IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO 244 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO 596 OF 2014

In the matter of Sections 391 & 394 of the Companies Act, 1956 (1 of 1956)

And

In the matter of AGR Knowledge Services Private Limited

And

In the matter of Scheme of Arrangement between –

Stratbiz Consulting Private Limited

and

AGR Knowledge Services Private Limited

and

their respective shareholders and creditors.

Stratbiz Consulting Private Limited,)
A Company incorporated under the)
Companies Act, 1956 having its)
registered office at Casa Avalon)
61, Dr. S.S. Rao Road, Parel,)
Mumbai 400 012.)
…Petitioner
(Demerged Company)

AND

COMPANY SCHEME PETITION NO.245 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO.595 OF 2014

AGR Knowledge Services Private Limited,)
a Company incorporated under the)
Companies Act, 1956 having its)
registered office at 309, B-Wing, Mhatre)
Pen Building Senapati Bapat Marg)
Dadar, Mumbai 400 028) …Petitioner
(Resultant Company)

Called for Hearing

Mr. Mahesh Mahadgut a/w Ms. Miloni Gala, Advocates for the Petitioner.

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

CORAM: S. C. Gupte, J.

DATE: 11th September, 2015.

1. Heard counsel for the parties. No objector has come before the Court to oppose the Scheme of Arrangement nor has any party 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 Arrangement of Stratbiz Consulting Private Limited ('the Demerged Company') with AGR Knowledge Services Private Limited ('the Resulting Company') and their respective shareholders.

3. Learned Advocate for the Petitioners states that the Transferor Company is engaged in the business of Consulting Services and the Transferee Company is engaged in the business of Market Research Services.

4. Learned Advocate for the Petitioners state that the purpose of the Scheme of Arrangement as more particularly set out at Paragraph 1.3 of the Scheme of Arrangement, is to demerge the Market Research Business of the Demerged Company and transfer and vest the same in to the Resulting Company. The business carried on by the two Divisions of the Demerged Company viz: the Consulting Services and the Market Research Services being different and dissimilar and the two Divisions being fully functional and capable of being operated independently as separate profit centers it is envisaged that the Market Research Services business be demerged from the Demerged Company and be carried on as a separate business by the Resulting Company.

5. The Petitioner Companies have approved the said Scheme by passing the Board Resolutions which are annexed to the Company Scheme Petition filed by each of the Petitioner Companies.

6 The learned Advocate for the Petitioners further states that, the Petitioner Companies have complied with all the directions passed in the 2 Company Summons for Direction and that the Company Scheme Petitions have been filed in consonance with the orders passed in the 2 Summons for Direction.

7. The learned counsel appearing on behalf of the Petitioner Companies 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, Petitioner Companies undertake to comply with all statutory requirements, if any, as required under the Companies Act, 1956/2013 and the Rules made thereunder. The said Undertaking given by the Petitioner Companies is accepted.

8. The Regional Director has filed an Affidavit on 24th August, 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 6(b) of the said affidavit it is stated that:

> *a) With reference to clause 17.1.3 of the Scheme, it is submitted that the surplus if any arising out of transfer of capital assets from Demerged Company to Resulting Company be credited to Capital Reserve Account of Resulting Company in as much as the reserve arising out of transfer of capital assets is not a revenue reserve, that part of the reserve shall not form part of free reserve of resulting company. Hence, it is suggested that such reserve be credited to Capital Reserve Account of resulting Company.*

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.

9. As far as observations made in paragraph 6(a) of Affidavit of the Regional Director is concerned, the Transferee Company undertakes that the surplus, if any, arising out of transfer of capital assets from the Demerged Company to Resulting Company shall be credited to the Capital Reserve account of Resulting Company and that it shall not form part of free reserve of Resulting Company.

10. As far as the observations in paragraph 6(b) of the affidavit of the Regional Director is concerned, the Petitioners 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 of Arrangement will be met and answered in accordance with law.

11. The Learned Counsel for Regional Director on the 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 undertakings given by the counsel on behalf of the Petitioner Company. The said Undertakings given by the Petitioner Company are accepted.

12. 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.

13. Since all the requisite statutory compliances have been fulfilled, the Company Scheme Petitions are made absolute in terms of prayer clause (a) of the respective Petitions.

14. 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 the Order.

15. 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.

16. The Petitioner Companies to pay cost of Rs.10,000/- each to the Regional Director, Western Region, Mumbai. Costs to be paid within four weeks from the date of the Order.

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

18. 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.

(S. C. GUPTE, J)