IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO. 582 OF 2015.

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 518 OF 2015.

MGCA CONSULTANTS PRIVATE LIMITED

....Petitioner/ the First Transferor Company

AND

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO. 583 OF 2015.

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 519 OF 2015

PRISM SECURITY SERVICES PRIVATE LIMITED

....Petitioner/ the Second Transferor Company

AND

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO. 584 OF 2015.

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 520 OF 2015

QUEST SECURITY SERVICES PRIVATE LIMITED

....Petitioner/ the Third Transferor Company

AND

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO. 585 OF 2015.

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 521 OF 2015

SHIVKUNJ EXPORT AND TRADING PRIVATE LIMITED

....Petitioner/ the Fourth Transferor Company

In the matter of the Companies Act, 1 of 1956 and other relevant provisions of the Companies Act, 2013;

AND

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

AND

In the matter of Scheme of Amalgamation of MGCA CONSULTANTS PRIVATE LIMITED, the First Transferor Company

AND

PRISM SECURITY SERVICES PRIVATE LIMITED, the Second Transferor Company

AND

QUEST SECURITY SERVICES PRIVATE LIMITED, the Third Transferor Company

AND

SHIVKUNJ EXPORT AND TRADING PRIVATE LIMITED, the Fourth Transferor Company

WITH

MG CONSULTING PRIVATE LIMITED, the Transferee Company

Called for hearing

Mr. Rajesh Shah i/b Rajesh Shah & Co., Advocate for the Petitioners.

Mrs. P. Awasthi i/b Mr. A.A. Ansari for the Regional Director.

Mr. S. Ramakantha, the Official Liquidator.

CORAM: K. R. Shriram, J.

DATE: 20th November, 2015

PC:

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 Petitions.

2. The sanction of the Court is sought to a Scheme of Amalgamation of MGCA CONSULTANTS PRIVATE LIMITED, the First Transferor Company and PRISM SECURITY SERVICES PRIVATE LIMITED, the Second Transferor Company and QUEST SECURITY SERVICES PRIVATE LIMITED, the Third Transferor Company and SHIVKUNJ EXPORT AND TRADING PRIVATE LIMITED, the Fourth Transferor Company with MG CONSULTING PRIVATE LIMITED, the Transferee Company, under Sections 391 to 394 and other relevant provisions of the Companies Act, 2013.

3. The Learned Counsel for the Petitioners states that the First Transferor Company has been carrying on the business of rendering and offering Consultancy services and or acting as advisors, financial advisers, management consultants, personal and corporate investment and finance portfolio managers and the Second and Third Transferor Companies has been carrying on the business in deal in, acquire, hold, sell, pledge, invest, subscribe, underwrite, and otherwise deal in as intermediaries, agents, brokers, sub-brokers, market makers, consultants and render services of all kinds in stocks and the Fourth Transferor Company has been carrying on the business of Exporters and dealers in all kind of Chemicals and Auxiliaries and the Transferee Company has been carrying on the business is in acting as consultant, advisor, representative, signatories, attorneys, liasioner, agent, serviceman, middleman, arbitrator, conciliator, auctioneer, liquidator, secretary & solicitor, Secretarial Services and Corporate Management. The proposed scheme of Amalgamation will have the benefit as per the opinion of the management, that the amalgamation will enable the Transferee Company to consolidate the businesses and lead to broad base the area of operation and create a stronger financial base which would be advantageous to combine the activities and all the Companies are under same Management and it would be advantageous to combine the activities and operations in a single Company. The amalgamation will enable the Transferee Company to consolidate the businesses and lead to synergies in operation and create a

stronger financial base and it would be advantageous to combine the activities and operations of both companies into a single Company for synergistic linkages as both the Companies are engaged in the same type of business activities and thus there will be benefit of combined financial resources. Enable all the companies to consolidate their business operations and provide significant impetus to their growth and reduction of overheads and other expenses facilitate administrative convenience and ensure optimum utilization of available services and resources and the Amalgamation will lead to the benefits of the economies of scale and all the Transferor Companies are wholly owned subsidiaries of the Transferee Company. A consolidation of the Transferor Companies and the Transferee Company by way of amalgamation would therefore lead to more efficient utilization of capital.

4. The learned Advocate appearing on behalf of the Petitioner company submits that by an order passed by this court on 3rd July, 2015 in Company Summons for Direction No. 518, 519, 520 and 521 of 2015 the filing of a separate Company Summons for Direction and Company Scheme Petition in relation to the proposed Scheme by the Transferee Company i.e. MG Consulting Private Limited was dispensed with as no new shares will be issued and in view of Judgment passed by this Court in *Mahaamba Investments Limited Versus IDI Limited (2001) 105 Company Cases (pages 16 to 18)*

5. Learned Counsel for the Petitioners further states that the Board of Directors of the Petitioner Companies have approved the said Scheme of Amalgamation and by passing Board Resolutions which are annexed to the respective Company Scheme Petitions.

6. The Learned Counsel for the Petitioners further states that Petitioner Companies have complied with all the directions passed in the respective Company Summons for Directions and that the respective Company Scheme Petitions have been filed in consonance with the orders passed in respective Company Summons for Directions.

7. The Learned Counsel appearing on behalf of the Petitioners have 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 undertake 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 28th day of October, 2015 in Company Scheme Petition Nos. 582 to 585 of 2015 stating that the affairs of the Transferor Companies have been conducted in a proper manner and that the Transferor Company may be ordered to be dissolved.

9. The Regional Director has filed an Affidavit on 29th day of October, 2015 stating therein, save and except as stated in paragraph 6, 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:-

"6. . That the Deponent further submits that,

(a) *Clause 14.9 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.*

(b) 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. So far as the observation in paragraph 6 (a) of the Affidavit of Regional Director is concerned, the Petitioner Company through its counsel submitted that 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.

11. So far as the observation in paragraph 6(b) of the Affidavit of Regional Director is concerned, the Learned Counsel for the Petitioner Companies submit that the Petitioner Companies are bound to comply with all applicable provisions of 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 Regional Director on instructions of Mr. M. 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 Petitioners. The above 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, Company Scheme Petition Nos. 582 to 585 of 2015 are made absolute in terms of prayers clause (a), (b) and (d).

15. The Petitioner Companies 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.

16. The Petitioners are directed to file a certified copy of 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 physical copy as per the relevant provisions of the Companies Act, 1956/2013 whichever is applicable.

17. The Petitioner Companies to pay costs of Rs.10,000/- each to the Regional Director, Western Region, Mumbai and the Petitioner Companies to pay costs of Rs.10,000/- each to the Official Liquidator, High Court, Bombay. Cost 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. 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.

(K. R. Shriram, J.)

<u>CERTIFICATE</u>

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

Uploaded by : Shankar Gawde, Stenographer.