IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SCHEME PETITION NO.95 OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO. 498 OF 2014

Naman Tie-Up Private Limited....Petitioner Company

With

COMPANY SCHEME PETITION NO.96 OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO. 499 OF 2014

Kiwi Dealers Private Limited....Petitioner Company

With

COMPANY SCHEME PETITION NO.97 OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO. 500 OF 2014

Aim Multitrade Company Private Limited....Petitioner Company

With

COMPANY SCHEME PETITION NO.98 OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO. 501 OF 2014

Puja Promoter Private Limited....Petitioner 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 Naman Tie-Up Private Limited, Kiwi Dealers Private Limited and Aim Multitrade Company Private Limited and Puja Promoter Private Limited with Valentine Mercantile Private Limited

Called for hearing

Mr. Hemant Sethi, i/b M/s Hemant Sethi & Co. Advocate for the Petitioner Company

Mr. S. Ramakantha, Official Liquidator Present

Mr. A. R. Verma i/b Mr. A.A. Ansari for Regional Director.

CORAM: S. C. Gupte, J.

DATE: 10th July, 2015

PC:

1. Heard counsel for the parties. No objector has come before the court to oppose the Scheme of Amalgamation 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 of Naman Tie-

Up Private Limited, Kiwi Dealers Private Limited and Aim Multitrade Company Private Limited and Puja Promoter Private Limited with Valentine Mercantile Private Limited.

3. The Learned Counsel for the Petitioners states that Petitioner Companies in Company Scheme Petition No. 95 to 98 of 2015 presently is not doing any business activities and Transferee Company presently not engaged in any business.

4. Learned Counsel for the Petitioners states that the Scheme will result into following benefits namely with a view to maintain a simple corporate structure and eliminate duplicate corporate procedures it is desirable to merge and amalgamate all the undertakings of Transferor companies with the Transferee Company. Further, the amalgamation would create economies in administrative and managerial costs by consolidating operations and would substantially reduce duplication of administrative responsibilities and multiplicity of records and legal and regulatory compliances.

5. Learned Counsel for the Petitioners further states that the Board of Directors of the Petitioner Companies and Transferee Company have approved the said Scheme of Amalgamation by passing Board Resolutions which are annexed to the respective Company Scheme Petitions.

6. Learned Advocate for the Petitioner further states that since the Transferor Companies are wholly owned subsidiary of the Transferee Company and all the shares of the Transferor Companies are presently held by the Transferee Company, Valentine Mercantile Private Limited and after the Scheme being sanctioned, no new shares are required to be issued to the members of the Transferor Companies by the Transferee Company and there would be no reorganization of the Share Capital in the Transferee Company and also in view of the judgment of this Court in Mahaamba Investments Limited Versus IDI Limited (2001) 105 Company Cases, filing of a separate Company Summons for Direction and Company Scheme Petition by Valentine Mercantile Private Limited, the Transferee Company was dispensed with, by orders dated 4th July, 2014 passed in CSD NO. 498 to 501 of 2014.

7. The Learned Counsel for the Petitioners further states that the Petitioner Companies have complied with all the directions passed in the respective 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.

8. The Learned Counsel appearing on behalf of the Petitioners has stated that the Petitioner Companies have complied with all requirements as per directions of this Court and they have filed necessary affidavit of

compliance in the Court. Moreover, the Petitioner Companies undertakes to comply with all statutory requirements if any, as required under the Companies Act, 1956 / 2013 and rules made there under whichever is applicable. The said undertaking is accepted.

9. The Official Liquidator has filed his report on 21st May, 2015 stating therein that the affairs of the Petitioner Companies have been conducted in a proper manner and that the Petitioner Companies may be ordered to be dissolved by this Court.

10. The Regional Director has filed an Affidavit on 3rd day of July, 2015 stating therein, save and except as stated in paragraph 6 thereof, it appears that the Scheme is not prejudicial to the interest of shareholders and public. In paragraph 6 of the said Affidavit, the Regional Director has stated that:-

> "6. *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*

11. So far as the observations made in paragraph 6 of the Affidavit of the Regional Director is concerned, the Learned Counsel for the Petitioner

Companies submit that the Petitioner Companies are bound to comply with all applicable provisions of Income 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. Chandana Muthu, Joint Director (Legal) in the office of the Regional Director, Ministry of Corporate Affairs, Western Region, Mumbai states that they are satisfied with the undertaking given by the Petitioner Companies. The said undertaking given by the Petitioner Companies is 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. 95 to 98 of 2015 are made absolute in terms of the prayer clause (a) of the respective Company Scheme Petition.

15. The Petitioner Companies are directed to file 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.

16. Petitioner Companies are 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 provisions of the Companies Act 1956 / 2013 whichever is applicable.

17. The Petitioner Companies to pay cost 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.

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 Scheme duly authenticated by the Company Registrar, High Court (O. S.), Bombay.

(S. C. Gupte, J.)