IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SCHEME PETITION NO. 278 OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO. 163 OF 2015

Regus Business Centre (Nagpur) Private Limited
..... Transferee / Petitioner Company

In the matter of the Companies Act, 1956 (or re-enactment thereof upon effectiveness of Companies Act, 2013);

AND

In the matter of Sections 391 to 394 read with Sections 100 to 103 of the Companies Act, 1956 (or any corresponding provisions of the Companies Act, 2013 as may be notified);

AND

In the matter of Scheme of Amalgamation and Arrangement between Regus Business Centre (Chennai) Private Limited and Regus Business Centre (Nagpur) Private Limited and their Respective Shareholders and Creditors

Called for Hearing

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

Mrs. G. Hariharan, i/b Mr. A. A. Ansari for Regional Director.

CORAM: S.C. Gupte, J.

DATE: 17th July, 2015

PC:

1. Heard the learned counsel for the Petitioner Company. 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 read with Sections 100 to 103 of the Companies Act, 1956 or any corresponding provisions of the Companies Act, 2013 to the Scheme of Amalgamation and Arrangement between Regus Business Centre (Chennai) Private Limited and Regus Business Centre (Nagpur) Private Limited and their respective shareholders and creditors.

3. Learned Counsel for the Petitioner states that both the Transferor and Transferee Company are presently engaged into running and operating business centres which include staffed and equipped, serviced offices, commercial offices including one or more individual offices, and offering ancillary business services.

4. The management proposes to merge Transferor Company with Petitioner Company in view of the following benefits:
   - Reduction in overheads, administrative, managerial and other expenditure to create operational rationalization, organizational efficiency, and optimal utilization of various resources; and
   - Consolidation of managerial expertise of the companies involved thereby giving additional strength to the operations and management of Transferee Company.

5. The Petitioner Company approved the said Scheme by passing Board Resolution which are annexed to the Company Scheme Petition.

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

7. The learned Advocate appearing on behalf of the Petitioner has stated that it 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 / the Companies Act, 2013 and the Rules made there under. The said undertakings given by the Petitioner Company is accepted.

8. The Regional Director has filed an Affidavit dated 8th day of July, 2015 stating therein that save and except as stated in paragraph 6(a) to 6(c) of the said affidavit, it appears that the Scheme is not prejudicial to the interest of shareholders and public.

In paragraph 6(a) to 6(c) of the said affidavit, it is stated that:

a) *The Registered office of the Transferor Company is situated in the State of Tamil Nadu. Hence, present Scheme of Amalgamation between the Transferor Company and Transferee Company will be subject to the condition of obtaining similar approval from Hon'ble High Court of Madras in respect of Transferor Company.*
b) *The Shares of the Transferor Company are held by Foreign Body Corporate. Hence, while giving effect to the Scheme, by issuing new shares by the Transferee Company to the shareholders of Transferor Company, the Transferee Company*

has to comply with the provisions of FEMA / RBI regulations as applicable in this regard.

c) *It is respectfully submitted that the tax implication, if any, arising out of the Scheme is subject to final decision of Income Tax Authority. 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 Petitioner Company.*

9. In so far as observations made in paragraph 6(a) of the Affidavit of Regional Director is concerned, the Petitioner Company through its Counsel submits that approval from Hon'ble High Court of Madras in respect of Transferor Company, approving the said Scheme of Amalgamation and Arrangement has been received vide order dated 2nd July, 2015.

10. As far as the observations raised by the Regional Director in paragraph 6(b) of his Affidavit, the Petitioner Company through its Counsel submits that while giving effect to the Scheme by issuing shares to the shareholders of Transferor Company, the Petitioner Company undertakes to comply with FEMA / RBI regulations as may be applicable in this regard.

11. As far as the observations raised by the Regional Director in paragraph 6(c) of his Affidavit, the Petitioner Company through its Counsel submits that the Petitioner is bound to comply with all applicable provisions of Income Tax Act, and all tax issues arising out of Scheme will be met and answered in accordance with applicable income tax provisions.

12. The Counsel for the Regional Director on instructions of Mr. M Chandanamuthu, Joint Director in the office of Regional Director, Ministry of Corporate Affairs, Western Region, Mumbai, states that they are satisfied with the submissions given by the Petitioner Company. The said undertakings given by the Petitioner is 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. None of the parties concerned has come forward to oppose the Scheme.

14. Since all the requisite statutory compliances have been fulfilled, Company Scheme Petition No. 278 of 2015 filed by the Transferee Company is made absolute in terms of prayer clauses (a) to (e) of the respective Petition.

15. The Petitioner Company to lodge a copy of this order and the Scheme along with form of minutes, 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 issuance of Order.

16. Petitioner Company is directed to file a copy of this order along with a copy of the Scheme and form of minutes with the concerned Registrar of Companies, electronically, along with E-Form 21 / E-Form INC 28 in addition to physical copy as per the provisions of the Companies Act 1956 / 2013.

17. The Petitioner Company in the Company Scheme Petition to pay cost of Rs.10,000/- to the Regional Director, Western Region,

Mumbai. 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. The undertakings given herein above are accepted and are binding.

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

(S.C. Gupte, J.)