

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, CHENNAI**

**CP/181 & 182/CAA/2018
[CA/63 & 63(A)/CAA/2018]**

Under section 230 to 232 of the Companies Act, 2013

In the matter of Scheme of Amalgamation of

**M/s. SAMET ESTATES PRIVATE LIMITED
(CIN: CIN: U45201TN1995PTC114109)
(Transferor Company)**

With

**M/s. WELKNOWN EXPORTS PRIVATE LIMITED
(CIN: U51900TN1993PTC114063)
(Transferee Company)**

And

Their Respective Shareholders and its Creditors

Order delivered on: 19.09.2018

Coram:

**K. Anantha Padmanabha Swamy, Member (Judicial)
S. Vijayaraghavan, Member (Technical)**

For the Petitioners: *Smt. Lakshmi Subramanian, PCS
Shri. K. Manivannan, Authorised Rep. for OL
Shri. J. Narayanaswami & Rajkumar Jhabakh
Counsel for Income Tax Department*

ORDER

Per: K. ANANTHA PADMANABHA SWAMY, MEMBER (J)

1. Under Consideration are two Company Petition nos. CP/181&182 /CAA/2018 filed under section 230 of the Companies Act, 2013 r/w the Companies (Compromises, Arrangements and Amalgamations) Rules 2016. The instant petitions pertain to the proposed Scheme of Amalgamation by virtue of which M/s. Samet Estates Private Limited



(hereinafter referred as ‘**Transferor Company**’) is proposed to be amalgamated with M/s. Welknown Exports Pvt Ltd (hereinafter referred as ‘**Transferee Company**’).

1. The Authorised and issued, subscribed & paid up share capital of Shareholders, Secured & Unsecured Creditors of the Transferor and Transferee Companies as under:

Particulars	Authorized Capital	Issued & paid-up Capital	Equity Share-holders	Secured Creditors	Unsecured Creditors
Transferor Company	Rs. 1,00,00,000/-	Rs. 90,00,200/-	3	Nil	Nil
Transferee Company	Rs. 1,00,00,000/-	Rs. 99,00,000/-	3	Nil	2

2. The Transferor Company is a Private Limited Company, it was incorporated on 09.02.1995 under the provisions of the Companies Act, 1956, having its registered office at Newry Grandeur, No. 19 (Old No. 11), B-Block 2nd Avenue, Anna Nagar East, Chennai-600102 in the State of Tamil Nadu. The Transferor Company is inter-alia engaged in the business of running and conducting bureau of complete services in the areas of business in all branches of architecture and builder of houses, erectors construction of building, houses, apartments, structures or residential offices, industrial, institutional or commercial or developers of co-operative housing societies, developers of housing scheme, townships, holiday resorts, hotels, motels and maintain hospitals,

workshops, godowns and other commercial educational purposes etc. The Transferee is a Private Limited Company, it was incorporated on 02.08.1993 under the provisions of the Companies Act, 1956, having its registered office at Newry Grandeur, No. 19 (Old No. 11), B-Block 2nd Avenue, Anna Nagar East, Chennai-6000102 in the State of Tamil Nadu. The Transferee Company is inter-alia engaged in the business of running and conducting bureau of complete services in the areas of business in all branches of improve, develop, acquire by purchase, lease, hire any land, building and constructing altering equipping building and to maintain building work and to carry on the business of designing, reconstructing roads, sewage and any other structures etc. The Board of Directors of the Transferor Company and Transferee Company vide their resolution dated 15.11.2017 respectively approved the said scheme of Amalgamation.

3. This Bench vide its common order dated 17.04.2018 in CA/63 & 63(A)/CAA/2018 has already issued order regarding meeting of equity shareholders, secured and unsecured creditors, wherein the meetings have been dispensed with. However, the Petitioner Companies complied with all the orders passed by the Bench.
4. The learned counsel appearing for the petitioner Companies submitted that the rationale of the Scheme of Amalgamation will enable the consolidation of the business of the Transferor Company into one entity which will facilitate in focused growth, operational efficiency, business

synergy, better supervision of the business of the group and more productive utilization of the resources and cost and operational efficiency which would be beneficial to all stakeholders; the proposed amalgamation will reduce managerial overlaps, which are necessarily involved in running multiple entities and also enable smoother implementation of policy changes at a higher level from a management perspective and shall also help enhance the efficiency and control of the entities; the Transferee company as a going concern will enable the combined entity to achieve a strong financial position on account of alignment of assets and liabilities of Transferor Company resulting improve financial base, earning capabilities that will help accelerated growth, benefit to the shareholders, employees and customers. Further it has been submitted that no investigation, proceedings are pending against the Companies Act, 1956 and or the Companies Act, 2013.

5. In this case as per the provisions of the Companies Act, 2013, notices were issued to the statutory authorities as per the procedure prescribed. However, there were no objection to the scheme under reference.
6. The Regional Director, Southern Region (In short, '**RD**') in its Report Affidavit (for brevity, '**Report**') dated 18.05.2018 submitted that as per records of ROC, Chennai, the Transferor Company is regular in filing its statutory returns and no investigation is pending against the company. It is further submitted that as per Clause 8 of the scheme of the companies provide for the protection of the interest of the employees/staff/workmen

of the Transferor Company and in Clause 11 of the Scheme proposes to merge the authorised capital of the transferor companies with that of the transferee company, therefore, the transferee company may be directed to file the amended MOA and AOA with the ROC, Chennai for records. However, the RD has decided not to make any objection to the Scheme except for the observation made in para (9) and submitted that the petition may be disposed of on merits.

7. With regard to observation made by the RD para 9 of his Report the Transferee Company has undertaken to comply with the observations raised by the filling the amended Memorandum and Articles of Association of the Transferee Company under section 232(3)(i) of the Companies Act, 2013.
8. The Official Liquidator (**In short, 'OL'**) in its report dated 21.08.2018 submitted that M/s. Kuriachan & Nova, Chartered Accountants appointed on the order of the Hon'ble High Court, have scrutinized the books and accounts of the Transferor Company. The Auditor observed that the Transferor Company has maintained and written up all the statutory books in accordance with normally accepted accounting principles and policies in accordance with the requirements of the Companies Act, 2013 and also the affairs of the company have not been conducted in a manner prejudicial to the interest of its members, creditors or to public interest.

9. The OL further submitted that under Clause 8.1 of Part-III the proposed scheme, the interest of all the executives, staff, workman and other employees in the service of the Transferor Company is safeguarded. As per Clause 12 of Part-III the said scheme, upon the scheme becoming effective and in consideration of the Amalgamation of the Transferor Company with the Transferee Company, *“For every 200 (Two Hundred) equity shares of Rs. 10/- each held in the Transferor Company and 163 (One Hundred Sixty Three) equity shares of Rs. 10/- each would be issued in the Transferee Company”*. The valuation of shares of the Transferor Company and Transferee Company has been done by Mr. N. Subramanian, Chartered Accountant. The OL has submitted that the company petitions may be decided on merits.
10. The Petitioner Companies have filed affidavit wherein it has been stated that the proposed scheme does not fall within the threshold of the provisions of the Competition Act, 2002.
11. Further perusal of the scheme shows that the accounting treatment is in conformity with the established accounting standards. In short, there is no apprehension that any of the creditors would lose or be prejudiced if the proposed scheme is sanctioned. The said Scheme of Amalgamation will not cast any additional burden on the stakeholders and also will not prejudicially affect the interests of any class of the creditors in any manner. **The Appointed date of the Scheme is 01.04.2017.**



12. The Scheme does not require any modification and the said Scheme of Amalgamation appears to be fair and reasonable, not contrary to public policy and also not violative of any provisions of law. All the statutory compliances have been made under the Companies Act, 2013. Taking into consideration all the above, the Company Petition is allowed and the Scheme of Amalgamation annexed with the petition is hereby sanctioned which shall be binding on all the members, creditors and shareholders.
13. While approving the scheme as above, we further clarify that this order will not be construed as an order granting exemption from payment of stamp duty or taxes or any other charges, if payable, as per the relevant provisions of law or from any applicable permissions that may have to be obtained and compliances that may have to be made as per the mandate of law.
14. The Transferee Company is directed to file the amended MoA and AoA with RoC, Chennai as stated in para 10 his report.
15. The Transferor Company shall be dissolved without winding up from the date of the filing of the certified copy of this order with the Registrar of Companies.
16. Upon receiving the certified copy of this order, the RoC, Chennai is directed to place all documents relating to the Transferor Company with that of the Transferee Company and the files relating to the Transferor

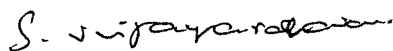
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Company shall be consolidated with the files and records of the Transferee Company.

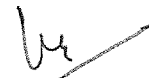
17. The Company to the said Scheme or other person interested, shall be at liberty to apply to this Bench for any direction that may be necessary with regard to the working of the said Scheme. The Petitioner Company to file with the Registrar of Companies the certified copy of this Order within 30 days of the receipt of the order.

18. The Order of sanction to this Scheme shall be prepared by the Registry as per the format provided under the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 as has been notified on 14th December, 2016.

19. Accordingly, the Scheme stands sanctioned and the Company Petition Nos. 181 & 182/ CAA/2018 stand disposed of.



S. Vijayaraghavan
Member (Technical)



K. Anantha Padmanabha Swamy
Member (Judicial)

TJS