IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO. 203 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 60 OF 2015

e-Nxt Financials Limited … Petitioner Company

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

AND

In the matter of Sections 391 to 394 of the Companies Act, 1956;

AND

In the matter of Scheme of Amalgamation of e-NXT FINANCIALS LIMITED, Transferor Company with TATA BUSINESS SUPPORT SERVICES LIMITED, Transferee Company and Their Respective Shareholders and Creditors

<u>Called for Hearing</u>

Mr. Karthik Somasundram a/w Mr. Anirban Sen i/b M/s. Krishnamurthy & Co., Advocates for the Petitioner.

Mr. P. S. Jetly i/b Mr. A. A. Ansari for Regional Director.

Mr. S. Ramakantha, Official Liquidator present.

Coram: S.J. Kathawalla, J.

Date: 8th May, 2015

1. Heard 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 e-Nxt Financials Limited with Tata Business Support Services Limited and their respective shareholders and creditors.

3. Learned Counsel for the Petitioner states that the Petitioner Company is established mainly for the purpose of carrying on the business of developing and providing business process outsourcing solution, pertaining to mid office support in accounting, auditing, human resources, collections, recoveries and such other matters to companies, firms in the banking, financial services, telecommunications and other industry sectors, catering largely to the domestic Indian market.

4. The Learned Counsel for the Petitioner states that the Scheme of Amalgamation and the advantage thereof are that the Scheme of Amalgamation intends to consolidate the commonality of business interests of the Petitioner Company and the Transferee Company, will enable the business

of the Transferor Company to be carried on more conveniently and beneficially by the Transferee Company and the Scheme of Amalgamation will be beneficial for both the companies, their shareholders, employees and all concerned.

5. The Petitioner Company has approved the Scheme of Amalgamation by passing the board resolution which is annexed to the Company Scheme Petition.

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

7. Learned Advocate appearing on behalf of the Petitioner has stated that they have complied with all requirements as per directions of this Hon'ble Court and they have filed necessary affidavit 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, whichever is applicable. The said undertaking is accepted.

8. The Regional Director has filed an Affidavit on 5th May, 2015 stating therein, that save and except as stated in paragraph 6 (a) and (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 Deponent further submits that,

(a) That the Registered Office of the Transferee Company is situated in the State of Telangana and Andhra Pradesh, Hence the Transferee Company has to file similar petition before the Hon'ble High Court of Andhra Pradesh for approving the said scheme.

(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.

9. So far as the observation in paragraph 6 (a) of the Affidavit of Regional Director is concerned, the Learned Counsel for the Petitioner Company submits that the Transferee Company had filed Company Petition No. 38 of 2015 in The High Court of Hyderabad for sanctioning the Scheme of Amalgamation and by an order of 21st April, 2015, the Scheme of Amalgamation has been sanctioned by the Hon'ble Court of Hyderabad.

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

11. The Learned Counsel for Regional Director on instructions of Mr. 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 as stated herein above. The said undertakings given by the Petitioner Company are accepted.

12. The Official Liquidator has filed his report on 5th May, 2015 in the Company Scheme Petition No. 203 of 2015 stating therein that the affairs of the Transferor Company has been conducted in proper manner and that the Transferor Company may be ordered to be dissolved by this Court.

13. 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.

14. Since all the requisite statutory compliances have been fulfilled, the Company Scheme Petition No. 203 of 2015 is made absolute in terms of the prayer made under clauses (A), (B) and (D) of the Petition.

15. The petitioner company is directed to file a copy of this order along with a copy of the Scheme of Amalgamation duly authenticated by the Company Registrar, High Court (O.S.), Bombay, 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.

16. The Petitioner Company is directed to 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 60 days from the date of the Order.

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

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

19. 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.)