

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH**

CSP NO. 730OF 2017

AND

CSP NO. 731 OF 2017

AND

CSP NO. 732 OF 2017

AND

CSP NO. 733 OF 2017

Under Section 230 to 232 of  
Companies Act, 2013

In the matter of Scheme of Amalgamation of  
PODDAR INFRACON PRIVATE LIMITED ('PIPL' or  
'Transferor Company 1') and JAVA TRADVEST  
LIMITED ('Java' or 'Transferor Company 2') and  
SUVIDHA VITARAN PRIVATE LIMITED ('Suvidha'  
or 'Transferor Company 3') hereinafter collectively  
referred to as 'Transferor Companies') with  
MEHTABSON TRADING AND MANUFACTURING  
PRIVATE LIMITED ('Mehtabson' or 'Transferee  
Company') and their respective Shareholders and  
Creditors.

PODDAR INFRACON PRIVATE LIMITED ...Petitioner / Transferor Company 1

JAVA TRADVEST LIMITED...Petitioner / Transferor Company 2

SUVIDHA VITARAN PRIVATE LIMITED...Petitioner / Transferor Company 3

MEHTABSON TRADING AND MANUFACTURING PRIVATE LIMITED

...Petitioner / Transferee Company

Judgment / Order delivered on 24<sup>th</sup> August, 2017

Coram:

Hon'ble B.S.V. Prakash Kumar, Member (J)

Hon'ble V. Nallasenapathy, Member (T)

For the Petitioner(s): Mr. Ajit Singh Tawar and Mr. Rushil Aiya i/b Ajit Singh  
Tawar & Co., Advocates for the Petitioner

Per: B.S.V. Prakash Kumar, Member (J)

**ORDER**

1. Heard learned counsel for parties. No objector has come before this Tribunal to oppose the Scheme and nor has any party controverted any averments made in the Petitions to the Scheme of Amalgamation of PODDAR INFRACON PRIVATE LIMITED ('PIPL' or 'Transferor Company 1') and JAVA TRADVEST LIMITED ('Java' 'Transferor Company 2') and SUVIDHA VITARAN PRIVATE LIMITED ('Suvidha' or 'Transferor Company 3') with MEHTABSON TRADING AND MANUFACTURING PRIVATE LIMITED ('Mehtabson' or 'Transferee Company').
2. The sanction of the Tribunal is sought under Section 230 to 232 of the Companies Act, 2013 to the Scheme of Amalgamation of PODDAR INFRACON PRIVATE LIMITED ('PIPL' or 'Transferor Company 1') and JAVA TRADVEST LIMITED ('Java' 'Transferor Company 2') and SUVIDHA VITARAN PRIVATE LIMITED ('Suvidha' or 'Transferor Company 3') with MEHTABSON TRADING AND MANUFACTURING PRIVATE LIMITED ('Mehtabson' or 'Transferee Company').
3. The Petitioner Companies have approved the said Scheme of Amalgamation by passing the Board Resolutions, which are annexed to the respective Scheme Petitions.
4. The Learned Advocate appearing on behalf of the Petitioners states that the Petitions have been filed in consonance with the order passed in Company Scheme Application Nos. 578, 579, 580 and 581 of 2017 of the National Company Law Tribunal.



5. The Learned Advocate on the behalf of the Petitioners further states that the Petitioners Companies have complied with all requirements as per directions of the National Company Law Tribunal, Mumbai Bench and they have filed necessary affidavits of compliance in the National Company Law Tribunal, Mumbai Bench. Moreover, Petitioner Companies undertake to comply with all the statutory requirements if any, as required under the Companies Act, 2013 and the Rules made there under whichever is applicable. The said undertaking is accepted.
6. The Learned Counsel for the Petitioners states that the Transferor Company 1 is presently engaged in the business of trading, finance & renting activities and the Transferor Company 2 is presently engaged in the business of trading in home appliances and investment activities and the Transferor Company 3 is presently engaged in the business of trading, consultancy finance & renting activities and the Transferee Company is presently engaged in the business of Investment, consultancy & Property.
7. The Learned Counsel for the Petitioners states that the merger of Transferor Companies with the Transferee Company would, inter-alia, have the following benefits:- achieving operational and management efficiency; consolidation and simplification of the group structure; enhancement of net worth of the combined business to capitalize on future growth potential, optimal utilization of resources resulting into reduction in operational and compliance cost; elimination of multiple entities in the group; which will eliminate duplication of administrative functions and reduction in the multiplicity of legal and regulatory compliances required at present to be carried out by the Transferor Companies and the Transferee Company.



8. The Regional Director has filed a Report on 31<sup>st</sup> July 2017 stating therein, save and except as stated in paragraph IV of the said Report, the regional Director has stated that:

“IV. The observations of the Regional Director on the proposed Scheme to be considered by the Hon’ble NCLT are as under:

1. *The tax implication if any arising out of the Scheme is subject to final decision of Income Tax authorities. The approval of the Scheme by this Hon’ble Tribunal may not deter the Income Tax Authority to scrutinize the tax return filed by the transferee Company after giving effect to the scheme. The decision of the Income Tax Authority is binding on the Petitioner Company.*
2. *It is submitted that the Petitioner Companies have submitted the proof of serving notice upon the Income Tax Authorities dated 23.05.2017 for comments. The office of the Directorate also has issued reminder dated 26.07.2017.*
3. *Petitioner in Clause 17 of the Scheme has inter alia mentioned that upon the Scheme becoming effective the name of the Transferee Company shall automatically stand changed without any further act, instrument or deed on the part of the Transferee Company, to “Poddar Infracon Private Limited”*

*In this regard, Petitioner Companies has to undertake to comply with the provisions of the Companies Act with rules regarding availability of name.*

4. *Petitioner in Clause 18 of the Scheme has inter alia mentioned that upon the Scheme becoming effective the Object Clause specified in Schedule 2 shall be inserted as the Objects clause in place of the*

*existing Objects Clause of the Memorandum of Association of the Transferee Company.*

*In this regard, Petitioner Companies has to undertake to comply with the provisions of the Companies Act with rules for filing applicable forms.*

5. *Petitioner in Clause 15.7 has inter mentioned that Board of Directors of the transferee company in consultation with statutory auditors is authorized to account for the balances in any manner if such accounting treatment considered is more appropriate.*

*In this regard, Petitioner Companies has to undertake to comply with only the accounting standards 14 and 5 as prescribed under section 133 of the Companies Act, 2013.*

9. So far as the observation in Paragraph IV (1) and (2) of the Report of the Regional Director is concerned, the Learned Counsel for the Transferee Company submits that the Transferee Company undertake to comply with all applicable provision of the Income Tax Act, 1961 and all tax issues arising out of the Scheme of Amalgamation will be met and answered in accordance with law.
10. So far as the observation in Paragraph IV (3) of the Report of the Regional Director is concerned, the Learned Counsel for the Transferee Company submits that the Transferee Company undertake to comply with Section 13 and 16 of Companies Act, 2013 along with rules made thereunder and all other applicable provisions of the Companies Act, 2013 in relation to change of name.



11. So far as the observation in Paragraph IV (4) of the Report of the Regional Director is concerned, the Learned Counsel for the Transferee Company submits that the Transferee Company undertake to comply with Section 13 of Companies Act, 2013 and all the applicable provisions related to change in Objects clause of the Memorandum of Association of the Transferee Company.
12. So far as the observation in Paragraph IV (5) of the Report of the Regional Director is concerned, the Learned Counsel for the Petitioner Companies undertakes that Petitioner Companies shall in addition to compliance of AS -14, the Transferee Company shall pass such accounting entries which are necessary in connection with the scheme to comply with other applicable Accounting Standards such as AS-5 etc. as may be applicable. The Learned Counsel further clarifies that the Transferee Company has submitted to this Hon'ble Tribunal the Certificate from the Auditors stating that the accounting treatment proposed in the Scheme is in conformity with the accounting standards prescribed under Section 133 of the Companies Act, 2013.
13. The observations made by the Regional Director have been explained by the Petitioner Companies in paragraphs 9 to 12 above. The clarifications and undertakings given by the Petitioner Companies are hereby accepted.
14. The Official Liquidator has filed his report dated 22<sup>nd</sup> August 2017 stating therein that the affairs of the Transferor Companies have been conducted in a proper manner and the Transferor Companies may be ordered to be dissolved without winding up.
15. From the material on record, the Scheme appears to be fair and reasonable and is not in violation of any provisions of law or contrary to



public policy. None of the parties concerned have come forward to oppose the Scheme.

16. Since all the requisite statutory compliances have been fulfilled, Company Petition Nos. 730, 731, 732 and 733 of 2017 is made absolute in terms of prayers clause (a) and (b).
17. The Petitioner Companies to lodge a copy of this order and the Scheme duly certified by the Deputy Registrar, National Company Law Tribunal, Mumbai Bench with the concerned Superintendents of Stamps, for the purpose of adjudication of Stamp duty, if any, payable within 60 days from the date of receipt of the order.
18. The Petitioner Companies are directed to file the certified copy of the order along with a copy of the Scheme with the concerned Registrar of Companies, electronically, along with E-form INC 28 in addition to the physical copy, within 30 days from the date of issuance of the order by Registry.
19. The Petitioner Companies to pay costs of Rs.25,000/- each to the Regional Director, Western Region, Mumbai and the Petitioner in the Company Petition No. 731, 732 and 733 to pay costs of Rs.25,000/- to the Official Liquidator, High Court, Bombay. The cost to be paid within four weeks from the date of receipt of the Order.
20. All concerned regulatory authorities to act on a copy of this order along with the Scheme duly authenticated by the Deputy Registrar, National Company Law Tribunal, Mumbai.

Sd/-

**V. Nallasenapthy,**

**Member (T)**

Sd/-

**B.S.V. Prakash Kumar,**

**Member (J)**