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BEFORE THE NATIONAL COMPANY LAW TRIBUNAL BENCH,  
AT MUMBAI

TCSP NO.61 OF 2017

AND

TCSP NO.62 OF 2017

In the matter of Sections 391 to 394 of  
the Companies Act, 1956 and Sections  
230 to 232 of the Companies Act,  
2013;

In the matter of Scheme of  
Arrangement between Catwalk  
Worldwide Private Limited ("**CWPL**")  
or "**Demerged Company**") and  
Truworth Shoes Private Limited  
("**TSPL**" or "**Resulting Company**")  
and their respective shareholders and  
creditors.

Catwalk Worldwide Private Limited

...Petitioner Company /Demerged Company

Truworth Shoes Private Limited

...Petitioner Company /Resulting Company

Order delivered on: August 24, 2017

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

Hon'ble V. Nallasenapathy, Member (T)

For the Petitioners: Mr. Ashish Parwani, i/b Rajani Associates,  
Advocate for the Petitioner Companies

Per: V. Nallasenapathy, Member (T)

ORDER:

1. Heard learned counsel for parties, none appears before this Tribunal to oppose the Scheme and nor any party has controverted any averments made in the Company Scheme Petitions.
2. The sanction of this 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 Arrangement between Catwalk Worldwide Private Limited (Petitioner/Demerged Company) with Truworth Shoes Private Limited (Petitioner/Resulting Company).
3. The learned Advocate for the Petitioner Companies states that the Demerged Company is engaged in the business of manufacturing and retailing of ladies footwear along with certain non-core leasing business on certain properties owned by it; and the Resulting Company is incorporated to do business of manufacturing and retailing of ladies footwear.
4. The learned Advocate for Petitioner Companies further states that the Resulting Company will take over the Leasing/Realty Business (the "*Demerged Undertaking*") on a going concern basis from the Demerged Company. The demerger of the Demerged Undertaking would facilitate focused management attention, provide leadership vision, facilitate efficiency in operations due to individual specialization, provide greater leveraging due to financial independence and strategic/ financial investment, increase financial strength and flexibility and enhance the ability of the Petitioner Companies to undertake their respective projects, thereby contributing to enhancement of future business potential.



5. The Petitioner Companies have approved the said Scheme of Arrangement by passing the Board Resolution which are annexed to their respective Company Scheme Petitions.
6. The Learned Advocate for the Petitioner Companies states that the Petitioner Companies have complied with all the directions passed by the Hon'ble High Court of Bombay in Company Summons for Direction and that the Company Scheme Petitions have been filed in consonance with the orders passed in respective Company Summons for Direction by the Hon'ble High Court of Bombay.
7. The Learned Advocate appearing on behalf of the Petitioner Companies has stated that they have complied with all the requirements as per directions of the Hon'ble High Court of Bombay and this Tribunal and they have filed necessary Affidavits of compliance in both the proceedings. Moreover, the Petitioner Companies undertakes to comply with all the statutory requirements, if any, as required under the Companies Act, 1956/2013 and the Rules made thereunder whichever is applicable. The said undertaking is accepted.
8. The Regional Director has filed his Affidavit on February 2, 2017 stating therein that save and except as stated in paragraphs V (a) to (c) of the said Affidavit, it appears that the Scheme is not prejudicial to the interest of shareholders and public. In paragraphs V (a) to (c) of the said Regional Director has stated that:
  - "(a) 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.,*
  - (b) 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 returns filed by the transferee Company after giving effect to the Scheme. The decision of the Income Tax Authority is binding on the petitioner Company.*

*(c) That in view of para IV supra Hon''ble NCLT may issue notice to ROC Mumbai, u/s 230(5) of the Companies Act, 2013."*

9. So far as the observation of the Regional Director, Western Region, Mumbai in paragraph V (a) of his Affidavit is concerned, in relation to the accounting entries, the Learned Advocate for the Petitioner Companies submits that the Resulting Company undertakes that, in addition to compliance of AS-14 corresponding (IND AS-103) accounting treatment, the Resulting Company undertakes to pass such accounting entries as may be necessary in connection with the Scheme to comply with other applicable accounting standards such as AS-5 (IND AS-8) etc.
10. So far as the observation of the Regional Director, Western Region, Mumbai in paragraph V (b) of his Affidavit is concerned, in relation to any tax issue arising out of the Scheme of Arrangement, the Learned Advocate for the Petitioner Companies submits that Scheme shall be subject to the final decision of the Income Tax Authority and the approval of the same by this Tribunal, may not deter the Income Tax Authority to scrutinize the tax returns filed by the Petitioner Companies after giving effect to the arrangement. However, the Petitioner Companies shall have the liberty to exercise all its legal rights under applicable laws including, under Income Tax Act, 1961 and/or under equity in the event the Petitioner Companies are not satisfied with the order/adjudication done by the Income Tax Authority (ies) in the aforesaid matter. The Petitioner Companies



through their Advocate undertakes to comply with all the provisions of the Income Tax Act, 1961.

11. So far as the observation of the Regional Director, Western Region, Mumbai in paragraph V (c) of his Affidavit is concerned, in accordance with the observation of the Regional Director, this Hon'ble Tribunal had directed the Registrar of Companies, Mumbai ("**RoC**") to file his report.

12. The RoC has filed his Report dated June 6, 2017 with the following Observations:

*"10. Authorised/ Paid Up Share Capital of the Demerged Company - **Demerged Company** - Given in para 5 (5.1) of the Scheme/Petition. (As per MCA Master data, the Authorised and paid up Share Capital of the company is Rs.6,00,00,000/- and Rs. 2,42,68,870/- respectively, However, paid up capital of the company does not agrees with the petition /scheme).*

*11. Authorised/ Paid Up Share Capital of the Resulting Company Whether sufficient for allotment of shares to the Demerged Company(s) - **Resulting Company** - Given in para 5 (5.2) of the Scheme. (As per MCA Master data, the Authorised and paid up Share Capital of the company is Rs.2,60,00,000/- and Rs. 1,00,000/- respectively, However, authorised capital of the company does not agrees with the petition /scheme).*

*29. Observation, if any - There are no adverse observations, after considering the detailed replies of the company and after considering the undertakings to amend the schedules of the Scheme with revised schedule A- & schedule B, etc. May be decided on merits."*

13. As far as the observation of the RoC in Point 10 and 29 is concerned, the Learned Advocate for the Petitioner Companies states that in order to satisfy the concerns of the RoC, the Petitioner Companies had filed an application being



Miscellaneous Application No. 196 & 190 of 2017 in order to seek approval of this Hon'ble Tribunal to amend Clause 5.3 of Transferred Company Scheme Petition No. 61 of 2017, Clause 11.3 in Transferred Company Scheme Petition No. 62 of 2017 to reflect the increased paid-up share capital of the Demerged Company and to amend Schedule A (*List of assets of the Demerged Undertaking as on the Appointed Date*) and the Schedule B (*List of liabilities of the Demerged Undertaking as on the Appointed Date*) of the Scheme as per the recommendation of the RoC. This Hon'ble Tribunal have allowed the amendments vide Order dated July 6, 2017, and the Petitioner Companies have filed the amended portions of the Petition and Scheme with the Registry for carrying out the amendments.

14. As far as the observation of the RoC in Point 11 is concerned, the Learned Advocate for the Petitioner Companies states that the authorised share capital of the Resulting Company as provided in the Para 5.2 of the Scheme is as on March 31, 2016. Thereafter, the Resulting Company increased its authorised share capital from Rs.1,00,000 divided into 10,000 Equity Shares of Rs.10 each to Rs.2,60,00,000 divided into 26,00,000 Equity Shares of Rs.10 each by passing a Special Resolution in the Extra-Ordinary General Meeting of its members held on April 15, 2016. The aforesaid details of the increase in the authorised share capital have been mentioned in Para 10.2 of the Transferred Company Scheme Petition No. 61 of 2017 and Para 5.2 of the Transferred Company Scheme Petition No. 62 of 2017.
15. The representative of the Regional Director, Ministry of Corporate Affairs, Western Region, Mumbai states that they are satisfied with the undertakings and submissions made by the Petitioner Companies in Para 9 & 10 of this Order through their Advocate with respect to observations made by the Regional Director in his Report. In view thereof, the said undertakings given by the Petitioner Companies are accepted.



16. The representative of the Registrar of Companies, Mumbai states that they are satisfied with the amendments set out above and submissions made by the Petitioner Companies in Para 13 & 14 of this Order through their Advocate with respect to observations made by the Registrar of Companies in its Report. In view thereof, the said undertakings given by the Petitioner Companies are accepted.
17. From the material on record, the Scheme appears to be fair and reasonable and is not in violation of any provisions of law and is not contrary to public policy.
18. Since all the requisite statutory compliances have been fulfilled, the Transferred Company Scheme Petition No.61 of 2017 filed by the Demerged Company are made absolute in terms of prayer clauses (a) to (e) and the Transferred Company Scheme Petition No.62 of 2017 filed by the Resulting Company are made absolute in terms of prayer clauses (a) to (f).
19. The Petitioners Companies are directed to file a copy of this order along with a copy of the Scheme of Arrangement 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 issuance of the certified Order by the Registry.
20. The Petitioner Companies to lodge a copy of this Order along with the Scheme of Arrangement 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 certified Order along with the Scheme of Amalgamation from the Registry.
21. The Petitioner Companies in both Company Scheme Petitions to pay costs of Rs.25,000/- each to the Regional Director, Western Region, Mumbai within four weeks from today.

22. All authorities concerned to act on a copy of this Order along with the Scheme of Arrangement duly authenticated by the Deputy Director, National Company Law Tribunal, Mumbai Bench.

Sd/-

V. Nallasenapathy,  
Member (Technical)

Sd/-

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