

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SCHEME PETITION NO. 859 OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO. 700 OF 2015
Griffin Marine Travel Private Limited
.....Petitioner/ Transferor Company
AND
COMPANY SCHEME PETITION NO. 860 OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO. 701 OF 2015
Instone India Private Limited
.....Petitioner/ Transferee Company

In the matter of the Companies Act
1956;

AND

the Companies Act, 2013 (if and when
applicable),

AND

In the matter of Section 391 and 394 of
the Companies Act, 1956 and Sections
230 and 232 of the Companies Act,
2013 (if and when applicable),

AND

In the matter of Scheme of
Amalgamation of Griffin Marine Travel
Private Limited with Instone India
Private Limited

Called for Hearing

Mr. Khushroo K. Driver Advocate for the Petitioners in both the Petitions.

Ms. Purnima Awasthi i/b Mr. A.A Ansari for Regional Director in both the Petitions.

Mr. Vinod Sharma, Official Liquidator Present in CSP No. 859 & 860 of 2015.

CORAM: K.R. SHRIRAM, J

DATE: 26th February, 2016

1. Heard the Learned Counsels for the Petitioner Companies. No objector has come before the Court to oppose the Scheme of Amalgamation and nor any party has controverted any averments made in the Petitions.
2. The sanction of the Court is sought under Sections 391 to 394 of the Companies Act, 1956, to the Scheme of Amalgamation of Griffin Marine Travel Private Limited with Instone India Private Limited.
3. Counsel for the Petitioner Companies states that the Transferor & Transferee Company are engaged in the business of travel and tourism and other related businesses and therefore lead to much greater synergy in operations, a more efficient utilization of capital and create

a stronger base for future growth of the business in general and the Amalgamated Company, in particular.

4. The Rational for the Scheme is that the proposed Amalgamation will result in administrative and operational rationalization, organizational efficiencies, reduction in overheads and other expenses and optimal utilization of various resources. It will prevent cost duplication that can erode financial efficiencies of the holding structure and the resultant operations would be substantially more cost-efficient. The synergies created by the Amalgamation would increase operational efficiency and integrate business functions. The proposed Amalgamation will reduce managerial overlaps, which are necessarily involved in running multiple entities.
5. The Petitioner Companies have approved the said Scheme by passing Board Resolutions which are annexed to the respective Company Scheme Petitions.
6. The Learned Counsel for the Petitioners state that Petitioner Companies have complied with all directions passed in Company Summons for Directions and that the Scheme has been filed in

consonance with the orders passed in respective Company Summons for Directions.

7. The Learned Counsel appearing on behalf of the Petitioners has stated that they have complied with all requirements as per directions of this Hon'ble High Court and they have filed necessary Affidavits of compliance with the Hon'ble High 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 there under. The said undertakings given by the Petitioner Companies are accepted.
8. The Regional Director has filed an Affidavit on 17th February, 2016 stating therein that save and except as stated in Paragraph 6 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 it is stated that:
 6. That the Deponent further submits that:-
 - (a) With reference to clause 9(a) of the scheme, it is submitted that the surplus arising out of the scheme shall be credited to Capital

Reserve Account of Transferee Company and deficit if any arising shall be debited to goodwill account of Transferee Company.

(b) The equity shares of both the Transferor and Transferee Company are held by foreign body corporate as its shareholders. Hence for allotment of new shares by the Transferee Company to the shareholders of Transferor Company, the Transferee Company may be directed to comply with FEMA/RBI regulations as applicable in this regard.

(c) 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 effect to the amalgamation. The decision of the Income Tax Authority is binding on the Petitioner Company.

9. In so far as observations made in Paragraph 6(a) of the Affidavit of Regional Director is concerned, the Petitioner Companies through their Counsel submits that surplus if any arising out of the scheme shall be credited to Capital Reserve Account of Transferee Company and deficit

if any arising shall be debited to goodwill account of Transferee Company.

10. In so far as observations made in Paragraph 6(b) of the Affidavit of Regional Director is concerned, the Petitioner Companies through their Counsel submits that allotment of new shares by the Transferee Company to the foreign body corporate shareholders of Transferor Company, will be done after complying the with FEMA/RBI regulations as applicable in this regard.
11. As far as observations raised by Regional Director in Paragraph 6(c) of his Affidavit is concerned the Petitioner Companies through their Counsel submits that approval of the scheme by this Court will not deter the Income Tax Authority to scrutinize the tax returns filed by the Petitioner Companies after giving effect to the Arrangement and all tax issues arising out of the Scheme will be met and answered in accordance with law.
12. The Counsel for the Regional Director on instructions of Mr. M Chandanamuthu, Joint Director (Legal) in the office of Regional Director, Ministry of Corporate Affairs, Western Region, Mumbai, states

that they are satisfied with the undertaking by the Petitioner Company. The said undertakings given by the Petitioner Company is accepted.

13. The Official Liquidator has filed his report on 17th February, 2016 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 by this Hon'ble Court.
14. 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.
15. Since all the requisite statutory compliances have been fulfilled, the Company Scheme Petition No. 859 of 2015 and 860 of 2015 filed by the Petitioner Companies are made absolute in terms of prayer clause (a) of the respective Petitions.
16. 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 the receipt of the Order.

17. Petitioner Companies are 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 provisions of the Companies Act 1956 / 2013.
18. The Petitioner Companies to pay costs of Rs.10,000/- each to the Regional Director, Western Region, Mumbai. Costs to be paid within four weeks from the date of the Order.
19. The Petitioner Companies in Company Scheme Petition Nos. 859 of 2015 and 860 of 2015 to pay sum of Rs. 10,000/- each to the Official Liquidator, High Court, Bombay. Costs to be paid within four weeks from the date of the Order.
20. Filing and issuance of the drawn up Order is dispensed with.

21. 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.

(K. R. Shriram J)

CERTIFICATE

I certify that the Order uploaded is a true and correct copy of the Original Signed Order.

Uploaded by: S. Gawde, Stenographer.