

IN THE NATIONAL COMPANY LAW TRIBUNAL

KOLKATA BENCH

Company Petition CP No.711/KB/2017

IN THE MATTER OF:

A Petition made under Sections 230 and 232 of the Companies Act, 2013 ;

-And-

IN THE MATTER OF:

PANCHRISHI MERCANTILE PRIVATE LIMITED, a Company incorporated under the Companies Act, 1956 having its registered office at "Vaibhav", 4, Lee Road, 1st Floor, Room No. -11, Kolkata - 700 020, within the aforesaid jurisdiction ;

And

PROMPTURE COMMERCIALS PRIVATE LIMITED, a Company incorporated under the Companies Act, 1956 having its registered office at Room No. -11, 1st Floor, Vaibhav Plaza, 4, Lee Road, Kolkata - 700 020, within the aforesaid jurisdiction ;

Sd

Sd

And

BALANCED MARKETING PRIVATE LIMITED, a Company incorporated under the Companies Act, 1956 having its registered office at 4, Lee Road, Vaibhav Plaza, 1st Floor, , Room No. -11, Kolkata - 700 020, within the aforesaid jurisdiction ;

-And-

PUNEET VINCOM PRIVATE LIMITED, a Company incorporated under the Companies Act, 1956 having its registered office at Room No. -11, 1st Floor, Vaibhav Plaza, 4, Lee Road, Kolkata - 700 020, within the aforesaid jurisdiction ;

And

SUGANDHA COMMOTRADE PRIVATE LIMITED, a Company incorporated under the Companies Act, 1956 having its registered office at Keshowji Chambers, 3A, Pollock Street, 2nd Floor, Room No. 7, Kolkata - 700 001, within the aforesaid jurisdiction ;

And

PLAMU COMMERCIALS PRIVATE LIMITED, a Company incorporated under the Companies Act, 1956, having its registered office at 4, Lee Road, Vaibhav Plaza, Room No. -11, Kolkata - 700 020, within the aforesaid jurisdiction ;

Sd

Sd

1. PANCHRISHI MERCANTILE PRIVATE LIMITED -
Transferor Company No. 1
2. PROMPTURE COMMERCIALS PRIVATE LIMITED -
Transferor Company No. 2
3. BALANCED MARKETING PRIVATE LIMITED - Transferor
Company No. 3
4. PUNEET VINCOM PRIVATE LIMITED - Transferor
Company No. 4
5. SUGANDHA COMMOTRADE PRIVATE LIMITED -
Transferor Company No. 5
6. PLAMU COMMERCIALS PRIVATE LIMITED - Transferee
Company

... Petitioners

Date of pronouncement of the Order : 18-1-18

Coram : Mr. V.P. Singh, Member(Judicial)

Mr. Jinan K. R., Member(Judicial)

For the Petitioners:

Mr Ravi S Asopa, Advocate

Per Jinan K. R.

ORDER

The object of this Petition is to obtain sanction of this Tribunal to the proposed Scheme of Amalgamation of PANCHRISHI MERCANTILE PRIVATE LIMITED, being the Petitioner No.1, PROMPTURE COMMERCIALS PRIVATE LIMITED, being the Petitioner

Sd

Sd

No.2, BALANCED MARKETING PRIVATE LIMITED, being the Petitioner No.3, PUNEET VINCOM PRIVATE LIMITED, being the Petitioner No. 4, SUGANDHA COMMOTRADE PRIVATE LIMITED, being the Petitioner No.5, Transferor Companies, with PLAMU COMMERCIALS PRIVATE LIMITED, being the Petitioner No.6, Transferee Company, whereby and where under the entire undertakings of the Transferor Company Nos. 1,2,3,4 and 5, the Transferor Companies, together with all their properties, rights, claims and liabilities relating thereto are proposed to be transferred to and vest in the Transferee Company, on the terms and conditions as fully stated in the Scheme of Amalgamation, a copy whereof is annexed with the Petition and marked "A".

It is stated in the Petition that the Transferor Companies and the Transferee Company belong to common group and common management. There are common shareholders and common directors in the Transferor Companies and the Transferee Company. All the companies are carrying on common business of trading in shares.

In order to integrate the fields of activities of the companies and for improving overall business efficiency, to streamline the administration of the companies and in the overall interest of future growth and diversification of the business of the Companies, the present Scheme of Amalgamation is proposed to amalgamate the Transferor Companies with the Transferee Company.

The Scheme of Amalgamation will be complimentary to the companies for their mutual benefit and interest.

It is stated in the Petition that the proposed Scheme of Amalgamation will result in economies of scale, reduction in overheads and other expenses, reduction in administrative and procedural work, elimination of duplication of work, better and more productive and effective utilisation of the combined resources of all the companies and will enable the amalgamated company to effect internal economies and optimize productivity.

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It is further stated in the Petition that the Scheme of Amalgamation will have the beneficial results for the companies concerned, their shareholders, employees and all concerned.

The Board of Directors of the Transferor Companies and the Transferee Company have, at their respective meetings, by resolutions passed unanimously approved the Scheme of Amalgamation.

The copies of the Board resolutions are annexed with the Petition and collectively marked as "N".

It is submitted in the Petition that the aggregate assets of the Petitioner Companies are more than sufficient to meet all their liabilities and the Scheme of Amalgamation will not adversely affect the rights of any of the creditors of the Petitioner Companies in any manner whatsoever and due provisions have been made for payment of all the liabilities as and when the same fall due in usual course.

It is further submitted in the Petition that there are no proceedings pending under Sections 206 to 213 of the Companies Act, 2013 against any of the Petitioner Companies.

There are also no proceedings pending under Sections 241 and 242 of the said Act or any other proceedings whatsoever.

There are also no proceedings pending under the Companies Act, 1956 or under the Companies Act, 2013 against any of the companies.

The instant Scheme of Amalgamation does not attract the provisions of the Competition Commission of India.

There is as at present no scheme of Corporate debt restructuring ongoing or pending in relation to the Companies.

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It is submitted in the Petition that no one will be prejudiced if the said Scheme of Amalgamation is sanctioned and the sanction of the Scheme of Amalgamation will benefit and will be in the interest of the said Companies, their shareholders, creditors, employees and all concerned.

By an Order made in the Company Application No.325 of 2017 on 04-10-2017, this Tribunal dispensed with the meetings of the Shareholders and unsecured creditors of the Petitioner Companies since each and every shareholders and/or unsecured creditors of the petitioner companies had considered the proposed Scheme of Amalgamation and on such consideration, had given their consent affidavits in writing agreeing to the Scheme of Amalgamation and also consented to waive the holding and convening of the meetings of the shareholders of the Petitioner Company concerned.

There were no secured creditors of the Petitioner Companies as on 04-10-2017.

In compliance of the Order of this Tribunal dated 04-10-2017, notice under form CAA.3 together with the copy of each of the Scheme of Amalgamation and the statement required under Section 230 of the Companies Act, 2013 have been duly served upon the Central Government and other Regulatory Authorities.

The affidavit of compliance has also been duly filed by the Petitioner Companies on 26-10-2017.

Vide an Affidavit filed by the Petitioner Companies on 03-11-2017, it has been stated by the Petitioner Companies that in compliance of the Order of this Tribunal dated 04-10-2017, publication of the notice being Form CAA.3 was made once each in "Business Standard", Kolkata in its issue dated 01-11-2017 and in "Aajkal", Kolkata in its issue dated 01-11-2017 and the relevant portions of the said newspaper publications are annexed with the affidavit dated 03-11-2017, collectively marked "A".

After such due compliance, the petitioners have made the instant petition bearing No. CP No. 711/KB/2017 before this Tribunal, among other things, seeking final sanction to the proposed Scheme of Arrangement and for orders facilitating and giving effect to the same.

Heard the arguments of the Ld. Counsel for the petitioners.

Let notice be served as per requirements of sub-section(5) of section 230 of the Companies Act, 2013 along with all the documents including a copy of the Scheme of Arrangement and the statement disclosing necessary details on the Central Government, through the Regional Director, Eastern Region, Ministry of Corporate Affairs, Kolkata, Registrar of Companies, West Bengal and the concerned Assessing Officer along with the Chief Commissioner of Income-Tax with PAN numbers of the Applicant Companies, through E-mail and by Speed post, both, as also the Official Liquidator having jurisdiction of the transferor and the transferee companies and such other relevant 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, both, within seven days from the date of this order for filing their representation, if any, on the petition within 30 days from the date of notice.

The petitioners are to file an affidavit, along with the copy of the notice within seven days regarding service of the notice.

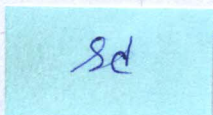
The petitioners are further directed to send notice through e-mail also and file copies of the mails along with an affidavit. The notice shall specify that representation, if any, should be filed before this Tribunal within 30 days of the date of receipt of the notice with a copy of such representation being sent simultaneously to the petitioners and their Advocates. If no such representation is received by the Tribunal within the said period, it shall be presumed that such authorities have no representation to make on the Scheme of Amalgamation.

Such notices shall be sent under Section 230(5) of the Companies Act, 2013 in Form No. CAA-3 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 with necessary variations incorporating the directions therein.

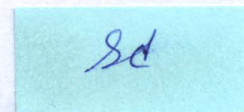
Let the advertisement of the hearing of this petition be published one in the English daily, "The Business Standard" and another in the Bengali daily newspaper, "Aajkal", same as was made earlier in 1st motion, stating the PAN numbers of all the Petitioner Companies, 10 days before the date fixed for hearing under Form No. NCLT 3A of the National Company Law Tribunal Rules, 2016 with necessary variations.

The petition is fixed for hearing on 12-03-2018.

Certified copy of the order may be issued, if applied for, upon compliance with all the requisite formalities.



(V. P. Singh)
Member(Judicial)



(Jinan K. R.)
Member(Judicial)