

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH

TRANSFERRED COMPANY SCHEME PETITION NO. 86 OF 2017  
CONNECTED WITH  
HIGH COURT COMPANY SCHEME PETITION NO. 548 OF 2016  
CONNECTED WITH  
COMPANY SUMMONS FOR DIRECTION NO. 125 OF 2016

**Beauty Glass Private Limited      ...Petitioner / Transferor Company**

AND

TRANSFERRED COMPANY SCHEME PETITION NO. 87 OF 2017  
CONNECTED WITH  
HIGH COURT COMPANY SCHEME PETITION NO. 549 OF 2016  
CONNECTED WITH  
COMPANY SUMMONS FOR DIRECTION NO. 126 OF 2016

**Vijay Vision Private Limited      ...Petitioner / Transferee Company**

In the matter Sections 230 to 232 of the Companies Act, 2013 (corresponding Sections 391 to 394 of the Companies Act, 1956) and other applicable provisions and rules framed thereunder as in force from time to time

AND

In the matter of Scheme of Amalgamation of Beauty Glass Private Limited ("the Transferor Company" with Vijay Vision Private Limited ("the Transferee Company" and their respective shareholders and creditors

**Coram:** B.S.V. Prakash Kumar, Member (Judicial)

V. Nallasenapathy, Member (Technical)

**Present for Applicant:** Mr. Sumit Raghani, i/b M/s. Agrud Partners,  
Advocates for the Petitioner Companies

Date: 19<sup>th</sup> July, 2017

Per: V. Nallasenapathy, Member (Technical)

### **MINUTES OF ORDER**

1. Heard the learned Counsel for the Petitioner Companies. No objector has come before the Tribunal to oppose the Petitions and nor any party has controverted any averments made in the Petitions.
2. The sanction of the Tribunal is sought under Sections 230 to 232 of the Companies Act, 2013 (corresponding Sections 391 to 394 of the Companies Act, 1956), to the Scheme of Amalgamation between Beauty Glass Private Limited with Vijay Vision Private Limited and their respective shareholders and creditors.
3. The Counsel for the Petitioners submits that Beauty Glass Private Limited and Vijay Vision Private Limited, both are presently engaged in the business of producers, manufacturers, importers, exporters, buyers and sellers of and dealers in all kinds of ophthalmic lenses, ophthalmic blanks, spectacle frames, sunglasses and optical cases.
4. The Counsel for the Petitioners submits that rationale for Scheme is that the Transferor Company and the Transferee Company, both are engaged in similar business. The proposed amalgamation will lead to better, efficient and streamlined management, control and operation of its businesses and activities, and would enable the combined entity



to participate more vigorously and profitably in an increasing competitive and liberalized market. The proposed amalgamation of the Transferor Company with the Transferee Company is expected to improve the overall operational efficiency, and increase the profitability of the combined entity. The combined entity would be in a position to generate additional funds and to further diversify and expand its businesses and activities and attain better competitive edge in the interest of all constituents of the Transferor and Transferee companies.

5. The Counsel for the Petitioners state that the Board of Directors of the Petitioner Companies in their respective Board meetings have approved the said Scheme of Amalgamation which are annexed to the respective Company Scheme Petitions.
6. The Counsel appearing on behalf of the Petitioners further states that the Petitioner Companies have complied with all the directions passed in Company Scheme Application and that the respective Company Scheme Petitions have been filed in consonance with the orders passed in Company Summons for Directions.
7. The Counsel appearing on behalf of the Petitioners further states that the Petitioner Companies have complied with all requirements as per directions of this Tribunal and they have filed necessary affidavits of compliance in the Tribunal. Moreover, the Petitioner Companies through their Counsel undertake to comply with all statutory requirements if any, as required under the Companies Act, 1956 / 2013 and the Rules made there under whichever is applicable. The said undertakings given by the Petitioner Companies are accepted.

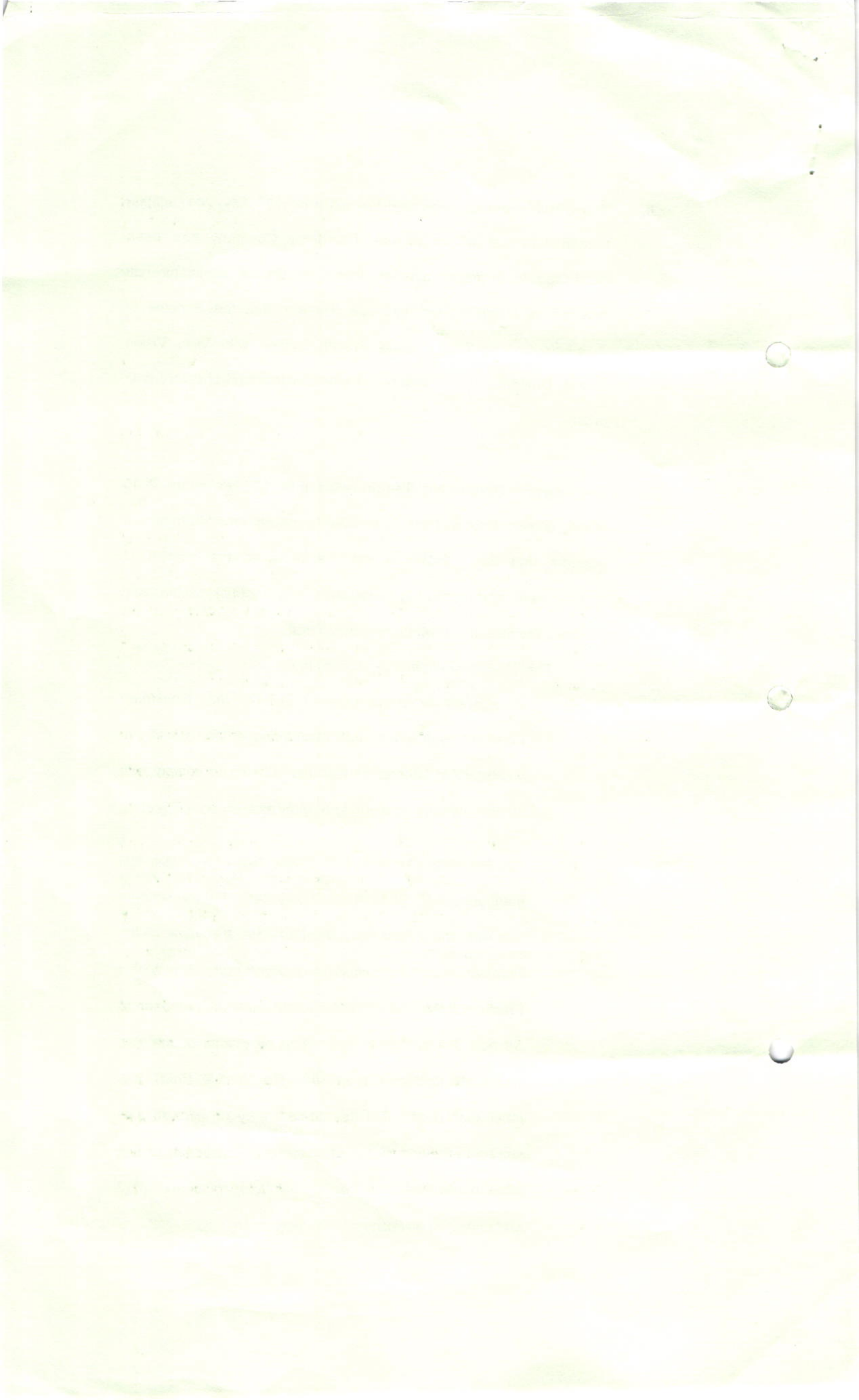
8. The Official Liquidator has filed his report on 13<sup>th</sup> July, 2017 stating therein that the affairs of the Transferor Company has been conducted in a proper manner, therefore, Official Liquidator has reported to National Company Law Tribunal that the Scheme of Amalgamation of Beauty Glass Private Limited with Vijay Vision Private Limited and their respective shareholders and creditors is in order.

9. The Regional Director has filed an Affidavit on 17<sup>th</sup> November, 2016 stating therein, save and except as stated in paragraphs 6(i) to 6(iii), it appears that the Scheme is not prejudicial to the interest of shareholders and public. In paragraphs 6(i) to 6(iii) of the said Affidavit, the Regional Director has stated that:-

*"6. That the Deponent further submits that,*

*(i) 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.*

*(ii) The Petitioner Companies in Clause No. 14 inter alia has mentioned that upon the coming into effect of the scheme and with effect from the appointed date, the name of the Transferee Company shall be changed from 'Vijay Vision Private Limited' to 'VVBG Private Limited' pursuant to Section 394 and other applicable provisions of the Act. Therefore, Deponent prays that the Hon'ble Court may pass such orders that this change may be allowed only subject to the compliance of provisions of section 4, 13 and other applicable provisions of the Companies Act, 2013 and rules and guidelines made thereunder.*





(iii) *That the Deponent further submits that the Tax issue if any arising out of this scheme shall be subject to final decision of Income Tax Authority and approval of the scheme of the Hon'ble High Court may not deter the Income Tax Authority to scrutinize the tax returns filed by the Petitioner Companies after giving effect to the amalgamation. The decision of the Income tax Authority is binding on the Petitioner Companies."*

10. In so far as observations made in paragraph 6(i) of the Affidavit of Regional Director is concerned, the Counsel for the Petitioner / Transferee Company undertakes to pass such accounting entries which are necessary in connection with the scheme to comply with other applicable Accounting Standards such as AS-5, etc.
11. As far as observations made in paragraphs 6(ii) of the Affidavit of Regional Director is concerned, the Petitioner / Transferee Company accepts that the proposed new name will be allowed subject to availability of the same by the Registrar of Companies, Mumbai and also undertakes to comply with the provisions of Section 21/23 of the Companies Act 1956 corresponding to new sections 13(2), 13(3) & 13(6) read with 15 of the Companies Act, 2013 in respect of the same.
12. In so far as observations made in paragraph 6(iii) of the Affidavit of Regional Director is concerned, the Petitioners clarify that the approval of the Scheme by this court will not deter the Income Tax Authority to scrutinize the tax returns filed by the Petitioner Companies after giving effect to the Scheme and all issues arising out of the Scheme will be met and answered in accordance with the applicable law.

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13. The observations made by the Regional Director have been explained by the Petitioners in paragraphs 10, 11 and 12 above. The clarifications and undertakings given by the Petitioner Companies are hereby accepted.
14. From the material on record, the Scheme appears to be fair and reasonable and does not violate any of the provisions of law and is not contrary to public policy.
15. Since all the requisite statutory compliances have been fulfilled, Transferred Company Scheme Petition Nos. 86 and 87 of 2017 has been made absolute in terms of prayer of the petitions mentioned therein.
16. The Petitioners 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 within 30 days from the date of issuance of the order by the Registry.
17. The Petitioner Company to file a copy of this order and the Scheme duly certified 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.
18. The Petitioner Companies to pay costs of Rs.25,000/- each to the Regional Director, Western Region, Mumbai and the Transferor Company to pay cost of Rs. 25,000/- to the Official Liquidator, High Court Bombay within four weeks from the date of the receipt of the order.



19. All authorities concerned to act on a certified copy of this order along with Scheme duly certified by the Deputy Director, National Company law Tribunal, Mumbai Bench.
20. Any person interested shall be at liberty to apply to the Tribunal in the above matter for any direction that may be necessary.

Sd/-

**V. Nallasenapathy, Member (T)**

Sd/-

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