 of 2016.

CORAM: B. P. Colabawalla, J.

DATE: 20th June, 2016

1. Heard counsel for the parties.
2. The sanction of the Court is sought under Sections 391 to 394 of the Companies Act, 1956, and other applicable provisions of the Companies Act, 1956 / Companies Act, 2013 to the Scheme of Amalgamation of Cartini India Limited with Godrej & Boyce Manufacturing Company Limited and their respective shareholders.
3. Learned counsel for the Petitioners states that the Petitioner in Company Scheme Petition No 138 of 2016 is presently engaged in the business of manufacturing and dealing in consumer durables, mainly locks and Petitioner in Company Scheme Petition No 139 of 2016 is presently engaged in business of manufacture and marketing of various consumer durables, office equipment, industrial products and real estate. The key objective of the Scheme is to provide an opportunity to leverage on the potential business opportunities of locks and security solutions business of both the companies and create synergies in business operations resulting in scaling up the business and rationalization of administrative and operating costs.

4. The Petitioner Companies have approved the said Scheme by passing the Board Resolutions which are annexed to the respective Company Scheme Petitions.
5. The learned Counsel for the Petitioners further states that, Petitioner companies have complied with all the directions passed in Company Summons for Directions and that the Company Scheme Petitions have been filed in consonance with the orders passed in respective Summons for Directions.
6. The learned Counsel appearing on behalf of the Petitioner Companies has stated that the Petitioner Companies 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 undertaking is accepted.
7. The Regional Director has filed an Affidavit on 13th June, 2016 stating therein, save and except as stated in paragraph 6, 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:

That the Deponent further submits 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 return filed by the Transferee Company after giving effect to the Scheme. The decision of the Income Tax Authority is binding on the Transferor Company and Transferee Company.

8. As far as the observations in paragraph 6 of the affidavit of the Regional Director is concerned, the petitioners through their Counsel submits that the petitioners are bound to comply with all applicable provisions of Income Tax Act, and all tax issues arising out of Scheme of amalgamation will be met and answered in accordance with law.
9. The Learned Counsel for Regional Director on the instructions of Mr. M Chandanamuthu, Joint Director in the office of Regional Director, Ministry of Corporate Affairs, Western Region, Mumbai, states that they are satisfied with the submissions given by the counsel of the Petitioner Companies. The said submissions given by the Petitioner Companies are accepted.
10. The Official Liquidator has filed his report on 7th June, 2016 in Company Scheme Petition No 138 of 2016 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.
11. The learned Counsel for the Petitioners states that in so far as objections filed by the Objecting unsecured creditor are concerned, their rights of the objecting unsecured creditor are not affected as there is no compromise or arrangement with any of the creditors as the Scheme is an Arrangement between the Petitioner Companies and its respective shareholders as contemplated under Section 391(1)(b) and not in accordance with the provisions of Section 391(1)(a) of the Companies Act, 1956 as there is no compromise and / or arrangement with the creditors and no sacrifice is required from the creditors. Since the claim of the objecting unsecured creditor is disputed, it will be open for unsecured creditor to pursue appropriate legal remedy for recovery

of the dues in accordance with law. The Transferee Company shall abide by the final outcome of the said legal remedies, if any, in favour of the Creditor.

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 138 of 2016 are made absolute in terms of prayer clauses (a) to (c); and the Company Scheme Petition No 139 of 2016 is made absolute in terms of prayer clauses (a) and (b).
14. 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 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 relevant provisions of the Companies Act, 1956/2013 whichever is applicable.
16. The Petitioner Companies to pay costs of Rs. 10,000/- each to the Regional Director, Western Region, Mumbai and the Petitioner in Company Scheme Petition No. 138 of 2016 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.

(B. P. Colabawalla, J)

CERTIFICATE

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

Uploaded by: - Shankar Gawde, Stenographer