

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL

AT NEW DELHI

Present: CHIEF JUSTICE (Retd.) SHRI M.M.KUMAR, HON'BLE PRESIDENT

& SHRI R.VARADHARAJAN, MEMBER (JUDICIAL)

COMPANY PETITION NO. 724/ 2016

CONNECTED WITH

COMPANY APPLICATION (MAIN) No.82 OF 2016

(Transferred from the file of Hon'ble High Court of Delhi)

IN THE MATTER OF SECTION 391 & 394 OF

THE COMPANIES ACT, 1956

(PRESENTLY SECTIONS 230-232 OF THE COMPANIES ACT, 2013)

AND

IN THE MATTER OF SCHEME OF ARRANGEMENT

BETWEEN

ARTEMIS GLOBAL LIFE SCIENCES LIMITED
Having its registered office at
414/1, 4th Floor, DDA Commercial Complex,
District Centre, Janakpur,
NEW DELHI – 110058

PETITIONER /
RESULTING COMPANY



AND

PTL ENTERPRISES LIMITED
Having its registered office at
3rd Floor, Areekal Mansion,
Near Manorama Junction,
Panampilly Nagar,
Kochi-682036, Kerala

NON-PETITIONER/
DEMERGED COMPANY

ADVOCATE FOR THE PETITIONERS: Mr.Kanti Mohan Rastogi, Advocate
Mr.Kapil Rastogi, Advocate
Mr.Shubho Jana, Advocate

FOR REGIONAL DIRECTOR,(NR), MCA: Mr.C.Baloni, Company Prosecutor

ORDER

1) The above Company Petition is filed by the Petitioner/Resulting Company above named and has come up finally before us on 15.02.2017 for the purpose of the approval of the scheme of arrangement, as contemplated between the companies and its shareholders by way of demerger/division of Medicare and Healthcare Undertaking of the Transferor Company/Non-Petitioner Company with the Transferee Company who is the Petitioner herein. A perusal of the petition discloses that initially the application seeking the directions for convening the meeting of equity shareholders, secured and unsecured creditors of the Petitioner/Resulting Company for dispensation were filed before the Hon'ble High Court of Delhi in Company Application (Main) 82/2016. The Hon'ble High Court of Delhi vide its order dated 27.07.2016 was pleased to dispense with the requirement of convening of the meetings of the equity shareholders of the



Petitioner/Resulting Company, in view of consents having been obtained and produced before it from all the seven shareholders. Likewise in relation to Unsecured Creditors too, the meetings were dispensed based on consent having been obtained and produced. However, in relation to the Secured Creditors as it was represented that there were none, the necessity of convening did not arise.

2) Under the circumstances, the Petitioner above named was required to file the petition for sanction of the Scheme of Arrangement before the Hon'ble High Court of Delhi within 7 days from the date of dispensation of the meeting ordered by the Hon'ble High Court of Delhi which the Petitioner seems to have complied with.

3) The Hon'ble High Court of Delhi in the Second Motion petition before it in C.P. No.724/2016 moved by the petitioner under Sections 391 to 394 of the Companies Act, 1956 read with relevant Rules of the Companies (Court) Rules, 1959 in connection with the Scheme of Arrangement vide order dated 16.09.2016 has inter-alia, given directions for issuance of notice to the Registrar of Companies, Regional Director and the Official Liquidator. The Petitioner herein was also directed to publish the notice of hearing in the newspapers 'Business Standard' in English and 'Jansatta' (Hindi) both Delhi edition before the date fixed for hearing which is 17.03.2017. However, it is evident from the records produced by the Petitioner Company, that it seems to have moved an application being C.A. No.4428 of 2016 on 5.11.2016 for preponing the date of hearing. The application was allowed by the Hon'ble High Court and the date of hearing of the main Company Petition was preponed to 18.01.2017. The Petitioner



effected paper publication on 26.12.2016 in 'Business Standard' and 'Jansatta' keeping in view the date of hearing on 18.01.2017. However, in the meanwhile, since the provisions relating to compromises, arrangements and amalgamation as contemplated under Sections 230-232 have been notified w.e.f. 15.12.2016 wherein the power to consider such Schemes have now been vested with the National Company Law Tribunal and the Hon'ble High Court of Delhi pursuant to the notification bearing No. DL.33004/99 dated 7.12.2016 issued by the Ministry of Corporate Affairs has transferred/transmitted the records of the above petition to this Tribunal vide order dated 18.1.2017, for our consideration. In relation to the Transferor/Demerged Company, as the registered office is situated in the State of Kerala, the non-petitioner company as evident from the records seems to have moved the Hon'ble High Court of Kerala at Ernakulam. Since the non-petitioner is a listed company, the Hon'ble High Court of Kerala had thought it fit to direct convening of the meeting of members and Unsecured Creditors. Subsequent to their approvals, the Petitioner had also obtained orders from Hon'ble High Court of Kerala sanctioning the Scheme of Arrangement by way of Demerger as is evident from the copy of the Judgement dated 16.12.2016 filed by the Counsel for the Petitioner/Resulting Company by way of additional documents at the time of hearing before this Tribunal. The non-Petitioner/Demerged Company being a listed company, the necessary approvals of the BSE dated 10.05.2016 and that of NSE dated 11.05.2016 have also been produced, a perusal of which discloses that the shares proposed to be issued in exchange for the transfer of demerged undertaking and its listing is subject to necessary approvals being obtained from SEBI.

We have heard learned Counsel for the Petitioner as well as the representative of Regional Director, Northern Region, Ministry of Corporate Affairs. A perusal of the



representation of Regional Director shows that notice to the Principal Commissioner of Income Tax, Delhi had been duly sent and that no specific comments/observations have been received raising any objection. Further, it is also represented that the jurisdictional ROC from whom report has been sought has not made any adverse comment. The Counsel for the Petitioner Company also brought to our notice that the Petitioner Company is a wholly owned subsidiary of the Non-Petitioner/Demerged Company.

4) Learned Counsel for the Petitioner submits that objections from any quarters have not been received in relation to the proposed Scheme coming up for sanction before this Tribunal. Further, it is also represented that Certificate from the Statutory Auditor confirming the share exchange ratio proposed have also been obtained and produced as the Scheme envisages the same.

5) Taking into consideration all the above, this Tribunal sanctions the Scheme of Arrangement as set-forth in Annexure-A to the Company Petition and we also grant the prayers made in the clauses (b) and (c) of the Petition.

6) 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 any 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.



THIS TRIBUNAL DO FURTHER ORDER:

That in terms of the Scheme,

- (1) That the whole of the Medicare and Healthcare Undertaking, shall pursuant to the provisions contained in Sections 391 to 394 of the Companies Act, 1956 (presently Sections 230-232 of the Companies Act, 2013) and all other applicable provisions, if any, of the Companies Act, 1956, and/or the Companies Act, 2013, and without any further act, deed, matter or thing, stand transferred to and vested in and/or be deemed to be transferred to and vested in the Resulting Company so as to vest in the Resulting Company all rights, titles and interests pertaining to the Medicare and Healthcare Undertaking as an ongoing concern basis subject nevertheless to all charges now effecting the same; and
- (2) That In terms of the Scheme, all the debts, liabilities, contingent liabilities, secured and unsecured loans, duties and obligations of every kind, nature and description of the Demerged Company pertaining to Medicare and Healthcare Undertaking shall also, under the provisions of Sections 391 to 394 of the Companies Act, 1956 and all other applicable provisions, if any, of the Companies Act, 1956 and/or the Companies Act, 2013, and without any further act, application, instrument, deed matter or thing stand transferred to and assumed by and/or be deemed to be transferred to and assumed by the Resulting Company, so as to become from the Appointed Date the debts, liabilities, contingent liabilities, secured and unsecured loans, duties and obligations of the Resulting Company.

[Handwritten mark]

[Handwritten mark]



- (3) That all proceedings now pending by or against the Medicare and Healthcare Undertaking of the Petitioner/Demerged Company be continued by or against the Petitioner/Resulting company; and
- (4) Upon the Scheme becoming effective and in consideration of the demerger including the transfer and vesting of the Medicare and Healthcare Undertaking of the Demerged Company in the Resulting Company, the Resulting Company shall, without any further act, application, instrument or deed, issue and allot equity share of Rs.2/- (Indian Rupees Two only) each fully paid up on a proportionate basis to each shareholder of the Demerged Company, in the ratio of 1:1 i.e one (1) equity share of Rs.2/- (Indian Rupees Two only) each in the Resulting Company for every one (1) equity share of Rs.2/- (Indian Rupees Two only) each in the Demerged Company ("Share Entitlement Ratio") held by the shareholder.
- (5) That Petitioner/Resulting 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;
- (6) That any person interested shall be at liberty to apply to the Tribunal in the above matter for any directions that may be necessary.

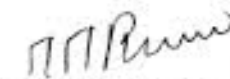
 _____






8) The Petitioner/Resulting Company herein to pay costs of Rs.10,000/- to the representative of the Regional Director, Northern Region, Delhi and in addition the Transferor Company shall pay a sum of Rs.10,000/- to the representative of the Official Liquidator within four weeks from the date of the order.

March 1st, 2017


(CHIEF JUSTICE M.M.KUMAR)
PRESIDENT


(R.VARADHARAJAN)
MEMBER (JUDICIAL)




06/03/17
दीपक परसोया / Deepak Persoya
उप निदेशक / Deputy Director
एन सी ली टि बी अधिकरण / National Company Law Tribunal
भारत सरकार / Govt. of India
नई दिल्ली / New Delhi