

IN THE HIGH COURT OF DELHI
COMPANY APPLICATION (MAIN) NO. 118/2016

Reserved on 8th August, 2016
Date of pronouncement: 29th August, 2016

In the matter of

The Companies Act, 1956 & the Companies Act, 2013 (to the extent applicable):

And

**Application under Sections 391(1) and 394 of
the Companies Act, 1956**

Scheme of Arrangement and Demerger between:

Zavenir Daubert India Private Limited

Applicant/Transferor Company

AND

Zavenir Kluthe India Private Limited

Applicant/Transferee Company

**Through Mr. Amit Goel, Advocate for
the applicants**

SUDERSHAN KUMAR MISRA, J.

1. This joint application has been filed under Sections 391(1) and 394 of the Companies Act, 1956 by the applicant companies seeking directions of this court to dispense with the requirement of convening the meetings of their equity shareholders, secured and unsecured creditors to consider and approve, with or without modification, the proposed Scheme of Arrangement and Demerger between Zavenir Daubert India Private Limited (hereinafter referred to as the transferor company) and Zavenir Kluthe India Private Limited (hereinafter referred to as the transferee company).

2. The registered offices of the transferor and transferee companies are situated at New Delhi, within the jurisdiction of this Court.

3. The transferor company was originally incorporated under the Companies Act, 1956 on 9th June, 1995 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi under the name and style of Zavenir Coated Products Private Limited. The company changed its name to Zavenir Daubert India Private Limited and obtained the fresh certificate of incorporation on 4th January, 2002.

4. The transferee company was incorporated under the Companies Act, 2013 on 27th June, 2016 with the Registrar of Companies, NCT of Delhi & Haryana.

5. The present authorized share capital of the transferor company is Rs.2,50,00,000/- divided into 25,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.1,59,25,000/- divided into 15,92,500 equity shares of Rs.10/- each.

6. The present authorized share capital of the transferee company is Rs.1,00,000/- divided into 10,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.1,000/- divided into 100 equity shares of Rs.10/- each.

7. Copies of the Memorandum and Articles of Association of the transferor and transferee companies have been filed on record. The audited balance sheet, as on 31st March, 2016, of the transferor company, along with the report of the auditors, has also been filed. It has been submitted by the applicants that the transferee company has been incorporated only recently and is yet to start its business activities.

8. A copy of the Scheme of Arrangement and Demerger has been placed on record and the salient features of the Scheme have been incorporated and detailed in the application and the accompanying affidavit. It is submitted by the applicants that the two businesses of the transferor company are under technical collaborations with two different overseas partners i.e. VCI Business under technical collaboration with Daubert, USA and Specialty Chemicals Business under technical collaboration with Chemische Werke Kluthe GmbH, Germany. It is further submitted that in order to create a scalable business in both segments, there need to be a clear demarcation of assets, liabilities and people and to harness the true potential of the business, and with the end and intent of realigning the Specialty Chemicals Business, it is necessary to reorganize the transferor company by demerging the Demerged Undertaking and vesting it in the transferee company. It is claimed that the proposed demerger will also help in achieving better focus and

management over Specialty Chemicals Business and rationalize and streamline its management, processes and finances

9. So far as the share exchange ratio is concerned, the Scheme provides that, upon coming into effect of this Scheme, the transferee company shall issue and allot equity shares to the shareholders of the transferor company in the following ratio:

“01 equity share of Rs.10/- each of the transferee company, credited as fully paid up, for every 10 equity shares of Rs.10/- each held in the transferor company.”

10. It has been submitted by the applicants that no proceedings under Sections 235 to 251 of the Companies Act, 1956 are pending against the applicant companies.

11. The Board of Directors of the transferor company and the transferee company in their separate meetings held on 2nd July, 2016 and 1st July, 2016 respectively have unanimously approved the proposed Scheme of Arrangement and Demerger. Copies of the Resolutions passed at the meetings of the Board of Directors of the transferor and transferee companies have been placed on record.

12. The transferor company has 03 equity shareholders, 01 secured creditor and 75 unsecured creditors. All the equity shareholders, the sole secured creditor and 62 out of 75 unsecured creditors, being 83% in

number and 95% in value, have given their consents/no objections in writing to the proposed Scheme of Arrangement and Demerger. Their consents/no objections have been placed on record. They have been examined and found in order. In view thereof, the requirement of convening the meetings of the equity shareholders, secured and unsecured creditors of the transferor company to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Arrangement and Demerger is dispensed with.

13. The transferee company has 02 equity shareholders. Both the equity shareholders have given their consents/no objections in writing to the proposed Scheme of Arrangement and Demerger. Their consents/no objections have been placed on record. They have been examined and found in order. In view thereof, the requirement of convening the meeting of the equity shareholders of the transferee company to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Arrangement and Demerger is dispensed with. There is no secured or unsecured creditor of the transferee company, as on 30th June, 2016.

14. The application stands allowed in the aforesaid terms.

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SUDERSHAN KUMAR MISRA, J.

August 29, 2016