Comp.A.No.193 of 2015
In
C.P.No.93 of 2014

R.MAHADEVAN,J.

This is an application filed by the transferee company seeking modification to clause 6 of the Scheme of Amalgamation, which deals with the 'Accounting Treatment in the Books of the Transferee Company'.

2. Heard the learned Senior counsel for the applicant and perused the records.

3. This Court, vide order dated 30.04.2014, approved the Scheme of Amalgamation. The transferee company has now come up with this application seeking amendment to clause 6 of the Scheme of Amalgamation. It is submitted that in the original Scheme presented before this Court, the Transferor and the applicant company had adopted the 'Pooling of Interest Method of Accounting'. Clause 6 of the Scheme of Amalgamation, namely, the 'Accounting Treatment in the Books of the Transferee Company, as contained in the original Scheme of Amalgamation, is extracted hereunder.

"**6.Accounting treatment in the books of the transferee company:**

6.1 The Transferee Company shall, upon the Scheme coming into effect, record the assets and liabilities of the Transferor Company vested in it pursuant to this Scheme at their respective book values thereof and in the same form as appearing in the books of the Transferor Company at the close of business of the day immediately preceding the Appointed Date.

6.2 The Transferee Company shall record the Reserves of the Transferor Company in the same form and at the same values as they appear in the financial statements of the Transferor Company at the close of business of the day immediately preceding the Appointed Date. Balances in the Profit and Loss Account of the Transferor Company shall be similarly aggregated with the balances in Profit and Loss Account of the Transferee Company. Balances shown as Miscellaneous Expenditure (to the extent not written off or adjusted) in the balance sheet of the Transferor Company shall be similarly aggregated with balances of the Transferee Company.

6.3.The excess of, or deficit in, the value of the assets over the value of the liabilities of the Transferor Company vested in the Transferee Company pursuant to this Scheme as recorded in the books of account of the transferee company shall be adjusted in/credited to the Reserves in the books of the Transferee Company.

6.4.In case of any differences in accounting policy between the Transferor Company and the Transferee Company, the impact of the same till the amalgamation will be quantified and adjusted in the General Reserve of the Transferee Company to ensure that the financial statements of the Transferee Company reflect the financial position on the basis of consistent account policy. Provided however that insofar as the depreciation policy relating to the assets of the Transferor Company are concerned, the Board of Directors of the Transferee Company may either follow the policy adopted by the respective Transferor Company or the Transferee Company and make appropriate disclosure of the same in the financial statements.

6.5.To the extent there are inter-corporate loans or balances between the Transferor Company and the Transferee Company or between the Transferor Company inter se, the obligations in respect thereof shall come to an end and corresponding effect shall be given in the books of accounts and records of the Transferee Company for the reduction of any assets or liabilities, as the case may be."

4.The amendment now sought for is the 'Purchase Method of Accounting'. It is stated that this method would facilitate the projection of the assets and liabilities of the Transferor Company at its fair value, which would enable the applicant company to reflect the true financial positions of its assets and leverage and access further funding and investment avenues. The revised and amended clause 6 of the Scheme of Amalgamation would run thus:

"6.Accounting Treatment in the Books of the Transferee Company:

"Upon the Scheme becoming effective, the amalgamation of the Transferor Company with the Transferee Company shall be accounted for as per the "Purchase Method" provided under Accounting Standing 14 issued by the Institute of Chartered Accountants of India such that:

6.1 Upon the scheme coming into effect, the transferee company shall account for the amalgamation either by incorporating the assets and liabilities at their existing carrying amounts or by allocating the consideration to individual identifiable assets and liabilities of the Transferor Company on the basis of their fair values at the date of amalgamation.

6.2.Upon the scheme coming into effect, the Transferee Company shall record only the Statutory Reserves of the Transferor Company at the close of business of the day immediately preceding the Appointed Date. The balances appearing in the Profit and Loss Account appearing in the financial statements of the transferor companies, whether debit or credit, loses its identity.

6.3 Upon the scheme coming into effect, the excess of the amount of the consideration over the value of the net assets of the transferor company acquired by the transferee company should be recognised in the transferee company's financial statements as goodwill arising on amalgamation. If the amount of the consideration is lower than the value of the net assets acquired, the difference should be treated as Capital Reserve.

6.4 To the extent there are inter-corporate loans or balances between the Transferor Company and the Transferee Company or between the Transferor Company *inter se*, the obligations in respect thereof shall come to an end and corresponding effect shall be given in the books of accounts and records of the Transferee Company for the reduction of any assets or liabilities, as the case may be."

5. The consent affidavits of the board of directors and all the shareholders of the applicant company to the proposed amendment to the accounting treatment are annexed as Annexure 10 and 11. The revised Scheme of Amalgamation, containing the amended clause 6, has been annexed as Annexure 9.

6. In view of the above, there shall be an order approving the revised Scheme of Amalgamation, containing the amended cause 6, as provided in Annexure 9, in the company petition, with effect from 1.4.2013. This application is ordered as prayed for.

msk 27.02.2015

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