IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO 50 OF 2016

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 841 OF 2015

Kamet Natural Isolates Limited... Petitioner/ Transferor Company

AND

COMPANY SCHEME PETITION NO 51 OF 2016

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 842 OF 2015

OmniKan Earth Sciences Private Limited
…Petitioner/Demerged Company

AND

COMPANY SCHEME PETITION NO 52 OF 2016

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 843 OF 2015

OmniActive Health Technologies Limited
…..Petitioner/ Transferee/ Resulting Company

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

AND

In the matter of Sections 391 to 394 read with Sections 100 to 103 of the Companies Act, 1956;

AND

In the matter of Composite Scheme of Amalgamation and Arrangement between

Kamet Natural Isolates Limited
AND
OmniKan Earth Sciences Private Limited
AND
OmniActive Health Technologies Limited
AND
their Respective Shareholders and Creditors

Called for Hearing

Mr. Rajesh Shah i/b M/s Rajesh Shah & Co., Advocates for the Petitioners.

Mr. Arun Kumar Roy i/b A. A. Ansari for Regional Director.

Mr. Vinod Sharma, Official Liquidator in Company Scheme Petition No.50 of 2016.

CORAM: S. C. Gupte, J.

DATE: 29th April 2016

1. Heard the learned counsel for the Petitioners. 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 read with Sections 100 to 103 of the Companies Act, 1956, to the Composite Scheme of Amalgamation and Arrangement between Kamet Natural Isolates Limited ("KNIL" or "the Transferor Company") and OmniKan Earth Sciences Private Limited ("OKAN" or "the Demerged Company") and OmniActive Health Technologies Limited ("OmniActive" or "the Transferee Company" or "the Resulting Company") and their respective shareholders and creditors.

3. Learned Counsel has stated that the Transferor Company is engaged in the business of manufacturing and export of Spices, Spice extracts, natural flavours and isolated color Phyto-chemicals and isolates and the Dermerged Company is engaged in the business of contract farming of Marigold flowers as well as processing of flowers and converting it into dry pallets and besides Marigold Business, the Demerged Company is also engaged in other auxiliary businesses like cultivation and selling of baby corn, turmeric, gherkins, etc. Learned Advocate further states that the Transferee / Resulting Company is engaged in the field Natural APIs and Novel delivery systems for nutrients and active ingredients offers a range of quality ingredients, which are innovative and scientifically validated for dietary supplementation, nutritional fortification, functional food/ beverage, coloring, flavor enhancement and personal care applications.

4. The rationale for the composite scheme of amalgamation and arrangement is that the Petitioner Companies are part of same group of companies. The management of the Petitioner Companies intends to streamline and simplify the overall corporate structure for the benefit of individual shareholders which in turn will directly benefit from the operations of OmniActive. Thus, Petitioner Companies has been decided to amalgamate KNIL with OmniActive. Further, OKAN is engaged in the business of contract farming of Marigold flowers as well as processing of flowers and converting it into dry pallets, which it carries

out exclusively for OmniActive. OmniActive has to play a significant role in monitoring the contract farming and processing of marigold flowers undertaken by OKAN. The dry pallets from OKAN are further utilized by OmniActive for manufacture of its products, which are manufactured out of patented technology and used for nutraceutical application. Since OmniActive and OKAN are two separate entities, there is duplication of several compliances and significant management time that is required for undertaking their duties. Thus, the Scheme, will, inter-alia result in elimination and reduction of additional administrative costs and cumbersome co-ordination efforts across multiple entities, efficient corporate structure, effective administration of the businesses and enhance management focus and operational flexibility.

5. The Petitioner Companies have approved the said Composite Scheme of Amalgamation and Arrangement by passing the Board Resolutions which are annexed to the Company Scheme Petitions filed by the Petitioner Companies.

6. The learned counsel for the Petitioner Companies states that Petitioner Companies have complied with all directions passed in Company Summons for Direction and that the Company Scheme Petition has been filed in consonance with the orders passed in Company summons for Direction.

7. Counsel appearing on behalf of the Petitioner Companies has stated that they have complied with all requirements as per directions of this Court

and they have filed necessary Affidavit of compliance in the Court. Moreover, Petitioner Companies undertake to comply with all statutory requirements if any, as required under the Companies Act, 1956 / 2013 and the Rules made there under whichever is applicable. The said undertakings given by the Petitioner Companies are accepted.

8. The Regional Director has filed an Affidavit on 29th March 2016 stating therein that save and except as stated in paragraph 6(a) & (b) of the said affidavit, it appears that the Scheme is not prejudicial to the interest of shareholders and public.

In paragraph 6(a) and 6(b) of the said affidavit, it is stated that:

(a) *With reference to Clause 23.5 of the scheme provides for adjustment for differences in Accounting Policies between Transferor 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 such as AS-5 etc.*

(b) *Clause 14.1 of the scheme provides for issue of preference shares in addition to issue of equity shares. On redemption of such preference shares the amount of share capital redeemed would attract the provision of Income Tax Act viz. dividend distribution tax/ Capital Gain Tax as the case may be. In this regard Tax implication 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 companies.

9. In so far as observations made in paragraph 6(a) of Affidavit of the Regional Director is concerned, the Petitioner Companies through their advocate undertakes that it shall pass such accounting entries which may be necessary in connection with the Scheme to comply with other applicable accounting standards.

10. In so far as observations made in paragraph 6(b) of Affidavit of the Regional Director is concerned, the advocate for the Petitioner Companies submits that they are bound to comply with all applicable provisions of the Income Tax Act and all tax issues arising out of the Composite Scheme of Amalgamation and Arrangement will be met and answered in accordance with law.

11. The Learned Counsel appearing for the Regional Director on instructions of Mr. M. Chandanamuthu Joint Director (Legal) in the office of the Regional Director states that they are satisfied with the undertakings given by the advocate on behalf of the Petitioner Companies. The above undertakings are accepted.

12. The Official Liquidator has filed his report on 25th April 2016 stating that the affairs of the Transferor Company has been conducted in a proper manner and that Transferor Company may be ordered to be dissolved without being wound up.

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.

14. Since all the requisite statutory compliances have been fulfilled, Company Scheme Petition No. 50 and 52 of 2016 are made absolute in

terms of prayer clause (a), (c) and (d) and the Company Scheme Petition No.51 of 2016 is made absolute in terms of prayer clause (a) and (d).

15. The Petitioner Companies are directed to file a copy of this order along with a copy of the Scheme and the Form of Minutes 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 the Companies Act, 1956/2013 whichever is applicable.

16. The Petitioner Companies to lodge a copy of this order and the Scheme and Form of Minutes, duly authenticated by the Company Registrar, High Court, 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.

17. 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 No. 50 of 2016 filed by the Transferor Company to pay costs of Rs.10,000/- to the Official Liquidator, High Court, Bombay. Costs to be paid within four weeks from today.

18. Costs to be paid within four weeks from today.

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

20. All concerned regulatory authorities to act on a copy of this order along with the Scheme and form of minutes duly authenticated by the Company Registrar, High Court, 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