

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANMY SCHEME PETITION NO 395 OF 2016

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 350 OF 2016

Zinser Textile Systems Private Limited

.....Petitioner/ Amalgamating Company

AND

COMPANMY SCHEME PETITION NO 396 OF 2016

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 351 OF 2016

Saurer Textile Solutions Private Limited

.....Petitioner/Amalgamated 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 Zinser Textile Systems Private Limited
with Saurer Textile Solutions Private
Limited and their Respective
Shareholders

Called for hearing

Mr. Hemant Sethi and Mr. Ajit Singh Tawar i/b Mr. Hemant Sethi & Co.
Advocates, for the Petitioner.

Mr. P.S Gujar i/b Pankaj Kapoor for Regional Director in both the Petitions.

Mr. Vinod Sharma, Official Liquidator, High Court, Bombay, present.

CORAM: A.K. Menon, J.

DATE: 27th October, 2016

PC:

1. Heard the learned counsel for the Petitioners. No objector has come before the court to oppose the Scheme and nor has any party controverted any averments made in the petition.
2. The sanction of the Court is sought to the Scheme of Amalgamation of Zinser Textile Systems Private Limited with Saurer Textile Solutions Private Limited and their Respective Shareholders.
3. The Amalgamating Company is engaged in the business of Manufacturing and trading of Textiles Machinery viz. speed frame machines. The Amalgamated Company is engaged in the business of marketing, trading, manufacturing, rendering erection, commissioning and after sales services relating to textile machinery.
4. The rational for the Arrangement is that the Amalgamating & Amalgamated Company are from the same management and the nature of business carried on both the companies are complementary to each other. With a view to maintain a simple corporate structure and eliminate duplicate corporate procedures, it is desirable to merge and amalgamate all the undertaking of the Amalgamating Company into Amalgamated Company. The amalgamation of the undertaking of the Amalgamating Company into the Amalgamated Company will facilitate consolidation of all the undertakings in order to enable effective management and unified control of operations. Further, the amalgamation would create economies in administrative and managerial costs by consolidating operations and would substantially reduce duplication of administrative responsibilities and multiplicity of records and legal and regulatory compliances.
5. The Amalgamating Company and the Amalgamated Company have approved the Scheme by passing the Board Resolutions which are annexed to the Company Scheme Petition filed on behalf of respective Company Scheme Petitions.
6. The Counsel for the Petitioner further states that the Petitioners have complied with all the directions passed in 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 Counsel for the Petitioners further states that the Petitioner Companies have complied with all requirements as per the directions of this Court and they have filed necessary Affidavits of compliance in the Court. Moreover, the Petitioner Companies through their Counsel undertakes to comply with all statutory requirements, if any, as required under the Companies Act, 1956 or Companies Act 2013, as may be applicable and the rules made there under. The said undertaking is accepted.
8. The Regional Director has filed an Affidavit on 18th October 2016 stating therein that save and except as stated in paragraphs 6(i) & (ii) of the said Affidavit, it appears according to Regional Director that the Scheme is not prejudicial to the interest of shareholders and public. In paragraphs 6(i) and 6(ii) of the said Affidavit, the Regional Director has stated as follows :
 - (i) *The deponent further submits that 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 this Hon'ble Court may not deter the Income Tax Authority to scrutinize the tax return filed by the Petitioner Companies after giving effect to the scheme. The decision of the Income Tax Authority is binding on the Petitioner Companies.*
 - (ii) *Petitioner in clause 15 inter alia stated that there is no requirement of paying additional fees for increasing capital. The details given above at point 9 above may pleased be perused. Deponent prays that the Hon'ble Court may direct the Company to make compliance of provisions of Companies act, 2013 for increasing the Authorized Share Capital.*

9. As far as observations made in paragraph 6 (i) of Affidavit of the Regional Director are concerned, the Petitioner Companies undertakes to comply with all applicable provisions of the Income-tax Act, 1961 and all issues arising out of the Scheme will be met and answered in accordance with law.
10. In so far as observations made in paragraph 6(ii) of the Affidavit of Regional Director are concerned, the Counsel for the Petitioner submits the Authorized Share Capital of Amalgamating Company will be merged with that of Amalgamated Company and the merged Authorized share Capital will be sufficient to allot shares to the shareholders of Amalgamating Company. Therefore no further increase in Authorized share capital is required. The Amalgamated Company further undertakes to comply with relevant provisions of the Companies Act, 2013 with regard to filing of relevant E-form and the amended copy of the Memorandum of Association with the Registrar of Companies.
11. The Counsel for the Petitioners further state that there is a typographical error in the figures mentioned in Clause 15 of the Scheme. The combined authorized share capital post sanctioning of the Scheme will be 110,550,000 shares whereas in the Scheme it is inadvertently mentioned as 10,92,50,000 shares. The counsel for the Petitioners therefore seeks leave of this court to amend the scheme as per draft amendment tendered and marked as "X" for identification. Amendment is allowed in terms of the draft tendered. Amendment to be carried out within 4 weeks from today.
12. The Counsel for the Regional Director on instructions of Ms. P Sheela, Joint Director in the office of Regional Director, Ministry of Corporate Affairs, Western Region, Mumbai, states that they are satisfied with the undertakings and submissions given by the Petitioner Companies.

The said undertakings and submission given by the Petitioner Companies are accepted.

13. The Official Liquidator has filed his report on 21st October 2016 stating therein that the affairs of the Petitioner/Amalgamating Company have been conducted in a proper manner and that the Petitioner/Amalgamating Company may be ordered to be dissolved.
14. From the material on record, the Scheme appears to be fair and reasonable and does not appear to be violative of any provisions of law and is not contrary to public policy. None of the parties concerned have come forward to oppose the Scheme.
15. Since all the requisite statutory compliances as stated to have been fulfilled, the Company Scheme Petitions filed by the Petitioner Companies are made absolute in terms of prayer clause (a) of the respective Petitions.
16. 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 receipt of the order.
17. 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 21 / E-Form INC 28 in addition to physical copy as per the provisions of the Companies Act 1956 / 2013.
18. Petitioners to pay cost of INR 10,000/- each to the Regional Director, Western Region, Mumbai and the Petitioner Company in Company Scheme Petition No. 395 of 2016 to pay cost of INR 10,000/- 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 authorities to act on a copy of this order along with Scheme duly authenticated by the Company Registrar, High Court (O. S.), Bombay.

(A.K. Menon, J.)

CERTIFICATE

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

Uploaded by: - Shankar Gawde, Stenographer