IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO. 621 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 461 OF 2015

MATRIX INTEGRATED FACILITIES &
PROPERTY MANAGEMENT PVT. LTD. … Petitioner/
Transferor Company

AND

COMPANY SCHEME PETITION NO. 622 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 462 OF 2015

IMPERIAL SERVICED OFFICES &
PROPERTY MANAGEMENT PVT. LTD. … Petitioner/
Transferee Company

In the matter of the Companies Act, 1956 (1 of 1956);

AND

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

AND

In the matter of Scheme of arrangement between Matrix Integrated Facilities & Property Management Pvt. Ltd. ("Transferor Company/ Matrix")

AND

Imperial Serviced Offices & Property Management Pvt. Ltd. ("Transferee Company/ Imperial")

AND

their respective shareholders and creditors

Called for Hearing

Ms. Ankita Godbole i/b. Wadia Ghandy & Co., Advocates for the Petitioners

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

Mr. S. Ramakantha, Official Liquidator present in CSP No.621 of 2015

Coram: K.R. Shriram, J.

Date: 21st November, 2015

P.C.

1. Heard learned Counsels appearing for the parties. No objector has come before the court to oppose the Scheme, nor has any party controverted any averments made in the captioned Petition.

2. The sanction of the Court is sought under Sections 391 to 394 of the Companies Act, 1956, to the Scheme of Arrangement ("**Scheme of Arrangement**") between Matrix Integrated Facilities & Property Management Pvt. Ltd. ("**Transferor Company**") and Imperial Serviced Offices & Property Management Pvt. Ltd. ("**Transferee Company**") and their respective shareholders and creditors.

3. Learned Advocate for the Transferor Company, being the Petitioner in CSP No. 621 of 2015, submits that the Transferor Company is primarily engaged in the business of facility maintenance and management of various premises, buildings etc. across different cities in India and the Transferee Company, being the Petitioner in CSP No.622 of 2015, is engaged in the business of running business centres in different cities in India. Both the Transferor and Transferee Companies are group companies of the K. Raheja Corp. Group.

4. The purpose of the Scheme of Arrangement as more particularly set out at Paragraph 3 of the Scheme of Arrangement, is to achieve synergistic integration and consolidation of the businesses presently being carried on by the Transferor and Transferee Companies. This is in view of the fact that the Transferor Company is engaged in business that is complementary to the business of the Transferee Company and therefore can be conveniently combined with the latter for the mutual benefit and growth of the Transferor Company. The merger will ensure optimization in operations, corporate and shareholding structure, and business processes, thus contributing to the growth and enhancement of value of both companies.

5. The Petitioner Companies have approved the Scheme of Arrangement in their respective Board Meetings and extracts of the resolutions passed in this regard are annexed to the respective Company Scheme Petitions.

6. The Learned Advocate for the Petitioner Companies states that Petitioner Companies have complied with all the directions passed in their respective Company Summons for Direction and that the respective Company Scheme Petitions have been filed in consonance with the Order passed in the Company Summons for Direction.

7. The Learned Advocate for the Petitioner Companies states that the Petitioner Companies have complied with all requirements as per the directions of this Court and have filed their respective affidavits of compliance in the Court. Moreover, each of the Petitioner Companies through their Advocate undertake to comply with all statutory requirements, if any, as required under Companies Act, 1956/2013 and

the Rules made thereunder, whichever is applicable. The said undertaking is accepted.

8. The Official Liquidator has filed its Report on 28th October, 2015 in Company Scheme Petition No. 621 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 its Affidavit on 29th October, 2015 stating therein that save and except as stated in paragraphs 6 (a) to 6(d) of the said affidavit, it appears that the Scheme is not prejudicial to the interest of shareholders and public. The aforesaid paragraphs 6(a) to 6(d) read as under:

"6. That the Deponent further submits that:

(a) Clause no. 1(a) of the Scheme states that the authorized share capital of the Transferee Company shall automatically stand enhanced by an amount of Rs.21,55,00,000/-. In this connection the Transferee Company may be directed to comply with provisions of section 61/64 of Companies Act, 2013 corresponding to section 94/97 of the Companies Act, 1956, in respect of filing of necessary forms with the Registrar of Companies after payment of necessary filing fee and stamp duty as applicable on the said forms.

(b) Clause 12(a)(v) of the scheme states that the difference between the value of assets and the value of liabilities and the accumulated profits and the share capital upon its issuance pursuant to the

provisions of Clause 11(a) of the Scheme of Arrangement shall be adjusted in Reserves. 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 arising, shall be debited to Goodwill Account of the Transferee Company.

(c) Clause 15 of the Scheme provides for Modification and Amendments to Scheme wherein the Board of Directors of Transferor Company and Transferee Company have been authorized to make any amendments to Scheme, if necessary, after the Scheme is approved by the Hon'ble High Court. Such liberty shall not be exercised by Board of Directors without obtaining prior approval from the Hon'ble High Court. The Petitioner Company may be directed to undertake to this effect.

(d) It is respectfully submitted that the tax issue, if any, arising out of the Scheme is subject to final decision of Income Tax Authorities. The approval of the Scheme by this Hon'ble Court may not deter the Income Tax Authority to scrutinize the tax returns filed by the Transferee Company after giving effect to the Scheme. The decision of the Income Tax Authority is binding on the Petitioner Companies."

10. As regards the observations at paragraph 6(a) of the Regional Director's Affidavit is concerned, the Learned Advocate for the Transferee Company undertakes that the Transferee Company shall comply with the provisions of section 61/64 of Companies Act, 2013 corresponding

to section 94/97 of the Companies Act, 1956, as may be applicable, in respect of the increase in its authorised share capital.

11. As regards the observations at paragraph 6(b) of the Regional Director's Affidavit is concerned, the Transferee Company through its Advocate submits that the difference between the value of assets and the value of liabilities and the accumulated profits and the share capital issued pursuant to the Scheme of Arrangement shall be treated in accordance with Accounting Standard-14, as already provided for in in Clause 12(a)(v) of the Scheme.

12. As regards the observations at paragraph 6(c), the Learned Advocate for the Petitioner Companies submits that any amendment/modification of the Scheme shall be subject to the prior approval of this Court.

13. As regards the observations at paragraph 6(d), the Learned Advocate for the Petitioner Company submits that the Petitioner Companies will comply with the applicable provisions of the Income Tax Act, 1961 and all issues concerning taxation arising as a consequence of the said Scheme shall be dealt with and addressed in accordance with the applicable provisions of the Income Tax Act, 1961.

14. The Learned Counsel for Regional Director, on the instructions of Mr. Chandana Muthu, Joint Director, Legal, in the office of Regional Director, Ministry of Corporate Affairs, Western Region, Mumbai, states that they are satisfied with the undertakings given by the counsel for the Petitioner Companies. The said undertakings given by the Petitioner Companies are accepted.

15. Learned Advocate for the Petitioner Companies further submits that the last date by which the Scheme of Arrangement was to come into effect expired during the pendency of proceedings for obtaining sanction before this Court. In accordance with Clause 19 of the Scheme of Arrangement, the Board of Directors of each of the Petitioner Companies have passed necessary resolutions extending the date of revocation of the Scheme of Arrangement to 31st March, 2016. Learned Advocate for the Petitioner Companies submits that each of the Petitioners Companies have filed Affidavits before this Court, placing their respective resolutions on record. The Petitioner Companies accordingly seek appropriate orders or directions from this Court extending the date of revocation of the Scheme, from 31st August, 2015 with 31st March, 2016.

16. The date of revocation of the Scheme is accordingly extended to 31st March, 2016 by this Order and no further steps are required to be taken by the Petitioner Companies in that regard.

17. 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.

18. Since all the requisite statutory compliances have been fulfilled, Company Scheme Petition No. 621 of 2015 and Company Scheme Petition No.622 of 2015 are made absolute in terms of prayer clauses (a), (c) and (d).

19. The Petitioner Companies are directed to lodge 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 (sixty) days from the date of the Order.

20. The Petitioner Companies are further 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 copies as per the relevant provisions of the Companies Act, 1956 / 2013.

21. The Petitioner Companies in both Company Scheme Petitions to pay costs of Rs.10,000/- each, to the Regional Director, Western Region, Mumbai and the Petitioner Company in Company Scheme Petition No.621 of 2015 to pay costs of Rs.10,000/- to the Official Liquidator, High Court, Mumbai. Costs to be paid within four weeks from the date of this Order.

22. Filing and issuance of the drawn up order is dispensed with.

23. All concerned regulatory authorities to act on a copy of this order along with the Scheme, duly authenticated by the Company Registrar, High Court, Bombay.

(K.R. SHRIRAM, J.)

CERTIFICATE

"I certify that the Order uploaded is a true and correct copy of original signed Order"

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