IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO. 246 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 106 OF 2015

In the matter of Sections 391 to 394 read with the other applicable provisions of the Companies Act, 1956 and Companies Act 2013;

And

In the matter of the Scheme of Amalgamation between UTV New Media Limited with UTV Software Communications Limited and their respective shareholders.

UTV New Media Limited Petitioner

Called for hearing:

Ms. Saeeda Bandukwala i/b J. Sagar Associates Advocates for the Petitioner.
Ms. Madhubala Kajle i/b Mr. A. A. Ansari for the Regional Director.
Mr. S. Ramakantha, Official Liquidator, present.

Coram: S. C. Gupte, J

Date: 3rd July 2015

P.C.:

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

2. The sanction of the Court is sought under the provisions of Sections 391 to 394 of the Companies Act, 1956 to the Scheme of Amalgamation between UTV New Media Limited with UTV Software Communications Limited and their respective shareholders and creditors.

3. The learned counsel for the Petitioner Company states that the Petitioner is carrying on the business of developing and marketing websites and acquisition and exploitation of digital rights on mobile and digital platforms. The Transferee Company is primarily engaged in the businesses of film distribution and production.

4. The rationale of the Scheme of Amalgamation is that the purpose for which the Transferor Company was originally formed stands defeated due to changes in the market scenario. Also, the business of the Transferor Company is unlikely to revive again thus leading to this entity being redundant and irrelevant. The consolidation of the businesses by amalgamating Transferor Company into the Transferee Company will lead to synergies of operations and would enable the Transferee Company to participate more profitably in its business in an increasingly competitive market.

5. The Petitioner Company and the Transferee Company have approved the said Scheme of Amalgamation by passing board resolution which is annexed to the Company Scheme Petition.

6. The learned counsel for the Petitioner further states that filing of separate Company Summons for Direction and Company Scheme Petition was dispensed by order dated 13th February 2015 in Company Summons for Direction 106 of 2015 with as the Petitioner is wholly owned subsidiary of the Transferee Company and no new shares are being issued to the shareholders of the Petitioner or any other person and there is no re-organisation of the paid-up share capital of the Transferee Company and in view of observations made in Mahaamba Investment Limited vs IDI Limited [(2001) 105 Company Cases 16 (Bom)].

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

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

9. The Official Liquidator has filed his report on 18th June 2015 in the above Company Scheme Petitions stating *interalia* 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.

10. The Regional Director has filed an affidavit on 17th June 2015 stating therein that save and except as stated in paragraph 6 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, the Regional Director has stated that:

"That the Deponent further submits that tax implication, if any, arising out of the Scheme is subject to final decision of the 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 the Scheme. The decision of the Income Tax Authority is binding on the Transferor Company and the Transferee Company."

11. In so far as the observation made in paragraph 6 of the Affidavit of the Regional Director is concerned, learned counsel appearing for the Petitioner and on behalf of the Transferee Company submits that the Petitioner Company and the Transferee Company are 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.

12. The learned counsel for the 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 the undertakings and submissions made by the Petitioner /Transferee Company through their Advocate. In view thereof the said undertakings are accepted.

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 above Company Scheme Petition is made absolute in terms of prayer clauses (a) to (c).

15. The Petitioner 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 order.

16. The Petitioner 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 the Companies Act 1956/2013.

17. The Petitioner 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 date of 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 and the Scheme duly authenticated by Company Registrar, High Court, (O.S), Bombay.

(S.C. Gupte, J)