

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SCHEME PETITION NO 852 OF 2014
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO 869 OF 2014
WELSPUN ENERGY RESOURCES PRIVATE LIMITED

..... Petitioner / the Transferor 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 Welspun Energy Resources Private
Limited (WERPL) with Welspun Energy
Private Limited (WEPL) and their
respective shareholders

Called for Hearing

Mr. Hemant Sethi i/b Hemant Sethi & Co., Advocates for the Petitioner
in the Petition.

Mr. C. J. Joy, with Mr. K.R. Chaudhari, i/b Mr. H. P. Chaturvedi for
Regional Director of the Company Scheme Petition.

Mr. S. Ramakantha, Official Liquidator, present in Company Scheme
Petition No. 852 of 2014.

CORAM: S.J. Kathawalla, J.

DATE: 30th January, 2015

1. Heard the learned counsel for the Petitioner Company. No objector
has come before the court to oppose the Scheme and nor any party
as 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 and to the Scheme of Amalgamation of Welspun Energy Resources Private Limited (WERPL) with Welspun Energy Private Limited (WEPL) and their respective shareholders.
3. The learned Counsel for the Petitioner states that the Gujarat High Court has passed an Order dated 23/12/2014 in CA No. 326 of 2014 that Transferee Company would not be required to file separate proceedings for sanctioned of the Scheme.
4. Learned Counsel for the Petitioner states that the Petitioner Company is formed with the object to carry on business of transmission / distribution of electricity and manufacturing and dealing in apparatus and things required for or capable of being used in connection with the generation, distribution, supply, accumulation and employment of electricity.
5. The proposed amalgamation of Welspun Energy Resources Private Limited with Welspun Energy Private Limited would result in consolidation of group entities and would result into the following benefits to its shareholders i.e. Simplification of group structure; Reduce managerial overlaps, which are necessarily involved in running multiple entities; Reduce administrative cost; Remove multiple layer inefficiencies and achieving management efficiency.
6. The Transferor Company and Transferee Company had approved the said Scheme of Amalgamation by passing the Board Resolution which are annexed to the Company Scheme Petition filed by the Petitioner Company.
7. The learned Advocate for the Petitioner state that Petitioner Company have complied with all directions passed in company summons for Direction and that the Scheme has been filed in consonance with order passed in Company summons for Direction.

8. Counsel appearing on behalf of the Petitioner has stated that the Petitioner Company has complied with all requirements as per direction of this Court and it has filed necessary affidavit of compliance in the Court. Moreover, Petitioner Company undertake to comply with all statutory requirements if any, as required under the Companies Act, 1956 / 2013 and the Rules made there under. The said undertaking given by the Petitioner Company is accepted.
9. The Official Liquidator has filed his report on 28th January, 2015 in the Company Scheme Petition No. 852 of 2014 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.
10. The Regional Director has filed an Affidavit dated 29th January, 2015 stating therein that save and except as stated in paragraph 6(a) and (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:

6. That the deponent further submits that:-

- a) *Clause 14.3 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*

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.

11. As far as observations made in paragraph 6(a) of Affidavit of the Regional Director is concerned, the Petitioner/Transferee Company undertakes that in addition to compliance of accounting standard 14, the Transferee Company shall pass such accounting entries which are necessary in connection with the Scheme of Amalgamation to comply with any other applicable accounting standards.
12. As far as observations made in paragraph 6(b) of Affidavit of the Regional Director is concerned, the Petitioner/Transferee Company submits that the Transferee Company is bound to comply with all applicable provisions of the Income Tax Act and all tax issues arising out of the Scheme of Amalgamation will be met and answered in accordance with law.
13. 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 undertaking and submission given by the Petitioner Company. The said undertakings given by the 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, the Company Scheme Petition is made absolute in terms of prayer clauses (a) of the Petition.
16. The Petitioner Company 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.

17. Petitioner Company is 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 copy as per the provisions of the Companies Act 1956 / 2013.
18. The Petitioner Company in the Company Scheme Petition to pay costs of Rs.10,000/- each to the Regional Director, Western Region, Mumbai and the Official Liquidator, High Court, Bombay. Costs to be paid within four weeks from the date of the order.
19. Filing and issuance of the drawn up order is dispensed with.
20. 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.J. Kathawalla. J.)