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29.01.19NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH

Annexure 3A

CA(CAA) No. 8/230-232/NCLT/AHM/2019

Coram: Hon'ble Mr. HARIHAR PRAKASH CHATURVEDI, MEMBER JUDICIAL
Hon'ble Ms. MANORAMA KUMARI, MEMBER JUDICIALATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH OF THE
NATIONAL COMPANY LAW TRIBUNAL ON 24.01.2019Name of the Company: Fairdeal Filaments Ltd.
Section of the Companies Act: Section 230-232 of the Companies Act, 2013

S.NO. NAME (CAPITAL LETTERS) DESIGNATION REPRESENTATION SIGNATURE

- | S.NO. | NAME (CAPITAL LETTERS) | DESIGNATION | REPRESENTATION | SIGNATURE |
|-------|------------------------|-------------|----------------|--------------------|
| 1. | L. S Modi ;/b | Advocate | Applicant | <i>[Signature]</i> |
| 2. | Nanavati Associates | | | |

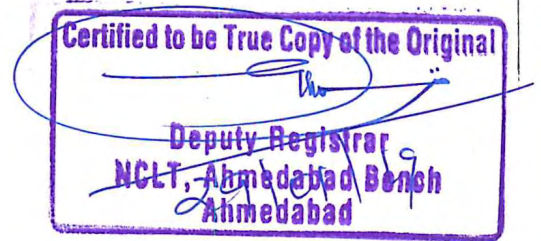
ORDER

The Applicant is represented through their respective learned counsel.

The Order is pronounced in the open court, vide separate sheet.

MANORAMA KUMARI
MEMBER JUDICIAL

Dated this the 24th day of January, 2019

HARIHAR PRAKASH CHATURVEDI
MEMBER JUDICIAL

**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

CA(CAA) No. 8/NCLT/AHM/2019

In the matter of:-

Fairdeal Filaments Limited

A Company registered under the
provisions of the Companies Act, 1956

Having registered office at

3rd Floor, Dawer Chambers,

Near Sub-Jail,

Ring Road, Surat,

Gujarat

...Applicant Transferor Company

Order delivered on 24th January, 2019

Coram: Hon'ble Mr. Harihar Prakash Chaturvedi, Member (J)

And

Hon'ble Ms. Manorama Kumari, Member (J)

Appearance:

Mr. Nandish Chudgar, Advocate, with Mr. L.S Modi, Advocate, for
M/s. Nanavati Associates, Advocates for the Applicant Company

ORDER

[Per: Hon'ble Mr. Harihar Prakash Chaturvedi, Member (J)]

1. This Application is filed by the Applicant Company under Section 230 to 232 and other applicable provisions of the Companies Act, 2013. The Scheme of Arrangement involves amalgamation of Fairdeal Filaments Limited with Shalton Silk Industries Limited ["Scheme" for short].



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2. The registered office of the Applicant Company is situated in Surat, in the state of Gujarat and hence they are under the jurisdiction of the National Company Law Tribunal, Bench at Ahmedabad.
3. It is submitted that the Applicant Company is empowered by their Memorandum of Association to enter into Scheme of Arrangements. Copy of Memorandum of Association of the Applicant Company is annexed with the application. Similarly, Audited Financial Statements of the Applicant Company, as on 31st March 2018 is annexed with the application.
4. It is submitted by the Applicant Company that the Applicant Company belongs to the same group of management, is largely engaged in the similar kind of business activities i.e. manufacturing of fabric on water jet looms. In addition to the above the Transferee Company is involved in manufacturing of fabric on air jet looms and rapier looms, which will be beneficial to the merged entity in diversifying its products portfolio. Both Transferor Company and Transferee Company are the agents for Reliance Industries Limited in relation to sale of yarn product and therefore, businesses of both the companies are complementary in nature and consolidation of business will be beneficial for both the Companies and their shareholders. SSIL and FFL are located just adjacent to each other. Both the companies have their administrative office located at 3rd Floor Dawer Chambers, Near Sub-jail, Surat which is partly owned by FFL and partly by SSIL. As major of the manufacturing sites of FFL are adjacent to/together with SSIL, this merger would lead to synergic benefits, efficiency of operations and management, rapid growth of the entity, optimum utilization of its resources and minimization of the administrative and



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operative costs. Further economies of scale will play a bigger role as the consolidated entity's operational efficiency will increase, which will in turn allow the merged entity to compete on a larger scale in the industry, thus benefitting the merged entity and the shareholders. It is submitted by the applicant company that the amalgamation will enable to build up a diversified product portfolio.

5. The Applicant Company has submitted the Valuation Report for the proposed Exchange Ratio of Shares to be issued by the Transferor Company obtained from M/s. CNK & Associates. LLP, Chartered Accountants and is annexed with the application as Annexure F at page 101. The Applicant Company has submitted that the proposed Scheme of Arrangement, was first placed before the Audit Committee of the Applicant Transferor Company. The report of the Audit Committee recommending the draft scheme of arrangement was received by the Board of Directors of the Transferor Company and the same was considered by the Board of Directors of the Transferor Company in its meeting held on 22nd August, 2018. M/s. CNK & Associates LLP had determined the share exchange ratio to be 1:1 as provided in their report. However, after detailed deliberations and discussions, for the benefit of the public shareholders of the Transferor Company, the Board of Directors of the Transferor Company have proposed to marginally reduce the valuation of SSIL by issuing additional shares to the members of the FFL in the ratio of 1:0.90 i.e. 1 (one) equity share of Rs. 10 each credited as fully paid up in SSIL for every 0.90 (point ninety) equity share held by them in FFL. The Board of Directors of SSIL at their meeting held on 22nd August, 2018, deliberated on recommendation of Board of Directors of FFL on aforesaid revised share exchange ratio. After deliberation between the Board of Directors of SSIL, the



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Board of SSIL proposes to concur to recommendation of Board of Directors of FFL and proposes to issue and allot additional shares of SSIL to the shareholders of FFL pursuant to the Scheme in the aforesaid ratio of 1:0.90 instead of 1:1 as recommended in the valuation report. At the Board Meetings held on 22nd August, 2018, the Board of Directors of the Applicant Transferor Company have passed the requisite resolution approving the aforesaid Exchange Ratio as well as the proposed Scheme of Arrangement and further resolved to submit the Scheme of Arrangement placed before the Board be submitted to the National Company Law Tribunal, Bench at Ahmedabad for its sanction. Further it is submitted by the Applicant Transferor Company that on 2nd November, 2018, the Board of Directors of the Applicant Transferor Company at their meeting, approved by passing the Board resolution in relation to Approval of change of name of the Transferee Company in the draft scheme of amalgamation. Copies of these resolutions are annexed with the Application as Annexure I and L respectively at page 118 and 175.

6. It has been further submitted that Fairdeal Filaments Limited, the Applicant Transferor Company is a listed public limited company and pursuant to the SEBI guidelines, has obtained prior approval from the concerned stock exchanges viz. BSE Limited. It is submitted that the Applicant Transferor Company has intimated the outcome of the Board meeting to BSE vide its letter dated 2nd November, 2018, regarding change of name of the Transferee Company in the draft Scheme of amalgamation. Copies of the same are annexed with the application as Annexure-J and M respectively at page 133 and 177.



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7. It is stated in the Application that no proceedings or investigations are pending against the Applicant Company under sections 210-217, 219, 220, 223 to 227 of the Companies Act, 2013 and / or under sections 235 to 251 of the Companies Act, 1956 and there are no winding up petitions pending against the Applicant Company. The Statutory Auditor of the Applicant Transferor Company has provided the certificate confirming the proposed Accounting Treatment being in conformity with the Applicable Accounting Standard. The said certificate is annexed with the application as Annexure-N at page 178.
8. The following are the reliefs prayed by the Applicant Companies;
- (A) Directions to convene and hold separate meetings of the Equity Shareholders, Secured Creditors and Unsecured Creditors of the Applicant Transferor Company, for the purpose of considering and if thought fit, approving with or without modification(s), the Scheme of Arrangement, as proposed between the Company and its Shareholders and Creditors, be issued.
- (B) Directions as to the method of convening, holding and conducting the said meetings and as to the notices and advertisement to be issued.
- (C) Appoint the Chairman/men and Scrutinizer for the said meetings, who will report the result of the said meetings to this Tribunal.
- (D) Fix the Quorum for the said meetings and to lay down the procedure for voting at the meetings, including voting by proxy.



Attn: Mr. ...

9. It is submitted that the Applicant Transferor Company, being a listed public limited company has more than 3,090 Equity Shareholders. The Applicant Transferor Company has large size of operations and hence has 4 Secured Creditors with total value of Secured Debt of Rs.3902.84 Lacs as on 30th September, 2018. Similarly, the Applicant Transferor Company has more than 170 Unsecured Creditors representing the total value of unsecured debt of Rs.1682.61 Lacs as on 30th September, 2018. The details for the same are provided in the Summary Statements certified by the Chartered Accountant and annexed with the application respectively as Annexure-O and P at pages 180 and 181.
10. Having heard the submissions made in this regard by Mr. Nandish Chudgar, learned advocate for the Applicant Company and on perusal of the application and the documents submitted in this respect, this Tribunal passes the following order;
- (i) Separate meeting of the Equity Shareholders of Fairdeal Filaments Limited, the Applicant Transferor Company shall be convened and held at 3rd Floor, Dawer Chambers, Nr. Sub Jail, Ring Road, Surat - 395002 in the State of Gujarat, on Monday, 11th day of March 2019, at 11.00 a.m. for the purpose of consideration and, if thought fit, approving the proposed Scheme of Arrangement, with or without modification(s);



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- (ii) Separate meetings of the Secured Creditors and Unsecured Creditors of Fairdeal Filaments Limited, the Applicant Transferor Company shall be convened and held at 3rd Floor, Dawer Chambers, Nr. Sub Jail, Ring Road, Surat -395002 in the State of Gujarat, on Tuesday, 12th day of March 2019, respectively at 11.00 a.m. and 3.00 p.m. for the purpose of consideration and, if thought fit, approving the proposed Scheme of Arrangement, with or without modification(s);
- (iii) The Applicant Transferor Company being a listed public limited company, is governed by the SEBI circular no. CFD/DIL3/CIR/2017/21 dated March 10, 2017 and other circulars issued thereafter and in view of Sections 230 (4) of the Act as well as Rule 5 and 6 of Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 and Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015; it is required to provide facility for Postal Ballot and e-voting to the Public shareholders. In view of the same, the Applicant Transferor Company is directed to carry out voting through (i) e voting, (ii) Postal Ballot, and (iii) Ballot or Polling Paper at the venue of the meeting for the meeting of Equity Shareholders of the Applicant Transferor Company to be held on Monday, 11th March 2019. In case of meeting of Secured and Unsecured Creditors of the Applicant Transferor Company, voting shall be carried out through ballot/polling paper at the venue of the meeting.
- (iv) At least one month before the date of the meetings, a notice in Form No. CAA 2 convening the said meetings indicating the day, the date, the place and the time as



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aforesaid, together with a copy of the Scheme of Arrangement, copy of the Explanatory Statement required to be sent under Section 102 of the Act, read with Section 230 and 232 of the Act and Rule 6 of the Companies (CAA) Rules, 2016 and the prescribed Form of Proxy shall be sent to each of the Equity Shareholders, Secured Creditors and Unsecured Creditors of the Applicant Transferor Company at their respective or last known addresses either by Registered Post/Speed Post or by Courier or by e mail. The aforesaid notice and other documents shall also be placed on the website of the Applicant Transferor Company. The Notices shall be sent to all the Equity Shareholders, Secured Creditors and Unsecured Creditors of the Applicant Transferor Company. With reference to the Secured Creditors and Unsecured Creditors of the Applicant Transferor Company lists as on 30th September, 2018, as placed on record of NCLT.

- (v) At least one month before the date of meetings, an advertisement about convening the said meetings, indicating the day, the date, the place and the time as aforesaid, shall be published once in English Daily 'Financial Express' All Gujarat Edition and Gujarati translation thereof in Gujarati daily 'Sandesh' All Gujarat edition. The publication shall also indicate that the statement required to be furnished pursuant to Section 102 of the Act, read with Sections 230 and 232 of the Act and the prescribed proxy can be obtained free of charge at the Registered Office of the Applicant Transferor Company or at the office of the Advocate, i.e. Nanavati Associates, Satyam Corporate Square, B-Block, Nr. Friends Avenue, Opp. Astral House, Bodakdev, Ahmedabad, Gujarat 380054 in accordance



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with second proviso to sub-section (3) of Section 230 and Rule 7 of the Companies (CAA) Rules, 2016.

- (vi) Mr. Dhirajlal Raichand Shah, a Managing Director and/or failing him, Mr. Jayantilal Raichand Shah, a Director, shall be the Chairman of the said meetings for Equity Shareholders of the Applicant Transferor Company to be held on Monday 11th March, 2019 and for Secured Creditors and Unsecured Creditors of the Applicant Transferor Company to be held on Tuesday 12th March, 2019 and in respect of any adjournment or adjournments thereof.
- (vii) Mr. Devesh A. Pathak, practicing Company Secretary, shall act as the Scrutinizer for the said meetings.
- (viii) The Chairman appointed for the aforesaid meetings shall issue advertisement and send out notices of the said meetings referred to above. The Chairman is free to avail the services of the Applicant Transferor Company or any agency for carrying out the aforesaid directions. The Chairman of the meetings shall have all the powers under the Articles of Association of the Applicant Transferor Company and also under Rules, including for deciding any procedural questions, that may arise at the meetings or adjournment(s) thereof proposed at the said meetings, amendment(s) to the aforesaid Scheme or resolution, if any, proposed at the aforesaid meetings by any person(s); and to ascertain the decision of the respective meetings on a poll i.e. by polling paper / ballot.
- (ix) The quorum for the meetings of Equity Shareholders shall be 15 (Fifteen), Secured Creditors shall be 2 (Two)



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and for Unsecured Creditors shall be 5 (Five) persons present in person or by authorized representative.

- (x) Voting by proxy/authorized representative is permitted provided that the proxy in the prescribed form/authorization duly signed by the person entitled to attend and vote at the aforesaid meetings, is filed with the Applicant Transferor Company at its registered office at Surat not later than 48 hours before the said meetings.
- (xi) The number and value of the vote of each Equity Shareholder and the value of debt of the Secured Creditors and unsecured Creditors of the Applicant Transferor Company, as the case may be, shall be in accordance with the register or records of the Applicant Transferor Company for Equity Shareholders and as per the entries in the books of accounts of the Applicant Transferor Company for the Secured and Unsecured Creditors; and where the entries in the records are disputed, the Chairman of the meetings shall determine the value for the purpose of the meetings.
- (xii) The Chairman shall file an affidavit not less than 7(seven) days before the date fixed for the holding of the meetings and to report to this Tribunal that the directions regarding issuance of notices and advertisement of the meetings have been duly complied with as per Rule 12 of the Companies (CAA) Rules, 2016.



- (xiii) It is further ordered that the Chairman shall report to this Tribunal on the result of the said meetings in Form No CAA4, verified by his affidavit, as per Rule 14 of the

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Companies (CAA) Rules, 2016 within 30 (Thirty) days of the conclusion of the last of the meetings.

11. In compliance of sub-section (5) of Section 230 of the Act and Rule 8 of the Companies (CAA) Rules, the Applicant Company shall send a Notice of meeting in Form No. CAA 3 with a copy of the Scheme of Arrangement, the Explanatory Statement and the disclosures mentioned under Rule 6 to (1) Central Government through the Regional Director, North Western Region, (2) the Registrar of Companies, Gujarat; and (3) the Income Tax Authority; (4) Reserve Bank of India; (5) BSE Limited, (6) Securities and Exchange Board of India and (7) Official Liquidator; stating that representations, if any, to be made by them shall be made within a period of 30 (Thirty) days from the date of receipt of such notice, failing which it will be deemed that they have no objection to make on the proposed Scheme of Arrangement. The said notices shall be sent forthwith after the notice for the meetings are sent to the Equity Shareholders, Secured and Unsecured Creditors of the Applicant Transferor Company, either by Registered Post or by Speed Post or by Courier or by Hand Delivery at the offices of the aforesaid authorities as required by sub-rule (2) of the Rule 8 of the Companies (CAA) Rules, 2016.
12. The Company Application is disposed of accordingly.

Manorama Kumari

Manorama Kumari
Member (Judicial)

Harihar Prakash Chaturvedi

Harihar Prakash Chaturvedi
Member (Judicial)



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