IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION 703 OF 2014

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO 466 OF 2014

FUTURE AGROVET LIMITED

.... Petitioner / Transferor 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

between

Future Agrovet Limited

with

Future Consumer Enterprise Limited

and

their respective shareholders.

Called for Hearing

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

Mr. S. Ramakantha, Official Liquidator present in Company Scheme Petition No. 703 of 2014.

Mr. R. C. Master i/b Mr. H.P. Chaturvedi for Regional Director.

CORAM: S. J. Kathawalla, J.

DATE: 30th January, 2015

1. Heard counsel 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 Petition.

2. The sanction of the Court is sought under Sections 391 to 394 of the Companies Act, 1956, to the Scheme of Amalgamation between Future Agrovet Limited with Future Consumer Enterprise Limited and their respective shareholders.

3. Learned Advocate for the Petitioners states that the Petitioner Company is engaged in the business of procuring, processing and supplying of agricultural commodities in loose and packaged form to various formats of Future Group and to other institutional and general trade clientele. It also operates in staples warehousing of grains and pulses and the Transferee Company is engaged in the business of operating food and FMCG outlets and distribution in urban and rural areas with its own branded products and third party products and it also has investment in Salon and Spa businesses under the brand "Star" and "Sitara" and an edutainment company – Amar Chitra Katha Private Limited. The key objective of this Scheme is to ensure simplification of group structure by elimination of multiple entities and achieve greater administrative efficiency, elimination of administrative functions and multiple record keeping, thus resulting in reduced expenditure, and significant reduction in the multiplicity of regulatory compliances. The Petitioner Companies approved the said Scheme by passing the Board Resolutions which are annexed to the Company Scheme Petition.

4. The learned Advocate for the Petitioners further states that, Petitioner company have complied with all the directions passed in Company Summons for Direction and that the Company Scheme Petition have been filed in consonance with the orders passed in respective Summons for Direction.

5. Learned counsel for the Petitioners further states that the Petitioner Company is the wholly owned subsidiary of the

Transferee Company and all the shares of the Petitioner Company are presently held by the Transferee Company jointly with its nominees and after the Scheme being sanctioned, no new shares are required to be issued to the members of the Petitioner Company and the entire share capital of the Petitioner Company stands cancelled and the interests of the creditors are not affected in any manner and also in view of the judgement of this Court in Mahaamba Investments Limited Vs IDI Limited (2001) Company Cases 105, filing of a separate Company Summons for Direction and Company Scheme for Petition by Future Consumer Enterprise Limited, the Transferee Company was dispensed with, by order dated 27th June, 2014 passed in Company Summons for Direction No. 466 of 2014.

6. The learned counsel appearing on behalf of the Petitioner Company has stated that the Petitioner Company has complied with all requirements as per directions of this Court and has filed necessary affidavits of compliance in the Court. Moreover, Petitioner Company 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 22nd January, 2015 in Company Scheme Petition No 703 of 2014 stating therein that the affairs of the Petitioner Companies have been conducted in a proper manner and that the Petitioner Company may be ordered to be dissolved by this Court.

8. The Regional Director has filed an Affidavit on 19th January, 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:

> *That the Deponent respectfully 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.*

9. As far as the observations in paragraph 6 of the affidavit of the Regional Director is concerned, the petitioner through their counsel submits that the petitioner is bound to comply with all applicable provisions of Income Tax Act, and all tax issues arising out of Scheme of amalgamation will be met and answered in accordance with law.

10. The Learned Counsel 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 Company. The said undertakings given by the Petitioner Companies is 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 is made absolute in terms of prayer clauses (a), (c) and (d).

13. The Petitioner Company 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 Company is directed to file a copy of this order along with a copy of the Scheme 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 Company to pay costs of Rs.10,000/- each to the Regional Director, Western Region, Mumbai and 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. J. Kathawalla, J)