

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

7. COMPANY SCHEME PETITION NO 184 OF 2017

Poonawalla Financials Private Limited..... Petitioner/Demerged Company
AND

7. COMPANY SCHEME PETITION NO 185 OF 2017

Poonawalla Estates Private Limited.....Petitioner/Resulting Company

In the matter of Companies Act, 1956 (1 of 1956)

AND

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

AND

In the matter of Scheme of Arrangement
Between Poonawalla Financials Private Limited
("The Demerged Company") And Poonawalla
Estates Private Limited ("the Resulting
Company") and their Respective Shareholders

CALLED FOR HEARING:

Mr. Hemant Sethi i/b Hemant Sethi & Co., Advocates for the Petitioner Company.

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

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

V .Nallasenapathy Member (Technical)

Date: 20th April, 2017

MINUTES OF THE ORDER

1. Heard learned counsel for parties. No objector has come before this Tribunal to oppose the Scheme nor has any party controverted any averments made in the Petition.
2. The sanction of this Tribunal is sought to the Scheme of Arrangement Between Poonawalla Financials Private Limited ("The Demerged Company") And Poonawalla Estates Private Limited ("the Resulting Company") and their Respective Shareholders.
3. The Counsel for the Petitioners submit that the Demerged Company is engaged in the business of Investment Company, to deal in securities, land, Buildings, to trade in

tools, hardware, packing material, stationery etc. The Resulting Company is engaged in the business of purchase, hold, give / take on lease or leave and license, mortgage or otherwise acquire and deal in any manner in all kinds of movable and immovable property.

4. The Petitioner Companies have approved the said Scheme of Arrangement by passing the Board Resolutions which are annexed to the respective Company Scheme Petitions.
5. The Learned Advocate appearing on behalf of the Petitioners states that the Petitions have been filed in consonance with the orders passed in Company Summons for Direction Nos. 595 of 2016 and 596 of 2016.
6. The Learned Advocate appearing on behalf of the Petitioners states that the Petitioner Companies have complied with all requirements. Moreover, Petitioner Companies undertake 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.
7. The Regional Director has filed his Report on April 11, 2017 stating therein that save and except as stated in paragraph IV(a) to IV(c) of the said Report, it appears that the Scheme is not prejudicial to the interest of shareholders and public.

Paragraph IV, of the said Report reads as follows:

- (a) *In addition to compliance of 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.*
- (b) *As per the existing practice, the Petitioner Companies are required to serve notice for the Scheme of Arrangement to the Income Tax Department for their comments. It appears that the Company vide their letter dated 10th November, 2016 has served copy of Company Scheme Petition No 692 & 693 /2016 along with relevant orders etc. Further the Regional Director has also issued a reminder vide letter dated 30/03/2017 to IT Department.*
- (c) *The tax implication if any arising out of the Scheme is subject to the final decision of the 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.*

8. In so far as observations made by the Regional Director in paragraph IV(a) of his Report, the 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 (IND As-8) etc.
9. As far as observations of the Regional Director, as stated in paragraph IV(b) & (c) of his Report is concerned, 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 observation made by the Regional Director have been explained by the Petitioners in paragraph 8 and 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, Company Scheme Petition Nos. 184 and 185 of 2017 filed by the Petitioner Companies are made absolute in terms of prayer clause (a) of the respective Petitions.
13. Petitioner Companies 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.
14. The Petitioner Company 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 Petitioners to pay cost of Rs. 25,000/- each to the Regional Director, Western Region, Mumbai.
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)