

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

CP NO 49/ALD/2017

WITH

CA NO 34/ALD/2017

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

IN THE MATTER OF

SUBHADRA TRADE & FINANCE LTD.

(Having its Registered Office at:

B-11(Basement) Ocean Complex,

P-6, Sector-18, Noida,

Uttar Pradesh- 201301)

.....**TRANSFEROR COMPANY**

AND

VERVE PROFESSIONAL SERVICES PVT. LTD.

(Having its Registered Office at:

B-11(Basement) Ocean Complex,

P-6, Sector-18, Noida,

Uttar Pradesh- 201301)

.....**TRANSFeree COMPANY**

JUDGMENT/ORDER DILIVERED ON 20.09.2017

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

For the Petitioner : Sh. R.P. Agrawal, Advocate

For the Central Government : Sh. M.K. Bagri, OL

PER: SH. HARIHAR PRAKASH CHATURVEDI, MEMBER (J)

ORDER/JUDGMENT

1. The Petitioner Companies files the present petition before this tribunal under section 230/232 of Companies Act, 2013 read with National Company Law Tribunal Rules, 2016 along with the Companies (Compromises, Arrangement and Amalgamation) Rules, 2016 seeking for approval and sanction of the proposed Company Scheme of arrangement for the transfer and vesting of the Demerged Undertaking



of the Petitioner company No.1/Transferor Company (**SUBHADRA TRADE & FINANCE LTD.**) to and in the Petitioner Company No.2/Transferee Company (**VERVE PROFESSIONAL SERVICES PRIVATE LTD.**).

2. The object of the Present petition is to obtain a sanction from this Tribunal on a Company Scheme of Arrangement which provides for demerger of the entire business of strategic investment in Listed Companies engaged in Sugar and Engineering business comprising of manufacture and refining of sugar, co-generation of power, distillation of alcohol, water and waste equipment and solutions and high speed gears and any other Companies from the Transferor Company(Subhadra Trade & Finance Limited) and its transfer and vesting in the Transferee Comp[any (Verve Professional Services Private Limited) in terms of section 230-232 of the Companies Act,2013 with effect from the **Appointed Date** which is the “open of business on **1st Day of March,2017**”

3. It is stated that “Transferor Company (**SUBHADRA TRADE & FINANCE LTD.**) was originally incorporated on 23.02.1989. The main objects of the Transferor Company are stated in the object clause of the Memorandum of Association.

4. It is further Informed that the Scheme of Arrangement has already been approved by the board of directors of both Transferor and Transferee Companies in its meeting held on **30th March, 2017**. The resolution for approval of the proposed the company scheme was passed unanimously by the Board of Directors of both the Companies in the above stated



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meeting and neither any director voted against such resolution nor remain absent from participation in such meeting for voting.

5. The salient features of the proposed Company Scheme as stated in the present petition may be reproduced here as under:

(a) That the Scheme provides for demerger of the entire business of strategic investment in listed Company(ies) including Triveni Engineering & Industries Limited engaged in Sugar and Engineering business comprising of manufacture and refining of sugar, co-generation of power, distillation of alcohol, water and waste water equipment and solution and high speed gears and any other Companies from the Transferor Company (**Subhadra Trade & Finance Limited**) and its transfer and vesting in the Transferee Company (**Verve Professional Services Private Limited**).

(b) Appointed Date of the Scheme is “open of business on 1st day of March, 2017”.

(c) Effective date is the date on which the order of this Tribunal sanctioning the scheme will be filed with the Registrar of Companies, U.P. However, the scheme will become operational from the “appointed date”.

(d) In consideration for transfer of the Demerged undertaking by the Transferor Company to the transferee Company, the transferee Company shall issue and lot to each member of Transferor Company “1(one) equity shares of Rs10/- each of the transferee Company credited as fully paid up for every 1(one) Equity shares off Rs10/- each fully paid up of the Transferor Company (“Share



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Exchange ratio”) to the equity shareholders of Transferor Company holding equity shares in the Transferor Company” and the existing equity shares of the transferee Company held by the Transferor Company and its nominee as on the Record date, shall stand cancelled.

- (e) The Scheme also provides for increase of the Authorized Capital of the Transferee Company from Rs.1,00,000/- divided into 10,000 equity shares of Rs.10/- each to Rs. 129,350,000/- divided into 12,939,000 equity shares of Rs.10/- each as an integral part of the Scheme, subject to payment of necessary fees for registration and stamp duty by the Transferee Company.
- (f) The Scheme also provides for change of name of the Transferee Company to ‘STFL Trade and Finance Limited’ as an integral part of the Scheme, without any further act or deed.
- (g) That the Board of Directors of both the Petitioner Companies have approved the above exchange ratio after considering the Advisory Report on share entitlement ratio dated 29.03.2017 submitted by M/s Chitresh Gupta & Associates, an independent and reputed firm of Chartered Accountants in practice having experience of more than 10 years. The valuers have recommended the exchange ratio after taking into consideration the fair value of the existing equity shares of the Transferee Company held by the Transferor Company and its nominees which will stand cancelled upon the Scheme becoming effective. The Valuation Report is available for inspection at the registered office of the company.



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(h) That both of the Petitioner Companies are unlisted companies and their shares are not listed on any stock exchange.

(i) That the Petitioner Companies have not issued any debentures and have not accepted any deposits from public.

(j) That the Scheme does not affect the interest of any creditor, whether secured or unsecured. The assets of the Transferee Company after implementation of the Scheme will be sufficient to meet its liabilities.

(k) That no investigation proceedings under Sections 235 to 251 and the like of the Companies Act, 1956 or under the corresponding provisions contained in Sections 210 to 229 of the Companies Act, 2013 are pending against any of the Petitioner companies.

6. A perusal of the present petition discloses such that petitioner companies initially filed a **Company Application No. 34/ALD/2017** before this Bench seeking for such directions to dispense with the meetings of its Shareholders, Secured and Unsecured Creditors. This Bench vide its order dated 09.05.2017 has dispensed with such requirement for convening of meeting of its Shareholders, Unsecured Creditors and Secured Creditors. Further by such order, we further directed to the Petitioner Companies to issue a notice to Regional Director (Northern Region), Registrar of Companies, Official Liquidator and to the Income Tax Department and also to make paper publication in English and Hindi newspapers.

7. In Compliance thereof, the applicant Companies through its authorised representative has filed an affidavit of Compliance and Proof of Service



dated 29.05.2017 by confirming such the notices were duly published in English 'The Statesman' and in the Hindi "Amar Ujala New Delhi Edition. The petitioner also served notices of the present company Petition upon the Central Government through the Regional Director (NR), Ministry of Corporate Affairs, Registrar of Companies, U.P at Kanpur and the Income Tax Officer at Noida and Muzaffarnagar.

8. In response to such notices issued, the Regional Director (NR), Ministry of Corporate Affairs, New Delhi, having called for a report from the ROC filed his Representation Affidavit, wherein he has stated as such (in the Para 5 of the affidavit) that petitioner Company may be directed to comply with the provision of FEMA/RBI as may be applicable, further in Para 6 of the affidavit, he expressed no comment except reporting such that there is no prosecution proceeding pending against the Petitioner Companies or against any of its director under Companies Act, 1956 or Companies Act, 2013. As per Para 8 of the affidavit, it is submitted that the petitioner Companies be directed to place on record a complete list with details of Demerged assets before this Tribunal. It is further reported that the Registrar of Companies has made no adverse comment in his report in respect of the proposed scheme of Amalgamation and thus impliedly expressed no objection to the proposed Company Scheme of Amalgamation.

9. In response to the above mentioned comments/observation of the Regional Director, Northern Region made in his affidavit, the Authorised Signatory of the Petitioner Company Ms. Geeta Bhalla filed her affidavit annexing therewith complete schedule of assets and thus made compliance of requisite information.



10. We have gone through the contents of the present Company Petition and perused the documents annexed therewith.

Having heard the submission of Shri R.P Agarwal, Learned Advocate for the petitioner Companies and Shri M.K Bagri, Learned Official Liquidator representing the Regional Director (N.R.), we find that the present Company scheme is not against the public policy, nor prejudicial to the Shareholders of the Companies nor detrimental to the interest of public at large.

From the material placed before us, the proposed Company scheme appears to be fair and reasonable, hence, does not seem to be violative of any provision of Law. That apart, all the statutory compliance either seems to have been complied with or further undertaken by the Petitioner Companies for making necessary compliances as per the Affidavit.

In the light of the above discussion and by considering the facts and circumstances of the case, the present Company Scheme Petition deserves to be allowed. Hence, it is allowed, the prayer made therein is made absolute in terms of its Prayer clause.

11. In the result, the proposed Company Scheme of Arrangement annexed with the present Company Petition is approved accordingly and hereby sanctioned. The petitioner Companies to act on as per the term and condition contained therein.

Consequent upon approval and sanction of the present scheme, all the property, rights and power of transferor Company 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 vested in



the Transferee Company for all estate and interest of the Transferor Companies therein but subject to all charges now affecting the same.

12. 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.

13. The transferor company shall within thirty days of the receipt of an authentic copy/ certified copy of this order shall deliver to the Registrar of Companies for registration of the Company Scheme.

. The Registrar of Companies shall further place all documents relating to the transferor company registered with him on the file kept in his office in relation to the transferee company. Thus, the files relating to above said two companies shall be consolidated accordingly.

14. Any person interested in shall be at liberty move to this Tribunal in the above matter for issuance of direction that may be necessary.

15. Notwithstanding the above, in case is any deficiency is found or, any violation committed qua any enacted, 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 person, directors and officials of the petitioners.

16. While approving the proposed Company Scheme stated as above, we clarify that this order should not be construed as an order granting exemption from payment of stamp duty, taxes or other charges, if any, and other payment in accordance with law or in respect to any



permission/compliance with any other requirement which may be specifically required under any law.

17. Further a cost of Rs. 20,000/- is awarded in favour of the Central Government through the office of Regional Director (NR) towards legal expenses incurred which shall be payable by the petitioner companies within four weeks from the receipt of an authentic copy of the order.

18. The counsel of the petitioner companies is further instructed to furnish a copy of draft order of sanction of the Company Scheme in a prescribed format under **(Companies Compromises, Arrangement and Amalgamations) Rules, 2016** read with the other rules for scrutiny and authentication to be made by the Registry of this Tribunal.

19. All Concerned Regulatory Authorities may act on an authenticate copy of this order annexed with the Scheme duly authenticated by the Asst. Registrar, National Company Law Tribunal, Allahabad Bench.



Date-20/09/2017

Harihar Prakash Chaturvedi
Member(Judicial)

Typed by:
Aman Kumar Dwivedi,
Law Clerk cum Research Assistant.