

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SCHEME PETITION NO. 7 OF 2016.
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTIONS NO.846 OF 2015
SHIRT COMPANY (INDIA) PRIVATE LIMITED,
....Petitioner Company.

In the matter of the Companies Act 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
and Arrangement of Together Textile Mills
India Private Limited

WITH

Shirt Company (India) Private Limited and
Their Respective Shareholders and
Creditors

Called for hearing

Mr. Rahul Oak, Advocate for the Petitioner

Mr. Anand O. Singh i/b Shri. Niraj Kumar for Regional Director in
both the Petitions.

CORAM: B. P. COLABAWALLA, J.

DATE: 16th April, 2016

PC:

1. Heard learned counsel for the parties. 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 a Scheme of Amalgamation and Arrangement of Together Textile Mills India Private Limited with Shirt Company (India) Private Limited and Their Respective Shareholders and Creditors, under Sections 391 to 394 of the Companies Act, 1956.

3. Transferor Companies and Transferee Company has approved the said Scheme of Amalgamation by passing the Board Resolutions which are annexed to the respective Company Scheme Petition.

4. The learned Advocate for the Petitioners further states that, Petitioner Companies have complied with all the directions passed in Company Summons for Direction No. 846 of 2015 and that the Company Scheme have been filed in consonance with the orders passed in respective Company Summons for Direction and seeks sanction to the said proposed Scheme of Amalgamation.

5. The learned counsel appearing on behalf of the Petitioners have stated that the Transferee Company 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 rule

made there under whichever is applicable. The said undertaking is accepted.

6. The Regional Director has filed an Affidavit on 1st February, 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 as under.

“6. That the Deponent further submits that:-

(a) That the Deponent further submits that the transferor company is a loss making company, whereas the transferee company is a profit making company. In this case, whereas the transferee company is entailed to the benefit of section 72A of the income Tex, 1961, is a matter within the jurisdiction of concerned Income Tax Authority. In this regard, 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 Tex Authority to scrutinizes the tax retune filed by the Transferee Company after giving to the Scheme. The decision of the Income Tax Authority is binding on the petitioner Company.

7. So far as the observation in paragraph 6(b) of the Affidavit of Regional Director is concerned, the Petitioner Companies are bound to comply with all applicable provision of Income Tax Act, and all tax issues arising out of Scheme will be met and answered in accordance with law.

8. The Learned Counsel for Regional Director on instructions of Mr. M. Chandana Muthu, Joint Director Legal in the office of the Regional Director, Ministry of Corporate Affairs, Western Region, Mumbai states that they are satisfied with the undertaking given by the Advocate for the Petitioner Company. The said undertaking is accepted.

9. 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.

10. Since all the requisite statutory compliances have been fulfilled, Company Scheme Petition No. 7 of 2016 is made absolute in terms of prayer clauses (a) to (c).

11. 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.

12. Petitioners are directed to file a copy of this order along with a copy of the Scheme of Amalgamation with the concerned Registrar of Companies, electronically, along with E-Form 21 or INC 28 in addition

to physical copy as per the relevant provisions of the Companies Act, 1956/2013 whichever is applicable.

13. The Petitioner Companies to pay costs of Rs.10,000/- to the Regional Director, Western Region, Mumbai. Costs to be paid within four weeks from the date of the Order.

14. Filing and issuance of the drawn up order is dispensed with.

15. 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.