

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SCHEME PETITION NO. 2 OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO. 913 OF 2014

Bhagyashri Mercantile Private Limited ...Petitioner Company
(First Transferor Company)

AND

COMPANY SCHEME PETITION NO. 3 OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO. 914 OF 2014

Chitrani Mercantile Private Limited ... Petitioner Company
(Second Transferor Company)

AND

COMPANY SCHEME PETITION NO. 4 OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO. 915 OF 2014

Gopesh Commercials Private Limited ... Petitioner Company
(Third Transferor Company)

AND

COMPANY SCHEME PETITION NO. 5 OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO. 916 OF 2014

Nemita Commercials Private Limited ... Petitioner Company
(Fourth Transferor Company)

AND

COMPANY SCHEME PETITION NO. 6 OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO. 917 OF 2014

Nisarga Commercials Private Limited ... Petitioner Company
(Fifth Transferor Company)

Prakruti Commercials Private Limited ... Petitioner Company
(Sixth Transferor Company)

Vijayant Commercials Private Limited ... Petitioner Company
(Seventh Transferor Company)

-And-

-And-

AND

AND

AND

AND

(5) Nisarga Commercials Private Limited

AND

(6) Prakruti Commercials Private Limited

AND

(7) Vijayant Commercials Private Limited

WITH

(8) Model Economic Township Limited

CALLED FOR HEARING

Advocate Mr. Arif Doctor i/b M/s. Junnarkar & Associates, Advocates for the Petitioner Companies in all the Petitions.

Mr. S. Ramakantha Official Liquidator, for Official Liquidator, in all the Petitions.

Ms. S.I. Shah i/b Mr. H.P. Chaturvedi for Regional Director in all the Petitions.

CORAM: S.J. Kathawalla, J.

DATE : 20th March, 2015

P.C:-

1. Heard learned Counsel for parties. No objector has come before the Court to oppose the Scheme nor has any party controverted any averments made in the Petitions.
2. The sanction of this Court is sought under Sections 391 to 394 of the Companies Act, 1956 to a Scheme of Amalgamation of Bhagyashri Mercantile Private Limited and Chitrani Mercantile Private Limited and Gopesh Commercials Private Limited and Nemita Commercials

Private Limited and Nisarga Commercials Private Limited and Prakruti Commercials Private Limited and Vijayant Commercials Private Limited with Model Economic Township Limited.

3. The learned Counsel for the Petitioner Companies states that the all the Transferor Companies are engaged in the business of purchase, development and sale of land in district Gurgaon, Haryana.
4. The benefits of the proposed Scheme of Amalgamation are that all the Transferor Companies are wholly owned subsidiaries of the Transferee Company. The present activities and businesses of all the Transferor Companies, which are in Gurgaon, where the Transferee Company is also operating, can be conveniently combined with the business of the Transferee Company to enable consolidation of business, expansion and operation of all the companies. The amalgamation will achieve economy, better administration and operational rationalization, efficiency and optimum utilization of various resources. The amalgamation will achieve reduced administrative costs, avoid duplication of costs and result in internal economies and optimize profitability, enhancement of economic value addition and shareholder value. The amalgamation will reduce multiple companies by consolidating the companies into a single larger entity. A larger growing common company will mean enhanced financial and growth prospects for the people and organizations connected therewith and will be in public interest. The amalgamation will be conducive for better and more efficient and economical control over the business and financial conduct of the companies.

5. All the Transferor Companies have approved the Scheme of Amalgamation by passing Board Resolutions, which are annexed to the respective Company Scheme Petitions. The Transferee Company has also approved the Scheme of Amalgamation by passing a Board Resolution which is annexed as Exhibit “F” to each of the Company Scheme Petitions respectively.
6. Learned Counsel for the Petitioner Companies further states that the Petitioner Companies have complied with all 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 the said Company Summons for Direction.
7. Learned Counsel appearing on behalf of the Petitioner Companies has stated that the Petitioner Companies have complied with all the requirements as per directions of this Court and have filed necessary Affidavits of compliance in Court. Moreover, the Petitioner Companies through their Counsel undertake to comply with all statutory requirements, if any, as required under the Companies Act, 1956 or the Companies Act, 2013 and the Rules made thereunder, whichever is applicable. The said undertaking is accepted.
8. The Official Liquidator has filed his Report on 5th March 2015 in Company Scheme Petition Nos. 2 to 8 of 2015 stating therein that the affairs of the Transferor Companies have been conducted in a proper manner and the Transferor Companies may be ordered to be dissolved.

9. The Regional Director has filed an Affidavit on 18th March 2015 stating therein that save and except as stated in para 6(a), (b) & (c), it appears that the Scheme is not prejudicial to the interest of shareholders and public. In Para 6 of the said Affidavit, it is stated that:

“6. That the Deponent further submits that:

(a) That the Registered Office of the Transferee Company is situated in the State of Gurgaon, Haryana. Hence the Transferee Company has to file similar petition before the Hon’ble High Court of Punjab and Haryana for approving the said Scheme.

(b) As the Transferee Company has changed its name to Model Economic Township Limited, the same may be corrected suitably to reflect the name of Transferee Company correctly in the Scheme/ petition pending before this Hon’ble High Court.

(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 and approval of the Scheme by Hon’ble high Court may 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. With respect to Para 6(a) of the Affidavit of the Regional Director, the Learned Counsel for the Petitioner Companies states that the Transferee Company has filed a Company Petition No. 1 of 2015 before The High Court of Punjab and Haryana at Chandigarh seeking the sanction to the Scheme of Amalgamation and the same Petition is now pending for final hearing before The High Court of Punjab and Haryana at Chandigarh.

11. With respect to Para 6(b) of the Affidavit of the Regional Director, the Learned Counsel for the Petitioner Companies states that all the Petitioner Companies have filed Company Application Nos. 138 of 2015, 139 of 2015, 140 of 2015, 141 of 2015, 142 of 2015, 143 of 2015 and 144 of 2015 to amend the Company Scheme Petitions and the Scheme of Amalgamation to the extent of change in the name of the Transferee Company from “Reliance Haryana SEZ Limited” to “Model Economic Township Limited”. The said Company Applications are made absolute vide Order dated 20th March, 2015 and the Petitioner Companies have carried out amendments forthwith in the Scheme of Amalgamation as well as in the Company Scheme Petitions.
12. With respect to Para 6(c) of the Affidavit of the Regional Director, the Learned Counsel for the Petitioner Companies submits that the Petitioner Companies are bound to comply with all applicable provisions of Income Tax Act, and all tax issues arising out of the Scheme will be met and answered in accordance with law.
13. The Learned Counsel 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 given by the Advocate for the Petitioner Companies. The Regional Director states that he has no objection to the amendments as sought in the Company Applications. The undertakings given on behalf of the Petitioner Companies are accepted.

14. 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.
15. Since all the requisite statutory compliances have been fulfilled, all the Company Scheme Petitions are made absolute in terms of prayer clauses (a) and (j). Subject to sanction of the Scheme of Amalgamation by The High Court of Punjab and Haryana at Chandigarh.
16. The Petitioner Companies 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 sixty days from the date of the Order.
17. The Petitioner Companies are directed to file a copy of this Order alongwith a copy of the Scheme of Amalgamation with the concerned Registrar of Companies, electronically, alongwith E-Form 21/ INC 28 in addition to the physical copy, as per relevant provision of the Companies Act, 1956 or Companies Act, 2013, whichever is applicable.
18. The Petitioner Companies in all the Company Scheme Petitions to pay costs of Rs. 10,000/- each to the Regional Director, Western Region, Mumbai and to the Official Liquidator, High Court, Bombay respectively. Costs to be paid within four weeks from the date of the 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 alongwith Scheme, duly authenticated by the Company Registrar, High Court (O.S.).

(S.J. Kathawalla, J.)