

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CP No.90 of 2016 (O&M)
Date of Decision: 25.07.2016

IN THE MATTER OF :

Company Petition under Sections 391 - 394 of the Companies Act,
1956.

AND

IN THE MATTER OF:

THE SCHEME OF AMALGAMATION OF:

GEE KAY FABTEX PRIVATE LIMITED

. . . . Transferor Company

AND

K. LALL OVERSEAS PRIVATE LIMITED

. . . . Transferee Company

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

Present: - Mr.Alok Kumar Jain, Advocate, for the petitioner.

Mr.Deepak Aggarwal, Advocate, with
Mr.D.K. Singh, Official Liquidator.

RAKESH KUMAR JAIN, J.

This petition is filed under Sections 391 & 394 of the Companies Act, 1956 [for short 'the Act'] read with Rules 6 & 9 of the Companies (Court) Rules, 1959 [for short 'the Rules'], duly supported by affidavits of the Transferor and Transferee Companies, seeking sanction of the Scheme of Amalgamation [for short 'the Scheme'] (Annexure P-1).

The main objects of the Transferor and Transferee Companies are detailed in their respective Memorandum and Articles of Association, which are annexed with the petition as Annexures P-2 and P-9, respectively.

The registered office of the Transferor Company and the Transferee Company is at Ludhiana.

The Board of Directors of the Transferor Company and the Transferee Company have approved the Scheme in their respective meetings held on 18.12.2015. Their resolutions are annexed with the petition at Annexures P-4 & P-11.

Earlier the petitioner-Companies had approached this Court by way of CP No.2 of 2016 in which vide order dated 18.01.2016 convening of meetings of the Equity Shareholders of both the Transferor and Transferee Companies, Secured and Unsecured Creditors of the Transferor Company were dispensed with. However, meetings of Secured and Unsecured Creditors of the Transferee Company was directed to be held on 12.03.2016 for which, the Chairman and Co-chairman were appointed. The Chairman of the said meeting has submitted his report on the basis of which CP No.2 of 2016 was disposed of on 11.04.2016.

On presentation of this petition, notice was issued to the Regional Director, Ministry of Corporate Affairs, New Delhi and the Official Liquidator. It was also ordered that a notice be published in the newspapers, namely, "Indian Express" (English) and "Dainik Tribune" (Hindi) both Punjab Editions and in the Official Gazette of the State of Punjab besides being uploaded on the official website of the Official Liquidator. Pursuant thereto, an affidavit of publication dated 08.7.2016 has been filed.

The Official Liquidator has filed his report dated 22.07.2016. The Official Liquidator, on the basis of the observations made by the Chartered Accountant, who was on the panel and has been appointed for scrutinizing the books of accounts and papers of the Transferor Company, has raised no objection by observing that the affairs of the Transferor Company have not been conducted in

the manner which is prejudicial to the interest of the Members, Creditors or to public.

The Official Liquidator has also filed the representation/affidavit dated 05.07.2016 of N.K. Bhola, Regional Director, Northern Region, Ministry of Corporate Affairs, New Delhi, who has raised no objection except para No.15 of the aforesaid representation/affidavit, which is reproduced as under:-

“15. That the deponent states that Hon’ble Court may direct the petitioner companies to comply with the provisions of the Accounting Standard 14 as notified under the Companies Accounting Standard Rules, 2006 related to “pooling of interests” method as stated in clause 21(a) of the scheme of Amalgamation.”

Counsel for the petitioner/Companies has undertaken that the petitioner-companies shall comply with the Accounting Standard 14 as notified under the Companies Accounting Standard Rules, 2006 related to “pooling of interests” method as stated in clause 21(a) of the Scheme.

It is further submitted by counsel for the Petitioner-Companies that no investigation proceedings are pending against the Petitioner-Companies under Sections 235 to 251 of the Act.

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 Official Liquidator and the Regional Director, Northern Region, Ministry of

Corporate Affairs, New Delhi, the Scheme of Amalgamation is hereby sanctioned and as a result thereof, the assets and liabilities of the Gee Kay Fabtex Private Limited (Transferor Company) shall stand vested in the K. Lall Overseas Private Limited (Transferee Company) and the Transferor Company shall be dissolved without being wound up. The petitioner-companies shall comply with the Accounting Standard 14 as has been undertaken.

The Scheme shall be binding on the Gee Kay Fabtex Private Limited (Transferor Company) and K. Lall Overseas Private Limited (Transferee Company), their respective Equity 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, "Indian Express" (English) and "Dainik Tribune" (Hindi) both Punjab Editions and in the Official Gazette of the State of Punjab.

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.

25.07.2016

Vivek

**(RAKESH KUMAR JAIN)
JUDGE**

Whether Speaking/reasoned

Yes/No

Whether Reportable

Yes/No