

(2015) 12 DEL CK 0131

In the Delhi High Court

Case No : Company Application (Main) No. 179/2015

In Re: Jyoti Knits Private Limited and Ors.

Date of Decision : 23-12-2015

Acts Referred:

Citation : (2015) 12 DEL CK 0131

Hon'ble Judges : Sudershan Kumar Misra, J.

Bench : Single Bench

Advocate : Amit Goel, Advocate, for the Appellant

Final Decision : Allowed

Judgement

Sudershan Kumar Misra, J.—This joint application has been filed under Sections 391(1) & 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 between Jyoti Knits Private Limited (hereinafter referred to as the transferor company No. 1); Mayur Knits Private Limited (hereinafter referred to as the transferor company No. 2); Essay Marketing Company Limited (hereinafter referred to as the transferor company No. 3); Raghav Knits and Textiles Private Limited (hereinafter referred to as the transferor company No. 4); Arshia Trade Mart Private Limited (hereinafter referred to as the transferor company No. 5) and Agarwal Finestate 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 No. 1 was incorporated under the Companies Act, 1956 on 16th January, 1991 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

4. The transferor company No. 2 was incorporated under the Companies Act, 1956 on 28th December, 1990 with the Registrar of Companies, NCT of Delhi &

Haryana at New Delhi.

5. The transferor company No. 3 was incorporated under the Companies Act, 1956 on 20th February, 1991 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

6. The transferor company No. 4 was incorporated under the Companies Act, 1956 on 31st December, 1990 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

7. The transferor company No. 5 was incorporated under the Companies Act, 1956 on 17th November, 2008 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

8. The transferee company was incorporated under the Companies Act, 1956 on 21st August, 1995 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

9. The present authorized share capital of the transferor company No. 1 is Rs. 25,00,000/- divided into 2,50,000 equity shares of Rs. 10/- each. The issued, subscribed and paid-up share capital of the company is Rs. 24,50,200/- divided into 2,45,020 equity shares of Rs. 10/- each.

10. The present authorized share capital of the transferor company No. 2 is Rs. 1,00,00,000/- divided into 10,00,000 equity shares of Rs. 10/- each. The issued, subscribed and paid-up share capital of the company is Rs. 99,95,200/- divided into 9,99,520 equity shares of Rs. 10/- each.

11. The present authorized share capital of the transferor company No. 3 is Rs. 50,00,000/- divided into 5,00,000 equity shares of Rs. 10/- each. The issued, subscribed and paid-up share capital of the company is Rs. 48,00,700/- divided into 4,80,070 equity shares of Rs. 10/- each.

12. The present authorized share capital of the transferor company No. 4 is Rs. 25,00,000/- divided into 2,50,000 equity shares of Rs. 10/- each. The issued, subscribed and paid-up share capital of the company is Rs. 24,50,200/- divided into 2,45,020 equity shares of Rs. 10/- each.

13. The present authorized share capital of the transferor company No. 5 is Rs. 5,00,000/- divided into 50,000 equity shares of Rs. 10/- each. The issued, subscribed and paid-up share capital of the company is Rs. 1,00,000/- divided into 10,000 equity shares of Rs. 10/- each.

14. The present authorized share capital of the transferee company is Rs. 1,00,00,000/- divided into 10,00,000 equity shares of Rs. 10/- each. The issued, subscribed and paid-up share capital of the company is Rs. 80,30,200/- divided into 8,03,020 equity shares of Rs. 10/- each.

15. Copies of the Memorandum and Articles of Association of the transferor and transferee companies have been filed on record. The audited balance sheets, as

on 31st March, 2015, of the transferor and transferee companies, along with the reports of the auditors, have also been filed.

16. A copy of the Scheme of 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 claimed that the proposed amalgamation will result in formation of a larger company enabling further growth and development of the businesses of the transferor companies thus enabling the undertakings and businesses of the transferor companies to obtain greater facilities possessed and enjoyed by one large company compared to various small companies for raising capital, securing and conducting trade and business on favourable terms and other related benefits. It is further claimed that the proposed scheme will result in reduction of overheads and other expenses, reduction in administrative and procedural work, eliminate duplication of work, transaction cost, better and more productive utilization of various resources and will enable the undertakings concerned to effect internal economies and optimize productivity.

17. 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 companies in the following ratio:

"313 equity shares of Rs. 10/- each of the transferee company, credited as fully paid up, for every 100 fully paid up equity shares of Rs. 10/- each held in transferor company No. 1."

"48 equity shares of Rs. 10/- each of the transferee company, credited as fully paid up, for every 100 fully paid up equity shares of Rs. 10/- each held in transferor company No. 2."

"286 equity shares of Rs. 10/- each of the transferee company, credited as fully paid up, for every 100 fully paid up equity shares of Rs. 10/- each held in transferor company No. 3."

"132 equity shares of Rs. 10/- each of the transferee company, credited as fully paid up, for every 100 fully paid up equity shares of Rs. 10/- each held in transferor company No. 4."

"58 equity shares of Rs. 10/- each of the transferee company, credited as fully paid up, for every 100 fully paid up equity shares of Rs. 10/- each held in transferor company No. 5."

18. 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.

19. The Board of Directors of the transferor companies No. 1, 2, 3, 4, 5 and the transferee company in their separate meetings held on 6th October, 2015, 6th

October, 2015, 7th October, 2015, 5th October, 2015, 5th October, 2015 and 7th October, 2015 respectively have unanimously approved the proposed Scheme of Arrangement. Copies of the Resolutions passed at the meetings of the Board of Directors of the transferor and transferee companies have been placed on record.

20. The transferor company No. 1 has 10 equity shareholders and 01 unsecured creditor. All the equity shareholders and the sole unsecured creditor have given their consents/no objections in writing to the proposed Scheme of 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 meetings of the equity shareholders and unsecured creditor of the transferor company No. 1 to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Arrangement is dispensed with. There is no secured creditor of the transferor company No. 1, as on 30.09.2015.

21. The transferor company No. 2 has 08 equity shareholders and 01 unsecured creditor. All the equity shareholders and the sole unsecured creditor have given their consents/no objections in writing to the proposed Scheme of 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 meetings of the equity shareholders and unsecured creditor of the transferor company No. 2 to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Arrangement is dispensed with. There is no secured creditor of the transferor company No. 2, as on 30.09.2015.

22. The transferor company No. 3 has 07 equity shareholders and 01 unsecured creditor. All the equity shareholders and the sole unsecured creditor have given their consents/no objections in writing to the proposed Scheme of 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 meetings of the equity shareholders and unsecured creditor of the transferor company No. 3 to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Arrangement is dispensed with. There is no secured creditor of the transferor company No. 3, as on 30.09.2015.

23. The transferor company No. 4 has 05 equity shareholders and 02 unsecured creditors. All the equity shareholders and both the unsecured creditors have given their consents/no objections in writing to the proposed Scheme of 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 meetings of the equity shareholders and unsecured creditors of the transferor company No. 4 to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Arrangement is dispensed with. There is no secured creditor of the transferor company No. 4, as on 30.09.2015.

24. The transferor company No. 5 has 06 equity shareholders and 05 unsecured creditors. All the equity shareholders and all the unsecured creditors have given

their consents/no objections in writing to the proposed Scheme of 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 meetings of the equity shareholders and unsecured creditors of the transferor company No. 5 to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Arrangement is dispensed with. There is no secured creditor of the transferor company No. 5, as on 30.09.2015.

25. The transferee company has 11 equity shareholders and 02 unsecured creditors. All the equity shareholders and both the unsecured creditors have given their consents/no objections in writing to the proposed Scheme of 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 meetings of the equity shareholders and unsecured creditors of the transferee company to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Arrangement is dispensed with. There is no secured creditor of the transferee company, as on 30.09.2015.

26. The application stands allowed in the aforesaid terms.