

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO 258 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO 111 OF 2015

MRIGAKSHI MULTITRADING PRIVATE LIMITED

..... Petitioner / First Transferor Company

And

COMPANY SCHEME PETITION NO.259 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO 112 OF 2015

BORIS MULTITRADING PRIVATE LIMITED

.... Petitioner / Second Transferor Company

And

COMPANY SCHEME PETITION NO.260 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO 113 OF 2015

DUSHKRITI MULTITRADING PRIVATE LIMITED

.... Petitioner / Third Transferor Company

And

COMPANY SCHEME PETITION NO.261 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO 114 OF 2015

IVAN MULTITRADING PRIVATE LIMITED

.... Petitioner / Fourth Transferor Company

With

COMPANY SCHEME PETITION NO.262 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO 115 OF 2015

HADARA MULTITRADING PRIVATE LIMITED

.... Petitioner / 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

In the matter of Scheme of Amalgamation
Of

Mrigakshi Multitrading Private Limited (“the First Transferor Company”)

And

Boris Multitrading Private Limited (“the Second Transferor Company”)

And

Dushkriti Multitrading Private Limited (“the Third Transferor Company”)

And

IVAN Multitrading Private Limited (“the Fourth Transferor Company”)

With

Hadara Multitrading Private Limited (“the Transferee Company”)

And

their respective shareholders

Called for Hearing

Mr. Rajesh Shah i/b Rajesh Shah & Co., Advocates for the Petitioner Companies.

Mr. S. Ramakantha, Official Liquidator present in Company Scheme Petition Nos. 258 to 262 of 2015.

Ms. Jay Bhatia i/b Mr. A. A. Ansari for Regional Director in all the Company Scheme Petitions.

CORAM: S. C. Gupte, J.

DATE: 10th July, 2015

PC:-

1. Heard Advocate for the parties. No objector has come 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 Scheme of Amalgamation of Mrigakshi Multitrading Private Limited (“the First Transferor Company”) and Boris Multitrading Private Limited (“the Second Transferor Company”) and Dushkriti Multitrading Private Limited (“the Third Transferor Company”) and IVAN Multitrading Private Limited (“the Fourth Transferor Company”) with Hadara Multitrading Private Limited (“the Transferee Company”) and their respective shareholders.
3. Learned Advocate for the Petitioners states that all the Petitioner Companies are engaged in the business of trading of goods. The Scheme of amalgamation of the aforementioned Companies would have the benefits of consolidation and synergies in business operations, enhancement of the scale of operations and reduction in overheads, operational, administrative, managerial and other expenditure, operational rationalization, organizational efficiency and optimum utilization of various resources and reduce managerial overlaps, which are necessarily involved in running multiple entities.
4. The Learned Advocate further states that the Boards of Directors of the Petitioner Companies have approved the said Scheme of Amalgamation by passing Board Resolutions which are annexed to the respective Company Scheme Petitions.
5. The Learned Advocate for the Petitioners further states that, 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 Summons for Directions.
6. Learned Advocate appearing on behalf of the Petitioner Companies has stated that the Petitioner Companies 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.

7. The Official Liquidator has filed his report on 2nd July, 2015 in Company Scheme Petition Nos. 258 to 261 of 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 by this Court.
8. The Regional Director has filed an Affidavit on 12th June, 2015 stating therein, save and except as stated in paragraph 6, it appears that the scheme is not prejudicial to the interest of shareholders and public.

In paragraph 6 of the said affidavit it is stated that:

6. That the Deponent further submits that,

a) It is respectfully submitted that the tax implication, if any, arising out of the Scheme is subject to final decision of Income Tax Authorities. The approval of the Scheme by this Hon'ble Court may not deter the Income Tax Authority to scrutinize the tax returns filed by the Transferee Company after giving effect to the Scheme. The decision of the Income Tax Authority is binding on the Transferor Companies and Transferee Company.

9. As far as the observations in paragraph 6 (a) of the affidavit of the Regional Director is concerned, the Petitioner Companies through their counsel submit that the Petitioners are bound to comply with all applicable provisions of Income Tax Act, and all tax issues arising out of Scheme of amalgamation will be dealt with in accordance with law.

10. Learned Advocate for Regional Director on the instructions of Mr. M Chandanamuthu, Joint Director in the office of Regional Director, Ministry of Corporate Affairs, Western Region, Mumbai, states that they are satisfied with the undertakings given by the counsel of the Petitioner Companies. The said undertakings given by the Petitioner Companies are accepted.
11. 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.
12. Since all the requisite statutory compliances have been fulfilled, the Company Scheme Petition Nos. 258 to 261 of 2015 are made absolute in terms of prayer clauses (a), (c) and (d) Company Scheme Petition No. 262 of 2015 is made absolute in terms of prayer clauses (a) and (c).
13. 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.
14. Petitioner Companies are directed to file a copy of this order along with a copy of the Scheme duly authenticated by the Company Registrar with the concerned Registrar of Companies, electronically, along with concerned E-Form INC 28 in addition to physical copy as per the relevant provisions of the Companies Act, 1956/2013 whichever is applicable.
15. The Petitioner Companies in all the Company Scheme Petitions to pay costs of Rs.10,000/- each to the Regional Director, Western Region, Mumbai and the Petitioner Companies in Company Scheme Petition Nos. 258 to 261 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.

16. Filing and issuance of the drawn up order is dispensed with.
17. 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. C. Gupte, J)