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BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
PRINCIPAL BENCH AT NEW DELHI

COMPANY PETITION NO. 1 of 2017

Judgment delivered on: 12.12.2017

Coram:

CHIEF JUSTICE (Rtd.) M.M.KUMAR

Hon'ble President

Mr. R. VARADHARAJAN

Hon'ble Member (J)

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

(PRESENTLY SECTIONS 230-232 OF THE COMPANIES ACT,

2013)



AND
IN THE MATTER OF SCHEME OF ARRANGEMENT

BETWEEN

1. MODERN INSULATORS LIMITED

Company Incorporated under Companies Act, 1956

Having registered office at:

A-4, Vijay Path, Tilak Nagar, Jaipur, Rajasthan-302004

.....PETITIONER COMPANY NO.1

WITH

2. MODERN POLYTEX LIMITED

Company Incorporated under Companies Act, 1956

Having registered office at:

A-4, Vijay Path, Tilak Nagar, Jaipur, Rajasthan-302004

.....PETITIONER COMPANY NO.2

AND

Their respective Shareholders and Creditors





ADVOCATE FOR THE PETITIONERS:

Mr. Chetan Sharma, Senior Advocate

Ms. Anju Jain, Advocate

Mr. Hitesh Sachar, Advocate

Mr. Anshul Chhabra, Advocate

FOR REGISTRAR OF COMPANIES, (NR), MCA:

Mr. Vijay Chandrajosh

Mr. Anil Yadav, Assistant ROC



ORDER

M.M. KUMAR, PRESIDENT

1. This petition filed by the companies above named is coming up finally before us for the purpose of the approval of the scheme of arrangement, as contemplated between the companies and its shareholders by way of Demerging the GPF (Gujarat Polyfils) Division of the Petitioner Company No.1 with the Petitioner Company No.2. A perusal of the petition discloses that initially the application seeking the dispensation of the meetings of equity shareholders, secured and unsecured creditors were filed before the Hon'ble High Court of Rajasthan in Company Application No.12/2011. The High Court vide its order dated 04.10.2012, was pleased to dispense with the requirement of convening the meetings of the equity shareholders of the Petitioner Company No.2 in view of their consents having been obtained and produced before it wherein there being no secured and unsecured creditors in the Petitioner Company No.2, necessity of convening the meetings did not



arise. In relation to the Petitioner Company No.1 the High Court directed to convene the meetings of Equity Shareholders, Secured and Unsecured Creditors.

2. Under the circumstances, the petitioners have filed their joint petition for sanction of the Scheme of Arrangement before the High Court under the erstwhile provisions of 1956 Act, subsequent to the order of dispensation of the meeting ordered by the High Court on 04.10.2012 and the meetings were accordingly convened on 09.11.2012.

3. On 06.12.2012 the High Court issued Notice to the Regional Director, North- West Region, Ahmedabad in the Second Motion petition in C.P. No. 30/2012 moved by the petitioners under Sections 391 to 394 of the Companies Act, 1956 read with relevant Rules of the Companies (Court) Rules, 1959 in connection with the scheme. The Petitioners were also directed vide said order to carry out publication in the newspapers

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"Hindustan Times" in English (Delhi Edition) and "Rajasthan Patrika" in Hindi (Jaipur Edition).

4. While the joint petition being C.P. No. 30 of 2012 was pending disposal the provisions relating to compromises, arrangements and amalgamation as contemplated under Sections 230-232 had been notified w.e.f. 15.12.2016 wherein the power to consider such schemes have now been vested with the National Company Law Tribunal, the High Court pursuant to the notification bearing No. DL.33004/99 dated 7.12.2016 issued by the Ministry of Corporate Affairs has transferred/transmitted the records of the above petition to this Tribunal vide order dated 20.01.2017, for our consideration.

5. In view of the above, the petition of Second Motion as above filed by the petitioners jointly before the High Court and subsequently transferred to this Tribunal is taken up for final consideration by us. The petitioners have effected the paper publication as directed by the High Court in "Hindustan Times" in



English (Delhi Edition) and "Rajasthan Patrika" in Hindi (Jaipur Edition) on 25.12.2012

6. Further, it has also been stated by the Learned Counsel for the Petitioner Companies that notices have been issued to the Regional Director in compliance with the order dated 06.12.2012 and in proof of the same acknowledgements made by the respective offices have also been enclosed.

7. Further, Regional Director, North-Western Region has also filed the Affidavit dated 08.04.2013 before the High Court raising some objections stating few observations in para 2 which are as follows:-

(i) *"The petitioner resulting company was incorporated on 20-01-2011 which is barely two months before the proposed appointed date i.e. 01.04.2011. The demerged company is proposing to transfer all the assets related with the yarn Division at Surat (GPF) which is installed recently, to the resulting newly incorporated company, which is owned and promoted by the directors of Modern Group they are also in control of the demerged company even the details of assets*



and liabilities which are proposed to be transferred to the petitioner resulting company is not provided with petition nor provided to the Regional Director. The petitioner demerged company is a listed company, therefore, the public interest is involved which is of great concern after the implementation of the scheme. The company has raised share capital from well over 32000 shareholders."

(ii) "The Modern Group Company namely M/s Modern Terry Towel Limited way back has filed the rehabilitation scheme before the BIFR on 01.01.2008 in which the proposed scheme of amalgamation of Modern Terry Towel Limited with Modern Insulators Limited (here Petitioner Demerged Company) has remained pending for approval at BIFR. The company has not given any justification as to why other scheme is submitted when the scheme already under consideration before BIFR is not finalized, as the valuation and exchange ratio etc. are materially affected. The petitioner demerged company has not placed on record the Gist of up to date proceedings before BIFR".

(iii) "The petitioner demerged company has written letter to the stock exchanges namely Delhi Stock Exchange, Ahmedabad Stock



(Exchange, Calcutta Stock Exchange and Madras Stock Exchange on 11.02.2008 for delisting the shares as the demerged company was listed with the above mentioned stock exchanges. This act on the part of the company is not in the interest of shareholders. In this regard, the said company submitted from NOC form Jaipur stock exchange only whereas the demerged company has been suspended by the Bombay Stock Exchange also because of the violations of the listing agreements. The Hon'ble Court may be pleased to direct to the company to provide clarification as to why the shares of the company were delisted by BSE and other stock exchanges and what remedial steps were taken by the company for getting its shares re-listed on the stock exchange so as to protect the small investor's interest and provide them an opportunities of dealing with their shareholding.

(iv) The views of SEBI may also be called in this matter, as shareholder interest also affected.

(v) The valuation report is prepared by M/s Tipsons Consultancy Services Private Limited, Ahmedabad. As per the part IV of the said report, it is stated that the proposed scheme would benefit the



shareholders and other stakeholders of Modern Insulators Limited. This report also remarked that the petitioner demerged company is a listed company, therefore, the public interest is adversely affected, and the rationale for demerger seems to be illogical. Besides the scheme proposes to demerge the profitable yarn division and transfer to the newly formed company M/s Modern Polytex Limited (Resulting Company). The yarn division assets are recently acquired by the company and has total capital employed of Rs. 9684.06 lacs as against the insulator division for which capital employed is Rs. 6448.52 lacs as per balance sheet as at 31.03.2011. The yarn division having more capital employed as compared to insulator division, how the shareholders of the demerged company will be benefited and the small shareholders are to be benefited is not understood. The shares of Resulting Company is not proposed to be listed on stock exchange and therefore the public shareholder, who are already having illiquid shares of Demerged Company will get shares to the general public investors and now the company proposes to create other company with yarn division which would not be listed and hence will not

MP



provide liquidity to small investors. The Court has been requested to consider these submissions”.

(b) The R.D has quoted Clause No. 13 of the Scheme which provides as under:

“Upon the scheme coming into effect, the Authorised share capital of the resulting company shall, without any further act or deed, be automatically increases from Rs. 5 Lacs (Rupees Five Lacs Only) divided into 50,000 equity shares of Rs. 10 each to Rs 10.92 crores (Rupees Ten Crores Ninty Two Lacs Only) divided into 1,09,21,750 equity shares of Rs. 10 each. Consequently, clause V of Memorandum of Association of the resulting company (relating to the authorized share capital) shall, without any further act, instrument of deed, be and stand altered, modified and amended pursuant to sections 16, 94 and 394 and other applicable provisions of the Act, as the case may be.”

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(vii) He then made observations that authorized share capital of a company can be increased only after complying with the requirements of provisions of Section 94/97 r/w Section 102 of the Companies Act, 1956 and also on payment of requisite registration fees and applicable stamp duty as may be applicable. Since the scheme nowhere ensures that the registration fees and applicable stamp duty shall be paid for the increase in authorized share capital of the resulting company as proposed in the aforesaid clause (except filing of necessary form with ROC). In this regard, the court has been advised to direct the resulting company to comply with the requirements of the Companies Act, 1956 and to file the requisite e-forms and pay the stamp duty, registration fees, etc. as per prescribed rates, in case the scheme is approved".

(viii) The demerged company is having foreign holding of 2.77 % of the total holding as on proposed appointed date. The Court has been advised to direct the petitioner company to place on record the documentary evidence of the notice served to the NRI, Foreign shareholder etc. and also whether the demerged company has complied with the provisions of FERA/ FEMA and RBI.



(ix) The meeting of the members of Modern Insulators Limited, being the Demerged company was directed to be convened by this Hon'ble Court vide order dated 04.10.2012 and the said meeting was convened on 09.11.2012. It has been observed from the aforesaid order of this Hon'ble Court that the quorum of the meeting for the shareholders was not fixed for the shareholders present either in person or through proxy. It has come on record that company has over 32000 shareholders. As per the report of the Chairman appointed by the High Court for convening and conducting the meeting of the shareholders, it has been reported that in all 4 (four) members were personally present in the convened meeting out of which M/s UTI Mutual Fund having the equity shares of 10,00,000 (approx 4.5 % of the total equity shares of the company) had voted against the Scheme.

The R.D has observed that the demerged company being a public limited company as well as a listed company, minimum 5 (Five) members present in person are required to form a valid quorum for a general meeting (unless the articles of association provides otherwise) as required under section 174 of the Companies Act,1956 and the said



quorum which is also provided as per Article No. 70 of the Articles of Association of the said demerged company. Moreover, the Table A prescribed under the Companies Act, 1956, meant for a public limited company, also prescribes minimum 5 (five) members personally present for consulting a valid quorum for a general meeting of shareholders”.

8. The observations made by Regional Director have been controverted by filing reply by petitioner. Before taking up of the objections from serial No. (i) to (ix) few general observations made in the reply deserves to be noticed. It has been stated that Applicant No. 1/Demerged Company is a part of Modern Group and engaged in the business of manufacturing and sale of insulators. It has a formidable reputation in the market. It is profitable entity and the applicant No.1 demerged company with an intent to expand its business and to enter in the market of producing yarn had set up a separate yarn division in the year 2007 known as Gujarat Polyfilms (for brevity 'GPF') at Village Nana Borsara, District Surat, Gujarat. The main purpose of this division was to manufacture polyester yarn with a capacity of 25 tonnes per annum. To access the performance of eth division it commences reduction into two



phases. The commercial production of the first phase with a capacity of 12500 tonnes per annum commenced in September, 2008 and that of the second phase with equal capacity commenced in March 2010. However, separate company i.e. applicant No. 2/Resulting company was incorporated with the main object of producing polyester yarn the petitioner has submitted that as the project progress well and GPF division entered into a stable position the Applicant Company No. 1/Demerged Company with a view to implement and developed business plan proposed to demerge GPF division and to transfer and vest the same in Applicant No. 2/Resulting Company which has been incorporated solely for the purpose of producing polyester yarn. It would profit profitable platform and yield benefit to both the yarn divisions as well as Applicant No. 2/Resulting Company. The aforesaid facts have been elaborately mentioned in the scheme which has been duly approved unanimously by the shareholders.

In respect of objection No. (i) from a bare perusal of the scheme it becomes evident that Applicant No. 1/Demerged company has agreed to transfer all assets and liabilities relatable to its yarn division with



certain objections as stated in the scheme. Clause (d) of the scheme specifically deals with all assets and liabilities proposed to be transferred to applicant No. 2/Resulting Company. Therefore, it is incorrect for the RD to raise objection that details of the assets proposed to be transferred has not been divulged.

In respect of objection No. (ii), it has been stated that scheme as mentioned with RD referring to BIFR relates to amalgamation of Modern Terry Towers with Modern Insulator Limited as per the rehabilitation scheme presented to BIFR. The aforesaid scheme is unrelated to the present scheme and involves a company which has no bearing/relation to the present scheme. A specific clause given details of the aforesaid rehabilitation scheme pending before BIFR have also been inserted in the scheme. It has been pointed out that the scheme of rehabilitation was duly approved by Applicant No. 1/ Demerged company by a special resolution in their the meeting held on 31.03.2010 in accordance with Section 18 and other relevant provisions of SICA, 1985 and the Companies Act read with sub-clause 24 of clause III-B of the object clause of Memorandum of Association. The shareholders were fully aware of the rehabilitation scheme including valuations

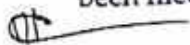


exchange ratio. Having understood the same, the shareholders unanimously held in favour of the scheme including exchange ratio. It is therefore, urged by the applicants that the objections are unreasonable and ill founded.

In respect of objection No. (iii), the petitioner/demerged company has conciliated writing of letters to Delhi, Ahmedabad, Kolkatta and Madras Stock Exchanges on 11.02.2008 for delisting of shares. It has been specifically stated in the annual report of the Applicant No. 1/Demerged Company for financial year 2007-2008 which was filed with the ROC and duly circulated to all shareholders. The proposal of delisting has not been objected to by a single shareholder who in their commercial wisdom have unanimously approved the scheme. However, till date no step has been taken by applicant/Demerged Company to delist its shares and the objection is presumptuous. In any case, if the demerged company gets itself delisted from the stock exchanges then under Section 21(A) read with provisions of Security Contracts (Regulation) Act, 1956 remedy of appeal is provided before Security Appellate Tribunal. Thus, the interest of the party is well guarded. It is further pertinent to mention that the Jaipur Stock Exchange is the main Stock



exchange for the demerged company and it has applied for no objection from it. The Bombay Stock Exchange till date has not delisted the applicant No. 1/Demerged Company and Regional Director has made a wrong statement before the Hon'ble High Court. The company is still listed and it has sought no objection from Bombay Stock Exchange by letter dated 31.01.2011 but no reply has been received to that effect. There is nothing in the delisting agreement or in the Security Contracts (Regulation) Act, 1956 which may create a bar against the company to make an application under Section 391 to 394 of the Companies Act, 1956 or would entail the consequence of automatic dismissal of the petition. In case of any default/non-compliance, action by concerned stock exchanged under provisions of Listing Agreement and Security Contracts (Regulation) Act, 1956 can be initiated. The demerged company has already obtained no objection from Jaipur Stock Exchange and is awaiting no objection from Bombay Stock Exchange. There is no positive requirement that no objection granting sanction to the scheme must be issued as long as an application for issuing no objection has been filed.





In respect of objection No. (iv) the object for calling the view of SEBI has also been opposed as a way to delay the proceeding. The scheme is required to be tested from the point of view of an ordinary reasonable shareholder acting in a business-like manner. There is no provision in the company code Rules requiring issuance of a notice to SEBI.

In respect of objection No. (v), the objection that the scheme is likely to effect public has also been controverted. It is no way against the law to merge or demerge a listed company into an unlisted company. In any case, the petitioner has put forward to proposal that the transferee company is further ready and willing to comply with the relevant listing arrangements and applicable SEBI guidelines to ensure listing which may ensure protection of interest of the shareholders.

In respect to objection No. (vi), the objection raised by RD by quoting para 13 of the scheme had been adversely commented upon by the applicant company. The authorized share capital of a company can only be increased after complying with the requirements of Section 94/97 read with Section 192 of the Companies Act, 1956. The object behind intimation under Section 94/97 and Section 394 of the Companies Act, 1956 is the same. Once notice under Section 394 is given the object



stands achieved. No separate notice under Section 94/97 would be necessary to inform the Registrar unlike the other cases where sanction of the Code is not required. The applicant has stated that the certified copy of the order sanctioning the scheme is filed before the Registrar for the purposes of registration as and when the scheme is approved by the Court/Tribunal.

With respect to objection No. (vii), the Foreign Shareholding of 2.77% of the total shareholding as on the appointed date, it has been submitted that the applicant company has issued notices to Foreign Shareholders which were also published in the newspaper. Therefore, compliance is complete in all respects.

With respect to objection No. (viii), the meeting of demerged company as per the direction of High Court issued on 04.10.2012 has already been held on 09.11.2012. The objection with respect to lack of quorum is also not tenable and is liable to be rejected as the High Court did not fix any quorum.

Another objection raised has also been controverted by submitting that in case of a merger/amalgamation the transferor and transferee



companies are free to decide on the appointed date as per their mutual convenience and requirement. It is just a cut-off date from which the assets and liabilities of the transferor company would be transferred and vested with the transferee company.

9. The Regional Director has filed his affidavit on 12.02.2014 and reiterated his earlier objection.

10. We have thoughtfully considered the stand taken by the Regional Director and Applicants. We find ourselves in agreement with the applicants because with respect to first objection complete details of assets and liabilities relating to Applicant No. 1/Demerged Company have been furnished which in fact are a part of the scheme itself. There is no concealment and the objection is not sustainable.

In respect of the second objection, that a rehabilitation scheme was filed before the BIFR would also not detain us as it is explained in the reply by the applicant that the earlier scheme before BIFR was entirely different than the one in hand. A full disclosure of the rehabilitation scheme is also made in the present proceeding and the shareholders were well versed with valuation and exchange ratio.



The issue concerning delisting has also been satisfactorily answered as permission has already been taken from Jaipur Stock Exchange and no reply from BSE is awaited. In any case, the applicant has asserted that this scheme has been approved by shareholders and others overwhelmingly in their commercial wisdom. It has further been offered that steps would be taken to ensure that the shares of the transferee company post demerger are also listed on such Stock Exchanges where the shares of the companies were listed and were being traded prior to the demerger. The transferee company is ready and willing to comply with listing arrangements and applicable SEBI guidelines.

In respect of objection No. (vi), it is adequately explained that the notices to the Registrar under Section 394 of the Companies Act, 1956 are good enough and no separate notices under Section 94/97 read with Section 192 of the Companies Act, 1956 are required to be served. The object of the notices is the same.



(In respect of objection No. (vii), it has been rightly clarified that the Foreign Shareholders have been issued notices by publishing such notices in the newspaper.

The objection No. (viii) has also been replied that initially quorum was not fixed by the High Court in its order dated 04.10.2012 for convening of the meetings. However, the meetings of the Members of Modern Insulators Limited being the demerged company was convened at the instance of the High Court on 09.11.2012. It has come on record that company has over 32,000 shareholders. As per the report of the Chairman, it has been reported that in all four members were personally present in the concerned meeting and Massive UTI Mutual Fund had voted against the scheme (approximately 4.5% of total equity shares of the company). However, the aforesaid order was taken in appeal namely C.A. No. 38/2015. The Division Bench of the High Court disposed of the appeal on 28.11.2016 and directed a fresh meeting of the shareholders of the Applicant No. 1 Company/Demerged Company to hold its shareholders meeting on 07.01.2017. The quorum of the said meeting was minimum five members.

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In the fresh meeting held on 07.01.2017 forty members participated (35 present and 5 by e-voting) representing 59.39% of the total shares of the company as is evident from the Chairperson's report dated 09.01.2017.

However, the shareholders present and voting were more than 75%. The scheme has been approved as maturity of persons representing members have voted for the scheme and only one objection has filed. In the concluding paragraph of the report, it is specifically stated that the proposed scheme has been approved by majority of shareholders representing more than 3/4 in value of the shareholders present and voting physically or by e-voting which satisfies the requirement of (6) of Section 230. The aforesaid view is supported by *Thirumalai Chemicals Limited v. Union of India and Others*: [2011 (6) SCC 739]; *Ardee Infrastructure Pvt. Ltd. with Ms. Anuradha Bhatia* [FAO (OS) No. 221/2016] and *State of Rajasthan v. Basant Agrotech (India) Ltd.* [AIR 2014 SC 487].

11. The counsel for Petitioners had filed an affidavit stating that they have not received any objections from the third party and public at large for the purpose of sanction to the present Scheme of Arrangement. The above statement is taken on record. In view of absence of any other



objections having been placed on record before this Tribunal and since all the requisite statutory compliances having been fulfilled, this Tribunal sanctions the Scheme of Arrangement annexed with the Company Petition as well as the prayer made therein. The appointed date as defined in the Scheme is 01.04.2011. The expression effective date has also been defined in the Scheme to mean the last of the date on which the conditions referred to in Clause 15 of the scheme are fulfilled. The effective date shall also be taken to mean "date of coming into effect of this Scheme" or effectiveness of this Scheme.

12. Notwithstanding the above, if there is any deficiency found or, violation committed qua any enactment, statutory rule or regulation, the sanction granted by this court will not come in the way of action being taken, albeit, in accordance with law, against the concerned persons, directors and officials of the petitioners.

13. While approving the Scheme as above, it is clarified that this order should not be construed as an order in any way granting exemption from payment of stamp duty, taxes, GST or any other charges, if any payment in accordance with law or in respect to any



permission/compliance with any other requirement which may be specifically required under any law.

14. THIS TRIBUNAL DO FURTHER ORDER

- a) That all the property, rights and powers of the Demerged Undertaking of Petitioner Company No.1 be transferred without further act or deed, to the Resulting Company and accordingly the same shall pursuant to Section 232 of the Act, be transferred to and vest in the Resulting Company for all the intents and interests of the Demerged Undertaking of Petitioner Company No. 1 therein but subject nevertheless to all charges now affecting the same; and
- b) That all the liabilities and duties of Demerged Undertaking of Petitioner Company No. 1 be transferred without further act or deed, to the Resulting Company and accordingly the same shall pursuant to Section 232 of the Act, be transferred to and become the liabilities and duties of the Resulting Company; and

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- c) That all proceedings now pending by or against the Demerged Undertaking of Petitioner Company No. 1 be continued by or against the Resulting Company; and
- d) That Petitioner Companies shall file within thirty days of the date of the receipt of this order cause a certified copy of this order to be delivered to the Registrar of Companies; and
- e) That any person interested shall be at liberty to apply to the Tribunal in the above matter for any directions that may be necessary.

The petition stands disposed of in the above terms.

12.12.2017



Sd/-
(M.M.KUMAR)

PRESIDENT

Sd/-
(R.VARADHARAJAN)
MEMBER (JUDICIAL)


13/12/2017
Registrar
National Company Law Tribunal
New Delhi

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~~SCHEME~~ SCHEME

ANNEXURE-67

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SCHEME OF ARRANGEMENT

BETWEEN

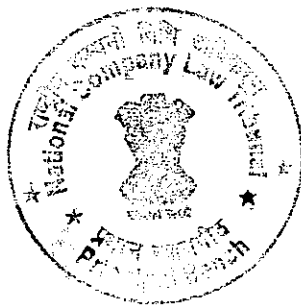
MODERN INSULATORS LIMITED (DEMERGED COMPANY)

AND

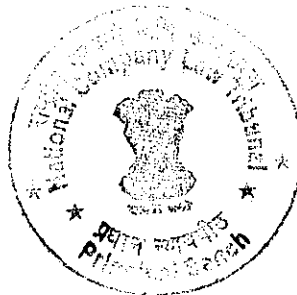
MODERN POLYTEX LIMITED (RESULTING COMPANY)

AND

THEIR RESPECTIVE SHAREHOLDERS AND CREDITORS
(UNDER SECTION 391 TO 394 OF COMPANIES ACT, 1956)

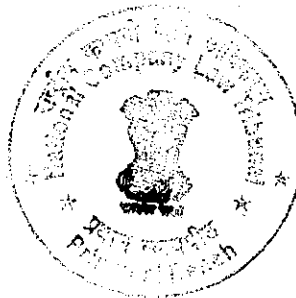


- A. Modern Insulators Limited ("MIL") is a company registered under the provisions of the Companies Act, 1956, having its registered office at A-4, Vijay Path, Tilak Nagar, Jaipur-302004 (Rajasthan), is engaged in the business of manufacture and sale of specialty insulators and has its production facility at Abu Road - 307026, District Sirohi (Rajasthan) India.
- B. MIL set up a separate "yarn division" under the name of Gujarat Polyfils ("GPF") at Village Nana Borsara, District Surat, in the State of Gujarat in the year 2007 for the manufacture of polyester yarn with capacity of 25000 tons per annum with an investment of Rs. 85 crores. The project was implemented in two phases. The Commercial production of the first phase having capacity of 12500 tons per annum was commenced in September, 2008 and commercial production of second phase of the project with capacity of 12500 tons per annum has been commenced in March, 2010.
- C. With a view to implement and develop the business plan of the polyester yarn under GPF as a focussed entity and take up the further opportunities in the polyester yarn business, it is now proposed to de-merge the GPF division into a separate corporate entity.
- D. The present Scheme of Arrangement (hereinafter referred to as "Scheme") would involve transfer on a going concern basis of the GPF ("Demerged Undertaking" as defined later in the Scheme) into Modern Polytex Limited ("MPL"), with MIL focusing on the Remaining Business (as defined later in the Scheme) and in consideration thereof, issue of equity shares by MPL to the Shareholders of MIL on a proportionate basis, pursuant to section 394 and other relevant provisions of the Companies Act, 1956 and in compliance with the norms laid down under section 2(19AA) of the Income Tax Act, 1961. This



restructuring is intended to provide greater business focus both in MIL and MPL.

- E. The Board of Directors of both, the Demerged Company and the Resulting Company are of the opinion that the demerger would result in benefit to the shareholders, creditors, employees of both the companies and the general public. To achieve the said objective an arrangement has been arrived by the Board of Directors of MIL and MPL and it has been decided to make the requisite application before the Hon'ble High Court of Rajasthan at Jaipur under section 391 and 394 of the Companies Act, 1956 for the sanction of the following Scheme of Arrangement.

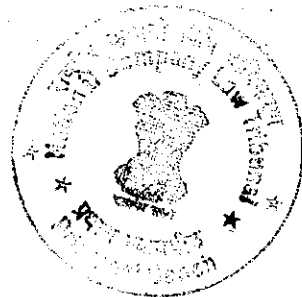


1. **DEFINITIONS**

In this scheme, unless repugnant to the meaning or context thereof, the following expressions shall have the following meaning:-

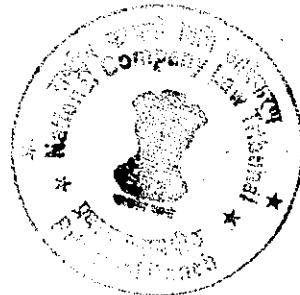
- (A) "Act" means the Companies Act, 1956 or any statutory modification or re-enactment thereof for the time being in force.
- (B) "Appointed Date" shall mean 1st April, 2011 or such other date(s) as the Hon'ble High Court may direct or approve, or by such authority having jurisdiction under law.
- (C) "De-merged Company" or "MIL" means Modern Insulators Limited, a Company incorporated under the Act and having its registered office at A-4, Vijay Path, Tilak Nagar, Jaipur-302004 (Rajasthan).
- (D) "De-merged Undertaking" means the undertaking of the Demerged Company comprising the business activities of the Yarn Division and shall include all the business, undertakings, properties and liabilities (except Liabilities as mentioned in sub para (v) hereunder) of whatsoever nature and kind and wheresoever situate as on appointed date of the De-merged Company appertaining to or relating to its Yarn Division at Surat (GPF), on a going concern basis, together with all their assets and liabilities and shall mean and include (without limitation):

- (i) all assets and properties appertaining to or relating to yarn division at Surat, whether movable or immovable, leasehold or freehold, real or personal, in possession or reversion, corporeal or incorporeal, tangible or intangible, including all the plant and machineries, buildings, sheds, offices, capital work-in-progress, rolling stock, current assets (including inventories, sundry debtors, bills of exchange, loans and advances), vehicles, D.G. sets, godowns, stocks



and stores, warehouses, furniture, fixtures, office equipment, appliances, gadgets, accessories, power lines, water pipelines, depots, power plants along with rights, share of any joint assets, and other facilities;

- (ii) all permits, quotas, rights, entitlements, industrial and other licenses, bids, tenders, letters of intent, expressions of interest, development rights (whether vested or potential and whether under agreements or otherwise), local government (panchayat) permissions, approvals, consents, subsidies, tenancies in relation to the office and/or residential properties for the employees, benefit of any deposits, privileges, all other rights including sales tax deferrals and exemptions (if any) and other benefits, lease rights and prospecting licenses (including the benefit of any applications made therefore) and the surface rights in relation thereto, receivables, and liabilities related thereto, licenses, powers and facilities of every kind, nature and description whatsoever, rights to use and avail of telephones, telexes, facsimile connections and installations, utilities, electricity and other services, provisions and benefits of all agreements, contracts and arrangements and all other interests in connection with or appertaining to or relating to the Yarn Division at Surat;
- (iii) all earnest moneys and/or security deposits paid by the Demerged Company in connection with or relating to the Yarn Division at Surat;
- (iv) all records, files, papers, engineering and process information, computer programmes, software licenses, drawings, manuals, data, catalogues, quotations, sales and advertising materials, lists of present and former customers and suppliers, customer credit information, customer pricing information, and other records whether in physical or electronic form in connection with or pertaining to the Yarn Division at Surat;



(v) all present and future liabilities (including contingent liabilities but excluding any liabilities towards Income Tax if any which may arise in future relating to the period prior to appointed date) appertaining to or relatable to the Yarn Division at Surat as on appointed date and shall further include any obligations under any licenses or permits and the obligations under the Advance License Scheme and Export Promotion Capital Goods Scheme, appertaining or relatable to the Yarn Division at Surat.

(vi) All contracts, licences, trademark rights, tradenames, permissions, approvals, registrations, permits, patents, copyrights, entitlements, quotas, relief, grants, subsidies, benefit of or under agreements and contracts existing or which may entered into after the Appointed Date but before the Effective Date and / or all other rights, power, privileges and facilities of every kind of description, held, applied for or which may be obtained hereafter by the GPF or may hereafter to which the GPF is entitled to;

(E) "Effective Date" means the last of the dates on which all the conditions and matters referred to in Clause 15 hereof have been fulfilled. References in this Scheme to the date of "coming into effect of this Scheme" or "effectiveness of this Scheme" shall mean the Effective Date.

(F) "**Resulting Company**" means "**MPL**" Modern Polytex Limited, a Company incorporated under the Act and having its Registered Office at A-4, Vijaypath, Tilak Nagar, Jaipur - 302 004.

(G) "**Residual Undertaking**" means the undertaking of De-merged Company remaining after de-merger of Yarn Division at Surat into Resulting Company.



(H) "Remaining Business" means all the businesses, divisions, assets and liabilities of the De-merged Company other than the De-merged Undertaking.

(I) "Record Date" means the date to be fixed by the Board of Directors or Committee thereof of the Demerged Company for the purpose of determining the members of the Demerged Company to whom the shares will be allotted pursuant to this Scheme.

(J) "Scheme" means this Scheme of Arrangement in its present form or with any modification(s) made under Clause 14 of this Scheme or with any modification(s), if any, approved or imposed or directed by the Hon'ble High Court of Rajasthan.

(K) "Yarn Division at Surat" or "GPF" means the division of MIL at Surat for setting up manufacturing facilities for polyester yarn.

2. DATE OF COMING INTO EFFECT:

The Scheme shall come into legal operation from the Appointed Date, though it shall be effective from the Effective Date.



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3 (A) SHARE CAPITAL OF DEMERGED COMPANY

The Share Capital of De-merged Company as on 31/01/2011 is as follows:-

	<u>Authorised:</u>
Rs. 3000 lacs	Divided into 2,50,00,000 equity shares of Rs.10/- each And 5,00,000 Preference shares of Rs 100/- each
	<u>Issued , subscribed and paid up:</u>
Rs.2174.35 lacs	Divided into 2,17,43,500 equity shares of Rs.10/- each.

3 (B) SHARE CAPITAL OF SUBSIDIARY COMPANIES OF DEMERGED COMPANY.

The Demerged Company has two subsidiary Companies :

- i) Motile Power Trade Private Limited.

Motile Power Trade Private Limited was incorporated in the State of Maharashtra on 20/03/2009 vide Certificate of Incorporation bearing CIN No. U51109MH2009PTC191078 issued by the Registrar of Companies, Mumbai, Maharashtra. The Registered office of this Company is situated at 1st floor, Proto Prima Chamber, 1st Suren Road Off Andheri Kurla Road Chakala , Andheri (East) Mumbai-400093 .The Demerged Company holds 86 % shares in the Paid Up Share capital of Motile Power Trade Private Limited. The details of Share Capital is as under:

	<u>Authorised:</u>
Rs.5 lacs	Divided into 50,000 equity shares of Rs.10/- each
	<u>Issued , subscribed and paid up:</u>
Rs. 5 lacs	Divided into 50000 equity shares of Rs.10/- each.



ii) Gujarat Polyfils (India) Limited.

Gujarat Polyfils (India) Limited was incorporated in the State of Rajasthan on 21/04/2009 vide Certificate of Incorporation bearing CIN No. U17214RJ2009PLC028721 issued by the Registrar of Companies, Jaipur, Rajasthan. The Registered office of this Company is situated at A-4, Tilak Nagar , Jaipur, Rajasthan - 302004 .The Demerged Company holds 98.80 % shares in the Paid Up Share capital of Gujarat Polyfils (India) Limited. The details of Share Capital of Gujarat Polyfils (India) Limited is as under:

	<u>Authorised:</u>
Rs.5 lacs	Divided into 50,000 equity shares of Rs.10/- each
	<u>Issued , subscribed and paid up:</u>
Rs. 5 lacs	Divided into 50000 equity shares of Rs.10/- each.

3 (C) SHARE CAPITAL OF RESULTING COMPANY

The share capital of Resulting Company as on 31/01/2011 is as follows:-

	<u>Authorised Capital:</u>
Rs.5 lacs	Divided into 50,000 equity shares of Rs.10/- each
	<u>Issued , subscribed and paid up:</u>
Rs.5lacs	Divided into 50,000 equity shares of Rs.10/- each.

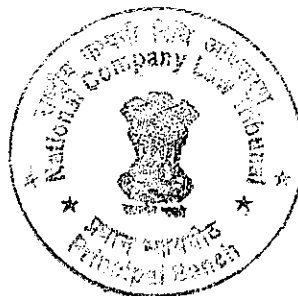


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PART II

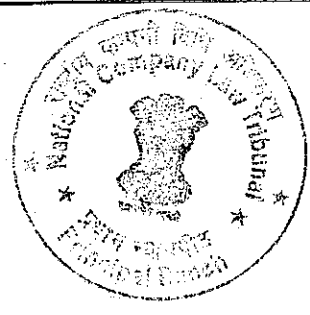
4. DEMERGED UNDERTAKING

- 4.1. This Scheme has been drawn to comply with the conditions relating to "Demerger" as specified under section 2 (19AA) of the Income Tax Act, 1961. If any terms or provisions of the Scheme are found or interpreted to be inconsistent with the said provisions at a later date including resulting from an amendment of law or for any other reason whatsoever, the provisions of the Income Tax Act, 1961 shall prevail and the Scheme shall stand modified to the extent determined necessary to comply with section 2 (19AA) of the Income Tax Act, 1961. Such modification will however not affect other parts of the Scheme.
- 4.2. Upon coming into effect of this Scheme and with effect from the Appointed Date, the De-merged Undertaking (including all the estate, assets, properties, liabilities, obligations, rights, claims, title, interest and authorities including accretions and appurtenances of the De-merged Undertaking shall, subject to the provisions of this Clause in relation to the mode of vesting and pursuant to Section 394 (2) of the Act and without any further act or deed, be transferred to and vested in or be deemed to have been transferred to and vested in the Resulting Company as a going concern so as to become as and from the Appointed Date, the estate, assets, properties, liabilities, obligations, rights, claims, title, interest and authorities of the Resulting Company subject to Part III of this Scheme in relation to charges thereon in favour of banks and/or financial institutions.
- 4.3. In respect of such of the assets of the De-merged Undertaking as are movable in nature or are otherwise capable of transfer by delivery of possession, payment or by endorsement and delivery, the same shall pursuant to the provisions of Section 394 of the Act stand transferred without requiring any further deed or instrument of conveyance for



transfer of the same, and shall become the property of the "Resulting Company" as an integral part of the business/undertakings hereby transferred.

- 4.4 In respect of such of the assets of the De-merged Undertaking other than those referred to in sub-clause 4.3 above, the same shall, as more particularly provided in sub-clause 4.2 above, without any further act, instrument or deed, be transferred to and vested in and/or be deemed to be transferred to and vested in the "Resulting Company" on the Appointed Date pursuant to the provisions of Section 394 of the Act or other provisions of law as applicable.
- 4.5 All assets acquired by the De-merged Company after the Appointed Date but prior to the Effective Date for operation of the De-merged Undertaking shall also, without any further act, instrument or deed stand transferred to and vested in or be deemed to have been transferred to or vested in the "Resulting Company" upon the coming into effect of this Scheme.
- 4.6 For the avoidance of doubt and without prejudice to the generality of the foregoing, it is clarified that upon coming into effect of this Scheme, all the rights, title, interest and claims of the De-merged Company in any leasehold properties, including the present and prospecting licences/ registrations (including in each case any applications made therefore) of the De-merged Company in relation to the De-merged Undertaking shall, 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 the "Resulting Company".
- 4.7 All statutory licences, permissions, approvals or consents to carry on the operations of the De-merged Undertaking shall stand vested in or transferred to the Resulting Company without any further act or deed

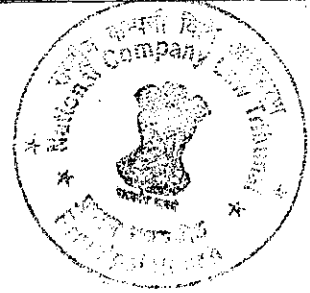


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and shall be appropriately mutated by the Statutory Authorities concerned in favour of the Resulting Company upon the vesting and transfer of the De-merged Undertaking pursuant to this Scheme. The benefit of all statutory and regulatory permissions, factory licences, environmental approvals and consents shall vest in and become available to the Resulting Company pursuant to this Scheme. In so far as various incentives, sales tax deferral benefits, subsidies (including applications for subsidies) rehabilitation schemes, grants, special status and other benefits or privileges enjoyed, granted by any government body, local authority or by any other person, or availed of by the Demerged Company are concerned, the same shall, without any further act or deed, in so far as they relate to the Demerged Undertaking, vest with and be available to the Resulting Company on the same terms and conditions.

4.8 It is clarified that, upon the coming into effect of this Scheme, the debts, liabilities, duties, and obligations of the De-merged Undertaking (as on the Appointed Date) and being a part of the De-merged Undertaking shall, without any further act or deed, be and stand transferred to and be deemed to be transferred to the Resulting Company to the extent that they are outstanding as on the Effective Date, and shall become the debts, liabilities, duties and obligations of the Resulting Company which shall meet, discharge and satisfy the same:

4.9 Where any of the debts, liabilities, duties and obligations of the De-merged Company as on the Appointed Date deemed to be transferred to the Resulting Company have been discharged by the De-merged Company after the Appointed Date and prior to the Effective Date, such discharge shall be deemed to have been for and on account of the Resulting Company and all loans raised and used and all liabilities and obligations incurred by the De-merged Company for the operations of the De-merged Undertaking after the Appointed Date



and prior to the Effective Date, subject to the terms of this Scheme, shall be deemed to have been raised, used or incurred for and on behalf of the Resulting Company and to the extent they are outstanding on the Effective Date, shall also without any further act or deed be and stand transferred to and be deemed to be transferred to the Resulting Company and shall become the debts, liabilities, duties and obligations of the Resulting Company which shall meet, discharge and satisfy the same.

4.10 It is clarified that, upon the coming into effect of the Scheme, a statement of account as on the Appointed Date shall be drawn up in respect of the assets and liabilities of the De-merged Undertaking to be transferred to the Resulting Company as per the Scheme.

5. CONTRACTS AND DEEDS

5.1 Upon the coming into effect of this Scheme and subject to the provisions of this Scheme, all contracts, deeds, bonds, agreements, schemes, arrangements and other instruments of whatsoever nature in relation to the De-merged Undertaking to which the De-merged Company is a party or to the benefit of which the De-merged Company may be eligible, and which are subsisting or having effect immediately before the Effective Date, shall continue in full force and effect on or against or in favour, as the case may be, of the Resulting Company and may be enforced as fully and effectually as if, instead of the De-merged Company, the Resulting Company had been a party or beneficiary or oblige thereto.

5.2 Without prejudice to the other provisions of this Scheme and notwithstanding the fact that vesting of the De-merged Undertaking occurs by virtue of this Scheme itself, the Resulting Company may, at any time after the coming into effect of this Scheme in accordance with the provisions hereof, if so required under any law or otherwise, execute deeds (including deeds of adherence), confirmations or other



writings or tripartite arrangements with any party to any contract or arrangement to which the De-merged Company is a party or any writings as may be necessary to be executed in order to give formal effect to the above provisions, the De-merged Company will, if necessary, also be a party to the above. The Resulting Company shall, under the provisions of this Scheme, be deemed to be authorised to execute any such writings on behalf of the De-merged Company and to carry out or perform all such formalities or compliances referred to above on the part of the De-merged Company to be carried out or performed.

6. **LEGAL PROCEEDINGS**

6. (a) Upon the coming into effect of this Scheme, all legal, taxation or other proceedings, whether civil or criminal, (including before any statutory or quasi-judicial authority or tribunal) by or against the De-merged Company under any statute, whether pending on the Appointed Date or which may be instituted at any time thereafter and relating to the De-merged Undertaking shall be continued and enforced by or against the De-merged Company after the Effective Date. The Resulting Company shall in no event be responsible or liable in relation to any such legal or other proceedings against the De-merged Company.

(b) All legal, taxation or other proceedings whether civil or criminal (including before any statutory or quasi-judicial authority or tribunal) by or against the De-merged Company under any statute, whether pending on the Appointed Date or which may be instituted at any time thereafter, and relating to the Remaining Business (including those relating to any property, right, power, liability, obligation or duties of the De-merged Company in respect of the Remaining Business) shall be continued and enforced by or against the De-merged Company after the Effective Date, which shall keep the Resulting Company fully indemnified in that behalf. The Resulting



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Company shall in no event be responsible or liable in relation to any such legal or other proceeding against the De-merged Company.

- (c) If proceedings are taken against the Resulting Company in respect of the matters referred to in sub-clause 6(a and b) above, it shall defend the same in accordance with the advice of the De-merged Company and at the cost of the De-merged Company, and the latter shall reimburse and indemnify the Resulting Company against all liabilities and obligations incurred by the Resulting Company in respect thereof.

7. **BUSINESS AND PROPERTY IN TRUST FOR RESULTING COMPANY/CONDUCT OF BUSINESS**

7.1 The De-merged Company, with effect from the Appointed Date and up to and including the Effective Date:

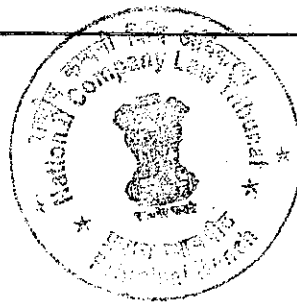
- (a) shall be deemed to have been carrying on and to be carrying on all business and activities relating to the De-merged Undertaking and stand possessed of all the estates, assets, properties, liabilities, obligations, rights, title, interest, authorities, contracts, investments and strategic decisions of the De-merged Undertaking for and on account of, and in trust for, the Resulting Company;
- (b) all profits accruing to the De-merged Company, or losses arising or incurred by it (including the effect of taxes if any thereon), relating to the De-merged Undertaking for the period after the Appointed Date based on the audited accounts of the De-merged Company shall for all purposes, be treated as the profits or losses, as the case may be, of the Resulting Company; and

7.2 (a) The Resulting Company undertakes to engage, on and from the Effective Date, all employees of the De-merged Company engaged in the De-merged Undertaking and who are in the employment of



the De-merged Company as on the Effective Date with the benefit of continuity of service, on the same terms and conditions on which they are engaged by the De-merged Company being not unfavourable to the terms and conditions applicable to the Employees of the De-merged Undertaking, without any interruption of service as a result of the transfer. The Resulting Company agrees that for the purpose of payment of any compensation, gratuity and other terminal benefits, the past services of such employees with the De-merged Company shall also be taken into account, and agrees and undertakes to pay the same as and when payable.

(b) In so far as the existing gratuity fund and pension and/or superannuation fund and/or retirement fund or benefits created/accrued with the De-merged Company for its employees (including employees of the De-merged Undertaking) are concerned, the part of the funds referable to the employees of the De-merged Company who are being transferred to the Resulting Company in terms of sub clause (a) above shall be held for their benefit pursuant to this Scheme in the manner provided hereinafter. In the event that the Resulting Company has its own funds in respect of any of the funds referred to above, such funds/ investments/ provision shall, subject to the necessary approvals and permissions, be transferred to the relevant funds of the Resulting Company. In the event that the Resulting Company does not have its own fund in respect of any of the aforesaid matters, the Resulting Company may, subject to necessary approvals and permissions, continue to contribute in respect of the employees engaged in the De-merged Undertaking to the relevant funds of the De-merged Company, until such time that the Resulting Company creates its own fund, at which time the funds / investments and contributions pertaining to the employees of the De-merged



Undertaking shall be transferred to the funds created by the Resulting Company.

(c) Insofar as the existing provident fund contribution by the De-merged Company for its employees (including the employees of the De-merged Undertaking) is concerned, the balance outstanding to the credit with respect to the employees of the De-merged Company who are being transferred to the Resulting Company in terms of sub-clause (a) above shall be transferred to the new account with employer's name as Resulting Company. The provident authorities will transfer the entire portion of past contribution deposited by the De-merged Company in the account of Resulting Company for the employees referable to the employees of the De-merged Undertaking. Upon the coming into effect of this Scheme, the new account number in the name of Resulting Company shall be created for the benefit of the employees who are being transferred to the Resulting Company.

7.3 The Demerged Company undertakes that it will from the date of the Scheme by the Board of Directors of the Demerged Company and the Resulting Company, or the Appointed Date, whichever is earlier, and upto and including the Effective Date preserve and carry on the Demerged Undertaking with diligence and prudence and agrees that it will not, in any material respect, without the prior written consent of the Resulting Company, alienate, charge or otherwise deal with or dispose of the Demerged Undertaking or any part thereof except in the ordinary course of business or undertakes substantial expansion of the Demerged Undertaking, other than expansion which have already commenced.

8. SAVING OF CONCLUDED TRANSACTIONS

The transfer and vesting of the assets, liabilities and obligations of the De-merged Undertaking under Clause 4 hereof and the continuance of the



proceedings by or against the Resulting Company under Clause 6 hereof shall not affect any transaction or proceedings already completed by the De-merged Company on or before the Appointed Date to the end and intent that, subject to Clause 5, the Resulting Company accepts all acts, deeds and things done and executed by and/or on behalf of the De-merged Company as acts, deeds and things done and executed by and on behalf of the Resulting Company.

PART - III

9. REMAINING BUSINESS

9.1 The Remaining Business and all the assets, liabilities and obligations pertaining thereto shall continue to belong to and be vested in and be managed by the De-merged Company subject to Part IV of this Scheme in relation to charges thereon in favour of banks, and financial institutions.

9.2. With effect from the Appointed Date and upto and including the Effective Date:

(a) The De-merged Company shall carry on and shall be deemed to have been carrying on all business and activities relating to the Remaining Business for and on its own behalf;

(b) All profits accruing to the De-merged Company thereon or losses arising or incurred by it (including the effect of taxes, if any, thereon) relating to the Remaining Business shall, for all purposes, be treated as the profits or losses, as the case may be, of the De-merged Company.

The Remaining Business and all the assets, liabilities and obligations pertaining thereto, shall continue to belong to and remain vested in and be managed by the De-merged Company.



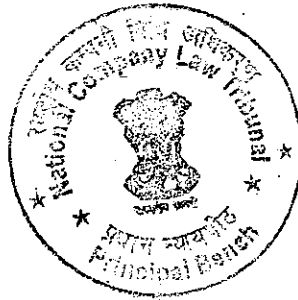
PART IV LIABILITIES**10. LOANS AND RELATED SECURITY**

(a) In so far as loans and borrowings and general or multipurpose borrowings of the De-merged Company are concerned, upon coming into effect of this Scheme, the same shall continue as loans and borrowings of the De-merged Company and shall not have any security on the assets of Resulting Company save and except the Charge created on the Fixed Assets of Yarn/ Division at Surat in favour of IFCI Limited by way of exclusive first charge and further charge created on fixed assets of Yarn division in favour of Pirth Mercantiles Pvt. Ltd. by way of second charge and in favour of Summurai Commercials Pvt. Ltd. by way of second charge for the loans obtained by the Demerged Company. It is however expressly made clear that Loans obtained from IFCI Limited and from Pirth Mercantiles Pvt. Ltd. and from Summurai Commercials Pvt. Ltd. remaining outstanding together with interest and other charges as on the date of the Effective date of the Scheme shall continue to be discharged by the Demerged Company..

(b) Without any prejudice to the provisions of the foregoing clauses and upon the Scheme becoming effective, the De-merged Company and the Resulting Company shall execute any instruments or documents or do all the acts and deeds as may be required, including the filing of necessary particulars and/or modification(s) of charge, with the Registrar of Companies, Rajasthan respectively to give formal effect to the above provisions, if required.



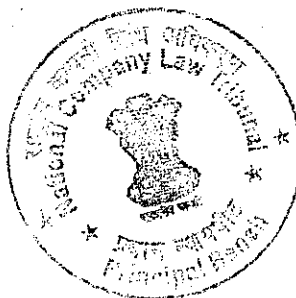
(c) Subject to the necessary consents being obtained, if required, in accordance with the terms of this Scheme, the provisions of this clause shall operate, notwithstanding anything to the contrary contained in any instrument, deed or writing or the terms of sanction or issue or any security document; all of which instruments, deeds or writings shall stand modified and/or superseded by the foregoing provisions.



PART V

11. PROVISIONS RELATING TO PROPOSED AMALGAMATION OF MODERN TERRY TOWELS LTD (MTTL) WITH MIL AS PER REHABILITATION SCHEME PENDING CONSIDERATION OF HON'BLE BIFR.

- (a) Modern Terry Towels Limited (MTTL) has proposed a draft Rehabilitation Scheme for its Amalgamation with MIL which is under consideration of Hon'ble BIFR in case no 209/2001. The shareholders of MIL have already approved the Scheme of Amalgamation by way of Special Resolution in their meeting held on 31st March, 2010 pursuant to provisions of Section 18 and other applicable provisions if any of SICA as also of the Companies Act, 1956 and sub-clause 24 of clause III-B of the Object Clause of the Memorandum of Association of the Company and subject to the sanction of the BIFR under the provisions of SICA or any other authority or authorities under any law for the time being in force. The said Draft Rehabilitation Scheme further provides that upon Amalgamation of MTTL with MIL in terms of the said Scheme, the Shareholders of MTTL shall be allotted 2(two) fully paid up Equity Shares of Rs.10 each of MIL for Every 3(Three) Equity Shares of Rs.10 each fully paid up held in MTTL subsequent to write -down and fresh allotment as per clause (b),(c) and (d) of Clause 8.3.7 under the heading Restructuring of Equity Share Capital of MTTL which read as under :-
- (b) The issued, subscribed and paid-up equity capital of the company comprising 5,46,26,500 equity shares of Rs.10 each fully paid-up (including the converted preference shares as prescribed above) shall stand at 5,46,26,500 equity shares of Rs.2 each and thereafter every 5 equity shares of Rs.2 each will be consolidated



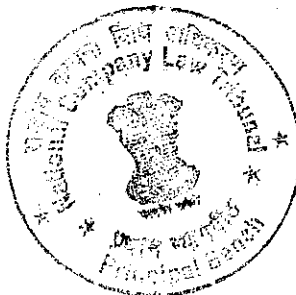
to one equity share of Rs.10 each fully paid-up. Consequently the revised paid-up equity capital of the company shall comprise 109,25,300 equity shares of Rs.10 each fully paid-up, aggregating Rs.1092.53 lacs.

(c) In case of fractional shareholding subsequent to write down, such fractional shareholding shall be held in a Trust on behalf of the fractional shareholders. Thereafter the company shall appoint a Sebi approved Merchant Banker for valuing the shares of the company held in the said Trust, and the fractional shareholders shall be given a choice to sell their fractional shareholding to promoters at a price arrived at by the Merchant Bankers.

d) MTTL had raised advance equity subscription of Rs.1625 lacs for funding the payment of settlement dues of the secured creditors like ICICI, IOB, AFIC and Actis, who have been paid fully. MTTL shall allot 162.50 lac equity shares of Rs.10 each, fully paid-up, against the aforesaid advance equity subscription of Rs.1625 lacs brought in already. The said equity shares shall be allotted subsequent to write-down of the existing equity capital as per clause (b) above.

12. ISSUE OF EQUITY SHARES BY RESULTING COMPANY

Upon the vesting of the assets and liabilities of De-merged Undertaking to Resulting Company pursuant to this Scheme and upon coming into effect of this Scheme, Resulting Company shall without any further act or deed issue and allot to every member of MIL holding equity shares in MIL on a date to be fixed by the Board of Directors of MIL (hereinafter referred to as "Record Date") One Equity Share in Resulting Company of Rs.10 (Rupees Ten) each credited as fully paid-up for every Two equity shares of Rs.10 each fully paid-up held by such member in MIL. The said equity shares to be issued and allotted to the members of MIL shall rank for dividends, voting rights and in all other respects, pari passu with the existing equity shares of MPL.



The new equity shares to be issued and allotted in terms hereof will be subject to the Memorandum and Articles of Association of the Resulting Company.

Equity Shares to be issued by the Resulting Company in respect of the Shares of the Demerged Company where calls are in arrears shall be kept in abeyance by the Resulting Company , pending full payment by the member to the Demerged Company

In respect of Forfeited Shares of the Demerged company ,no shares shall be issued by the Resulting Company

In case of any member shareholding in the Demerged Company is such that such member becomes entitled to a fraction of 1 share of the Demerged Company, the Demerged Company shall not issue fractional share Certificate(s) to such members but shall consolidate the fraction and issue the Consolidated Shares to a trustee nominated by the Board of Directors of the Demerged company who shall sell the shares and distribute the net sell proceeds to such members in proportion to their respective fractional entitlements .

PART-VI

GENERAL TERMS AND CONDITIONS

13. Upon this Scheme coming into effect, the authorised share capital of the Resulting Company shall, without any further act or deed, be automatically increased from Rs.5 lacs (Rupees Five Lacs Only) divided into 50,000 Equity Shares of Rs. 10 each to Rs.10.92 crores (Rupees Ten Crores Ninty Two Lacs Only) divided into 1,09,21,750 equity shares of Rs. 10 each. Consequently, Clause V of the Memorandum of Association of the Resulting Company (relating to the authorised share capital) shall, without any further act, instrument of deed, be and stand altered, modified and amended pursuant to sections 16, 94 and 394 and

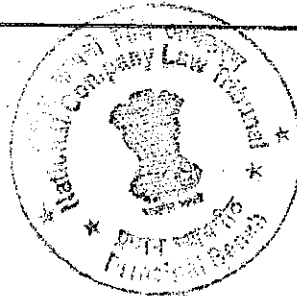


other applicable provisions of the Act, as the case may be, in the manner set out below and be replaced by the following clause:

"The Authorised Share Capital of the Resulting Company(The Company) is Rs.10.92 crores (Rupees Ten crores & Ninty Two Lacs only) divided into 10921750 equity shares of Rs.10/- (Rupees Ten only) each, with powers to increase and reduce the share capital of the Company or to divide the shares in the capital for the time being into several classes and to attach thereto respectively such preferential, deferred, qualified or special rights, privileges or conditions, as may be determined, and to vary, modify, or abrogate any such rights, privileges or conditions in such manner as may for the time being provided by the regulation of the Company and the legislative provisions for the time being in force."

14. ACCOUNTING TREATMENT

- 14.1 The Resulting Company shall account for the De-merged Undertaking as per the Accounting Standard 14 as stated in the Companies (Accounting Standards) Rules, 2006 and any amendments thereto.
- 14.2 As on the appointed date, and subject to any corrections and adjustments as may, in the opinion of the Board of Directors of the De-merged Company, the assets and liabilities of the De-merged Undertaking, other than inter-unit balance amounting to Rs.85 crores shall be transferred to Resulting Company at values appearing in the books of account of Demerged Undertaking, more particularly given in **Schedule-I** hereto, in the same form as they appear in the financial statements of the De-merged Undertaking.
- 14.3 Further, in case of any difference in accounting policy between the De-merged Company and the Resulting Company, the impact of the same till the demerger will be quantified and adjusted in the Profit



and Loss account and/or Revenue Reserve(s) of the Resulting Company, at the discretion of the Resulting Company to ensure that the financial statements of the Resulting Company reflects the financial position on the basis of consistency in the accounting policy.

14.4 Upon the scheme becoming effective, an amount equal to debit balance of Rs.85 crores under inter-unit balance in the books of De-merged Company as on appointed date, shall be adjusted by the De-merged Company, against the Reserves & Surplus Account in the books of De-merged Company

14.5 Upon the scheme becoming effective, the excess of book value of assets of De-merged Undertaking over the book value of its liabilities and paid-up value of equity share capital issued and allotted by Resulting Company to the shareholders of De-merged Company, will be credited to Reserves and Surplus Account of the Resulting Company.

15. APPLICATIONS TO HIGH COURT OR OTHER AUTHORITY

The De-merged Company and the Resulting Company shall with all reasonable dispatch, make applications/petitions to the Hon'ble High Court of judicature at Rajasthan at Jaipur where the registered offices of the Demerged Company and the Resulting Company are situated under Sections 391 and 394 of the Act, for sanctioning the scheme.

16. MODIFICATION OR CLARIFICATION

16.1 The De-merged Company (by its Board of Directors) and the Resulting Company (by its Board of Directors), either by themselves or through a committee appointed by them in this behalf, may, in their full and absolute discretion, assent to any alteration or modification to this Scheme which the Court and/or any other Authority may deem fit to approve or impose. In the event any of the conditions that may be imposed by the Court and/or Authority which the De-merged



Company and the Resulting Company may find unacceptable for any reason, then they are at liberty to withdraw from the Scheme.

16.2 The De-merged Company (by its Board of Directors) and the Resulting Company (by its Board of Directors), either by themselves or through a committee appointed by them in this behalf, may give such directions as they may consider necessary to settle any question or difficulty arising under the Scheme or in regard to and of the meaning or interpretation of the Scheme or implementation thereof or in any matter whatsoever connected therewith or to review the position relating to the satisfaction of various conditions to the scheme and if necessary, to waive any of those (to the extent permissible under law).

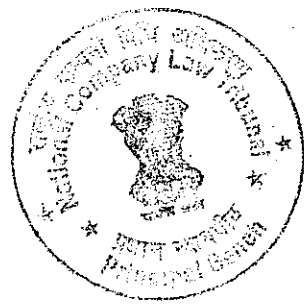
16.3 Upto the Effective Date, any issue as to whether any asset or liability pertains to the De-merged Undertaking or not shall be decided by the Board of Directors of the De-merged Company and the Resulting Company, either by themselves or through a committee appointed by them in this behalf, on the basis of evidence that may deem relevant for the purpose (including the books and records of the De-merged Company).

17. CONDITIONALITY OF SCHEME

This Scheme is conditional and subject to:-

(i) the Scheme being agreed to by the respective requisite majorities of the various classes of members and creditors (where applicable) of the De-merged Company and the Resulting Company as required under the Act and the requisite orders of the High Court of Rajasthan at Jaipur being obtained.

(ii) such other sanctions, permissions and approvals as may be required by law in respect of the Scheme being obtained.



(iii) the certified copies of the Court orders referred to in this Scheme being filed with the Registrar of Companies, Rajasthan.

18. **VALIDITY OF THE SCHEME**

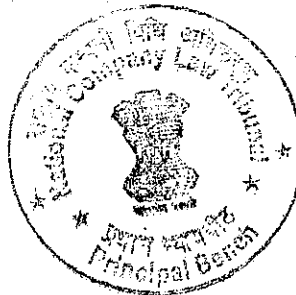
If any part of this Scheme is found to be unworkable for any reason whatsoever, the same shall not affect the validity or implementation of the other parts and/or provisions of this Scheme, subject to the decision of the Board of Directors of the De-merged Company and the Resulting Company.

19. **COST CHARGES AND EXPENSES**

All costs, charges, taxes including duties, levies and all other expenses, if any, and if applicable, arising out of or incurred in carrying out and implementing this Scheme and matters incidental thereto applicable in relation to this Scheme shall be borne and paid by the De-merged Company.

20. **ARBITRATION AND DISPUTE RESOLUTION**

If any dispute, difference or claim arises between the De-merged Company and the Resulting Company hereto in connection with this Scheme or the validity, interpretation, implementation or alleged breach of this Scheme or anything done or omitted to be done pursuant to this Scheme, the De-merged Company and the Resulting Company shall attempt in the first instance to resolve the same through negotiation. If the dispute is not resolved through negotiation within [forty five] days after commencement of discussions or such longer period as the two parties agree to in writing, then either party may refer the dispute for resolution to a sole arbitrator jointly appointed by the De-merged Company and the Resulting Company. If the De-merged Company and the Resulting Company do not agree on the Person to be appointed as arbitrator within two weeks after one party has claimed for an arbitration in written form, then the parties shall refer the dispute to three arbitrators, one to be appointed by



each party with power to the two arbitrators so appointed to appoint a third arbitrator and such arbitration shall be in accordance with the provisions of the Indian Arbitration and Conciliation Act, 1996, or any statutory modification or re-enactment thereof for the time being in force. All proceedings in such Arbitration shall be conducted in English. The Arbitration shall take place in Mumbai, India and shall be governed by the Laws of India.

21. EFFECT OF NON-APPROVAL

In the event of this Scheme failing to take effect finally by 30/9/2013 or by such other later date as may be agreed upon by the respective Board of Directors of the Demerged Company and the Resulting Company, this Scheme shall become null and void and in that event no rights and liabilities whatsoever shall accrue to or be incurred inter se by the parties or their shareholders or creditors or employees or by any other person in such case each company shall bear its own cost or as may be mutually agreed.



SCHEDULE - I

**OPENING FINANCIAL STATEMENT AS ON 1.4.2011 AS APPEARING
IN BOOKS OF ACCOUNTS OF DEMERGED UNDERTAKING**

215

PARTICULARS	Amount (Rs. in lacs)
SOURCES OF FUNDS	
SHAREHOLDERS' FUND	
Share Capital	-
Reserves & Surplus	1184.06
	<u>1184.06</u>
LOAN FUNDS	
Secured Loans	-
	<u>-</u>
Deferred Tax Liability	-
TOTAL	<u><u>1184.06</u></u>
APPLICATION OF FUNDS	
FIXED ASSETS	
Gross Block	9416.58
Less : Depreciation	818.84
Net Block	8597.74
Capital work in Progress	405.29
	<u>9003.03</u>
INVESTMENTS	
CURRENT ASSETS, LOANS AND ADVANCES	
Inventories	1039.79
Sundry Debtors	194.90
Cash and Bank Balances	172.27
Loans and Advances	427.16
	<u>1834.12</u>
LESS: CURRENT LIABILITIES AND PROVISIONS	
Current Liabilities	1138.57
Provisions	14.52
	<u>1153.09</u>
Net Current Assets	681.03
Inter Unit balance	-8500.00
TOTAL	<u><u>1184.06</u></u>

