

IN THE HIGH COURT OF DELHI
COMPANY PETITION NO. 531/2015

Reserved on 22nd April, 2016
Date of pronouncement: 16th May, 2016

In the matter of

The Companies Act, 1956 & the Companies Act, 2013 (to the extent applicable):

And

**Petition under Sections 391(2) & 394 of the
Companies Act, 1956**

Scheme of Amalgamation of:

Avanti Bristlers Private Limited

Petitioner/Transferor Company No. 1

Grassmore Products Private Limited

Petitioner/Transferor Company No. 2

WITH

W.H. Targett India Limited

Petitioner/Transferee Company

**Through Mr. Kamal Ahuja and Mr. Om
Prakash, Advocates for the petitioners**

SUDERSHAN KUMAR MISRA, J.

1. This joint petition has been filed under Sections 391(2) & 394 of the Companies Act, 1956 by the petitioner companies seeking sanction of the Scheme of Amalgamation of Avanti Bristlers Private Limited (hereinafter referred to as the transferor company No. 1) and Grassmore Products Private Limited (hereinafter referred to as the transferor company No. 2) with W.H. Targett India Limited (hereinafter referred to as the transferee company).

2. The registered offices of the transferor and transferee companies are situated at New Delhi, within the jurisdiction of this Court.

3. The transferor company no. 1 was originally incorporated under the Companies Act, 1956 on 9th November, 1989 with the Registrar of Companies, Gujarat at Ahmedabad under the name and style of Targett Bristlers Private Limited. The company changed its name to Avanti Bristlers Private Limited and obtained the fresh certificate of incorporation on 21st April, 2005. Thereafter, the company shifted its registered office from the State of Gujarat to Delhi and obtained a certificate in this regard from the Registrar of Companies, NCT of Delhi & Haryana at New Delhi on 4th May, 2007.

4. The transferor company no. 2 was originally incorporated under the Companies Act, 1956 on 2nd March, 1984 with the Registrar of Companies, West Bengal under the name and style of Grassmore Tea Limited. The company changed its name to Grassmore Products Limited and obtained the fresh certificate of incorporation on 3rd June, 1988. The company again changed its name to Grassmore Products Private Limited and obtained the fresh certificate of incorporation on 30th January, 1989. Thereafter, the company shifted its registered office from the State of West Bengal to Gujarat and obtained a certificate in this regard from the

Registrar of Companies, Gujarat at Ahmedabad on 7th June, 1989. The company again shifted its registered office from the State of Gujarat to NCT of Delhi and obtained a certificate in this regard from the Registrar of Companies, NCT of Delhi & Haryana at New Delhi on 22nd September, 2000.

5. The transferee company was originally incorporated under the Companies Act, 1956 on 19th November, 1981 with the Registrar of Companies, West Bengal under the name and style of Marble Trading Co. Limited. The company changed its name to W.H. Targett India Limited and obtained the fresh certificate of incorporation on 13th August, 1985. Thereafter, the company shifted its registered office from the State of West Bengal to NCT of Delhi and obtained a certificate in this regard from the Registrar of Companies, NCT of Delhi & Haryana at New Delhi on 31st August, 1994.

6. The present authorized share capital of the transferor company no.1 is Rs.15,00,000/- divided into 15,000 equity shares of Rs.100/- each. The issued, subscribed and paid-up share capital of the company is Rs.5,01,000/- divided into 5,010 equity shares of Rs.100/- each.

7. The present authorized share capital of the transferor company no.2 is Rs.25,00,000/- divided into 25,000 equity shares of Rs.100/-

each. The issued, subscribed and paid-up share capital of the company is Rs.10,00,000/- divided into 10,000 equity shares of Rs.100/- each.

8. The present authorized share capital of the transferee company is Rs.2,55,00,000/- divided into 25,50,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.2,50,52,000/- divided into 25,05,200 equity shares of Rs.10/- each.

9. Copies of Memorandum and Articles of Association of the transferor and transferee companies have been filed on record with the joint application, being CA(M) 65/2015, earlier filed by the petitioners. The audited balance sheets, as on 31st March, 2014, of the transferor and transferee companies, along with the report of the auditors, have also been filed.

10. A copy of the Scheme of Amalgamation has been placed on record and the salient features of the Scheme have been incorporated and detailed in the petition and the accompanying affidavit. It is claimed that the proposed amalgamation will lead to pooling of expertise and financial resources and more efficient use of existing resources for the benefit of shareholders. It is further claimed that the proposed amalgamation will lead to saving in administrative, marketing, personnel, and servicing overheads, and thereby the cost of operations would be reduced

considerably and the profitability would be increased eventually which will benefit the shareholders of the petitioner companies.

11. So far as the share exchange ratio is concerned, the Scheme provides that, upon coming into effect of this Scheme, the transferee company shall issue and allot equity shares to the shareholders of the transferor companies in the following ratio:-

“12 equity shares of Rs.10/- each of transferee company, credited as fully paid up, for every 01 equity share of Rs.100/- each fully paid up held in the transferor company no. 1.”

“6.64 equity shares of Rs.10/- each of transferee company, credited as fully paid up, for every 01 equity share of Rs.100/- each fully paid up held in the transferor company no. 2.”

12. It has been submitted by the petitioners that no proceedings under Sections 235 to 251 of the Companies Act, 1956 are pending against the petitioner companies.

13. The Board of Directors of the transferor and transferee companies in their separate meetings held on 27th January 2015 have unanimously approved the proposed Scheme of Amalgamation. Copies of the Resolutions passed at the meetings of the Board of Directors of the transferor and transferee companies have been placed on record.

14. The petitioner companies had earlier filed CA (M) No. 65/2015 seeking directions of this court to dispense with the requirement of

convening the meetings of their equity shareholders, secured and unsecured creditors, which are statutorily required for sanction of the Scheme of Amalgamation. Vide order dated 27th July, 2015 this court allowed the application and dispensed with the requirement of convening and holding the meetings of the equity shareholders of the transferor companies and equity shareholders and unsecured creditors of the transferee company, there being no secured and unsecured creditors of the transferor companies and no secured creditors of the transferee company, to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation.

15. The petitioner companies have thereafter filed the present petition seeking sanction of the Scheme of Amalgamation. Vide order dated 6th August, 2015, notice in the petition was directed to be issued to the Regional Director, Northern Region, and the Official Liquidator. Citations were also directed to be published in 'Business Standard' (English) and (Hindi) editions. Affidavit of service has been filed by the petitioners showing compliance regarding service on the Official Liquidator and the Regional Director, Northern Region and also regarding publication of citations in the aforesaid newspapers on 21st August, 2015. Copies of the newspaper clippings containing the publications have been filed along with the said affidavit.

16. Pursuant to the notices issued, the Official Liquidator sought information from the petitioner companies. Based on the information received, the Official Liquidator has filed a report dated 2nd December, 2015 wherein he has stated that he has not received any complaint against the proposed Scheme of Amalgamation from any person/party interested in the Scheme in any manner and that the affairs of the transferor companies do not appear to have been conducted in a manner prejudicial to the interest of their members, creditors or public interest, as per second proviso of Section 394(1) of the Companies Act, 1956.

17. In response to the notices issued in the petition, Mr. A. K. Chaturvedi, Regional Director, Northern Region, Ministry of Corporate Affairs has filed his report dated 1st December, 2015. Relying on Clause 8.1 of Part-II of the Scheme, he has stated that, upon sanction of the Scheme of Amalgamation, all the employees of the transferor companies shall become the employees of the transferee company without any break or interruption in their services. He has further submitted that in Clause 12.1 of Part-II of the Scheme, it has been stated that the transferee company shall follow the method of accounting as prescribed for 'purchase method' under Accounting Standard-14 as notified under the Companies (Accounting Standard) Rules, 2006. He further submitted that in Clause 9 of Part-II of the Scheme, it has been stated that upon this

scheme becoming effective, the transferor companies shall stand dissolved without the process of winding up.

18. No objection has been received to the Scheme of Amalgamation from any other party. The petitioner companies, in the affidavits dated 7th March, 2016 of Mr. Khushi Ram Phanda, director of transferor company no. 1, Mr. Alope Mohan Roy, director of transferor company no. 2 and Mr. Prafull Goradia, director of the transferee company have submitted that they have not received any objection pursuant to the citations published in the newspapers on 21st August, 2015.

19. Considering the approval accorded by the equity shareholders and creditors of the petitioner companies to the proposed Scheme of Amalgamation and the affidavits filed by the Regional Director, Northern Region and the Official Liquidator having not raised any objection to the proposed Scheme of Amalgamation, there appears to be no impediment to the grant of sanction to the Scheme of Amalgamation. Consequently, sanction is hereby granted to the Scheme of Amalgamation under Sections 391 and 394 of the Companies Act, 1956. The petitioner companies will comply with the statutory requirements in accordance with law. Certified copy of this order be filed with the Registrar of Companies within 30 days. It is also clarified that this order will not be construed as an order granting exemption from payment of stamp duty as payable in

accordance with law. Upon the sanction becoming effective from the appointed date of Amalgamation, i.e. 1st April, 2014, the transferor companies no 1 & 2 shall stand dissolved without undergoing the process of winding up.

20. The petition is allowed in the above terms.

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SUDERSHAN KUMAR MISRA, J.

May 16, 2016