

IN THE NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH, MUMBAI

CA (CAA) No.851/MB.II/2020

In the matter of
The Companies Act, 2013

AND

In the matter of
Section 230-232 of the Companies Act,
2013 and other applicable provisions of the
Companies Act, 2013 read with the
Companies (Compromises, Arrangements
and Amalgamations) Rules, 2016

In the matter of
Scheme of Amalgamation
of
Shubh Trimmings Private Limited
(*Transferor Company*)
with
Fashion Accessories India Private Limited
(*Transferee Company*)
and
their respective Shareholders

Shubh Trimmings Private Limited
[CIN: U18101MH2004PTC145838] ...

Applicant Company No.1
Transferor Company

Fashion Accessories India Private Limited
[CIN: U36992MH1998PTC113864] ...

Applicant Company No.2
Transferee Company

Order pronounced on 30th April 2020

Coram:

Shri Rajasekhar V.K. : Member (Judicial)
Shri V. Nallasenapathy : Member (Technical)

Appearances (via videoconferencing):

For the Applicants : Mr Ahmed M Chunawala i/b
Rajesh Shah & Co, Advocates
a/w
Mr Ketan Shantilal Dand,
Practising Company Secretary

ORDER

Per: Rajasekhar V.K., Member (Judicial)

1. The Bench is conveyed by video conference today (30.04.2020).
2. The Counsel for the Applicant Companies states that the present Scheme of Amalgamation of Shubh Trimmings Private Limited with Fashion Accessories India Private Limited and their respective Shareholders.
3. The Counsel for the Applicant Companies further submits that the Applicant Company No.1 is in the business of manufacturers, importer, exporter, dealers, in all kinds of accessories such as fashion accessories, tailoring accessories, buttons, rivets, fasteners, labels, tags, knitwear and hosiery accessories, garment accessories, dress materials accessories and deal in all other kinds of materials.
4. The Counsel for the Applicant Companies further submits that the Applicant Company No.2 has been carrying on the business of manufactures, importer, exporter, dealers in all kinds of accessories

such as tailoring accessories, buttons, rivets, fasteners, knitwear and hosiery accessories, garment accessories , dress material accessories and deal in all other kinds of materials as may be conveniently carried on with the above business.

5. The convening and holding the meeting of the Equity Shareholders of the Applicant Company No.1 for the purpose of considering and, if thought fit, approving, with or without modification(s) the proposed Scheme of Amalgamation of Shubh Trimmings Private Limited with Fashion Accessories India Private Limited and their respective Shareholders and Creditors is dispensed with in view of the consent affidavits given by all the 23 Equity Shareholders of the Applicant Company No,1 which are annexed as 'Exhibit I-1 to I-23' to the Company Scheme Application.
6. The convening and holding the meeting of the Equity Shareholders of the Applicant Company No.2 for the purpose of considering and, if thought fit, approving, with or without modification(s) the proposed Scheme of Amalgamation of Shubh Trimmings Private Limited with Fashion Accessories India Private Limited and their respective Shareholders and Creditors is dispensed with in view of the consent affidavits given by all the 23 Equity Shareholders of the Applicant Company No.2 which are annexed as 'Exhibit J-1 to J-24' to the Company Scheme Application.
7. There are no Secured Creditors in the Applicant Company No.1 as mentioned in para 23 of the Application as per the Auditors Certificate dated 8th January 2020 annexed to the Company Scheme Application at Exhibit K.

8. There is one Secured Creditor having value of ₹4,11,40,470/-. The Counsel for the Applicant Company No. 2 submits that convening and holding meeting of secured creditors of the Applicant Company No. 2 is not required since the present Scheme is an arrangement between the Applicant Companies and their shareholders as contemplated under section 230(1)(b) of the Companies Act, 2013, as there is no compromise or arrangement with any of the secured creditors as no sacrifice is called for. Therefore, the holding of meeting of secured creditors of Applicant Company No. 2 for approving the Scheme is dispensed with. However, this Bench hereby directs the Applicant Company No. 2 to issue notice to its secured creditor by Courier/Registered Post/Speed Post/Hand Delivery or through Email (if the secured creditor's email address is duly registered with the Applicant Company No. 2 for the purpose of receiving such notices by email), at its last known address or email address as per the records of the Applicant Company No. 2 with a direction that it may submit its representations, if any, to the Tribunal and copy of such representations shall simultaneously be served upon the Applicant Company No. 2.
9. There are no Unsecured Creditors in the Applicant Company No.1 as mentioned in para 25 of the Application as per the Auditors Certificate dated 8th January 2020 annexed to the Company Scheme Application at Exhibit M.
10. The Counsel for the Applicant Company No.2 submits that there are 66 Unsecured Creditors having value of ₹4,88,98,242/- (Rupees four crores eighty-eight lakh ninety-eight thousand two hundred and forty-two only) as per the Auditors Certificate dated 8th January 2020

Annexed in the Company Scheme Application at Exhibit N. The convening and holding the meeting of the Unsecured Creditors of the Applicant Company No.2 for the purpose of considering and, if thought fit, approving, with or without modification(s) the proposed Scheme of Amalgamation of Shubh Trimmings Private Limited with Fashion Accessories India Private Limited and their respective Shareholders and Creditors is dispensed with in view of the consent affidavits given by seventeen of the Unsecured Creditors having value of 90.79% of the Applicant Company No.2 which is annexed as 'Exhibit N-1 to N-17' to the Company Scheme Application. However, notice of the Scheme shall be given to all the creditors.

11. The Applicant Companies to serve the notice to – (1) the Regional Director (Western Region), Ministry of Corporate Affairs, Mumbai; (2) the Registrar of Companies, Maharashtra, Mumbai; (3) the Income Tax Authority within whose jurisdiction the assessments of each of the Applicant Companies are made, clearly indicating the PAN of the concerned company, pursuant to section 230(5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from Regional Director within 30 days of the date of receipt of the notice it will be presumed that such authorities have no objection to the proposed Scheme.
12. Additionally, the Transferor Companies shall serve notice of hearing of Application upon the Official Liquidator, High Court, Bombay pursuant to Section 230(5) of the Companies Act, 2013. The Tribunal hereby appoints M/s ML Bhuwania & Co, Chartered Accountants having their office at F-11, 3rd Floor, Manek Mahal,

Next to Ambassdor Hotel, No.90, Veer Nariman Road, Churchgate, Mumbai 400 020, with remuneration of ₹20,000/- (Rupees twenty thousand only) inclusive of all taxes, for their services. If no response is received by the Tribunal from Official Liquidator, High Court, Bombay within a period of thirty days from the date of receipt of such notice, it will be presumed that Official Liquidator has no representation/objection to the proposed Scheme.

13. The Applicant Companies shall publish the notice convening the meeting of Equity Shareholders in '*Business Standard*' in English and '*Navshakti*' in Marathi having wide circulation in the State of Maharashtra. In view of the lockdown owing to the Covid-19 pandemic, publication in the online edition of the said newspapers is permitted in lieu of physical editions.
14. The Applicant Companies shall host the notices on their respective websites, if any.
15. The Applicant Companies shall file a compliance report with the Registry in regard to the directions given in this Order.

Sd/-

V. Nallasenapathy
Member (Technical)

30.04.2020

Sd/-

Rajasekhar V.K
Member (Judicial)