

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SCHEME PETITION NO. 554 OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO. 481 OF 2015
SILICON MEADOWS DESIGN LIMITED

..... Petitioner / the Transferor Company
AND

COMPANY SCHEME PETITION NO. 555 OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO. 482 OF 2015
ATLAS CASTALLOY LIMITED

..... Petitioner / the Transferee 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 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
of Silicon Meadows Design Limited with
Atlas Castalloy Limited and their
respective Shareholders and Creditors

Mentioned not on Board and called out and taken up for hearing.

Called for Hearing

Mr. Hemant Sethi i/b M/s Hemant Sethi & Co., Advocates for the
Petitioners in both the Petitions.

Mr. Rahul Tiwari, i/b Mr. A. A. Ansari for Regional Director in both the
Company Scheme Petitions.

Mr. S. Ramakantha, Official Liquidator, present in Company Scheme Petition No. 554 of 2015

CORAM: S.C. Gupta, J.

DATE: 9th October, 2015

1. Heard the learned counsel for the Petitioner Companies. 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 or any corresponding provisions of the Companies Act, 2013 to in the Scheme of Amalgamation of Silicon Meadows Design Limited with Atlas Castalloy Limited and their respective Shareholders and Creditors.
3. Learned Counsel for the Petitioners states that the Petitioner in Company Scheme Petition No. 554 of 2015 is engaged in the business of designing and manufacturing of tools and dies mainly used in manufacturing of aluminium alloy castings and Petitioner in Company Scheme Petition No. 555 of 2015 was incorporated to acquire as a going concern, the business of M/s. Atlas Automotive Components, a unit of Indokem Limited, and to engage in the business of manufacturing of aluminium alloy castings. It is an established aluminium foundry and mainly caters to Indian and international automotive and non-automotive customers.
4. Learned Counsel for the Petitioners states that the rationale of the Scheme of Amalgamation are inter alia as follows that the Amalgamation of group companies and businesses are desirable for achieving better results and growth. Post amalgamation it will

help the Transferee Company in optimal utilization of resources, better administration and reduction in cost. Further, it will also provide the Transferee Company with greater flexibility to pursue strategic objectives and accelerate growth of its business, The Transferee Company is proposing to commence business of tool / dies designing and manufacturing business and this merger will provide an access to the Transferee Company to a large pool of trained manpower and infrastructure required for this highly technical business segment and that the Scheme shall be beneficial and be in the best interest of the shareholders, creditors and other stake holders of both the Transferor Company and the Transferee Company. The Scheme shall not be in any manner prejudicial to the interest of concerned members, creditors and stakeholders.

5. Learned Counsel for the Petitioners further states that the Board of Directors of the Petitioner Companies have approved the said Scheme by passing Board Resolutions which are annexed to the respective Company Scheme Petitions.
6. Learned Counsel for the Petitioners further states that the Petitioner Companies have complied with all directions passed in Company Summons for Directions and that the 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 has stated that the Petitioner Companies have complied with all requirements as per directions of this Court and they have filed necessary affidavits 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 /

the Companies Act, 2013 and the Rules made there under whichever is applicable. The said undertakings are accepted.

8. The Official Liquidator has filed his report on 23rd day of September, 2015 in the Company Scheme Petition No. 554 of 2015 stating therein that the affairs of the Transferor Company have been conducted in a proper manner and that the Transferor Company may be ordered to be dissolved by this Court.
9. The Regional Director has filed an Affidavit on 6th day of October, 2015 stating therein, that save and except as stated in paragraph 6(a) and 6(b) of the said affidavit, it appears that the Scheme is not prejudicial to the interest of shareholders and public.

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

6. That the Deponent further submits that,

- a) *Clause 11.4 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 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. In so far as observations made in paragraph 6(a) of the Affidavit of Regional Director is concerned, the Petitioner Companies through their 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 to comply with other applicable Accounting Standard such as AS-5, etc. The said undertaking is accepted.
11. As far as the observations raised by the Regional Director in paragraph 6(b) of his Affidavit, the Petitioner Companies through their Counsel submits that the Petitioners are 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 law.
12. The Counsel for the Regional Director on instructions of Mr. M Chandanamuthu, Joint Director (Legal) 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 Companies. The said undertakings given by the Petitioners 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 No. 554 of 2015 and 555 of 2015 are made absolute in terms of prayer clauses (a) and (b) of the respective Company Scheme Petition.

15. The Petitioner Companies are directed 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 issuance of Order.
16. Petitioner Companies are directed to file a copy of this order along with a copy of the Scheme with the concerned Registrar of Companies, electronically, along with concerned E-Form INC 28 in addition to physical copy as per the provisions of the Companies Act 1956 / 2013 whichever is applicable.
17. The Petitioner Companies in both the Company Scheme Petitions to pay costs of Rs.10,000/- each to the Regional Director, Western Region, Mumbai and the Petitioner Company in the Company Scheme Petition No. 554 of 2015 to pay costs of Rs. 10,000/- to the Official Liquidator, High Court Company. 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. 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.

(S.C. Gupte, J.)

CERTIFICATE

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

Uploaded by: Shankar Gawde, Stenographer