

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDigarh

ORIGINAL JURISDICTION

COMPANY PETITION NO. 198 OF 2001

CONNECTED WITH

*COMPANY PETITION NO. 138 OF 2001

COMPANY PETITION NO. 198 OF 2001

IN THE MATTER OF SECTION 391 AND 397 OF THE COMPANIES ACT, 1956

AND

IN THE MATTER OF SCHEME OF AMALGAMATION OF

OSWAL COTTON MILLS LIMITED

WITH

NAHAR INDUSTRIAL ENTERPRISES LIMITED

IN THE MATTER OF THE COMPANIES ACT, 1956

AND

IN THE MATTER OF

OSWAL COTTON MILLS LIMITED

PETITIONER NO. 1.

Regd. Office : Focal Point, Ludhiana - 141 010

Through Mr. Dinesh Oswal, Director

NAHAR INDUSTRIAL ENTERPRISES LIMITED

PETITIONER NO. 2

Regd. Office : Focal Point, Ludhiana - 141 010

Through Mr. Dinesh Gogna, Director

Both Companies incorporated under the Companies Act, 1956 Petitioners

Application under section 394 of the Companies Act, 1956 for sanction of the Scheme of Amalgamation of Oswal Cotton Mills Limited (Transferor Company) with Nahar Industrial Enterprises Limited (Transferee Company) having their registered office at Focal Point, Ludhiana - 141 010 in the State of Punjab :-

PRAYER :-

That the Scheme of Amalgamation (Annexure P-7) as envisaged in this petition may be sanctioned by this Hon'ble Court as to be binding with effect from 1st April, 2001 on both the Companies and their Shareholders and all concerned and

That all the properties, rights and powers of Oswal Cotton Mills Limited may be transferred to the entire Undertaking(s) held by them along with all its assets and liabilities, furniture,

Examiner of Accounts
High Court of Punjab & Haryana
Authorised under Section 74
of 1973 I.B. Act
Per Private Secy

22
fixtures, office equipment, vehicles, stock-in-trade, together with all other assets, quotas, tenancy and lease rights, industrial and other licenses, offices, deposits, trade marks, privileges and benefits of all contracts, agreements, inventory and sundry debtors, cash and bank balances, loans and advances and other current assets, investments and work in progress including all liabilities towards sundry creditors, acceptances, advances, security deposits, interest accrued but not due, advances from customers and other liabilities and all permanent employees in pursuant to section 394(2) of the Act, without any further act or deed, be transferred to and vested in or be deemed to have been transferred to and vested in Nahar Industrial Enterprises Limited for all rights, titles and interest therein, absolutely but subject to all existing charges thereon. A Short description of Freehold/Leasehold property and other properties of Oswal Cotton Mills Limited, so vested, will be filed as when required by this Hon'ble High Court; and

- iii. That all proceedings and/or suits and/or appeals now pending by or against Oswal Cotton Mills Limited regarding their dealings shall be continued by or against Nahar Industrial Enterprises Limited.
- iv. That the Petitioners shall within 30 days of obtaining the Certified copy of this order cause a copy thereof to be filed in the Court of Session at Jalandhar, H.P. & Chandigarh at Jalandhar for Registration.
- v. That any person interested shall be at liberty to apply to this Hon'ble Court in the above matter for such directions as may be necessary.
- vi. That such further or other orders be made and/or directions be given as this Hon'ble Court may deem fit and proper.

COMPANY APPLICATION NO. 673 OF 2001

COMPANY APPLICATION NO. 673 OF 2001

OSWAL COTTON MILLS LIMITED

NAHAR INDUSTRIAL ENTERPRISES LIMITED

PETITIONER NO. 1

PETITIONER NO. 2

APPLICATION UNDER SECTION 151 OF CPC WITH PUBLICATION OF NOTICE OF HEARING AS CONTEMPLATED UNDER RULE 80 OF THE COMPANIES (COURT) RULES, 1959.

PRAYER:-

That the publication of Notice as contemplated under Rule 80 of the Companies (Court) Rules, 1959 may kindly be dispensed with under the inherent powers of the court in the interest of Justice.

COMPANY PETITION NO. 138 OF 2001

IN THE MATTER OF SECTION 391 AND 394 OF THE COMPANIES ACT, 1956

OSWAL COTTON MILLS LIMITED

VS

NAHAR INDUSTRIAL ENTERPRISES LIMITED

IN THE MATTER OF THE COMPANIES ACT, 1956

AND

IN THE MATTER OF

OSWAL COTTON MILLS LIMITED

PETITIONER NO. 1

Regd. Office : Focal Point, Ludhiana - 141 010

Through Mr. Dinesh Oswal, Director

NAHAR INDUSTRIAL ENTERPRISES LIMITED

PETITIONER NO. 2

Both Companies incorporated under the Companies Act, 1956 Petitioners

An Application under section 391(2) and 394 of the Companies Act, 1956 for sanction of the Scheme of Amalgamation of Oswal Cotton Mills Limited (Transferor Company) with Nahar Industrial Enterprises Limited (Transferee Company) having their registered office at Focal Point, Ludhiana - 141 010 in the State of Punjab:-

- 4 -

PRAYER

Hon'ble Justice
High Court
Chandigarh

- i. That the meeting of Equity Shareholders of the Transferor Company, as the entire equity share capital of the Transferor Company is held by the Transferee Company, either itself or through its nominees, may be exempted, as all the equity shareholders have given their no objection to the Scheme of Amalgamation. The meeting of Preference Shareholders of the Transferor Company, as the Preference Share Capital of the Transferor Company is held by two shareholders viz. Nahar Spinning Mills Limited and Oswal Woollen Mills Limited, may be exempted as both the Preference Shareholders have given their no objection to the Scheme of Amalgamation of Oswal Cotton Mills Limited with Nahar Industrial Enterprises Limited; and
 - ii. That the directions be given to call meetings of secured and unsecured creditors of the Transferor Company i.e., Oswal Cotton Mills Limited and Equity Shareholders and of the secured and unsecured creditors of the Transferee Company i.e., Nahar Industrial Enterprises Limited, and to fix the date, time and place of such meeting, along with the appointment of Chairman/Alternate Chairman for the meeting and other matter(s) as provided in Rule 69 of the Company (Court) Rules, 1959; and
 - iii. That a notice of the meeting of the Shareholders, secured and unsecured creditors may be ordered to be advertised in daily Business Standard (English, all editions), Punjabi Tribune (Punjabi) and the Punjab Gazette as required by Rule 74 of the Company (Court) Rules, 1959; and
 - iv. That a notice be issued to the Central Government through Regional Director (Northern Region), Department of Company Affairs, Ministry of Law, Justice and Company Affairs, Kanpur as required by Section 394-A of the Companies Act, 1956 and also to the Official Liquidator attached to this Hon'ble Court;
 - v. That the Scheme of Amalgamation (Annexure - II) as envisaged in this petition may be sanctioned by this Hon'ble Court as to be binding with effect from 1st April, 2001 on both the Companies and their Shareholders and all concerned; and
 - vi. That all the properties, rights and powers of Oswal Cotton Mills Limited inclusive of the entire Undertaking(s) held by them along with all its assets and liabilities, furniture, fixtures, office equipment, vehicles, capital work in progress, together with all permits, quotas, tenancy and lease rights, industrial and other licenses, offices, deposits, trade marks, privileges and benefits of all contracts, agreements, inventory and sundry debtors, cash and bank balances, loans and advances and other current assets,
- 4

Examiner Judicial Department
High Court of Punjab & Haryana
Fardiga

investments and work in progress including all liabilities towards sundry creditors, acceptances, advances, security deposits, interest accrued but not due, advance from customers and other liabilities and all permanent employees in pursuant to section 394(2) of the Act, without any further act or deed, be transferred to and vested in or be deemed to have been transferred to and vested in Nahar Industrial Enterprises Limited for all rights, titles and interest therein, absolutely, but subject to all existing charges thereon. A Short description of Freehold/Leasehold property and other properties of Oswal Cotton Mills Limited, so vested, will be filed as when required by this Hon'ble High Court; and

- vii. That such further or other orders be made and/or directions be given as this Hon'ble Court may deem fit and proper.

BEFORE HON'BLE MR. JUSTICE R.L. ANAND

DATED THE 3TH NOVEMBER 2001.

The Company Petition No. 198 of 2001 coming on for hearing on 8th November 2001 duly supported by affidavits of Sh. Dinesh Oswal, Director of Transferor Company and Sh. Dinesh Gogna, Director of Transferee Company both dated 29.10.2001; upon perusing the said petition and Company Application No. 673 of 2001 duly supported by the affidavit of Sh. Kamal Oswal, Director of Transferor Company and Sh. Dinesh Oswal, Director of Transferee Company both dated 06.11.2001 for dispensing with the publication of notice of hearing of petition under section 391 read with 394 of the Companies Act, 1956; upon perusing the report dated 02.11.2001 of Official Liquidator attached to this court and the report of Sh. Atul Gandhi, Regional Director (Northern Region), dated 01.11.2001 showing that the affairs of the company have not been conducted in a manner prejudicial to the interest of its members or public interest and also upon hearing Sh. Atul Gandhi, Advocate for the Petitioners this court doth order :-

1. That all the property and rights and powers of the transferor company specified in the first, second and third parts of the schedule hereto and all other property, rights and powers of the transferor company be transferred without further act or deed to the transferee company and accordingly the same shall pursuant to section 394(2) of the Companies Act, 1956 be transferred to and vest in the transferee company for all the estate and interest of the transferor company therein but subject nevertheless to all charges now affecting the same;
2. That all the liabilities and duties of the transferor company be transferred without further act or deed to the transferee company and accordingly the same shall pursuant to

-6-

Registrar Judicial Department
High Court of Justice & Harrow
Chancery Lane

Section 394(2) of the Companies Act, 1956 be transferred to and become "the liabilities and duties of the transferee company; and

3. That all the proceedings now pending by or against the transferor company be continued by or against the transferee company; and
4. That the transferee company do without further application allot to such members of the transferor company as have not given such notice as required in the scheme of amalgamation herein the shares in the transferee company which they are entitled under the said scheme of amalgamation; and
5. That the transferor company do within thirty days after the date of this order cause a certified copy of this order to be delivered to the Registrar of Companies for registration and on such certified copy being so delivered the transferor company shall be dissolved as per the scheme of amalgamation and the Registrar of Companies shall place all documents relating to the transferor company and registered with him or the file kept by him in relation to the transferee company and files relating to the said two companies shall be consolidated accordingly; and
6. That any person interested shall be at liberty to apply to the Court in the matter for any directions that may be necessary.

Schedule

SCHEDULE

PART - I

(Short description of the freehold property of the Transferor Company as at 31st March, 2001)

Examiner Judicial Department
High Court of Punjab & Haryana
(Amritsar)

Particulars	Gross Block	Net Block
Land	3,21,16,433.00	3,21,16,433.00
Building	16,04,85,368.31	15,78,69,819.31
Plant and Machinery	71,13,09,456.73	67,25,36,038.53
Furniture and Fixture	43,38,941.78	26,50,171.07
Office Equipment	15,93,897.51	12,57,022.25
Vehicles	38,39,658.40	35,32,160.00
Computer	18,45,822.85	15,51,310.85
Capital Work in Progress		6,80,92,764.53

PART - II

(Short description of the Leasehold property of the Transferor Company as at 31st March, 2001)

Nil

PART - III

(Short description of all Stocks, Shares, Debentures and other Charges in the action of the Transferor Company as at 31st March, 2001)

1. Raw Material	79,49,504.42
2. Stores and Spares	4,51,82,038.07
3. Work in Process	6,59,17,955.00
4. Finished Goods	17,92,11,235.00
Sundry Debtors	17,71,10,895.43
Cash in hand including Stamps	2,88,246.96
Balance with banks	1,28,999.41
Loans and Advances	3,33,33,280.60
Security Deposits	13,82,442.00
Balance with Excise Authorities	

8
Dated the 8th day of November 2001

(By the Court)

K Sandhu

Asst. Registrar (Civil and Criminal)

For Registrar (Judicial)

B. Singh

certified to be

EXAMINED

High Court
Ludhiana.

[Signature]
Punjab & Haryana

Per Private Use
Examiner Judicial Department
High Court of Punjab
Authorized and
at 1977-78

COMPANY PETITION NO. 135 OF 2001

COMPANY PETITION NO. 125-10000

IN THE MATTER OF SECTION 391 AND 394 OF THE COMPANIES ACT, 1956

IN THE MATTER OF SCHEME OF AFFAIRS OF THE ...

WITH

IN THE MATTER OF THE COMPANIES ACT, 1956

IN THE MATTER OF

PETITIONER NO. 1

Through Mr. Dinesh Oswal, Director

PETITIONER NO. 2

Through Mr. Kamal Oswal, Director

Both Companies incorporated under the Companies Act, 1956

PRAYER

- i. That the meeting of Equity Shareholders of the Transferor Company, as the entire equity share capital of the Transferor Company is held in the Transferor Company, and an authorized person is nominated by the Transferor Company to receive the shares of the Transferor Company in the name of the transferee company.

Transferor Judicial Department
High Court of Judicature at Harwar

Transferor Company is held by two shareholders viz. Nahar Spinning Mills Limited and Oswal Woollen Mills Limited, may be exempted as both the Preference Shareholders have given their no objection to the Scheme of Amalgamation of Oswal Cotton Mills Limited with Nahar Industrial Enterprises Limited; and

- ii. That the directions be given to call meeting of secured and unsecured creditors of the Transferor Company i.e. Oswal Cotton Mills Limited and Equity Shareholders and the secured and unsecured creditors of the Transferee Company i.e. Nahar Industrial Enterprises Limited, and to fix the date, time and place of such meeting, along with the appointment of Chairman/Alternate Chairman for the meeting and other matter(s) as provided in Rule 69 of the Company (Court) Rules, 1959; and
- iii. That a notice of the meeting of the Shareholders, secured and unsecured creditors may be ordered to be advertised in daily Business Standard (English, all editions), Punjabi Tribune (Punjabi) and the Punjab Gazette as required by Rule 74 of the Company (Court) Rules, 1959; and
- iv. That a notice be issued to the Central Government through Regional Director (Northern Region), Department of Company Affairs, Ministry of Law, Justice and Company Affairs, Kanpur as required by Section 394-A of the Companies Act, 1956 and also to the Official Liquidator attached to this Hon'ble Court;
- v. That the Scheme of Amalgamation (Annexure P-11) as envisaged in this petition may be sanctioned by this Hon'ble Court as to be binding with effect from 1st April, 2001 on both the Companies and their Shareholders and all concerned; and
- vi. That all the properties, rights and powers of Oswal Cotton Mills Limited inclusive of the entire Undertaking(s) held by them along with all its assets and liabilities, furniture, fixtures, office equipment, vehicles, capital work in progress, together with all permits, quotas, tenancy and lease rights, industrial and other licenses, offices, deposits, trade marks, privileges and benefits of all contracts, agreements, inventory and sundry debtors, cash and bank balances, loans and advances and other current assets, investments and work in progress including all liabilities towards sundry creditors, acceptances, advances, security deposits, interest accrued but not due, advance from customers and other liabilities and all permanent employees in pursuant to section 394(2) of the Act, without any further order of the Court, shall be deemed to have been transferred to the Transferee Company, Nahar Industrial Enterprises Limited for all rights, titles and interest therein, absolutely and without any encumbrance or charges thereon. A Short description of Freehold/Leasehold property and other properties of

Oswal Cotton Mills Limited, so vested, will be filed as when required by this Hon'ble
High Court; and

- vii. That such further or other orders be made and directions be given as this Hon'ble
Court may deem fit and proper.

COMPANY PETITION NO. 198 OF 2001

IN THE MATTER OF AN APPLICATION UNDER SECTION 391 AND 394 OF
THE COMPANIES ACT, 1956

AND

IN THE MATTER OF SCHEME OF AMALGAMATION OF
OSWAL COTTON MILLS LIMITED

WITH

NAHAR INDUSTRIAL ENTERPRISES LIMITED

IN THE MATTER OF THE COMPANIES ACT, 1956

OSWAL COTTON MILLS LIMITED

PETITIONER NO. 1

Regd. Office : Focal Point, Ludhiana - 141 010

Through Mr. Dinesh Oswal, Director

NAHAR INDUSTRIAL ENTERPRISES LIMITED

PETITIONER NO. 2

Regd. Office : Focal Point, Ludhiana - 141 010

Through Mr. Dinesh Gogna, Director

An Application under section 391 and 394 of the Companies Act, 1956 for sanction of the
Scheme of Amalgamation of Oswal Cotton Mills Limited (Transferor Company) with Nahar
Industrial Enterprises Limited (Transferee Company) having their registered office at Focal
Point, Ludhiana - 141 010 in the State of Punjab.

PRAYER:-

- i. That the Scheme of Amalgamation (Annexure P-7), as envisaged in this petition may be
sanctioned by this Hon'ble Court as to be binding with effect from 1st April, 2001 on both
the Companies and their Shareholders and all concerned and

Examiner Judicial
High Court of Punjab
That all the properties, rights and powers of Oswal Cotton Mills Limited and its entire Undertaking(s) held by them along with all its assets and liabilities, furniture, fixtures, office equipment, vehicles, capital work in progress, together with all permits, quotas, tenancy and lease rights, industrial and other licenses, offices, deposits, trade marks, privileges and benefits of all contracts, agreements, inventory and sundry debtors, cash and bank balances, loans and advances and other current assets, investments and work in progress including all liabilities towards sundry creditors, acceptances, advances, security deposits, interest accrued but not due, advance from customers and other liabilities and all permanent employees in pursuant to section 301(2) of the Act, without any further act or deed, be transferred to and vested in or be deemed to have been transferred to and vested in Nahan Industrial Enterprises Limited for all rights, title and interest therein, absolutely but subject to all existing charges thereon. A Short description of Freehold/Leasehold property and other properties of Oswal Cotton Mills Limited, so vested, will be filed as when required by this Hon'ble High Court; and

iii. That all proceedings and/or suits and/or appeals now pending by or against Oswal Cotton Mills Limited regarding their dealings shall be continued by or against Nahan Industrial Enterprises Limited.

iv. That the Petitioners shall within 30 days from the date of obtaining the Certificate of this order cause a copy thereof to be delivered to the Registrar of Companies, Punjab, H.P. & Chandigarh at Jalandhar for Registration.

v. That any person interested shall be at liberty to apply to this Hon'ble Court in the above matter for such directions as may be necessary.

vi. That such further or other orders be made and/or directions be given as this Hon'ble Court may deem fit and proper.

contd p. 5

COMPANY APPLICATION NO. 673 OF 2001

COMPANY APPLICATION NO. 673 OF 2001

IN COMPANY PETITION NO. 198 OF 2001

CONNECTED WITH COMPANY PETITION NO. 138 OF 2001

OSWAL COTTON MILLS LIMITED

PETITIONER NO. 1

AND

NAHAR INDUSTRIAL ENTERPRISES LIMITED

PETITIONER NO. 2

APPLICATION UNDER SECTION 151 OF CPC FOR DISPENSING WITH PUBLICATION OF NOTICE OF HEARING AS CONTEMPLATED UNDER RULE 80 OF THE COMPANIES (COURT) RULES, 1959.

PRAYER:-

That the publication of Notice as contemplated under Rule 80 of the Companies (Court) Rules, 1959 may be dispensed with by the court in the interest of justice.

BEFORE HON'BLE MR. JUSTICE R.L. ANAND

DATED THE 8TH NOVEMBER 2001.

The above noted Company Petition coming on for hearing on 8th November 2001 before Hon'ble Mr. Justice R.L. Anand, upon reading the said petition the order dated 6th September 2001 whereby the exemption has been granted for convening the meetings of the Equity and Preference Share holders of Oswal Cotton Mills Limited (Transferor Company) and separate meetings of the Secured and Unsecured Creditors of the said company were ordered to be convened on 27.10.2001 at 12.00 Noon and 12.30 PM respectively and the meetings of Shareholders, Secured and Unsecured Creditors of Nahar Industrial Enterprises Limited (Transferee Company) were directed to be held on 27.10.2001 at 12.00 Noon and 12.30 PM respectively and it was further directed that the said meetings should be held in the presence of the Chairmen of the meetings and it was further directed that the said meetings should be held in the presence of the Chairmen of the meetings and it was further directed that the said meetings should be held in the presence of the Chairmen of the meetings.

Amalgamation proposed to be made between the said two companies was approved by the Board of Directors of Sh. Mansoor Ali Advocate and Mr. Arun Bansal Advocate both of whom are advocates of Punjab Government dated 21.09.2001, the Indian Express dated 21.09.2001, Dainik Tribune dated 26.09.2001 each containing advertisement of the said meetings convened of the said meetings directed to be held vide orders dated 06.09.2001, the affidavits of the Chairmen of the meetings showing the publication and dispatch of notices convening the said meetings.

meetings; the reports of the Chairman dated 20.01.2001 and 21.01.2001 on the basis of which the court has been satisfied upon hearing Sh. Atul Gandhi, Advocate and upon going through the entire material placed on the record and it appearing from the reports that the Scheme of Amalgamation has been approved unanimously;

This court doth hereby sanction the Scheme of Amalgamation set forth in the Petition and annexed as Annexure P-7 to the company Petition No. 198 of 2001 herein and in the Schedule hereto to be effective w.e.f. 01.04.2001, and doth hereby declare the same to be binding on the members, secured and unsecured creditors of both the Transferor and Transferee Companies and all concerned.

And this court doth further order that the parties to the Scheme of Amalgamation and any other person shall be at liberty to apply to this court for any directions that may be necessary in regard to the working of the Scheme of Amalgamation.

That the Transferee Company do file with the court a copy of the order within 14 days from this date.

SCHEDULE

Con. Cd. p-7

14

- 7 -

SCHEME OF ARRANGEMENT FOR THE AMALGAMATION OF
OSWAL COTTON MILLS LIMITED

WITH
NAHAR INDUSTRIAL ENTERPRISES LIMITED

Examiner of Companies
High Court of Punjab & Haryana
Chandigarh

In this Scheme, Unless inconsistent with the subject matter, the following words shall have the following meanings:

1. The "Transferor Company" or "Amalgamating Company" means Oswal Cotton Mills Limited, a Company incorporated under the Indian Companies Act, 1956 and having its registered office at Focal Point, Ludhiana -141 010.
2. The "Transferee Company" or "Amalgamated Company" means Nahar Industrial Enterprises Limited, a Company incorporated under the Indian Companies Act, 1956 and having its registered office at Focal Point, Ludhiana -141 010.

3. "The Act" means the Companies Act, 1956.

4. "The Transfer Date" means the commencement of business on the 1st day of 2001.

5. This Scheme, though effective from the Transfer Date, shall be deemed to be effective from the date on which certified copies of the order of the Hon'ble High Court of Punjab & Haryana under Section 391, 392, 394 and 395 of the Act, 1956, are filed with the Registrar of Companies, Punjab, H.P. & Chandigarh, and such date shall hereinafter be referred to as the "Effective Date". Reference in this Scheme to the date of "coming into effect of this Scheme" or "effectiveness of this Scheme" shall be Effective Date.

6. "The Scheme" means this Scheme in its present form or with any modifications approved or imposed by the Hon'ble High Court of Punjab & Haryana.

B. SHARE CAPITAL

1. The Share Capital of the Transferor Company is as follows:
Authorised Share Capital
10,00,000 Equity Shares of Rs. 100/- each
15,00,000 7% Non Cumulative Redeemable Preference Shares of Rs. 100/- each

TOTAL

Rs. 13,50,00,000/-

D. S.

Issued, Subscribed and Paid up Share Capital

2500700 Equity Shares of Rs. 10/- each

1500000 7% Non Cumulative Redeemable Preference Shares

of Rs. 100/- each

TOTAL

25,00,70,000

Shares of Rs. 10/- each are held by Transfer Industrial Enterprises Limited, the Transferee Company, either itself or through its nominees namely 1. Sh. Kamal Oswal 2. Sh. Dinesh Oswal 3. Sh. Sandeep Jain 4. Sh. Gursharan Singh Dhiman 5. Sh. V.K. Bansal 6. Sh. Bharat Bhushan Gupta 7. Sh. Sasanka Sekhar Aich. Each nominee is holding 100 equity shares in the company. As such, the Transferor Company is a wholly owned subsidiary of the Transferee Company.

2. The Share Capital of the Transferee Company as on 31.03.2001 is:

Authorised Share Capital

20000000 Equity Shares of Rs. 10/- each.

TOTAL

Rupees

20,00,00,000

20,00,00,000

Issued, Subscribed and Paid up Share Capital

18762240 Equity Shares of Rs. 10/- each.

Less: Allotment Money in Arrears.

TOTAL

18,76,22,400

36,19,169

18,40,03,201

C. TRANSFER OF UNDERTAKING

The undertaking and business of the Transferor Company shall with effect from the Transfer Date and without further Act or deed, and transfer to the Transferee Company pursuant to Sections 391(2) and 397(2) of the Act and the Transferor Company with all the moveable properties and the interests of the Transferor Company as a going concern but subject nevertheless to all charges, if any, affecting the same or any part thereof and on the Transfer Date, the Transferor Company shall stand amalgamated with the Transferee Company.

2. a) For the purpose of the Scheme the business of Transferor Company shall include:

Q-1

- 9 -
i) All the assets of the Transferor Company immediately before the amalgamation and

ii) All the liabilities of the Transferor Company immediately before the amalgamation.

b) Without prejudice to the generality of the foregoing sub-clause (a) hereof the said undertaking and business shall include:

i) All the properties, rights and claims whatsoever of the Transferor Company and their business undertakings and all the rights and interests in respect of the moveable properties, leases, mortgages, loans, debts, assets of whatsoever nature including registrations, approvals, clearances, fittings and fixtures, telephones, telex and other Communications, fax connections, cash balances reserves, security deposits, refunds, outstanding balances, stocks, investments, contracts, agreements and other rights and interests of all description in or arising out of such properties as may belong to or be in possession of the Transferor Company and all books of accounts and documents and records relating thereto, but subject to all charges affecting the same.

Provided always that the Scheme shall not operate to enlarge the security for any loan, deposit or facility created by or available to the Transferor Company which shall stand transferred to the Transferee Company on the amalgamation and shall not be subject to any further or additional security in any manner whatsoever until it becomes effective or otherwise.

ii) All the liabilities, debts, obligations and duties of the Transferor Company shall also stand transferred to the Transferee Company with effect from the Transfer Date without further act or deed pursuant to Section 394(2) of the Act so as to become the liabilities, debts, obligations and duties of the Transferee Company.

The General Reserve Account, Special Reserve Account and other reserves as on the Transfer Date in the Balance Sheet of the Transferor Company shall stand transferred to the Transferee Company.

Transferee Company.

- 10 -

D. CONDUCT OF BUSINESS BY TRANSFEROR COMPANY TILL EFFECTIVE DATE

With effect from the Transfer Date and upto the Effective Date, the Transferor Company:

1. shall carry on and be deemed to carry on all its business and activities and stand possessed of its properties and assets for and on account of and in trust for the Transferee Company and all the profits accruing to the Transferor Company or losses arising or incurred by it shall, for all purposes, be treated as the profits or losses of the Transferee Company as the case may be ;
2. hereby undertakes to carry on its business until the Effective Date with reasonable diligence and shall not, without the written consent of the Transferee Company, alienate, charge or otherwise deal with the said Undertaking or any part thereof except in the ordinary course of its business ;
3. shall not vary the terms and conditions of the employment of its employees except in the ordinary course of business ;
4. shall not, without the written consent of the Transferee Company, undertake any new business, issue further Shares or declare any dividend other than the dividend for the Financial Year ended on 31st March, 2001.

E. LEGAL PROCEEDINGS

Upon the Scheme becoming effective, if any suit, appeal or other proceeding of whatsoever nature by or against the Transferor Company be pending, the same shall be continued, prosecuted and enforced by or against the Transferee Company. Any proceedings that may be taken after the Transfer Date for any other matter or cause of action concerning the Transferor Company before the Effective Date shall also be taken by or against the Transferee Company

F. TRANSFEROR COMPANY STAFF, WORKMEN AND EMPLOYEES

All the staff, workmen and other employees in the service of the Transferor Company immediately before the transfer of the business under the Scheme shall become the staff, workmen and employees of the Transferee Company on the basis that :

1. Their services shall have been continued and shall not have been interrupted by reason of the transfer of the business



Saxena Judicial Department
Court of Punjab
Ludhiana

18

2. The terms and conditions of service applicable to the said staff, workmen employees after such transfer shall not in any way be less favourable to them than those applicable to them immediately before the transfer and
3. It is expressly provided that as far as Provident Fund, Gratuity Fund, Superannuation Fund or any other Special Fund created or existing for the benefit of the staff, workmen and other employees of the Transferor Company are concerned, upon the Scheme becoming effective, the Transferee Company shall stand substituted for the Transferor Company for all purposes whatsoever related to the administration or operation of such Funds or in relation to the obligation to make contributions to the said Funds in accordance with provisions of such Funds as per the terms provided in the respective Trust Deeds. It is the aim and intent that all the rights, duties, powers and obligations of the Transferor Company in relation to such Funds all become those of the Transferee Company. It is clarified that the services of the employees of the Transferor Company will also be treated as having been continued for the purpose of the aforesaid Funds or provisions.

G. CONTRACTS, DEEDS, BONDS AND OTHER INSTRUMENTS

The transfer and vesting of the properties and liabilities and the continuance of the proceedings mentioned above shall not affect transactions or proceedings already concluded by the Transferor Company :-

1. on or before the Transfer Date to the end and that the Transferee Company accepts on behalf of itself all acts, deeds, bonds, agreements and other instruments of whatsoever nature done and executed by the Transferor Company
2. after the Transfer Date but not before the effective date and that the Transferee Company accepts on behalf of itself all acts, deeds, bonds, agreements and other instruments of whatsoever nature done and executed by the Transferor Company

Subject to the other provisions contained in this Scheme, all contracts, deeds, agreements and other instruments of whatsoever nature subsisting or having effect immediately before amalgamation to which the Transferor Company are a party, shall be in full force and effect against or in favour of the Transferee Company and may be enforced as fully and effectively as if, instead of the Transferor Company, the Transferee Company had been a party thereto.