IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.07.2015

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The Honourable Mrs.Justice PUSHPA SATHYANARAYANA

C.P.Nos.225 and 226 of 2015

Polytrusions Private Limited
a Company incorporated under the
Companies Act, 1956 having its
Registered Office at 1-B, Gleneden Place,
813, Poonamallee High Road, Kilpauk,
Chennai - 600 010, represented by its
Director, Mr.Pattabi Saivenkatprasad.

.. Petitioner in C.P.No.225 of 2015
/Transferor Company

Vinplex India Private Limited,
a Company incorporated under the
Companies Act, 1956 having its
Registered Office at 1-B, Gleneden Place,
813, Poonamallee High Road, Kilpauk,
Chennai - 600 010, represented by its
Director, Mr.Pattabi Saivenkatprasad.

.. Petitioner in C.P.No.226 of 2015/
Transferee Company

Petitions filed under Sections 391 to 394 of the Companies Act, 1956 read with Rule 79 of the Companies Court Rules, 1959, to sanction the scheme of amalgamation.

For Petitioners : Mr.A.R.Ramanathan

Mr.G.Venkatesan,
Central Government
Standing Counsel
for Regional Director
Ministry of Company Affairs,
Chennai.

Mr. Atchutha Ramaiah,
Official Liquidator

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COMMON ORDER

These company petitions are preferred under sections 391 to 394 of the Companies Act, 1956 read with Rule 79 of the Companies Court Rules, 1959 for sanctioning the scheme of amalgamation of the transferor company with the transferee company with effect from 1st April 2014. The scheme of amalgamation is annexed as Annexure - 3 in the petitions.

2. The petitioner in C.P.No.225 of 2015 is the transferor company and the petitioner in C.P.No.226 of 2015 is the transferee company.

3. A perusal of the records show that the petitioners have complied with the prescribed procedure. Both the transferor and transferee company are engaged in the business of warehousing and related logistics business. The objects of the transferor company and that of the transferee company are set out in their Memorandum of Association. The Memorandum and Articles of Association of the transferor company and that of the transferee company are annexed as Annexure-1 to the respective petitions. The audited accounts of the transferor company and that of the transferee company for the year ending 31st March 2014 were filed as Annexure-2 to the respective petitions. The transferor company has no secured creditors and the transferee company has two secured creditors namely, M/s.Punjab National Bank and M/s.Kotak Mahindra Bank Limited and the certificates of the Chartered Accountant to that effect are enclosed as Annexure-7 to the respective petitions. The consent affidavits of the secured creditors of the transferee company to the scheme of amalgamation is annexed as Annexure-8 in C.P.No.226 of 2015. The copies of the resolution dated 09.11.2015 of the Board of Directors adopting the scheme of amalgamation are enclosed as Annexure-4 to the respective petitions.

4. The transferor company has five equity shareholders and the transferee company has sixteen equity shareholders and copies of the list of shareholders are enclosed as Annexure-5 in both the petitions. The consent affidavits from the equity shareholders of both the transferor and the transferee company to the scheme of amalgamation is Annexed as Annexure -6 in both the petitions. This Court, in its order dated 08.04.2015, in C.A.Nos.355 and 356 of 2015 in the case of the transferor company and the transferee company, dispensed with the convening, holding and conducting of the meeting of the equity shareholders for the purpose of considering and if thought fit, approving with or without modification, the scheme of amalgamation of the transferor company with the transferee company.

5. On notice, the Regional Director, Ministry of Corporate Affairs has filed his report stating no objection to the scheme being sanctioned.

6. The Official Liquidator has also filed his report along with the report of the Chartered Accountant. The report of the Chartered Accountant states that the transferor Company has extended the Corporate Guarantee (Contingent Liability) to the Transferee Company with Punjab National Bank, Kilpauk Branch, Chennai - 600 010, to the tune of Rs.72.28 crores towards loan facilities and for Rs.2.50 crores towards Bank guarantee extended to M/s.Vinplex India Private Limited and the company has executed Equitable Mortgage with Punjab National Bank of lease hold rights and on the land leased to M/s. Vinplex India Private Limited admeasuring 5.15 acres situated at Maduravasal Village, Uthukottai Taluk, Tiruvallur District, as per the certificate issued by Mr.T.N.Moorthy, Chartered Accountant. In the report, the Chartered Accountant further states that the transferor company has no unpaid dividends and hence, the question of commenting on compliance of Section 205 A of the Companies Act, 1956, does not arise. The report of the Chartered Accountant states that the affairs of the transferor company have not been conducted in a manner prejudicial to the interest of its members or to public interest and they do not come across any act of misfeasance by the

Directors attracting the provisions of Sections 542 and 543 of the Companies Act, 1956. It is further stated that the records maintained in the office of the Registrar of Companies were also caused to be inspected by the said Chartered Accountant and there are no materials to indicate that the affairs of the transferor company were being conducted in a manner prejudicial to the interest of its members or public interest and the affairs of the transferor company conducted in a manner prejudicial to its members.

7. I have perused the scheme filed in the company petitions and find it beneficial to the working of the transferee company and is in the interests of the transferor company. There is no objectionable feature in the scheme of amalgamation detrimental either to the employees of the transferor company or of the transferee company. The said scheme is not violative of any statutory provisions. The scheme is fair, just, sound and is not against any public policy or pubic interest. No proceedings are pending under the Companies Act, 1956. All the statutory provisions are complied with.

8. Consequently, there shall be an order approving the scheme of amalgamation of the transferor company namely, Polytrusions Private Limited, the petitioner in C.P.No.225 of 2015 with the transferee company namely, Vinplex India Private Limited, the petitioner in C.P.No.226 of 2015, as provided in Annexure - 3 in these Company Petitions, with effect from 1.4.2014, as the procedure laid down under Sections 391 to 394 of the Companies Act are duly complied with. The petitions are allowed.

9. Taking note of the report filed by the Chartered Accountant as enclosed by the Official Liquidator, in terms of the order passed by this Court, the transferor company shall stand dissolved without winding up.

10. The learned Central Government Standing Counsel is entitled to a fee of Rs.10,000/- (Rs.5,000/- in each petitions) from the transferee company.

23.07.2015

Jrl

<u>PUSHPA SATHYANARAYANA,J.</u>

Jrl/Mra

C.P.Nos.225 and 226 of 2015

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