

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**Company Petition No. 141 of 2014
Connected with
Company Petition No. 130 of 2014**

Date of decision: 23.1.2015

IN THE MATTER OF:
THE COMPANIES ACT, 1956

AND IN THE MATTER OF :

Scheme of Amalgamation of
Kaavya Tea Estate Private Limited

.... Non Petitioner/ Transferor Company No. 1

Marvel Limited

.... Petitioner /Transferor Company No. 2

Marvel Tea Industries Limited

.... Non Petitioner /Transferor Company No. 3

AND

Marvel Tea Estate (India) Limited

.... Petitioner /Transferee Company

Present: Mr. Mukesh Sukhija and
Mr. Yashpal Gupta, Advocates, for the petitioner-companies.
Mr. Manjeet Singh, Assistant Official Liquidator.

Rajesh Bindal, J.

In this petition under Sections 391(2) and 394 of the Companies Act, 1956 (for short, 'the Act'), duly supported by affidavits, the petitioner-Transferor Company seeks the sanctioning of Scheme of Amalgamation (**Annexure P/1**) between the Transferor Company Nos. 1 to 3 and Transferee Company.

Main objects of Kaavya Tea Estate Private Limited (Non Petitioner/ Transferor Company No. 1), Marvel Limited (Petitioner/ Transferor Company No. 2), Marvel Tea Industries Limited (Non Petitioner/ Transferor Company No. 3) and Marvel Tea Estate (India) Limited (Petitioner/ Transferee Company) are detailed in their Memorandum and Articles of Association annexed with the petition at **Annexure P-8, P-2, P-11 and P-5**, respectively.

The registered office of Kaavya Tea Estate Private Limited is situated at Room No. 211, E-10, Triveni Complex, Jawahar Park, Laxmi Nagar, Delhi -110092. The registered office of Marvel Limited is situated at Marvel House Building No. 19, Sector 44, Gurgaon, Haryana- 122001. The registered office of Marvel Tea Industries Limited is situated at Khyati Communication, C/o Mentor Vision, 512-A, Ansal Magestic Tower, G-Block, Vikaspuri, New Delhi- 110018 and registered office of Petitioner/Transferee Company- Marvel Tea Estate (India) Limited is situated at Marvel Road, Uklana, Hissar, Haryana – 125113.

The Board of Directors of Transferor companies, namely, Kaavya Tea Estate Private Limited, Marvel Limited, Marvel Tea Industries Limited and Transferee company - Marvel Tea Estate (India) Limited, have approved the Scheme of Amalgamation vide resolutions dated 31.3.2014, Annexures P-10, P-4, P-13 and P-7, respectively.

Earlier, the petitioner-Transferor and Transferee Companies had approached this Court by filing Company Petition No. 130 of 2014. Vide order dated 5.8.2014 (Annexure P-14) passed therein holding of meetings of the Shareholders, Secured and Unsecured Creditors of both the Transferor Company No.2 and Transferee Company were dispensed with and liberty was granted to move second motion petition. The petitioners have filed the present second petition.

Notice of this Second Motion Petition was issued to the Regional Director, Ministry of Corporate Affairs, Noida as well as the Official Liquidator and was also ordered to be published in 'Indian Express' (English) and 'Jansatta' (Hindi), both Haryana Editions and in the official Gazette of the State of Haryana. The aforesaid order has been complied with and an affidavit to this effect has been placed on record.

Pursuant thereto, the Official Liquidator has placed on record the report dated 16.1.2015 vide which he has reported that the accounts of the Transferor Company were got verified from M/s Navneet & Company, Chartered Accountant, who has not made any adverse remarks. He has also submitted that in view of the observations of the Chartered Accountant, the amalgamation is not pre-judicial to the interest of Shareholders, Public at large, creditors and Income Tax.

In affidavit dated 8.12.2014, A. K. Chaturvedi, Regional Director, Northern Region, Ministry of Corporate Affairs, Noida, has pointed out the objection raised by the Registrar of Companies, in para 9, which is as under:-

“9. That Registrar of Companies vide para 18 of his report has stated that the Transferee Company has not appointed Whole Time Company Secretary, thereby violated the provisions of section 383A of the Companies Act, 1956. Hence, this Directorate is taking up the matter separately with the Registrar of Companies.”

As regards the aforesaid objection raised in para 9 of affidavit dated 8.12.2014 of the Regional Director, Raghuvir Jain, Director of the Petitioner Transferor Company No. 2 and the Managing Director of the Transferee Company, has undertaken vide affidavit dated 21.1.2015 that the Transferee Company is looking for a suitable candidate for appointment as the Whole Time Company Secretary in the Company and it will appoint a Whole Time Company Secretary within a period of three months.

The above-stated explanation submitted by the Director of the petitioner-Transferor Company no. 2 and the Managing Director of the Transferee Company sufficiently meets with the query raised by the Regional Director and the Registrar of Companies.

The petitioner-Companies have confirmed that there are no investigations or proceedings pending against them under Sections 235 to 251 of the Act.

For the reasons afore-stated and on consideration of all the relevant facts and the procedural requirements contemplated under Sections 391 to 394 of the Act, and the relevant Rules and on due consideration of the reports of Regional Director, Northern Region, Ministry of Corporate Affairs, Noida and the Official Liquidator, the Scheme of Amalgamation is hereby sanctioned and as a result thereto, the assets and liabilities of the Transferor Company No. 2 shall stand vested in the Transferee Company and the Transferor Company shall be dissolved without being wound up. The Transferee Company shall be required to comply with undertaking that it will appoint a Whole Time Company Secretary within a period of three

months.

Vide separate order of even date passed in CA No. 2 of 2014, the appointed date for amalgamation was permitted to be changed from 1.4.2013 to 1.4.2014.

The Scheme shall be binding on the Transferor and Transferee Companies, their respective Shareholders, Creditors and all concerned.

Let formal order of sanction of the Scheme of Amalgamation be drawn in accordance with law and its certified copy be filed with the Registrar of Companies within 30 days from the date of receipt thereof.

A notice of the order be published in the 'Indian Express' (English) and 'Jansatta' (Hindi), both Haryana editions and in the official Gazette of the Government of Haryana.

Any person interested shall be at liberty to apply to the Court for any direction(s) as per law.

Disposed of accordingly.

23.1.2015
vs

(Rajesh Bindal)
Judge