

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH
COMPANY SCHEME PETITION NO. 248 OF 2017
CONNECTED WITH
COMPANY SCHEME APPLICATION NO. 18 OF 2017

BS MERC PRIVATE LIMITED ...Petitioner / Transferor Company 1

AND

COMPANY SCHEME PETITION NO. 249 OF 2017
CONNECTED WITH
COMPANY SCHEME APPLICATION NO. 19 OF 2017

D. B. ESTATE TRADE PRIVATE LIMITED ...Petitioner / Transferor Company 2

AND

COMPANY SCHEME PETITION NO. 247 OF 2017
CONNECTED WITH
COMPANY SCHEME APPLICATION NO. 20 OF 2017

LUPIN HOLDINGS PRIVATE LIMITED ...Petitioner / Transferor Company 3

AND

COMPANY SCHEME PETITION NO. 250 OF 2017
CONNECTED WITH
COMPANY SCHEME APPLICATION NO. 21 OF 2017

LUPIN PROPERTIES LIMITED ...Petitioner / Transferor Company 4

AND

COMPANY SCHEME PETITION NO. 240 OF 2017
CONNECTED WITH
COMPANY SCHEME APPLICATION NO. 22 OF 2017

NOVAMED INVESTMENTS PRIVATE LIMITED
...Petitioner / Transferor Company 5

AND

COMPANY SCHEME PETITION NO. 239 OF 2017
CONNECTED WITH
COMPANY SCHEME APPLICATION NO. 23 OF 2017

ORGO MERCANTILE TRADERS PRIVATE LIMITED
...Petitioner / Transferor Company 6

AND

COMPANY SCHEME PETITION NO. 237 OF 2017
CONNECTED WITH
COMPANY SCHEME APPLICATION NO. 24 OF 2017

RAHAS INVESTMENTS PRIVATE LIMITED

...Petitioner / Transferor Company 7

AND

COMPANY SCHEME PETITION NO. 238 OF 2017
CONNECTED WITH
COMPANY SCHEME APPLICATION NO. 25 OF 2017

RAHAS MERCANTILE PRIVATE LIMITED ...Petitioner / Transferor Company 8

AND

COMPANY SCHEME PETITION NO. 228 OF 2017
CONNECTED WITH
COMPANY SCHEME APPLICATION NO. 26 OF 2017

RAHAS MULTITRADE PRIVATE LIMITED ...Petitioner / Transferor Company 9

AND

COMPANY SCHEME PETITION NO. 242 OF 2017
CONNECTED WITH
COMPANY SCHEME APPLICATION NO. 27 OF 2017

VISIOMED INVESTMENTS PRIVATE LIMITED

...Petitioner / Transferor Company 10

AND

COMPANY SCHEME PETITION NO. 241 OF 2017
CONNECTED WITH
COMPANY SCHEME APPLICATION NO. 28 OF 2017

ZYMA LABORATORIES LIMITED ...Petitioner / Transferor Company 11

WITH

COMPANY SCHEME PETITION NO. 243 OF 2017
CONNECTED WITH
COMPANY SCHEME APPLICATION NO. 29 OF 2017

LUPIN INVESTMENTS PRIVATE LIMITED ...Petitioner / Transferee Company

In the matter of the Companies Act 2013 and In the matter of Sections 230 to 232 and any corresponding provisions of the Companies Act, 2013 read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016; and In the matter of Scheme of Amalgamation of BS Merc Private Limited (BSPL), D. B. Estate Trade Private Limited (DBPL), Lupin Holdings Private Limited (LHPL), Lupin Properties Limited (LPL), Novamed Investments Private Limited (NIPL), Orgo Mercantile Traders Private Limited (OMPL), Rahas Investments Private Limited (RIPL), Rahas Mercantile Private Limited (RMPL), Rahas Multitrade Private Limited (RAPL), Visiomed Investments Private Limited (VIPL), Zyma Laboratories Limited (ZLL) with Lupin Investments Private Limited (“LIPL” or “Transferee Company”) and their respective shareholders.

Called for Hearing

Mr. Hemant Sethi i/b Hemant Sethi & Co., Advocates for the Petitioner Companies
Mr. Ramesh Golap, Assistant Director in the office of Regional Director

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

V. Nallasenapathy, Member (Technical)

Date : 5th July, 2017

MINUTES OF ORDER

- 1 Heard the learned counsel for the Petitioner Companies.
- 2 The sanction of this Tribunal is sought under Sections 230 to 232 of the Companies Act, 2013 to the Scheme of Amalgamation of BS Merc Private Limited (BSPL), D. B. Estate Trade Private Limited (DBPL), Lupin Holdings Private Limited (LHPL), Lupin Properties Limited (LPL), Novamed Investments Private Limited (NIPL), Orgo Mercantile Traders Private Limited (OMPL), Rahas Investments Private Limited (RIPL), Rahas Mercantile Private Limited (RMPL), Rahas Multitrade Private Limited (RAPL), Visiomed Investments Private Limited (VIPL), Zyma Laboratories Limited (ZLL) with Lupin Investments Private Limited (“LIPL” or “Transferee Company”) and their respective shareholders.

- 3 The Counsel for the Petitioner Companies submit that the BS Merc Private Limited, D. B. Estate Trade Private Limited, Orgo Mercantile Traders Private Limited, Rahas Mercantile Private Limited and Rahas Multitrade Private Limited are presently engaged as a general merchant, trader and commission agent, Lupin Holdings Private Limited, Novamed Investments Private Limited, Rahas Investments Private Limited and Visiomed Investments Private Limited are presently engaged in the business of investment in equity shares and units of mutual fund, Lupin Properties Limited is presently engaged in the business of development of real estate and construction business, Zyma Laboratories Limited is presently engaged in the business of manufacturing and trading of medicines and drugs and Lupin Investments Private Limited is presently carrying on the business of investment in equity shares.
- 4 The Boards of Directors of the respective Petitioner Companies are of the view that the proposed Scheme of Amalgamation is beneficial to the respective shareholders, employees and all stakeholders of the Petitioner Companies. The proposed Scheme of Amalgamation is aimed at achieving the following business and commercial objectives:
- a) Consolidation of businesses of the Group;
 - b) Reduction in number of companies and regulatory compliances thereof;
 - c) Ease of management;
 - d) Reduction of operating and administrative costs;
 - e) Streamlining the holding structure
- 5 The Board of Directors of the Petitioner Companies have approved the said Scheme of Amalgamation by passing necessary Board Resolutions which are annexed to the respective Company Scheme Petitions filed by the Petitioner Companies.

6 The Learned Counsel appearing on behalf of the Petitioner Companies further states that the Petitioner Companies have complied with all requirements as per directions of the Court/Tribunal and the necessary affidavits of compliance has been filed in the Court/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.

7 The Official Liquidator has filed his report on 6th June, 2017 stating that the affairs of the Transferor Companies have been conducted in a proper manner and that Transferor Companies may be ordered to be dissolved.

8 The Regional Director has filed his report dated 29th June, 2017 stating therein that, save and except as stated below, it appears that the Scheme is not prejudicial to the interest of shareholders and public. In paragraph IV of the said Report, it is stated that:

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 Hon'ble 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 has submitted the proof of serving notice dated 27.02.2017, 28.02.2017, 01.03.2017 upon the Income Tax Authorities. This Directorate has issued reminder dated 16.05.2017.

- 9 In so far as observations made in paragraph IV (1) and (2) of the Report of Regional Director is concerned, the Petitioner Companies through their Counsel submit that the Petitioner Companies 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.
- 10 The observations made by the Regional Director have been explained by the Petitioner Companies in paragraphs 9 above. The clarifications and undertakings given by the Petitioner Companies are hereby accepted.
- 11 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.
- 12 Since all the requisite statutory compliances have been fulfilled, the Company Scheme Petition Nos 248, 249, 247, 250, 240, 239, 237, 238, 228, 242, 241 and 243 of 2017 filed by the respective Petitioner Companies are made absolute in terms of prayer clause (a) of CSP No 248, 249, 247, 250, 240, 239, 237, 238, 228, 242, 241 and 243 of 2017 in the respective Petitions.
- 13 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 the physical copy within 30 days from the date of issuance of the order by the Registry.
- 14 The Petitioner Companies to lodge 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.

- 15 The Petitioner Companies to pay costs of Rs.25,000/- each to the Regional Director, Western Region, Mumbai and the Transferor Companies to pay costs of Rs.25,000/- each to the Official Liquidator, High Court, Bombay.
- 16 Costs to be paid within four weeks from the date of receipt of the order.
- 17 All authorities concerned to act on a certified copy of this order along with the Scheme duly certified by the Deputy Director National Company Law Tribunal, Mumbai Bench.
- 18 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
(Technical)

Sd/-
B.S.V Prakash Kumar, Member
(Judicial)