IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SCHEME PETITION NO.326 OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO.102 OF 2015

Vantage Corporate Services Limited

…..Petitioner/the Demerged Company

AND

COMPANY SCHEME PETITION NO.327 OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO.103 OF 2015

Vantage Knowledge Academy Limited

…..Petitioner/the Resulting Company

In the matter of petition under Sections 391 to section 394 read with Section 100 to 104 of the Companies Act, 1956 and Section 52 of the Companies Act, 2013

AND

In the matter of Scheme of Arrangement between Vantage Corporate Services Limited

…Demerged Company

AND

Vantage Knowledge Academy Limited

… Resulting Company

AND

Their Respective Shareholders and Creditors

Called for Hearing

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

Mr. Anant O Singh i/b. Mr. A. A. Ansari for Regional Director in both the Petitions.

CORAM: S. C. GUPTE, J.

DATE: 10th July, 2015

PC:

1. Heard learned counsel for parties. No objector has come to oppose the Scheme nor has any party controverted any averments made in the Petitions.

2. The sanction of the Court is sought under Sections 391 to section 394 read with Section 100 to 104 of the Companies Act, 1956 and Section 52 of the Companies Act, 2013 to a Scheme of Arrangement ("Scheme") between Vantage Corporate Services Limited and Vantage Knowledge Academy Limited and their respective shareholders and creditors.

3. The learned Advocate for the Petitioner Companies states that the Demerged Company has two major line of business i.e. investment, Finance and Capital Market including securities trading, Funding and Financial services and Education, Training and publishing activity which provides education and training of financial education. The Resulting Company intends to carry on business of education, training and publicity activities.

4. The learned Advocate for the Petitioner Companies further states that the core business activity of Demerged company (VCSL) comprised of financial and investment activities which does not have synergies of operation with its non core business activities i.e. education, Training and Publicity activities and the two have independent business dynamics, require different strategies for growth and different focus for alliance / consolidation and in order to concentrate its growth efforts in a focused

manner, introduce different strategies for growth and different focus for alliance / ventures and to enable direct Equity participation from investors in education service business and the Demerged Company has determined to create a focused entity and accordingly proposes the transfer and vesting of the Demerged Undertaking to and vested in the Resulting Company by way of a Demerger undertaken through this Scheme under the provisions of Sections 391 to 394 and other relevant provisions of the Act.

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. 326 of 2015 states that as per clause (9 & 11) of the Scheme, the differences between the value of assets and value of liabilities transferred pursuant to the Scheme shall be debited or credited to Demerger / Reconstruction Adjustment Account. The debit balance of the said Demerger / Reconstruction adjustment account shall be adjusted against the Profit and Loss account and / or Securities Premium account of the Demerged Company. The proposed reduction in the Securities Premium Account of the Demerged Company shall be effected as an integral part of the Scheme and in view of the averments made in paragraph 28 of the Affidavit in Support of Company Scheme Petition, inter alia, stating that the proposed reduction neither involves diminution of liability in respect of unpaid share capital of the Demerged Company nor payment to any shareholder of any paid-up capital nor is any call being waived and that rights of the creditors of the Demerged Company and the Resulting Company are not adversely affected. The Demerged Company has passed a Special Resolution pursuant to provisions of Section 100 to 104 of the Companies Act, 1956 in the Extra Ordinary General Meeting of its Equity Shareholders held on 26th March, 2015 for the reduction of the Securities Premium Account of the Demerged Company and same is annexed as Exhibit "G" to the Company Scheme Petition No. 326 of 2015. In view thereof, the procedure prescribed under section 101 (2) of the Companies Act, 1956 was dispensed with.

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 Arrangement.

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 Regional Director has filed his Affidavit on 2nd July, 2015, *inter alia,* stating therein that save and except as stated in paragraph 6 (a) to (d) of the said Affidavit, it appears that the Scheme is not prejudicial to the interest of shareholders and public. In paragraph 6 (a) to (d) of the said Affidavit, the Regional Director has stated that :

"6. That the Deponent further submits that:-

a) Clause 8.9 of the Scheme, which provides for increase in the authorised share capital of Resulting Company. In this regard, 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) Clause 10 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) The Demerged company is a Non Deposit taking NBFC Company registered with the Reserve Bank of India, Transferee Company may be directed to file a copy of the Scheme along with the copy of this Hon'ble Court's order with the RBI within 30 days and shall also comply with the other applicable provisions of RBI Act.

d) 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."*

10. As far as the objection of the Regional Director in paragraph 6(a) of his affidavit is concerned, the Resulting Company through its advocate undertakes that the Resulting 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.

11. As far as the objection of the Regional Director in paragraph 6(b) of his affidavit is concerned, the Demerged and Resulting Companies through its advocate undertakes that the Demerged and Resulting Companies 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.

12. As far as the objection of the Regional Director in paragraph 6(c) of his affidavit is concerned, the Demerged Company through its advocate undertakes that it will file a copy of the Scheme alongwith the copy of this Hon'ble Court's order with the RBI within 30 days and shall also comply with the other applicable provisions of RBI Act.

13. So far as the objection of the Regional Director as stated in paragraph 6(d) of his Affidavit is concerned, the Petitioner Company 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.326 of 2015 filed by the Demerged Company is made absolute in terms of prayer clauses (a) to (d) and Company Scheme Petition No.327 of 2015 filed by the Resulting Company is made absolute in terms of prayer clauses (a) and (b).

17. The Petitioner Company to lodge a copy of this order along with the Scheme and Form of Minutes (Exhibit-'I' to Company Scheme Petition No.326 of 2015) 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 (Exhibit-'I' to Company Scheme Petition No.326 of 2015) 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 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. C. GUPTE, J.)