

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH
TRANSFERRED COMPANY SCHEME PETITION NO 54 OF 2017

IN
HIGH COURT COMPANY SCHEME PETITION NO 404 OF 2016

Future Knowledge Services Limited.

.. Petitioner / Transferor Company

AND

TRANSFERRED COMPANY SCHEME PETITION NO 55 OF 2017

IN
HIGH COURT COMPANY SCHEME PETITION NO 405 OF 2016

Future Learning and Development Limited

...Petitioner / Transferor Company

In the matter of the Companies Act, 1956 (1 of 1956) and Companies Act, 2013;

AND

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

AND

In the matter of Scheme of Amalgamation of Future Knowledge Services Limited AND Future Learning and Development Limited WITH Future Brands Limited AND Their Respective Shareholders and Creditors

Called for Hearing

Mr. Hemant Sethi i/b Hemant Sethi & Co., Advocates for the Petitioners in both the Petitions

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

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

V. Nallasenapathy, Member (Technical)

DATE : 9th March 2017

1. Heard the learned counsel for the Petitioners.
2. The sanction of the Tribunal is sought under Sections 230 to 232 of the Companies Act, 2013 to the Scheme of Amalgamation of Future Knowledge Services Limited AND Future Learning and Development

Limited with Future Brands Limited AND Their Respective Shareholders and Creditors.

3. Learned Counsel has stated that Future Knowledge Services Limited is engaged in providing business process outsourcing and knowledge process outsourcing services and Future Learning and Development Limited is engaged in the business of business of providing learning experiences, operational training and career development programs.
4. The rationale for the amalgamation is that the Petitioner Companies are part of same group of companies. Consolidation of the Petitioner Companies pursuant to this Scheme would result in simplification of group structure leading to better administration and reduction in cost and greater financial strength & flexibility for the merger entity.
5. The Petitioner Companies have approved the said Scheme of Amalgamation by passing the Board Resolutions which are annexed to the Company Scheme Petitions filed by the Petitioner Companies.
6. Learned Advocate for the Petitioners further states that since Future Knowledge Services Limited and Future Learning and Development Limited are wholly owned subsidiaries of the Transferee Company and all the shares of the Transferor Companies are presently held by the Transferee Company along with its nominees after the Scheme being sanctioned, no new shares are required to be issued to the members of Future Knowledge Services Limited and Future Learning and Development Limited by the Transferee Company and there would be no reorganization of the share capital in the Transferee Company and also in view of the judgment of this Court in Mahaamba Investments Limited Versus IDI Limited (2001) 105 Company Cases, filing of a separate Company Summons for Direction and Company Scheme Petition by the Transferee Company was dispensed with,

by order dated 8th July passed in Company Summons for Directions Nos. 169 & 170 of 2016.

7. The learned counsel for the Petitioner Companies states that Petitioner Companies have complied with all directions passed in Company Summons for Direction and that the Scheme has been filed in consonance with the orders passed by the Bombay High Court in Company summons for Direction.
8. Counsel appearing on behalf of the Petitioner Companies has stated that they have complied with all requirements as per the directions of the Bombay High Court and they have filed necessary Affidavit of compliance in the Bombay High Court. Moreover, Petitioner Companies 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.
9. The Official Liquidator has filed his report on 10th October, 2016 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 without being wound up.
10. The Regional Director has filed an Affidavit on 13th November, 2016 stating therein that save and except as stated in paragraph 6(i) & (ii) of the said affidavit, it appears that the Scheme is not prejudicial to the interest of shareholders and public.

In paragraph 6(i) and 6(ii) of the said affidavit, it is stated that:

- (a) *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 Companies after giving effect to amalgamation. The decision of the Income Tax Authority is binding on the Petitioner Companies.*

- (b) *In addition to the 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 standard such as AS-5 etc and ensure that the financial statement of the transferee company does not impair the true and fair view of the financial statements of the Transferee company post-merger.*
11. As far as observations made in paragraph 6(i) of Affidavit of the Regional Director is concerned, the Petitioner Companies submits that the Petitioner Companies are bound 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.
 12. As far as observations made in paragraph 6(ii) of Affidavit of the Regional Director is concerned, the Petitioner Company undertakes it shall pass such accounting entries which are necessary in connection with the Scheme of Amalgamation and to comply with any other applicable accounting standards.
 13. The observations made by the Regional Director have been explained by the Petitioner in paragraphs 11 and 12 above. The clarifications and undertakings given by the Petitioner Company are hereby accepted.
 14. No objector has come before the court to oppose the Scheme nor any party has controverted any averments made in the petition.
 15. 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.
 16. Since all the requisite statutory compliances have been fulfilled, Company Scheme Petitions filed by the Petitioner Companies are made absolute in terms of prayer clause (a) of the respective Petitions.
 17. Petitioners are directed to file a copy of this order along with a copy of the Scheme 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.
 18. 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 the Order.

19. The Petitioner Companies to pay costs of Rs.25,000/- each to the Regional Director, Western Region, Mumbai and to the Official Liquidator, High Court, Bombay.
20. Costs to be paid within four weeks from today.
21. All concerned regulatory authorities 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.

Sd/-

B.S.V. Prakash Kumâr, Member (Judicial)

Sd/-

V. Nallasenapathy, Member (Technical)