

IN THE NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH

TCSP NO. 168 OF 2017  
AND  
TCSP NO. 169 OF 2017  
AND  
TCSP NO. 170 OF 2017

Under Section 230-232 of the Companies Act,  
2013

In the matter of Scheme of Amalgamation of  
MERU LIFE SCIENCE PRIVATE LIMITED, the  
First Transferor Company and PARSHWA  
INTERMEDIATES PRIVATE LIMITED, the Second  
Transferor Company with VIPUL LIFE SCIENCE  
LIMITED, the Transferee Company.

MERU LIFE SCIENCE PRIVATE LIMITED

....Petitioner/ the First Transferor Company  
AND

PARSHWA INTERMEDIATES PRIVATE LIMITED

....Petitioner/ the Second Transferor Company  
AND

VIPUL LIFE SCIENCE LIMITED

....Petitioner/ the Transferee Company

Judgement/ order delivered on 19th July, 2017

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

**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 MERU LIFE SCIENCE PRIVATE LIMITED, the First Transferor Company and PARSHWA INTERMEDIATES PRIVATE LIMITED, the Second Transferor Company with VIPUL LIFE SCIENCE LIMITED, the Transferee Company.
2. The sanction of the Tribunal is sought under Sections 391 to 394 of the Companies Act, 1956 and Sections 230 to 232 of the Companies Act, 2013 to a Scheme of Amalgamation of MERU LIFE SCIENCE PRIVATE LIMITED, the First Transferor Company and PARSHWA INTERMEDIATES PRIVATE LIMITED, the Second Transferor Company with VIPUL LIFE SCIENCE LIMITED, the Transferee Company.
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 Advocate appearing on behalf of the Petitioners states that the Petitions have been filed in consonance with the order passed in their Company Summons for Direction Nos. 582 of 2016, 583 of 2016 and 584 of 2016 of the Hon'ble Bombay High Court.
5. The Learned Advocate appearing on behalf of the Petitioners further states that the Petitioner Companies have complied with all requirements as per directions of the Hon'ble Bombay High Court and National Company Law Tribunal, Mumbai Bench and they have filed necessary affidavits of compliance in the Hon'ble Bombay High Court and 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, 1956/2013 and the Rules made there under whichever is applicable. The said undertaking is accepted.

6. The Learned Counsel for the Petitioners states that the First Transferor Company has been carrying on the business of manufacturer, importer, exporter, re-seller, dealer & distributor of dyes, pigments, solvents and chemicals including fine chemicals, drugs, chemical preparations, medicinal formulations and exchange, alter, improve, develop and prepare for market, substitutes, formulations & otherwise deal in all such chemicals allied products and the Second Transferor Company has been carrying on the business as Commission Agent, Consignment Agents, Clearing and Forwarding Agents, Distributor, Trading in Chemicals, Pharmaceutical, Bulk drug and Bulk drug Intermediates and to Act as Importers and Exporters and the Transferee Company has been carrying on the business of manufacturer, importer, exporter, re-seller, dealer & distributor of dyes, pigments, solvents and chemicals including fine chemicals, drugs, chemical preparations, medicinal formulations and exchange, alter, improve, develop and prepare for market, substitutes, formulations & otherwise deal in all such chemicals allied products. As per the opinion of the management the amalgamation will enable the Transferee Company to consolidate the businesses and lead to synergies in operation and create a stronger financial base and that it would be advantageous to combine the activities and operations of all the companies into a single Company for synergistic linkages and the benefit of combined financial resources which will be reflected in the profitability of Transferee Company and that this Scheme of amalgamation would result in significant reduction in the multiplicity of legal and regulatory compliances required at present to be carried out by the transferor

companies and the transferee company and that this Scheme of amalgamation would result in merger and thus consolidation of business of the Transferor Companies and the Transferee Company in one entity, all the shareholders of the merged entity will be benefited by result of the amalgamation of Business and availability of a common operating platform and that the amalgamation of the Transferor Companies with the Transferee Company will also provide an opportunity to leverage combined assets and build a stronger sustainable business and specifically the merger will enable optimal utilization of existing resources and provide an opportunity to fully leverage strong assets, capabilities, experience, expertise and infrastructure of all the companies and that the merged entity will also have sufficient funds required for meeting its long term capital needs as provided for in the scheme and that the Scheme of amalgamation will result in cost saving for both the companies as they are capitalizing on each other's core competency and resources which is expected to result in stability of operations, cost savings and higher profitability levels for the Amalgamated Company.

7. The Regional Director has filed a Report on 24<sup>th</sup> day of May, 2017 stating therein, save and except as stated in paragraph IV, 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:-

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

- 1. 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*
- 2. As per Part (I) clause (b) of the Definition “Appointment Date”/ “Closing Date” / “Acquisition Date” means the commencement of business as on 1<sup>st</sup> day of April, 2015 or such other date as may be fixed by the High*

*Court of Judicature at Bombay or other competent authority may otherwise direct / fix; In this regard, it is submitted in terms of provisions of section 232 (6) of the Companies Act, 2013 it should be 1<sup>st</sup> April, 2015;*

3. *As per the existing practice, the Petitioner Companies are required to serve Notice for Scheme of Arrangements to Income Tax Department for their comments. It appears that the company vide letter dated 3<sup>rd</sup> November, 2016 has served a copy of company petition No. 676 to 678/2016 along with relevant orders etc., further this directorate has also issued a reminder 24.04.2017, to IT Department.*
4. *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 Court 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.*
5. *As the ROC Mumbai has not submitted his report and in view of provision of section 230(5) OF Companies Act, 2013 r/w rule 8 of the Companies (Compromise, Arrangement and Amalgamations) Rules, 2016 Hon'ble NCLT may pass appropriate orders/ order as deem fit.*
8. So far as the observation in paragraph IV (a) of the Report of the Regional Director is concerned, the Learned Counsel for the Petitioner Companies submits that the Transferee Company undertakes that in addition to compliance of AS-14 corresponding (Ind AS-103) accounting treatment, the Transferee Company shall pass such accounting entries as may be necessary in connection with the Scheme to comply with other applicable accounting standards such as AS-5/corresponding Ind AS-8 etc.
9. As far as the observation in paragraph IV (b) of the report of Regional Director is concerned, the learned Counsel for the Petitioner Companies submits that the appointed date mentioned in the scheme is 1<sup>st</sup> April, 2015.

10. So far as the observation in paragraph IV (c) & (d) of the Report of the Regional Director is concerned, the Learned Counsel for the Petitioner Companies submits that the Petitioner Company undertakes to comply with all applicable provisions of the Income-tax Act and all tax issues arising out of the Scheme of Amalgamation will be met and answered in accordance with law.
11. So far as the observation in paragraph IV (e) of the Report of the Regional Director is concerned, the Learned Counsel for the Petitioner Companies submits that the RoC has filed their report.
12. The observations made by the Regional Director have been explained by the Petitioner Companies in Para 8 to 11 above. The clarifications and undertakings given by the Petitioner Companies are accepted.
13. The Official Liquidator has filed his report on \_\_\_ April, 2017 in the Transferred Company Scheme Petition Nos. 676 of 2016 and 677 of 2016 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 by this Tribunal.
14. From the material on record, the Scheme appears to be fair and reasonable and is not violative of any provisions of law and is not contrary to public policy.
15. Since all the requisite statutory compliances have been fulfilled, Company Petition Nos. 676 of 2016 and 677 of 2016 is made absolute in terms of prayers clause (a) to (d) and 678 of 2016 is made absolute in terms of prayer clauses (a) to (c).
16. Petitioners are directed to lodge 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, as per the relevant provisions of the Companies Act 1956 / 2013.

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 Superintendent of Stamps, for the purpose of adjudication of stamp duty payable within 60 days from the date of receipt of the order, if any.
18. 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. 676 of 2016 and 677 of 2016 to pay costs of Rs.25,000/- to the Official Liquidator, High Court, Bombay. Cost to be paid within four weeks from the date of receipt of the Order.
19. All concerned regulatory authorities to act on a copy of this order along with Scheme duly authenticated by the Deputy Registrar, National Company Law Tribunal, Mumbai.

Sd/-

V. Nallasenapathy Member (T)

Sd/-

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