

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SCHEME PETITION NO.123 OF 2015
CONNECTED WITH**

COMPANY SUMMONS FOR DIRECTION NO.34 OF 2015

Herald Equities Private Limited

.....Petitioner/First Transferor Company.

AND

COMPANY SCHEME PETITION NO.124 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO.35 OF 2015

Omega Equities Private Limited

.....Petitioner/Second Transferor Company.

AND

COMPANY SCHEME PETITION NO.125 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO.36 OF 2015

Millennium Equities (India) Private Limited

.....Petitioner/Third Transferor
Company.

AND

COMPANY SCHEME PETITION NO.126 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO.37 OF 2015

Woodstock Equities Private Limited

.....Petitioner/Fourth Transferor Company.

AND

COMPANY SCHEME PETITION NO.127 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO.38 OF 2015

Woodstock Share and Stock Brokers Private Limited

.....Petitioner/Fifth Transferor Company.

AND

COMPANY SCHEME PETITION NO.128 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO.39 OF 2015

Lochan Trading Private Limited

.....Petitioner/Sixth Transferor Company.

AND
COMPANY SCHEME PETITION NO.129 OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO.40 OF 2015
Index Equities Private Limited

.....Petitioner/Seventh Transferor Company.

AND
COMPANY SCHEME PETITION NO.130 OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO.41 OF 2015
Marshall Equities Private Limited

... Petitioner/Transferee Company

In the matter of the Companies Act, 1956

AND

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

AND

In the matter of Scheme of Amalgamation

OF

Herald Equities Private Limited

... First Transferor Company

AND

Omega Equities Private Limited

... Second Transferor Company

AND

Millennium Equities (India) Private Limited

... Third Transferor Company

AND

Woodstock Equities Private Limited

... Fourth Transferor Company

AND

Woodstock Share and Stock Brokers Private
Limited

... Fifth Transferor Company

AND

Lochan Trading Private Limited

... Sixth Transferor Company

AND

Index Equities Private Limited

... Seventh Transferor Company

WITH

Marshall Equities Private Limited

... Transferee Company

AND

Their Respective Shareholders

Called for Hearing

Mr. NaserAli Rizvi i/b Thakore Jariwala & Associates, Advocates for Petitioners.

C.J. Joy i/b. Mr. A.A. Ansari for Regional Director in the Petitions.

Mr. S. Ramakantha, Official Liquidator, present.

CORAM: S. J. KATHAWALLA, J

DATE: 08th May, 2015

PC:

1. Heard learned counsel for parties. No objector has come to oppose the Scheme nor any party has controverted any averments made in the Petitions.
2. The sanction of the Court is sought under Sections 391 to 394 read with Sections 100 to 103 of the Companies Act, 1956 to a

arrangement embodied in the Scheme of Amalgamation of Herald Equities Private Limited, the First Transferor Company and Omega Equities Private Limited, the Second Transferor Company and Millennium Equities (India) Private Limited, the Third Transferor Company and Woodstock Equities Private Limited, the Fourth Transferor Company and Woodstock Share and Stock Brokers Private Limited, the Fifth Transferor Company and Lochan Trading Private Limited, the Sixth Transferor Company and Index Equities Private Limited, the Seventh Transferor Company with Marshall Equities Private Limited, the Transferee Company and their respective shareholders.

3. The learned Advocate for the Petitioner Companies states that the First Transferor Company is engaged in the business of share broking and sub-broking. The Second, Third, Fourth, Fifth and Seventh Transferor Company are engaged in the business of providing services, advice and facilities of every description capable of being provided by share and stock broker. The sixth Transferor Company is Trading Company and engaged in business of sub-broking of mutual fund units and the Transferee Company is engaged in the business of providing services, advice and facilities of every description capable of being provided by share and stock broker.
4. The learned Advocate for the Petitioner Companies further states that the Scheme of Amalgamation would enable the consolidation of legal entities which would result in reduced number of entities within the group, minimize cost and administrative hassle of maintaining multiple legal entities, the consolidation would help

in pooling of financial resources to ensure smooth operations and diversification of business; and would ultimately contribute to the future business and profitability of the merged entity. The amalgamation of Transferor Companies and Transferee Company is, therefore, beneficial in the long-term interests of the shareholders and all stake holders of these companies.

5. The Petitioner Companies have approved the said Scheme of Amalgamation by passing the Board Resolutions which is annexed to the respective Company Scheme Petition.
6. The Learned Advocate for the Petitioners Companies states that pursuant to clause 8.7 of the Scheme, the utilization of the Capital Redemption Reserve Account transferred to the Transferee Company and also reduction of equity Share Capital by the Transferee Company shall be effected as an integral part of the Scheme and that the proposed reduction neither involves diminution of liability in respect of unpaid share capital of the Transferee Company nor payment to any shareholder and that rights of the creditors of the Transferee Company are not adversely affected and that pursuant to order dated 30th January, 2015 passed in Company Summons for Direction No. 41 of 2015, the procedure prescribed under Section 101(2) of Companies Act, 1956 was dispensed with and the Petitioner Company has passed a Special Resolution dated 5th January, 2015 annexed at Exhibit-‘AC’ to the Company Scheme Petition No. 130 of 2015, pursuant undertaking recorded in the order dated 30th January, 2015 passed in Company Summons for Direction No. 41 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 Company Scheme Petitions have been filed in consonance with the orders passed in respective Company Summons for Direction and seeks sanction to the said proposed Scheme of Amalgamation.
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 there under. The said undertaking is accepted.
9. The Official Liquidator has filed his report on 6th May, 2015 stating therein that the Affairs of the Transferor Companies have been conducted in a proper manner and that the Transferor Companies may be ordered to be dissolved.
10. The Regional Director has filed his Affidavit on 30th 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 9.1.1 of the Scheme, which provides increase in the authorised share capital of the Resulting Company from

Rs.20,05,00,000/- to Rs.48,00,00,000/-. It is submitted that the Resulting Company shall comply with the provision 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.

- b) With reference to clause 8.5 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.*
- 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 in paragraph 6(a) of his affidavit is concerned, the Transferee Company through its advocate undertakes that 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.

12. As far as the objection of the Regional Director in paragraph 6(b) of his affidavit is concerned, the Transferee Company through its advocate undertakes that the Transferee Company shall pass such accounting entries which are necessary in connection with the scheme to comply with other applicable Accounting Standard.
13. So far as the objection of the Regional Director 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 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.123 to 129 of 2015 filed by the Transferor Companies is made absolute in terms of prayer clauses (a) and (c) and Company Scheme Petition No.130 of 2015 filed by the Transferee Company is made absolute in terms of prayer clauses (a), (b) and (e).
17. The Petitioner Companies to lodge a copy of this order along with the Scheme and Form of Minutes 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 the Scheme and Form of Minutes duly authenticated by the Company Registrar, High Court, Bombay, 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 to pay costs of Rs.10,000/- each to the Regional Director, Western Region, Mumbai and the Petitioners in Company Scheme Petition Nos.123 to 129 of 2015 to pay costs of Rs.10,000/- each to the Official Liquidator, High Court, Bombay. Costs to be paid within four weeks from the date of the order.
20. Filing and issuance of the drawn up order is dispensed with.

21. All concerned regulatory authorities to act on copy of this order along with the Scheme and Form of Minutes duly authenticated by the Company Registrar, High Court (O. S.), Bombay.

(S. J. KATHAWALLA, J)