

O.U. No. 36267 14

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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

(ORIGINAL JURISDICTION)

19/12/98
22/12/98 COMPANY PETITION NO. 142 OF 1998

connected with

COMPANY APPLICATION NO. 134 OF 1998

CORRECTED BY:-

22/12

Section Officer

Deccan Department

22/12/98

In the matter of :

Gujarat Ambuja Proteins Limited.

a Company registered under the Companies Act, 1956 and having its registered office at "Ambuja Tower", Opp. Memnagar Fire Station, Navrangpura, P.O.Navjivan, Ahmedabad 380 014, in the state of Gujarat.

Gujarat Ambuja Proteins Limited.

a Company registered under the Companies Act, 1956 and having its registered office at "Ambuja Tower", Opp. Memnagar Fire Station, Navrangpura, P.O.Navjivan, Ahmedabad 380 014, in the state of Gujarat.....Petitioner

BEFORE HONOURABLE Mr. JUSTICE H.L.GOKHALE

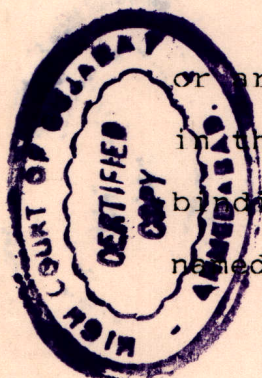
Date : 17th December, 1998

Order On Petition

The above petition coming on for hearing on 17th December 1998, upon reading the said petition, the orders dated 7.4.1998 and 16.4.1998 in the Company Application No. 134 of 1998 whereby the petitioner was directed to convene the meetings of the shareholders, secured and unsecured creditors of the above Company for the purpose of considering, and if thought fit, approving, with or without modification the compromise or arrangement proposed to be made between the said Company and its shareholders and creditors in the matter of Amalgamation of the petitioner-company with Gujarat Ambuja Exports Limited and annexed to the affidavit of Shri V.K.Gupta filed on the 6.4.1998 and 'The

Indian Express' English Daily dated 4.5.1998 and 'Jansatta' Gujarati Daily dated 4.5.1998 containing each the advertisement of the said notice convening the said meetings directed to be held by the said order dated 7.4.1998, the affidavit of Shri B.S.Trivedi filed on 23.5.1998 showing the publication and despatch of the notices convening the said meetings, the reports dated 24.6.1998 filed by the chairman of the said meetings dated 2.6.1998, 4.6.1998 and adjourned meeting dated 18.6.1998 as to the result of the said meetings, and upon hearing Mrs. Swati S. Soparkar, Advocate for the petitioner Company and Shri Jayant Patel, Additional Central Government Standing Counsel appearing for the Central Government and it appearing from the reports that the proposed compromise or arrangement has been approved by statutory majority of Equity Shareholders and Unsecured Creditors and unanimously by all the Secured Creditors of the company, and it appearing from the report dated 14.10.1998 of the Official Liquidator, Gujarat High Court, that the affairs of the Company have not been conducted in a manner prejudicial to the interest of its members or to the public interest and that the objections raised by various shareholders of the petitioner company having been overruled.

This Court doth hereby sanction the compromise or arrangement set forth in para 8 of the petition herein and in the Schedule hereto and doth hereby declare the same to be binding on the creditors and shareholders of the abovenamed company and also on the abovenamed company.



And this Court doth further order that parties to the compromise or arrangement or other persons interested shall be at liberty to apply to this Court for any direction that may be necessary in regard to the working of the compromise or arrangement, and

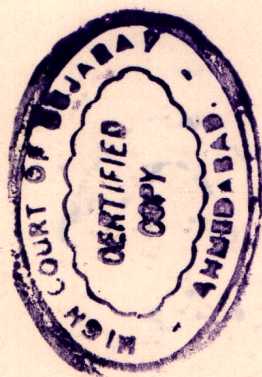
That the said company do file with the Registrar of the Companies a certified copy of this order within 30 days from the date of obtaining the same, and

This Court doth further order payment of Rs. 2,500/- in aggregate as the cost of this petition awardable to Shri Jayant Patel, Central Government Standing Counsel.

SCHEDULE

Scheme of Compromise or Arrangement as sanctioned by the court.

Dated this 17th day of December 1998.



**Scheme of Amalgamation of GUJARAT AMBUJA COTSPIN LIMITED and
GUJARAT AMBUJA PROTEINS LIMITED with GUJARAT AMBUJA EXPORTS LIMITED**

1. (a) With effect from the First day of April 1997, (hereinafter called "the appointed day") and subject to the provisions of this scheme in relation to the mode of transfer and vesting provided hereunder, the entire undertaking and all the properties, rights and powers of every description of GUJARAT AMBUJA COTSPIN LIMITED (GACL) and GUJARAT AMBUJA PROTEINS LIMITED (GAPL) (hereinafter called the Transferor Companies) be transferred to and vested in or be deemed to be transferred to or vested in GUJARAT AMBUJA EXPORTS LIMITED (GAEL) (hereinafter called "The Transferee Company").

EXPLANATION: The undertaking of the Transferor Company includes all rights, powers, authorities and privileges, and all properties, movable or immovable including leases and tenancy rights and cash balances, reserves, revenue balances and investments and all other interests and rights in or arising out of such property as may belong to or be in possession of the Transferor Company immediately before the appointed day including all licenses and import quotas issued to the Transferor Company or to which it may be entitled to in future, even after the appointed day, rights arising from any other contracts, agreements, advances of money of all kind, recoverable claims, the right to receive payments of deposits or securities, if any made by the Transferor Company together with interest thereon, benefits of all agreements and all rights under various schemes of different Taxation Laws including the central and state cash subsidies as may belong to or be in possession of, or be available to the Transferor Company immediately before the appointed day or to which it may be entitled to in future, even after the appointed day, all books of account and documents relating thereto and also the debts and liabilities of the Transferor Company immediately before the appointed day and all other obligations whatsoever account then existing of the Transferor Company.

1. (b) It is expressly provided that in respect of such of the assets as are movable in nature or are otherwise capable of transfer by delivery or by endorsement and delivery, the same shall be so transferred by the Transferor Company, without requiring any deed or instrument of conveyance for the same and shall become the property of the Transferee Company accordingly.
1. (c) In respect of such of the assets other than those referred to in paragraph (b) above, the same shall, without further act, instrument or deed, be transferred to and vested in and/or deemed to be transferred to and vested in the Transferee Company on the appointed day in accordance with the provisions of section 394 of the Companies act, 1956.
2. All the liabilities and duties of the Transferor Companies with effect from the said appointed day also be transferred or deemed to be transferred without further act or deed to the Transferee Company so as to become the liabilities and duties of the Transferee Company.
3. If any suit, appeal or other proceeding of whatever nature by or against any of the Transferor Companies be pending the same shall not abate or be discontinued or be in any way prejudicially affected by reason of the amalgamation or by anything contained in this Scheme, but the said suit, appeal or other legal proceedings may be continued, prosecuted and enforced in the same manner and to the same extent by or against the Transferee Company in the same manner and to the same extent as it would or might have been continued, prosecuted and enforced by or against the Transferor Company as if this Scheme had not been made.
4. Subject to other provisions contained in this Scheme all contracts, deeds, bonds, agreements and other instruments of whatever nature to which the Transferor Company is party subsisting or having effect immediately before amalgamation shall be in full force and effect against or in favour of the Transferee Company and may be endorsed as fully and effectively as if instead of the Transferor Company the Transferee Company had been the party thereof.
5. On amalgamation of the Transferor Company with the Transferee Company the services of all the employees of the Transferor Companies shall stand transferred to the Transferee company on the terms and conditions not less favorable than those subsisting with reference to the Transferor Companies and without entailing any break in the continuity of service to the intent and effect that such employees had always been the employees of the Transferee Company. The position, rank, and designation of the employees would be decided by the Transferee Company.
6. The Transfer of property and liabilities under Clauses 1 and 2 and the continuance of proceedings by the Transferee Company under Clause 3 shall not effect any transaction or proceedings already concluded by any of the Transferor Companies on or after the First day of April 1997 to the end and intents that the Transferee Company accepts and adopts all acts, deeds and things done and executed by the Transferor Companies in regard thereto as done and executed on behalf of itself.
7. With effect from the Appointed date i.e. First day of April 1997, Upon the date on which this Scheme takes effect i.e. the Effective Date:
- (a) the Transferor Companies shall carry on and be deemed to have carried on all their business and activities and shall be deemed to have held and stood possessed of and shall hold and stand possessed of all the said Assets for and on account of and in trust for the Transferee Company;
- (b) all the profits or incomes accruing or arising to the Transferor Companies shall for all purposes be treated and be deemed to be and accrue as the profits or incomes or expenditure or losses of the Transferee Company, as the case may be;
- (c) the Transferor Companies shall carry on their business and activities with reasonable diligence, business prudence and shall not alienate, change, mortgage, encumber or otherwise deal with the said Assets or any part thereof, except in the ordinary course of business, without the prior consent of the Transferee Company prior to the Appointed Date.
8. On the Scheme becoming effective, the Transferor Companies be dissolved without winding up.
9. (a) The amalgamation of the Transferor Companies with the Transferee Company will be made on the basis that the Transferee Company shall issue and allot in its Capital at par, credited as paid up to the extent indicated below, to those Members of the Transferor Companies whose names appear in the respective Register of Members on date to be fixed by the Directors of the Transferee Company or to such of their respective heirs, executors, administrators or other legal representatives or other successors in title as may be recognized by the Board of Directors of the Transferee Company and approved by them to be placed on its Register of Members in the following proportion namely:
- (i) One (1) fully paid up Equity Share of Rs.10/- each of the Transferee Company shall be issued for every four (4) fully paid up Equity Shares of Rs.10/- each held by the members of the First Transferor Company i.e. GACL or their heirs, executors, administrators or their legal representatives or their successors in title as the case may be.
- (ii) One (1) fully paid up Equity Share of Rs.10/- each of the Transferee Company shall be issued for every Five (5) fully paid up Equity Shares of Rs.10/- each held by the members of the Second Transferor Company i.e. GAPL or their heirs, executors, administrators or their legal representatives or their successors in title as the case may be.



- (ii) One (1) fully paid up Equity Share of Rs.10/- each of the Transferee Company shall be issued for every Five (5) fully paid up Equity Shares of Rs.10/- each held by the members of the Second Transferor Company i.e. GAPL or their heirs, executors, administrators or their legal representatives or their successors in title as the case may be. The new Equity Shares of the Transferee Company to be allotted to the members of the Transferor Companies shall rank for dividend, voting rights and in all other respects pari passu with the existing Equity Shares of the Transferee Company.
9. (b) The fractions arising due to the above Exchange Ratio shall be treated as under:
No fractional certificates shall be issued by the Transferee Company in respect of the fractional entitlements, if any, to which the members of the Transferor Company may be entitled on issue of allotment of the shares by the Transferee Company as aforesaid. The directors of the Transferee Company shall instead consolidate all such fractional entitlements and allot shares in lieu thereof to a Director or an Authorised Officer of the Transferee Company with the express understanding that such Director or the Officer shall sell the same in the market at the best available price in one or more lots and by private sale/placement or by public sale/ auction as deemed fit (the decision of such Director or the Officer as the case may be as to the timing and method of the sale and the price at which such sale has been given effect to shall be final) and pay the sale proceeds to the Transferee Company. The net sale proceeds thereupon, shall be distributed among the members of the Transferor Company in proportion of their fractional entitlements by the Transferee Company. Both the sale and distribution of sale proceeds shall be undertaken in due consultation with the respective Stock Exchanges.
- 9 (c). For the purpose as aforesaid, the Transferee Company shall, if and to the extent required, apply for and obtain any approvals including that of the Reserve Bank of India and other concerned authorities, for the issue and allotment by the Transferee Company to the respective Members of the Transferor Companies, the Equity Shares in the said reorganised share capital of the Transferee Company in the ratio as aforesaid.
- 9 (d). Upon this Scheme becoming finally effective, all shareholders of the Transferor Companies if so required by the Transferee Company, shall surrender their share certificates for cancellation thereof to the Transferee Company. Notwithstanding anything to the contrary, upon the issue and allotment of new shares in the Transferee Company to the eligible shareholders of the Transferor Company, whose names appear in its Register of Members on date to be fixed by the Directors of the Transferee Company, the share certificates in relation to the shares held by them in the Transferor Company shall be deemed to have been automatically cancelled and be of no effect, on and from such Record Date and the Transferee Company may at its option instead of requiring the surrender of the share certificates, as above, directly issue and despatch new share certificates of the Transferee Company in lieu thereof.
- 9 (e). The shares held by the Transferor Companies inter se and in the Transferee Company shall stand canceled on amalgamation.
10. It is further provided that upon the Scheme coming into effect, the respective balance/s appearing under the head "Miscellaneous Expenditure (to the extent not written off or adjusted)" in the books of the Transferor Company shall be debited by the Transferee Company to Miscellaneous Expenditure (to the extent not written off or adjusted) Account" and the same shall thereafter be dealt with, in the same manner as they would have been, had they been incurred by the Transferee Company, viz. adjusted against the General Reserve of the Transferee Company.
11. (a) Subject to the provisions of Clause 10 above, the excess of the value of the net assets of the Transferor Company and (which shall include the balance under the heads of "Miscellaneous Expenditure" mentioned in Clause 10 above) as appearing in the books of account of the Transferor Companies over the paid up value of the shares to be issued and allotted pursuant to the terms of Clause 9 above, shall be accounted for and dealt with, in the books of the Transferee Company as follows:-
- An amount equal to the balance lying to the credit of the General Reserve in the books of account of the Transferor Companies shall be credited by the Transferee Company to its General Reserve and shall constitute the Transferee Company's free reserve as effectively as if the same were created by the Transferee Company out of its own earned and distributable profits.
 - Investment allowance (utilised) reserve lying in the books of account of Transferor Company, being in the nature of general reserve, will be clubbed under the head of general reserve in the books of Transferee Company.
 - An amount equal to the balance lying to the credit of Revaluation Reserve in the books of account of the Transferor Company shall be credited by the Transferee Company to an account to be styled as "Amalgamation Reserve Account". The said account shall be considered as a free reserve and shall form part of the net worth of the Transferee Company.
 - An amount equal to the balance lying to the credit of "Profit and Loss Account" in the books of account of the Transferor Company shall be credited by the Transferee Company to its Profit and Loss Account and shall constitute the Transferee Company's free reserve as effectively as if the same were created by the Transferee Company out of its own earned and distributable profits.
 - An amount equal to the balance of the "Share Premium Account" and Debenture for Future Reserves in the books of the Transferor companies shall be credited to the General Reserve in the books of the Transferee Company.
 - An amount equal to the balance of Share Forfeiture Reserve in the books of the Transferor Companies shall be credited to Capital Reserve in the books of the Transferee Company.
 - The balance shall be credited by the Transferee Company to an account to be styled as "Amalgamation Reserve Account". The said account shall be considered as a free reserve and shall form part of the net worth of the Transferee Company.
11. (b) Notwithstanding the above the Board of Directors of the Transferee Company in consultation with its Auditors, is authorised to account any of these balances in any manner whatsoever as may be deemed fit.
12. The Transferor Companies shall with all reasonable despatch, make applications to the High Court of Gujarat at Ahmedabad for sanctioning this Scheme of Amalgamation under Section 391 of the Companies Act, 1956 and for an order or orders under Section 394 thereof for carrying this scheme into effect and for dissolution of the Transferor Companies without winding up. The Transferee Company also shall make application to the High Court of Gujarat at Ahmedabad for sanctioning the Scheme of Amalgamation of the Transferor Companies with the Transferee Company under the said provisions of law.
13. The Transferor Companies by their Directors and the Transferee Company by its Directors, may assent, on behalf of all persons concerned to any modifications or amendments of this Scheme or of any conditions which the Court may deem fit to approve of or impose and solve all difficulties that may arise for carrying out the Scheme and do all acts, deeds and things necessary for putting the Scheme into effect.
14. For the purpose of giving effect to this Scheme of Amalgamation or to any modification thereof the Directors of the Transferee Company may give and are authorised to give such directions including directions for settling any question of doubt or difficulty that may arise in case of issue and allotment of shares.
15. This Scheme is conditional on the Scheme being agreed to by the requisite majorities as are referred to hereinabove and sanctioned by the High Court under Section 394 of the Companies Act, 1956 for and on behalf of the Transferor Companies and the Transferee Company and the necessary order or orders under Section 394 of the Companies Act, 1956 referred to hereinabove being obtained.

Dated this 17th day of December, 1998.

Witness K. G. BALAKRISHNAN Esquire, ^h
the Chief Justice at Ahmedabad
aforesaid this 17th day of December
One Thousand Nine Hundred Ninety Eight.

By the order of the Court

^{SP}
DD Lal 21/12/98
For Joint Registrar

this 21st day of December 1998

Alkhan
19/12/98

Order drawn by :



h ch
(Swati Saurabh Soparkar)
Advocate

Menez 21/12/98
Sealer

This day of December 1998

22 711
For Deputy Registrar
This 22 day of Dec 1998