

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SCHEME PETITION NO 72 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO 14 OF 2015

PARAMOUNT PROPERTY DEVELOPERS PRIVATE LIMITED

..... Petitioner / the Transferor Company

AND

COMPANY SCHEME PETITION NO 73 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO 15 OF 2015

ANTARCTICA TRADING COMPANY PRIVATE LIMITED

..... Petitioner / the Transferee Company

In the matter of the Companies Act, 1956
(1 of 1956);

AND

In the matter of Sections 391 to 394 of the
Companies Act, 1956 and any
corresponding provisions of the
Companies Act, 2013;

AND

In the matter of Scheme of Amalgamation
of Paramount Property Developers Private
Limited with Antarctica Trading Company
Private Limited and Their Respective
Shareholders

Called for Hearing

Mr. Hemant Sethi i/b M/s Hemant Sethi & Co., Advocates for the
Petitioners.

Mr. C J Joy for Regional Director in both the Company Scheme
Petitions.

Mr. S Ramakantha Official Liquidator, present in Company Scheme Petition No. 72 of 2015.

CORAM: S.J. Kathawalla, J.

DATE: 27th March, 2015

1. Heard the learned counsel for the Petitioner Companies. No objector has come before the court to oppose the Scheme and nor any party has controverted any averments made in the petition.
2. The sanction of the Court is sought under Sections 391 to 394 of the Companies Act, 1956, to the Scheme of Amalgamation of Paramount Property Developers Private Limited with Antarctica Trading Company Private Limited and their respective shareholders.
3. Learned Counsel for the Petitioners states that the Petitioners in Company Scheme Petition No. 72 of 2015 presently engaged in Construction Business and Petitioner in Scheme Petition No. 73 of 2015 is an Investment Holding Company.
4. The learned Counsel for the Petitioners states that the proposed amalgamation would result into the following benefits i.e. Simplified Corporate structure and improved management; Rationalisation of administrative and operative costs; Integration of operations and the restructuring would facilitate improvement in organizational capabilities arising from the pooling of resources.
5. The Petitioner Companies has approved the said Scheme by passing Board Resolutions which are annexed to the respective Company Scheme Petitions.
6. The learned Counsel for the Petitioners state that Petitioner Companies have complied with all directions passed in company summons for Directions and that the Company Scheme Petition has been filed in consonance with the orders passed in respective Company summons for Directions.

7. The learned Counsel appearing on behalf of the Petitioners has stated that they have complied with all requirements as per directions of this Court and they have filed necessary affidavits of compliance in the Court. Moreover, Petitioner Companies undertake to comply with all statutory requirements if any, as required under the Companies Act, 1956 / 2013 and the Rules made there under. The said undertakings given by the Petitioner Companies are accepted.
8. The Regional Director has filed an Affidavit on 24th March, 2015 stating therein that save and except as stated in paragraph 6 (a) and 6(b) of the said affidavit, it appears that the Scheme is not prejudicial to the interest of shareholders and public.

In paragraph 6(a), and 6(b), of the said affidavit it is stated that:

6. That the Deponent further submits that,

- a) That the Deponent further submits that the Tax issue if any arising out of this scheme shall be subject to final decision of Income Tax Authority and approval of the Scheme by Hon'ble High Court may not deter the Income Tax Authority to scrutinize the tax returns filed by the petitioner company after giving effect to the amalgamation the decision of The Income Tax Authority is binding on the petitioner company.*
- b) With reference to Clause 6.6 of the scheme, it is submitted that the reserve if any arising out of the scheme be credited to Capital Reserve Account of Transferee Company.*

9. As far as observations made in paragraph 6 (a) of Affidavit of the Regional Director is concerned, the Petitioner / Transferee Company submits that the Transferee Company is bound to comply with all applicable provisions of the Income Tax Act and all

tax issues arising out of the Scheme of Amalgamation will be met and answered in accordance with law.

10. As far as observations made in paragraph 6 (b) of Affidavit of the Regional Director is concerned, the Petitioner/Transferee Company through their Counsel undertakes to follow the accounting treatment provided in the scheme and reserve, if any arising out of the scheme be credited to Capital Reserve Account of Transferee Company.
11. The Counsel for the Regional Director on instructions of Mr. M Chandanamuthu, Joint Director (Legal) in the office of Regional Director, Ministry of Corporate Affairs, Western Region, Mumbai, states that they are satisfied with the undertaking and submission given by the Petitioner Companies. The said undertaking given by the Petitioner Companies are accepted.
12. The Official Liquidator has filed his report on 23rd March, 2015 in the Company Scheme Petition No. 72 of 2015 stating therein that the affairs of the Transferor Company have been conducted in a proper manner and that the Transferor Company may be ordered to be dissolved by this Court.
13. From the material on record, the Scheme appears to be fair and reasonable and is not violative of any provisions of law and is not contrary to public policy.
14. Since all the requisite statutory compliances have been fulfilled, the Company Scheme Petition No. 72 and 73 of 2015 filed by the Petitioner Companies are made absolute in terms of prayer clause (a) of the respective Company Scheme Petitions.
15. The Petitioner Companies to lodge a copy of this order and the Scheme, duly authenticated by the Company Registrar, High Court (O.S.), Bombay with the concerned Superintendent of Stamps, for

the purpose of adjudication of stamp duty payable, if any, on the same within 60 days from the date of the Order.

16. Petitioner Companies are directed to file a copy of this order along with a copy of the Scheme with the concerned Registrar of Companies, electronically, along with Form INC 28 in addition to physical copy as per the provisions of the Companies Act 1956 / 2013.
17. The Petitioner Companies in both the Company Scheme Petitions to pay costs of Rs.10,000/- each to the Regional Director, Western Region, Mumbai and the Petitioner in Company Scheme Petition No. 72 of 2015 to pay costs of Rs.10,000/- to the Official Liquidator, High Court, Bombay. Costs to be paid within four weeks from the date of the order.
18. Filing and issuance of the drawn up order is dispensed with.
19. All concerned regulatory authorities to act on a copy of this order along with Scheme duly authenticated by the Company Registrar, High Court (O. S.), Bombay.

(S.J. Kathawalla. J.)