

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SCHEME PETITION NO. 111 OF 2016
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO. 935 OF 2015

AXN Networks India Private Limited.... Petitioner/ First Transferor Company

AND
COMPANY SCHEME PETITION NO. 112 OF 2016
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO. 936 OF 2015

Sony Pictures Networks India Private Limited.... Petitioner/ Transferee Company

In the matter of the Companies Act of 1956 (Or re-enactment Thereof upon Effectiveness of Relevant Provisions of the Companies Act, 2013);

AND

In the matter of Sections 391 to 394 of the Companies Act, 1956(Or re-enactment Thereof upon Effectiveness of Relevant Provisions of the Companies Act, 2013);

AND

IN THE MATTER of Scheme of Amalgamation of AXN Networks India Private Limited (The "First Transferor Company") and SPE Networks - India Inc. (The "Second Transferor Company") with Sony Pictures Networks India Private Limited(The "Transferee Company") and their respective Shareholders and Creditors.

Called for hearing:

Mr. Arvind Talgaonkar i/b. M/s. Crawford Bayley & Co., Advocate for the Petitioners in both the Petitions.

Mr. Vinod Sharma, Official Liquidator, present in CPS No. 111 of 2016.

Mr. Anand Singh i/b. Mr. Niraj Kumar for Regional Director in all the Petitions.

CORAM: B. P. Colabawalla J.

DATE: 01st July, 2016

PC:

1. Heard learned counsel for parties. None appears before the Court to oppose the Scheme and nor any party has controverted any averments made in the Petition.
2. The sanction of the Court is sought to the Scheme of Amalgamation of AXN Networks India Private Limited (The “First Transferor Company”) and SPE Networks – India Inc. (The “Second Transferor Company”) with Sony Pictures Networks India Private Limited (The “Transferee Company”) and their respective Shareholders and Creditors, under Sections 391 to 394 and other applicable provisions of the Companies Act, 1956(or re-enactment thereof upon effectiveness of the Companies Act, 2013).
3. The Learned Counsel for the Petitioners states that the First Transferor Company is presently carrying on business of downlinking television channels and providing administrative and support services in respect of marketing to SPE Networks – India Inc.
4. The Learned Counsel for the Petitioners states that as the Transferor Companies and the Transferee Company are indirect wholly owned subsidiaries of Sony Corporation, Japan (hereinafter referred to as the “Holding / Parent Company”). The television channel broadcasting business of the Holding / Parent Company in India is mainly carried on by these wholly owned subsidiaries with the largest number of television channels being owned and operated by the Transferee Company. Hence the amalgamation will enable the Transferee Company to take advantage of

emerging opportunities in the television production, distribution and broadcasting market in India which has strong growth potential and the amalgamation will also lead to better business synergies, improve overall operational efficiency and achieve cost savings. It will also enable the Transferee Company (together with the Holding / Parent Company) to enlarge its bouquet of television channels and carry on and conduct its business more efficiently and advantageously with better economies of scale, leading to more productive and optimum utilisation of various resources, strengthen its financial position and ability to raise resources for conducting business and provide a stronger capital base for future expansion and growth in India. Further, such consolidation will also help the Transferee Company (and the Holding / Parent Company) to enhance its ability to compete effectively in the highly competitive television production, distribution and broadcasting market in India.

5. The Board of Directors of Petitioner Companies have approved the said Scheme of Amalgamation by passing resolutions which are annexed to the respective Company Scheme Petitions.
6. The Learned Counsel for the Petitioners further states that, Petitioner Companies have complied with all the directions passed in Company Summons for Direction and that the Company Scheme Petitions have been filed in consonance with the orders passed in respective Summons for Directions.

7. The Learned Counsel appearing on behalf of the Petitioners states that the Petitioners have complied with all requirements as per directions of this Hon'ble Court and that the Petitioners have filed necessary Affidavits of compliance in this Hon'ble Court. Moreover, the Petitioner Companies undertake 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 Undertaking is accepted.
8. The Regional Director has filed an Affidavit on 23rd June, 2016 stating therein that save and except as stated in paragraphs 6 (a), (b),(c) and(d)it appears that the Scheme is not prejudicial to the interest of shareholders and public.

In paragraph 6 (a), (b),(c) and (d) of the affidavit, the Regional Director has stated as under:

6.

- (a) *The equity shareholders of both the Transferor and Transferee Company are held by foreign body corporate as its shareholders. Hence for allotments 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.*
- (b) *It is observed that, the primary business of Transferor Companies are down linking television channel and owning and operating televisions channel in India, which is regulated by Ministry of Information and Broadcasting. In this regard it is submitted that petitioner Company shall obtain necessary*

statutory approval if any applicable from Regulatory Authority, before giving effect to the Scheme.

(c) Transferee Company shall ensure that the 2nd Transferor Company is complying with all the statutory requirement as per applicable Law of Delaware State, U.S.A. to strike off the name to dissolve the 2nd Transferor Company from their record.

(d) 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 the approval of the scheme by this Hon'ble High Court may not deter the Income Tax Authority to scrutinise the returns filed by the petitioner company after giving effect to the amalgamation the decision of the Income Tax Act Authority is binding on the petitioner company.

9. In so far as observation made in paragraph 6 (a) of the Affidavit of the Regional Director is concerned, the Petitioner Companies through their Counsel submit that the Petitioner companies are bound to comply with all applicable provisions of the FEMA /RBI for allotments of new shares by the Transferee Company to the shareholders of Transferor Companies being foreign body corporate.

10. In so far as observation made in paragraph 6 (b) of the Affidavit of the Regional Director is concerned, the Counsel for the Petitioner Companies submit that clause 16.3 of the scheme provides for the Scheme is conditional upon the approval of requisite Regulatory Authority. Further the Petitioner

companies undertake to obtain necessary statutory approval if any applicable from Regulatory Authority, before giving effect to the Scheme.

11. In so far as observation made in paragraph 6 (c) of the Affidavit of the Regional Director is concerned, the Petitioner Companies through their Counsel submit that the Petitioner Companies will ensure that the Second Transferor Company will comply with all the statutory requirements as per applicable Law of Delaware State, USA to strike off the name of the Second Transferor Company from their record.
12. In so far as observation made in paragraph 6 (d) of the Affidavit of the Regional Director is concerned, the Petitioner Companies through their Counsel submit 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 and/or from the scrutiny of the returns filed by the petitioner company will be met and answered in accordance with law.
13. The Learned Counsel for Regional Director on instructions of Mr. S. Ramakantha, Joint Director-Legal in the office of the Regional Director, Ministry of Corporate Affairs, Western Region, Mumbai states that they are satisfied with the undertakings given by the Petitioners hereinabove. The above undertakings are accepted.
14. The Official Liquidator has filed his report on 15th June, 2016 in Company Scheme Petition No. 111 of 2016 stating that the affairs of the First Transferor Company have been conducted in a proper manner and that the

First Transferor Company may be ordered to be dissolved without winding up.

15. 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.
16. Since all the requisite statutory compliances have been fulfilled, Company Scheme Petition No. 111 of 2016 is made absolute in terms of prayer clauses (a), (b) and (d), and 112 of 2016 is made absolute in terms of prayer clauses (a) and (c).
17. The Petitioner Companies to lodge a copy of this order and 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 the order by the Registry.
18. Petitioner Company is directed to file a copy of this order along with a copy of the Scheme of Amalgamation with the concerned Registrar of Companies, electronically, along with E-form INC-28, in addition to physical copy as per the provisions of the Act.
19. The Petitioners in all the Petitions to pay costs of INRs.10,000/- each to the Regional Director, Western Region, Mumbai, and the Petitioners in the Company Scheme Petition Nos. 111 of 2016 to pay cost of INRs.10,000/- to

the Official Liquidator, High Court, Bombay. Costs to be paid within four weeks from the date of the order.

20. Filing and issuance of the drawn up order is dispensed with.
21. All the concerned regulatory authorities to act on a copy of this order along with the Scheme duly authenticated by the Company Registrar, High Court (O. S.), Bombay.

(B. P. Colabawalla J.)

CERTIFICATE

I certify that this Order uploaded is a true and correct copy of original signed order.

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