

IN THE NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH

CSP NO. 775 OF 2017

AND

CSP NO. 771 OF 2017

AND

CSP NO. 773 OF 2017

AND

CSP NO. 774 OF 2017

**TRANSWARRANTY ADVISORS PRIVATE LIMITED**

...Petitioner/ Transferor Company 1

AND

**TRANSWARRANTY PRIVATE LIMITED**

... Petitioner /Transferor Company 2

AND

**DUNHILL SHARESHOPPE PRIVATE LIMITED**

... Petitioner /Transferor Company 3

AND

**TRANSWARRANTY CONSULTANTS PRIVATE LIMITED**

... Petitioner /Transferee Company

Under 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 of TRANSWARRANTY ADVISORS PRIVATE LIMITED ("Transferor Company 1") and TRANSWARRANTY PRIVATE LIMITED ("Transferor Company 2") and DUNHILL SHARESHOPPE PRIVATE LIMITED ("Transferor Company 3") with TRANSWARRANTY CONSULTANTS PRIVATE LIMITED ("Transferee Company") And their respective shareholders

Order delivered on 28<sup>th</sup> September, 2017

Coram:

Hon'ble SH. B.S.V. Prakash Kumar, Member (J) and Hon'ble SH V. Nallasenapathy,  
Member (T)



For the Petitioner(s): Mr. Rajesh Shah with Mr. Ahmed M Chunawala i/b M/s. Rajesh Shah & Co., Advocate for the Petitioner.

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

**MINUTES OF THE 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 sanction of the Tribunal is sought under Sections 230 to 232 of the Companies Act, 2013 to the Scheme of Amalgamation of Transwarranty Advisors Private Limited and Transwarranty Private Limited and Dunhill Shareshoppe Private Limited with Transwarranty Consultants Private Limited and their respective shareholders.
3. Learned counsel for the Petitioner Companies states that the Petitioner/Transferor Company 1 is engaged in the business of consultation and advisory services, Petitioner/Transferor Company 2 is currently engaged in the business of providing office premises on rental basis, Petitioner/Transferor Company 3 is iscurrently engaged in the business of providing consultancy services and the Petitioner/Transferee Company is incorporated to carry on the business of management and financial consultation and advisory services.
4. Learned counsel for the Petitioner Companies further states that the proposed Scheme of Amalgamation will leads to simplification of group structure and rationalization of administrative costs.
5. The Petitioner Companies have approved the said Scheme of Amalgamation by passing the board resolutions which are annexed to their respective Company Scheme Petitions.
6. The Learned Advocate appearing on behalf of the Petitioner Companies states that the Petitions have been filed in consonance with the order passed in Company Scheme Application Nos. 621, 624, 623 and 619 of 2017 of the Hon'ble Tribunal.
7. 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 with Hon'ble Tribunal. Moreover, Petitioner Companies undertake to comply with all statutory requirements, if any, as required under the Companies Act, 1956/2013 and the Rules made there under. The said undertaking is accepted.

8. The Regional Director has filed his report dated 22<sup>nd</sup> September, 2017, inter alia, 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. In paragraph IV of the said report, the Regional Director has stated that:-
  - a. *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;*
  - b. *As per existing practice, the Petitioner Companies are required to serve Notice for Scheme of Amalgamation to the Income Tax Department for their comments. It is observed that the Petitioner Companies vide letter dated 04.07.2017 has served a copy company scheme application No. 619, 621, 623&624 of 2017 along with relevant orders etc. Further this Directorate has also issued a remainder on 12.09.2017 to IT Department.*
  - c. *The tax implication if any arising out of the scheme is subject to final decision of the Income Tax Authorities. The approval of the scheme by this Hon'ble Court may not deter the Income Tax Authority to scrutinize the tax return filed by the Petitioner Companies after giving effect to the scheme. The decision of the Income Tax Authority is binding on the Petitioner Companies.*
  - d. *Petitioner in Clause 6.5 of the Scheme inter alia has mentioned that in case of any differences in accounting policy between the transferor Companies and the Transferee Company, the accounting policies followed by the Transferee company will prevail and the difference till the Appointed Date shall be adjusted in Capital Reserve of the Transferee Company, to ensure that the financial statements of the Transferee Company reflect the financial position on the basis of consistent accounting policy.*

*The deponent prays that the difference shall be adjusted in the books of Transferee Company to the Profit and Loss Account instead of Capital Reserve Account.*



9. As far as the observation of the Regional Director, Western Region, Mumbai, as stated in paragraph IV (a) of his report is concerned, the Transferee Company undertakes that it will comply with all applicable Accounting Standards such as AS-14 (IND AS-103) and AS-5 (IND AS-8) etc. Further, in addition to 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 Standard.
10. As far as the observation of the Regional Director, Western Region, Mumbai, as stated in paragraph IV (b) and (c) of the report is concerned, the Petitioner Companies undertakes to 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.
11. As far as the observation of the Regional Director, Western Region, Mumbai, as stated in paragraph IV (d) of the report is concerned, the Transferee Company undertakes that differences in accounting policy between the transferor Companies and the Transferee Company, the accounting policies followed by the Transferee Company will prevail and the difference till the Appointed Date shall be adjusted in the Profit and Loss Account of the Transferee Company.
12. The observations made by the Regional Director have been explained by the Petitioner Companies in paragraphs 9 to 11 above. The clarifications and undertakings given by the Petitioner Companies are hereby accepted.
13. The Official Liquidator has filed his report dated 15<sup>th</sup> day of September, 2017 in Company Scheme Petition Nos. 775, 771 & 773 of 2017 inter alia, stating therein that the affairs of the Transferor Companies have been conducted in a proper manner and that the Transferor Companies may be ordered to be dissolved without winding up by the Hon'ble Tribunal.
14. From the material on record, the Scheme appears to be fair, reasonable and is not violative to any provisions of law nor is contrary to public interest.
15. Since all the requisite statutory compliances have been fulfilled, the Company Scheme Petition No. 775, 771, 773 and 774 of 2017 are made absolute in terms of prayer clauses (a) and (b).



16. The 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 Order duly certified by the Deputy Director or Assistant Registrar, of the National Company Law Tribunal, Mumbai Bench.
17. The Petitioner Companies to lodge a copy of this order and the Scheme duly certified by the Deputy Director or the Assistant Registrar, of the 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 a period of 60 days from the date of receipt of the Order.
18. The Petitioner Companies to pay costs of Rs. 25,000/- each to the Regional Director, Western Region, Mumbai. The Transferor Companies to pay costs of Rs. 25,000/- each to the Official Liquidator. Costs to be paid within four weeks from the date of the receipt of the duly certified copy of this order.
19. All authorities concerned to act on a copy of this order along with the Scheme duly certified by the Deputy Director or the Assistant Registrar, of the National Company Law Tribunal, Mumbai Bench.

Sd/-

V. Nallasenapathy, Member (T)

Sd/-

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

Date : 28.09.2017