

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, MUMBAI

CSP NO. 560 OF 2017

AND

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GODREJ INVESTMENTS PRIVATE LIMITEDPetitioner Company

AND

GODREJ & BOYCE MANUFACTURING COMPANY LIMITED

.....Petitioner Company

In the matter of the Companies Act, 2013 (18 of 2013);

AND

In the matter of Sections 230 to 232 of the Companies Act, 2013 and other relevant provisions of the Companies Act, 2013

AND

In the matter of Scheme of Amalgamation between Godrej Investments Private Limited ('GIPL' or 'the Transferor Company') with Godrej & Boyce Manufacturing Company Limited ('G&B' or 'the Transferee Company')

AND

Their respective shareholders

Judgment/Order delivered on 23rd August, 2017

Coram:

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

Hon'ble **V. Nallasenapathy**, Member (T)

For the Petitioner(s): Mr. Hemant Sethi i/b Hemant Sethi & Co

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

Order

1. Heard learned counsel for parties. No objector has come before this Hon'ble Tribunal to oppose the Scheme nor has any party controverted any averments made

in the Petition.

2. The present Scheme pertains to the Amalgamation of Godrej Investments Private Limited ('GIPL' or 'the Transferor Company') with Godrej & Boyce Manufacturing Company Limited ('G&B' or 'the Transferee Company') and their respective Shareholders with effect from the Appointed Date in terms of the Scheme. The Transferor Company is an investment holding company with the main object of holding shares and the Transferee is engaged in the business of manufacturing and marketing of various consumer durables, office equipments, industrial products and real estate development. Amalgamation of the Transferor Company with the Transferee Company will result in (a) Simplification of Group Structure and (b) Rationalisation of administrative costs.
3. The Petitioner Companies have approved the said Scheme of Amalgamation by passing the Board Resolutions which are annexed to the respective Company Scheme Petitions.
4. The learned Counsel for the Petitioner Company further states that, the Petitioner Company has complied with all the directions passed in Company Scheme Application and that the Company Scheme Petition has been filed in consonance with the orders passed in the Company Scheme Application.
5. The Learned Advocate appearing on behalf of the Petitioner Companies states that the Petitioner Companies have complied with all requirements as per directions of the Hon'ble Tribunal and they have filed necessary Affidavits of compliance in the Hon'ble Tribunal. Moreover, Petitioner Companies undertake to comply with all statutory requirements if any, as required under the Companies Act, 2013 and the Rules made there under. The said undertaking is accepted.
6. The Regional Director has filed his Report dated 22nd day of August, 2017 stating therein that save and except as stated in paragraph IV of the said Report, it appears that the Scheme is not prejudicial to the interest of shareholders and public.

Paragraph IV, of the said Report reads as follows:

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 Honb'le 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 12.05.2017 for comments. The*

office of the Directorate also has issued reminder dated 21.08.2017.

3. *ROC, Mumbai in their report inter alia mentioned that considering the soze pf assets and turnover, the transferor company may be required to serve notice to the Competition Commission of India.*
4. *Petitioner companies in Clause 7 of the scheme inter alia mentioned that The Transferee Company shall account for the amalgamation in its books as per the applicable accounting principles prescribed under Indian Accounting Standards ('Ind AS') 103 and / or any other applicable Ind AS, as the case may be.*

In this regard, in addition to compliance of AS-14 (IND AS-103) 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 (IND AS-8) etc.,

7. In so far as observations made in paragraph IV (1) to (2) of the Report of Regional Director is concerned, the Petitioners undertake that they shall comply with all applicable provisions of the Income Tax Act, 1961 and all tax issues arising out of the Scheme will be met and answered in accordance with law.
8. In so far as observations made in paragraph IV (3) of the Report of Regional Director is concerned, the Petitioner Companies submit the present Scheme of Amalgamation is between entities of the same group, and a notice is not required to be served upon the Competition Commission of India as the provisions of the Competition Act, 2002 read with the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations, 2011 and the notifications issued thereunder.
9. In so far as observations made in paragraph IV (4) of the Report of Regional Director is concerned, the Petitioner Companies through its Counsel undertake that it will comply with all applicable Accounting Standards. Further, in addition to the compliance with the Applicable Accounting Standards, the Transferee Company shall pass such accounting entries as may be necessary in connection with the Scheme of Amalgamation to comply with any other applicable Accounting Standards.
10. The observations made by the Regional Director have been explained by the Petitioner Company in paragraphs 7 to 9 above. The clarifications and undertakings given by the Petitioner Company are hereby accepted.
11. The Official Liquidator has filed his report on 1st August, 2017 in Company Scheme Petition Nos. 560 of 2017 inter alia, stating therein that the affairs of the Transferor

Company have been conducted in a proper manner and that the Transferor Company may be ordered to be dissolved without winding up by the Hon'ble Tribunal.

12. From the material on record, the Scheme appears to be fair, reasonable and is not violative of any provisions of law nor is not contrary to public policy. None of the parties concerned have come forward to oppose the Scheme.
13. Since all the requisite statutory compliances have been fulfilled, the Company Scheme Petition Nos. 561 of 2017 are made absolute in terms of prayer clause (a) to (b) of the Petition.
14. Since all the requisite statutory compliances have been fulfilled, the Company Scheme Petition Nos. 560 of 2017 are made absolute in terms of prayer clause (a) to (b) of the Petition.
15. Petitioner Companies are directed to file a copy of this order along with a copy of the Scheme of Amalgamation with the concerned Registrar of Companies, electronically, along with e-Form INC-28, in addition to physical copy, within 30 days from the date of receipt of the certified copy of the Order by the Registry.
16. Petitioner Companies to lodge a copy of this order and the Scheme duly authenticated by the Deputy Director, National Company Law Tribunal, Mumbai Bench, with the concerned Superintendent of Stamps for the purpose of adjudication of stamp duty payable, if any, on the same within 60 days from the date of receipt of the order.
17. Both the Petitioner Companies to pay costs of Rs. 25,000/- each to the Regional Director, Western Region, Mumbai and the Petitioner Company mentioned in Company Scheme Petition No. 560 of 2017 to pay costs of Rs. 25,000/- to the Official Liquidator, High Court, Bombay. Costs to be paid within four weeks from the date of the receipt of the Order.
18. All authorities concerned to act on a copy of this Order along with the Scheme duly certified by the Deputy Director, National Company Law Tribunal, Mumbai Bench.

Sd/-

V. Nallasenapathy Member (T)

Sd/-

B.S.V. Prakash Kumar Member (J)