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Uday Shankar  
30/12

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 15<sup>TH</sup> DAY OF DECEMBER 2010

BEFORE

THE HON'BLE MR. JUSTICE H.N. NAGAMOHAN DAS

COMPANY PETITION NO.176 OF 2010 ✓

A/W

COMPANY PETITION NO.209 OF 2010

COP NO.176/2010

BETWEEN:

BHORUKA AGRO GREENS LIMITED,  
HAVING REGISTERED OFFICE AT  
NO.427E, HEBBAL INDUSTRIES  
AREA, MYSORE-570016.  
TRANSFEROR COMPANY

...PETITIONER

(BY M/S UDAYSHANKAR ASSTS ADV.)

AND:

NIL

...RESPONDENT

(BY SRI.K.S.MAHADEVAN ADV. FOR OL  
SRI S A KHADRI, ADV FOR ROC)

THIS COMPANY PETITION IS FILED UNDER  
SECTIONS 391 TO 394 OF THE COMPANIES ACT, 1956.  
PRAYING THAT FOR THE REASONS STATED THEREIN THIS  
HON'BLE COURT MAY BE PLEASED TO SANCTION THE  
SCHEME OF AMALGAMATION OF BHORUKA AGRO  
GREENS LIMITED WITH BHORUKA ALUMINIUM LIMITED  
AND THEIR RESPECTIVE SHAREHOLDERS-ANNEXURE A  
IN THE PETITION, SO AS TO BE BINDING ON THE  
TRANSFEROR COMPANY AND THE TRANSFEREE



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COMPANY AND THEIR RESPECTIVE SHAREHOLDERS AND CREDITORS, AND ALL OTHER PERSONS AND ETC.,

COP NO.209/2010

BETWEEN:

BHORUKA ALUMINIUM LIMITED,  
HAVING REGISTERED OFFICE AT  
No.1, KRS ROAD, METAGALLI  
INDUSTRIAL AREA,  
MYSORE-570016.  
TRANSFEREE COMPANY

...PETITIONER

(BY M/S UDAYSHANKAR ASSTS ADV.)

AND:

NIL

...RESPONDENT

(BY SRI.K.S.MAHADEVAN ADV. FOR OL  
SRI S A KHADRI, ADV FOR ROC)

THIS COMPANY PETITION IS FILED UNDER SECTIONS 391 TO 394 OF THE COMAPNEIS ACT, 1956, PRAYING THAT FOR THE REASONS STATED THEREIN THIS HON'BLE COURT MAY BE PLEASED TO SANCTION THE SCHEME OF AMALGAMATION OF BHORUKA AGRO GREENS LIMITED, THE TRANSFEROR COMPANY WITH BHORUKA ALUMINIUM LIMITED, THE PETITIONER/TRANSFEREE COMPANY AND THEIR RESPECTIVE SHAREHOLDERS, PRODUCED AS ANNEXURE-A IN THE PETITION, SO AS TO BE BINDING ON THE TRANSFER COMPANY AND THE PETITIONER/TRANSFEREE COMPANY AND THEIR RESPECTIVE SHAREHOLDERS AND CREDITORS, AND ALL OTHER PERSONS AND ETC.,

THESE PETITIONS COMING ON FOR ORDERS THIS DAY THE COURT MADE THE FOLLOWING:



**ORDER**

Petitioner in Co.P.No.176/2010 is the Transferor Company. The petitioner in Co.P. No.209/2010 is the Transferee Company. In these two company petitions it is prayed for sanctioning the proposed Scheme of Amalgamation of Bhoruka Agro Greens Limited with Bhoruka Aluminium Limited as per Annexure A.

2. The Transferor - Company was incorporated on 05.06.1997 as a Private Limited Company, under the name and style of Bhoruka Irrigation Systems Limited under the provisions of the Companies Act 1956, having its registered office situated at No.427E, Hebbal Industrial Area, Mysore-570 016. Subsequently the name of the transferor company was changed to Bhoruka Agro Greens Limited as per the fresh Certificate of Incorporation issued on 17/01/2007.



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3. The authorised share capital of the Transferor - Company as on 31.03.2010 is Rs.1,00,00,000/- divided into 10,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the Transferor Company is Rs.63,25,000/- divided into 6,32,500/- equity shares of Rs.10/- each.

4. The main objects of the Transferor - Company is to carry on the business of manufacture of and dealers in agricultural machines, parts, pipes, accessories, ancillaries, stores and spares including various types of irrigation systems and to irrigation systems and to engineer, develop, design, assemble manufacture, produce, import and export, buy and sell and otherwise deal in agriculture, mining, industrial and other machines and tools, plants, equipments, instruments, appliances and hardware, general fittings, accessories and appliances made of metal, alloy, glass, synthetic and others fibre, chemicals and PVC/HDPE



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compounds, plastic or any other material and etc., and more fully described in Memorandum of Association furnished at Annexure- B.

5. The latest audited Balance Sheet of the transferor company made up to 31.03.2010 is produced at Annexure-C and the un-audited Balance Sheet of the transferor of company from 01/04/2010 to 30/06/2010 is produced at Annexure-D.

6. Clause III (B) (13) of the Memorandum and Articles of Association of the petitioner company provides for amalgamation of the Company.

7. The Transferee Company was incorporated on 09.01.1979 under the name and style of Karnataka Aluminium Limited under the provisions of Companies Act, 1956. Subsequently the name of the transferee company was changed to Bhoruka Aluminium Limited as per the fresh certificate of incorporation dated



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02.07.1987 issued by the Registrar of Companies,  
Karnataka.

8. The registered office of the transferee company is situated at No.1, KRS Road, Metagalli Industrial Area, Mysore - 570 016.

9. The main objects of the transferee company is to set up or acquire a plant for the manufacture of aluminium billets, ingots, aluminium extrusions, propegi rods of all kinds and sizes and to set up a rolling mill for the manufacture of aluminium rods, redraw rods, electric wires and cables, wires and all kinds of rerolled sections i.e., flats, angles, squares, channels, strips, sheets and plates and etc., and more fully described in Memorandum of Association furnished at Annexure- B.

10. The transferee company is a Listed Company and its shares are listed at the Bombay Stock Exchange.



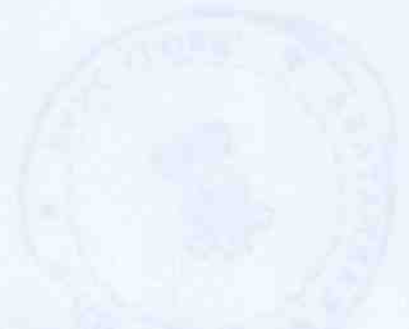
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The transferee company has received the consent for the proposed scheme of amalgamation from the Bombay Stock Exchange. The copy of the NOC obtained from the Bombay Stock Exchange is produced at Annexure-C.

11. The authorised share capital of the transferee company as on 31.03.2010 is Rs.15,00,00,000/- divided into 1,47,50,000 equity shares of Rs.10/- each and 2,50,000/- as unclassified shares of Rs.10/- each. Issued, subscribed and paid-up share capital is Rs.7,53,59,000/- divided into 75,35,900 equity shares of Rs.10/- each and amount paid on forfeited shares is Rs.57,500/-. The latest Balance Sheet of the transferee company as on 31.03.2010 is produced at Annexure-D. The un-audited Balance Sheet from 01.04.2010 to 30.06.2010 is produced at Annexure-E.

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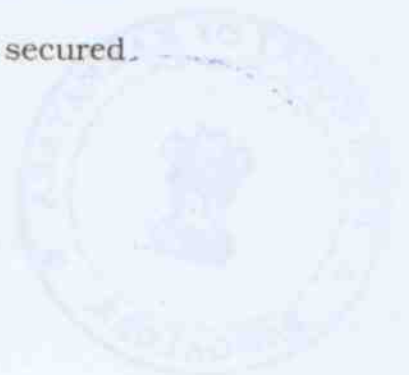


12. Clause III (A) (9) and III (C) (47) of the MOA of the transferee company provides for amalgamation of the company.

13. The Board of Directors of the Transferor and Transferee companies have approved and adopted the proposed Scheme of Amalgamation in their respective meetings held on 24.4.2010, by virtue of which the Transferor company is proposed to be amalgamated with Boruka Aluminium Limited(the Transferee Company).

14. This Court vide its order dated 30.07.2010 passed in CA 671/2010 filed by the transferor company, dispensed with the convening the meetings of the share holders, secured creditors and unsecured creditors and directed to the applicant company in CA 672/2010 filed by the transferee company, to hold the meetings of equity shareholders and unsecured creditors and dispensed with the holding of the meeting of the secured.

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creditors. Accordingly the chairman appointed to convene meetings of the shareholders and unsecured creditors of the transferee company and filed his reports stating that the shareholders and unsecured creditors have approved the scheme unanimously.

15. This Court vide its order dated 29.09.2010 directed to take out notice to the Regional Director in the petition filed by transferee company and further directed to take out advertisement of the petition in 'THE HINDU' English daily and 'KANNADA PRABHA' Kannada daily on or before 13.10.2010 fixing the date of hearing as 03.11.2010. This Court also directed vide its order dated 11.08.2010 to take out notice to the Regional Director and Official Liquidator in the petition filed by transferor company and further directed to take out advertisement of the petition in 'THE HINDU' English daily and 'KANNADA PRABHA' Kannada daily



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on or before 25.08.2010 fixing the date of hearing as 15.09.2010.

16. Pursuant to the directions issued by this court, learned counsel for the petitioner in the petition filed by the transferor company has filed the copy of the 'THE HINDU' and 'KANNADA PRABHA' newspapers both dated 24.8.2010 along with memo dated 28.8.2010 for having taken out the advertisements. Similarly the counsel for the petitioner in the petition filed by the transferee company has filed the copy of the 'THE HINDU' and 'KANNADA PRABHA' newspapers both dated 09.10.2010 along with memo dated 18.10.2010 for having taken out the advertisements.

17. The Official Liquidator had filed a report bearing No. 385/2010 seeking appointment of Chartered Accountant for scrutiny of the books of accounts and records of the transferor company to find out whether the transferor company has maintained all



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the records as defined in the Companies Act, 1956. This Court vide its order dated 25.08.2010 appointed M/s. Kushala and Associates, Chartered Accountants for the said purpose. Thereafter the Chartered Accountants have submitted their report. Based on the said report the Official Liquidator has filed his report bearing No. 531/2010 stating that the Chartered Accountants appointed by this Court have examined the books of accounts and other records and have not made any adverse finding in the functioning of the company and have given their opinion that the affairs of the Transferor Company do not appear to have been conducted in a manner prejudicial to the interest of its members or to the public.

18. The Registrar of Companies, Karnataka has filed an affidavits dated 25.11.2010 on behalf of the Regional Director, Ministry of Corporate Affairs, Southern Region, Chennai stating that he has no



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objection to sanction the proposed scheme of amalgamation.

19. Pursuant to the advertisements of the hearing of the petitions none of the shareholders, creditors, employees or any other persons have appeared before Court to oppose the Scheme of Amalgamation.

20. All the employees of the Transferor Company in service on the effective date shall become the employees of the Transferee Company on such date without any break or interruption in service and on the terms and conditions not less favourable than those subsisting with the Transferor Company. As already noticed supra no employee of the Transferor Company has appeared before the court to oppose the Scheme of Amalgamation.

21. In the circumstances, the petitioners have made out a case for sanctioning the Scheme of

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Amalgamation at Annexure-A. Hence the following order:

- (i) Petitions are hereby allowed.
- (ii) The Scheme of Amalgamation – Annexure-A is hereby sanctioned and the same shall be binding on the petitioner companies and also on its shareholders and creditors.
- (iii) Petitioner companies shall serve a copy of this order on the Registrar of companies Bangalore, Karnataka within 30 days from the date of receipt of the copy of the order.



Sd/-  
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a) The date on which the application was made ..... 15.12.10.  
 b) The date on which charges and additional charges, if any, are called for ..... 27.12.11  
 c) The date on which charges and additional charges, if any, are deposited / paid ..... 10.01.11  
 d) The date on which the copy is ready ..... 12.01.11  
 e) The date of notifying that the copy is ready for delivery ..... 12.01.11  
 f) The date on which the applicant is required to appear on or before ..... 14.01.11  
 g) The date on which copy is delivered to applicant ..... 14.1.11  
 h) Examined by ..... P. Resa

TRUE COPY

*[Signature]*  
 Section Officer  
 High Court of Karnataka  
 Bangalore-560 001  
 12/1/11