

IN THE HIGH COURT OF DELHI
COMPANY PETITION NO. 598/2014

Reserved on 9th January, 2015
Date of pronouncement: 28th January, 2015

In the matter of

The Companies Act, 1956 & the Companies Act, 2013 (to the extent applicable):

And

**Petition under Section 391 to 394 of the
Companies Act, 1956**

Scheme of Arrangement between:

M/s. Integrated Waste Management and Urban Services Company
(Tamil Nadu) Limited

Non-Petitioner/Transferor Company

AND

M/s. IL&FS Environmental Infrastructure & Services Limited

Petitioner/Transferee Company

**Through Ms. Neha Sharma and Mr. D.
Verma Advocates for the petitioner
Ms. Aparna Mudiam, Assistant
Registrar of Companies for Regional
Director**

SUDERSHAN KUMAR MISRA, J.

1. This petition has been filed under Sections 391 to 394 of the Companies Act, 1956 by the petitioner/transferee company seeking sanction of the Scheme of Arrangement between M/s. Integrated Waste Management and Urban Services Company (Tamil Nadu) Limited (hereinafter referred to as the transferor company) and M/s. IL&FS Environmental Infrastructure & Services Limited (hereinafter referred to as the petitioner/transferee company).

2. The registered office of the petitioner/transferee company is situated at New Delhi, within the jurisdiction of this court. However, the registered office of the transferor company is situated at Chennai, Tamil Nadu, outside the jurisdiction of this court. Learned counsel for the petitioner submit that the Scheme of Arrangement in respect of the transferor company has already been sanctioned by the Madras High Court vide order dated 21st November, 2014 passed in CP No. 241/2014 filed by the transferor company and a copy of the same is placed on record.

3. The petitioner/transferee company was originally incorporated under the Companies Act, 1956 on 2nd August, 2007 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi under the name and style of IL&FS Waste Management and Urban Services Limited. The company changed its name to IL&FS Environmental Infrastructure and Services Limited and obtained a fresh certificate of incorporation on 13th December, 2010.

4. The authorized share capital of the petitioner/transferee company, as on 20th March, 2014, was Rs.50,00,00,000/- divided into 5,00,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share

capital of the company was Rs.34,92,32,490/- divided into 3,49,23,249 equity shares of Rs.10/- each.

5. A copy of the Memorandum and Articles of Association of the petitioner/transferee company has been filed on record. The audited balance sheet, as on 31st March, 2014, of the petitioner/transferee company, along with the report of the auditors, has also been filed.

6. A copy of the Scheme of Arrangement has been placed on record and the salient features of the Scheme have been incorporated and detailed in the petition and the accompanying affidavit. It is submitted by the petitioner that the focus and activities of both the companies compliment each other and the consolidation of their resources would lead to a simplified corporate structure focused on capitalizing upon investment opportunities and providing a concentrated management focus for the development of business of the companies. It is claimed that the proposed amalgamation would lead to greater integration and greater financial strength and flexibility for the amalgamated entity, which would result in maximizing overall shareholder's value and will improve the competitive position of the combined entity.

7. So far as the share exchange ratio is concerned, the Scheme provides that that transferor company is a wholly owned subsidiary of the

petitioner/transferee company and on amalgamation no separate consideration shall be paid by the petitioner/transferee company to the shareholders of the transferor company and no shares shall be issued by the petitioner/transferee company to any person in consideration of or consequent upon the amalgamation.

8. It has been submitted by the petitioner that no proceedings under Sections 235 to 251 of the Companies Act, 1956 are pending against the petitioner/transferee company.

9. The Board of Directors of the petitioner/transferee company in their meeting held on 12th November, 2013 have unanimously approved the proposed Scheme of Arrangement. A copy of the Resolution passed at the meeting of the Board of Directors of the petitioner/transferee company has been placed on record.

10. The petitioner/transferee company had earlier filed CA (M) No. 79/2014 seeking directions of this court to dispense with the requirement of convening the meetings of its shareholders, secured and unsecured creditors, which are statutorily required for sanction of the Scheme of Arrangement. Vide order dated 8th August, 2014, the court allowed the application and dispensed with the requirement of convening and holding the meeting of the equity shareholders, secured and unsecured creditors

of the petitioner/transferee company to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Arrangement.

11. The petitioner/transferee company has thereafter filed the present petition seeking sanction of the Scheme of Arrangement. Vide order dated 30th September, 2014, notice in the petition was directed to be issued to the Regional Director, Northern Region. Citations were also directed to be published in 'Statesman' (English) and 'Jansatta' (Hindi) editions. Affidavit of service has been filed by the petitioner showing compliance regarding service on the Regional Director, Northern Region, and also regarding publication of citations in the aforesaid newspapers on 30th October, 2014. Copies of the newspaper clippings containing the publications have been filed along with the affidavit of service.

12. In response to the notices issued in the petition, Mr. A.K. Chaturvedi, Regional Director, Northern Region, Ministry of Corporate Affairs has filed his report dated 8th December, 2014. Relying on Clause 12.1 of Part-V of the Scheme, he has stated that, upon sanction of the Scheme of Arrangement, all the employees of the transferor company shall become the employees of the transferee company without any break or interruption in their services. He has further submitted that in Clause 9.7 of Part-IV of the Scheme, it has been stated that the

petitioner/transferee company shall abide by the provisions of Accounting Standard-14 issued by the Institute of Chartered Accountants of India. He further submitted that in terms of Clause 7 of Part-III of the Scheme, with effect from the appointed date, the transferor company, without any further act or deed, shall stand dissolved without the process of winding up.

13. No objection has been received to the Scheme of Arrangement from any other party.

14. Considering the approval accorded by the equity shareholders, secured and unsecured creditors of the petitioner/transferee company, to the proposed Scheme of Arrangement and the affidavit filed by the Regional Director, Northern Region, not raising any objection to the proposed Scheme of Arrangement; and also in view of the order dated 21st November, 2014 passed by the Madras High Court in CP 241/2014 granting sanction to the proposed Scheme of Arrangement in respect of the transferor company, there appears to be no impediment to the grant of sanction to the Scheme of Arrangement. Consequently, sanction is hereby granted to the Scheme of Arrangement under Section 391 and 394 of the Companies Act, 1956. The petitioner company will comply with the statutory requirements in accordance with law. Certified copy of this order be filed with the Registrar of Companies within five weeks. It is also

clarified that this order will not be construed as an order granting exemption from payment of stamp duty as payable in accordance with law. The sanction will be effective from the appointed date of arrangement, that is 1st October, 2013.

15. The petition is allowed in the above terms.

Dasti.

SUDERSHAN KUMAR MISRA, J.

January 28, 2015