IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

IN

COMPANY SCHEME PETITION NO. 464 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 379 OF 2015

Indian Direct Equity Advisors Private Limited ... Petitioner Company / Transferee Company

COMPANY SCHEME PETITION NO. 465 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 380 OF 2015

Pro Capital Advisors Private Limited ….. Petitioner Company /Transferor Company-1

COMPANY SCHEME PETITION NO. 466 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 381 OF 2015

Protect Equity Advisors Private Limited ... Petitioner Company/Transferor Company-2

In the matter of Companies Act, 1956 or any re-enactment thereof;

AND

In the matter of Petition under Sections 391 to 394 of the Companies Act, 1956 or any re-enactment thereof;

AND

In the matter of Scheme of Amalgamation amongst Indian Direct Equity Advisors Private Limited, Pro Capital Advisors Private Limited and Protect Equity Advisors Private

Limited and their respective shareholders and creditors.

Called for Hearing

Ms. Labdhi Shah, Advocate for the Petitioner Companies

G. Hariharan Advocate i/b A.A. Ansari for Regional Director

S. Ramakantha, Official Liquidator Present

Coram: S.C. Gupte, J.
Date: 23rd October, 2015

MINUTES OF THE ORDER

PC:

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

2. Learned Advocate for the Petitioner Companies states that the Petitions have been filed to seek sanction to the Scheme of Amalgamation amongst Indian Direct Equity Advisors Private Limited, Pro Capital Advisors Private Limited and Protect Equity Advisors Private Limited and their respective shareholders and creditors, pursuant to the provisions of Sections 391 to 394 of the Companies Act, 1956 or any re-enactment thereof.

3. The Learned Advocate for the Petitioner Companies states that the Transferee Company is *inter alia* engaged in the business and profession of providing consultancy and financial advisory services to the funds investing in India and abroad, in equity and debt instruments. The Transferor Company-1 and Transferor Company -2 are also engaged in the similar line of business.

4. The Learned Advocate for the Petitioner Companies says that the rationale and significant benefits of the Scheme are:

a) achieve benefits of economies of scale, besides other synergetic advantages particularly in view of the fact that the Transferor Companies and the Transferee Company are engaged in similar line of business;

b) efficiently utilize capital and facilitate creation of a linear shareholding structure since the Transferor Companies and the Transferee Company are part of the same group of companies;

c) simplify management structure, leading to better administration and a reduction in costs from more focused operational efforts, rationalization, standardization, and simplification of business processes, and the elimination of duplication, and rationalization of administrative expenses, as all the three companies viz., the Transferor Companies and the Transferee Company are held by one family;

d) simplify reporting requirements, and provide logistic advantages, thereby significantly contributing to future growth; and

e) make the Scheme beneficial and in the best interests of the shareholders, creditors, employees of the Transferor Companies and the Transferee Company and all concerned, as it would enable a focused business approach for the maximization of benefits to all stakeholders and for the purposes of synergies of business

5. The Learned Advocate for the Petitioner Companies states that the Petitioner Companies have complied with all the directions passed in the Company Summons for Direction and that the Company Scheme Petitions are filed in consonance with the order passed in Company Summons for Directions.

6. The Learned Advocate for the Petitioner Companies has stated that the Petitioner Companies have complied with all requirements as per the directions of this Court and they have filed necessary Affidavits of compliance in the Court. Moreover the Petitioner Companies undertakes to comply with all statutory requirements, if any, as required under the Companies Act, 1956 or any re-enactment thereof and the Rules made thereunder. The said undertakings are accepted.

7. The Official Liquidator has filed his report on 14th September, 2015 in Company Scheme Petition Nos. 465 and 466 of 2015, *inter alia* stating therein that the affairs of the Transferor Company-1 and Transferor Company -2 have been conducted in a proper manner and that the said Transferor Companies may be ordered to be dissolved.

8. The Regional Director has filed an Affidavit dated 23rd September, 2015 in Company Scheme Petition Nos. 464, 465 and 466 of 2015 *inter alia* stating therein that save and except 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 the shareholders of the Petitioner Companies and public. In paragraph 6 of the Affidavit it is stated that:

"6. That the Deponent further submits that,

a) Clause 20 (d) of the scheme states that the difference in the recorded value of net assets in the books of accounts of the Transferee Company over the amount credited by the Transferee Company to the share capital account as per Section 4 of the Scheme and after adjusting for cancellation of investment held by the Transferee Company in the Transferor Company-1, shall be adjusted in the reserves in the financial statements of the Transferee Company. In this regard, it is submitted that the surplus, if any, arising out of the scheme shall be credited to Capital Reserve Account of the Transferee Company and the deficit if any, shall be debited to the Goodwill Account of the Transferee Company.

b) It is respectfully submitted that the tax implications, 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 return filed by the Transferee Company after giving effect to the Scheme. The decision of the Income Tax Authority is binding on the Transferor Companies and Transferee Company."

9. As regards objection set out in paragraph 6 (a), of the Affidavit of the Regional Director is concerned, the Petitioner Companies through its Advocate undertakes to pass such accounting entries as may be necessary in connection with the Scheme of Amalgamation such that the surplus, if any, arising out of the scheme shall be credited

to Capital Reserve Account of the Transferee Company and the deficit if any, shall be debited to the Goodwill Account of the Transferee Company.

10. As regards objection set out in paragraph 6 (b), of the Affidavit of the Regional Director is concerned, the Petitioner Companies through its Advocate submits that the Petitioner Companies are bound to comply with all applicable provisions of the Income Tax Act and all tax issues arising out of the Scheme will be answered in accordance with law.

11. 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 given hereinabove by the Petitioner Companies through their Advocate.

12. The Counsel for the Petitioner Companies submits that, none of the secured and/or unsecured creditors have raised any objection to the Scheme.

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 requisite statutory compliance have been fulfilled, Company Scheme Petition Nos. 464, 465 and 466 of 2015 filed by the Petitioner Companies is made absolute in terms of prayer clause (a), sanctioning the Scheme, as amended.

15. The Petitioner Companies to lodge a copy of this order along with a copy the amended 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, within 60 days from the date of the order.

16. The Petitioner Companies are directed to file a copy of this order along with a copy of the amended Scheme duly authenticated by the Company Registrar, High Court [O.S.], Bombay, with the concerned Registrar of Companies, electronically, along with e-form 21/ INC 28 in addition to physical copy as per the provisions of Companies Act, 1956/2013, whichever is applicable.

17. 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 today.

18. Filing and Issuance of the respective drawn up orders are dispensed with.

19. All concerned authorities to act on a copy of this order along with the Scheme, duly authenticated by the Company Registrar, High Court [O.S.], Bombay.

(S.C. GUPTE, J.)

CERTIFICATE

I certify that this Order uploaded is true and correct copy of the original signed order.

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