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Company Petition No.507 of 1986

Connected with

Company Application No.228 of 1986.

NOTARY, INDIA.

6, NETAJI SUBHAS ROAD,

CALCUTTA-700001

DATED THE 19th DAY OF August, 1987.

IN THE HIGH COURT AT CALCUTTA

Original Jurisdiction.

153

President of the Union of India.

In the Matter of the Companies Act 1956

and

In the Matter of Sections 391, 392 and 393 and 394 of the said Act.

and

In the Matter of Dey - Se - Chem Limited a Company incorporated under the Companies Act 1956 and having its registered office at No. 8, Rifle Range Road, Calcutta - 700 019 within the jurisdiction aforesaid.

and

In the Matter of Dey's Medical Stores (Manufacturing) Limited a Company Incorporated under the Companies Act 1956 and having its registered office at No. 6/D Lindsay Street, Calcutta - 700 087 within the jurisdiction aforesaid.

1. Dey - Se - Chem Limited.
2. Dey's Medical Stores (Manufacturing) Ltd. ... Petitioners.

The above petition coming on for hearing on this day upon reading the said petition the order dated the nineteenth



(THE SEAL OF THE HIGH COURT AT CALCUTTA)

(Seal)

The Honourable Mrs. Justice Padma Khastgir.

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nineteenth day of August in the year one thousand nine hundred and eighty six whereby the abovenamed Petitioner No. 1 Dey-Se-Chem Limited (hereinafter referred to as the said transferor Company) and the Petitioner No.2 Dey's Medical Stores (Manufacturing) Limited (hereinafter referred to as the said transferee company) were ordered to convene separate meetings of the equity shareholders of the said transferor Company and the said transferee company for the purpose of considering and if thought fit approving with or without modification the Scheme of Amalgamation Proposed to be made between the said transferor Company and the said transferee Company and annexed to the affidavit of Bhupendra Nath Dey filed on the nineteenth day of August in the year one thousand nine hundred and eighty six the Statesman dated the fourth day of September in the year one thousand nine hundred and eightysix and the Ajkal dated the Second day of September in the year one thousand nine hundred and eightysix each containing the advertisement of the said notice convening the said meetings directed to be held by the said order dated the nineteenth day of August in the year one thousand nine hundred and eightysix the affidavit of Sujit Kumar Dey filed on the twentieth day of September in the year one thousand nine hundred and eighty six showing the Publication and despatch of the notices convening the said meetings the reports of the Chairman of the said meetings dated the Fourth day of November in the year one thousand nine hundred and eightysix as to the result of the said meetings and upon reading on the part of the petitioner companies an affidavit of Tapan Kumar Mukherjee

filed....

filed on the fifteenth day of December in the year one thousand nine hundred and eighty six and the exhibits therein referred to and another affidavit of the said Tapan Kumar Mukherjee filed on the fifteenth day of December in the year one thousand nine hundred and eightysix and the exhibits therein referred to and upon reading the order made herein and dated the Seventeenth day of November in the year one thousand nine hundred and eightysix and upon hearing Mr. S. B. Mukherjee (Mrs. U. B. Mukherjee, Mr. P. Ghosh appearing with him) advocate for the Petitioner Companies and Mr. J. Mukherjee advocate for the Union of India and it appearing from the reports that the Proposed Scheme of Amalgamation has been approved unanimously and the said Mr. J. Mukherjee submits before this Court that the Union of India has no objection to an order being passed.

This Court doth hereby sanction the Scheme of Amalgamation set forth in Annexure "F" of the Petition herein and specified in the Schedule "A" hereto and doth hereby declare the same to be binding on all the shareholders of the said transferor Company and the said transferee company and also on the said transferor company and the said transferee company.

This Court doth order :

1. That all the properties rights, Powers and assets of the said transferor Company specified in the Schedule 'B' hereto and all other the Properties rights and Powers of the said transferor company be transferred from the first day of July

in ...

in the year one thousand nine hundred and eighty-five (hereinafter referred to as the said transfer date) without further act or deed to the said transferee company and accordingly the same shall pursuant to Section 394(2) of the Companies Act 1956 be transferred to and vest in the said transferee company for all the assets and interest of the said transferor Company thereof from the said transfer date but subject nevertheless to all charges now affecting the same and

2. That all the liabilities and duties of the said transferor company be transferred from the said transfer date without further act or deed to the said transferee Company and accordingly the same shall pursuant to Section 394(2) of the Companies Act 1956 be transferred to and become the liabilities and duties of the said transferee Company and

3. That all proceedings now pending by or against the said transferor company be continued by or against the said transferee company and

4. That the said transferee company do within thirty days after filing of this order cause a certified copy of this order to be delivered to the Registrar of Companies West Bengal for registration and the said Registrar of Companies West Bengal shall place all documents relating to the said

transferor ...

transferor Company and registered with him on the file kept by him in relation to the said transferee Company and the files relating to the said two Companies shall be consolidated accordingly and

5. That the Official Liquidator of this Court do make a report under section 394(1) second proviso of the Companies Act 1956 regarding the affairs of the said transferor Company and

6. That the petitioner companies be at liberty to apply to this Court for dissolution of the said transferor Company on consequent upon the filing of the said report by the said Official Liquidator under section 394 of the Companies Act 1956 and

7. That any person interested shall be at liberty to apply to this Court in the above matter for any direction that may be necessary and

8. That all parties do act on a copy of the minutes of this order duly signed by an officer of this Court being served on them.

Witness Shri Chittatosh Mookerjee, Chief Justice at Calcutta aforesaid this twentysecond day of December in the year one thousand nine hundred and eightysix.

Sandersons & Morgans - Advocates }

J. Nandi

11.2.87

For Registrar.

Schedule "A" above referred to :

The Scheme of Amalgamation and Merger proposed to be made between Dey-Se-Chem Ltd. (transferor Company) and its shareholders and creditors

and

Dey's Medical Stores (Manufacturing) Ltd. (transferee Company) and its shareholders.

1. Definitions

For the purpose of this Scheme of Amalgamation and merger the words and phrases shall have the following meaning;

(a) "Appointed date" shall mean 1st day of July 1985.

(b) "Effective date" shall mean the date referred to in clause 11 hereof.

(c) " Transferor Company" shall mean Dey-Se-Chem Ltd. a Public Limited Company within the meaning of the Companies Act 1956 whose shares are listed in the Calcutta Stock Exchange and having its registered office at 8 Rifle Range Road, Calcutta-700 019 West Bengal.

(d) " Transferee Company" shall mean Dey's Medical Stores (Manufacturing) Ltd. a deemed Public Limited Company within the meaning of Section 43A of the Companies Act 1956 and having its registered Office at 6/D Lindsay Street Calcutta - 700 087 West Bengal.

(e) "Undertaking of transferor Company" shall mean and include all properties and assets moveable or immoveable real or otherwise interest privileges and rights present future or contingent of whatsoever nature and wheresoever situated belonging to the transferor Company whether in its possession or not and all debts liabilities and obligations of the transferor Company of whatsoever kind and nature whether disclosed or not in

its...

its Balance Sheet.

II Whereas

(a) The authorised share capital of the transferor Company is Rs. 100,00,000/- divided into 10,00,000 equity shares of Rs. 10/- each out of which 599085 equity shares of Rs. 10/- each have been issued and subscribed and are fully paid up and 915 equity shares of Rs. 10/- each have been issued and subscribed but partly paid up.

(b) The authorised share capital of the transferee Company is Rs. 100,00,000/- divided into 9500 equity shares of Rs. 1000/- each and 500 6% Tax Free Cumulative Preference Shares of Rs. 1000/- each out of which 8000 equity shares have been issued subscribed and fully paid up.

(c) The transferor Company owns a factory at 8 Rifle Range Road Calcutta - 700 019 licensed to manufacture bulk drugs and drug formulations but because of losses suffered by it on account of various reasons particularly due to uneconomic prices fixed by the Government and its liabilities arising from its losing operations the Company is at present not financially viable and can be considered to be a sick unit.

(d) The transferee company owns a factory at 62, Bondel Road, Calcutta - 700 019 licensed to manufacture bulk drugs and drug formulations and is at present financially viable.

(e) With a view to facilitate rehabilitation and revival of the business of the transferor Company which is a subsidiary of the transferee Company and prevent further erosion of capital and unemployment to a large number of workmen and other staff of the transferor Company and in public interest a Scheme of Amalgamation of the transferor Company with the

transferee ...

transferee Company has been prepared as set out hereunder considering that the transferee Company is capable of undertaking the task.

III. Scheme.

1. With effect from the appointed date the undertaking of the transferor Company shall after due observation of all the formalities for amalgamation but without further act or deed shall be transferred to and shall vest or deemed to be vested in the transferee Company pursuant to Section 394(2) of the Companies Act subject to all charges liens mortgages then affecting the properties and assets of the transferor Company or any part thereof.

2. Any suit appeal or other proceeding of whatever nature (hereinafter referred to as the proceedings) by or against the transferor Company pending on the appointed date shall not be in any way prejudicially affected by the reason of the transfer of the undertaking of the transferor Company but the proceedings may be continued and enforced by or against the transferee Company in the same manner and to the same extent as it would have been continued and enforced by or against the transferor Company if the aforesaid transfer had not been made.

3. The provision of transfer and vesting of assets and liabilities under the Scheme and continuance of proceedings as aforesaid shall not affect transactions or proceedings already concluded or may be concluded after the appointed date by the transferor company as the transferee company undertakes to accept and adopt all acts deeds and -

actions

actions of the transferor company even though actual transfer of the undertaking of the transferor company to the transferee company could not be effected pending observation of various formalities in this connection.

4. Subject to the provisions contained in the Scheme all contracts deeds agreements and other instruments of whatsoever nature to which the transferor company is a party existing as on the appointed date shall remain in full force and effective 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.

5. (a) In respect of such shares of the transferor company as are not held by the transferee company immediately before the effective date of amalgamation in consideration of the aforesaid transfer of assets and liabilities of the transferor company upon the scheme becoming effective the transferee company shall issue and allot (without further application) to such of the shareholders of the transferor company as on a date to be fixed by the Board of Directors (being not later than three months from the effective date) in the following ratio i. e.

For every 5.77 (five point seventy seven) equity shares of the transferor company of the nominal value of Rs. 10/- each one equity share of the transferee company of the nominal value of Rs. 10/- each and credited as fully paid up.

(b) If necessary appropriate fractional coupons will be issued to the shareholders of the transferor company to implement the above ratio of shares. Subject to the compliance of the provisions of section 2(1A) (iii) of the Income - Tax Act 1961 all fractions of equity shares of the transferee

company that will become laible to be alloted to the share- holders of the transferor company will be consólidated and alloted to a trustee as may be nominated by the Board of Directors of the transferee company and will be sold and the net proceeds distributed amongst the shareholders of the transferor company entitled thereto in its proportion.

(c) All the equity shareholders standing in the Register of the transferor company on such date as the Board of Directors of the transferee company may determine shall surrender their relative equity share certificates and the fractions coupons (if applicable) to the transferee company and the transferee company shall (without further application) allot the requisite equity shares of the transferee company to such shareholders of the transferor company to the extent necessary after obtaining the permission from the controller of capital issues under the provisions of the Capital Issues (Control) Act 1947 and after the scheme becomes finally effective. Without prejudice to the foregoing upon the equity shares being issued and allotted by the transferee company to the shareholders standing in the Register of members of the transferor company on the aforesaid date the share certificate in relation to the shares held by them in the transferor company shall be deemed to be cancelled.

(d) The transferee company shall take all necessary steps to amend its Articles of Association and pass the necessary resolution for issuing and allotting shares to the shareholders of the transferor company for the purpose of implementing the scheme.

(e) The new equity shares of the transferee company to be allotted to the members of the transferor company shall rank for dividend voting rights and in all other respects pari passu with the existing equity shares of the transferee company

save and except that such equity shares shall not confer any right to the dividend if any declared by the transferee company out of the profits of the transferee company for the period prior to the date of issue thereof.

6. The transferee company shall on completion of the amalgamation and transfer of assets and liabilities as aforesaid take over all the employees of the transferor company on terms and conditions of service not inferior to those on which they are employed by the transferor company as on the appointed date without any interruption or break in continuity of service.

7. Necessary application shall be submitted to the Central Government u/s 72A(3) of the Income tax Act 1961 for approval of the scheme at first and thereafter finally for declaration by the Central Government u/s 72A(1) of the said Act after amalgamation is effected.

8. Necessary application and/or petition shall be submitted by the transferor company and the transferee company to the Hon'ble High Court at Calcutta for sanction of the Scheme of amalgamation under the Companies Act 1956.

9. Until the Scheme is sanctioned and the transfer of assets and liabilities effected as aforesaid the transferor company shall carry on its business in usual manner and shall be deemed to be carrying on the said business for and on behalf of and in trust for the transferee company with effect from the appointed date.

10. In the event of requisite consent / permission / approval for any reason not being obtained or granted and in the event of the Scheme not being sanctioned by the Central Government u/s 72A(3) of the Income Tax Act 1961 and by the High Court at Calcutta the scheme shall be null and void and in that event to rights or liabilities shall accrue to

or be incurred by the parties and consequently clause 9 hereof shall stand cancelled.

11. The scheme although operative from the appointed date shall take effect finally upon the date (hereinafter referred to as the effective date) on which the certified copy of the order of the High Court at Calcutta under section 394 of the companies Act 1956 shall be filed with the Registrar of Companies.

12. The respective Board of Directors of the transferor company and the transferee company may give consent on behalf of all concerned to any modification to the scheme suggested and / or ordered or any condition which may be imposed either by the Central Government u/s 72A of the Income Tax Act 1961 or by the Hon'ble High Court at Calcutta under the Companies Act 1956 or any other statutory authority concerned in approving and / or sanctioning the scheme which the aforesaid authorities may consider proper and fit and the respective Board of Directors may do all acts and deeds necessary to give effect to the scheme of amalgamation as approved and sanctioned by the aforesaid authorities.

13. The transferee company shall bear all costs charges and expenses in executing the scheme and to give effect thereto and the transferor company shall not contribute any amount for such costs charges and expenses or any part thereof.

Sd/- J. Nandi

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For Registrar

Schedule 'B' ...

Schedule "B" Above Referred to

Particulars of the Property of Petitioner No. 1.

<u>Location</u>	<u>Area</u>	<u>Remarks</u>
8, Rifle Range Road, Calcutta-700 019.	3 Bighas 14 Cottahs 11 Ch.	Land with factory built thereon including plant and machinery equipment and utensils ancillaries roads and drains wareh- ouses office blocks outhouses and other areas.
38E Bondel Road, Calcutta - 700 019.	10 Cottahs 5 Ch.	

Sd/- J. Nandi

11.2.87

For Registrar

I do hereby certify that this is a
true copy of the original in my custody.

Dated this 14th day of Feb. 1987

Sig. Illegible

14.2.87

Registrar of the High Court at
Calcutta Original Side


NOTARY INDIA

C.P.No.507 of 1986

connected with

C.A.No.228 of 1986.

IN THE HIGH COURT AT CALCUTTA.

Original Jurisdiction.

- i) Date when the decree or order was completed
11.2.87
- ii) Date of application for copy.
14.1.87
- iii) Date of notifying the requisite number of folios and stamp
11.2.87
- iv) Date of delivery of the requisite folios and stamp
12.2.87
- v) Date on which the copy is ready for delivery
14.2.87
- vi) Date when delivery was taken of the copy by the applicant
14.2.87

In the matter of Companies Act
1956

A n d

In the Matter of Dey-Se-Chem Ltd.
& Dey's Medical Stores (Mfg.)
Ltd.

Sd/-

14.2.87
Superintendent,
Copyists' Department,
High Court, O.S.

Order of 22nd day of December 1986.

Filed this 11th day of
February, 1987.

Sd/- R. K. Pal

Superintendent,

Comp. Matters Department.

SANDERSONS & MORGANS
Attorneys.