The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Company Petition Nos.203 and 204 of 2015

Dt: 31.08.2015

C.P.No.203/15:

Between:

**M/s.Marine Dredging Private Limited
a Company incorporated under
the Companies Act, 1956
having its registered office at Hyderabad
rep. by its Director Shri Amrish Agarwal**

…Petitioner /Transferor Company

C.P.No.204/15:

Between:

**M/s.Dharti Dredging and Infrastructure Limited,
Hyderabad, rep. by its Managing Director
Shri Akumalla Rajendra**

…Petitioner /Transferee Company

Counsel for the petitioners: Mr.VS.Raju

The Court made the following:

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Common Order:

Company Petition No.203 of 2015 is filed by M/s.Marine Dredging Private Limited (hereinafter referred as 'the Transferor Company') under Sections 391 and 394 of the Companies Act, 1956 (for short 'the Act') seeking approval of the proposed scheme of its amalgamation with M/s.Dharti Dredging and Infrastructure Limited (hereinafter referred as 'the Transferee Company').

Company Petition No.204 of 2015 is filed by the Transferee Company for the same relief.

The Transferor Company pleaded that it was incorporated as a Private Limited Company under the Act on 28.06.2006; that its registered office is situated at Second Floor, # 6-3-1113/2, Point of View, B.S.Maktha, Begumpet, Hyderabad; that its main objects are to carry on the business of dredging of all types of civil engineering works and related structural engineering works and to operate and maintain all types of floating craft equipment, civil structures and other facilities; and that its authorized share capital is Rs.5 lakhs divided into 50,000 equity shares of Rs.10/- each; that its issued, subscribed and paid up share capital, as on

31-03-2014, is Rs.3,70,000/- divided into 37,000 equity shares of Rs.10/- each.

The Transferee Company pleaded that it was originally incorporated under the name and style of M/s.Dharti Dredging and Construction Limited in the State of Tamilnadu on 11.11.1993; that later on, its name was changed as M/s.Dharti Dredging and Infrastructure Limited on 16-03-2007; that thereafter, it has shifted its registered office from the State of Tamilnadu to the State of Andhra Pradesh, which was confirmed by the Company Law Board on 12-10-2007; that a fresh Certificate of Registration confirming the transfer was obtained on 22-02-2008; that its registered office is situated at Second Floor, # 6-3-1113/2, Point of view, B.S.Maktha, Begumpet, Hyderabad; that its main objects are to carry on the business of dredging of all types of Civil Engineering works and related structural engineering works and to operate and maintain all types of floating craft equipment, civil structures and other facilities; that its authorized share capital, as on 31.03-2014, is Rs.25 Crores divided into 2.5 Crore equity shares of Rs.10/- each; and that its issued, subscribed and paid-up share capital, as on 31-03-2014, is Rs.20,04,25,500/- divided into 2,00,42,550 equity shares of Rs.10/- each.

Both the Companies pleaded that they are engaged in the same business *i.e.,* civil and structural engineering works; that therefore, both the Companies can be conveniently combined with one other for mutual benefits; that the proposed scheme of amalgamation would positively lead to the benefits of economies of scale besides other synergetic advantages; that the Transferee Company will derive and avail the benefits of assets, registrations, licenses and filings of the Transferor Company, thereby increasing its financial strength and the ability to make larger investments; that the Transferee Company will also have an improved capital structure, which would enable it to access the Capital Market at better terms and will afford easier access to other resources; that the proposed scheme of amalgamation shall be beneficial in the interests of the shareholders, creditors and employees of both the Companies.

Both the Companies pleaded that anticipating the above benefits, their Board of Directors, in their respective meetings held on 21.08.2014, resolved to approve the proposed scheme of amalgamation (Annexure-A10) and fixed the appointed date as 01.04.2014.

The Transferor Company pleaded that it has one secured creditor, one unsecured creditor and eight shareholders; and that the requirement of holding the meeting of its shareholders for consideration of the proposed scheme of amalgamation was dispensed with by this Court *vide* Order, dated 29-04-2015, in Company Application No.871 of 2015.

The Transferee Company pleaded that it has 200 equity shareholders, fifty unsecured creditors and six secured creditors and that this Court *vide* Order, dated 29-04-2015, in Company Application No.872 of 2015, appointed a Chairperson to convene their meetings for consideration of the proposed scheme of amalgamation at its registered office on 20-06-2015 at 10.30 a.m., 11.30 a.m., and 12.30 p.m., respectively and file his reports.

The Chairperson has, accordingly, filed three separate reports stating that pursuant to this Court's

Order, he has caused individual notices on the equity shareholders, unsecured creditors and secured creditors of the Transferee Company and has also carried out publication in two daily newspapers *viz.*, Business Standard (English) and Andhra Bhoomi (Telugu) of Hyderabad Editions and Andhra Bhoomi (Telugu) of Karimnagar Edition on 21-05-2015, notifying the date of meetings and accordingly, convened all the three meetings on 20-06-2015 at 10.30 a.m., 11.30 a.m., and 12.30 p.m respectively.

In the first report, the Chairperson stated that the meeting of the equity shareholders, held on the aforesaid date at 10.30 a.m., was attended by 6 shareholders valued at Rs.7,55,43,000/- in person and 57 shareholders valued at 10,80,03,400/- through proxy; that the proposed scheme of amalgamation was read out and explained to them; that all of them have voted in favour of the proposed scheme of amalgamation; and that, accordingly, all of them have unanimously passed the resolution to approve the proposed scheme of amalgamation.

In the second report, the Chairperson stated that the meeting of the unsecured creditors, held on the aforesaid date at 11.30 a.m., was attended by 4 unsecured creditors valued at Rs.15,25,952/- in person and 10 unsecured creditors valued at 56,19,311/- through proxy; that the proposed scheme of amalgamation was read out and explained to them; that all of them have voted in favour of the proposed scheme of amalgamation; and that, accordingly, all of them have unanimously passed the resolution to approve the proposed scheme of amalgamation.

In the third report, the Chairperson stated that the meeting of the secured creditors, held on the aforesaid date at 12.30 p.m., was attended by five secured creditors valued at Rs.28583.41 lakhs in person; that the proposed scheme of amalgamation was read out and explained to them; that all of them have voted in favour of the proposed scheme of amalgamation; and that, accordingly, all of them have unanimously passed the resolution to approve the proposed scheme of amalgamation.

In C.P.No.203 of 2015, this Court ordered notices to the Regional Director, South Eastern Region, Ministry of Corporate Affairs, Hyderabad, and the Official Liquidator attached to this Court and in C.P.No.204 of 2015, it ordered notice to the Regional Director only besides ordering publication of advertisement in two daily newspapers in both the Company Petitions. In compliance with the said order, dated 14-07-2015, both the Companies have caused notices on the Regional Director, Government of India, Ministry of Corporate Affairs, South Eastern Region, Hyderabad; that the Transferor Company has additionally caused a notice on the Official Liquidator attached to this Court; that each of the two Companies have carried out publication of notices in two daily newspapers *viz*., the Business Standard (English) and Andhra Bhoomi (Telugu) of Hyderabad editions having circulation in the State of Telangana. Accordingly, publication was carried on and proof thereof was filed through memo, dated 16.07.2015.

In response to the notices, the Regional Director has filed his Common report, dated 14-08-2015, wherein it is *inter alia* stated that in pursuance of General Circular No.1/2014, dated 15-01-2014, issued by the Ministry of Corporate Affairs, New Delhi, the opinion of the Income Tax Department was sought *vide* letter, dated 28-07-2015, and that no comments/objections were received by him from the Income Tax Department. It is further stated that the Registrar of Companies, Hyderabad, has reported that both the Transferor Company and the Transferee Company are regular in filing returns and that no inspections and investigations are pending against them.

However, the Regional Director has pointed out that the Transferee Company has not yet submitted the consent letter of its sole secured creditor *viz*., M/s.SREI Equipment Finance Limited (It appears that the Regional Director failed to notice the non-submission of the consent letter by the unsecured creditor *viz*., M/s.Ghantasala & Co., Chartered Accountants).

In compliance with the objection raised by the Regional Director in his report, the Transferee Company has filed a Memo *vide* USR.No.4199 of 2015 *inter alia* enclosing the No Objection letters, dated 02-06-2015 and 30-05-2015, received from its secured and the unsecured creditors. Thus, the Transferee Company has complied with the objection raised by the Regional Director.

In response to the notice issued by the Court, the Official Liquidator filed reports, dated 14.08.2015 and 28-08-2015, in C.P.No.203 of 2015 filed by the Transferor Company, wherein, he has, *inter alia,* stated that the affairs of the Transferor Company have not been conducted in a manner prejudicial to the interests of their members or to the public interest.

Having regard to the reports of the Regional Director, South Eastern Region, Ministry of Corporate Affairs, Hyderabad and the Official Liquidator, no objection letters of the shareholders, the secured and the unsecured creditors of both the Companies and as no claims or objections having been received in pursuance of publication of notice in newspapers, this Court is satisfied that the proposed scheme of amalgamation is in conformity with the provisions of the Act and that the same is not being opposed by any stakeholders or general public.

Therefore, the proposed scheme of amalgamation is sanctioned with effect from the appointed date *i.e.,* 01.04.2014. The Transferor Company is ordered to be dissolved without going through the process of winding up. Both the Transferor and the Transferee Companies shall, within 30 days of receipt of a copy of this order, cause a certified copy of the same to be delivered to the Registrar of Companies, Hyderabad, and take all other consequential actions in pursuance of the approval of the proposed scheme of amalgamation.

Both the Company Petitions are, accordingly, allowed.

(C.V.Nagarjuna Reddy, J)

Dt: 31st August, 2015
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