IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO.296 OF 2016

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 348 OF 2016

TURNER INTERNATIONAL CONSULTING INDIA PRIVATE LIMITED

....Petitioner /Transferor Company

With

COMPANY SCHEME PETITION NO.297 OF 2016

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO.349 OF 2016

TURNER PROJECT MANAGEMENT INDIA PRIVATE LIMITED

....Petitioner Company/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 Turner International Consulting India Private Limited ('the Transferor Company')

WITH

Turner Project Management India Private Limited ('the Transferee Company')

AND

Their respective Shareholders

Called for hearing

Mr. Hemant Sethi, i/b M/s Hemant Sethi & Co. Advocate for the Petitioner Company

Mr. P.S. Gujar i/b Mr. Pankaj Kapoor for Regional Director
Mr. Vinod Sharma, Official Liquidator Present in CSP No. 296 of 2016.

CORAM: A. K. Menon, J.

DATE: 27th October, 2016

PC:

1. Heard counsel for the parties. No objector has come before the court to oppose the Scheme of Amalgamation and nor has any party controverted any averment made in the Petition.

2. The sanction of the Court is sought under Sections 391 to 394 to the Scheme of Amalgamation of Turner International Consulting India Private Limited with Turner Project Management India Private Limited and their respective Shareholders.

3. The Learned Counsel for the Petitioners states that Petitioner Company in Company Scheme Petition No. 296 of 2016 is engaged in the business of project and construction management and the Petitioner Company in Company Scheme Petition No. 297 of 2016 is engaged in the business of project and construction management.

4. The Learned Counsel for the Petitioners states that the Scheme will result into following benefits namely simplifying the Group structure, minimizing the cost of administration of two legal entities, better and more economic and efficient

management, control and running of the businesses of the companies concerned and to pool the resources of both the companies for growth.

5. The 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.

6. The Learned Counsel for the Petitioners further states that the Petitioner Companies have complied with all the directions passed in the respective 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.

7. The Learned Counsel appearing on behalf of the Petitioner Companies 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 / the Companies Act, 2013 and the Rules made there under. The said undertakings given by the Petitioner Companies are accepted.

8. The Regional Director has filed an Affidavit on 25th October, 2016 stating therein, save and except as stated in paragraphs 6 (a) to 6(c), it appears according to Regional Director that the Scheme is not prejudicial to the interest of shareholders and public. In paragraphs 6 (a) to 6(c) of the said Affidavit, the Regional Director has stated as follows:-

(a) 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) Regarding clause 6.1 & 6.2 of the scheme it is submitted that the surplus if any arising out of the scheme shall be credited to Capital Reserve and deficit if any arising out of the same shall be debited to Goodwill Account and will not be adjusted in the profit and loss/any other reserves of the Transferee Company

(c) 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 return filed by the petitioner company after giving effect to the amalgamation. The decision of Income Tax Authority is binding on the petitioner company."

9. As far as observations made in paragraph 6(a) and 6(b) of Affidavit of the Regional Director are concerned, the Petitioner/Transferee Company through their Counsel undertakes that it will comply with all applicable Accounting standards. Further, in addition to compliance with the applicable Accounting standards, the Transferee Company shall pass such accounting entries which may be necessary in connection with the Scheme to comply with other applicable accounting standards.

10. As far as observations made in paragraph 6(c) of Affidavit of the Regional Director are concerned, the Petitioner Company through their Counsel undertakes to comply with all applicable provisions of the Income Tax Act and tax implication, if any arising out of the Scheme of Amalgamation will be subject to the decision of the Income Tax Authority.

11. The Learned Counsel appearing for the Regional Director on instructions of Mr. S. Ramakantha, Joint Director (Inspection) in the office of the Regional Director states that they are satisfied with the undertakings given by the advocate on behalf of the Petitioner Companies. The above undertakings are accepted.

12. The Official Liquidator has filed his report on 22nd August, 2016, stating that the affairs of the Transferor Company have been conducted in a proper manner and that Transferor Company may be ordered to be dissolved without being wound up.

13. From the material on record, the Scheme appears to be fair and reasonable and does not appear to be violative of any provisions of law or 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 Petitions No. 296 of 2016 and 297 of 2016 are made absolute in terms of the prayer clause (a) of the respective Company Scheme Petition.

15. The Petitioner Companies are directed to lodge a copy of this order and 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 receipt of the order.

16. Petitioner is directed to file a copy of this order along with a copy of the Scheme 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.

17. The Petitioners in both the Company Scheme Petitions to pay costs of Rs.10,000/- each to the Regional Director, Western Region, Mumbai and Petitioner Company in Company Scheme Petition No. 296 of 2016 to pay cost of Rs.10,000/- to the Official Liquidator, High Court, Bombay. Costs to be paid within four weeks from today.

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

(A. K. Menon, J.)

CERTIFICATE

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

Uploaded by: - Shankar Gawde, Stenographer