

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Company Petition No. 101 of 2016 (O&M)
connected with CP No.66 of 2016
Date of Decision: 06.12.2016

IN THE MATTER OF :
THE SCHEME OF DEMERGER:

SUN-N-SHADE SUNVISORS PRIVATE LIMITED

. . . . Petitioner/Demerged Company

WITH

SUN-N-SHADE PRODUCTION PRIVATE LIMITED

. . . . Petitioner/Resultant Company

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN.

Present: - Mr.Anand Chhibber, Sr. Advocate, with
Ms.Riya Bansal, Advocate, and
for the petitioner-Companies.

Mr.D.K. Singh, Official Liquidator.

RAKESH KUMAR JAIN, J.

This petition is filed under Sections 391 to 394 of the Companies Act, 1956 [for short 'the Act'] read with Rule 9 of the Companies (Court) Rules, 1959 [for short 'the Rules'], duly supported by affidavits of Petitioner/Demerged Company and Petitioner/Resultant Company, seeking sanctioning of the Scheme of Demerger (Annexure P-1) [for short 'the Scheme'] vide which "Manufacturing and Supply of Sun-visor Assy Business" of Sun-N-Shade Sunvisors Private Limited (Petitioner/Demerged Company) shall demerge into Sun-N-Shade Production Private Limited (Petitioner/Resultant Company).

The registered office of Petitioner/Demerged Company and petitioner/Resultant Company is situated at Gurgaon.

The Board of Directors of the Petitioner /Demerged Company and petitioner/Resultant Company have approved the Scheme in their respective meetings vide Resolutions dated 12.12.2015 attached with the petition as Annexures P-2 & P-3, respectively.

Earlier the petitioner/Transferor Company had approached this Court by way of CP No.66 of 2016 in which vide order dated 03.05.2016 meetings of the Equity Shareholders, Secured and Unsecured Creditors of the Petitioner/Demerged Company and Equity Shareholders of the Petitioner/Resultant Company were dispensed with and the Ist motion petition was disposed of accordingly with liberty to move the Second motion Petition.

Pursuant to the aforesaid order, the present Second motion petition has been filed in which on 27.5.2016 notice was issued to the Regional Director, Ministry of Corporate Affairs, New Delhi and Official Liquidator. It was also ordered to be published in the newspapers, namely, 'Financial Express' (English) and 'Jansatta' (Hindi) both Delhi/NCR Edition and in the Official Gazette of the Government of Haryana besides being uploaded on the official website of the Official Liquidator. The said order has been complied with and the affidavit of Publication dated 07.10.2016 has been placed on record.

Pursuant thereto, report by way of an affidavit/representation of Narender Kumar Bhola, Regional Director, Northern Region, Ministry of Corporate Affairs, New Delhi, dated 12.08.2016 has been placed on record, in which following averment has been made in Para No.12:-

“12. The deponent is to say that in the instant scheme the applicability of accounting standard issued by the Institute of Chartered Accountants of

India has not been mentioned. The Hon'ble Court may direct the petitioner companies to comply with the applicable accounting standards."

In response to the report of Regional Director, the affidavits dated 25.10.2016 have been filed by Ujjwala Vastard and Vivek Gurubasavayya Hiremath, Directors of the Petitioner/Demerged Company and Petitioner/Resultant Company, respectively vide which it has been stated that the Petitioner-Companies are complying with all the applicable Accounting Standards issued by the Institute of Chartered Accountants of India and has undertaken that all the applicable Accounting Standards shall be complied with while giving effect to the scheme of Demerger.

Learned counsel for the petitioner-Companies has submitted that the instant case is for demerger only by which one part of the demerged company is going to demerge into Resultant Company and hence, no report of the Official Liquidator is required and no company is going to be dissolved.

For the reasons mentioned hereinabove, on the consideration of all the relevant facts, the procedural requirements contemplated under Sections 391-394 of the Act, the relevant Rules and on due consideration of the report of the Regional Director, Northern, Ministry of Corporate Affairs, New Delhi, the Scheme of Demerger is hereby sanctioned and as a result thereof, the assets and liabilities relating to "Manufacturing and Supply of Sun-visor Assy Business" of Sun-N-Shade Sunvisors Private Limited (Petitioner/Demerged Company) shall stand vested in Sun-N-Shade Production Private Limited (Petitioner/Resultant Company). The Petitioner/Resultant Company shall comply with all the applicable accounting standards while giving effect to the scheme of Demerger as has undertaken.

The Scheme shall be binding on the Petitioner/Demerged and Petitioner/Resultant Company, their respective shareholders, creditors and all concerned.

Let formal order of sanction of the Scheme be drawn in accordance with law and its certified copy be filed with the Registrar of Companies within 30 days from the date of receipt of the same.

A notice of the order be published in the newspapers, namely, “Financial Express” (English), “Jansatta” (Hindi) both Delhi/NCR Edition and in the official gazette of Government of Haryana.

Any person interested shall be at liberty to apply to the Court for any direction(s) as per law.

Learned counsel for the Petitioner-Companies states that the petitioner-Companies would voluntarily deposit a sum of ₹50,000/- in the Common Pool Fund Account of the Official Liquidator within four weeks. The statement is accepted.

Disposed of accordingly.

06.12.2016

Vivek

**(RAKESH KUMAR JAIN)
JUDGE**