**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**ORDINARY ORIGINAL CIVIL JURISDICTION**

**COMPANY SCHEME PETITION NO. 421 OF 2015**

**CONNECTED WITH**

**COMPANY SUMMONS FOR DIRECTION NO. 194 OF 2015**

**Tata Consultancy Services Limited** …Petitioner / Transferee Company

In the matter of:

The Companies Act, 1956 (1 of 1956);

AND

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

In the matter of:
The Scheme of Amalgamation between CMC Limited and Tata Consultancy Services Limited and their respective shareholders.

**CALLED FOR HEARING:**

Mr. Rohan Rajadhyaksha along with Molla Hasan i/b AZB & Partners, Advocates for Petitioner.

P. Khosla i/b A. A. Ansari for the Regional Director.

**CORAM**: S. C. Gupte J.

**DATE**: 14th August, 2015

P.C.:

1. Heard learned counsel for the parties. 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 a Scheme of Amalgamation between CMC Limited and Tata Consultancy Services Limited and their respective shareholders.

3. The Learned Counsel for the Petitioner Company states that the Petitioner Company is engaged in the businesses of provision of information technology and information technology enabled services. The Transferor Company is engaged in the business of design, development and implementation of software technologies and applications, providing professional services in India and overseas, and procurement, installation, commissioning, warranty and maintenance of imported/indigenous computer and networking systems, and in education and training.

4. The Learned Counsel for the Petitioner Company states that the amalgamation shall lead to a single company with rationalized structure, greater integration, financial strength and flexibility aiding in achieving economies of scale, sourcing benefits, vendor rationalization, more focused operational efforts, standardization and simplification of business processes and productivity improvements. Further, the amalgamation will result in creation of a single 'go-to-market' strategy, benefit of scale, enhanced depth and breadth of capabilities to result in increased business opportunities and reduced expenses. The combined company shall be better positioned to serve the domestic market.

5. Learned Counsel for the Petitioner Company further states that the Board of Directors of the Petitioner Company and the Transferor Company have passed

respective resolutions for approval of the Scheme of Amalgamation which are annexed to the Company Scheme Petition filed by the Petitioner Company.

6. The Learned Counsel for the Petitioner Company further states that the Petitioner Company has 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 Company Summons for Directions.

7. The Learned Counsel appearing on behalf of the Petitioner Company has stated that they have complied with all requirements as per directions of this Court and they have filed necessary affidavit of compliance in the Court. Moreover, the Petitioner Company undertakes to comply with all the statutory requirements, if any, as required under the Companies Act, 1956 and the rules made thereunder whichever is applicable. The undertaking is accepted.

8. The Regional Director has filed an affidavit on 12th August, 2015 stating therein that save and except what is stated in paragraphs 6 (a), (b), (c) & (d) thereof, it appears that the Scheme is not prejudicial to the interest of shareholders and public. In paragraphs 6 (a), (b), (c) & (d) of the said Affidavit, the Regional Director has stated that:-

"*6. That the deponent further submits that*:-

*(a) With reference to clause 12.6 of the scheme, it is submitted that the surplus if any arising out of the scheme shall be credited to Capital Reserve Account of Transferee Company.*

*(b) That the Registered Office of the Transferor Company is situated in the State of Telangana. Hence the Transferor Company has to file similar petition before the Hon'ble High Court of Andhra Pradesh for the judicature at Hyderabad for approving the said scheme.*

*(c) Clause 14.3 of the scheme provides for adjustment for differences in Accounting Policies between Transferor Company and Transferee*

*Company. In this regard, it is submitted that in addition to the compliance of Accounting Standard -14, the Transferee Company shall pass such accounting entries which are necessary in connection with the scheme to comply with other applicable Accounting Standard such as AS-5 etc.*

*(d) 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 made by the Regional Director in paragraph 6(a) of the affidavit of the Regional Director is concerned, the Petitioner Company through its Counsel undertakes that with respect to Clause 12.6 of the Scheme, the surplus, if any, arising out of the Scheme shall be credited to the Capital Reserve Account of the Transferee Company.

10. So far as the observation made by the Regional Director in paragraph 6(b) of the affidavit of the Regional Director is concerned, the Petitioner Company through its Counsel states that the Transferor Company had filed necessary application/ petition before the Hon'ble High Court of judicature at Hyderabad for the states of Telangana and Andhra Pradesh for seeking approval to the Scheme and the said High Court has passed an order dated 20th July, 2015 sanctioning the Scheme without any modifications.

11. So far as the observation made by the Regional Director in paragraph 6(c) of the affidavit of the Regional Director is concerned, the Petitioner Company through its Counsel undertakes that in addition to the compliance of Accounting Standard -14, the Transferee Company shall pass such accounting entries which are

necessary in connection with the scheme and to comply with other applicable Accounting Standard such as AS-5 etc.

12. So far as the observation made by the Regional Director in paragraph 6(d) of the affidavit of the Regional Director is concerned, the Petitioner Company through its Counsel undertakes that the Petitioner Company is bound to comply with all the 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 of Regional Director on instructions of Mr. Chandana Muthu, 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 given by the Learned Counsel appearing for the Petitioner Company. The undertakings given by the Petitioner Company above 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. 421 of 2015 filed by the Petitioner Company is made absolute in terms of the prayer made under clauses (a) and (b).

16. The Petitioner Company 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. The Petitioner Company is directed to file a copy of the Scheme of Amalgamation with the concerned Registrar of Companies, electronically, along with E-Form 21 or INC 28 in addition to physical copy within 30 days from the date of issuance of

the order by the Registry as per the relevant provisions of the Companies Act, 1956.

18. The Petitioner Company to pay costs of Rs.10,000/- to the Regional Director, Western Region, Mumbai. 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. C. Gupte J.)