IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO. 805 OF 2015.

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 676 OF 2015.

KITCHEN GRACE (INDIA) PRIVATE LIMITED

....Petitioner/ the Transferor Company

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

AND

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

AND

In the matter of Scheme of Amalgamation of KITCHEN GRACE (INDIA) PRIVATE LIMITED, the Transferor Company with SLEEK INTERNATIONAL PRIVATE LIMITED, the Transferee Company

Called for hearing

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

Mr. R. C Master i/b Mr. A.A. Ansari for Regional Director.

Mr. Vinod Sharma, Official Liquidator, present.

CORAM: K. R. Shriram, J.

DATE: 12th February, 2016

PC:

1. Heard Learned Counsel for the party. 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 to a Scheme of Amalgamation of KITCHEN GRACE (INDIA) PRIVATE LIMITED, the Transferor Company with SLEEK INTERNATIONAL PRIVATE LIMITED, the Transferee Company, under Sections 391 to 394 and other relevant provision of the Companies Act, 2013.

3. The Learned Counsel for the Petitioner states that the Transferor Company has been carrying on the business of designing, development, manufacture, processing, acquiring, buying, selling, import, export, stocking, distributing, and/or dealing otherwise in all kinds and varieties of kitchen furniture and other furniture and their accessories/components and the Transferee Company has been carrying on the business of designing, development, assembly, manufacture, processing, acquiring,

installing, repair, buying, selling, import, export, distributing, maintaining, after sales service and/or dealing otherwise in all kinds and varieties of Modular Kitchen Furniture and other furniture and their accessories/components. The proposed scheme of Amalgamation will have the benefit as per the opinion that the amalgamation will enable the Transferee Company to consolidate the businesses and lead to synergies in operation and create a stronger financial base and it would be advantageous to combine the activities and operations of both companies into a single Company for synergistic linkages and the benefit of combined financial resources which will be reflected in the profitability of the Transferee Company and that this Scheme of amalgamation would result in merger and thus consolidation of business of the Transferor Company and the Transferee Company in one entity, all the shareholders of the merged entity will be benefited by result of the amalgamation of Business and availability of a common operating platform and that the Amalgamation of the Transferor Company with the Transferee Company will also provide an opportunity to leverage combined assets and build a stronger sustainable business and specifically, the merger will enable optimal utilization of existing resources and provide an opportunity to fully leverage strong assets, capabilities, experience, expertise and infrastructure of both the companies and that the merged entity will also have sufficient funds required for meeting its long term capital needs as provided for in the scheme and the Scheme of amalgamation will result in cost saving for both the companies as they are capitalizing on each others core competency and resources which is expected to result in stability of operations, cost savings and higher profitability levels for the Amalgamated Company and that the Transferor Company is a wholly owned subsidiary of the Transferee Company and that the shareholders would consolidate their holdings and leverage the share value consequent to higher profitability.

4. Learned Counsel for the Petitioner further states that since the Petitioner Company is a wholly owned subsidiary of the Transferee Company and all the shares of the Petitioner Company are presently held by the Transferee Company, SLEEK INTERNATIONAL PRIVATE LIMITED along with its nominees and after the Scheme being sanctioned, no new shares are required to be issued to the members of the Petitioner Company by the Transferee Company and there would be no reorganization of the Share Capital in the Transferee Company and also in view of the judgment of this Court in Mahaamba Investments Limited Versus IDI Limited (2001) 105 Company Cases, filing of a separate Company Summons for Direction and Company Scheme Petition by SLEEK INTERNATIONAL PRIVATE LIMITED, the Transferee Company was dispensed with, by order dated 14^{th} August, 2015 passed in CSD NO. 676 of 2015.

5. Learned Counsel for the Petitioner further states that the Board of Directors of the Petitioner Company have approved the said Scheme of

Amalgamation and by passing Board Resolutions which are annexed to the Company Scheme Petition.

6. The Learned Counsel for the Petitioner further states that, Petitioner Company have complied with all the directions passed in the Company Summons for Direction and that the Company Scheme Petition have been filed in consonance with the order passed in Company Summons for Direction.

7. The Learned Counsel appearing on behalf of the Petitioners have stated that the Petitioner Company 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 Company 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.

8. The Official Liquidator has filed his report on 21st day of December, 2016 in Company Scheme Petition stating that the affairs of the Petitioner Company has been conducted in a proper manner and that the Petitioner Company may be ordered to be dissolved.

9. The Regional Director has filed an Affidavit on 14th day of January, 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, 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 return filed by the Petitioner company after giving effect to the amalgamation. The decision of the Income Tax Authority is binding on the petitioner company.*

10. So far as the observation in paragraph 6 of the Affidavit of Regional Director is concerned, the Learned Counsel for the Petitioner Company submit that the Petitioner Company 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. M. Chandana Muthu, Joint Director Legal in the office of the Regional Director, Ministry of Corporate Affairs, Western Region, Mumbai states that they are satisfied with the undertaking given by the Petitioner. The above undertakings is 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, the Company Scheme Petition is made absolute in terms of prayers clause (a) to (d).

14. The Petitioner Company 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 Company to pay costs of Rs.10,000/- each to the Regional Director, Western Region, Mumbai and 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.

(K. R. Shriram, J.)

CERTIFICATE

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

Uploaded by : Shankar Gawde, Stenographer.