IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO. 219 OF 2016

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 40 OF 2016

Bureau Veritas Certification (India) Private Limited

.... Petitioner Company/ Transferor Company

AND

COMPANY SCHEME PETITION NO.220 OF 2016

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO.41 OF 2016

Civil-Aid Technoclinic Private Limited

.... Petitioner Company/ Transferor Company

AND

COMPANY SCHEME PETITION NO.221 OF 2016

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO.42 OF 2016

Bureau Veritas (India) Private Limited

.... Petitioner Company/ Transferee Company

In the matter of the Companies Act, 1956 (1 of 1956) and Companies Act, 2013 (18 of 2013);

AND

In the matter of Sections 391 to 394 read with Sections 100 to 103 of the Companies Act, 1956 and Section 52 of the Companies Act, 2013;

AND

In the matter of the Scheme of Amalgamation & Arrangement between Bureau Veritas Certification (India) Private Limited ('the Transferor Company No.1'or 'BVCIPL');

AND

Civil-Aid Technoclinic Private Limited ('the Transferor Company No.2' or 'CATPL');

AND

Bureau Veritas (India) Private Limited ('the Petitioner Company' or 'the Transferee Company' or 'BVIPL');

AND

Their Respective Shareholders and Creditors

Called for hearing

Mr. Rajesh Shah i/b M/s. Rajesh Shah & Co., Advocate for the Petitioner Companies

Mr. Vinod Sharma, Official Liquidator present in CSP No.219 & 220 of 2016.

Mr. Udayan Shah, i/b Mr. A. A. Ansari for Regional Director for all the Petitioner Companies.

CORAM: A. K. Menon, J.

DATE: 27th day of October, 2016

PC:

1. Heard the learned counsel for the Petitioner Companies, the Regional Director and the Official Liquidator.

2. The sanction of the Court is sought under sections 391 to 394 read with section 100 to 103 of Companies Act, 1956 and Section 52 of the Companies Act, 2013 and other applicable provisions of the Companies Act, 1956 and/or the Companies Act, 2013 (to the extent notified and applicable) to the Scheme of Amalgamation & Arrangement between Bureau Veritas Certification (India) Private Limited ("the Transferor Company No.1" or "BVCIPL") and Civil-Aid Technoclinic Private Limited ("the Transferor Company No.2" or "CATPL") (together referred to as "the Transferor Companies") and Bureau Veritas (India) Private Limited ("the Transferee Company" or "BVIPL") and their respective shareholders and creditors ('the Scheme').

3. The Learned Counsel appearing on behalf of the Petitioner Companies has stated that they have complied with all requirements as per directions of this Court and they have filed necessary affidavits of compliance in the Court. Moreover, Petitioner Companies also undertake to comply with all the statutory requirements, if any, as required under the Companies Act, 1956 / 2013, and the rules made here under. The said undertaking is accepted.

4. The Learned Counsel for the Petitioner Companies stated that Transferor Company No. 1 is engaged in the business carrying out

conformity assessment of management systems to international standards whereas Transferor Company No. 2 is engaged in the business of business of providing services to structural consultancy and advisory services whereas the Transferee Company is engaged in the business of testing, inspection and certification services.

5. The Learned Counsel appearing on behalf of the Petitioners states that the proposed scheme will have the benefit as per the opinion of the management that the Transferor Companies and Transferee Company are group companies and that the proposed Scheme would result in consolidation of the operations of the Transferor Companies and the Transferee Company which would therefore lead to a more efficient utilization of capital and create a consolidated base for future growth of the amalgamated entity and that will prevent cost duplication and that the proposed Scheme will maximize the wealth of the shareholders and more efficient utilisation of resources, greater economies of scale, reduction in overheads and other expenses and improvement in various operating parameters and that will reduce managerial overlaps and also the number of entities within the group and also create a stronger base for future growth of the amalgamated entity and would result in an optimum utilization of the assets, infrastructure and manpower of the Transferor Companies and the Transferee Company and that will reduce managerial gaps, thereby strengthening the combined market position and growth prospects.

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

7. The Learned Counsel for the Petitioner Companies further states that the Petitioner Companies have complied with all the directions passed by this Court in Company Summons for Directions and that the Company Scheme Petitions have been filed in consonance with the orders passed in the respective Company Summons for Directions and seeks sanction to the said proposed Scheme.

8. The Regional Director has filed an Affidavit on 10th day of August, 2016 stating therein that save and except as stated in para 6(a) and 6(b), it appears that the Scheme is not prejudicial to the interest of the shareholders and the public. In para 6(a) and 6(b) of the said Affidavit, the Regional Director has stated as follows:-

"6. That the Deponent further submits that,

a) The Petitioner Companies inter alia stated in point no. 13 *of their reply that there is no foreign/non-resident interest in the Transferor Company No.2. The shares of the Transferor Company No. 1 and Transferee Company are held by foreign body corporate as its shareholders. Hence for allotment of new shares to the shareholder of Transferor Company No. 1 and Transferee Company may be directed to comply with FEMA/RBI ACT regulations, etc as applicable in this regard.*

b) *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 approval of the scheme by Hon'ble High Court may not deter the Income Tax Authority to scrutinize the tax returns filed by the Petitioner Company after giving effect to the amalgamation. The decision of the Income Tax Authority is binding on the petitioner company.*

9. So far as the observations made in paragraph 6 (a) of the Affidavit of the Regional Director is concerned, the Transferee Company through its Counsel undertakes to comply with FEMA/RBI Act regulations for allotment of new shares to the shareholder of Transferor Company No. 1 and Transferee Company, as applicable in this regard.

10. So far as the observation made by the Regional Director in paragraph 6 (b) of the affidavit of the Regional Director is concerned, the Transferee Company through its Counsel agrees that the Tax issue if any arising out of this scheme shall be subject to final decision of Income Tax Authority and approval of the scheme by Hon'ble High Court may not deter the Income Tax Authority to scrutinize the tax returns filed by the Petitioner Company after giving effect to the amalgamation. The decision of the Income Tax Authority is binding on the petitioner company.

11. The Learned Counsel for the Regional Director on the instructions of Smt. P. Sheela, Joint Director in the office of the Regional Director, Ministry of Corporate Affairs, Western Region, Mumbai states that he is satisfied with the undertakings given by the Petitioner Companies. The said undertakings given by the Petitioner Companies are accepted.

12. The Official Liquidator has filed report on 25th October, 2015 in Company Scheme Petition No. 219 & 220 of 2016 stating therein that the affairs of the Transferor Companies have been conducted in a proper manner and that the Transferor Companies may be ordered to be dissolved without being wound up.

13. No objector has come before the court to oppose the Scheme nor has any other party controverted any of the averments made in the petitions.

14. From the material on record, the Scheme appears to be fair and reasonable and does not violate of any provisions of law and is not contrary to public policy.

15. Since all the requisite statutory compliances have been fulfilled, the Company Scheme Petition No. 219 of 2016 is made absolute in terms of prayer made under clause (a) to (e), Company Scheme Petition No. 220 of 2016 is made absolute in terms of prayer made under clause

(a) to (e) and Company Scheme Petition No. 221 of 2016 is made absolute in terms of prayer made under clause (a) to (f).

16. The Transferee Company to lodge a copy of this order and the Scheme of Amalgamation & Arrangement 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 final order.

17. The Petitioner Companies are directed to file a copy of the final order along with a copy of the Scheme with the concerned Registrar of Companies, electronically, through INC-28 pursuant to the Companies Act, 2013, in addition to physical copy as per the provisions of the Companies Act, 1956/2013.

18. The Petitioner Companies to pay costs of Rs.10,000/- each to the Regional Director, Western Region, Mumbai and Petitioner Companies in the Company Scheme Petition Nos. 219 and 220 of 2016 to pay cost of Rs 10,000/- each to the Official Liquidator, High Court, Bombay. Costs to be paid within four weeks from the date of the Order.

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

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

(A. K. Menon, J.)

CERTIFICATE

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

Uploaded by : Shankar Gawde, Stenographer.