

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.12.2016

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The Honourable Mr.Justice T.S.SIVAGNANAM

C.P.Nos.312 to 314 of 2016

SKY FLAK INFRA PRIVATE LIMITED,

having its regd. office at 43A/2,
Promenade Road, Cantonment,
Tiruchirapalli-620001

...Petitioner in CP.312 of 2016
/1st transferor

EDEN LIVING SPACE PRIVATE LIMITED,

having its regd. office at 43A/2,
Promenade Road, Cantonment,
Tiruchirapalli-620001

...Petitioner in CP.313/2016
/2nd transferor

RIBO INDUSTRIES PRIVATE LIMITED,

having regd. office at 43A/2,
Promenade Road, Cantonment,
Tiruchirapalli-620001

...Petitioner in CP.314/2016
/transferee

PETITIONS under Sections 391 to 394 of the Companies Act, 1956 to sanction the Scheme of amalgamation as per the Scheme annexed in Annexure 5, Annexure 5 and Annexure 7, respectively, in the petitions with effect from 1st April 2015, as to be binding on all the shareholders and creditors of the petitioner companies and on the petitioner companies and for dissolution of the two transferor companies without winding up.

For Petitioners : Mr.A.M.Elango

For Regional Director,
Ministry of Corporate Affairs : Mr.K.Ramanmoorthy, CGSC

Official Liquidator : Mr.Achyuta Ramaiah

COMMON ORDER

These company petitions are preferred under sections 391 to 394 of the Companies Act, 1956 for sanctioning the Scheme of amalgamation of the two transferor companies with the transferee company with effect from 1st April 2015. The Scheme of amalgamation is annexed respectively in Annexure 5, Annexure 5 and Annexure 7, in the above petitions.

2. The petitioners in C.P.Nos.312 and 313 of 2016 are the transferor companies and the petitioner in C.P.No.314 of 2016 is the transferee company.

3. A perusal of the records shows that the petitioners have complied with the prescribed procedure. The second transferor company has no secured creditor and the certificate from the Statutory Auditor certifying that the second transferor company has no secured creditor as on 31.3.2016 is annexed in Annexure 7. The first transferor company and the transferee company has one secured creditor each and the No Objection Certificates from the concerned secured creditors are annexed respectively in Annexure 8 and Annexure 10. The copies of the Board resolutions dated 10.6.2016 of the respective Board of Directors adopting the Scheme of amalgamation are annexed in Annexure 4, Annexure 4 and Annexure 6, respectively.

4. This Court, in its order dated 12th August 2016 in Comp.A.Nos.721 to 723 of 2016, in the case of both the transferor companies and the transferee company, dispensed with the meeting of the equity shareholders of the respective companies. Further, this Court, by the same order, in Comp.A.No.724 of 2016, dispensed with the convening of the meeting of the preference shareholders of the transferee company.

5. On notice, the Regional Director, Ministry of Corporate Affairs has filed his report without any objection to the Scheme being sanctioned.

6. The Official Liquidator has also filed his report along with the report of the Chartered Accountant. The report of the Chartered Accountant states that the affairs of the transferor companies have not been conducted in a manner prejudicial to the interest of its members or to the public interest and that they have not come across any act of misfeasance by the Directors attracting the provisions of Sections 542 and 543 of the Companies Act, 1956. It is further stated that the records maintained in the office of the Registrar of Companies were also caused to be inspected by the said Chartered Accountant. In the absence of any inference that the affairs of the transferor companies were being conducted in a manner prejudicial to the interest of its members or public interest and in the absence of any comments that the affairs of the transferor companies were conducted in a

manner prejudicial to its members, the Official Liquidator has filed his report before this Court for orders.

7. I have perused the Scheme filed in the Company Petitions. The Scheme states that there is no objectionable feature in the Scheme of amalgamation, which is detrimental either to the employees of the transferor companies or of the transferee company. The said Scheme is not violative of any statutory provisions. The Scheme is fair, just, sound and is not against any public policy or public interest. No proceedings are pending under Sections 231 to 237 of the Companies Act, 1956. All the statutory provisions are complied with.

8. Consequently, **the Petitions are allowed and there shall be an order approving the Scheme of amalgamation of the first transferor company - SKY FLAK INFRA PRIVATE LIMITED, the petitioner in C.P.No.312 of 2016 and the second transferor company - EDEN LIVING SPACE PRIVATE LIMITED – the petitioner in C.P.No. 313 of 2016 with the transferee company - RIBO INDUSTRIES PRIVATE LIMITED - the petitioner in C.P.No.314 of 2016**, as provided in Annexure 5, Annexure 5 and Annexure 7, respectively, in these Company Petitions, with effect from 01.04.2015, as the procedure laid down under Sections 391 and 394 of the Companies Act are duly complied with.

9. Taking note of the report by the Chartered Accountant as enclosed by the Official Liquidator, in terms of the order passed by this Court, the transferor companies shall stand dissolved without winding up.

10. The learned Central Government Standing Counsel is entitled to a fee of Rs.2500/- from each of the petitioner companies.

12.12.2016

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Note to Registry:

Issue copy of this order on or before
23.12.2016.

T.S.SIVAGNANAM,J

(aeb)

Common Order in

C.P.Nos.312 to 314 of 2016

12.12.2016

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