

Order submitted  
29/4/2015

346336

# HIGH COURT, BOMBAY

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
COMPANY SCHEME PETITION NO. 856 OF 2014  
CONNECTED WITH  
COMPANY SUMMONS FOR DIRECTION NO. 812 OF 2013.  
RT EXPORTS LIMITED

....Petitioner/ the Demerged Company  
(Transferor Company)

AND

COMPANY SCHEME PETITION NO. 857 OF 2014  
CONNECTED WITH  
COMPANY SUMMONS FOR DIRECTION NO. 811 OF 2013.  
ASIAN WAREHOUSING PRIVATE LIMITED

....Petitioner/the Resulting Company  
(Transferee Company)

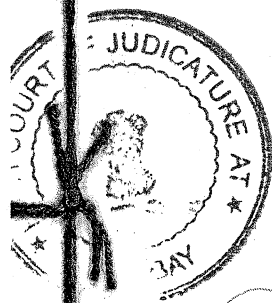
In the matter of the Companies Act, 1956  
(1 of 1956);

AND

In the matter of Sections 391 to 394 read  
with Sections 78, 100 to 105 of the  
Companies Act, 1956;

AND

In the matter of Scheme of Arrangement between  
RT EXPORTS LIMITED (the Demerged  
Company) and ASIAN WAREHOUSING  
PRIVATE LIMITED (the Resulting Company)



**HIGH COURT, BOMBAY**

AND Their Respective Shareholders and  
Creditors

Called for hearing

Mr. Rajesh Shah i/b Rajesh Shah & Co., Advocate for the Petitioners in all  
Petitions.

Mr. S. I Shah i/b Shri. A. A. Ansari for Regional Director in both the  
Petitions.

CORAM: S. J. Kathawalla, J.

DATE: 10<sup>th</sup> April, 2015

PC:

1. Heard Learned Counsel for the parties. No objector has come before the court to oppose the Scheme and nor any party has controverted any averments made in the Petitions.
2. The sanction of the Court is sought to a Scheme of Arrangement between RT EXPORTS LIMITED, the Demerged Company and Asian Warehousing PRIVATE LIMITED, the Resulting Company AND their Respective Shareholders & Creditors, under Sections 391 to 394 with read with Sections 78, 100 to 105 of the Companies Act, 1956.
3. The Learned Counsel for the Petitioners states that the Demerged Company/ the Transferor Company at present the Company is carrying

business activities of production and export of rice (Agro Commodities) and Warehousing of Agri Commodities and the Resulting Company/ Transferee Company is yet to commence its business. The proposed scheme of Arrangement will have the benefit that the management of the Petitioner Company is of the opinion that the proposed Scheme of Arrangement between the Demerged Company and Resulting Company will result in various benefits including ensuring core competency in the respective businesses of each company and to facilitate their further expansions.

4. Learned Counsel for the Petitioners further states that the Board of Directors of the Petitioner Companies have approved the said Scheme of Arrangement by passing Board Resolutions which are annexed to the respective Company Scheme Petitions.

5. The Learned Counsel for the Petitioners further states that, Petitioner Companies have complied with all the directions passed in the respective Company Summons for Directions and that the respective Company Scheme Petitions have been filed in consonance with the orders passed in respective Company Summons for Directions.

6. The Learned Counsel appearing on behalf of the Petitioners have stated that the Petitioner Companies have complied with all requirements as per directions of this Court and they have filed necessary affidavit of compliance in the Court. Moreover, the Petitioner Companies undertake to

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comply with all statutory requirements if any, as required under the Companies Act, 1956 / 2013 and rules made there under whichever is applicable. The said undertaking is accepted.

7. The Regional Director has filed an Affidavit on 7<sup>th</sup> day of April, 2015 stating therein, save and except as stated in paragraph 6(a) and 6(b), it appears that the Scheme is not prejudicial to the interest of shareholders and public. In paragraph 6 of the said Affidavit, the Regional Director has stated that:-

*"6. That the Deponents further submits that,*

*(a) Shareholders of Demerged Company are foreign body corporate. Hence for allotment of new shares to the shareholder to the shareholder of Demerged Company, the resulting Company may be directed to comply with FEMA/ RBI regulations as applicable in this regard.*

*(b) 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 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 the Income Tax Authority is binding on the petitioner company.*

8. So far as the observation in paragraph 6 (a) of the Affidavit of Regional Director is concerned, the Petitioner Company through its counsel undertakes that the Petitioner Companies while allotting new shares to the shareholders of the Demerged Company, the Resulting Company will comply with all applicable provisions of FEMA/ RBI regulations.

9. So far as the observation in paragraph 6(b) of the Affidavit of Regional Director is concerned, the Learned Counsel for the Petitioner Companies submit that the Petitioner Companies are bound to comply with all applicable provisions of Income Tax Act and all tax issues arising out of the Scheme will be met and answered in accordance with law.

10. The Learned Counsel for Regional Director on instructions of Mr. M. Chandana Muthu, Joint Director Legal in the office of the Regional Director, Ministry of Corporate Affairs, Western Region, Mumbai states that they are satisfied with the undertakings given by the Petitioners. The above undertakings is accepted.

11. 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.

12. Since all the requisite statutory compliances have been fulfilled, Company Scheme Petition No. 856 of 2014 is made absolute in terms of prayers clause (a) and (c) and 857 of 2014 is made absolute in terms of prayer clauses (a) and (c).

13. The Petitioner Companies to file a copy of this order and the Scheme duly authenticated by the Company Registrar, High Court (O.S.), Bombay, with the concerned Superintendent of Stamps, for the purpose of