IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Company Petition No. 3 of 2016 (O&M) connected with
Company Petition No.97 of 2015
Date of Decision: 29.03.2016

IN THE MATTER OF :

Company Petition under Section 391-394 of the Companies Act, 1956.

AND

IN THE MATTER OF:

THE SCHEME OF ARRANGEMENT OF:

Mhaya Buildcon Private Limited

. . . . Non-petitioner/Transferor Company No.1

AND

DLF Buildcon Private Limited

. . . . Non-petitioner/Transferor Company No.2

AND

DLF Telecom Limited

. . . . Non-petitioner/Transferor Company No.3

AND

DLF Info City Developers (Chennai) Limited

. . . . Petitioner No.1/Transferor Company No.4

AND

DLF Universal Limited

. . . . Petitioner No.2/Demerged/Transferor Company No.5

With

DLF Home Developers Limited

. . . . Non-petitioner/Transferee Company No.1

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

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Present: - Mr.U.K. Chaudhary, Sr. Advocate, with
Mr.Naveeen Dahiya, Advocate, and
Mr.Praveen Gupta, Advocate,
for the petitioners.

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

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RAKESH KUMAR JAIN, J.

This petition is filed under Section 391-394 of the Companies Act, 1956 [for short 'the Act'], duly supported by affidavits of the petitioner-Companies, seeking sanction of the Scheme of Arrangement [for short 'the Scheme] vide which petitioner No.1/Transferor Company No.4 and "Real Estate Undertaking" of DLF Universal Limited petitioner No.2/demerged/Transferor Company No.5 shall merge into DLF Home Developers Limited Non-petitioner/Transferee Company.

The main objects of the petitioner No.1/Transferor Company, Petitioner No.2/Demerged Company and the non-petitioner/Transferee Company are detailed in their respective Memorandum and Articles of Association, which are annexed with the petition as Annexures P-11, P-14 and P-17 respectively.

The registered office of the petitioner No.1/Transferor Company No.4 and petitioner No.2/Demerged/Transferor Company No.5 is at Gurgaon whereas registered office of Non-petitioner/Transferee Company is at New Delhi.

The Board of Directors of petitioner No.1/Transferor Company No.4, petitioner No.2/Demerged/Transferor Company No.5 have approved the Scheme in their respective meetings held on 27.3.2015 and 31.3.2015 respectively and of the Non-petitioner/Transferee Company on 31.3.2015. Their resolutions are annexed with the petition at Annexures P-24, P-25 and P-26, respectively.

Earlier the petitioner/Transferor Company had approached this Court by way of CP No.97 of 2015 in which vide order dated 7.7.2015 meetings of the Equity Shareholders of petitioner No.1/Transferor Company No.4 and petitioner

No.2/Demerged/Transferor Company No.5 were dispensed with. However, the meetings of Unsecured Creditors of petitioner No.1/Transferor Company No.4 and Secured and Unsecured Creditors/petitioner No.2/Demerged/Transferor Company No.5 were ordered to be held for which, the Chairmen and Co-chairmen were appointed. The Chairmen of the said meetings have submitted their respective reports on the basis of which CP No.97 of 2015 was disposed of on 17.11.2015.

Notice of the present petition was issued to the Regional Director, Ministry of Corporate Affairs, New Delhi and Official Liquidator. It was also ordered that a notice be published in the newspapers, namely, Economics Times (English), Financial Express (English) and Jansatta (Hindi) both Delhi/NCR Edition and in the official gazette of State of Haryana besides being uploaded on the official website of the Official Liquidator. The affidavit of publication dated 14.3.2016 has been filed.

Pursuant thereto, A.K. Chaturvedi, Regional Director has filed his report dated 26.3.2016 mentioning therein about the various cases of the tax liability and also stated that petitioner-Company be directed to make the compliance of the provisions of Accounting Standard 14 to "the pooling of the interests method" as prescribed under Section 211(3C) of the Companies Act, 1956 and under Section 133 of the Companies Act, 2013 as stated in Clause 6.1 of Section D of the Scheme.

Counsel for the petitioner/Companies has undertaken that the Transferee Company shall take the responsibility in respect of the liabilities, if any, incurred on account of non-payment of tax by the Transferor Company and also to comply with the Accounting Standard 14.

The Official Liquidator has also submitted his report dated 15.3.2016 in which it is observed that the composite Scheme of Amalgamation and Arrangement is not prejudicial to the interest of any creditors, banks, employees or to the public at large. It is also stated that in view of the observations of the Chartered Accountant, the said Scheme will be in the interest of Shareholders and other Stakeholders.

It is further submitted by counsel for the petitioner-Company that no investigation proceedings against the petitioner-Company under Sections 235 to 251 of the Act and/or under Sections 206 & 229 of the Companies Act, 2013 to the extent applicable, are pending or instituted.

For the reasons mentioned hereinabove, on the consideration of all the relevant facts, the procedural requirements contemplated under Sections 391 & 394 of the Act, the relevant Rules and on due consideration of the report of the Regional Director, Northern, Ministry of Corporate Affairs, New Delhi and Official Liquidator, the Scheme of Arrangement is hereby sanctioned subject to the sanctioning of the Scheme by High Court of Delhi in the case of Transferee Company and as a result thereof, the assets and liabilities of the petitioner-Transferor Company No.4 and "Real Estate Undertaking" of DLF Universal Limited (petitioner No.2/Demered/Transferor Company) shall stand vested in the Transferee Company and the petitioner-Transferor Company No.4 shall be dissolved without being wound up. The Petitioner/Transferee Company shall comply with the procedural requirement as per the Accounting Standard 14 related to "the pooling of interests method" as prescribed under Section 211(3C) of the Companies Act, 1956 and under Section 133 of the Companies Act, 2013.

The Scheme shall be binding on the Petitioner-Transferor No.4, Demerged/Transferor Company No.5 and Transferee Company, their respective shareholders, creditors and all concerned.

Let formal order of sanction of the Scheme 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 of the same.

A notice of the order be published in the newspapers, namely, "Economics Times" (English), "Financial Express" (English), "Jansatta" (Hindi) both Delhi/NCR Edition and in the official gazette of Government of Haryana.

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

Learned counsel for the petitioner-Transferor Company states 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)
JUDGE

29.03.2016
Vivek