

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
COMPANY SCHEME PETITION NO.198 OF 2016.  
CONNECTED WITH  
COMPANY SUMMONS FOR DIRECTION NO.45 OF 2016.  
EMERALD BUILDING AND CONSTRUCTION PRIVATE LIMITED  
....Petitioner/ the First Transferor Company

AND  
IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
COMPANY SCHEME PETITION NO.199OF 2016.  
CONNECTED WITH  
COMPANY SUMMONS FOR DIRECTION NO.46 OF 2016.  
GARNET BUILDING AND CONSTRUCTION PRIVATE LIMITED  
....Petitioner/ the Second Transferor Company

AND  
IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
COMPANY SCHEME PETITION NO.200OF 2016.  
CONNECTED WITH  
COMPANY SUMMONS FOR DIRECTION NO.47 OF 2016.  
GERARD VIEGAS FINVEST PRIVATE LIMITED  
....Petitioner/ the Third Transferor Company

AND  
IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION  
COMPANY SCHEME PETITION NO.201OF 2015.

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO.48 OF 2016.

NISCHAL ENTERPRISES PRIVATE LIMITED

....Petitioner/ the Fourth Transferor Company

AND

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO.202OF 2016.

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO.49 OF 2016.

PREDICT INVESTMENT AND FINANCE

CONSULTANTS PRIVATE LIMITED

....Petitioner/ the Fifth Transferor Company

AND

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO.203OF 2016.

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO.50 OF 2016.

QUARTZ STONE DEVELOPMENT AND

HOLDINGS PRIVATE LIMITED

....Petitioner/ the Sixth Transferor Company

AND  
IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
COMPANY SCHEME PETITION NO.204 OF 2016.  
CONNECTED WITH  
COMPANY SUMMONS FOR DIRECTION NO.51 OF 2016  
AQUA PROOF WALL PLAST PRIVATE LIMITED  
....Petitioner/ the Transferee Company

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

AND

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

AND

In the matter of Scheme of Amalgamation of  
EMERALD BUILDING AND CONSTRUCTION  
PRIVATE LIMITED, the First Transferor Company and  
GARNET BUILDING AND CONSTRUCTION  
PRIVATE LIMITED, the Second Transferor Company  
and GERARD VIEGAS FINVEST PRIVATE  
LIMITED, the Third Transferor Company and  
NISCHAL ENTERPRISES PRIVATE LIMITED, the  
Fourth Transferor Company and PREDICT  
INVESTMENT AND FINANCE CONSULTANTS  
PRIVATE LIMITED, the Fifth Transferor Company  
and QUARTZ STONE DEVELOPMENT AND

HOLDINGS PRIVATE LIMITED, the Sixth Transferor Company with AQUA PROOF WALL PLAST PRIVATE LIMITED, the Transferee Company.

Called for hearing

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

N D Sharma i/b Mr. Pankaj Kapoor for the Regional Director.

Mr. Vinod Sharma, the Official Liquidator.

CORAM: A. K. Menon, J.

DATE: 8<sup>th</sup> September, 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 EMERALD BUILDING AND CONSTRUCTION PRIVATE LIMITED, the First Transferor Company and GARNET BUILDING AND CONSTRUCTION PRIVATE LIMITED, the Second Transferor Company and GERARD VIEGAS FINVEST PRIVATE LIMITED, the Third Transferor Company and NISCHAL ENTERPRISES PRIVATE LIMITED, the Fourth Transferor Company and PREDICT INVESTMENT AND FINANCE CONSULTANTS PRIVATE LIMITED, the Fifth Transferor Company and QUARTZ STONE DEVELOPMENT AND HOLDINGS PRIVATE LIMITED, the Sixth Transferor Company with AQUA PROOF WALL PLAST 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 the First and Second Transferor Company at present is in the business of builders, constructors, developers and the Third Transferor Company at present is in the business as an Investment Company and the Fourth Transferor Company at present is in the business as merchants and the Fifth Transferor Company at present is in the business as financial consultants and the Sixth Transferor Company at present is in the business of builders and the Transferee Company is in the business of manufactures and dealers. The proposed scheme of Amalgamation will have the benefit as per the opinion of the management, that the amalgamation will enable the transferee company to consolidate the businesses and lead to synergies in operations.
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 23<sup>rd</sup> day of August, 2016 in Company Scheme Petition Nos. 198 to 203 of 2016 stating that the affairs of the Transferor Companies are being conducted in a proper manner and that the Transferor Companies may be ordered to be dissolved.
8. The Regional Director has filed an Affidavit on 18<sup>th</sup> day of August, 2016 stating therein that, save and except as stated in paragraph 6, it appears according to the Regional Director 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) Clause 6 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 as such as AS-5 etc.*

*(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 Authorities and approval of the scheme by this 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 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.
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. S. Ramakantha, 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. 198 to 203 of 2016 are made absolute in terms of prayer clauses (a) to (d) and 204 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. 198 to 203 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.