IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SCHEME PETITION NO. 241 OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO. 169 OF 2014.

Vinay Unique Construction Private Limited …Petitioner/Demerged Company

AND

COMPANY SCHEME PETITION NO. 242 OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO. 170 OF 2014.

Benham & Janwari Technology Private Limited
…Petitioner /Resulting Company
/ Transferor Company

AND

COMPANY SCHEME PETITION NO. 243 OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO. 171 OF 2014.

Jasamrit Estates Private Limited …Petitioner /Transferee Company

IN THE MATTER of Sections 391 to 394 of the Company Act, 1956;
AND
IN THE MATTER of the Composite Scheme of Arrangement between
Vinay Unique Construction Private Limited
And
Benham & Janwari Technology Private Limited
And
Jasamrit Estates Private Limited
And
Their Respective Shareholders.

Called for hearing:-

Mr. Yogesh Adhia, advocate for the Petitioner in both the Petitions.
Adv.N.D.Sharma i/b Shri.A.A. Ansari for Regional Director in all the Petitions.
Mr. S. Ramakantha, Official Liquidator, present in C.S.P No. 242 of 2015.

CORAM: S. C. GUPTE J.
DATE : 10th July 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 Petitions.

2. The sanction of the Court is sought under Sections 391 to 394 of the Companies Act, 1956, to the Composite Scheme of Arrangement between Vinay Unique Construction Private Limited and Benham & Janwari Technology Private Limited and Jasamrit Estates Private Limited and their respective shareholders.

3. The learned counsel for the Petitioner Companies states that the Demerged Company is presently carrying on business of dealing in and developing immoveable properties. The Resulting Company / Transferor Company is presently carrying on business of dealing in and developing computer software. The Transferee Company is presently carrying on business of dealing in and developing immoveable properties.

4. The learned counsel for the Petitioner Companies further states that the Composite Scheme of Arrangement between Vinay Unique Construction Private Limited And Benham & Janwari Technology Private Limited and Jasamrit Estates Private Limited and their respective shareholders will result into following benefits namely,

Integration of operations, Simplification the group structures, Elimination of multiple entities within the group, Rationalisation of administrative, operative and financial costs, Avail synergies arising out of consolidation of business such as, enhancement of net worth of the combined business to capitalise on future growth potential, optimal utilisation of resources and better administration and cost reduction, and Efficient management control and system, also benefiting from economies of scale result in improved shareholder value benefiting all shareholders / investors of all the companies, result in enhanced leveraging capability of the combined entity which in turn will allow the combined entity to undertake future expansion strategies and to tap bigger opportunities in the market with considerable lower risk / return ratio because of the larger base of the combined entity. The managerial expertise of the companies involved thereby giving additional strength to the operations and management of the all the Companies, enabling the entity to cater to much wider client base all over India spread over larger geographical area.

5. The Petitioner Companies have approved the said the Composite Scheme of Arrangement by passing the Board Resolutions which are annexed to the respective Company Scheme Petitions.

6. The learned Counsel for the Petitioners states that the Petitioner Companies have complied with all the directions passed in Company Summons for Directions and that the Company Scheme Petitions have been filed in consonance with the orders passed in respective Company Summons for Directions.

7. The Learned Counsel appearing on behalf of the Petitioners state that they have complied with all the 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.

8. The Official Liquidator has filed his report on 10th June 2015 in Company Scheme Petition No. 242 of 2015, inter alia, stating therein that the affairs of the Resulting Company have been conducted in a proper manner and that the Resulting Company may be ordered to be dissolved.

9. The Regional Director has filed his Affidavit on 12th June 2015, *inter alia,* stating therein that save and except as stated in paragraphs 6 of the said Affidavit, it appears that the Scheme is not prejudicial to the interest of shareholders and public. In paragraphs 6 of the said Affidavit, the Regional Director has stated that:

> *"It is observed that, the Demerged Company's undertaking is first transferred to transferor company and thereafter transferred to transferee company. Beside transferee company proposes to issue preference shares to the equity shareholders of transferor company and also transferor company proposed to issue preference shares to the shareholders of Demerged Company. In this regard tax issue if any arising out of the 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."*

10. In so far as observation made in paragraph 6 of the Affidavit of the Regional Director, the Petitioner Companies state that they are bound to comply with all applicable provisions of the Income Tax Act and undertake that all tax issues arising out of the Scheme will be met and answered in accordance with law.

11. It is clarified that the approval of the Scheme by this Court shall not deter the Income Tax Authority to scrutinize the returns filed by the Transferee Company after giving effect to the scheme.

12. 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 undertaking given by the Petitioner Company. The said undertakings given by the Petitioner Companies are accepted.

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 Petitions are made absolute in terms of prayer clauses (a) and (c).

15. The Petitioner Companies are directed 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 the order.

16. The Petitioner Companies are directed to file a copy of this order along with a copy of the amended Scheme 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.

17. 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 No. 242 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.

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

(S. C. Gupte J.)