

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SCHEME PETITION NO.250 OF 2016
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO.171 OF 2016
OASIS CEMENT LIMITED.
.....Petitioner/the First Transferor Company.
AND
COMPANY SCHEME PETITION NO.251 OF 2016
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO.172 OF 2016
TEEJAY ENTERTAINMENT LIMITED.
.....Petitioner/the Second Transferor Company.
AND
COMPANY SCHEME PETITION NO.252 OF 2016
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO.173 OF 2016
SUNDATTA SIRUR PRIVATE LIMITED.
.....Petitioner/the Third Transferor Company.
AND
COMPANY SCHEME PETITION NO.253 OF 2016
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO.174 OF 2016
STATUS IMPEX PRIVATE LIMITED.
.....Petitioner/the Fourth Transferor Company.
AND
COMPANY SCHEME PETITION NO.254 OF 2016
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO.175 OF 2016
SAMPOORNA EXPORTS PRIVATE LIMITED.
.....Petitioner/the Fifth Transferor Company.

WITH
COMPANY SCHEME PETITION NO.255 OF 2016
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO.176 OF 2016
DEEJAY MINING & EXPORTS 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 read with Sections 100 to 105 of the Companies Act, 1956 and other relevant provision of Companies Act, 2013;

AND

In the matter of Scheme of Amalgamation of Oasis Cement Limited, The First Transferor Company, Teejay Entertainment Limited, The Second Transferor Company, Sundatta Sirur Private Limited, The Third Transferor Company, Status Impex Private Limited, The Fourth Transferor Company And Sampoorana Exports Private Limited, The Fifth Transferor Company With Deejay Mining & Exports Private Limited, the Transferee Company

Called for Hearing

Mr. Chandrakant Mhadeshwar Advocate for Petitioner Company.

Ms. Manisha Khandagali i/b Pankaj Kapoor for Regional Director in all the Petitions.

Mr. Vinod Sharma, Official Liquidator present in C.S.P Nos. 250 to 254 of 2016.

Coram : B. P. Colabawalla, J.

Date: 12th August, 2016

PC:

1. Heard learned counsel for parties. None appears 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 read with Sections 100 to 105 of the Companies Act, 1956 and other relevant provision of Companies Act, 2013, to a Scheme of Amalgamation of Oasis Cement Limited, The First Transferor Company, Teejay Entertainment

Limited, The Second Transferor Company, Sundatta Sirur Private Limited, The Third Transferor Company, Status Impex Private Limited, The Fourth Transferor Company And Sampoorna Exports Private Limited, The Fifth Transferor Company With DeeJay Mining & Exports Private Limited, the Transferee Company.

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

4. The learned Advocate for the Petitioners states that the Petitioner Companies have complied with all the directions passed in Company Summons for Direction and that the Petitions have been filed in consonance with the orders passed in respective Company Summons for Direction.

5. The Learned Advocate appearing on behalf of the Petitioners 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 undertake to comply with all statutory requirements, if any, as required under the Companies Act, 1956/2013 and the Rules made thereunder whichever is applicable. The said undertaking is accepted.

6. The Official Liquidator has filed his report on 27th July, 2016 in Company Scheme Petition Nos. 250 of 2016 to 254 of 2016, inter alia, 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.

7. The Regional Director has filed his Affidavit on 11th August, 2016 inter alia, stating therein that save and except as stated in paragraphs 6 (a) and (b) of the said Affidavit, it appears that the Scheme is not prejudicial to the interest of shareholders and public. In paragraphs 6 (a) and (b) of the said Affidavit, the Regional Director has stated that :

“6. That the Deponent further submits that:-

- (a) Clause 15 of the scheme provides for adjustment for difference in Accounting Policies 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 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 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 (a) of the Affidavit of Regional Director is concerned, the Petitioner /Transferee Company through its counsel undertakes that in addition to compliance of Accounting Standard 14, the Transferee Company will pass such accounting entries which are necessary in connection with this Scheme to comply with any other Accounting Standards.

9. So far as the objection of the Regional Director, Western Region, Mumbai, as stated in paragraph 6(b) of his Affidavit is concerned, the

Petitioners are bound to comply with all applicable provisions of the Income Tax Act and all tax issues arising out of the Scheme will be met and answered in accordance with law.

10. The Learned Counsel for Regional Director on instructions of Mr. Mr. S. Ramakanth, Joint Director in the office of the Regional Director, Ministry of Corporate Affairs, Western Region, Mumbai states that they are satisfied with the undertaking given and amendment sought by the Advocate for the Petitioner Company. The said undertaking is accepted.

11. 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.

12. Since all the requisite statutory compliances have been fulfilled, Company Scheme Petition Nos.250 of 2016 to 254 of 2016 are made absolute in terms of prayer clauses (a) to (c) and Company Scheme Petition Nos.255 of 2016 is made absolute in terms of prayer clauses (a) and (b)

13. 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 this order.

14. Petitioner is directed to file/lodge a copy of this 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.

15. The Petitioners in all the Company Scheme Petitions to pay costs of Rs.10,000/- each to the Regional Director, Western Region, Mumbai. The Petitioners in the Company Scheme Petition No. 250 of 2016 to 254 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 today.

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

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

(B. P. Colabawalla, J.)

C E R T I F I C A T E

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

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