IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SCHEME PETITION NO. 754 OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTIONS NO.326 OF 2015

M/s. DD Polyplast Private Limited	**…Transferee Company / Petitioner Company**

AND

COMPANY SCHEME PETITION NO. 755 OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTIONS NO.327 OF 2015

M/s. IPN India Packaging Private Limited,	**... Transferor Company / Petitioner Company**

Called for hearing:

Ms. Soniya Putta & Ms. Kinjal Katkoria, i/b M/s. Solomon & Co., Advocates for the Petitioner.
Mr. D.N. Mishra, Mr.A.A. Ansari, for the Regional Director.
Mr. S. Ramakantha, Official Liquidator, present.

CORAM : K.R. SHRIRAM, J
DATED: 18TH DECEMBER, 2015

P.C.:

1. Heard Learned Counsel for the parties. No objector has come before the Hon'ble Court to oppose the Scheme nor has any party controverted the averments made in the Petition.

2. The sanction of the Hon'ble Court is sought under the provisions of Sections 391 to 394 of the Companies Act, 1956 read with the other applicable provisions of the Companies Act, 2013 to the Scheme of Amalgamation of DD Polyplast Private Limited ("**Transferee Company**") with IPN India Packaging Private Limited ("**Transferor Company**") and their respective Shareholders.

3. The Learned Counsel for the Petitioner Companies states that the Transferee Company is engaged in the business of manufacturing, processing, importing & exporting and dealing with all types of plastic moulded products and articles. The Transferor Company is engaged in the business of manufacturing, processing, export & import in packing/packaging materials made of plywood, thermocole, wood wool, rubber, metal foils, glass and plastics etc. such as containers, boxes, cartons, cases, drums, flasks, cones etc.

4. The Scheme of Amalgamation envisages amalgamation of the Transferor Company with the Transferee Company resulting in consolidation of the entire business of the Transferor Company into the Transferee Company. The amalgamation will also help strengthening the position of the amalgamated entity, by enabling it to share resources for the development of their business by reducing administrative costs and expenses allowing for an effective control over utilization of resources and services. Accordingly, it would be in the best interests of the Transferor Company and the Transferee Company, and their respective Shareholders. The proposed amalgamation will lead to an improved organizational capability,

management and leadership arising from the pooling of human capital, having diverse skills and experience.

5. The Petitioner Companies have approved the said Scheme of Amalgamation by passing Board Resolutions which are annexed to the Company Scheme Petition.

6. The Learned Counsel for the Petitioner Companies states that the Petitioner Companies have complied with all the directions passed in Company Summons for Directions and that the Company Scheme Petition has been filed in consonance with the orders passed in the Company Summons for Directions.

7. The Learned Counsel for the Petitioner Companies states that the Petitioner Companies have complied with all requirements as per directions of this Hon’ble Court and have filed necessary affidavits of compliance in the Hon’ble Court. Moreover, the Petitioner Companies undertakes to comply with the statutory requirements, if any, as required under the Companies Act, 1956 and the Companies Act, 2013 and the Rules made thereunder whichever is applicable. The undertaking is accepted.

8. The Official Liquidator filed his report on 14th December, 2015 in the above Company Scheme Petition stating *inter alia* that the affairs of the Petitioner Companies have been conducted in a proper manner and that the Transferor Company may be ordered to be liquidated without being wound up.

9. The Regional Director has filed an Affidavit on 24th November 2015 stating therein that, save and except as stated in paragraph 6(a), to 6 (c) of the said Affidavit 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 submits that:

> *"(a) Clause 9.5 read with 9.6 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.*
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> *(b) Clause 6.1. of the Scheme provides for change of name of Transferee Company. In this connection Transferee Company may be directed to comply with provisions of section 21/23 of the Companies Act, 1956 corresponding to new section 13 read with 16 of the Companies Act, 2013 in respect of filling of necessary forms with the Registrar of Companies and the proposed new name will be allowed subject to availability of the same, by the Registrar of Companies since under the computerized MCA 21 System of allotting names, it is systemically not possible to reserve the names. Therefore, the name if available at the time of filling of such application, shall be made available by the Registrar of Companies.*

(c) 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 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. In so far as the observation made in paragraph 6(a) of the Affidavit of the Regional Director is concerned, the Petitioner Company through their Learned Counsels undertakes to comply and follow Accounting Standard -14 and Accounting Standard -5 and any other applicable accounting standards which are necessary in connection with the Scheme as issued by the Institute of Chartered Accountants of India. The said undertakings are accepted.

11. In so far the observations made in paragraph 6(b) of the Affidavit of the Regional Director is concerned, the Learned Counsel appearing for the Petitioner Companies submits that the Petitioner Companies undertakes to comply with provisions of section 21 and section 23 of the Companies Act, 1956 corresponding to section 13 read with section 16 of the Companies Act, 2013 and shall apply for the filling of the necessary forms with the Registrar of Companies.

12. In so far as the observation made in paragraph 6(c) of the Affidavit of the Regional Director is concerned, Learned Counsel appearing for the Petitioner Companies submits that the Petitioner Companies undertakes 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. The said undertaking is accepted.

13. The Learned Counsel for the 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 undertakingsd by the Petitioner Companies. The said submissions and undertakings are accepted.

14. From the material on record, the Scheme of Amalgamation appears to be fair and reasonable and is not violative of any provisions of law and is not contrary to public policy. None of the parties concerned has come forward to oppose the Scheme of Amalgamation.

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

16. The Petitioner Companies to lodge a copy of this order and the Scheme of Amalgamation 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 order.

17. The Petitioner Companies are directed to file a copy of this order along with a copy of the Scheme of Amalgamation with the concerned Registrar of Companies, electronically, along with E-Form

INC-28 in addition to the physical copy, as per the relevant provisions of the Companies Act 1956/2013.

18. The Petitioner Companies in Company Scheme Petition to pay costs of Rs. 10,000/- each to the Regional Director, Western Region, Mumbai. The Petitioner Company in Company Scheme Petition to pay costs of Rs. 10,000/- to the Official Liquidator, High Court, Bombay. Costs to be paid within four weeks from date of order.

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

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

(K.R. SHRIRAM, J.)

C E R T I F I C A T E

I certify that the order uploaded is the true and correct copy of the original signed order.

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