

IN THE HIGH COURT OF DELHI
COMPANY APPLICATION (MAIN) NO. 142/2015

Reserved on 16th December, 2015
Date of pronouncement: 18th February, 2016

In the matter of

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

And

**Application under Sections 391 to 394 of the
Companies Act, 1956 read with Rules 6 & 9 of
the Companies (Court) Rules, 1959**

Scheme of Compromise and Settlement Arrangement between:

Bakemans Industries Private Limited (In Liquidation)
(through its shareholders)

Applicant Company

AND

Its Creditors

**Through Mr. Vivek Sibal and Ms. Pooja
M. Saigal, Advocates for the applicant
Mr. Rajiv Bahl, Advocate for the OL**

SUDERSHAN KUMAR MISRA, J.

1. This application has been filed under Sections 391 to 394 of the Companies Act, 1956 read with Rules 6 & 9 of the Companies (Court) Rules, 1959 by the applicant company seeking directions of this court to dispense with the requirement of convening the meetings of its equity shareholders and for convening of the meetings of its secured creditors, unsecured creditors, statutory creditors and workers to consider and approve, with or without modification, the proposed Scheme of Compromise and Settlement Arrangement between Bakemans Industries Private Limited (hereinafter referred to as the applicant company) and its creditors.

2. The registered offices of the applicant company is situated at New Delhi, within the jurisdiction of this Court.

3. The applicant company was originally incorporated under the Companies Act, 1956 on 20th January, 1992 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi under the name and style of Bakemans Industries Private Limited. The word 'Private' was deleted from the name of the company w.e.f. 01.07.1994. However, the word 'Private' was again added in the name of the company 26.02.2002.

4. The authorized share capital of the applicant company, as on 31st March, 2004, was Rs.10,00,00,000/- divided into 50,00,000 equity shares of Rs.10/- each aggregating to Rs.5,00,00,000/- and 5,00,000 redeemable preference shares of Rs.100/- each aggregating to Rs.5,00,00,000/-. The issued, subscribed and paid-up share capital of the company was Rs.5,00,00,000/- divided into 50,00,000 equity shares of Rs.10/- each.

5. A copy of the Memorandum and Articles of Association of the applicant company has been filed on record. The audited balance sheet, as on 30th September, 2015, of the applicant company, along with the report of the auditors, has also been filed.

6. A copy of the Scheme of Compromise and Settlement Arrangement 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 applicant that the present Scheme is put forth by the shareholders/ex-management of the applicant company, inter alia, seeking One Time Settlement and composition of debt with secured creditors with first charge, secured creditors with second charge, unsecured creditors, trade creditors, statutory creditors and workers of the applicant company with the intent and object of reviving the business operations of the applicant company (in liqn.) by infusion of funds against equity and load against pledge of equity, by a co-promoter/investor, Sanwaria Sweets Private Limited. It is further submitted that the ex-management/promoters of the company have identified and have entered into in-principle agreement with a Sanwaria Sweets Private Limited, agreeing to take steps for revival of manufacturing operations and business of the company under its management and control, as a co-investor in the project. The co-investor intends to invest a sum of Rs.34.45 crores in the company to meet the financial obligations towards the creditors and workmen by entering into one time settlement with the said creditors/workers and consequent upon reduction of financial liability, to start commercial production at the factory site and keeping the winding up of the company in permanent abeyance.

The sum of Rs.34.45 crores shall be inducted partly against transfer of equity by the promoter shareholders and balance as unsecured loan to the promoters against pledge of their shareholding. It is claimed that the Scheme will enable the company to revive and rehabilitate its business operations under the widely accepted and recognized brand name “Bakeman” which will also ensure generation of employment for hundreds of workers.

7. The Schedule of Payment to the secured creditors (secured with first charge and secured with second charge); unsecured creditors and trade creditors; statutory liability and workers is provided in Para 3 of the Scheme.

8. The applicant company has 04 equity shareholders. All the equity shareholders have given their consents/no objections in writing to the proposed Scheme of Compromise and Settlement Arrangement. 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 applicant company to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Compromise and Settlement Arrangement is dispensed with.

9. The applicant company has 7 secured creditors and a direction is sought to convene and hold their meeting to seek their approval to the proposed Scheme of Compromise and Settlement Agreement. Considering the facts and circumstances aforesaid, the meeting of the secured creditors of the applicant company shall be held on 19th March, 2016 at 11:00 a.m. at Golf Club, Golf Course Road, Sector-37, Noida. Mr. N. K. Tyagi, Advocate, (Mobile No. 9871402101) is appointed as the Chairperson and Mr. Gursat Singh, Advocate, (Mobile No. 9811105891) is appointed as the Alternate Chairperson to conduct the said meeting. The Quorum of the meeting of the secured creditors of the applicant company shall be 4 in number and more than 50% in value of the total secured debt.

10. The applicant company has 342 unsecured creditors and a direction is sought to convene and hold their meeting to seek their approval to the proposed Scheme of Compromise and Settlement Agreement. Considering the facts and circumstances aforesaid, the meeting of the unsecured creditors of the applicant company shall be held on 19th March, 2016 at 01:00 p.m. at Golf Club, Golf Course Road, Sector-37, Noida. Mr. Ashok Gurnani, Advocate, (Mobile No. 9810109039) is appointed as the Chairperson and Mr. Hari Om Gautam, Advocate, (Mobile No. 9810057143) is appointed as the Alternate Chairperson to conduct the said meeting. The Quorum of the meeting of

the unsecured creditors of the applicant company shall be 175 in number and more than 50% in value of the total unsecured debt.

11. The applicant company has 06 statutory creditors, including Provident Fund & Sales Tax and a direction is sought to convene and hold their meeting to seek their approval to the proposed Scheme of Compromise and Settlement Agreement. Considering the facts and circumstances aforesaid, the meeting of the statutory creditors of the applicant company shall be held on 19th March, 2016 at 03:00 p.m. at Golf Club, Golf Course Road, Sector-37, Noida. Mr. Rajeev Kumar, Advocate, (Mobile No. 9810466870) is appointed as the Chairperson and Mr. Vaibhav Vashisth, Advocate, (Mobile No. 9953140804) is appointed as the Alternate Chairperson to conduct the said meeting. The Quorum of the meeting of the statutory creditors of the applicant company shall be 4 in number and more than 50% in value of the total statutory debt.

12. The applicant company has 336 workers and 181 staff members (totaling 517) and a direction is sought to convene and hold their meeting to seek their approval to the proposed Scheme of Compromise and Settlement Agreement. Considering the facts and circumstances aforesaid, the meeting of the workers & staff members of the applicant company shall be held on 19th March, 2016 at 5:00 p.m. at Golf Club, Golf Course Road, Sector-37, Noida. Mr. Mukesh Sukhija, Advocate,

(Mobile No. 9810296468) is appointed as the Chairperson and Mr. B. S. Chauhan, Advocate, (Mobile No. 9871234199) is appointed as the Alternate Chairperson to conduct the said meeting. The Quorum of the meeting of the workers and staff members of the applicant company shall be 170 workers and 92 staff members in number and more than 50% in value of their dues.

13. In case the quorum as noted above for the above meetings is not present at the meetings, then the meetings shall be adjourned by half an hour, and thereafter the persons present and voting shall be deemed to constitute the quorum. For the purpose of computing the quorum the valid proxies shall also be considered, if the proxy in the prescribed form duly signed by the person entitled to attend and vote at the meetings is filed with the registered office of the applicant company at least 48 hours before the meetings. The Chairpersons and Alternate Chairpersons shall ensure that the proxy registers are properly maintained.

14. The Chairpersons and Alternate Chairpersons shall ensure that notices for convening the aforesaid meetings of the secured creditors, unsecured creditors, statutory creditors and workers & staff members of the applicant company, along with copies of the Scheme of Compromise and Settlement Arrangement and the statement under Section 393 of the Companies Act, 1956, shall be sent to secured creditors, unsecured

creditors, statutory creditors and workers & staff members of the applicant company by speed post at their registered or last known addresses at least 21 days before the date appointed for the meetings, in their presence or in the presence of their authorized representatives. Notice of the meetings shall also be published in the Delhi editions of the newspapers "Business Standard" (English) and "Jansatta" (Hindi) in terms of the Companies (Court) Rules, 1959 at least 21 days before the date appointed for the meetings.

15. The Chairpersons and Alternate Chairpersons will be at liberty to issue suitable directions to the management of the applicant company so that the aforesaid meetings of secured creditors, unsecured creditors, statutory creditors and workers & staff members of the applicant company are conducted in a just, free and fair manner.

16. The fee of the Chairpersons and the Alternate Chairpersons for the aforesaid meetings shall be Rs.50,000/- each in addition to meeting their incidental expenses. The Chairpersons will file their reports within two weeks from the date of holding of the aforesaid meetings.

17. The application stands allowed in the aforesaid terms.
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SUDERSHAN KUMAR MISRA, J.

February 18, 2016