

In the National Company Law Tribunal,
Kolkata Bench, Kolkata

CA (CAA) No.11/KB/2018
CP (CAA) No.605/KB/2018

In the matter of:

An application under Sec.230 – 232 of the Companies Act, 2013

And

In the matter of:

Companies (Compromises, Arrangements and Amalgamations) Rules, 2017

And

In the matter of:

RVH Consultants Pvt. Ltd., a company incorporated under the provisions of the Companies Act, 1956 having its registered office at Top Floor, Room No.3, East India Building, 8, Madan Street, Kolkata – 700 072, West Bengal

And

In the matter of:

1. RVH Consultants Pvt. Ltd.
2. RVH Advisors Pvt. Ltd.

.....Applicant/Petitioners

Order Delivered on 3rd July 2018

Coram:

Jinan K.R., Member (J)

For the Petitioners

: Mr. Sashi Agarwal, CA

ORDER

Per Jinan K.R., Member (J)

This application has been filed by the Applicant Companies, namely, RVH Advisors Private Limited (“Transferor Company”) and RVH Consultants Private Limited (“Transferee Company”) under Section 230 to 232 of the Companies Act, 2013 for obtaining sanction of this Tribunal regarding Scheme of Amalgamation of the above mentioned companies where under and whereby the entire

undertaking of the Transferor Company with all assets and liabilities relating thereto as a going concern is proposed to be transferred to and vested in the transferee company. A copy of the Scheme of Amalgamation is annexed with the application as Annexure A.

2. It appears from the record that the Scheme of Amalgamation will be on the following terms: -

i) The Transferor Company and their entire undertaking together with all rights and obligations relating thereto are proposed to be transferred to and vested in the Transferee Company.

ii) The Transferee Company will issue shares to the shareholders of Transferor Company as stated in the Scheme of Amalgamation.

3. The authorized Share Capital of "Transferee Company" is Rs.45,00,000/- (Rupees Forty- Five Lakh) divided into 4,50,000 (Four Lakh fifty thousand) Equity Shares of 10/- each. The issued, subscribed and Paid-Up Share Capital is Rs.34,47,400/- (Rupees Thirty four lakh fourty seven thousand four hundred) divided into 3,44,740 (Three lakh forty four thousand seven hundred forty) Equity Shares of Rs.10/- each Fully Paid-Up.

4. The authorized Share Capital of "Transferor Company" is Rs.18,50,000/- (Rupees Eighteen lakh fifty thousand) divided into 1,85,000 (One Lakh eighty five thousand) Equity Shares of Rs.10/- each. The issued, subscribed and paid-up Share Capital is Rs.18,00,000/- (Rupees Eighteen Lakh) divided into 1,80,000 (One Lakh eighty thousand) Equity Shares of Rs.10/- each fully Paid-Up.

5. It reveals from the record that pursuant to order dated 16/2/2018 passed by this Tribunal in C.A. (CAA) No.11/KB/2018, this Tribunal waived the meetings of the equity shareholders and creditors of all the petitioner companies for the purpose of considering with or without modification, the Scheme of

Amalgamation in view of the written consent obtained from the equity shareholders of the respective companies and both the petitioner companies have no creditors. Copy of the order of the Tribunal dated 16/2/2018 is annexed with the application as Annexure E. Relevant part of the order of the Tribunal dated 16/2/2018 is reproduced below: -

“i) In view of the individual affidavit given by the shareholders of the Transferee Company and Transferor Company, meeting of the shareholders of the Transferee Company and Transferor Company is hereby dispensed with.

ii) That in view of the fact that both Transferee Company and Transferor Company has no secured creditors and no unsecured creditors, therefore, question of holding meeting does not arise.”

6. Ld. Counsel for the applicant companies submitted that Notice of the meeting was also advertised once in the "Business Standard" in English and once in the "Aajikal" in Bengali in their respective issues dated the 24/2/2018. Affidavit of compliance and Service dated 24/2/2018 has been duly filed by the petitioners along with the application marked as Annexure F.

7. Ld. Counsel for the applicant companies submitted that pursuant to order dated 16/2/2018 of this Tribunal, the petitioners have served notice on the Regional Director, Kolkata, Official Liquidator and Income Tax Department and till date no objection and representation under 8 of the Company (Compromise, Arrangements and Amalgamation Rules, 2016 received.

8. It reveals from the record that the Auditors of the Transferee Company and the Transferor Company have not made any adverse remark and the Auditors Report does not disclose any irregularity or mismanagement in the

affairs of the Transferee Company and the Transferor Company.

9. It further appears from the record that the assets of the petitioner companies are sufficient to meet all their liabilities. The Scheme of Amalgamation does not involve any compromise or composition with the creditors of the petitioner companies. The scheme will not affect the rights of the creditors of the petitioner companies in any manner whatsoever.

10. Ld. Counsel for the applicant companies submitted that no petition under Sec.397 or 398 of the Companies Act, 1956 have been filed against any of the transferor company.

11. Ld. Counsel further submitted the Scheme of Amalgamation is in conformity with the Accounting Standard prescribed under Sec.133. A certificate from the Chartered Accountant relating to compliance of accounting standard is annexed with the application as Annexure G.

12. Ld. Counsel further submitted, no proceedings pending under Sec.235 to 251 of the Companies Act, 1956 against any of the petitioner companies.

13. Heard Ld. Counsel for the applicants. In view of absence of any objection and since all the requisite compliance has been fulfilled, the following order is passed: -

ORDER

- (i) The date of hearing of the petition filed by the Petitioner for the sanction of the Scheme of Amalgamation is fixed on 30/8/2018.
- (ii) Notice of hearing of this petition in form NCLT 3A shall be advertised once in English daily "Business Standard" and in Bengali "Aajkal" daily newspaper, not less than 10 days before the aforesaid date fixed for hearing.
- (iii) In addition to the above public notice, the petitioner company shall serve notice as per requirement of sub-section (5) of Sec.230 of the

Companies Act, 2013 of the petition on the following authorities, namely,

- (a) Central government through Regional Director, Eastern Region, Ministry of Corporate Affairs,
 - (b) Registrar of Companies, West Bengal,
 - (c) The Income Tax Department of the office having jurisdiction over the respective petitioner companies,
 - (d) Official Liquidator and such other relevant and sectoral regulators/authorities, if applicable, which are likely to be affected by the proposed Scheme by sending the same by hand delivery through special messenger or by registered post or Speed Post within 7 days from the date of this order for filing their representations., if any, on the petition. Notice along with the copy of the application and other related documents with PAN Numbers of the Applicant Companies should be served upon the Chief Commissioner of Income Tax by Mail and Speed Post or by Messenger. Petitioner Companies are also directed to mention their respective PAN Nos everywhere.
- (iv) The notice shall specify that representations, if any, should be filed before this Tribunal within 30 days of date of receipt of the notice with a copy of such representations being sent simultaneously to the petitioners and/or their Authorised Representatives. If no such representations are received by the Tribunal within the said period, it shall be presumed that such authorities have no representations to make on the Scheme of Amalgamation.
- (v) Petitioner Companies at least 7 days before the date of hearing of the petition shall file an affidavit of service in relation to the paper

publication as well as service of notices and the Authorities specified above including the Sectoral Regulators.

14. The Company Petition being CP (CAA) No.605/KB/2018 [in CA (CAA) No.11/KB/2018], is directed to be listed for further hearing on 30/8/2018.

15. There shall be no order as to costs.

16. Urgent certified copy of this order, if applied for, be issued upon compliance with all requisite formalities.

Sd

3/7/18
Jinan K.R.
Member (J)

Signed on 3rd July 2018