IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SCHEME PETITION NO. 276 OF 2016
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO. 139 OF 2016

Yazaki Wiring Technologies India Private Limited
……….Petitioner/Transferor Company

AND

COMPANY SCHEME PETITION NO. 277 OF 2016

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 140 OF 2016

Yazaki India Private Limited
……..Petitioner/Transferee Company

In the matter of 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 Yazaki Wiring Technologies India Private Limited with Yazaki India Private Limited and their respective shareholders

Mr. Hemant Sethi i/b. Hemant Sethi & Co., Advocate for the Petitioners in both the Petitions.

Mr. Rahul Tiwari with Mr. Pankaj Kapoor, for Regional Director in both the Petitions.

Mr. Vinod Sharma, Official Liquidator, present.

Mr. Sandeep Phatak for Bestways Transport (India) Private Limited, the Objecting Creditor

CORAM: S.C. GUPTE, J

DATE: 19TH AUGUST 2016

PC:

1. Heard the learned counsel for the Petitioner Companies.

2. The Counsel for the Petitioner submits that they have received letter of objection form M/s Bestways Transport (India) Private Limited, one of the Unsecured Creditors of the Transferee Company objecting to the Scheme. The Counsel for the Petitioner submits that in so far as objecting creditor is concerned his rights are not affected as there is no compromise of arrangement with any of the Creditors as the Scheme of Amalgamation is an arrangement between the respective Petitioner Companies with their shareholders .

3. It is will be opened to the objecting creditor to pursue legal remedy as may be advised for recovery of their claim amount in accordance with law.

4. The sanction of the Court is sought to the Scheme of Amalgamation of Yazaki Wiring Technologies India Private Limited with Yazaki India Private Limited and their respective shareholders.

5. The learned Counsel for the Petitioners states that the Transferor Company is engaged in the business of engineering, design and production of wiring harness for automobiles. The Transferee Company is engaged in the business of manufacturing of wiring harness for a variety of segments of the automobile industry including passenger cars and commercial vehicles.

6. The proposed Scheme of Amalgamation is aimed at achieving the following business and commercial objectives:

   i. *The amalgamation will enable pooling of resources of the companies involved in amalgamation to their common advantage, resulting in more productive utilization of the said resources and achieving economies of scale in manufacturing resulting into cost* *and operational efficiencies, which would be beneficial for all the stakeholders;*

ii. *The amalgamation would bring synergies in procurement, manufacturing, administration and marketing operations since both the companies are in the same line of business;*

iii. *The amalgamation would facilitate inter-unit transfer of resources among different manufacturing units that would in turn result into operational synergies;*

iv. *The amalgamation is expected to increase the financial strength of the companies enabling further growth and development of the Transferee company;*

v. *The amalgamation would result into simplification of the holding structure of Yazaki Group;*

vi. *The amalgamation would bring greater management focus and would help in achieving uniform corporate policies and faster / effective decision making and its implementation;*

vii. *The amalgamation would help avoiding duplication of regulatory and procedural compliances and consequently result into saving of time, resources and costs involved in such compliances;*

viii. *Post amalgamation, the Transferee Company will have better financial and operational prospects. The amalgamation shall be beneficial and in the best interests of the shareholders, creditors, employees of the companies involved and all concerned.*

7. The Transferor Company and the Transferee Company have approved the Scheme by passing the Board Resolutions which are annexed to the respective Company Scheme Petitions.

8. The Counsel for the Petitioners further states that the 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 Company Summons for Direction.

9. The Counsel for the Petitioners further states that the Petitioner Companies have complied with all requirements as per the directions of this Court and they have filed necessary Affidavits of compliance in the Court. Moreover, the Petitioner Companies through their Counsel undertakes to comply with all statutory requirements, if any, as required under the Companies Act, 1956 or Companies Act 2013, as may be applicable and the rules made there under. The said undertaking is accepted.

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

    a) *Clause 11 of the scheme provide for adjustment for differences in Accounting Polices between Transferor Company and Transferee Company. In this regard, it is submitted that in addition to the compliance of Accounting Standard -14, the Transferee Company shall pass such accounting entries which are necessary in connection with the scheme to comply with other applicable Accounting Standard such as AS-5 etc.*

b) *That the Deponent further submits that the Tax issues if any arising out of this scheme shall be subject to final decision of Income Tax Authority and approval of the Scheme by the 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. As far as observations made in paragraph 6 (a) of Affidavit of the Regional Director is concerned, the Petitioner Company through their Counsel submit that the Petitioner Company shall pass necessary accounting entries in connection with the Scheme to comply with the applicable Accounting Standards.

12. In so far as observations made in paragraph 6(b) of the Affidavit of Regional Director is concerned, the Petitioner clarifies that the approval of scheme by this court will not deter the Income Tax Authority to scrutinize the tax return filed by the Petitioner Company after giving effect to scheme and all issues arising out of the Scheme will be met and answered in accordance with law.

13. The Learned Counsel for Regional Director on instructions of Shri S. Ramakantha Joint Director in the Office of the Regional Director, Ministry of Corporate Affairs, Western Region, Mumbai, states that they are satisfied with the Submissions and undertakings given by the Petitioner Company. The said undertakings given by the Petitioner Company are accepted.

14. The Official Liquidator has filed his report on 3rd August , 2016 in the

Company Scheme Petition No. 276 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.

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, the Company Scheme Petitions are made absolute in terms of prayer (a) of the respective Petitions.

17. 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.

18. 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 Form INC-28 in addition to physical copy as per the relevant provisions of the Companies Act, 2013/1956.

19. The Petitioner Companies in both the Company Scheme Petitions to pay costs of Rs. 10,000/- to the Regional Director, Western Region, Mumbai and the Petitioner Company in Company Scheme Petition No. 276 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.

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 Scheme duly authenticated by the Company Registrar, High Court (O. S.), 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