IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO.828 OF 2014

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO.850 OF 2014

Value Realty Private Limited

.....Petitioner/the First Transferor Company.

AND

COMPANY SCHEME PETITION NO.829 OF 2014

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO.851 OF 2014

Prescient Estate Private Limited

.....Petitioner/the Second Transferor Company.

AND

COMPANY SCHEME PETITION NO.830 OF 2014

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO.852 OF 2014

Knowledge City Education Private Limited

.....Petitioner/the Transferee Company.

In the matter of the Companies Act I of 1956

AND

In the matter of Sections 391 to 394 of the Companies Act, 1956

AND

In the matter of the Scheme of Amalgamation of:

Value Realty Private Limited.

AND

Prescient Estate Private Limited.

WITH

Knowledge City Education Private Limited.

AND

their Respective Shareholders.

Called for Hearing

Mr. Rajesh Shah i/b M/s. Rajesh Shah & Co, Advocate for the Petitioner in all the Petition.

Mr.C.J.Joy i/b Mr.H.P.Chaturvedi for Regional Director in all the Petitions.

Mr. S. Ramakantha, Official Liquidator, present in C.S.P No. 828 & 829 of 2014.

CORAM: S. J. KATHAWALLA, J

DATE : 6TH FEBRUARY, 2015

PC:

1. Heard learned counsel for parties. None appears 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 a Scheme of Amalgamation of Value Realty Private Limited and Prescient Estate Private Limited with Knowledge City Education Private Limited and their Respective Shareholders.

3. The learned Advocate for the Petitioner Companies states that the First Transferor Company is presently carrying on the business to establish, run, and develop schools, colleges, university. The Second Transferor Company is presently carrying on the business of Real Estate. The Transferee Company is presently carrying on business of developers of land & property and is in process of setting up township.

4. The learned Advocate for the Petitioner Companies further states that the Scheme of Amalgamation shall result into consolidation of its business operation and provide significant impetus to growth of the

Transferee Company business. The amalgamation would result in optimum utilization of resources which would reduce the administrative costs and other overheads which are presently being multiplicated because of separate entities. Enhance values of all stake holders in the long run.

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

6. The learned Advocate for the Petitioners states that the Petitioner Companies have complied with all the directions passed in Company Summons for Direction and that the Petitions have been filed in consonance with the orders passed in respective Company Summons for Direction.

7. The Learned Advocate appearing on behalf of the Petitioners has stated that they have complied with all requirements as per directions of this Court and they have filed necessary Affidavits of compliance 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.

8. The Official Liquidator has filed his report on 2nd February, 2015 in Company Scheme Petition Nos. 828 and 829 of 2014, inter alia, stating therein that the affairs of the Transferor Companies have been conducted

in a proper manner and that the Transferor Companies may be ordered to be dissolved.

9. The Regional Director has filed his Affidavit on 28th January, 2015, *inter alia,* stating therein that save and except as stated in paragraphs 6 (a) to (d) of the said Affidavit, it appears that the Scheme is not prejudicial to the interest of shareholders and public. In paragraphs 6 (a) to (d) of the said Affidavit, the Regional Director has stated that :

> *a) With respect to clause 10.3 of the scheme, it is submitted that surplus if any, arising out of this scheme be transferred to Capital Reserve Account and deficit if any be transferred to Good will Account of Transferee Company.*
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> *b) Clause 10.5 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 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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> *c) Clause 18 of the Scheme provides for change in the object clause of the Memorandum of Association of the Transferee Company. In this connection, the Transferee Company may be directed to comply with provisions of section 13(1) read with 15 of the Companies Act, 2013 and to file amended copy of Memorandum of Association alongwith Form No. 21 with the Registrar of Companies..*
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> *d) 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.*

10. As far as the objection of the Regional Director, Western Region, Mumbai in paragraph 6(a) of his affidavit is concerned, the Transferee Company through its advocate undertakes that the surplus, if any, arising after recording of assets and liabilities of the Tranferor Companies as per Clause 10.3 of the Scheme shall be credited to Capital Reserve Account in the books of the Transferee Company and similarly deficit ,if any, shall be debited to Goodwill Account in the books of the Transferee Company.

11. So far as the objection of the Regional Director, Western Region, Mumbai, as stated in paragraph 6(b) of his Affidavit is concerned, the Transferee Company through its advocate undertakes that in addition to accounting treatment given in the scheme the Transferee Company shall pass such accounting entries as may be necessary in connection with the Scheme to comply with any other accounting standards.

12. So far as the objection of the Regional Director, Western Region, Mumbai, as stated in paragraph 6(c) of his Affidavit is concerned, the Transferee Company through its advocate undertakes to comply with relevant provision of section 13(1) read with 15 of the Companies Act, 2013 in respect of change in object clause of Memorandum of Association and undertakes to file an amended copy of the Memorandum of Association alongwith the relevant forms with the concerned Registrar of Companies.

13. So far as the objection of the Regional Director, Western Region, Mumbai, as stated in paragraph 6(d) of his Affidavit is concerned, the

Petitioner Companies submit that the Petitioner is bound 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.

14. 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 they are satisfied with the undertakings and submissions made by the Petitioner Company through their advocate. In view thereof, the said undertakings are accepted.

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 requisite statutory compliances have been fulfilled, the Company Scheme Petition No.828 of 2014 filed by the First Transferor Company is made absolute in terms of prayer clauses (a) to (c) and Company Scheme Petition No.829 of 2014 filed by the Second Transferor Company is made absolute in terms of prayer clauses (a) to (c) and Company Scheme Petition No.830 of 2014 filed by the Transferee Company is made absolute in terms of prayer clauses (a) and (b).

17. The Petitioner Companies 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 this order.

18. Petitioner is directed to file/lodge 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 physical copy, as per the relevant provisions of the Companies Act 1956 / 2013, whichever is applicable.

19. 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 the Company Scheme Petition Nos. 828 & 829 of 2014 to pay costs of Rs.10,000/- to the Official Liquidator, High Court, Bombay. Costs to be paid within four weeks from today.

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

(S. J. KATHAWALLA , J)