IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SCHEME PETITION NO 134 OF 2016
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO 951 OF 2015

E-CITY PROPERTY MANAGEMENT & SERVICES PRIVATE LIMITED

………… Petitioner / the Transferor Company

AND

COMPANY SCHEME PETITION NO 135 OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO 952 OF 2016

E-CITY MEDIA PRIVATE LIMITED

………… Petitioner / the Transferee Company

In the matter of the 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 E-City Property Management & Services Private Limited with E-City Media Private Limited and their respective shareholders

Called for Hearing

Mr. Hemant Sethi i/b Hemant Sethi & Co., Advocates for the Petitioners.

Mr Vinod Sharma , Official Liquidator, present in the Company Scheme Petition No. 134 of 2016.

P. Khosla, i/b Mr. Pankaj Kapoor for Regional Director in both the Company Scheme Petitions .

CORAM: B. P. Colabawala, J.

DATE: 8th July , 2016

1. Heard counsel for the parties. No objector has come before the court to oppose the Scheme and nor has any party contravened any averments made in the Petition.

2. The sanction of the Court is sought under Sections 391 to 394 of the Companies Act, 1956, to the Scheme of Amalgamation of E-City Property Management & Services Private Limited with E-City Media Private Limited and their respective shareholders.

3. Learned Counsel for the Petitioner states that the Transferee Company is engaged in the business of advertising and marketing solutions. The Transferor Company, is engaged in the business of property development and management. The Scheme of Amalgamation would have the following benefits – Simplification of the group structure, consolidation and synergies in business operations, and reducing managerial overlaps.

4. Both the Petitioner Companies have approved the said Scheme by passing Board Resolutions which are annexed to the respective Company Scheme Petitions.

5. 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.

6. The learned counsel appearing on behalf of the Petitioners has stated that the Petitioners has complied with all requirements as per directions of this Court and they have filed necessary affidavits of compliance in the Court. Moreover, Petitioner Company undertake to comply with all statutory requirements, if any, as required under the Companies Act, 1956 and the Rules made there under. The said undertaking is accepted.

7. The Regional Director has filed an affidavit on 20th June, 2016 stating therein that save and except as stated in para 6 it appears that the Scheme is not prejudicial to the interest of shareholders and public. In para 6 of the said Affidavit, it is stated as under:

   That the Deponent further submits that, *(a)* *Clause 2.4.1 of the Scheme provides for addition of a new object clause in the Memorandum of Association of the Transferee Company. In this regard, the Transferee Company may be directed to comply with the provisions of Section 13(1) & (6) read with Section 15 of the Companies Act, 2013 corresponding to Section 40 read with Section 18 of the Companies Act, 1956 and to file amended copy of Memorandum of Association with necessary form with Registrar of Companies.*

(b) *Clause 2.3.4 of the Scheme provides for adjustment for differences in Accounting Policies between Transferor Company and Transferee Company. In this regard, it is submitted that in addition to compliance of Accounting Standard14, the Company shall pass such accounting entries which are necessary in connection with the Scheme to comply with other applicable Accounting Standards, such as AS-5, etc.*

(c) *It is respectfully submitted that the Tax implication, if any, arising out of this scheme shall be subject to final decision of Income Tax Authorities. The approval of the scheme by Hon'ble High Court may not deter the Income Tax Authority to scrutinize the tax returns filed by the Transferee company after giving effect to the Scheme. The decision of the Income Tax Authority is binding on the Transferor Company and the Transferee Company.*

8. So far as the observation in paragraph 6(a) of the Affidavit of the Regional Director is concerned, the Transferee Company through its counsel undertakes to comply with the relevant sections of the Companies Act, 2013 and to file the amended copy of the Memorandum of Association with the Registrar of Companies.

9. So far as the observation in paragraph 6(b) of the Affidavit of the Regional Director is concerned, the Transferee Company through its counsel undertakes that it shall pass such accounting entries which are

necessary in connection with the Scheme to comply with any other applicable Accounting Standards.

10. So far as the observation in pasragraph 6(b) of the Affidavit of the Regional Director is concerned, the Transferee Company through its counsel undertakes that it is bound to comply with all applicable provisions of the Income-tax Act, 1961 and all issues arising out of the Scheme will be met and answered in accordance with law.

11. The Counsel for the Regional Director on instructions from Joint Director Legal in the office of Regional Director stated that they are satisfied with the undertakings given by the Petitioner Companies. The said undertaking given by the Petitioner Companies are accepted

12. The Official Liquidator has filed his report on 14th June, 2016 in the Company Scheme Petition No. 134 of 2016 stating therein that the affairs of the Transferor Company has been conducted in a proper manner and that the Transferor Company may be ordered to be dissolved by this Court.

13. 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.

14. Since all the requisite statutory compliances have been fulfilled, the Company Scheme Petition No. 134 of 2016 filed by the Petitioner Company are made absolute in terms of prayer (a) and the Company Scheme Petition No. 135 of 2016 filed by the Petitioner Company are made absolute in terms of prayer (a)

15. The Petitioner Companies to lodge a copy of this order and the 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 receipt of the Order.

16. The Petitioner Companies are directed to file a copy of this order and the Scheme, duly authenticated by the Company Registrar, High Court (O.S.), Bombay with the concerned Registrar of Companies,

electronically, along with I.N.C. – 28 in addition to physical copy as per the relevant provisions of the Companies Act, 2013/1956.

17. The Petitioner Companies in both the Company Scheme Petitions to pay costs of INR 10,000/- to the Regional Director, Western Region, Mumbai and the Petitioner Company in Company Scheme Petition No. 134 of 2016 to pay cost of INR 10,000/- to the Official Liquidator, High Court, Bombay. Costs to be paid within four weeks from the date of the order.

18. Filing and issuance of the drawn up order is dispensed with.

19. All concerned regulatory authorities to act on a copy of this order along with Scheme duly authenticated by the Company Registrar, High Court (O. S.), Bombay.

(B. P. Colabawala, J.)

CERTIFICATE

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

Uploaded by: Shankar Gawde, Stenographer