IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICATION

COMPANY SCHEME PETITION NO. 71 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 647 OF 2014

ROOPSANGAM HOLDINGS LIMITED

…..Petitioner

(The Transferor Company)

In the matter of Section 391 and 394 of the Companies Act, 1956

And

In the matter of Scheme of Amalgamation of Roopsangam Holdings Limited with Trade-Wings Limited.

<u>Called for Hearing</u>

Mr. Prashant H. Bare i/b Bare Legal Chambers., Advocates for the Petitioner.

Mrs. S. V. Bharucha for Regional Director in the Company Scheme petition.

Mr. S. Ramakantha, Official Liquidator, present in the Company Scheme petition.

Coram: S. J. Kathawalla, J

Dated: 18th April, 2015

1. Heard the learned counsel for the Petitioner Company. 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 for sanctioning the Scheme of amalgamation of Roopsangam Holdings Limited with Trade-Wings Limited.

3. The learned Counsel for the Petitioner submits that Transferor Company was engaged in the business of running hotels/restaurants & café. The Transferee Company is engaged in the business of travel & tourism, full fledged money changers, foreign exchange dealers, logistics, hotels, restaurants, academics.

4. Both the Transferor and Transferee Company are group Companies, engaged in similar activities, The proposed scheme of amalgamation would results in with a stronger asset base, the presently the Transferor Company was engaged in the business of running hotels/restaurants & café and same mentioned in its main object, the Transferee Company will utilize liquid assets including cash for furtherance of the object of the Company and support its working capital system and also other support services for its business, the shareholders of the Transferee Company would enjoy a much larger assets base and other resultant benefits of the combined entity, it will strengthen, consolidate and stabilize the business of these companies and will facilitate further expansion and growth of their business.

5. The Petitioner Company approved the said Scheme by passing Board Resolution which is annexed to the respective company Scheme Petition.

6. Learned Advocate for the Petitioner further state that the convening and holding of the meeting of the Equity shareholders,

Secured and Unsecured Creditors of the Transferee Company and filing of a separate Company Scheme Petition and a separate process by the Transferee Company for sanctioning of the proposed Scheme of Amalgamation was dispensed with, by order dated 16th January, 2015 passed in CA No. 3.of 2015 by Hon'ble Bombay High Court at Goa Bench.

7. The learned Advocate for the Petitioner state that Petitioner Company has complied with all directions passed in Company summons for Directions and that the Petition has been filed in consonance with the order passed in respective company summon for Direction.

8. Counsel appearing on behalf of the Petitioner has stated that it has complied with all requirements as per directions of this court and has filed necessary affidavit 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 given by the Petitioner Company is accepted.

9. The Regional Director has filed an Affidavit on 15th April, 2015 stating therein that save and except as stated in paragraph 6 (a), (b) & (c) of the said affidavit, it appears that the Scheme is not prejudice to the interest of shareholders and public. In paragraph 6 (a), (b) and (c) of the said affidavit, The Regional Director has stated that

"6. *The Deponent further submits that :-*

a) *Clause 15.5 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 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.*

b) It is respectfully submitted 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 and Transferee Company.*

c) Clause 21 of the Scheme provides for Modification and Amendments to Scheme wherein the Board of Directors of Transferor Company and Transferee Company have been authorized to make any amendments to Scheme, if necessary, after the Scheme is approved by the Hon'ble High Court. Such liberty shall not be exercised by Board of Directors without obtaining prior approval from the Hon'ble High Court. The Petitioner Company shall be directed to undertake to this effect."

10. As far as observation made in paragraph 6(a) of the Affidavit of the Regional Director is concerned, the Transferee Company through its Counsel undertakes that it shall pass such accounting entries which are necessary in connection with the Scheme and to comply with other applicable Accounting Standards.

11. In so far as observation made in paragraph 6 (b) of the Affidavit of Regional Director is concerned, The Petitioner is bound to comply with all applicable provisions of Income Tax Act, and all

tax issues arising out of Scheme will be met and answered in accordance with law.

12. In so far as observation made in paragraph 6(c) of the Affidavit of Regional Director is concerned, The Learned counsel for the Petitioner Company states that clause 21 of the Scheme gives Power to the Board of Directors of the Petitioner Company to amend any part of the Scheme. The Learned Counsel for the Petitioner Company states that such power to amend the Scheme is subject to prior approval of the High Court. It is therefore clarified that the power vested under clause 21 of the Scheme will be subject to the approval of the High Court.

13. The Learned Counsel for Regional Director on instruction of Mr. Chandanamuthu, Joint Director Legal in the office of the Regional Director, Ministry of Corporate Affairs, Western Region, Mumbai states that they are satisfied with undertakings given by the Petitioner Company as stated hereinabove. The said undertakings given by the Petitioner Company are accepted.

14. The official Liquidator has filed his report on 8th April, 2015 in the Company Scheme Petition No. 71 of 2015 stating therein that the affairs of the Transferor Company has been conducted in proper manner and that the Transferor Company may be ordered to be dissolved by this Court.

15. 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.

16. Since all the requisites statutory compliances have been fulfilled, the Company Scheme Petition No. 71 of 2015 filed by the Petitioner Company is made absolute in terms of prayer clause (a) of the respective Petition.

17. 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.

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

19. The petitioner Company in the Company Scheme Petition 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.

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

21. 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)