

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 2

ITEM No 136
CA(CAA)/58(AHM)2021

Order under Section 230-232 Co.Act, 2013

IN THE MATTER OF:

Vareli Trading Company Ltd
Surat Textile Mills Ltd

.....Applicant

Order delivered on ..16/08/2021

Coram:

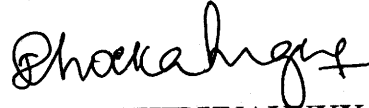
Madan B. Gosavi, Hon'ble Member(J)
Chockalingam Thirunavukkarasu, Hon'ble Member(T)

PRESENT:

For the Applicant :

ORDER

The matter is listed for pronouncement of order. The order is pronounced in the open court, vide separate sheet.



(CHOCKALINGAM THIRUNAVUKKARASU)
MEMBER (TECHNICAL)



(MADAN B GOSAVI)
MEMBER (JUDICIAL)

**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH**

CA (CAA) No.58/NCLT/AHM/230-232/2021

In the matter of:

Vareli Trading Company Limited
(CIN: U65910GJ1987PLC009405)

A public limited Company incorporated under the Companies Act, 1956 having its registered office at Dr Amichand Shah Wadi, Rampura Tunki, Surat - 395003, Gujarat, India

....Applicant
Transferor Company

With

Surat Textile Mills Limited
(CIN: L17119GJ1945PLC000214)

A public limited Company incorporated under the Companies Act, 1913, having its registered office at Tulsi Krupa Arcade, 6th Floor, Near Aai Mata Chowk Puna-Kumbharia Road, Dumbhal, Surat - 395010, Gujarat, India

.....Applicant
Transferee Company

Order Reserved on : 10.08.2021

Order Pronounced on : 16.08.2021

**Coram: Madan Bhalchandra Gosavi, Member (Judicial)
Chockalingam Thirunavukkarasu, Member (Technical)**

Chockalingam

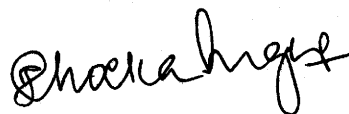
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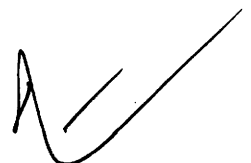
Appearance: Ms. Dharmishta N. Raval, Advocate, along with Mr. Yuvraj Thakore, Advocate, for the Petitioner Companies.

ORDER

[PER BENCH]

1. This present Company Application is filed jointly by Vareli Trading Company Limited and Surat Textile Mills Limited, the Applicant Companies have preferred this joint application under sections 230-232 read with Section 66 of the Companies Act, 2013 (hereinafter referred to as 'the Act') read with Companies (Compromise, Arrangement and Amalgamations) Rules, 2016 (hereinafter referred to as 'the rules'). By this application, the Applicant Companies are seeking appropriate directions for dispensation of meetings of the Equity Shareholders in respect of Applicant Transferor Company and Secured and Unsecured Creditors in respect of both the Applicant Companies and appropriate direction for convening and holding of the meeting of the Equity Shareholders of the Applicant Transferee Company, in respect of the Scheme of Amalgamation involving Composite Scheme of Arrangement between Vareli Trading Company Limited ('Applicant Transferor Company') and Surat Textile Mills Limited ('Applicant Transferee Company') and their respective Shareholders and Creditors ('the Scheme'), with effect from the Appointed Date on the agreed terms and conditions as set out in the Scheme annexed at Annexure - F, in accordance with Sections 230 to 232 of the Companies Act, 2013 and other applicable provisions of the Act.



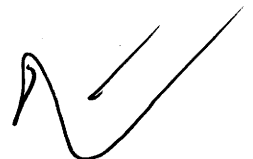


2. The rationale for the Scheme is as follows:
 - a) The amalgamation will help in elimination of the investment layer in the shareholding pattern of the Transferee Company.
 - b) It will be helpful to achieve the benefits of the synergy of large-scale operations.
 - c) This amalgamation will improve the financial strength of the combined entity.

3. The Board of Directors of the Applicant Transferor Company and the Applicant Transferee Company in their board meetings held on 4th December 2019 and 10th September 2019 respectively passed resolutions approving the proposed Scheme as placed before the Board. Copies of the Board Resolutions are annexed with the application as Annexure – E (Colly.). The Applicant Companies have filed their audited balance sheet as on 31st March 2020 and same are annexed with the application. The Applicant Companies have also filed their Unaudited Financial Statement as on 31st December 2020 and same are annexed with the application.

4. It is submitted that for the purpose of determining the share exchange ratio, the Applicant Companies have obtained valuation report from Snehal Shah and Associates, Chartered Accountants, dated 16th December 2019. The Applicant Transferee Company being a public listed entity has obtained a Fairness opinion dated 20th August 2019 from Kunvarji Finstock Private Limited on valuation of assets / shares carried out by the valuer for the listed entity and unlisted entity.

Shakabguz



5. It is submitted that the Applicant Transferee Company being a Listed Public Limited Company, a prior intimation to the Stock Exchange and Securities and Exchange Board of India through the designated stock exchange is a prerequisite. The Applicant Transferee Company had submitted an application under Regulation 37 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 seeking BSE approval / observation letter for the proposed draft scheme of amalgamation. The Applicant Transferee Company has placed on record the letter dated 03.02.2021 received from the BSE, wherein there are no adverse observations.
6. The Applicant Companies have submitted that no investigation or proceedings against the Applicant Companies under Section 210 to 226 of the Companies Act, 2013 as well as Section 235 to 251 of the Companies Act, 1956 or the like are pending.
7. The Applicant Companies have further submitted that the provisions of the Competition Act, 2002 are not applicable in the present case. Hence, no notice is required to be served to the Competition Commission of India.
8. It is further submitted by the Applicant Companies that notice is not required to be served on Reserve Bank of India as provisions of FEMA Act are not attracted in the present Scheme of Arrangement as there are no foreign shareholders in the Petitioner Transferor Company. Further, no new shares are being allotted to any non-resident.

Shachin

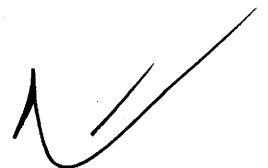


9. The Applicant Transferor Company has stated that as on 31st May 2021 there are 7 Equity Shareholders in the Applicant Transferor Company. The list of Equity Shareholders as certified by the Chartered Accountant is produced at Annexure J with the Application. The Applicant Transferor Company has placed on record the Original Consent Affidavits of all the 7 Equity Shareholders vide Annexure - K (Colly.). The Applicant Transferor Company is seeking appropriate directions for dispensing with the holding and convening meeting of the Equity Shareholders of the Applicant Transferor Company.

10. The Applicant Transferor Company has stated that as on 31st May 2021 there are no Secured Creditors in the Applicant Transferor Company. A certificate to that effect by the Chartered Accountant is produced at Annexure L with the Application. It is submitted that as there are no Secured Creditors in the Applicant Transferor Company the meeting of the Secured Creditors of the Applicant Transferor Company is not required to be convened.

11. The Applicant Transferor Company has stated that as on 31st May 2021 there is 1 Unsecured Creditor amounting to Rs. 1,58,775/- in the Applicant Transferor Company. A certificate to that effect by the Chartered Accountant is produced at Annexure L with the Application. The Applicant Transferor Company has placed on record the Original Consent Affidavit of the sole Unsecured Creditor vide Annexure - M. The Applicant Transferor Company is seeking appropriate directions for dispensing with the holding and convening meeting of the sole Unsecured Creditor of the Applicant Transferor Company.

Shacka Singh

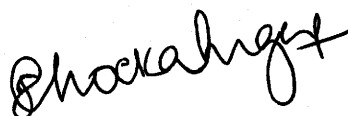


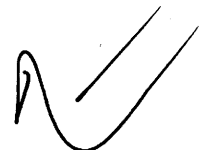
12. The Applicant Transferee Company has stated that there are 51,773 Equity Shareholders in the Applicant Transferee Company as on 31st May 2021. The list of Equity Shareholders as certified by the Chartered Accountant is produced at Annexure N with the Application. The Applicant Transferee Company is seeking appropriate directions for holding and convening meeting of the Equity Shareholders of the Applicant Transferee Company.
13. The Applicant Transferee Company has stated that there are no Secured and Unsecured Creditors in the Applicant Transferee Company. The Chartered Accountant's Certificate certifying the number of Secured and Unsecured Creditors is produced at Annexure-O with the Application. It is submitted that as there are no Secured and Unsecured Creditors in the Applicant Transferee Company the meeting of the Secured Creditors and Unsecured Creditors of the Applicant Transferee Company is not required to be convened.
14. Having heard the Learned Advocate for the Applicant Companies and having perused the application, documents annexed with the Application. This Tribunal passes the following orders:
 - i. The meeting of the Equity Shareholders of the Applicant Transferor Company is hereby dispensed with.
 - ii. The meeting of the Secured Creditors of Applicant Transferor Company is not required to be convened and is hereby dispensed with.

Shankar Inge

[Signature]

- iii. The meeting of the Unsecured Creditors of the Applicant Transferor Company is hereby dispensed with.
- iv. The meetings of the Secured and Unsecured Creditors of Applicant Transferee Company are not required to be convened and are hereby dispensed with.
- v. The meeting of the Equity Shareholders of the Applicant Transferee Company shall be convened and held on the Thursday, 7th October, 2021 at 3.00 P.M. in case of a physical meeting at 6th Floor, Tulsi Krupa Arcade, Above Navjeevan Hyundai Showroom, Near Aai Mata Chowk, Puna Kumbharia Road, Dumbhal, Surat – 395 010 for the purpose of considering and, if thought fit, approving with or without modifications the proposed Scheme.
- vi. The Applicant Transferee Company being a listed public limited company, is governed by the SEBI circular no. CFD/DIL3/CIR/2017/21 dated March 10, 2017 and is required to provide the facility of e-voting to its shareholders.
- vii. In view of the recent circulars of Ministry of Corporate Affairs; viz. Circular No. 14 of 2020 dated 8th April 2020, Circular No. 17 of 2020 dated 13th April 2020 and Circular No. 20 of 2020 dated 5th May 2020, the meetings of Equity Shareholders of the Applicant Transferee Company shall be convened and conducted through video conferencing or other Audio Visual Means or other means

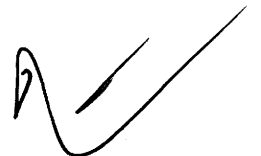




as may be permitted under law. The Applicant Transferee Company shall appoint agencies as mandated by law.

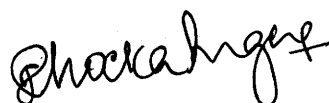
- viii. At least one month before the date of the aforesaid meeting, an advertisement about convening of the said meeting, indicating the day, date, place and time, as aforesaid, shall be published in English daily, Freepress Gujarat, Surat Edition and a Gujarati translation thereof in "Lokmitra", Surat Edition. The publication shall indicate the time within which copies of scheme shall be made available to the concerned persons free of charge from the registered office of the Applicant Transferee Company. The publication shall also indicate that the statement required to be furnished pursuant to Section 102 of the Act read with Sections 230 to 232 of the Act and the prescribed form of proxy can be obtained free of charge at the registered office of the Applicant Transferee Company in accordance with second proviso to sub-section (3) of Section 230 and Rule 7 of the Companies (CAA) Rules, 2016.
- ix. In addition, at least one month before the date of the meeting of the Equity Shareholders to be held as aforesaid, a notice convening the said meeting, indicating the day, date, place and time, as aforesaid, together with a copy of the scheme, a copy of statement required to be furnished pursuant to Section 102 of the Act read with Sections 230 to 232 and Rule 6 of the Companies (CAA) Rules, shall be sent to each of the Equity Shareholders of the Applicant Transferee Company at their respective





registered or last known addresses either by Registered post or Speed Post/Airmail or E-Mail or by Courier or by Hand Delivery. The Notices shall be sent to the Equity Shareholders of the Applicant Transferee Company with reference to the list of the persons appearing on the record of the Applicant Transferee Company as on 27th August, 2021. However, the shareholders who are members on the record date fixed by the company will only be entitled to vote at the equity shareholders meeting.


- x. Mr. Ullas G Shah, (Chartered Accountant), shall be the Chairman/Chairperson of the aforesaid meeting of the equity shareholders to be held on 7th October, 2021 and in respect of any adjournment thereof.
- xi. Mr. Jigar Vyas (Practicing Company Secretary), is appointed as the Scrutinizer for the aforesaid meetings of the equity shareholders of the Applicant Transferee Company.
- xii. The Chairman or Chairperson appointed for the aforesaid meetings shall issue the advertisements and send out the notices of the meeting referred to above. The Chairman/Chairperson is free to avail the services of the Applicant Transferee Company or any agency for carrying out the aforesaid directions.
- xiii. The Chairman or Chairperson shall have all powers under the Articles of Association of the Applicant Transferee Company and also under the Rules in relation to the





conduct of meetings, including for deciding any procedural questions that may arise at the meetings or adjournment(s) to the aforesaid scheme or resolution, if any, proposed at the aforesaid meeting by any person(s) and to ascertain the decision of the sense of the meeting of the Equity Shareholders by polling paper/ballot.

- xiv. It is however clarified that in view of para A (x) of the MCA Circular No. 14/2020 dated 8th April 2020, that in case of meeting through video conference or other audio visual means, the voting through Proxy shall not be permitted. However, voting through Authorized Representative is permitted.
- xv. The quorum for the meeting of Equity Shareholders of the Applicant Transferee Company shall be as per provisions of the Companies Act, 2013.
- xvi. The Chairman/Chairperson to file an affidavit not less than 7(seven) days before the date fixed for the holding of the meetings and to report to this Tribunal that the directions regarding issuance of notices and advertisement of the meeting has been duly complied with as per Rule 12 of the Companies (CAA) Rules, 2016.
- xvii. It is further ordered that the Chairman or the Chairperson shall report to this Tribunal on the result of the meeting in Form No.CAA.4, verified by his affidavit, as per Rule 14 of the Companies (CAA) Rules, 2016 in from No. CAA.4 within seven days.





15. In compliance of sub-section (5) of Section 230 and Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, the Applicant Companies shall send a notice in Form No.CAA.3 along with disclosures mentioned under Rule 6, to (i) the Central Government through the Regional Director, North Western Region, (ii) the Registrar of Companies, Gujarat, (iii) the Income Tax authorities concerned and (iv) Bombay Stock Exchange and (v) Official Liquidator (for Transferor Company), stating that representations, if any, to be made by them shall be made within a period of 30 days from the date of receipt of such notice, failing which it shall be presumed that they have no objection to make on the proposed Scheme. The said notices shall be sent forthwith by registered post or by speed post or by courier or by hand delivery or by an email at the office of the authority as required by sub-rule (2) of Rule 8 of the Companies (CAA) Rules, 2016. The aforesaid authorities, who desire to make any representation under sub-section (5) of Section 230, shall send the same to the Tribunal within a period of 30 days from the date of receipt of such notice, failing which it will be deemed that they have no representation to make on the proposed arrangement.

16. This Company Application is disposed of accordingly.



(CHOCKALINGAM THIRUNAVUKKARASU)
MEMBER (TECHNICAL)



(MADAN B. GOSAVI)
MEMBER (JUDICIAL)