IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO 36 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 880 OF 2014

AAM Pantnagar Axle Private Limited……Petitioner/ Transferor Company-I

COMPANY SCHEME PETITION NO 37 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 881 OF 2014

AAM Services India Private Limited ……Petitioner/ Transferor Company-II

COMPANY SCHEME PETITION NO 38 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 882 OF 2014

AAM India Manufacturing Corporation Private Limited……Petitioner/Transferee Company

In the matter of 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 AAM Pantnagar Axle Private Limited("Transferor Company I") and AAM Services India Private Limited ("Transferor

Company-II") with AAM India Manufacturing Corporation Private Limited ("Transferee Company") and their respective shareholders

Called for Hearing

Mr. Hemant Sethi i/b Hemant Sethi & Co., Advocates for the Petitioner in both the Petitions.
Mr. S. Ramakantha, Official Liquidator, present in CSP No. 36 and 37 of 2015.

Mr. R.C.Master, i/b Mr. H.P. Chaturvedi for Regional Director in all the Company Scheme Petitions.

CORAM: S. J. Kathawalla, J.

DATE: 27th March 2015

PC:-

1. Heard counsel for the Parties. No objector has come before the court to oppose the Scheme and nor any party has controverted any averments made in the petitions.

2. The sanction of the Court is sought under Sections 391 to 394 read, to the Scheme of Amalgamation of AAM Pantnagar Axle Private Limited("Transferor Company I") and AAM Services India Private Limited ("Transferor Company-II") with AAM India Manufacturing Corporation Private Limited ("Transferee Company") and their respective shareholders.

3. Learned Advocate for the Petitioner further states that the Transferor Company-I is engaged in the business of manufacture of axle assemblies for

light trucks, passenger cars and SUVs etc., the Transferor Company-II is engaged in providing IT enabled design engineering services to auto and auto auxiliary business and the Transferee Company is engaged in the business of manufacturing of axle assemblies, drive head assemblies and components etc. for heavy commercial vehicles.

4. The learned Counsel for the Petitioner Companies states that the proposed scheme of amalgamation will enable pooling of resources of the companies involved in amalgamation to their common advantage, resulting in more productive utilization of the said resources and achieving economies of scale in manufacturing resulting into cost and operational efficiencies, which would be beneficial for all the stakeholders; bring synergies in procurement, manufacturing, administration and marketing operations; facilitate inter-unit transfer of resources among different manufacturing units that would in turn result into operational synergies; combining the administrative and marketing functions of the entities involved and consequently result into more efficient functioning of the merged entity in a cost effective manner, increase the financial strength of the companies enabling further growth and development of the Transferee company, simplification of the holding structure of different entities of AAM Group in India, bring greater management focus and would help in achieving uniform corporate policies and faster / effective decision making and its implementation, avoiding duplication of regulatory and procedural compliances and consequently result into saving of time, resources and cost involved in such compliances.

5. The Petitioner Companies had approved the said Scheme of Amalgamation by passing the Board Resolutions which are annexed to the respective Company Scheme Petitions.

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

7. The learned Advocate has stated that they have complied with all requirements as per directions of this Hon'ble Court and they have filed necessary Affidavit of compliance in the Hon'ble Court. Moreover, Petitioner Companies 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 undertakings are accepted.

8. The Official Liquidator has filed his report on 20th March 2015 stating that the affairs of the Transferor Companies have been conducted in a proper manner and that Transferor Companies may be ordered to be dissolved without being wound up.

9. The Regional Director has filed an Affidavit on 20th March 2015, stating therein, save and except as stated in paragraph 6(a) to (c), it appears that the scheme is not prejudicial to the interest of shareholders and public. In Paragraph 6(a) to (c) of the said Affidavit, the Regional Director submits that :

6. That the Deponent further submits that,

(a) With respect to clause 11.1.3 of the scheme, it is submitted that surplus if any, arising out of this scheme be transferred Capital Reserve Account of Transferee Company.

(b) That the Deponent further submits that the tax issue, if any, arising out of the Scheme 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.

(c) The equity Shareholders of both the Transferor Companies are held by Foreign Body Corporate as its shareholders. Hence, for allotment of new shares by the Transferee Company to the shareholders of Transferor Company, the Transferee Company may be directed to comply with FEMA, RBI regulations as applicable in this regard.

10. In so far as observations made in paragraph 6(a) of the Affidavit of the Regional Director is concerned, the Counsel for the Petitioner Companies submits that surplus if any, arising out of this scheme will be transferred to Capital Reserve Account of the Transferee Company.

11. As far as observations made in paragraph 6(b) of Affidavit of the Regional Director is concerned, the Transferee Company submits that the Petitioner Companies are 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.

12. As far as observations made in paragraph 6(c) of Affidavit of the Regional Director is concerned, the Transferee Company through their Counsel undertakes that while issuing new shares by the Transferee Company to the shareholders of the Transferor Companies, the Transferee Company will comply with the provisions of FEMA, RBI regulations as applicable.

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 Companies. The said undertakings given by the Petitioner Companies 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 Petitions No. 36 to 38 of 2015 filed by the Petitioner Companies are made absolute in terms of prayer clause (a) of the respective Company Scheme Petitions.

16. The Petitioner Companies 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.

17. Petitioners 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 E-Form INC-28, in addition to the physical copy as per the relevant provisions of the Companies Act, 1956/2013 whichever is applicable.

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. 36 and 37 of 2015 to pay sum of Rs. 10,000/- each to the Official Liquidator, High Court, Bombay. The 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 the modified Scheme duly authenticated by the Company Registrar, High Court, Bombay.

(S. J. KATHAWALLA, J.)