IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CP No.229 of 2015 (O&M)
Date of Decision: 01.08.2016

IN THE MATTER OF:

SCHEME OF AMALGAMATION:

ANKLESH INVESTMENTS PRIVATE LIMITED

. . . . Transferor Company 1/Petitioner Company 1

And

PRADEEP MERCANTILE COMPANY PRIVATE LIMITED

. . . . Transferor Company 2/Petitioner Company 2

And

PLAZA TRADING COMPANY PRIVATE LIMITED

. . . . Transferor Company 3/Petitioner Company 3

And

MARSHALL INVESTMENT AND TRADING COMPANY PRIVATE LIMITED

. . . . Transferor Company 4/Petitioner Company 4

And

SYRACUSE INVESTMENT AND TRADING COMPANY PRIVATE LIMITED

. . . . Transferor Company 5/Petitioner Company 5

And

SRESTHA HOLDINGS PRIVATE LIMITED

. . . . Transferor Company 6/Petitioner Company 6

With

DEVAKAR INVESTMENT AND TRADING COMPANY PRIVATE LIMITED

. . . . Transferee Company/Petitioner Company 7

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CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN.

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Present: - Ms.Munisha Gandhi, Sr. Advocate, with
Ms.Salina Chalana, Advocate,
for the petitioner-Companies.

Mr.Deepak Aggarwal, Advocate, with
Mr.D.K. Singh, Official Liquidator.

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RAKESH KUMAR JAIN, J.

The petitioners have prayed for sanctioning of 'Scheme of Amalgamation' (Annexure P-1) of Anklesh Investments Private Limited (Transferor Company 1/Petitioner Company 1), Pradeep Mercantile Company Private Limited (Transferor Company 2/Petitioner Company 2), Plaza Trading Company Private Limited (Transferor Company 3/Petitioner Company 3), Marshall Investment And Trading Company Private Limited (Transferor Company 4/Petitioner Company 4), Syracuse Investment And Trading Company Private Limited (Transferor Company 5/Petitioner Company 5) and Srestha Holdings Private Limited (Transferor Company 6/Petitioner Company 6) with Devakar Investment And Trading Company Private Limited (Transferee Company/Petitioner Company 7).

This petition is jointly filed by all the Petitioners-Companies under Sections 391 to 394 of the Companies Act, 1956 [for short 'the Act'] for first and second motion.

Convening of meetings of Shareholders of Petitioner-Companies No.1 to 7 and Secured/Unsecured Creditors of Petitioner-Companies were dispensed with vide order dated 25.01.2016.

By virtue of the order dated 25.1.2016, notice was issued to the Regional Director, Ministry of Corporate Affairs, Noida and the Official Liquidator. Notice was also ordered to be published in 'Financial Express' (English) and 'Punjab Kesri' (Hindi), both Punjab Edition and in the Official Gazette of Government of Punjab. It was also ordered to be uploaded on the website of the Official Liquidator.

Pursuant to the aforesaid order dated 25.1.2016, affidavit of publication dated 15.3.2016 has been filed.

The Official Liquidator has submitted his report dated 11.07.2016, in which he has averred in Para No.5 that *"M/s Ritesh Juneja & Associates, Chartered Accountant, has stated in his report that the composite scheme of Amalgamation and Arrangement will be in interest of shareholders and other stakeholders. Further it is not prejudicial to the interest of any creditors, banks, employees or to the public at large"*. Hence, the Official Liquidator has not taken any objection to the Scheme.

Similarly, the Official Liquidator has filed the representation/affidavit of N.K. Bhola, Regional Director, Northern Region, Ministry of Corporate Affairs, New Delhi dated 06.07.2016 in which he has observed no objection to the Scheme except the following averments made therein: -

> *"6. X x x x x*
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> *Further, the IT authorities have stated that it will be in the interest of revenue if the aforementioned companies are directed to fulfill their pending tax liabilities as stated above before actual merger takes place and the aforementioned companies may be directed to fulfill their tax liabilities which may arise in the near future arising out of assessment/penalty /appellate proceedings. Copy of the letters of Income Tax Department is enclosed herewith as Exhibit-C for kind perusal of the Hon'ble Court."*

The learned Senior Counsel, in view of the above observation has referred to sub Clause viii of Clause V of Part II of the Scheme vide which it has been stated that all the unsecured debts, liabilities, taxes, statutory expenses etc. of the Transferor Companies shall be vested or deemed to be and stand vested, without any further act, instrument or deed, to the Transferee Company, pursuant to the provisions of Section 394 of the Act so as to become the debts, liabilities, duties and obligations of the Transferee Company upon the coming into effect of the Scheme and with effect from the appointed date.

The Petitioner-Companies have confirmed that there are no investigation proceedings pending against them under Sections 235 to 251 of the Act.

For the reasons aforestated and on consideration of all the relevant facts and the procedural requirements in terms of Section 391-394 of the Act and the relevant Rules and on due consideration of the reports of the Regional Director, Ministry of Corporate Affairs, New Delhi and the Official Liquidator, the Composite Scheme of Amalgamation is hereby sanctioned and as a result thereto, the Assets and Liabilities of the Anklesh Investments Private Limited (Transferor Company 1/Petitioner Company 1), Pradeep Mercantile Company Private Limited (Transferor Company 2/Petitioner Company 2), Plaza Trading Company Private Limited (Transferor Company 3/Petitioner Company 3), Marshall Investment And Trading Company Private Limited (Transferor Company 4/Petitioner Company 4), Syracuse Investment And Trading Company Private Limited (Transferor Company 5/Petitioner Company 5) and Srestha Holdings Private Limited (Transferor Company 6/Petitioner Company 6) shall stand vested in Devakar Investment And Trading Company Private Limited (Transferee Company/Petitioner Company

7) and all the Transferor Companies shall be dissolved without being wound up.

The Scheme of Amalgamation shall be binding on the Petitioner-Transferor and Transferee Companies, their respective Shareholders, Creditors and all concerned.

Let formal order of sanction of the Scheme of Amalgamation be drawn in accordance with law and its certified copy be filed with the Registrar of Companies within 30 days from the date of receipt thereof.

A notice of the order be published in 'Financial Express' (English) and 'Punjab Kesri' (Hindi), both Punjab Edition and in the Official Gazette of Government of Punjab.

Any person interested shall be at liberty to apply to the Court for any direction(s) as per law.

Learned counsel for the Petitioner-Companies stated that the Petitioner-Companies would voluntarily deposit a sum of ₹1,00,000/- in the Common Pool Fund Account of the Official Liquidator within four weeks. The statement is accepted.

Disposed of accordingly.

(RAKESH KUMAR JAIN)
01.08.2016 **JUDGE**
Vivek

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No