IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO 760 OF 2014

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO 767 OF 2014

CGG Geoscience (India) Private Limited…Petitioner/ Transferor Company

AND

COMPANY SCHEME PETITION NO 761 OF 2014

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO 768 OF 2014

CGG Services India Private Limited…Petitioner/ Transferee 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 CGG Geoscience (India) Private Limited ("the Transferor Company") with CGG Services India Private Limited ("the Transferee Company")and their respective shareholders

<u>Called for Hearing</u>

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

Mr. C.J. Joy i/b Mr. H.P. Chaturvedi for Regional Director in both the Company Scheme Petitions.

Mr. S. Ramakantha Official Liquidator present.

CORAM: S. J. Kathawalla, J.

DATE: 30th January, 2015

1. Heard the learned counsel for the Petitioner Companies. No objector has come before the court to oppose the Petition 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 CGG Geoscience (India) Private Limited, the Transferor Company with CGG Services India Private Limited, the Transferee Company and their respective shareholders.

3. Learned Counsel for the Petitioners states that the Transferor Company is engaged in rendering services in the areas of data management, seismic data processing and reservoir characterization, providing services mainly to oil & gas exploration and production companies. The Transferee Company is engaged in the business of providing seismic data processing services to oil exploration companies. It also provides software support and technical assistance to its clients and also enters into annual maintenance contracts for providing maintenance services on hardware and software to its clients.

4. The rational for the scheme is that the streamlining the Indian operations under a single entity would lead to benefits of synergy and economies of scale, effective and centralized management and reduction of administrative and manpower expenses and overheads, avoiding duplication of efforts, costs and resources, lesser regulatory / procedural compliance., simplification of the group structure, synchronizing of efforts to achieve uniform corporate policy, ease in decision making and efficient management control and systems.

5. The Transferor Company and Transferee Company have approved the said Scheme of Amalgamation by passing the Board Resolution which are annexed to the respective Company Scheme Petitions.

6. The learned Counsel for the Petitioner Companies further states that Petitioner Companies have complied with all directions passed in Company Summons for Direction and that the Scheme has been filed in consonance with the orders passed in Company Summons for Directions.

7. Counsel appearing on behalf of the Petitioner Companies further states 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 through their Counsel undertakes to comply with all statutory requirements if any, as required under the Companies Act, 1956 / 2013 and the Rules made there under whichever is applicable. The said undertaking is accepted.

8. The Official Liquidator has filed his report on 21st January 2015 stating that the affairs of the Transferor Company have been conducted in a proper manner and that Transferor Company may be ordered to be dissolved.

9. The Regional Director has filed an Affidavit on 28th January 2015 stating therein, save and except as stated in paragraph 6(a), 6(b) and 6(c), it appears that the scheme is not prejudicial to the interest of shareholders and public.

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

6(a) With reference to Clause 13.3 of the scheme it is submitted that the reserve arising out of the scheme be transferred to Capital Reserve Account of the Transferee Company. The reserve arising out of the scheme is not a *free reserve and shall not form a part of the net worth of the company. Further by way of transferring the capital asset no cash is generated by the Transferee Company and as such the surplus arising out of such scheme cannot be treated as premium on the part of shares examined by the Transferee Company*

6(b) Clause 13.4 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.

6(c) 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 the approval of the Scheme by the by the Hon'ble High Court may not deter the Income Tax Authority to scrutinize the tax return filed by the petitioner company after giving effect to the amalgamation and the decision of Income Tax Authority is binding on the petitioner company.

10. As far as the objection of the Regional Director, Western Region, Mumbai in paragraph 6(a) of his affidavit is concerned, the Transferee Company through their Counsel undertakes that the reserve arising out of the scheme shall be transferred to Capital Reserve Account of the Transferee Company.

11. As far as the objection of the Regional Director, Western Region, Mumbai in paragraph 6(b) of his affidavit is concerned, the Transferee Company through their Counsel undertakes that in addition to accounting treatment given in the Scheme, the Transferee Company shall pass such

accounting entries as may be necessary in connection with the Scheme to comply with any other Accounting Standards.

12. As far as observations made in paragraph 6(c) of the Affidavit of Regional Director is concerned, the Petitioner Companies submit that the Petitioner is bound to comply with all applicable provisions of the Income Tax Act and all tax issues arising out of the Scheme will be met and answered in accordance with law.

13. The Learned Counsel appearing for the Regional Director on instructions of Mr. M. Chandanamuthu, Joint Director (Legal) in the office of the Regional Director states that they are satisfied with the submissions and undertaking given by the Petitioner Companies. The said undertakings given by Petitioner Company are accepted.

14. 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.

15. Since all the requisite statutory compliances have been fulfilled, Company Scheme Petition No 760 of 2014 and 761 of 2014 filed by the Petitioner Companies are made absolute in terms of prayer clause (a) of the respective Petitions.

16. Petitioner Companies are directed to file a copy of this 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 the physical copy as per the relevant provisions of Companies Act, 1956/2013 Act.

17. The Petitioner Company to lodge a copy of this order and the 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 the Order.

18. The Petitioner Companies to pay costs of Rs.10,000/- each to the Regional Director, Western Region, Mumbai. The Petitioner Company in Company Scheme Petition No. 760 of 2014 to pay sum of Rs.10,000/- to the Official Liquidator, High Court, Bombay.

19. The costs to be paid within 4 weeks, from the date of the Order

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, Bombay.

(S. J. KATHAWALLA, J.)