

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

TRANSFERRED COMPANY SCHEME PETITION NO 105 of OF 2017
IN

HIGH COURT COMPANY SCHEME PETITION NO 601 OF 2016
Bridgestone Developers Private Limited...Petitioner

AND

TRANSFERRED COMPANY SCHEME PETITION NO 106 OF 2017
IN

HIGH COURT COMPANY SCHEME PETITION NO 602 OF 2016
Provenance Land Private Limited...Petitioner

In the matter of the Companies Act,
2013;

AND

In the matter of Sections 391 to 394 of
the Companies Act, 1956(corresponding
sections 230 to 231 of the Comapneis act
2013);

AND

In the matter of Scheme of
Amalgamation between Bridgestone
Developers Private Limited ("the
Amalgamating Company") and
Provenance Land Private Limited ("the
Amalgamated Company") and their
respective Shareholders

Called for Hearing

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

Mr. S Ramakantha, Joint Director in the office of Regional Director in both the Petitions.

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

V. Nallasenapathy, Member (Technical)

Date : 15th February 2017

MINUTES OF ORDER

1. Heard the learned counsel for the Petitioner Companies. No objector has come before the court to oppose the Petition and nor any party has controverted any averments made in the Petition.
2. The sanction of the Court is sought under Sections 230 to 232 of the Companies act, 2013, to the Scheme of Amalgamation between Bridgestone

Developers Private Limited and Provenance Land Private Limited and their respective shareholders.

3. Learned Counsel for the Petitioners states that the Amalgamating Company is engaged in construction. The Amalgamated Company owns and operates a hotel in Mumbai and is also engaged in construction of residential projects.
4. The rationale for the scheme is that amalgamation of the Amalgamating Company into the Amalgamated Company will facilitate consolidation of all the undertakings in order to enable effective management and unified control of operations. Further, the amalgamation would create economies in administrative and managerial costs by consolidating operations and would substantially reduce duplication of administrative responsibilities and multiplicity of records and legal and regulatory compliances.
5. The Amalgamating Company and Amalgamated Company have approved the said Scheme of Amalgamation by passing the Board Resolution which are annexed to the respective Company Scheme Petitions.
6. Counsel appearing on behalf of the Petitioner Companies further states that the Petitioner Companies have complied with all requirements as per directions of this Court and they have filed necessary affidavits of compliance in the Court. Moreover, the Petitioner Companies through their Counsel undertakes 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 is accepted.
7. The Official Liquidator has filed his report on 17th day of November, 2016 stating that the affairs of the Amalgamating Company have been conducted in a proper manner and that Amalgamating Company may be ordered to be dissolved.
8. The Regional Director has filed an Affidavit on 5th day of October, 2016 stating therein, save and except as stated in paragraph 6, it appears that the scheme is not prejudicial to the interest of shareholders and public.

In paragraphs 6, of the said affidavit it is 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 the 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 Income Tax Authority is binding on the petitioner company.*

- ii. *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.*
9. As far as the observations made in paragraph 6(i) of the affidavit of Regional Director is concerned, the Petitioner submits that the Petitioner is bound 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.
10. In so far as observations made in paragraph 6(ii) of the Affidavit of Regional Director is concerned, the Amalgamated Company through its Counsel undertakes that in addition to accounting treatment given in the Scheme, the Amalgamated Company shall pass such accounting entries as may be necessary in connection with the Scheme to comply with any other accounting standards.
11. Mr. S Ramakantha, Joint Director in the office of Regional Director, Ministry of Corporate Affairs, Western Region Mumbai for Regional Director are satisfied with the undertakings given by the Petitioner Companies. The said undertaking given by Petitioner Companies are accepted.
12. 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.
13. Since all the requisite statutory compliances have been fulfilled, Transfereed Company Scheme Petition No 105 of 2017 and 106 of 2017 filed by the Petitioner Companies are made absolute in terms of prayer clause (a) of the respective Petitions.
14. 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.
15. The Petitioner Companies 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.

16. 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 to be paid within four weeks from the date of Order.
17. Costs to be paid within four weeks from today.
18. Filing and issuance of the drawn up order is dispensed with.
19. 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.
20. Any person interested shall be at liberty to apply to the Tribunal in the above matter for any direction that may be necessary.

Sd/-

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

Sd/-

V. Nallasenapathy, Member (Technical)