IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO. 247 OF 2016

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO 65 OF 2016

BHADRAWATI ISPAT & ENRGY LIMITED

....Petitioner/ First Transferor Company

AND

COMPANY SCHEME PETITION NO. 248 OF 2016

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 66 OF 2016

DEMAND TRADING INDIA LIMITED

....Petitioner/ Second Transferor Company

AND

COMPANY SCHEME PETITION NO. 249 OF 2016.

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 67 OF 2016

RELIABLE RECORD KEEPERS PRIVATE LIMITED

....Petitioner/ Transferee Company

In the matter of the Companies Act, 1 of 1956 and other relevant provision of Companies Act, 2013;

AND

In the matter of Sections 391 to 394 read with section 100 to 103 of the Companies Act, 1956 and other relevant provision of

Companies Act, 2013;

AND

In the matter of Scheme of Amalgamation of BHADRAWATI ISPAT & ENRGY LIMITED, the First Transferor Company and DEMAND TRADING INDIA LIMITED, the Second Transferor Company with RELIABLE RECORD KEEPERS PRIVATE LIMITED, the Transferee Company.

Called for hearing

Mr. Rajesh Shah i/b Rajesh Shah & Co., Advocate for the Petitioners.

Priya V Sankpal i/b Mr.Pankaj Kapoor for Regional Director

Mr. Vinod Sharma, Official Liquidator.

CORAM: B. P.Colabawalla, J.

DATE: 12th August, 2016

PC:

1. Heard Learned Counsel for the parties. No objector has come before the court to oppose the Scheme and nor any party has controverted any averments made in the Petitions.

2. The sanction of the Court is sought to a Scheme of Amalgamation and Arrangement of BHADRAWATI ISPAT & ENRGY LIMITED, the First Transferor Company and DEMAND TRADING INDIA LIMITED, the Second Transferor Company with RELIABLE RECORD KEEPERS PRIVATE LIMITED, the Transferee Company and their respective shareholders and

creditors, under Sections 391 to 394 and other relevant provision of the Companies Act, 2013. The Learned Counsel for the Petitioners states that the First Transferor Company is engaged in the business of financial and investment activities; Second Transferor Company is engaged in the business of retailing of trading and distributing all kinds of goods and merchandise, commodities and articles of consumption of all kinds in India or elsewhere, Transferee Company is engaged in the business of sorting the records, documents, books of accounts, files, preserving and protecting the records of business entities.. The proposed scheme of Amalgamation will result into the streamlining the shareholding of the promoter group who inter-alia hold shares in the Amalgamating Companies and also create transparency in the holding structure; reducing number of entities in the group thereby reducing managerial overlaps, which are necessarily involved in running multiple entities; and Reduce regulatory and legal compliances / filings including accounting, reporting requirements, statutory and internal audit requirements, tax filings, etc. and consequential reduction in administrative costs.

3. Learned Counsel for the Petitioners further states that the Board of Directors of the Petitioner Companies have approved the said Scheme of Amalgamation by passing Board Resolutions which are annexed to the respective Company Scheme Petitions.

4. The Learned Counsel for the Petitioner Companies further states that, Petitioner Companies have complied with all the directions passed in the respective Company Summons for Directions and that the respective Company Scheme Petitions have been filed in consonance with the orders passed in respective Company Summons for Directions.

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

6. The Official Liquidator has filed his report on 13th day of July, 2016 in Company Scheme Petition Nos. 247 of 2016 and 248 of 2016 stating 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.

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

"6 That the Deponent further submits that:-

(i) *The present authorized capital of the Transferee Company is not sufficient to issue new shares to the shareholders of Transferor Company. Petitioner Companies in the clause 14.6 of the Scheme inter alia states that the Amalgamated Company shall, if and to the extent required, increase and/or reclassify its Authorised share capital to facilitate issue of equity under this scheme. In this connection the Transferee Company may be directed to comply with provisions of section 61/64 of the Companies Act, 2013 read with rules in respect of filing of necessary forms with the Registrar of Companies after payment of necessary filing fee and stamp duty as applicable on the said forms.*

(ii) *Petitioner Companies in Clause 18 in the scheme inter alia provide for change of name of Transferee Company. In this connection, Transferee Company may be directed to comply with the provisions of section 21/23 of the Companies Act 1956 corresponding to new section 13 read with 16 of the Companies Act, 2013 read with rules/guidelines etc in respect of filing of necessary forms with the Registrar of Companies.*

(iii) *The Deponent submits that Hon'ble High Court may direct the Petitioner Companies to make compliance of the provisions of the Companies Act for change of name.*

(v) 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."

8. So far as the observation in paragraph 6 (i) of the Affidavit of Regional Director is concerned, the Transferee Company thorough its Learned Counsel undertakes to comply the provisions with respect to increase and/or reclassification of its Authorised share capital, if and to the extent required to facilitate issue of equity under this scheme, under sections 61/64 of the Companies Act, 2013 read with rules in respect of filing of necessary forms with the Registrar of Companies after payment of necessary filing fee and stamp duty as applicable on the said forms

9. So far as the observation in paragraph 6 (ii) & (iii) of the Affidavit of Regional Director is concerned, the Transferee Company through its Learned Counsel undertakes to comply with the provisions related to the change of name of the Company pursuant to this Scheme under section 21/23 of the Companies Act 1956 corresponding to new section 13 read with 16 of the Companies Act, 2013 alongwith with

rules/guidelines etc in respect of filing of necessary forms with the Registrar of Companies.

10. So far as the observation in paragraph 6 (v) of the Affidavit of Regional Director is concerned, the Learned Counsel for the Petitioner Companies submit that the Petitioner Companies are bound to comply with all applicable provisions of Income Tax Act and all tax issues arising out of the Scheme will be met and answered in accordance with law.

11. The Learned Counsel for Regional Director on instructions of Ms. P. Sheela, 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 Petitioner Companies. The above undertakings are accepted.

12. 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.

13. Since all the requisite statutory compliances have been fulfilled, Company Scheme Petition No. 247 and 248 of 2016 are made absolute in terms of prayers clause (a), (c) and (d) and 249 of 2016 is made absolute in terms of prayer clauses (a) to (d).

14. The Petitioner Companies to file 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 the Order.

15. The Petitioner Companies are directed to file a certified copy of 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 relevant provisions of the Companies Act, 1956/2013 whichever is applicable.

16. The Petitioner Companies to pay costs of Rs.10,000/- each to the Regional Director, Western Region, Mumbai and the Petitioner Companies in Company Scheme Petition Nos.247 of 2016 and 248 of 2016 to pay costs 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.

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

18. 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. Colabawalla, J.)

CERTIFICATE

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

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