

NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH, MUMBAI

T. COMPANY SCHEME PETITION NOS. 40 AND 41 OF 2017.  
CONNECTED WITH  
COMPANY SCHEME APPLICATION NO. 303 AND 304 OF 2017.

In the matter of the Companies Act, 2013 and  
to the Companies Act, 1956 as applicable ;  
AND

In the matter of Sections 230 to 232 of the  
Companies Act, 2013 (corresponding Sections  
391 to 394 of the Companies Act, 1956);  
AND

In the matter of Scheme Of Amalgamation of Blue  
Lagoon Vanijya Private Limited, the Transferor  
Company with M/s. Goodstone Developers Private  
Limited, the Transferee Company and their  
respective shareholders and creditors.

Blue Lagoon Vanijya Private Limited	.... The Transferor Company
Goodstone Developers Private Limited	...The Transferee Company

Coram: SH. B.S.V. Prakash Kumar Member (J)  
and Shri V. Nallasenapathy, Member (T)

Date: 27<sup>th</sup> July, 2017

CALLED FOR HEARING

Mr. Chandrakant Mhadeshwar, Advocates for the Petitioner Company.

Mr. Ramesh Gholap, Assistant Director in the office Regional Director.

Mr. Santosh Dalvi, Representative Official Liquidator

Per: V. Nallasenapathy, Member (T)

**MINUTES OF 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.
2. The sanction of this Tribunal is sought under Sections 230 to 232 of the Companies Act, 2013, to a Scheme Of Amalgamation of Blue

Lagoon Vanijya Private Limited, the Transferor Company with M/s. Goodstone Developers Private Limited, the Transferee Company and their respective shareholders and creditors.

3. The Petitioner Company and the Transferee Company 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 Petitioner has stated that the Petitioner Company has complied with all requirements as per directions of the Hon'ble Bombay High Court and this Tribunal and they have filed necessary Affidavits of compliance in this Tribunal. Moreover, the Petitioner Company undertakes to comply with all statutory requirements, if any, as required under the Companies Act, 2013 and the Rules made there under whichever is applicable. The said undertaking is accepted.
5. The Regional Director has filed his Report inter alia, stating therein that save and except as stated in paragraphs 6 of the said Report, it appears that the Scheme is not prejudicial to the interest of the shareholders and public. In paragraph 6 of the said Affidavit, the Regional Director has stated that:
  - i) *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 by Hon'ble High Court may not deter the Income Tax Authority to scrutinize the Tax returns filed by the petitioner Company after giving effect to the amalgamation. The decision of the Income Tax Authority is binding on the petitioner company.*
  - ii) *Petitioner in clause 5 of the scheme inter alia mentioned as Transferor companies instead of Transferor Company. Hon'ble may direct the company to correct the clause.*
  - iii) *Petitioner Company in clause 5.7 of the scheme inter alia has mentioned that all assets and liabilities of the Transferor companies transferred to the Transferee Company shall be recorded in the books of accounts of the Transferee Company at*



*the book value as recorded in the Transferor Companies books of account*

*iv) Deponent prays that the Hon'ble Court may pass such orders as deem fit as the company is going to adopt book.*

*v) Petitioner inter alia mentioned that in clause 11 sub clause 11.4 If necessary, the Transferee Company shall, before allotment of the equity shares in terms of the scheme, increase its authorized capital by the creation of at least such number of equity shares of Rs. 10/- each as may be necessary to satisfy its obligations under the scheme.*

*Deponent prayed that the Hon'ble court may direct the company to comply with the provisions of the companies Act r.w. rules for increasing the Capital."*

6. As far as the observation of the Regional Director stated in paragraph 6 (i) of his report is concerned, the Petitioners are undertakes to comply with all applicable provisions of the Income Tax Act and all tax issues arising out of the Scheme will be met and answered in accordance with law.
7. So far as the observation in paragraph 6(ii) of the Affidavit of Regional Director is concerned, the counsel for the petitioner Companies states that there is typographical mistake in clause 5 of the Scheme. The Petitioner Companies already carried out the amendment in the respect of the same as per order dated 20/07/2017 passed in Miscellaneous Application No.241 and 242 of 2017
8. As far as the observation of the Regional Director stated in paragraph 6 (iii) and (iv) of his report is concerned, the Accounting Treatment proposed in the Scheme is as per the Applicable accounting standard. However, the Petitioners company undertakes to comply with 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.

9. As far as the observation of the Regional Director stated in paragraph 6 (v) of his report is concerned, the Petitioners are undertakes that to comply with the provisions of the companies Act and rules in respect of increase in the Authorised Capital of the Transferee Company.
10. The Official Liquidator has filed his report stating that the affairs of the Transferor Company have been conducted in a proper manner and that the Transferor Company may be ordered to be dissolved.
11. From the material on record, the Scheme of Amalgamation 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, Transferred Company Scheme Petition Nos. 40 of 2017 to 41 of 2017 are made absolute in terms of prayer clauses (a) to (d) of the respective Petitions.
13. Petitioner Company is 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 Company to lodge a copy of this Order and the Scheme 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 Order.

15. The Petitioner Companies to pay costs of Rs. 25,000/- each to the Regional Director, Western Region, Mumbai and in Company Scheme Petition Nos. 41 of 2017 to the Official Liquidator, High Court, Bombay to be paid within four weeks from the date of Order.
16. Costs to be paid within four weeks from today.
17. All authorities concerned to act on a copy of this Order along with Scheme duly authenticated by the Deputy Director, National Company Law Tribunal, Mumbai Bench.

Sd/-

V. Nallasenapathy, Member (T)

Sd/-

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