

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SCHEME PETITION NO. 121 OF 2016.
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO. 916 OF 2015.
SOUTH WEST ELECTRONICS PRIVATE LIMITED
....Petitioner/ the First Transferor Company

AND
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SCHEME PETITION NO. 122 OF 2016.
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO. 917 OF 2015.
TAPTI APPLIANCES PRIVATE LIMITED
....Petitioner/ the Second Transferor Company

AND
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SCHEME PETITION NO. 123 OF 2016.
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO. 918 OF 2015.
ELEGANCE APPLIANCES PRIVATE LIMITED
....Petitioner/ the Third Transferor Company

ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SCHEME PETITION NO. 124 OF 2015.

CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO. 919 OF 2015.
NEETU APPLIANCES PRIVATE LIMITED
....Petitioner/ the Fourth Transferor Company

AND
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SCHEME PETITION NO. 125 OF 2016.

CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO. 920 OF 2015.
GANDAK ELECTRONICS PRIVATE LIMITED
....Petitioner/ the Fifth Transferor Company

AND
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SCHEME PETITION NO. 126 OF 2016.

CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO. 921 OF 2015.
YAKME ELECTRONICS PRIVATE LIMITED
....Petitioner/ the Sixth Transferor Company

AND
IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SCHEME PETITION NO. 127 OF 2016.
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO. 922 OF 2015
ROSHI APPLIANCES PRIVATE LIMITED
....Petitioner/ the Transferee Company

In the matter of the Companies Act, 1 of
1956 and other relevant provision of the
Companies Act, 2013;

AND

In the matter of Sections 391 to 394 of the
Companies Act, 1956 and other relevant
provision of the Companies Act, 2013;

AND

In the matter of Scheme of Amalgamation of
SOUTH WEST ELECTRONICS PRIVATE
LIMITED, the First Transferor Company and
TAPTI APPLIANCES PRIVATE LIMITED, the
Second Transferor Company and ELEGANCE
APPLIANCES PRIVATE LIMITED, the Third
Transferor Company and NEETU APPLIANCES
PRIVATE LIMITED, the Fourth Transferor
Company and GANDAK ELECTRONICS
PRIVATE LIMITED, the Fifth Transferor
Company and YAKME ELECTRONICS PRIVATE
LIMITED, the Sixth Transferor Company with
ROSHI APPLIANCES PRIVATE LIMITED, the
Transferee Company.

Called for hearing

Mr. Rajesh Shah i/b Rajesh Shah & Co., Advocate for the Petitioners.

Purnima Awasthi i/b Mr. Pankaj Kapoor for the Regional Director.

Yogini Chauhan, the Deputy Official Liquidator.

CORAM: A. K. Menon, J.

DATE: 6th October, 2016

PC:

1. Heard Learned Counsel for the parties. No objector has come before the court to oppose the Scheme and nor any party has controverted any averments made in the Petitions.
2. The sanction of the Court is sought to a Scheme of Amalgamation of SOUTH WEST ELECTRONICS PRIVATE LIMITED, the Petitioner / First Transferor Company and TAPTI APPLIANCES PRIVATE LIMITED, the Second Transferor Company and ELEGANCE APPLIANCES PRIVATE LIMITED, the Third Transferor Company and NEETU APPLIANCES PRIVATE LIMITED, the Fourth Transferor Company and GANDAK ELECTRONICS PRIVATE LIMITED, the Fifth Transferor Company and YAKME ELECTRONICS PRIVATE LIMITED, the Sixth Transferor Company with ROSHI APPLIANCES PRIVATE LIMITED, the Transferee Company, under Sections 391 to 394 and other relevant provisions of the Companies Act, 2013.
3. The Learned Counsel for the Petitioners states that all Transferor Companies is engaged in the business of manufacturing and

trading of electronic consumer durables and home appliances and the Transferee Company is engaged in the business of manufacturing and trading of electronic consumer durables and home appliances. The proposed scheme of Amalgamation will have the benefit as per the opinion of the management, that the Transferor Companies are wholly owned subsidiary companies of the Transferee Company and that the amalgamation will enable the Transferee Company to combine the strengths in order to bring about one single strong business mode and it would be advantageous to combine the activities and operations of all companies into a single Company for synergistic linkages and the benefit of combined financial resources and that the Amalgamation of the Transferor Companies with the Transferee Company will also provide an opportunity to leverage combined assets and build a stronger sustainable business which specifically the merger will enable optimal utilization of existing resources and provide an opportunity to fully leverage assets, capabilities, experience, expertise and infrastructure of all the companies and that the Scheme of Amalgamation will result in cost saving for all the companies as they are capitalizing on each other's core competency and resources which is expected to result in stability of operations, cost savings and higher profitability levels for the Transferee Company and that the Scheme of Amalgamation will result in reduction in multiplicity of legal and regulatory compliances required at present and elimination of administrative functions and multiple record-keeping thus leading to reduction in overall administrative costs

4. Learned Counsel for the Petitioners further states that the Board of Directors of the Petitioner Companies have approved the said Scheme of Amalgamation by passing Board Resolutions which are annexed to the respective Company Scheme Petitions.
5. The Learned Counsel for the Petitioners further states that Petitioner Companies have complied with all the directions passed in the respective Company Summons for Directions and that the respective Company Scheme Petitions have been filed in consonance with the orders passed in respective Company Summons for Directions.
6. The Learned Counsel appearing on behalf of the Petitioners have stated that the Petitioner Companies have complied with all requirements as per directions of this Court and they have filed necessary affidavit of compliance in the Court. Moreover, the Petitioner Companies undertake to comply with all statutory requirements if any, as required under the Companies Act, 1956 / 2013 and rules made there under whichever is applicable. The said undertaking is accepted.
7. The Official Liquidator has filed his report on 16th day of September, 2016 in Company Scheme Petition Nos. 121 to 126 of 2016 stating certain observation made by the Chartered Accountant viz., M/s V A Bapat & Co in respect of the Petitioner Company No. 4 and 6 and the Petitioner Company have filed the further Affidavit in reply to the Official Liquidator on 4th day of October, 2016 and stated therein that losses shown in the accounts is due to diminution in the value of the

investment. Further, the said Transferor Companies are wholly owned subsidiary of the Transferee Company and the said Accounts have been duly approved by the shareholders and the scheme is not detrimental to the interest of the shareholders.

8. The Regional Director has filed an Affidavit on 27th day of June, 2016 stating therein, save and except as stated in paragraph 6, it appears that the Scheme is not prejudicial to the interest of shareholders and public. In paragraph 6 of the said Affidavit, the Regional Director has stated that:-

“6. . That the Deponent further submits that,

(a) With reference to Clause 13 of the scheme, it is submitted that the surplus if any arising out of the scheme shall be credited to Capital Reserve Account of Transferee Company and deficit if any arising shall be debited to goodwill account of Transferee Company.

(b) 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.

9. So far as the observation in paragraph 6 (a) of the Affidavit of Regional Director is concerned, the Petitioner Company through its counsel

submitted that the surplus if any arising out of the scheme shall be credited to Capital Reserve Account of Transferee Company and deficit if any arising shall be debited to goodwill account of Transferee Company.

10. So far as the observation in paragraph 6(b) of the Affidavit of Regional Director is concerned, the Learned Counsel for the Petitioner Companies submit 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.
11. The Learned Counsel for Regional Director on instructions of Mr. P Sheela, 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 Petitioners. The above undertakings are accepted.
12. 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.
13. Since all the requisite statutory compliances have been fulfilled, Company Scheme Petition Nos. 121 to 126 of 2016 are made absolute in terms of prayers clause (a) to (d) and 127 of 2016 is made absolute in terms of prayer clauses (a) to (c).

14. The Petitioner Companies to file 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.
15. The Petitioners are directed to file a certified copy of 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.
16. The Petitioner Companies to pay costs of Rs.10,000/- each to the Regional Director, Western Region, Mumbai and the Petitioner in the Company Scheme Petition Nos. 121 to 126 of 2016 to pay costs of Rs.10,000/- to the Official Liquidator, High Court, Bombay. Cost to be paid within four weeks from the date of the Order.
17. Filing and issuance of the drawn up order is dispensed with.
18. 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.

(A. K. Menon, J.)

CERTIFICATE

I certify that this Order uploaded is a true and correct copy of original signed order.

Uploaded by : Shankar Gawde, Stenographer.