

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SCHEME PETITION NO 545 OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO. 285 OF 2015

SNG Engineering LimitedPetitioner Company

With

COMPANY SCHEME PETITION NO.546 OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO. 286 OF 2015

Prestige Hotelling and Engineering Industries Private Limited....Petitioner
Company

With

COMPANY SCHEME PETITION NO.547 OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO. 287 OF 2015

SNG Constructions Private LimitedPetitioner 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

AND

In the matter of Scheme of Amalgamation of
SNG Engineering Limited ("Transferor
Company-I") and Prestige Hotelling and

Engineering Industries Private
Limited("Transferor Company-II") with SNG
Constructions Private Limited ("Transferee
Company") and their respective shareholders.

Called for hearing

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

Mr. Ashwini Singh i/b Mr. A.A. Ansari for Regional Director.

Mr. S. Ramakantha, Official Liquidator Present

CORAM K.R. SHRIRAM, J

DATE: 20TH NOVEMBER 2015

PC:

1. Heard counsel for the parties. No objector has come before the court to oppose the Scheme of Amalgamation 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 SNG Engineering Limited ("Transferor Company-I") and Prestige Hotelling and Engineering Industries Private Limited("Transferor Company-II") with SNG Constructions Private Limited ("Transferee Company") and their respective shareholders.

3. The Learned Counsel for the Petitioners states that the Petitioner Company in Company Scheme Petition No. 545 of 2015 is presently engaged in the business of undertaking and executing projects in civil, mechanical and electrical engineering and civil construction projects and the Petitioner Company in Company Scheme Petition No. 546 of 2015 is presently engaged in the business of undertaking and executing projects in civil engineering and in the business of lodging, hotelling, restaurant, catering and other allied activities and the Petitioner Company in Company Scheme Petition No. 547 of 2015 is presently engaged in the business of undertaking, promoting and executing various constructions and any other constructional activities.
4. Learned Counsel for the Petitioners states that the Scheme will result into following benefits namely synergies in procurement, administration and marketing operations, achieving economies of scale, avoiding duplication of efforts, costs and resources, lesser regulatory / procedural compliance, integrate, rationalize and streamline the management structure of the merged business, combined capital resources would strengthen the financial position of the merged entity and result in increasing leveraging capacity of the merged entity i.e. its capacity to borrow funds for business purposes, pooling of the human talents in terms of manpower, management, administration and marketing which would result in savings of costs,

amalgamation of the companies would eliminate duplication of work, administrative services and will result in cost savings, cost saving in fees/ duties payable on statutory and procedural compliance, facilitate inter transfer of resources and costs and optimum utilization of assets, synchronizing of efforts to achieve uniform corporate policy, ease in decision making and to reflect the consolidated net worth of these companies in one balance sheet.

5. Learned Counsel for the Petitioners further states that the Board of Directors of the Petitioner Companies have approved the said Scheme of Amalgamation by passing Board Resolutions which are annexed to the respective Company Scheme Petitions.
6. The Learned Counsel for the Petitioners further states that the Petitioner Companies have complied with all the directions passed in the respective Company Summons for Direction and that the Company Scheme Petitions have been filed in consonance with the orders passed in respective Company Summons for Direction.
7. The Learned Counsel appearing on behalf of the Petitioners has stated that the Petitioner Companies 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 Companies undertakes to comply with all statutory requirements if any, as

required under the Companies Act, 1956 / 2013 and rules made there under whichever is applicable. The said undertaking is accepted.

8. The Official Liquidator has filed his report on 4th November, 2015 stating therein that the affairs of the Transferor Companies have been conducted in a proper manner and that the Transferor Companies may be ordered to be dissolved by this Court.
9. The Regional Director has filed an Affidavit on 21st October, 2015 stating therein, save and except as stated in paragraphs 6 (a) to 6 (d) thereof, it appears that the Scheme is not prejudicial to the interest of shareholders and public. In paragraphs 6 (a) to 6 (d) of the said Affidavit, the Regional Director has stated that:-

“6. That the Deponent further submits that,

(a) With respect to Clause 16 of the Scheme, it is submitted that surplus if any, arising out of this scheme be transferred Capital Reserve Account and deficit if any be transferred to Goodwill Account of the Transferee Company.

(b) Clause 8 of the Scheme provides for change in the object clause of the Memorandum of Association of the Transferee Company. In this connection, the Transferee Company may be directed to comply with provisions of section 13(1), (6) and 15 of the Companies Act, 2013 and to file amended copy of Memorandum

of Association along with Form No. 21 with Registrar of Companies.

(c) Clause 9 of the Scheme provides for change of name of Transferee Company. In this connection Transferee Company may be directed to comply with the provisions of section 21 / 23 of the Companies Act, 1956 corresponding to new section 13 read with 16 of the Companies Act, 2013 in respect of filing of necessary forms with the Registrar of Companies.

(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.

10. As far as observations made in paragraph 6 (a) of Affidavit of the Regional Director is concerned, the Petitioner/Transferee Company through their Counsel undertakes that surplus, if any arising out the scheme shall be credited to Capital Reserve Account of Transferee Company and the deficit, if any arising, shall be debited to Goodwill Account of the Transferee Company.

11. As far as the observations made in paragraph 6 (b) of the Affidavit of Regional Director is concerned, the Petitioner/ Transferee Company through their Counsel undertakes to comply with the provisions of sections 13(1), (6) and 15 of the Companies Act, 2013 and to file necessary forms with the Registrar of Companies.
12. As far as the observations made in paragraph 6 (c) of the Affidavit of Regional Director is concerned, the Petitioner/ Transferee Company through their Counsel undertakes to comply with the provisions of section 21/23 of the Companies Act 1956 corresponding to new section 13 read with 16 of the Companies Act, 2013 in respect of filing of necessary forms with the Registrar of Companies and the proposed new name will be allowed subject to availability of the same, by the Registrar of Companies at the time of making such application by the Transferee Company.
13. As far as observations made in paragraph 6(d) of Affidavit of the Regional Director, the Petitioners clarifies that the approval of the Scheme by this Court will not deter the Income Tax Authority to scrutinize the tax return filed by the Petitioner Companies after giving effect to the Scheme and all issues arising out of the Scheme will be met and answered in accordance with law.
14. The Learned Counsel for 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 by the Petitioner Company. The said undertakings given by the Petitioner Company are accepted.

15. 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.
16. Since all the requisite statutory compliances have been fulfilled, the Company Scheme Petition No. 545 of 2015 to 547 of 2015 are made absolute in terms of the prayer clause (a) of the respective Company Scheme Petition.
17. The Petitioner Companies are directed to lodge a copy of this order and Scheme duly authenticated by the Company Registrar, High Court, 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.
18. Petitioner is directed to file a copy of this order along with a copy of the Scheme 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.

19. The Petitioners in Company Scheme Petitions No. 545 of 2015 to 547 of 2015 to pay costs of Rs.10,000/- each to the Regional Director, Western Region, Mumbai and Petitioners in Company Scheme Petition No. 545 of 2015 and 546 of 2015 to pay cost of Rs.10,000/- each to the Official Liquidator, High Court, Bombay. Costs to be paid within four weeks from today.
20. Filing and issuance of the drawn up order is dispensed with.
21. All concerned regulatory authorities to act on a copy of this order along with the Scheme duly authenticated by the Company Registrar, High Court (O. S.), Bombay.

(K.R. SHRIRAM, J.)

CERTIFICATE

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

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