IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SCHEME PETITION NO 818 OF 2014
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO 610 OF 2014

In the matter of the Companies Act, 1956

And

In the matter of Sections 391 to 394 of the Companies Act, 1956

And

In the matter of the Scheme of Amalgamation and Arrangement (under provisions of section 391 to 394 and other applicable provisions of the Companies Act, 1956), of Times Infotainment Media Limited with Bennett, Coleman & Company Limited and their respective shareholders and the creditors

Times Infotainment Media Limited)
a company incorporated under)
the provisions of the Companies)
Act, 1956, having its Registered)
Office at 4th Floor, Matulya Centre,)
A-Wing, S B Marg, Lower Parel,)
Mumbai – 400013)... Transferor/Petitioner Company

Called for Hearing

Mr Peshwan Jehangir and Ms Akriti Sarkar of M/s. Khaitan & Co., Advocates for the Petitioner Company.

S I Shah i/b A.Ansari for the Regional Director.

S. Ramakantha for Official Liquidator.

Coram: S.C. Gupte, J.
Date: 3rd July, 2015

P.C :

1. Heard Learned Counsel for the Parties. No objector has come before the Court to oppose the Scheme and nor has any party controverted any averments made in the Petitions.

2. The sanction of the Court is sought under Sections 391 to 394 Companies Act, 1956 and other applicable provisions of the Companies Act, 1956 to the said Scheme of Amalgamation and Arrangement of Times Infotainment Media Limited with Bennett, Coleman & Company Limited and their respective shareholders and creditors.

3. The Learned Counsel for the Petitioner Company states that the Petitioner Company is presently engaged in the business of *inter alia*, operating in the field of Private FM Radio Broadcasting and IPR business through investments in its subsidiaries. The Petitioner Company is a wholly owned subsidiary of the Transferee Company. The Transferee Company is presently engaged in the business of inter alia publishing of newspapers, journals, magazines, books and other literary works, undertakings, television broadcasting and other businesses.

4. The Learned Counsel for the Petitioner Company states that proposed Scheme of Arrangement and Arrangement is beneficial since synergistic integration and

consolidation of group companies shall be beneficial to the shareholders, creditors and employees of the companies and to the interests of the public at large; increase in the managerial, financial and operational efficiencies by consolidating the two entities and their operations to a common platform, thereby enhancing the ability to raise funds for subsidiaries of Bennett, Coleman & Company Limited as and when required, cost savings in terms of economies of scale, more focused operational efforts, improved organizational capability, rationalisation, standardisation and simplification of business processes and productivity improvements; avoiding duplication in the administrative work in all back-end functions and consequential reduction in costs, thus contributing to the profitability of Bennett, Coleman & Company Limited; reduction in the regulatory and legal compliance/filings including accounting, reporting requirements, statutory and internal audit requirement, tax filings etc. and consequential reduction in costs of both companies; and reduction in the shareholding layers and direct control of assets of Times Infotainment Media Limited in the hands of Bennett, Coleman & Company Limited since Times Infotainment Media Limited is a wholly owned subsidiary of Bennett, Coleman & Company Limited.

5. The Petitioner Company and Transferee Company have approved the said Scheme subject to the approval of the Hon’ble High Court of Bombay and other requisite authorities by passing respective Board Resolutions which are annexed to the Company Scheme Petition.

6. The Learned Counsel for the Petitioner Company further states that, the Petitioner Company has complied with all the directions passed in the Company Summons for Directions and that the Company Scheme Petition has been filed in consonance with the order passed in the Company Summons for Directions.

7. The Learned Counsel for the Petitioner Companies submits that the Scheme, inter alia, provides that in the event of the Scheme failing to take effect by 31st December, 2014 or such later date as may be agreed by the respective Boards of Directors of the Petitioner Company and the Transferee Company, the Scheme shall stand cancelled and be of no effect and become null and void. The respective Boards of Directors of the Petitioner Company and Transferee Company have agreed to extend the validity of the Scheme up to 31st December 2015 and have passed resolutions dated 10th November 2014 and 1st December 2014 respectively in this regard. Copies of the said resolutions dated 10th November 2014 and 1st December 2014 have been exhibited to the Further Affidavit dated 16th December 2014 filed in the respective Company Scheme Petitions.

8. The Learned Counsel appearing on behalf of the Petitioner Company has further stated that the Petitioner Company has complied with all the requirements as per direction of this Court and has filed necessary affidavit of compliance in the Court. Moreover, the Petitioner Company undertakes to comply with all the statutory requirements, if any, under the Companies Act, 1956 and 2013, and rules made thereunder, whichever is applicable. The said undertaking is accepted.

9. The Regional Director has filed an Affidavit on 7th May 2015 stating therein that save and except as stated in paragraphs 6 (a) to (c) of the said affidavit, it appears that the Scheme is not prejudicial to the interest of shareholders and public.

(a) *Clause 11.5 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) *Clause 9.3 of the Scheme provides for change in the object clause of the Memorandum of Association of the Transferee Company. In this connection, the Transferee Company may be directed to comply with provisions of Section 13 (read with 15 of the Companies Act, 2013) and to file amended copy of the Memorandum of Association alongwith Form No.21 with the Registrar of Companies*

(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 approval of the scheme by the Hon'ble High Court may not deter the Income Tax Authority to scrutinise 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. As far as the observation in paragraph 6(a) of the Affidavit of Regional Director is concerned, the Learned Counsel for the Petitioner Company states that the

Transferee Company undertakes to pass such accounting entries which are necessary in connection with the Scheme to comply with any applicable accounting standards.

11. As far as the observation in paragraph 6(b) of the Affidavit of Regional Director is concerned, the Learned Counsel for the Petitioner Company states that the Transferee Company undertakes to comply with provisions of Section 13 (read with 15 of the Companies Act, 2013) and file an amended copy of the Memorandum of Association alongwith Form No.21 with the Registrar of Companies as required by law.

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

13. The Learned Counsel for the Regional Director on instructions of Mr M Chandanamuthu, 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 hereinabove by the Petitioner Company through its counsel. The undertakings given by the Petitioner Company mentioned hereinabove are accepted.

14. The Official Liquidator has filed his report on 5th May 2015 stating therein that the affairs of the Petitioner Company have been conducted in a proper manner and that the Petitioner Company may be ordered to be dissolved.

15. 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.

16. The Learned Counsel for the Petitioner submits that in view of Paragraph 4 of the Supplemental Affidavit filed by the Petitioner Company, dated 18 June 2015, the Scheme may be made effective only upon receipt of the approval / no objection from the Ministry of Information & Broadcasting, Government of India.

17. Since all the requisite statutory compliances have been fulfilled, Company Scheme Petition filed by the Petitioner Company is made absolute subject to the receipt of approval/no objection from the Ministry of Information and Broadcasting in terms of prayer clauses (a) to (f) and (j) of the Company Scheme Petition.

18. The Petitioner Company is directed to file a copy of this order alongwith a copy of the Scheme with the concerned Registrar of Companies, electronically, along with e-Form 21/INC28 in addition to physical copy under relevant provisions of the Companies Act, 1956 and the Companies Act, 2013 and Rules made thereunder whichever are applicable, within 30 days from the date of receipt of this order of this Hon’ble Court.

19. The Petitioner Company to pay costs of Rs 10,000/- each to the Official Liquidator and the Regional Director, Western Region, Mumbai. Costs to be paid within four 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 Scheme attached thereto, duly authenticated by the Company Registrar, High Court (O. S.), Bombay.

(S.C.Gupte, J.)