

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SCHEME PETITION NO.358 OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO.288 OF 2015
Vikabh Securities Private Limited.
.....Petitioner/the Demerged Company.

AND
COMPANY SCHEME PETITION NO.359 OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO.289 OF 2015
Biyani Securities (Counter Exchange) Private Limited.
.....Petitioner/the First Transferor Company.

AND
COMPANY SCHEME PETITION NO.360 OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO.290 OF 2015
Biyani Securities (Jaipur) Private Limited.
.....Petitioner/the Second Transferor Company.

AND
COMPANY SCHEME PETITION NO.361 OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO.291 OF 2015
Biyani Securities (Equity Research) Private Limited.
.....Petitioner/the Third Transferor Company.

AND
COMPANY SCHEME PETITION NO.362 OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO.292 OF 2015
HRB Developers And Builders Private Limited.
.....Petitioner/the Fourth Transferor Company.

AND
COMPANY SCHEME PETITION NO.363 OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO.293 OF 2015
Biyani Financial Services Private Limited.
.....Petitioner/the Transferee Company.

In the matter of the Companies Act I of 1956.
AND
In the matter of Sections 391 to 394 of the
Companies Act, 1956.
AND
In the matter of the Scheme of Arrangement
between:

Vikabh Securities Private Limited.
AND
Biyani Securities (Counter Exchange) Private
Limited.
AND
Biyani Securities (Jaipur) Private Limited.
AND
Biyani Securities (Equity Research) Private
Limited.
AND
HRB Developers And Builders Private Limited.
AND
Biyani Financial Services Private Limited.
AND
their Respective shareholders.

Called for Hearing

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

Mr. Pranil Sonawane i/b Shri. A. A. Ansari for Regional Director in all
the Petitions.

Mr. S. Ramakantha, Official Liquidator, present in C.S.P No. 359 to
362 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 Petition.

2. The sanction of the Court is sought under Sections 391 to 394 of the Companies Act, 1956, to a Scheme of Arrangement between Vikabh Securities Private Limited and Biyani Securities (Counter Exchange) Private Limited and Biyani Securities (Jaipur) Private Limited and Biyani Securities (Equity Research) Private Limited and HRB Developers And Builders Private Limited and Biyani Financial Services Private Limited and their respective shareholders for Demerger of Non Broking Division of Vikabh Securities Private Limited into Biyani Financial Services Private Limited and Amalgamation of Biyani Securities (Counter Exchange) Private Limited and Biyani Securities (Jaipur) Private Limited and Biyani Securities (Equity Research) Private Limited and HRB Developers and Builders Private Limited with Biyani Financial Services Private Limited.

3. The learned Advocate for the Petitioner Companies states that the Demerged Company mainly carries on the broking business in shares and securities and is member of Stock Exchanges and MCX and is also carrying on activities of trading and investment in shares

and securities. The First Transferor Company, the Second Transferor Company, the Third Transferor Company and the Fourth Transferor Company are presently carrying on business and activities of investments in Shares and Securities and Mutual Funds. The Transferee Company is engaged in carrying on investments in shares and securities and other related investments and at present is not carrying on any business operations.

4. The learned Advocate for the Petitioner Companies further states that the Scheme of Arrangement shall result into consolidation of investment and other activities of group into single entity which will simplify structure and will result into various benefits including focused management attention to the respective business and integration of operations and efficient management control and system and Demerger of Non Broking Division would facilitate to pursue inorganic and organic growth opportunities in each of such business and the amalgamation would result in optimum utilization of resources which would reduce the administrative costs and other overheads which are presently being multiplied because of separate entities and the proposed consolidation would result in lesser regulatory/procedural compliance resulting in cost saving and enhance values of all stakeholders in the long run.

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

6. 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.

7. 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.

8. The Official Liquidator has filed his report on 7th July, 2015 in Company Scheme Petition Nos. 359 to 362 of 2015, inter alia, 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.

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 (a) & (b) of the said Affidavit, it appears that the Scheme is not prejudicial to the interest of shareholders and public. In paragraphs 6 (a) & (b) of the said Affidavit, the Regional Director has stated that :

“6. That the Deponent further submits that:-

- a) *Clause (a) Clause 9.6 and 20.3 of the scheme provides for adjustment for differences in Accounting Policies between Demerged Company/Transferor Company and Transferee Company. In this regard, it is submitted that in addition to the compliance of Accounting Standard - 14, the Demerged Company/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.*
- b) *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, 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.

11. 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 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.

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 undertakings and submissions made by the Petitioner Company through their advocate. In view thereof, the said undertakings 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 Petition No.358 of 2015 filed by the Demerged Company are made absolute in terms of prayer clauses (a) & (b) and Company Scheme Petition No.359 of 2015 filed by the First Transferor Company are made absolute in terms of prayer clauses

(a) to (c) and Company Scheme Petition No.360 of 2015 filed by the Second Transferor Company are made absolute in terms of prayer clauses (a) to (c) and Company Scheme Petition No.361 of 2015 filed by the Third Transferor Company are made absolute in terms of prayer clauses (a) to (c) and Company Scheme Petition No.362 of 2015 filed by the Fourth Transferor Company are made absolute in terms of prayer clauses (a) to (c) and Company Scheme Petition No.363 of 2015 filed by the Transferee Company are made absolute in terms of prayer clauses (a) & (b)

15. 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.

16. 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.

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 Nos. 359

of 2015 to 362 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 today.

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

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

(S. C. GUPTE, J.)