IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO 52 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 911 OF 2014

EUROKIDS INDIA PRIVATE LIMITED ………..Petitioner Company

In the matter of the Companies Act, 1956;

And

In the matter of Section 391 & 394 of Companies Act, 1956;

And

In the matter of Scheme of Amalgamation of Eurokids India Private Limited with Eurokids International Private Limited and their Respective Shareholders

Called for Hearing

Mr. Hemant Sethi i/b M/s. Hemant Sethi & Co., Advocates for the Petitioner Company.

Ms. S.I. Shah i/b Mr. A.A. Ansari for Regional Director.

Mr. S. Ramakantha, Official Liquidator Present

CORAM: S. J. Kathawalla, J.

DATE: 18th April 2015

1. Heard the learned counsel for the Petitioner. No objector has come before the court to oppose the Scheme and nor any party has controverted any averments made in the petition.

2. The sanction of the Court is sought under Sections 391 to 394 of the Companies Act, 1956 to the Scheme of Amalgamation of Eurokids India Private Limited with Eurokids International Private Limited and their Respective Shareholders.

3. The learned Counsel for the Petitioner state that the Petitioner/Transferor Company is in the business of providing Education materials, trainings and it owns and operates the pre K schools itself. The Transferee Company is presently engaged in the business of Education, providing educational materials, training, franchises, etc and complementary product lines to its customers.

4. The Learned Counsel for the Petitioner states that the proposed Scheme would inter-alai result into cost savings in terms of administrative costs, forward and backward integration, economies of scale, sourcing benefits, simplification of business processes and reduction of managerial overlaps which are necessarily involved in running multiple entities in the Same line of business and the synergies that exist between the two entities can be put to the best advantage of all stakeholders.

5. The Transferor Company and the Transferee Company has approved the said Scheme of Amalgamation by passing the Board Resolutions which are annexed to the Company Scheme Petition filed by the Petitioner Company.

6. Learned Counsel for the Petitioner further states that since the Transferor Company is wholly owned subsidiary of the Transferee Company and all the shares of the Transferor Company are presently held by the Transferee Company, Eurokids International Private Limited and after the Scheme being sanctioned, no new shares are required to be issued to the members of the Transferor Company by the Transferee Company and there would be no reorganization of the Share Capital in the Transferee Company and also in view of the judgment of this Court in Mahaamba Investments Limited Versus IDI Limited (2001) 105 Company Cases, filing of a separate Company Summons for Direction and Company Scheme

Petition by Eurokids International Private Limited, the Transferee Company was dispensed with, by an order dated 19th December, 2014 passed in CSD NO. 911 of 2014.

7. The learned Advocate for the Petitioner Company further states that, the Petitioner Company have complied with all the directions passed in Company Summons for Direction and that the Company Scheme Petition has been filed in consonance with the order passed in Summons for Directions.

8. The Counsel for the Petitioner Company further states that the Petitioner Company has complied with all requirements as per the directions of this Court and has filed necessary Affidavits of compliance in the Court. Moreover, the Petitioner Company through their Counsel undertakes to comply with all statutory requirements, if any, as required under the Companies Act, 1956 and the rules made there under. The said undertaking is accepted.

9. The Official Liquidator has filed his report on 9th April 2015 stating therein that the Affairs of the Petitioner/ Transferor Company has been conducted in a proper manner and that the Petitioner/ Transferor Company may be ordered to be dissolved by this Hon'ble Court.

10. The Regional Director has filed an Affidavit on 25th March, 2015 stating therein that save and except as stated in paragraph 6(a) and 6(b) of the said Affidavit, it appears that the Scheme is not prejudicial to the interest of shareholders and public. In paragraph 6(a) and 6(b) of the said Affidavit, the Regional Director has stated that :

6. That the Deponent further submits that,

(a) *Clause 6.3 of the Scheme provides for adjustment of difference arising out of the Scheme of Amalgamation. In this regard, it is submitted that the Surplus, if any arising out of the Scheme shall be credited to Capital Reserve Account of Transferee*

Company and the Deficit, if any arising, shall be debited to Goodwill Account of the Transferee Company.

(b) It is respectfully submitted that the Tax implication if any, arising out of this scheme is subject to final decision of Income Tax Authorities. The approval of the Scheme by this Hon'ble Court may not deter the Income Tax authority to scrutinize the tax returns filed by the Transferee Company after giving effect to Scheme. The decision of the Income Tax Authority is binding on the Transferor Company and Transferee Company.

11. So far as the observations made in paragraph 6(a) of the Affidavit of the Regional Director is concerned, the Petitioner Company through their Counsel undertakes that Surplus, if any arising out of the Scheme shall be credited to Capital Reserve Account of Transferee Company and the Deficit, if any arising, shall be debited to Goodwill Account of the Transferee Company.

12. As far as observations made in paragraph 6(b) of Affidavit of the Regional Director is concerned, the Petitioner Company submits that the Transferee Company is bound to comply with all applicable provisions of the Income Tax Act and all tax issues arising out of the Scheme will be met and answered in accordance with law.

13. The learned Counsel for the Regional Director on instruction from Mr. Chandanamuthu, Joint Director, Legal, in the office of Regional Director, Ministry of Corporate Affairs states that they are satisfied with the undertaking and Submissions given by the Petitioner Company.

14. 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.

15. Since all the requisite statutory compliances have been fulfilled, Company Scheme Petition No. 52 of 2015, filed by the Petitioner Company is made absolute in terms of prayer clause (a) of the Petition.

16. The Petitioner Company is directed 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 adjudication of stamp duty payable, if any, on the same within 60 days from the date of the order.

17. Petitioner Company and Transferee Company is directed to file a copy of this order along with a copy of the Scheme of Amalgamation with the concerned Registrar of companies, electronically, along with E-form INC-28 in addition to the physical copy as per the relevant provisions of Companies Act, 1956/2013 Act, whichever is applicable.

18. The Petitioner Company to pay costs of Rs.10,000/- each to the Regional Director and to the Official Liquidator, High Court, Bombay. The costs to be paid within four weeks, from date of the Order.

19. Filing and issuance of the drawn up order is dispensed with.

20. All concerned regulatory authorities to act on a copy of this order along with Scheme duly authenticated by the Company Registrar, High Court (O. S.), Bombay.

(S. J. Kathawalla, J.)