IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO.83 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO.47 OF 2015

Sharp Stockvision Securities Private Limited.
.....Petitioner/the Transferor Company.

AND

COMPANY SCHEME PETITION NO.84 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO.48 OF 2015

Shree Stockvision Securities Limited.
.....Petitioner/the Transferee Company.

In the matter of the Companies Act I of 1956.

AND

In the matter of Sections 391 to 394 and read with Section 100 to 103 of the Companies Act, 1956.

AND

In the matter of the Scheme of Arrangement between:

Sharp Stockvision Securities Private Limited.

AND

Shree Stockvision Securities Limited.

AND

their respective shareholders.

Called for Hearing

Mr. Chandrakant Mhadeshwar, Advocate for the Petitioner in all the Petition.

Ms. Purnima Awasthi i/b Shri. A. A. Ansari for Regional Director in all the Petitions.

Mr. S. Ramakantha, Official Liquidator, present in C.S.P No. 83 of 2015.

CORAM: S. J. KATHAWALLA, J

DATE : 24th APRIL, 2015

PC:

1. Heard learned counsel for parties. None appears 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 and read with Section 100 to 103 of the Companies Act, 1956, to a Scheme of Arrangement between Sharp Stockvision Securities Private Limited and Shree Stockvision Securities Limited and their respective shareholders.

3. The learned Advocate for the Petitioner Companies states that the Transferor Company is presently carrying on business of Investment & dealing in shares, stocks, bonds etc. The Transferee Company mainly carries on the broking business in shares and securities and is member of National Stock Exchange.

4. The learned Advocate for the Petitioner Companies further states that the Scheme of Arrangement will result into integration of operations and the Transferor Company and the Transferee Company being compatible in terms of nature of their business the Arrangement will enable the Transferee Company to consolidate its business operation and provide significant impetus to growth of the Transferee Company business and the arrangement would result in optimum utilization of management and other resources and would reduce the administrative costs and other overheads which are presently being

multiplicated because of separate entities and Enhance values of all stake holders in the long run.

5. The Petitioner Companies have approved the said Scheme of Arrangement by passing the Board Resolution which is annexed to the respective Company Scheme Petition.

6. The Learned Advocate for the Petitioner in Company Scheme Petition No 84 of 2015, states that that Scheme includes reduction and consequent cancellation of Share Capital of the Transferee Company and the same shall be effected as integral part of the Scheme as the same does not involve either diminution of liability in respect of unpaid share capital and the procedure prescribed under Section 101(2) of the Companies Act, 1956 was dispensed with as per order dated 30th January, 2015 passed in CSD No 48 of 2015.

7. The learned Advocate for the Petitioners states that the Petitioner Companies have complied with all the directions passed in Company Summons for Direction and that the Petitions have been filed in consonance with the orders passed in respective Company Summons for Direction.

8. The Learned Advocate 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 thereunder whichever is applicable. The said undertaking is accepted.

9. The Official Liquidator has filed his report on 17th April, 2015 in Company Scheme Petition Nos. 83 of 2015, inter alia, 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.

10. The Regional Director has filed his Affidavit on 15th April, 2015, *inter alia,* stating therein that save and except as stated in paragraphs 6 (a) to (c) of the said Affidavit, it appears that the Scheme is not prejudicial to the interest of shareholders and public. In paragraphs 6 (a) to (c) of the said Affidavit, the Regional Director has stated that :

> "6. That the Deponent further submits that:-
>
> *a) Clause 12.4 of the scheme provides for adjustment for differences in Accounting Policies between Transferor Company and Transferee Company. In this regard, it is submitted that in addition to the compliance of Accounting Standard -14, the Transferee Company shall pass such accounting entries which are necessary in connection with the scheme to comply with other applicable Accounting Standard such as AS-5 etc.*
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> *b) The post authorized share capital of the Transferee Company is not sufficient to issue new shares by the transferee Company to the shareholders of transferor Company even after merging of authorized capital of transferor company with transferee Company. The reduction of paid up capital effected in the capital of transferee Company would not entitled the transferee Company to issue fresh shares within the existing authorized capital It has been observed that out of Rs 2,75,00,000/- of authorized capital the transferee Company has already exhausted the authorized capital to the extent of Rs2,55,70,700/- leaving unutilized portion of authorized capital to the extent to Rs 19,29,300/- In view of the above, the Transferee*

Company shall be directed to increase its authorized capital suitably. In this connection the Transferee Company shall comply with the provisions of section 94/97 of the Companies Act, 1956 corresponding to section 61/64 of the Companies Act, 2013 in respect of filing of necessary forms with the Registrar of Companies after payment of necessary filing fee and stamp duty as applicable on the said forms. It is further submitted that transferee Company shall not utilize Rs 2,17,35,070/- as that part of the authorized capital had already been exhausted. For issue of further shares in future, transferee company has to increase its authorized capital.

c) *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.*

11. As far as the objection of the Regional Director, Western Region, Mumbai in paragraph 6(a) of his affidavit is concerned, the Transferee Company through its advocate undertakes that in addition to accounting treatment given in the scheme the Transferee Company shall pass such accounting entries as may be necessary in connection with the Scheme to comply with any other accounting standards.

12. So far as the objection of the Regional Director, Western Region, Mumbai, as stated in paragraph 6(b) of his Affidavit is concerned, the Petitioner Company through its advocate undertakes that the Transferee Company shall comply with provisions of Sections 94/97 of the Companies Act,1956 corresponding to Section 61/64 of the Companies Act, 2013 in respect of filing of necessary forms with the Registrar of Companies after payment of necessary fees and Stamp Duty as applicable

on the said forms for increasing its authorised share capital to issue further shares to the shareholders of the Transferor Company and the Petitioner Company through its advocate undertakes that the Transferee Company shall not utilise Rs. 2,17,35,070/- as part of the authorised capital for issue of further shares in future.

13. So far as the objection of the Regional Director, Western Region, Mumbai, as stated in paragraph 6(c) of his Affidavit is concerned, the Petitioner Companies submit that the Petitioner is bound to comply with all applicable provisions of the Income Tax Act and all tax issues arising out of the Scheme will be met and answered in accordance with law.

14. The Learned Counsel for Regional Director on instructions of Mr. M. Chandanamuthu, Joint Director, Legal in the Office of the Regional Director, Ministry of Corporate Affairs, Western Region, Mumbai, states that they are satisfied with the undertakings and submissions made by the Petitioner Company through their advocate. In view thereof, the said undertakings are accepted.

15. 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.

16. Since all the requisite statutory compliances have been fulfilled, the Company Scheme Petition No.83 of 2015 filed by the Transferor Company is made absolute in terms of prayer clauses (a) to (c) and Company

Scheme Petition No.84 of 2015 filed by the Transferee Company is made absolute in terms of prayer clauses (a) to (e).

17. The Petitioner Companies to lodge a copy of this order and the Scheme duly authenticated by the Company Registrar, High Court, 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 this order.

18. Petitioner is directed to file/lodge a copy of this order along with a copy of the Scheme of Arrangement with the concerned Registrar of Companies, electronically, along with E-Form INC-28, in addition to physical copy, as per the relevant provisions of the Companies Act 1956 / 2013, whichever is applicable.

19. The Petitioners in all the Company Scheme Petitions to pay costs of Rs.10,000/- each to the Regional Director, Western Region, Mumbai. The Petitioners in the Company Scheme Petition Nos. 83 of 2015 to pay costs of Rs.10,000/- to the Official Liquidator, High Court, Bombay. Costs to be paid within four weeks from today.

20. Petitioner in Company Scheme Petition No.84 of 2015 to publish a notice of registration of order and form of minutes of reduction of capital annexed as Exhibit 'I' to Company Scheme Petition No.84 of 2015 by Registrar of Companies once each in the two local newspaper, viz, "The Free Press Journal" in English language and translation thereof in "Navshakti" in Marathi Language, both having circulation in Mumbai and

also in the Maharashtra Government Gazette within 14 days of registration.

21. Filing and issuance of the drawn up order is dispensed with.

22. All concerned regulatory authorities to act on a copy of this order along with the Scheme and Form of Minutes annexed as Exhibit "I" to the Company Scheme Petition No.84 of 2015 duly authenticated by the Company Registrar, High Court (O. S.), Bombay.

(S. J. KATHAWALLA, J.)