

**IN THE NATIONAL COMPANY LAW TRIBUNAL, ALLAHABAD
BENCH, ALLAHABAD**

**CP NO.56/ALD/2017
Connected with
CPNO.5/ALD/2017**

(Under Section 230-232 of the Companies Act, 2013)

IN THE MATTER OF

JUBILANT CAPITAL PRIVATE LIMITED,

A private company incorporated,
under the Companies Act, 1956
having its registered office at Plot No.1A,
Sector-16A, NOIDA-201301, Uttar Pradesh, India,
having a corporate identity no.U74899UP1990PTC043696

.....**Petitioner Company No.1/Transferor Company**

AND

JCPL LIFE SCIENCE VENTURES AND HOLDING PVT. LTD.

A private company incorporated,
under the Companies Act, 2013
having its registered office at Plot No.1A,
Sector-16A, NOIDA-201301, Uttar Pradesh, India,
having a corporate identity no.U74999UP2016PTC087833

.....**Petitioner Company No.2/Transferee Company**

CORAM: Sh. Harihar Prakash Chaturvedi, Member (Judicial)

JUDGMENT/ORDER DELIVERED ON 16.08.2017

For the petitioner:

Sh. Rahul Agarwal, Advocate.

For the Central Government:

Sh. M.K. Bagri, OL.

**PER: SH. HARIHAR PRAKASH CHATURVEDI,
MEMBER (JUDICIAL)**

ORDER/JUDGMENT

1. The present petition is filed by the Petitioner Companies before this tribunal under Section 232 of Companies Act, 2013 read with National

Company Law Tribunal Rules, 2016 along with The Companies (Compromises, Arrangement and Amalgamations) Rules, 2016. It is prayed for sanction of the proposed scheme of arrangement for the transfer and vesting of the Demerged Undertaking of the Petitioner company No.1/Transferor Company (**Jubilant Capital Private Limited**) to and in the Petitioner Company No.2/ Transferee Company (**JCPL Life Science Ventures and Holdings Private Limited**).

2. It is stated that "JUBILANT CAPITAL PRIVATE LIMITED" (Transferor Company) was originally incorporated on 04.01.1990. The main objects of the company are set out in its object clause of the Memorandum of Association enclosed as Annexure No.2 with the Company Petition No.5/ALD/2017 [*hereinafter referred to as "Company Application/(CP)"*]. The JCPL LIFE SCIENCE VENTURES AND HOLDINGS PRIVATE LIMITED (Transferee Company) was originally incorporated on 21.11.2016. The main objects of the company are set out in its object clause of its Memorandum of Association enclosed as Annexure No.6 with the previous Company Application/(CP).
3. It is further submitted that the Scheme of Arrangement has already been approved by the Board of Directors of both Transferor and Transferee Companies.
4. The Salient features of the proposed Scheme of Amalgamation as have been stated in the present Company Petition may be reproduced hereunder:

4.1 That the Scheme propose the transfer and vesting of the demerged undertaking of the Transferor Company in the Transferee Company.

4.2 That the Demerged Undertaking pertains to the business of the Transferor company being the business interest of the Transferor Company in life sciences and path lab services including the activity of making, holding and nurturing investments in life science and path lab services.

4.3 That the *Appointed Dated* under the Scheme is the commencement of the business hours on 01.01.2017.

4.4 That the Scheme proposes the transfer and vesting on a going concern basis of the Demerged Undertaking of the Transferor Company into the Transferee Company.


The Scheme further proposes: -

- i. That all immovable property of the Transferor Company relating to the Demerged Undertaking shall stand transferred and vested in the Transferee Company;
- ii. That all assets and movable property pertaining to the Demerged Undertaking shall stand transferred and vested in the Transferee Company;
- iii. That all debts, liabilities, contingent liabilities etc., relating to their Demerged Undertaking shall become



and be deemed to be the debts, liabilities, contingent liabilities etc., of the Transferee Company;

- iv. That all contracts, deeds, bonds, agreements etc. in relation to the Demerged Undertaking shall be in full force and effect against or in favour of the Transferee Company;
- v. That all permits, grant, allotments etc. in relation to the Demerged Undertaking shall be enforceable by or against the Transferee Company;
- vi. That the Transferee Company shall bear the burden and the benefit of any legal or other proceedings initiated by or against the Transferor Company in respect of the Demerged Undertaking;
- vii. That all persons employed in the Demerged Undertaking shall become the employees of the Transferee Company with the benefit of and continuity in service on the same terms and conditions as were applicable to such employees prior to the transfer and vesting of the Demerged Undertaking;

5. It is stated that all the Preference and Equity shareholders of the Petitioner Company No.1/Transferor Company have given their consent to the proposed Scheme of Arrangement in writing. The Chartered Accountant certificate certifying the list of Equity
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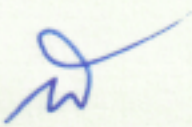
Shareholders and Preference shareholders of the Petitioner Company No.1/Transferor Company has been enclosed to the Company Application/ (CP). The consent letters of the Equity and Preference Shareholders of the Petitioner Company No.1/Transferor Company is also enclosed to Company Petition No.5/ALD/2017.

6. The shareholders of the Petitioner Company No.1/Transferor Company have also approved the Scheme at the Extra-Ordinary General Meeting of the Petitioner Company No.1/Transferor Company on 13.01.2017. A copy of the Notice and Explanatory Statement sent to all the shareholders is enclosed as Annexure-17 to the earlier Company Application (C.P). The extracts of the Special Resolution passed at the shareholders meeting of Petitioner Company No. 1/Transferor Company is enclosed and marked as Annexure-18 to the earlier Company Application /(CP).
7. It is submitted that the Petitioner Company No.1/Transferor Company is having nil Secured Creditors and only six Unsecured Creditors as on December 31, 2016. The Chartered Accountant has duly certified this position and issued a Certificate to this effect which is marked as Annexure-19 to earlier Company Application/(CP). The consent letters of the Unsecured Creditors of the Petitioner Company No.1/Transferor Company, along with affidavit of their authorized persons, are enclosed jointly as Annexure-20 to Company Application/(CP).
8. It is further stated that all the equity shareholders of the Petitioner Company No.2/Transferee Company have given their consent to the



proposed Scheme of Arrangement in writing. The CA certificate certifying the list of Equity Shareholders of the Petitioner Company No.2/Transferor Company and their consent letters are enclosed and marked as Annexure-21 and 22 to earlier Company Application/(CP).

9. That it is further submitted that the shareholders of the Company No.2/Transferee Company have also approved the Scheme at the Extra-Ordinary General Meeting of the Company No.2/ Transferor Company on 13.01.2017. A copy of the Notice and Explanatory Statement sent to all the shareholders is enclosed jointly as Annexure-23 to earlier Company Application/(CP). The extracts of the Special Resolution passed at the shareholders meeting of the Company No.2/Transferee Company is enclosed and marked as Annexure-24 of the same.
10. That the petitioner Company No.2/Transferee Company has NIL Secured Creditors and 2 Unsecured Creditors as on December 31, 2016. The Chartered Accountant has certified this position and issued a certificate to this effect which is marked as Annexure-25 to earlier Company Application/(CP). The consent letters of the Unsecured Creditors of the Petitioner Company No.2/Transferor Company, along with affidavit of their authorized persons, are enclosed Jointly as Annexure-26 of the same.
11. It is further stated in the present company petition that as per company scheme, Share Exchange Ratio would be as under: -
 - a. For every 01 equity share of Rs.10/- each of transferor company, its equity shareholders shall be issued 01 equity




share of Rs.10/- each credited as fully paid up in the transferee company.

- b. As regards RPS of transferor company, its every RPS shareholder shall be issued proportionate credited as fully paid up in the transferee company.

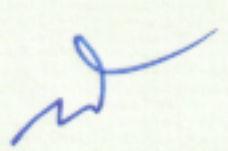
Thus, a total of 58,56,989 fresh equity shares of transferee company of Rs.10 each credited as fully paid up will be issued to the equity shareholders to the transferor company by the transferee company and a total of 103 RPS credited as fully paid up will be issued to the RPS shareholders of transferor company.


12. A perusal of the present petition discloses such the Petitioner Companies initially have filed a Company Application/(CP) No.5/ALD/2017 seeking, directions for dispensing with the meetings of its shareholders, Secured and Unsecured Creditors. This Bench vide its order dated 24.04.2017 dispensed with the requirement of convening of meetings of the Shareholders, Unsecured Creditors and Secured Creditors of the Petitioner Companies. Further in such order this Tribunal directed to issue a notice to Regional Director (Northern Region), Ministry of Corporate Affairs, Registrar of Companies, Official Liquidator and to the Income Tax Department. The Petitioner Companies were also directed to make a paper publication in English and Hindi newspapers, vide said order.

13. In Compliance thereof, the authorised representative of the applicant companies filed an affidavit of service dated 22.05.2017 confirming
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this the notices have been duly published in the English 'Financial Express' and in the Hindi 'Janasatta' Noida Edition .The Petitioners also served notices of the present Company Petition upon the Central Government through the Regional Director (Northern Region), Ministry of Corporate Affairs, Registrar of Companies, U.P at Kanpur upon the Income Tax Officer at Noida and upon the Duty Commissioner of Income Tax at New Delhi.

14. In response to the notice. The Registrar of Companies in its report stated that there is no prosecution is filed against both the companies, nor proceeding under section 235 to 251 of the Act is pending.
15. The Regional Director, Northern Region, Ministry of Corporate Affairs, New Delhi, after receipt of the report of the Registrar of Companies has filed his representation Affidavit dated 19th May, 2017 wherein it's stated in the Para V of the affidavit that Petitioner Company may be directed to comply with the provisions of FEMA/RBI as may be applicable, para VI of the affidavit express no comment except to say that there no prosecution proceeding pending against the Petitioner Companies or any of its director either under Companies Act, 1956 or Companies Act, 2013. As per VII of the affidavit the Petitioner Companies may be directed to place on record complete list with details of Demerged assets before this Tribunal. It is also stated that the Registrar of Companies made no adverse observation in his report and thus has accordingly not objected to the present Scheme of Amalgamation.



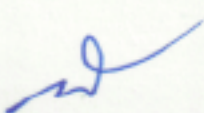
16. In the present matter, the Official Liquidator, Allahabad also filed his report dated 18.05.2017 wherein he mentioned in the detail particulars about Authorized, Issued, Subscribed and Paid up Capital of Transferor and Transferee Company as on 31.12.2016 in Para 6 and 10 of his report. Further as per para 2 of the OL's report it is submitted that under the provisions of section 230-232 of the Companies Act, 2013, his office is required to scrutinize the Books of Accounts and other documents for the submission of his report, pursuant thereto the Transferor Company has produced Books of Accounts and statutory records as on 08.05.2017. After scrutiny Official Liquidator has reported that affairs of the Transferor Company as such have not been conducted in manner prejudicial to the interest of their member or to public at large.
17. In reply to the comments/observation of the Regional Director, Northern Region as made in his affidavit, Mr. Umesh Sharma, the authorized signatory of Petitioner Companies filed an Affidavit annexing therewith complete schedule of assets as Annexure -I and auditor's opinion and classification of the assets pre and post implementation of the scheme in respect of the Transferee Company dated 02.01.2017 as Annexure -II.
18. Having perused the contents of the present Company Petition along with documents annexed therewith. We are of the view that sanction of the present scheme is not against the public policy, nor prejudicial to the its shareholders and detrimental to public at large. From the material available on record, the Scheme appears to be fair and reasonable, hence, is not violative of any provisions of Law. Further
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all the Statutory compliance either seems to be complied with or has been further undertaken to be complied with by Petitioner Companies as per its Affidavit. Therefore, the present Company Scheme Petition filed by the Petitioners is allowed and prayer made absolute in terms of its Prayer Clause. Accordingly, the Company Scheme of Arrangement annexed to Company Petition is hereby approved, to be acted upon by the Petitioner Companies as per the terms and condition of the Scheme.

19. Consequently, all the property, rights and powers of transferor Company be transferred without further act or deed to the Transferee Company and accordingly the same shall (pursuant to Section 232 of Act), be transferred to and vested in the Transferee Company for all estate and interest of the Transferor Companies therein but subject nevertheless to all charges now affecting the same.
20. All the liabilities of the Transferor Companies be transferred without further act or deed to the Transferee Company and accordingly the same shall (pursuant to Section 232 of the Act), be transferred to and become the liabilities and duties of the Transferee Company.
21. The transferor company shall within thirty days of the date of the receipt of this order cause a certified copy of this order to be delivered to the Registrar of Companies for registration and on such certified copy being so delivered the transferor company shall be dissolved and the Registrar of Companies shall place all documents relating to the transferor company and registered with him on the file kept by him in

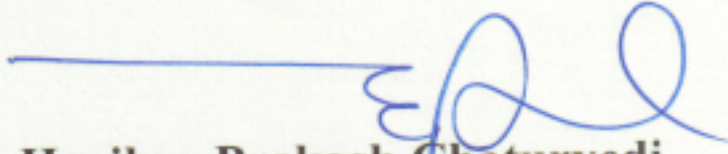


relation to the transferee company and the files relating to the said two companies shall be consolidated accordingly.

22. Any person interested shall be at liberty to apply to the Tribunal in the above matter for any directions that may be necessary.
 23. Notwithstanding the above, if there is any deficiency found or, violation committed qua any enactment, statutory rule or regulation, the sanction granted by this Tribunal to the scheme will not come in the way of action being taken, albeit, in accordance with law, against the concerned persons, directors and officials of the petitioners.
 24. While approving the scheme as above, we further clarify that this order should not be construed as an order in any way granting exemption from payment of stamp duty, taxes or other charges, if any, and payment in accordance with law or in respect to any permission/ compliance with any other requirement which may be specifically required under any law.
 25. Further a cost of Rs. 25,000/- is awarded in favour of the Central Government through the office of Regional Director (N.R.) towards Legal Expenses incurred which is payable by the Petitioner companies within four weeks from the receipt of an authentic copy of this order.
 26. The counsel of the petitioner companies to furnish a copy of draft order of sanction of the Scheme as per the prescribed format under Companies Compromises, Arrangement and Amalgamations) Rules, 2016 read with other rules for scrutiny and authentication by the Registry of this Tribunal.
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27. All Concerned Regulatory Authorities may act on a copy of this order along with the Scheme duly authenticated by the Asst. Registrar, National Company Law Tribunal, Allahabad Bench.

Dated: 16.08.2017


Harihar Prakash Chaturvedi
Member (Judicial)

Typed by:
Aparna Trivedi