

PAGES : 20

CHARGE : 65

016298-16303/2016
Prepared By : K.K. Joshi
Applied on : 27/04/2016
Prepared on : 09/05/2016
Notified on : 10/5/16
Delivered on : 10/5/16

Read By : [Signature]
Examined By : [Signature] 9-5-16



[Signature]
By S.O.
Decree Department

[Signature]
Section Officer
Decree Department

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
COMPANY PETITION 24 of 2016
In COMPANY APPLICATION 377 of 2015

1 KANVEL FINANCE PRIVATE LIMITED
13, KRISHNA SOCIETY, OPP. ELLISBRIDGE GYMKHANA,
ELLISBRIDGE, AHMEDABAD-380006

VERSUS

Petitioner(s)

1

Respondent(s)

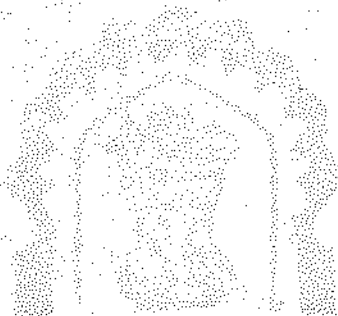
Comp.
Being - No. 24 of 2016

Appearance on Record:
MRS SWATI SOPARKAR as ADVOCATE for the Petitioner(s) No. 1
MR DEVANG VYAS as ADVOCATE for the Respondent(s) No. 1

COURT'S ORDER :

CORAM :
HONOURABLE SMT. JUSTICE ARSHILASHA KUMARI

Date of Decision: 25/04/2016
(COPY OF JUDGEMENT ATTACHED HEREWITH)



THE HIGH COURT
OF QADISIYAH

PAGES : 2

CHARGE :

O/16298-16303/2016

Read By :

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Dy.S.O.

Section Officer

Decree Department

Decree Department

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY PETITION 59 of 2016

In COMPANY APPLICATION 376 of 2015

1 DEEP INDUSTRIES LIMITED

12A AND 14, ABHISHREE CORPORATE PARK, AMBLI BOPAL
ROAD, AMBLI

AHMEDABAD-380052, IN THE STATE OF GUJARAT

Petitioner(s)

VERSUS

1 ..

..

Respondent(s)

Comp.
Being - No. 59 of 2016

Appearance on Record:

MRS SWATI SOPARKAR as ADVOCATE for the Petitioner(s) No. 1

MR DEVANG VYAS as ADVOCATE for the Respondent(s) No. 1

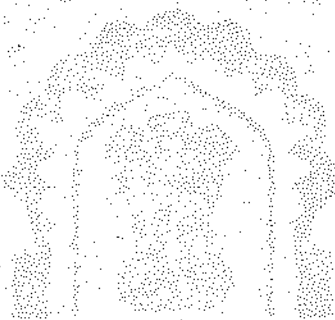
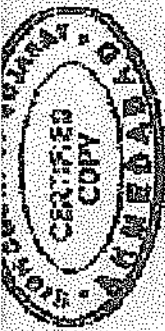
COURT'S ORDER :

CORAM :

HONOURABLE SMT. JUSTICE ABHILASHA KUMARI

Date of Decision: 25/04/2016

(COPY OF JUDGEMENT ATTACHED HEREWITH)



श्री १५२५८-१६३०३/२०१६
३६-३०३ कोर्ट
०६ दिसात

PAGES : 1

CHARGE : 4

O/16298-16303/2016

Read By :

Prepared By : K.K. Joshi

Applied on : 27/04/2016

Examined By:  9-5-16

Prepared on : 09/05/2016

Notified on :

Delivered on :

Dy.S.O.

Section Officer

Decree Department

Decree Department

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

- 1 KANVEL OIL AND GAS PRIVATE LIMITED
13, KRISHNA SOCIETY, NEAR LAW GARDEN,
ELLISBRIDGE, AHMEDABAD-380006

Petitioner(s)

VERSUS

1 .
.

Respondent(s)

Being COMPANY PETITION No. 25 of 2016

Appearance on Record:

MRS SWATI SOPARKAR as ADVOCATE for the Petitioner(s) No. 1

COURT'S ORDER :

CORAM :

HONOURABLE SMT. JUSTICE ABHILASHA KUMARI

Date of Decision: 25/04/2016

(COPY OF JUDGEMENT ATTACHED HEREWITH)



PAGES : 1

CHARGE : 0

C/16298-16303/2016

Read By :

Prepared By : K.K. Joshi

Examined By :

Applied on : 27/04/2016

Prepared on : 09/05/2016

Notified on :

Delivered on :

Dy.S.O.
Decree Department

Section Officer
Decree Department

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

1 PRABHAVATI PROPERTIES PRIVATE LIMITED
6TH FLOOR, ASTRON TOWER, OPP. FUN REPUBLIC CINEMA,
SATELLITE, AHMEDABAD-380015

VERSUS

Petitioner(s)

1



Respondent(s)

Being COMPANY PETITION No. 26 of 2016

Appearance on Record:
MRS SWATI SOPARKAR as ADVOCATE for the Petitioner(s) No. 1

COURT'S ORDER :

CORAM :
HONOURABLE SMT. JUSTICE ABHILASHA KUMARI

16303/2016-25/04/2016

PAGES : 1

CHARGE :-

016298-16303/2016

Read By :

Prepared By : K.K. Joshi

Applied on : 27/04/2016

Examined By : *[Signature]*
9-5-16

Prepared on : 09/05/2016

Notified on :

Delivered on :

Dy.S.O.

[Signature]
Section Officer

Decree Department

Decree Department

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

- 1 SAVLA ENTERPRISE PRIVATE LIMITED
601, 6TH FLOOR, ASTRON TOWER, OPP. FUN REPUBLIC
CINEMA,
SATELLITE , AHMEDABAD

Petitioner(s)

VERSUS

1

Respondent(s)

Being COMPANY PETITION No. 27 of 2016

Appearance on Record:

MRS SWATI SOPARKAR as ADVOCATE for the Petitioner(s) No. 1

COURT'S ORDER :

CORAM :

HONOURABLE: SMT. JUSTICE ABHILASHA KUMARI

Date of Decision: 25/04/2016

(COPY OF JUDGEMENT ATTACHED HEREWITH)

PAGES : 2

CHARGE : 6

Q/16298-16303/2016

Read By :

Prepared By : K.K. Joshi

Applied on : 27/04/2016

Prepared on : 09/05/2016

Notified on :

Delivered on :

Examined By :

Dy.S.O.

Decree Department

Section Officer

Decree Department

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY PETITION 28 of 2016

In COMPANY APPLICATION 381 of 2015

- 1 YASH ORGANOCEM PRIVATE LIMITED
 6TH FLOOR, ASTRON TOWER, OPP. ISCON TEMPLE,
 GANDHINAGAR SARKHEJ HIGHWAY, AHMEDABAD-380015

Petitioner(s)

VERSUS

1

Respondent(s)

Comp.
Being - No. 28 of 2016

Appearance on Record:

MRS SWATI SOPARKAR as ADVOCATE for the Petitioner(s) No. 1

MR DEVANG VYAS as ADVOCATE for the Respondent(s) No. 1

COURT'S ORDER :

CORAM :

HONOURABLE SMT. JUSTICE ABHILASHA KUMARI

COMPLAINT

ORDER

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY PETITION NO. 24 of 2016
In COMPANY APPLICATION NO. 377 of 2016

TO

COMPANY PETITION NO. 28 of 2016

With

COMPANY PETITION NO. 59 of 2016
In COMPANY APPLICATION NO. 378 of 2016

KANVEL FINANCE PRIVATE LIMITEDPetitioner(s)

Versus

.....Respondent(s)

Appearance:

MRS SWATI SOPARKAR, ADVOCATE for the Petitioner(s) No. 1

MR KSHITU AMIN FOR MR DEVANG VYAS, ADVOCATE for Respondent No. 1

CORAM: HONOURABLE SMT. JUSTICE ABHILASHA KUMARI

Date : 25/04/2016

COMMON ORAL ORDER

1. These petitions have been filed by the petitioner companies for the sanction of a Scheme of Arrangement, in the nature of Amalgamation of the five Transferor Companies viz. Kanvel Finance Private Limited, Kanvel Oil and Gas Private Limited, Prabhavati Properties Private Limited, Savla Enterprise Private Limited and Yash Organochem Private Limited with Deep Industries Limited, the Transferee Company, as well as restructure of share capital of Deep Industries Limited, proposed under Sections-391 to 394 read with



EXCOM/248018

ORDER

Sections-100 to 103 of the Companies Act, 1956.

2. It has been submitted that Deep Industries Limited, the Transferee Company, is a listed public limited company and the shares are listed on BSE Limited as well as the National Stock Exchange of India Limited. It is engaged in oil and gas exploration with business interest in air and natural gas compression services, work over and drilling rig services as well as oil and gas exploration and production. It is a profit making and dividend paying company. Pursuant to the applicable provisions of SEBI Circulars, the petitioner Transferee Company had sought the requisite approvals from SEBI through the Stock Exchanges, and the relevant observation letters have been placed on record.

3. It has been further submitted that all the Transferor Companies belong to the same group of management known as Deep group. Four of them have been the promoter companies and hold shares of the Transferee Company. The amalgamation is proposed in order to streamline the current holding structure and make it more efficient. The petitions give in detail,



EXCERPTS

ORDER

the benefits envisaged due to the Scheme.

4. It has been pointed out that vide the order dated 9th December 2015, passed in the Company Applications No.277 to 381 of 2015, the meetings of the Equity Shareholders of all the Transferor companies were dispensed with, in view of the written consent letters from all of them being placed on record, there being no Secured and/or Unsecured Creditors. In case of the Transferee Company vide the order dated 9th December 2015, passed in Company Application No.376 of 2015, the meeting of the Unsecured Creditors of the Transferee Company was dispensed with, in view of the substantially positive Net Worth of the Transferee Company in both the pre-Scheme and Post-scheme scenarios. It was submitted by the petitioner Transferee Company that the rights and interests of the Unsecured Creditors of the Transferee Company shall not be prejudicially affected as a result of the Scheme. However, separate meetings of the Equity Shareholders and Secured Creditors of the Transferee Company were directed to be convened.

5. It has been further pointed out that vide Clause 11 of the Scheme, the restructure of share capital in



CIVIL/2016/2016

ORDER

form of reduction of share capital on cancellation of shares held in the Transferee Company by the Transferor Companies, is proposed. It has been submitted that the said reduction of the capital is consequential and is proposed as an integral part of the Scheme of Arrangement. Further, the proposed reduction does not involve either diminution of liability in respect of unpaid share capital or payment to any shareholder of any paid-up share capital and the order of the Court sanctioning the Scheme shall be deemed to be an order under Section 102 of the Companies Act, 1956, confirming the reduction. It has been further clarified that considering the issue of new shares of the Transferee Company to be issued to the shareholders of the Transferor Companies, as envisaged in Clause-10 of the Scheme, there shall not be any Net Reduction in the Paid Up Share Capital of the Petitioner Company. However, out of abundant caution, the approval granted to the present Scheme by the Equity Shareholders of the Petitioner Company at the meeting duly convened, has been treated as the Special Resolution as required under Section-100 of the Companies Act, 1956. It was



D/CMP/2015/16

CP/2015

also submitted that the interests of the creditors of the Petitioner Company are not, in any way, affected by such reduction. In view of this, vide the order dated 9th December 2015, the procedure prescribed under Section-101(2) of the Companies Act, 1956 and under rule 48 to 65 of the Companies (Court) Rules 1959, was dispensed with.


6. Pursuant to the directions issued vide the order dated 9th December 2015, the meetings of the Equity Shareholders as well as Secured Creditors were duly convened and held on 20th January 2016. At the said meetings, the proposed Scheme was duly approved unanimously by the Equity Shareholders as well as Secured Creditors present and casting valid votes at the respective meetings. Further, in compliance with the requirement of the applicable SEBI circulars, the Transferee Company had also undertaken the independent procedure for obtaining the approval of the Public shareholders of the Company and the proposed Scheme was approved by the requisite majority of 99.85% of the shareholders exercising their right through e-voting and postal ballots. The affidavit dated 1st



CONFIDENTIAL

ORDER

February 2016, has been placed on record along with the reports of the Chairman, confirming the result of the meetings.



7. Substantive petitions were filed by the Transferee Companies earlier and the same were admitted, vide order dated 21st January 2016. The public notices for the same were duly advertised in the English daily newspaper 'Indian Express' and the Gujarati daily newspaper 'Sandesh', both Ahmedabad editions, on 11th February 2016. The petition for the Transferee Company was filed after the aforesaid meetings and was admitted on 16th February 2016. The public notices for the same were duly advertised in the English daily newspaper 'Indian Express' and the Gujarati daily newspaper 'Sandesh', both Ahmedabad editions on 26th February 2016. The publication in the Government Gazette was dispensed with. Affidavits dated 17th February 2016 and 8th March 2016, confirm the same. None has come forward with any objections to the said petitions even after the publication and the same has been further confirmed by the additional affidavit dated 20th April 2016.

OCORP/242016

ORDER

8. Notice of the petition of the Transferor Companies were served upon the Official Liquidator attached to this Court. Vide the reports dated 5th April 2016, filed by the Official Liquidator, it is observed that the affairs of the Transferor company have not been conducted in a manner prejudicial to the interest of their members or to the public interest. However, the Official Liquidator has requested this Court to direct the Transferee Company to preserve the books of accounts and records of the Transferor Company for a period of 8 years from the date of the sanctioning of the Scheme and not to dispose of the same without the prior permission of the Central Government. The Petitioner companies are, accordingly, directed to preserve the books and records of the Transferor Company for a period of 8 years from the date of the sanctioning of the Scheme and not to dispose of the same without the prior permission of the Central Government. It is further directed that even after the Scheme is sanctioned, the Transferor company shall comply with all the applicable provisions of law and shall not be absolved from any of its statutory liabilities.



OCCOMP245815

ORDER

9. Notice of the petitions have been served upon the Central Government and Mr.Kshitij Amin, learned Central Government Standing counsel has appeared for Shri Devang Vyas, learned Assistant Solicitor General on behalf of the Central Government. An affidavit dated 15th April 2016 has been filed by Mr.Shambhu Kumar Agarwal, the Regional Director, North-Western Region, Ministry of Corporate Affairs, whereby a few observations were made.


10. The attention of this Court is drawn to the Common Additional Affidavit dated 20th April 2016, as filed by Mr.Paras Savla, on behalf of the Petitioner Companies, which provides requisite explanations for the issues raised by the Regional Director.

10.1 Vide paragraph-2(d) of the affidavit, it has been observed by the Regional Director that being a listed public limited company, and pursuant to the Observation letters from the Bombay Stock Exchange and National Stock Exchange, issued in November 2015, the Petitioner-Transferee Company is required to comply with the applicable provisions of the SEBI Circulars. In this regard, it had been submitted that the



O/COMP/242016

ORDER



petitioner-Transferee company has already complied with the requisite provisions. Apart from the approval of the Shareholders of the Company at the meeting convened as directed by the Court, the procedure for the requisite approval from the Public Shareholders through e voting and Postal Ballot, was undertaken. The Chairman's report dated 1st February 2016, giving details of the result of the meetings as well as the result of such Postal Ballot and e-voting, has been placed on record. The Scheme has been approved by the Public shareholders as well, by the requisite majority. Apart from this, the Petitioner Company hereby undertakes to comply with the applicable provisions of the said Circulars, after the Scheme has been duly sanctioned by this Court. In view of the same, it is not necessary to issue any further directions to the Petitioner Companies.

10.2 The observation of the Regional Director vide paragraph-2(e) of the affidavit pertains to compliance with FEMA and RBI Guidelines as a very small part of the Equity Share Capital of the Transferee Company is held by FIIs/NRIs. In this regard, it has been

DCCMP/24/2018

CIVIL

submitted that the Transferee Company is not required to obtain any prior approval from the said authorities. Moreover, since no shares are being issued to these shareholders of the Transferee Company under the Scheme, no specific permission is required to be obtained from the regulatory authorities. Notwithstanding the said contention, the Petitioner-Transferee Company has undertaken to ensure compliance with applicable FEMA and RBI Guidelines.

10.3 Vide paragraph-2(f) of the affidavit, it has been observed by the Regional Director that the petitioner companies have submitted the Valuation Report prepared by a Chartered Accountant. However, the working sheets for calculation of the share exchange ratio have not been submitted by the petitioner companies. In this regard, it is has been submitted that the said issue is beyond the purview of the Regional Director. The regulatory authorities, taking care of the interest of the shareholders like SEBI and the concerned Stock Exchanges have gone through the said report and have not found anything objectionable. The shareholders of the Companies have approved the same. Further, it has been explained in



UCCMP/2018/018

ORDER

the report that most of the Transferor Companies are the promoter companies and hold shares in the Transferee Company. The consideration is worked out with a view to maintain the same proportion of the shares held by the Transferor company for the new shares to be allotted to the shareholders of the respective companies. Since the shareholders of all the companies are more or less the same, the working sheets for the same are not necessary. In view of the same, no further documents are required to be placed on record and no further directions are required to be issued to the Petitioner Companies.

10.4 Vide paragraph-2(g) of the affidavit, it has been observed by the Regional Director that although two Transferor Companies have Preference Share Capital, separate exchange ratio for preference shareholders has not been disclosed by the petitioner companies, either in the Scheme or vide the Valuation report. It has been submitted that the Scheme envisages to issue a specific number of Equity Shares of the Transferee Company, collectively to all existing shareholders of the Transferor Company, which



DNDMP248018

ORDER


includes both the Equity Shareholders and Preference Shareholders of the respective Transferor Company. As explained hereinabove, the amount of consideration is worked out in order to maintain the same proportion of the shares held by the Transferor Company in the Transferee Company for the new shares to be allotted to the shareholders of the respective companies. Keeping this in mind, there is no separate reference to the consideration for the Preference Shareholders, but they are entitled to allotment out of the total number of Equity Shares being issued by the Transferee Company. Hence, pursuant to Clause 10(d) and 10(e), the Preference Shareholders of Savla Enterprise Private Limited and Yash Organochem Private Limited shall be allotted Equity Shares of the Transferee Company along with Equity Shareholders in proportion to their holdings. This explanation is found to be satisfactory and in view of the same, no further directions are required to be issued.

10.5 Vide paragraph-2(h) of the affidavit, the Regional Director has observed that two Transferor Companies have substantial amounts in their Capital Reserve and Securities Premium Reserve and has sought



CNCORP/24/2014

ORDER



reasons for the same. It has been submitted on behalf of the petitioner that the review of the books of accounts and balances standing in different accounts are not under the purview of the Regional Director. The books of the accounts of these companies for last five years have been examined by the Chartered Accountant appointed by the Official Liquidator, who has not raised any such queries. It is submitted that under the applicable provisions of the Act, the Petitioner Companies are not required to give any reasons or explanations for the same. In view of the same, no further directions to the Petitioner Companies are necessary.

10.6 Vide paragraph-2(i) of the affidavit, it has been observed by the Regional Director that the petitioner companies have not disclosed details about the promoters holding in the Post Scheme scenario. In this regard, it has been submitted that the said details have been examined by SEBI and the Stock Exchanges and the same was also disclosed to the Shareholders of the Transferee Company vide the Explanatory Statement sent to each one of them, along with the notice for

ENCLOSURE

ORDER

convening the meeting, in pursuance to the directions of this Court. A copy of the same is attached herewith for immediate reference as Annexure-1. Notwithstanding the said contention, it has been pointed out that Part B of the Scheme of Arrangement contains a categorical statement under the head 'Rationale and Purpose of the Scheme' that 'there will not be any increase in total promoter holding in Deep Industries Limited pursuant to the scheme'. In view of the same, it is submitted that no further directions are necessary for the facts being placed on record.

10.7 The observation of the Regional Director vide paragraph-2(j) of the affidavit pertains to requisite licenses, approvals and other permissions from the regulatory authority/concerned Ministry for the business of oil and gas exploration undertaken by some of the Transferor Companies and transfer of the same to the Transferee Company. In this regard, it has been submitted that the concerned Companies have obtained the requisite permissions and licenses, as applicable. The Transferee Company shall do the needful either to transfer the same to it or obtain fresh licences, if



DISCLAIMER

ORDER

so required upon sanction of the Scheme. It is pointed out that the Scheme has envisaged obtaining of such permissions from the regulatory authorities vide clause 19(f) of the Scheme. In view of the same, no further directions are required to be issued to the Petitioner Transferee Company.

10.8 The observation of the Regional Director made vide paragraph-2(k) pertains to letter dated 16th February 2016 sent by the Regional Director to the Income Tax Department, inviting their objections, if any. A response has been received from the said Department in respect of two companies, where it has been clarified that in the case of the Transferor Company, there are no outstandings and hence there is no objection to the Scheme. In case of the Transferee Company, there are some pending demands which are challenged and hence pending before the Appellate Authorities. The Transferee Company has confirmed that it shall fulfil its statutory liability as and when finally adjudicated. No response has so far been received in the case of the other companies and hence it can be presumed that there are no objections.



OICOMP/242018

ORDER

Further, the petitioner companies agree to comply with the applicable provisions of the Income Tax Act and rules. In view of the same, no further directions are required to be issued to the petitioner companies in this regard.

10.9 The Regional Director has confirmed that no complaints have been received against the petitioner companies in the office of the Registrar of Companies and there are no other objections to the Scheme.

11. This Court has heard Mrs. Swati Saurabh Soparkar, learned advocate for the petitioner companies as well as learned counsel appearing for the Central Government. Considering all the above facts and circumstances and taking into account all the contentions raised by the affidavits and counter-affidavits, as well as the submissions advanced during the course of hearing, this Court is satisfied that the observations made by the Regional Director, Ministry of Corporate Affairs, have been satisfactorily redressed. It appears to this Court that the present Scheme of Arrangement would be in the interest of the shareholders and creditors of all the



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companies as well as in the public interest and the same deserves to be sanctioned.

12. The prayers in terms of paragraph 16 (a) of Company Petitions Nos.24, 25, 26, 27 and 28 of 2016 and paragraph-23(a) of Company Petition No.59 of 2016 are hereby granted.

13. The petitions are disposed of, accordingly. So far as the costs to be paid to the Central Government Standing Counsel are concerned, they are quantified at Rs.7,500/- per petition. The same may be paid to Mr.Devang Vyas, learned Assistant Solicitor General of India. Costs of Rs.7,500/- per petition be paid to the Office of the Official Liquidator, towards costs for the Transferor Companies.

14. The petitioner companies are further directed to lodge a copy of this order, the detailed schedule of immovable assets of the Transferor Companies and the Scheme, duly authenticated by the Registrar, High Court of Gujarat, with the concerned Superintendent of Stamps, for the purpose of adjudication of stamp duty, if any, on the same within 60 days from the date of



COMP242015

ORDER

the order.

15. The Petitioner companies are directed to file a copy of this order along with a copy of the Scheme with the concerned Registrar of Companies, electronically, along with INC-28 in addition to physical copy as per relevant provisions of the Act.

16. Filing and issuance of drawn up order is hereby dispensed with.

17. All concerned authorities to act on a copy of this order along with the Scheme duly authenticated by the Registrar, High Court of Gujarat. The Registrar, High Court of Gujarat shall issue the authenticated copy of this order along with the Scheme as expeditiously as possible.

RL

(SMT. ABHILASHA KUMARI, J.)

GAURAV

TRUE COPY

DEPUTY/ ASSISTANT REGISTRAR
THIS 9-5-16 DAY OF

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