IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO.109 OF 2015

CONNECTED WITH

COMPANY SUMMONS OF DIRECTION NO. 939 OF 2014

WTI Advanced Technology Limited ...Petitioner Company

IN THE MATTER of the Companies Act, 1956;

AND

IN THE MATTER of Sections 391 to 394 of the Companies Act, 1956;

AND

IN THE MATTER of WTI Advanced Technology Limited;

AND

IN THE MATTER of Scheme of Amalgamation of WTI Advanced Technology Limited with Tata Consultancy Services Limited and their respective shareholders.

Called for Hearing

Mr. Dhiraj Mhetre i/b Desai & Diwanji, Advocates for the Petitioner

Mr. S. Ramakantha, Official Liquidator, Present Company Scheme Petition No. 109 of 2015

Mr. C.J. Joy i/b Mr. K.L. Kamboj for Regional Director in Company Scheme Petition No. 109 of 2015

Coram: S.J. Kathawalla, J.

Dated: 27th March 2015

P.C.:

1. Heard Counsels for the parties. No objector has come before the Court to oppose the Scheme 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 between WTI Advanced Technology Limited with Tata Consultancy Service Limited and their respective shareholders.

3. The Learned Advocate for the Petitioner states that the Transferor Company is engaged in the business of providing Computer Aided Engineering/Manufacturing Services, Geographical Information System Services and Information Technology Services. The Transferee Company is presently engaged in various businesses including providing information technology and information technology enabled services.

4. The Learned Advocate of the Petitioner Company states that the Petitioner Company is a wholly owned subsidiary of the Transferee Company and there is no re-organization of share capital of the Transferee Company as all shares shall stand cancelled as per clause 17.2 of the Scheme and rights of creditors of the Transferee Company are not affected and in respect of the observations made by this court in Mahamba Investment Ltd. Vs. IDI Limited (2001) 105 Company cases page 16 to 18. In view thereof, the filing of separate Company Summons for Direction and Company Scheme Petition under Sections 391 and 394 of the Companies Act, 1956 by Tata Consultancy Services Limited, the Transferee Company was dispensed with vide Order dated 09 January 2015 passed in Company Summons for Direction No. 939 of 2014.

5. The benefit of the amalgamation of the Transferor Company with the Transferee Company is that the same would lead to a more efficient

utilization of capital for enhanced development and growth of the consolidated business in one entity and the synergies created by the amalgamation would increase operational efficiency and integrate business functions.

6. The Transferor and Transferee Companies have approved the said Scheme by passing Board Resolutions which are annexed to the Company Scheme Petition annexed as Exhibits G-1 and G-2.

7. The learned Advocate for the Petitioner further states that, the Petitioner Company has complied with all the directions given in the order dated 9th January, 2015, passed in Company Summons for Direction and that the Company Scheme Petition has been filed in consonance with the orders passed in respective Company Summons for Directions.

8. The learned counsel appearing on behalf of the Petitioner has stated that the Petitioner has complied with all requirements as per directions of this Court and they have filed necessary affidavits of compliance in the Court. Moreover, the Petitioner Company undertakes to comply with all statutory requirements, if any, as required under the Companies Act, 1956/2013 and the Rules made there under, whichever applicable. The said undertaking is accepted.

9. The Official Liquidator has filed his report on 13 March 2015 in the Company Scheme Petition stating therein that the affairs of the Transferor Company has been conducted in a proper manner and that the Transferor Company may be ordered to be dissolved by this Court.

10. The Regional Director has filed an Affidavit on 24 day of March, 2015 stating therein that save and except as stated in paragraphs 6 (a) and (b) of the said affidavit, it appears that the Scheme is not prejudicial to the interest of shareholders and public. In paragraph 6 of the said affidavit it is stated that:

> *"6. That the deponent further submits that,*
>
> *(a) With reference to clause 17.4 of the scheme, it is submitted that the surplus if any arising out of the scheme be credited to Capital Reserve Account of Transferee Company.*
>
> *(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."*

11. In as far as observation in paragraph 6 (a) of the Affidavit of the Regional Director is concerned, the Petitioner Company through their Counsel undertakes that the surplus, if any arising out of the Scheme be credited to the Capital Reserve Account of the Transferee Company.

12. In as far as observation made in paragraph 6 (b) of the Affidavit of the Regional Director is concerned, the Petitioner Company through their Counsel submits that the Petitioner 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 Regional Director on instructions of Mr. M. Chandanamuthu, Joint Director (Legal) in the office of the Regional Director, Ministry of Corporate Affairs, Western Region, Mumbai states that they are satisfied with undertakings given by the Petitioner Company. The aforesaid undertakings given by the Petitioner Company are accepted.

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, the Company Scheme Petition No. 109 of 2015 filed by the Petitioner Company is made absolute in terms of prayer clauses (a), (c) and (f).

16. The Petitioner Company to file/lodge 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 sixty days from the date of the Order.

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

18. The Petitioner Company to pay costs of Rs. 10,000/- to the Regional Director, Western Region, Mumbai and to pay costs of Rs.10,000/- to the Official Liquidator, High Court, Bombay. Costs to be paid within four weeks from the 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.)