IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO. 456 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 315 OF 2015

Devmiti Finvestrade Private Limited…Petitioner/1st Transferor Company

AND

COMPANY SCHEME PETITION NO. 457 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 316 OF 2015.

Krishanu Finlease Private Limited…Petitioner / 2nd Transferor Company

AND

COMPANY SCHEME PETITION NO. 458 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 317 OF 2015.

Tinsel Properties Private Limited …Petitioner / 3rd Transferor Company

IN THE MATTER of Companies Act, 1956 (or re-enactment thereof upon effectiveness of Companies Act, 2013);

AND

IN THE MATTER of Sections 391 to 394 of the Companies Act, 1956; (or any corresponding provision of the Companies Act, 2013 as may be notified);

AND

IN THE MATTER of the Scheme of Amalgamation of
Devmiti Finvestrade Private Limited
(The "1st Transferor Company")
AND
Krishanu Finlease Private Limited
(The "2nd Transferor Company")
AND
Tinsel Properties Private Limited
(The "3rd Transferor Company")
WITH
Rosy Blue (India) Private Limited
(The "Transferee Company")
AND
Their Respective Shareholders.

Called for hearing:-

Mr. Yogesh Adhia, advocate for the Petitioner in all the Petitions.
Mr. Chirag J. Shah i/b Shri. A. A. Ansari for Regional Director in all the Petitions.
Mr. S. Ramakantha, Official Liquidator, present in all the Petitions.

CORAM: S. C. GUPTE J.
DATE : 11th September 2015

PC:

1. Heard learned counsel for parties. None appears before the Court to oppose the Scheme, nor has any party controverted any averment 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 Devmiti Finvestrade Private Limited (The "1st Transferor Company") and Krishanu Finlease Private Limited (The "2nd Transferor Company") and Tinsel Properties Private Limited (The "3rd Transferor Company") with Rosy Blue (India) Private Limited (The "Transferee Company") and their respective shareholders.

3. The learned counsel appearing on behalf of the Petitioners submits that by order dated 24th April, 2015 passed in Company Summons for Direction Nos. 315, 316 and 317 of 2015 filed by Petitioner Companies, filing of a separate Company Summons for Direction and Company Scheme Petition in relation to the proposed Scheme by Rosy Blue (India) Private Limited, the Transferee Company, was dispensed with as the Transferee Company is 100% holding Company of the Transferor Companies and no new shares are being issued by the Transferee Company and in view of the decision of this Court in Mahaamba Investments Limited Versus IDI Limited [(2001) 105 Company Cases (pages 16 to 18)].

4. The learned counsel for the Petitioner Companies states that the 1st Transferor Company is presently carrying on business of dealing in various types of securities. The 2nd Transferor Company is presently carrying on business as a finance company. The 3rd Transferor Company is presently carrying on business of dealing in properties. The Transferee Company is presently carrying on business of dealing diamonds.

5. The learned counsel for the Petitioner Companies further states that the Scheme of Amalgamation between Devmiti Finvestrade Private Limited, Krishanu Finlease Private Limited and Tinsel Properties Private Limited with Rosy Blue (India) Private Limited, and their respective shareholders will result into following benefits namely, the Transferee Company would stand to benefit by virtue of additional resources it acquires through the proposed amalgamation and the proposed amalgamation would also enable greater efficiency in cash management of the Transferee Company

and the assets of the Transferor Companies shall be properly, gainfully and efficiently utilized, which would augment the asset base of the Transferee Company resulting in the optimal utilization of resources and greater revenue inflow and the proposed amalgamation would enhance financial and growth prospects for the shareholders and organizations connected with the Companies.

6. The Petitioner Companies and the Transferee Company have approved the said the Scheme of Amalgamation by passing the Board Resolutions which are annexed to the respective Company Scheme Petitions.

7. 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.

8. The Learned Counsel appearing on behalf of the Petitioners state that they have complied with all the requirements as per the directions of this Court and they have filed necessary Affidavits of compliances 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.

9. The Official Liquidator has filed his report on 2nd September 2015 stating that the Affairs of the Petitioners /Transferor Companies

has been conducted in a proper manner and that the Transferor Companies may be ordered to be dissolved by this Hon'ble Court.

10. The Regional Director has filed his Affidavit on 9th September 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:

> *"That the Deponent further submits 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."*

11. In so far as observations made in paragraph 6 of the Affidavit of the Regional Director, the Petitioner Companies state that they and the Transferee Company 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.

12. 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.

13. 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 he is satisfied with the undertaking given by the Petitioner Companies. The said undertaking given by the Petitioner Companies is accepted.

14. 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.

15. Since all the requisite statutory compliances have been fulfilled, the Company Scheme Petitions are made absolute in terms of prayer clauses (a) and (c).

16. 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.

17. 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.

18. 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 all the Company Scheme Petitions to

pay costs of Rs.10,000/- to the Official Liquidator, High Court, Bombay. Costs to be paid within four weeks from today.

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

20. All concerned 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.)