IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO 282 OF 2016

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 10 OF 2016

In the matter of the Companies Act, 1956;

And

In the matter of Section 391 & 394 of Companies Act, 1956;

And

In the matter of Scheme of Amalgamation of Quadrant Engineers Limited with Powerica Limited and their Respective Shareholders

Quadrant Engineers Limited………..Petitioner

Called for Hearing

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

Mr. Udayan A Shah, i/b A.A. Ansari for Regional Director.

Mr. Vinod Sharma, Official Liquidator, present.

CORAM: S.C. GUPTE, J.

DATE: 2nd DECEMBER 2016

1. Heard the learned counsel for the Petitioner. No objector has come 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 under Sections 391 to 394 of the Companies Act, 1956, to the Scheme of Amalgamation Quadrant Engineers Limited with Powerica Limited and their Respective Shareholders .
3. Learned Advocate for the Petitioner submits that since the Petitioner Company is wholly owned subsidiary of the Transferee Company and all the shares of the

Petitioner Company are presently held by Powerica Limited, the Transferee Company and after the Scheme being sanctioned, no new shares are required to be issued to the members of the Petitioner Company by the Transferee Company and there would be no reorganization of the Share Capital in the Transferee Company and also in view of the judgment of this Court in Mahaamba Investments Limited Versus IDI Limited (2001) 105 Company Cases, filing of a separate Company Summons for Direction and Company Scheme Petition by Powerica Limited, the Transferee Company was dispensed with, in pursuance of order dated 8th January 2016 passed in CSD No. 10 of 2016.

4. The Petitioner Company is presently engaged in the business of consultants and advisors for recruitment and mobilization of skilled and unskilled personnel's and for problems relating to administration and organization of industries and business . The Transferee Company is presently engaged in the business of manufacture, buyers, sellers, exporters, importers of diesel engines, power generating sets of any kind, electric and power manufacturing goods for Power Plants.

5. The rational for the Scheme is that the Transferor Company and the Transferee Company are under the same management. With a view to maintain a simple corporate structure and eliminate duplicate corporate procedures it is desirable to merge and amalgamate all the undertaking of the Transferor Company into Transferee Company. The amalgamation of all undertaking of Transferor Company into the Transferee Company shall facilitate consolidation of all the undertakings in order to enable effective management and unified control of operations. Further, the amalgamation would create economies in administrative and managerial costs by consolidating operations and would substantially reduce duplication of administrative responsibilities and multiplicity of records and legal and regulatory compliances.

6. The Petitioner Company and Transferee Company had approved the said Scheme of Amalgamation by passing the Board Resolutions which are annexed to the Company Scheme Petition filed by the Petitioner Company.

7. The learned counsel for the Petitioner state that Petitioner Company has complied with all directions passed in Company Summons for Direction and that the Scheme has been filed in consonance with the orders passed in Company Summons for Direction.

8. Counsel appearing on behalf of the Petitioner has stated that they have complied with all requirements as per directions of this Court and they have filed necessary affidavit of compliance in the Court. Moreover, Petitioner Company undertakes 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 given by the Petitioner Company is accepted.

9. The Regional Director has filed an Affidavit on 25th October 2016, stating therein, save and except as stated in paragraph 6(i) & 6(ii), it appears according to R.D. that the scheme is not prejudicial to the interest of shareholders and public.

In paragraphs 6(i) and 6(ii), of the said affidavit it is stated that:-

i) *That the Petitioner Companies had accepted the pooling of interest method as set out in AS 14 however the Petitioner Companies should also pass such accounting entries as mentioned in As-5 of the Accounting Standards.*

ii) *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 Court may not deter the Income Tax Authority to scrutinize the tax returns filed by the Petitioner Companies.*

10. As far as observations made in paragraph 6 (i) of Affidavit of the Regional Director is concerned, the Petitioner/Transferee Company undertakes that in addition to compliance of Accounting Standard 14, the Transferee Company shall pass such accounting entries as may be necessary in connection with the Scheme of Amalgamation to comply with any other applicable accounting standards.

11. As far as observations made in paragraph 6(ii) of Affidavit of the Regional Director is concerned, the Petitioner Company through their Counsel undertakes to comply with all applicable provisions of the Income Tax Act and tax implication, if any arising out of the Scheme of Amalgamation will be subject to the decision of the Income Tax Authority.

12. In view of undertakings and clarifications given by the Petitioner, the Counsel for the Regional Director on instructions of Mr. S. Ramakantha, Joint Director in the office of Regional Director, Ministry of Corporate Affairs, Western Region, Mumbai, states that they are satisfied with the submissions given by the Petitioner Company. The said undertakings given by the Petitioner are accepted.

13. The Official Liquidator has filed his report on 21st September 2016 stating that the affairs of the Petitioner Company have been conducted in a proper manner and that Petitioner Company may be ordered to be dissolved.

14. 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.

15. Since all the requisite statutory compliances have been fulfilled, Company Scheme Petition filed by the Petitioner Company is made absolute in terms of prayer clause (a).

16. Petitioner is directed to file a copy of this order along with a copy of the Scheme with the concerned Registrar of Companies, electronically, along with E-Form INC-28, in addition to the physical copy within 30 days from the date of issuance of the order by the Registry.

17. The Petitioner Companies to lodge a copy of this order and the Scheme, duly authenticated by the Company Registrar, High Court, 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.

18. The Petitioner Company to pay costs of Rs.10,000/- each to the Regional Director, Western Region, Mumbai and to the Official Liquidator, High Court, Bombay.

19. Costs to be paid within four weeks from today.

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

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

(S.C. GUPTE, J)

CERTIFICATE

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

Uploaded by: Shankar Gawde, Stenographer