IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO. 273 OF 2016

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 243 OF 2016

Euro Pratik Ispat Private Limited …Petitioner Company

AND

COMPANY SCHEME PETITION NO. 274 OF 2016

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 244 OF 2016

Euro Pratik Ispat (India) Private Limited …Petitioner Company

In the matter of the Companies Act, 1956 (1 of 1956) (or re-enactment thereof upon effectiveness of Companies Act, 2013);

AND

In the matter of Sections 391 to 394 r/w Sections 100 to 103 of the Companies Act, 1956 (or any corresponding provision of Companies act, 2013 as may be notified);

AND

In the matter of Scheme of Arrangement between Euro Pratik Ispat Private Limited, the Demerged Company and Euro Pratik Ispat (India) Private Limited, Resulting Company and their respective shareholders.

Called for Hearing

Ms. Shruti Kelji a/w. Ms. Sunila Chavan and Ameya Lambhate, Advocates for the Petitioner

Mr. Chirag J. Shah, i/b. Pankaj Kapoor for the Regional Director in both Company Scheme Petitions.

Coram : A. K. Menon, J.

Date : 8th September, 2016

P.C:-

1. Heard Advocate for the parties. No objectors have come before the Court to oppose the Scheme nor any party has controverted any averments made in the Company Scheme Petition.

2. The sanction of the Court is sought under Sections 391 to 394 r/w. Sections 100 to 103 of the Companies Act, 1956 to a Scheme of Arrangement between Euro Pratik Ispat Private Limited, the Demerged Company and Euro Pratik Ispat (India) Private Limited, Resulting Company and their respective shareholders.

3. Learned Advocate for the Petitioner Companies state that the Demerged Company and Resulting Company is engaged in the business of manufacturing, producing, converting, extracting or processing of all types of grades, shapes, sizes of all types of steels and all other ferrous and non-ferrous, etc.

4. The proposed scheme of arrangement will ensure focused management attention and resources as well as skill set allocation on EPIPL and EPIIPL and further facilitate efficiency in operations due to individual specialization, provide greater

leveraging due to financial independence and facilitate strategic/ financial investment.

5. The Petitioner Companies have approved the Scheme of Arrangement by passing Board Resolutions which are annexed to the Company Scheme Petition.

6. The Learned Advocate for the Petitioner further states that the Petitioner Companies have complied with all the directions passed in Company Summons for Directions and that the Company Scheme Petitions have been filed in consonance with the Order passed in Company Summons for Direction.

7. The Learned Advocate appearing on behalf of the Petitioner has stated that the Petitioner has complied with all requirements as per directions of this Court and they have filed necessary affidavit of compliance in the Court. Moreover, the Petitioner Company through its Advocate undertake to comply with all statutory requirements, if any, as required under the Companies Act, 1956/2013 and the Rules made thereunder. The said undertaking is accepted.

8. The Regional Director has filed an Affidavit on 7th September, 2016 stating therein, save and except as stated in paragraph 6, it appears according to the Regional Director that the Scheme is not prejudicial to the interest of the shareholders and public. The aforesaid paragraph 6 reads as under:

   (a) Clause 19.1 & 19.2 of the scheme the surplus if any arising out of the scheme shall be credited to Capital Reserve and

deficit if any arising out of the scheme shall be debited to goodwill account of Resulting Company.

(b) The Tax implication 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.

(c) That the Deponent further submits that, increase in Authorised Capital of M/s. Euro Pratik Ispat (India) Private Limited (EPIIPL) the Resulting Company is a statutory requirement, which is necessary to issue shares to M/s. Euro Pratik Ispat Private Limited (EPIPL) the Demerged Company. Further, Registrar of Companies, Mumbai vide report / letter No. ROC/STS/(DG)/72210/391-394/448 dated 23/6/2016 has also reported that "As per exchange ratio mentioned in the scheme. The Authorised Capital of the Transferee Company is insufficient to issue shares to the shareholders of Transferor Company". Hence, the Resulting Company may be directed to increase its authorized share capital before sanction of the Scheme by this Hon'ble High Court.

9. As far as the observations made in paragraph 6(a) of the Affidavit of the Regional Director is concerned, the Petitioner / Resulting Company through their Counsel undertakes that surplus if any arising out of the scheme shall be credited to the Capital Reserve Account of Resulting Company and deficit if any arising shall be debited to the goodwill account of Resulting Company.

10. As far as the observations made in paragraph 6(b) of the Affidavit of the Regional Director is concerned, the Petitioner Company is bound to comply with all applicable provisions of the Income Tax Act, and all tax issues arising out of scheme will be met and answered in accordance with law.

11. As far as the observations made in paragraph 6(c) of the Affidavit of the Regional Director is concerned, the Learned Advocate states that pursuant to the clause no. 14.7 of the Scheme provides the Resulting Company i.e. EPIIPL shall, to the extent required, increase its authorised share capital in order to issue the New Shares under this Scheme for the purpose of issue of the New Shares to the equity shareholders of EPIPL, EPIIPL may, if and to the extent required, apply for and obtain the required statutory approvals from the Governmental Authorities for the issue and allotment by EPIIPL of such New Shares and further the Petitioner Company undertakes that EPIIPL shall comply with provisions of Sections 61/64 of the Companies Act, 2013 corresponding to Sections 94/97 of the Companies Act, 1956 with respect to filing of necessary forms with the Registrar of Companies after payment of necessary fees and stamp duty as applicable on the said forms for any increase of its authorised share capital.

12. The Learned Counsel for the Regional Director on instructions of Mrs. P Sheela, Joint Director (Legal) in the office of the Regional Director states that they are satisfied with the undertakings given by the Petitioner Company. The said undertakings given by the Petitioner Companies are accepted.

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.

14. Since all the requisite statutory compliances have been fulfilled, Company Scheme Petition No. 273 of 2016 and Company Scheme Petition No. 274 of 2016 are made absolute in terms of prayer clauses (a) to (c) respectively.

15. The Petitioner Company is directed 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 receipt of the order.

16. The Petitioner Company is further directed to file a copy of this order along with a copy of the Scheme duly authenticated by the Company Registrar, High Court (O.S.), Bombay with the concerned Registrar of Companies, electronically, along with E-Form INC 28 in addition to physical copies as per relevant provisions of the Companies Act, 1956/2013 whichever is applicable.

17. The Petitioner Companies to pay costs of Rs.10,000/- each to the Regional Director, Western Region, Mumbai in Company Scheme Petition No. 273 of 2016 and Company Scheme Petition No. 274 of 2016. Costs to be paid within four weeks from the date of the Order.

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

19. 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.

(A.K. Menon, 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 the original signed Order.

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