

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO. 334 OF 2016.

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 276 OF 2016.

Poornima Commercial Private Limited

....Petitioner/ the First Transferor Company

AND

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO. 335 OF 2016.

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 277 OF 2016.

Western Bizcon Services Limited

....Petitioner/ the Second Transferor Company

WITH

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO. 336 OF 2016.

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 278 OF 2016

Framework Consultants Private Limited

....Petitioner/ the Transferee Company

In the matter of Sections 391 to 394 of the

Companies Act, 1956

AND

In the matter of Scheme of Amalgamation of
Poornima Commercial Private Limited and
Western Bizcon Services Limited with Framework
Consultants Private Limited and their Respective
Shareholders.

Called for hearing

Mr. Rajesh Shah i/b Rajesh Shah & Co., Advocate for the Petitioners.

Chandrakanth Chavhan i/b Mr. Pankaj Kapoor for the Regional Director.

Vinod Sharma, the Official Liquidator.

CORAM: A. K. Menon, J.

DATE: 27th October, 2016

PC:

1. Heard Learned Counsel for the parties. No objector has come before the court to oppose the Scheme and nor any party has controverted any averments made in the Petitions.
2. The sanction of the Court is sought to a Scheme of Amalgamation of Poornima Commercial Private Limited and Western Bizcon Services Limited with Framework Consultants Private Limited and their Respective Shareholders, under Sections 391 to 394 and other relevant provisions of the Companies Act, 2013.
3. The Learned Counsel for the Petitioners states that First Transferor Company is engaged in the business of purchasing, investing,

holding, selling or dealing in shares, stocks, debentures, mutual funds, bonds, obligations and securities of all kind and the Second Transferor Company is engaged in the business of purchasing , investing, holding, selling, or dealing in shares stocks, debentures, debentures-stock, bonds, obligations and securities of all kind and the Transferee Company is engaged in the business of providing consultancy in Business and Management. The proposed scheme of Amalgamation will have the benefit as per the opinion of the management, that will help in synergies in administration and marketing and business operations and that achieving economies of scale and that pooling of the human talents in terms of manpower, management, administration and marketing which would result in savings of costs.

4. 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.
5. The Learned Counsel for the Petitioners further states that Petitioner Companies have complied with all the directions passed in the respective Company Summons for Directions and that the respective Company Scheme Petitions have been filed in consonance with the orders passed in respective Company Summons for Directions.

6. The Learned Counsel appearing on behalf of the Petitioners have stated that the Petitioner Companies have complied with all requirements as per directions of this Court and they have filed necessary affidavit of compliance in the Court. Moreover, the Petitioner Companies undertake to comply with all statutory requirements if any, as required under the Companies Act, 1956 / 2013 and rules made there under whichever is applicable. The said undertaking is accepted.
7. The Official Liquidator has filed his report on 30th day of September, 2016 in Company Scheme Petition Nos. 334 and 335 of 2016 stating that the affairs of the Transferor Companies has been conducted in a proper manner and that the Transferor Companies may be ordered to be dissolved.
8. The Regional Director has filed an Affidavit on 18th day of October, 2016 stating therein, save and except as stated in paragraph 6, 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 has stated that:-

“6. . That the Deponent further submits that,

(a) 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 companies after giving effect to the amalgamation. The decision of the Income Tax Authority is binding on the petitioner companies.

(b) Deponent to state that as per the observation of the ROC both the Transferor Companies mainly carried out investment activities (NBFC) but not registered as NBFC with RBI.

9. So far as the observation in paragraph 6(a) of the Affidavit of Regional Director is concerned, the Learned Counsel for the Petitioner Companies submit that the Petitioner Companies are bound to comply with all applicable provisions of Income Tax Act and all tax issues arising out of the Scheme will be met and answered in accordance with law.
10. So far as the observation in paragraph 6(b) of the Affidavit of Regional Director is concerned, the Learned Counsel for the Petitioner Companies submit that the Petitioner Companies is not an NBFC. However, The Petitioner Companies undertake to file the Certified copy of the order of this Hon'ble Court with the RBI.
11. The Learned Counsel for Regional Director on instructions of Mr. P Sheela, Joint Director Legal in the office of the Regional Director, Ministry of Corporate Affairs, Western Region, Mumbai states that they are satisfied with the undertakings given by the Petitioners. The above undertakings are accepted.
12. 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.

13. Since all the requisite statutory compliances have been fulfilled, Company Scheme Petition Nos. 334 and 335 of 2016 are made absolute in terms of prayers clause (a) to (d) and 336 of 2016 is made absolute in terms of prayer clauses (a) to (c).
14. The Petitioner Companies to file 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 the Order.
15. The Petitioners are directed to file a certified copy of 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.
16. The Petitioner Companies to pay costs of Rs.10,000/- each to the Regional Director, Western Region, Mumbai and the Petitioner in the Company Scheme Petition Nos. 334 and 335 of 2016 to pay costs of Rs.10,000/- to the Official Liquidator, High Court, Bombay. Cost to be paid within four weeks from the date of the Order.
17. Filing and issuance of the drawn up order is dispensed with.

18. 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.)

CERTIFICATE

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

Uploaded by : Shankar Gawde, Stenographer.