

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
BENCH AT MUMBAI
COMPANY SCHEME PETITION NO 3194 OF 2018
CONNECTED WITH
COMPANY SCHEME APPLICATION NO 187 OF 2018**

Under sections 230-232 read with other applicable provisions of the Companies Act, 2013

In the matter of the Scheme of Amalgamation of
PUDUMJEE HOLDING LIMITED

AND

PUDUMJEE HYGIENE PRODUCTS LIMITED
(collectively, the "Transferor Companies")

WITH

3P LAND HOLDINGS LIMITED
(Formerly PUDUMJEE INDUSTRIES LIMITED)
(the "Transferee Company") and their respective
shareholders and creditors

3P LAND HOLDINGS LIMITED)
(Formerly PUDUMJEE INDUSTRIES LIMITED))
[CIN: L74999MH1999PLC013394])
A public company incorporated under the)
Companies Act, 1956)
and a public company within the meaning of)
the Companies Act, 2013)
having its registered office at Thergaon Pune,)
Maharashtra- 411033)

... Petitioner Company I/
Transferee Company

PUDUMJEE HOLDING LIMITED)
[CIN: U65993PN2011PLC141027])
A public company incorporated under the)
Companies Act, 1956)
and a public company within the meaning of)
the Companies Act, 2013)
having its registered office at Thergaon Pune,)
Maharashtra- 411033)

... Petitioner Company II/
First Transferor Company

PUDUMJEE HYGIENE PRODUCTS)
LIMITED)
[CIN: U21010PN2004PLC021212])
A public company incorporated under the)
Companies Act, 1956)
and a public company within the meaning of)
the Companies Act, 2013)
having its registered office at Thergaon Pune,)
Maharashtra- 411033)

... Petitioner Company III/
Second Transferor Company



Order Delivered on 14.12.2018

Coram: M.K. Shrawat, Member (J)

For the Petitioner: Adv. Shashwat Rai i/b Keystone Partners

For the Regional Director: Ms. Rupa Sutar, Asst. Director (Western Region).

For the Official Liquidator: Mr. Santosh Dalvi, Representative for Official Liquidator.

ORDER

1. Heard learned Counsel for parties.
2. The sanction of this Tribunal is sought under Sections 230 to 232 of the Companies Act, 2013 to the Scheme of Amalgamation (the “Scheme”) of Pudumjee Holding Limited and Pudumjee Hygiene Products Limited (collectively, the “Transferor Companies”) with 3P Land Holdings Limited (Formerly Pudumjee Industries Limited) (the “Transferee Company”) and their respective shareholders and creditors.
3. The First Transferor Company is presently carrying on business as an investment and financing company, the Second Transferor Company was engaged in the business of marketing in various kinds of tissue, non-tissue and allied products. Pursuant to scheme of de-merger sanctioned by the Hon’ble Bombay High Court on 8th January 2016, the Second Transferor Company is engaged in the business of leasing machinery. The Transferee Company is presently deemed to be a Core Investment Company within the meaning of Core Investment Companies (Reserve Bank) Directions. The Transferee Company is also engaged in real estate business.
4. The rationale of the Scheme is that the Transferor Companies being wholly owned subsidiaries of the Transferee Company, the proposed amalgamation will enable –



- i. Simplification of group and business structure;
 - ii. Cost reduction as a result of focused operational efforts, elimination of duplication of administrative expenses, optimum utilization of available resources and integrating management focus which will make the internal control systems more efficient and effective;
 - iii. Business synergies in the operations of the Transferee and the Transferor Companies will provide operational flexibility resulting into higher profitability and a stronger and wider capital and financial base for future growth/ expansion of the Transferee Company.
5. In pursuance of the Order dated May 18, 2018, passed in the CSA No. 187 of 2018, the meetings of the equity shareholders of Petitioner Companies I, II & III were called, held and conducted on August 18, 2018 at the registered office of the Petitioner Companies at Thergaon, Pune – 411033 at 11:00 a.m., 9:00 a.m., and 10:00 a.m., respectively.
6. In pursuance of the Order dated May 18, 2018, passed in the CSA No. 187 of 2018, Notice of the equity shareholders' meetings of all the Petitioner Companies along with copy of the Scheme were served upon the Central Government through the office of Regional Director, Western Region, Ministry of Corporate Affairs, Mumbai, Maharashtra, the Registrar of Companies, Pune, the concerned Income Tax Authorities. Notice of the meetings along with copy of the Scheme of the Transferee Company being a listed company was also served on Securities and Exchange Board of India ("SEBI"), BSE Limited ("BSE") and The National Stock Exchange of India Limited ("NSE") and the Reserve Bank of India as it is a Core Investment Company. Notice of the equity shareholders' meetings of the Transferor Companies, alongwith copy of the Scheme were also served on the Official Liquidator.



7. The results of the meetings of the equity shareholders of the Petitioner Companies approving the Scheme of Amalgamation have been filed with the Hon'ble Tribunal on August 21, 2018.
8. In pursuance of the Order dated May 18, 2018, passed in the CSA No. 187 of 2018, the convening and holding of the meetings of creditors of Petitioner Company I was dispensed with, as the said Company had no secured creditor and in view of consent by way of affidavit given by the unsecured creditors of the said Petitioner Company I.
9. In pursuance of the Order dated May 18, 2018, passed in the CSA No. 187 of 2018, the convening and holding of the meetings of creditors of Petitioner Company II was dispensed with as the said Company had no secured creditor and in view of consent by way of affidavit given by the unsecured creditors of the said Petitioner Company II.
10. In pursuance of the Order dated May 18, 2018, passed in the CSA No. 187 of 2018, the convening and holding of the meetings of creditors of Petitioner Company III was dispensed with as the said Company had no secured or unsecured creditor.
11. The authorised share capital of the Transferee Company is Rs. 25,00,00,000/- divided into 12,50,00,000/- equity shares of Rs. 2 each. The issued, subscribed and paid-up equity share capital of the Transferee Company is Rs 3,60,00,000/- divided into 1,80,00,000 Equity Shares of Rs. 2 each.
12. The authorised share capital of the First Transferor Company is Rs. 2,00,00,000/- divided into 20,00,000 equity shares of Rs. 10 each. The issued, subscribed and paid-up share capital of the First Transferor Company is Rs. 5,00,000/- divided into 50,000 equity shares of Rs. 10 each.



13. The authorised share capital of the Second Transferor Company is Rs. 30,00,00,000/- divided into 3,00,00,000 equity shares of Rs. 10 each. The issued, subscribed and paid-up share capital of the Second Transferor Company is Rs 30,00,00,000/- divided into 3,00,00,000 Equity Shares of Rs. 10 each.

14. The averments made in the petitions and the submissions made by the Learned Counsel for the Petitioners are:

i) The Petitioner Companies have complied with all requirements as per directions of the Tribunal and have filed necessary Affidavits of compliance in this Tribunal. The Petitioner Companies also undertake to comply with all statutory requirements, if any, as required under the Companies Act, 2013 and Rules made thereunder whichever is applicable.

ii) The Regional Director has filed a Report on 17.10.2018 stating therein,

“Save and except as stated in para IV (a) to (h) of the said Report, the Regional Director prays this Hon'ble Tribunal may kindly be pleased to:-

(a) take this Representation on record;

(b) consider the observations made at Sr. No. IV (a) to (h) mentioned above; and

(c) pass such other order or orders as deemed fit and proper in the facts and circumstances of the case.”

iii) *“IV The observations of the Regional Director on the proposed Scheme to be considered by the Hon'ble NCLT are as under:-*

a) The Petitioners under provisions of section 230(5) of the Companies Act, 2013 have to serve notices to concerned authorities which are likely to be affected by Amalgamation. Further, approval of the scheme by this Hon'ble Tribunal may not deter such authorities to deal with any of the



issues arising after giving effect to the scheme. The decision of such authorities is binding on the Petitioner Company (s).

- b) *The Hon'ble NCLT may kindly direct to the Petitioners to file an undertaking to the extent that the Scheme enclosed to the Company Application and the Scheme enclosed to the Company Petition are one and the same and there is no discrepancy or deviation.*
- c) *In compliance of AS -14 (IND-AS-103), the Petitioner Companies 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.*
- d) *As per Clause 1.2 of the Scheme, Appointed Date means the 1st day of April, 2017 or such other date as may be approved by the NCLT or such other competent authority as may be applicable. In this regard, it is submitted that Section 232(6) of the Companies Act, 2013 states that the scheme under this Section shall clearly indicate an appointed date from which it shall be effective and the scheme shall be deemed to be effective from such date and not at a date subsequent to the appointed date. However, this aspect may be decided by the Hon'ble Tribunal taking into account its inherent powers.*
- e) *Petitioner Company have to undertake to comply with Section 232(3)(i) of the Companies Act, 2013, where the transferor company is dissolved, the fee, if any, paid by the transferor company on its authorized capital shall be set-off against any fees payable by the transferee company on its authorized capital subsequent to the amalgamation and therefore, petitioners to affirm that they comply the provisions of the Section.*
- f) *It is observed that the Petitioner Companies has foreign / non-resident shareholders. The Transferee Company must observe the FEMA*



guidelines for allotment of shares to the shareholder of the Transferor Company in Transferee Company.

- g) *Petitioner Transferee Company who is 3P Land Holdings Limited ("Formerly known as Pudumjee Industries Limited") having business of Core Investment (Reserve Bank) Directions, 2016. The Company also is engaged in real estate business, in this regard, Transferee Company has to serve notice u/s 230 (5) of the Companies Act, to Reserve Bank of India and (RERA)*
- h) *It is submitted that the Petitioner Transferee Company and Petitioner Transferor Company – 2 has not submitted affidavits duly affirmed by the directors of the Petitioner Companies and notarized.*
- iv) *Apropos observations in paragraph IV (a) of the Report of the Regional Director is concerned, it is submitted that the petitioner companies have served notices required under provisions of section 230(5) of Companies Act, 2013 to all the concerned authorities which are likely to be affected by the scheme of amalgamation. Further, the approval of the scheme by this tribunal will not deter such authorities to deal with any of the issue arising after giving effect to the scheme. The decision of such authorities will be binding on the petitioner company (s) and all issues arising out of the scheme will be meet and answered in accordance with law.*
- v) *Apropos observations in paragraph IV (b) of the Report of the Regional Director is concerned, it is submitted that the Scheme enclosed to the Company Application No. 187 of 2018 and the Scheme enclosed to the Company Petition No. 3194 of 2018, are one and the same and there is no discrepancy or deviation.*



- vi) Apropos observations in paragraph IV (c) of the Report of the Regional Director is concerned, it is submitted that 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.
- vii) Apropos observations in paragraph IV (d) of the Report of the Regional Director is concerned, it is submitted that as per Clause 1.2 of the Scheme the Appointed Date shall be April 01, 2017.
- viii) Apropos observations in paragraph IV (e) of the Report of the Regional Director is concerned, it is submitted that the Transferee Company undertakes to comply with Section 232(3)(i) of the Companies Act, 2013.
- ix) Apropos observations in paragraph IV (f) of the Report of the Regional Director is concerned, it is submitted that there are no foreign / non-resident shareholders in Transferor Companies and the entire paid up share-capital of the Transferor Companies are held by the Transferee Company and all the shares shall stand cancelled upon the Scheme coming into effect and no new shares will be issued or allotted by the Transferee Company, pursuant to the Scheme. It is therefore submitted that FEMA guidelines will not be applicable. List of shareholders of the Transferor Companies have been submitted to the office of the Regional Director on November 06, 2018.
- x) Apropos observations in paragraph IV (g) of the Report of the Regional Director is concerned, it is submitted that the Transferee Company has served notice u/s 230 (5) of the Companies Act, 2013 to Reserve Bank of India dated 23.07.2018 and copy of the acknowledgment has been submitted to the Tribunal. It is further submitted that since there are no projects that are registered under Section 3 or required to be registered under Section 4 of the Real Estate (Regulation and Development) Act, 2016 ('RERA'), the



Transferee Company is not yet within the jurisdiction of RERA and therefore there is no requirement to send notice to RERA under Section 230 (5) of the Companies Act, 2013.

xi) Apropos observations in paragraph IV (h) of the Report of the Regional Director is concerned, it is submitted that the Affidavit duly affirmed by the directors of the Petitioner Companies and notarised, as required by the letter dated July 31, 2018 received from the office of the Regional Director have been submitted to the office of the Regional Director on November 06, 2018.

15. The representatives of the Regional Director, Ministry of Corporate Affairs, Western Region, Mumbai state that they are satisfied with the submissions/undertakings given by the Petitioner Companies. The submissions/undertakings on behalf of the Petitioner Companies as set out in paragraphs 14 (iii) to 14 (x) above have been considered and accepted by the Tribunal.

16. The Official Liquidator has filed his report dated 15.11.2018 and stating therein that, the affairs of the Transferor Companies have been conducted in a proper manner and accordingly the Transferor Companies may be ordered to dissolve without winding up. Further it is submitted that, the Scheme is not prejudicial to the interest of public shareholders.

17. No objector has come before the Tribunal to oppose the Scheme of Amalgamation nor has any party controverted any averments made in the Petition.

18. 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 any public policy.



19. Since, all the requisite compliances have been fulfilled, Company Scheme Petition No. 3194 of 2018 is made absolute in terms of prayer clauses V (A) to V (I) of the said Company Scheme Petition.
20. The Petitioner Companies are directed to file a copy of this Order alongwith a copy of the Scheme of Amalgamation with the concerned Registrar of Companies, electronically, alongwith E-Form INC 28 in addition to the physical copy, as per relevant provisions of the Companies Act, 2013.
21. All authorities concerned, to act on a copy of this Order along with Scheme duly certified by the Deputy Director or Assistant Registrar, as the case may be, of National Company Law Tribunal, Mumbai Bench.
22. Any concerned Authority is at liberty to approach this Bench for any further clarifications after sanctioning to the Scheme.
23. The Scheme is sanctioned and the Appointed Date of the Scheme is fixed as, April 01, 2017.
24. Ordered accordingly. To be consigned to Records.

Dated: 14.12.2018

SD/-
M.K. Shrawat
Member (Judicial)



Certified True Copy
Copy Issued "free of cost"
Date: 3/1/2019


Assistant Registrar

National Company Law Tribunal Mumbai Bench