

দশ
টাকা



বাংলাদেশ
কোর্ট ফি

SL-101
05.07.2023

IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(STATUTORY ORIGINAL JURISDICTION)

Company Matter No. 62 of 2022

IN THE MATTER OF :

An Application under Section 228 read with
Section 229 of the Companies Act, 1994

AND

In the Matter of

R.N. Spinning Mills Limited (RNSPIN)

.....Transferee-Petitioner

Samin Food & Beverage Inds. and Textile
Mills Limited (SAMINTL)

.....Transferor-Petitioner

-Versus-

The Registrar, Joint Stock Companies and
Firms, Dhaka and others

.... Respondents

Mr. Mohammad Imran Miah, Advocate

.....For the Petitioners

Dr. Shahdeen Malik, Advocate

.....For the Respondent No. 2

Mr. Zubair A. Bhuiyan, Advocate

.....For the Respondent No. 9

The 18th December, 2022

Present:

Justice Muhammad Khurshid Alam Sarkar

This is an application under Section 228 read with Section 229 of
the Companies Act, 1994 (briefly, the Companies Act) at the instance of
R.N. Spinning Mills Limited (RNSPIN), being the Transferee-Company,
and Samin Food & Beverage Inds. and Textile Mills Limited
(SAMINTL), being the Transferor-Company, seeking approval of a
Scheme of Amalgamation of the above two Companies, whereby the
entire undertaking of the Transferor-Company, as going concern



together with all assets and liabilities, are proposed to be transferred to and vested in the Transferee-Company.

The petitioner No. 1 R.N. Spinning Mills Limited (RNSPIN) is a public company limited by shares and listed with stock exchange and incorporated under the Companies Act, with the objectives, *inter alia*, to carry on the businesses of producing all types of cotton, acrylic, viscose and CVC yarn of different qualities for selling or export to 100% export oriented dying/textile/garments industries, as otherwise more specifically elaborated in the MOA (Annexure-'C-1'). The authorized share capital of the company is TK. 500,00,00,000/- (Five Hundred Crore) divided into 50,00,00,000 ordinary shares of Tk. 10 each and it has paid up capital of Tk. 392,54,48,340/- divided in to 39,25,44,834 ordinary shares of Tk. 10 each and the aforesaid figure remained the same as on the date of filing this petition.. The paid-up shares of the company are being held by the following shareholders in the following manner:

S.L	Name of shareholders	Nos. of shares	Position
01	M.L. Dyeing Ltd (Represented by Md. Humayun Kabir)	3,45,89,966	Chairman
02	Md. Abul Kashem	N/A	Managing Director (Appointed)
03	Md. Abdul Kader Faruk	78,54,256	Director
04	Mrs. Shirin Faruk	58,22,7840	Director
05	F & S Industries Limited (Representated by Md. Obaydul Huq)	1,60,73,000	Director
06	Mr. Omar Faruque	N/A	Independent Director



07	Al Haj Mustaizur Rahman	31,937	Sponsors Shareholder
08	Abdul Quayum Mamun	9,87,135	Sponsors Shareholder
	Total Shares of Directors	11,77,64,134	
	Total Shares of General Shareholders	27,47,80,700	
Total		39,25,44,834	

* The petitioner No. 2-Samin Food & Beverage Inds. and Textile Mills Limited (SAMINTL) is a non-listed public company limited by shares incorporated under the Companies Act with the objectives, *inter alia*, to carry on the businesses producing all types of cotton yarn of different qualities and selling or exporting of those products to 100% export oriented dyeing/textile garments industries; along with other objectives, as otherwise more specifically elaborated in the MOA of the Transferor-Company (Annexures-'E'). The authorized and paid up shares capital of the petitioner No. 2 is given in Clause-5 of the Scheme of Arrangement for Amalgamation (Annexure-A). The shares of the petitioner No. 2 company are also being held by the aforesaid shareholders.

It has been stated in the application that since both the petitioner companies are closely connected through the common shareholders and directors, and since the petitioner No.1-company (Transferee Company) is in a position to expand its production and commercial activities substantially, the Board of Directors and shareholders of the Transferee-Company decided to undertake assets and liabilities of the Transferor-

Company into the petitioner No.1-company so that the same could be utilized more economically and efficiently to the benefit of the shareholders of both the companies. Accordingly, a Scheme of Amalgamation has been prepared and the same has been approved by the board of directors of both the companies in their respective meetings. It is stated that these two companies are belong to the same management group having the same shareholder-directors. For the purpose of conducting their business more efficiently and profitably as well as to reduce the ever-increasing administrative and overheads expenses, the Board of Directors of the companies decided to undertake a Scheme of Amalgamation whereby the petitioner no. 2, being the transferor-company, was proposed to be amalgamated with the petitioner no. 1 company, being the transferee-company.

Upon admission of the matter on 27.02.2022, the usual notices were published in two daily newspapers and affidavit-in-compliance was duly filed on 30.05.2022, as evident from annexures-N-Series to the said affidavit-in-compliance. The petitioner-companies were also directed to hold their respective Extraordinary General Meeting (EGM) for approval of the Scheme of Amalgamation and the same was held on 20.04.2022 & 21.04.2022, as evidenced by annexures- O, O-1 & Q to the aforesaid affidavit.

It transpires from the minutes of the meeting that the Scheme of Amalgamation was approved in the said meeting held on 20.04.2022 & 21.04.2022 approving the Scheme of Amalgamation.



Despite publication of the notice as noted above, no one appears to oppose the instant application.

Mr. Mohammad Imran Miah, the learned Advocate for the petitioners submits that the Scheme of the Amalgamation has been undertaken for the purpose of economical benefit of both the companies, their share holders, employees, creditors and other concern. In elaborating the above count of submissions, the learned Advocate for the petitioners submits that to keep pace with the present competitive market and to strengthen the position of the companies, the proposed Scheme of Amalgamation had been taken by the respective companies. He further points out to the fact that since the shares of the companies are being held by the same set of persons, no question of being prejudiced by any third party arises. He contends that in order to achieve their business objectives as well as to conduct their business more efficiently and profitably, the proposed Scheme of Amalgamation was approved by the shareholders of the companies.

By referring to the relevant provisions of the Memorandum and Articles of Association of the respective companies, the learned Advocate for the petitioners submits that the above legal instruments of both the companies contain provisions for such amalgamation.

The learned Advocate makes a submission in the form of making assurance before this Court that by the proposed amalgamation, no one will be prejudiced and the interest of all the shareholders and creditors will remain protected and the Scheme of Amalgamation will result in



reduction of administrative and overhead expenses which will contribute to the financial growth of the company.

By referring to the statements made in paragraph No. 20 to the substantive application, the learned Advocate for the petitioners companies confirms that except respondent Nos. 6 & 7 i.e. Islami Bank Bangladesh Limited (IBBL) and South Bangla Agricultural Bank (SBAC) both the companies have no loan liability with any person or body corporate and that both the 2 (two) creditors have already given no objection certificate in respect of the proposed Scheme of Amalgamation and, thus, no question of being prejudiced by any third party creditors arises.

He further submits that the interest of the share holders and employees of both the companies remains protected since the transferee-company will takeover not only the assets of the company but also the liabilities of the transferor-company. In summing up of his submissions, the learned Advocate for the petitioners submits that the proposed amalgamation is truly directed at the well being of both the companies.

It is evident from the Memorandum and Articles of Association of both the companies that the shareholders directors of these two companies are same set of persons. And, there is no objection from the creditors, shareholders and employees. Upon perusal of the petition, the proposed Scheme of Amalgamation and having considered the submissions of the learned Advocate, this Court is of the view that the Scheme of Amalgamation would, no doubt, be beneficial to the



employees, shareholders i.e. for all the stakeholders of the Transferee and Transferor-Company. It also transpires from the annexed papers that the present application satisfies the requirements of law laid down in the Sections 228 and 229 of the Companies Act.

In the premises noted above, the application deserves positive consideration and, accordingly, the same is allowed.

It is ordered that the Scheme of amalgamation (Annexure-A to the substantive application), as approved at the respective EGMs of R.N. Spinning Mills Limited (RNSPIN), and Samin Food & Beverage Inds. and Textile Mills Limited (SAMINTL), held on 20.04.2022 & 21.04.2022, as set out in annexures- O, O-1 & Q to the affidavit dated 30.05.2022 with regard to the effective date of the Scheme of Amalgamation, is sanctioned by this Court. Hence it is ordered that-

- (1) The Transferor-Company and Transferee-Company be amalgamated in terms of terms of the scheme of amalgamation, annexed as Annexure-A, which shall form part of this Judgment and Order. The Judgment and Order shall take effect after filing of the certified copy of the same to the Registrar of Joint Stock Companies and Firm by the Transferee-Company and subject to annexing copy of this Judgment and Order to every Memorandum of the Transferee-Company issued after this Order is passed.
- (2) It is further ordered that all pending suits and proceedings, if any, henceforth shall be commenced and be continued by or against



- the Transferor-Company, as the case may be, as if the same is to be or has been filed by or against the Transferee-Company.
- (3) It is also ordered that the whole undertaking, properties and liabilities of the Transferor-Company shall be vested in and transferred to the Transferee-Company, subject to the compliance of the terms and conditions of the said Scheme of Amalgamation.
- (4) It is also ordered that all the shares, debenture, policies, license and other like interest in the said Transferor-Company be transferred to and vested in, appropriated and allotted to the Transferee-Company in terms of the said Scheme of Amalgamation.
- (5) It is also ordered that all mortgages, charges, undertakings, assurances, obligations, liabilities, if any, of the said Transferor-Company stand transferred to and vested in, be taken by and be enforceable by or against the Transferee-Company in the same manner and to the same extent as if all of these acts, deeds and things have been done by the Transferee-Company. The RJSC is hereby directed to record the mortgages, debentures and charges registered in the name of the Transferor-Company with the RJSC, in the name of the Transferee-Company without any further act, deed or fees.
- (6) It is also ordered that the authorized share capital of the Transferor-Company as mentioned in Clause 2 of the Scheme of Amalgamation stand added and be part of the authorized share



capital of the Transferee-Company (Petitioner No. 1) R.N. Spinning Mills Limited (RNSPIN) without any further act or deed and the registration fees and stamp duties so paid for the authorized capital of the Transferor-Company shall be deemed to be the registration fees and stamp duty against the increase of the authorized capital of the Transferee-Company, R.N. Spinning Mills Limited (RNSPIN) and for this purpose the stamp duties and fees paid on the authorized share capital of the Transferor-Company shall be utilized and applied to the increased authorized share capital of the Transferee-Company without any requirement for any further payment of stamp duty and/or the registration fee by the Transferee-Company for increase in the authorized share capital to that extent.

- (7) Upon this amalgamation coming into effect, as per sub-Section (3) of Section 228 of the Companies Act, the Transferor-Company shall stand dissolved without winding up and the Registrar of Joint Stock Companies and Firms is hereby directed not to register any company in the name and style of the aforesaid Transferor-Company.
- (8) Since, by virtue of this Judgment and Order, all the assets and liabilities of the Transferor-Company have been transferred to and vested in the Transferee-Company, so all the liabilities of the said Transferor-Company (if any) shall become liability of the Transferee-Company and if the properties of the Transferor-

Company are encumbered, in any manner, the same shall continue and the properties of the Transferor-Company stand transferred to and be vested in the Transferee-Company subject to such encumbrance and charges, if any, to the Transferee-Company and upon amalgamation, the experiences, licenses and qualifications of the Transferor-Company shall be treated as the experiences, licenses and qualifications of the merged entity.

- (9) Upon amalgamation, the accounts of the Companies be finalized and circulated amongst the members of the said Transferor-Company and the Transferee-Company merging the accounts with effect from the appointed date.
- (10) It is further directed that all regulatory bodies, utility service providers and Government Authorities including Registrar of Joint Stock Companies & Firms, the National Board of Revenue, Titas Gas Transmission & Distribution Company Limited, Sundarban Gas Company Limited, Bangladesh Investment Development Authority, Department of Agricultural Extension, Bangladesh Road Transport Authority, Department of Inspection for Factories and Establishment, Power Development Board, Bangladesh Rural Electrification Board, Northern Electricity Supply Company Limited, Fire Service and Civil Protection Department, Bangladesh Energy Regulatory Commission, Deputy Commissioner of the relevant district, Assistant Commissioner (Land) and Sub-registrar of the concerned area as well as lending



institutions including Banks, Non-banking Financial Institutions, leasing companies and insurance companies shall give effect to this Scheme of Amalgamation without any further act, petition or order whatsoever. Registrations, Certificates, Agreements, licenses, Permissions and/or deeds including property deeds shall be deemed to have been transferred from the said Transferor-Company- Samin Food & Beverage Inds. and Textile Mills Limited (SAMINTL) to the Transferee-Company, namely, R.N. Spinning Mills Limited (RNSPIN) from the effective date. The relevant office of the Assistant Commissioner (Land) and/or Sub-registrars are hereby directed to mutate the land owned by the Transferor-Company in the name of the Transferee-Company, namely, R.N. Spinning Mills Limited (RNSPIN) as the land properties owned by the Transferor-Company stand vested in the name of the Transferee-Company by operation of law.

- (11) This Judgment and Order shall not affect the personal guarantee or similar other obligations, if any, of the directors, shareholders and third-party guarantors of the Transferor-Company.
- (12) It is also ordered that Transferee-Company shall cause certified copy of this Judgment and Order be delivered to the Registrar of Joint Stock Companies and Firms, for registration within 14 days as required by sub-Section (3) of Section 229 of the Companies Act, from the date of receiving certified copy of this Judgment and Order.
- (13) The entire costs in respect of the Scheme of Amalgamation shall be borne out by the Transferee-Company, namely, R.N. Spinning Mills Limited (RNSPIN).


(14) This Judgment and Order shall be effective subject to compliance of the directions, given herein below, as regards the donation. The Transferee-Petitioner Company has expressed its willingness to spend an amount of Taka 10,00,000 (Ten Lac) only as part of companies' CSR expenditure, through Pay Orders (which are to be deposited to the concerned company section) out of which (i) BDT. 6,00,000/- (Six Lac) only to Baulia Alhaj Moslem Uddin Barir Kaborsthan, Upzaila Road, Kalirbazar, Fulchari, Gaibandha. Bank Account No. 0100238818898, Janata Bank, Kalirbazar Branch (Code No. 0959), Fulchari, Gaibandha (Contact number of Branch-01718-618879, 0542256109) e-mail-jb0959@janatabank-bd.com, (ii) BDT. 2,00,000/- (Two Lac) only to Fulchhari Kandrio Eidgha Math Jame Maszid, Fulchari, Gaibandha, Bank Account No. 2050 4550 2000 18213, Islami Bank Bangladesh Limited, Kalirbazar Branch (Code No. 455), Fulchari, Gaibandha. (Contact number of Branch-01716-762276, 01886-762277) e-mail-kalirbazar455@islamibankbd.com and, BDT. 2,00,000/- (Two Lac) only to Chaluva Bazar Jame Maszid, Kalirbazar, Fulchari, Gaibandha. Bank Account No. 2050 4550 2000 18314, Islami Bank Bangladesh Limited, Kalirbazar Branch (Code No. 455), Fulchari, Gaibandha. (Contact number of Branch-01716-762276, 01886-762277), e-mail-kalirbazar455@islamibankbd.com. On furnishing receipt of payment, the order may be drawn up, if so prayed for.

Let a copy of this Judgment and Order be sent to the Registrar of Joint Stock Companies and Firms, Dhaka.

Muhammad Khurshid Alam Sarkar

Composed by:  Saitul Islam
05.01.23

Read by:  05.01.23

Exd. by:  05.01.2023.

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১. সেই মহরী নকলের
দরখাস্তের তারিখ ০৫.০১.২০২৩

২. অনুলিপির হিসাব
নিবন্ধনের তারিখ ০৫.০১.২০২৩

৩. কোর্ট ফি স্ট্যাম্প
জমাদানের তারিখ ০৫.০১.২০২৩


৪. নকল প্রস্তুত হওয়ার
তারিখ ০৫.০১.২০২৩


৫. নকল সরবরাহের
তারিখ ০৪.০১.২৩

প্রত্যায়িত অবিকল প্রতিলিপি

০৫.০১.২০২৩

সহকারী রেজিস্ট্রার
বাংলাদেশ সুপ্রীম কোর্ট, হাইকোর্ট বিভাগ
(১৮-৭-২২ইং সনের ১মং আইনের
৭৬ ধারামতে ক্ষমতা প্রাপ্ত)


০৫.০১.২৩


০৫.০১.২৩





ছালুয়া বাজার জামে মসজিদ

ডাকঘর-উদাখালী, উপজেলা-ফুলছড়ি, জেলা-গাইবান্ধা।
(টাকা প্রাপ্তির রশিদ)

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তারিখঃ ৫/১/২০২৩

দাতার নামঃ C.M. No. 62/22

টাকার পরিমাণঃ Two Lac only

চেক নংঃ 3022969 তারিখঃ 05/01/2023

টাকা

২০০০০/-

গ্রহীতার স্বাক্ষর

কর্তৃপক্ষের স্বাক্ষর

ফুলছড়ি কেন্দ্রীয় ঈদগাহ মাঠ জামে মসজিদ

কালিরবাজার, উপজেলা-ফুলছড়ি, জেলা-গাইবান্ধা।
(টাকা/চেক প্রাপ্তির রশিদ)

নং

তারিখঃ ০৪/০১/২৩

দাতার নামঃ C.M. No. 62/22

টাকার পরিমাণঃ Two Lac only

চেক নংঃ 3022968 তারিখঃ 05/01/23

টাকা

২,০০,০০০/-

গ্রহীতার স্বাক্ষর

কর্তৃপক্ষের স্বাক্ষর

বাউলিয়া আলহাজ মুসলিম উদ্দিন বাড়ীর কবরস্থান

উপজেলা-ফুলছড়ি, জেলা-গাইবান্ধা।
(টাকা/চেক প্রাপ্তির রশিদ)

নং

তারিখঃ ০৪/০১/২৩

দাতার নামঃ C.M. No. 62/22

টাকার পরিমাণঃ Six Lac only

চেক নংঃ 3022970 তারিখঃ 05/01/23

টাকা

6,00,000/-

গ্রহীতার স্বাক্ষর

কর্তৃপক্ষের স্বাক্ষর