IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO. 408 OF 2016

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 112 OF 2016

Regain Consulting Private Limited……..Petitioner/Transferor Company 1

AND

COMPANY SCHEME PETITION NO. 409 OF 2016

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 113 OF 2016

Prakhyat Computech Private Limited……..Petitioner/Transferor Company 2

AND

COMPANY SCHEME PETITION NO. 410 OF 2016

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 114 OF 2016

Risible Trading Private Limited….Petitioner/Transferor Company 3

AND

COMPANY SCHEME PETITION NO. 411 OF 2016

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 115 OF 2016

Sai-Prasad Multitrade Private Limited………Petitioner /Transferor Company 4

AND

COMPANY SCHEME PETITION NO. 412 OF 2016

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 116 OF 2016

Sonal Energy Resources Private Limited……….Petitioner/Transferor Company 5

AND

COMPANY SCHEME PETITION NO. 413 OF 2016

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 117 OF 2016

Gurubhakti Properties Private Limited………..Petitioner/Transferor Company 6

AND

COMPANY SCHEME PETITION NO. 414 OF 2016

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 118 OF 2016

Mondeo Tradeplace Private Limited…..Petitioner/Transferor Company 7

In the matter of the 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 Regain Consulting Private Limited and Prakhyat Computech Private Limited and Risible Trading Private Limited and Sai-Prasad Multitrade Private Limited and Sonal Energy Resources Private Limited and Gurubhakti Properties Private Limited and Mondeo Tradeplace Private Limited (Collectively, the 'Transferor Companies') with Aarem Management Services Private Limited (the 'Transferee Company')

Called for hearing

Mr. Hemant Sethi i/b. Hemant Sethi & Co., Advocate for the Petitioners in both the Petitions.
Mr. Udyan A Singh, i/b. Pankaj Kapoor for Regional Director in both the Petitions.
Mr. Vinod Sharma, Official Liquidator, present in CSP No 408 to 414 of 2016

CORAM: S.C.GUPTE, J

DATE: 2nd DECEMBER 2016

PC:

1. Heard the learned counsel for the Petitioner Companies. None appears before the Court to oppose the Petition and to contravene averments made in the Petition.

2. The sanction of the Court is sought to the Scheme of Amalgamation of Regain Consulting Private Limited and Prakhyat Computech Private Limited and Risible Trading Private Limited and Sai-Prasad Multitrade Private Limited and Sonal Energy Resources Private Limited and Gurubhakti Properties Private Limited and Mondeo Tradeplace Private Limited (Collectively, the 'Transferor Companies') with Aarem Management Services Private Limited (the 'Transferee Company').

3. The learned Counsel for the Petitioners submit that Transferor Company 1 is presently engaged in the business of dealing / trading in shares and securitires. Transferor Company 2 to 7 are presently are not engaged in any business . The Transferor Companies are 100% subsidiaries of the Transferee Company.

4. The rational for Scheme is that the respective Boards of Directors feel that the Scheme of Amalgamation is beneficial to the respective shareholders, creditors, employees and all stakeholders of the Petitioner Company and the Transferee Company. The proposed Scheme of Amalgamation is aimed at achieving the following business and commercial objectives:

> *"The Transferor companies 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 undertakings of the Transferor Companies into Transferee Company. The amalgamation of all undertaking of Transferor Companies 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."

5. The Transferor Companies and the Transferee Company have approved the said Scheme of Amalgamation by passing the Board Resolutions which are annexed to the respective Company Scheme Petitions.

6. The Counsel for the Petitioner Companies further states that, the Petitioner Companies have complied with all the directions passed in Company Summons for Direction and that the Company Scheme Petition have been filed in consonance with the orders passed in respective Company Summons for Direction.

7. The Counsel for the Petitioner Companies 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.

8. The Regional Director has filed an Affidavit on 23rd November 2016 stating therein that save and except as stated in paragraph 6 (i) & (ii) of the said Affidavit, 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 Submits that :-

   That the Deponent further submits that:-

   (i) *That the Deponents 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 the Hon'ble High Court may not deter the Income Tax authority to* *scrutinize the tax returns filed by the Petitioner Companies after giving effect to the amalgamation. The decision of the* Income Tax Authority is binding on the Petitioner Companies.

(ii) *In addition to compliance of AS-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. and to ensure that the transferee company would not impair the true and fair view of the financial statement of the transferee company post-merger.*

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

10. In so far as observations made in paragraph 6(i) of the Affidavit of Regional Director is concerned, the Petitioner/Transferee Company through its Counsel submits that the Transferee Company undertakes to pass such accounting entries which are necessary in connection with the Scheme to comply with Accounting Standard – 14 or any other applicable Accounting Standard such as Accounting Standard – 5. The Transferee Company further undertakes that it would not impair the true and fair view of the financial statement of the Transferee company post-merger.

11. In view of undertakings and clarifications given by the Petitioners, the Counsel for the Regional Director on instructions of Mrs. P. Sheela, 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 Companies are accepted.

12. The Official Liquidator has filed his report on 15th November, 2016 stating therein that the Affairs of the Transferor Companies have been conducted

in a proper manner and that the Transferor Company may be ordered to be dissolved by this Court.

13. 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. None of the parties concerned have come forward to oppose the Scheme.

14. Since all the requisite statutory compliances have been fulfilled, Company Scheme Petition Nos. 408 to 414 of 2016 are made absolute in terms of prayer clause (a) of the respective Petitions.

15. 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.

16. Petitioner Companies are directed to file a copy of this order along with a copy of the Scheme of Amalgamation with the concerned Registrar of companies, electronically, along with 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 in all Petitions to pay costs of Rs.10,000/- each to the Regional Director and to the Official Liquidator. The Costs to be paid within four weeks, from date of this Order.

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

19. 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.

(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