IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO 538 OF 2016

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO 461 OF 2016

AADIDEV PROPERTIES LIMITED ..Petitioner/ Transferor Company 1

AND

COMPANY SCHEME PETITION NO 539 OF 2016

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO 462 OF 2016

ANAGHA ESTATES LIMITED ..Petitioner/ Transferor Company 2

AND

COMPANY SCHEME PETITION NO 540 OF 2016

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO 463 OF 2016

ARYABHATA PROPERTIES LIMITED ..Petitioner/ Transferor Company 3

AND

COMPANY SCHEME PETITION NO 541 OF 2016

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO 464 OF 2016

SUSHENA PROPERTIES LIMITED ..Petitioner/ Transferor Company 4

AND

COMPANY SCHEME PETITION NO 542 OF 2016

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO 465 OF 2016

SHUBHAN PROPERTIES LIMITED ..Petitioner/ Transferor Company 5

AND

COMPANY SCHEME PETITION NO 543 OF 2016

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO 466 OF 2016

VAIDEHI ESTATES LIMITED ..Petitioner/ Transferor Company 6

AND

COMPANY SCHEME PETITION NO 544 OF 2016

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO 467 OF 2016

NANDEESHWAR PROPERTIES LIMITED ..Petitioner/ Transferor Company 7

AND

COMPANY SCHEME PETITION NO 545 OF 2016

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO 468 OF 2016

SURYASHANKAR PROPERTIES LIMITED ..Petitioner/ Transferor Company 8

AND

COMPANY SCHEME PETITION NO 546 OF 2016

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO 469 OF 2016

BANHEM ESTATES & IT PARKS LIMITED ..Petitioner/ Demerged Company

In the matter of the Companies Act, 1956 (1 of 1956);

AND

In the matter of Sections 391 to 394 of the Companies Act, 1956;

AND

In the matter of Composite Scheme of Amalgamation and Arrangement of Aadidev Properties Limited and Anagha Estates Limited and Aryabhata Properties Limited and Sushena Properties Limited and Shubhan Properties Limited and Vaidehi Estates Limited and Nandeeshwar Properties Limited and Suryashankar Properties Limited and Banhem Estates & IT Parks Limited with Bennett Property Holdings Company Limited and their respective shareholders and creditors

Called for Hearing

Mr. Hemant Sethi i/b M/s. Hemant Sethi & Co., Advocates for the Petitioner Companies in all the Petitions.

Mr. P. S Gujar, i/b Mr. A.A. Ansari for Regional Director in all the Petitions.

Mr. Vinod Sharma, Official Liquidator.

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CORAM: S.C Gupte, J

DATE: 2nd December, 2016

1. Heard the learned counsel for the Petitioner. No objector has come before the court to oppose the Scheme and nor any party has controverted any averments made in the petition.

2. The sanction of the Court is sought under Sections 391 to 394 of the Companies Act, 1956 in the matter of Composite Scheme of Amalgamation and Arrangement of Aadidev Properties Limited and Anagha Estates Limited and Aryabhata Properties Limited and Sushena Properties Limited and Shubhan Properties Limited and Vaidehi Estates Limited and Nandeeshwar Properties Limited and Suryashankar Properties Limited and

Banhem Estates & IT Parks Limited with Bennett Property Holdings Company Limited and their respective shareholders and creditors.

3. The Scheme is proposed for the following benefits that shall accrue to the Group: (a) Consolidation of the businesses of the Group (b) Reduction in number of companies and regulatory compliances thereof (c) Ease of management and (d) Reduction of operating and administrative costs.

4. The Petitioner Companies had approved the said Composite Scheme of Amalgamation and Arrangement by passing Board Resolution which are annexed to the respective Company Scheme Petitions.

5. The learned Advocate for the Petitioner Companies further states that, the Petitioner Companies have complied with all the directions passed in Company Summons for Direction and that the Company Scheme Petition have been filed in consonance with the orders passed in respective Summons for Directions.

6. The Counsel for the Petitioner Companies further states that the Petitioner Companies have complied with all requirements as per the directions of this Court and they have filed necessary Affidavits of compliance in the Court. Moreover, the Petitioner Companies through their Counsel undertakes to comply with all statutory requirements, if any, as required under the Companies Act, 1956 and the rules made there under. The said undertaking is accepted.

7. The Official Liquidator has filed his report on 10th November, 2016 stating therein that the Affairs of the Transferor Companies have been conducted in a proper manner and that the Transferor Companies may be ordered to be dissolved by this Court.

8. The Regional Director has filed an Affidavit on 17th November, 2016 stating therein that save and except as stated in paragraph 6 of the said Affidavit, 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 submits that :

   (i) In addition to compliance of AS-14, the Transferee Company shall pass such accounting entries in the books of Transferee Company which are necessary in connection with the scheme to comply with other applicable Accounting Standards such as AS-5 etc. Further, the Petitioner Companies should pass accounting entries as mentioned in AS-5 and other Accounting Standards as applicable in the books of Demerged Company. Therefore, the Deponent prays that the Hon'ble Court may pass such orders as deem fit.

   (ii) *The Office of the Income Tax Office has sent letters to this Directorate which are enclosed herewith and marked as Exhibit'D-1' to 'D-6' as mentioned in point (xx) above. 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 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 Income tax Authority is binding on the Petitioner Company.*

(iii) *Petitioner in Clause No. 6.5 of the scheme inter alia has mentioned that in case of any difference in accounting policy between the Transferor Companies and the Transferee Company, the accounting policies followed by the Transferor Company will prevail and the difference till the Appointed Date 1 will be quantified and adjusted in the Capital Reserve Account mentioned earlier to ensure that the financial statements of the Transferee Company reflect the financial position on the basis of the consistent accounting policy. Therefore, the Deponent prays that the difference shall be qualified and adjusted in the financial statements of the Transferee Company to the Profit and Loss Account.*

9. In so far as observations made in paragraph 6.1 of the Affidavit of Regional Director is concerned, the Transferee Company submit that, in addition to compliance of AS-14, the Transferee Company shall pass such accounting entries in the books of Transferee Company which are necessary in connection with the scheme to comply with other applicable Accounting Standards such as AS-5 etc. Further, the Petitioner Companies shall pass

accounting entries as mentioned in AS-5 and other Accounting Standards as applicable in the books of Demerged Company.

10. In so far as observations made in paragraph 6.2 of the Affidavit of Regional Director is concerned, the Petitioner Companies submit that the Petitioners are bound to comply with all applicable provisions of the Income Tax Act and all tax issues arising out of the Scheme will be met and answered in accordance with law.

11. In so far as observations made in paragraph 6.3 of the Affidavit of Regional Director is concerned, the Petitioner Companies submit that the differences in accounting policy between the Transferor Companies and the Transferee Company shall be qualified and adjusted in the financial statements of the Transferee Company to the Profit and Loss Account. The statement is accepted.

12. The learned Counsel for the Regional Director on instruction from Shri R. K. Dalmia, Deputy Director for Regional Director, Wester Region, in the office of Ministry of Corporate Affairs states that they are satisfied with the undertakings given by the Petitioner Companies.

13. 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. None of the parties concerned have come forward to oppose the Scheme.

14. Since all the requisite statutory compliances have been fulfilled, Company Scheme Petition Nos. 538 to 546 of 2016, filed by the Petitioner Companies are made absolute in terms of prayer clause (a) of the respective Petitions.

15. 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 60 days from the receipt of the order.

16. Petitioner Companies are directed to file a copy of this order along with a copy of the Composite Scheme of Amalgamation and Arrangement with the concerned Registrar of companies, electronically, along with E-form INC-28 in addition to the physical copy as per the relevant provisions of Companies Act, 1956/2013 Act.

17. The Petitioner Companies to pay costs of Rs.10,000/- each to the Regional Director. The Petitioner Companies in Company Scheme Petition Nos.538 to 545 of 2016 to pay sum of Rs.10,000/- to the Official Liquidator, High Court, Bombay. The Costs to be paid within four weeks, from date of the Order.

18. Filing and issuance of the drawn up order is dispensed with.

19. All authorities concerned to act on a copy of this order along with Scheme duly authenticated by the Company Registrar, High Court (O. S.), Bombay.

(S.C Gupte, J)

CERTIFICATE

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

Uploaded by: Shankar Gawde, Stenographer