

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SCHEME PETITION NO.479 OF 2016
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO. 447 OF 2016

AGILIAD TECHNOLOGIES PRIVATE LIMITED

...Petitioner/Transferor Company

With

COMPANY SCHEME PETITION NO.480 OF 2016
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO.448 OF 2016

PATNI CONTROL SYSTEMS PRIVATE LIMITED

....Petitioner/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

Agiliad Technologies Private Limited ('the Transferor
Company')

WITH

Patni Control Systems Private Limited ('the Transferee
Company')

AND

Their Respective Shareholders

Called for hearing

Mr. Rajesh Shah, i/b M/s Rajesh Shah & Co. Advocate for the Petitioner Companies.

Ms. Shalaka Gujar i/b Mr. Pankaj Kapoor for the Regional Director.

Mr. Vinod Sharma, Official Liquidator present in CSP No.479 of 2016.

CORAM: A.K. Menon, J.

DATE: 27th October, 2016

PC:

1. Heard the learned advocate for the parties. No objector has come before the court to oppose the Scheme of Amalgamation and 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 to the Scheme of Amalgamation of Agiliad Technologies Private Limited with Patni Control Systems Private Limited and their respective Shareholders.
3. The Learned Advocate for the Petitioners states that Petitioner Company in Company Scheme Petition No. 479 of 2016 is engaged in business of software development and other IT enabled services and the Petitioner Company in Company Scheme Petition No. 480 of 2016 is engaged in business of business of control systems engineering and for that purpose to design, develop, process, install, manufacture, repair, fabricate, assemble, improve, deal in and undertake implementation of control systems, etc and offer hardware and software support and consultancy services and solutions. in the aforesaid files.
4. The Learned Advocate for the Petitioners states that the Scheme will result into following benefits namely simplify the Group structure, minimize cost of administration of two legal entities, making the structure regulatory efficient, for 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 Advocate for the Petitioners further states that the Board of Directors of the Petitioner Companies have approved the said Scheme by passing Board Resolutions which are annexed to the respective Company Scheme Petition of the Petitioner Company.
6. The Learned Advocate 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 has been filed in consonance with the orders passed in respective Company Summons for Direction.
7. The Learned Advocate 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 / 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 18th October, 2016 stating therein, save and except as stated in paragraphs 6 (i) to (iv), it appears according to the Regional Director, that the Scheme is not prejudicial to the interest of shareholders and public. In paragraphs 6 (i) to (iv) of the said Affidavit, the Regional Director has stated that:-

“6. That the Deponent further submits that,

- (i) *The Petitioner Companies has accepted the pooling of interest method as set out in AS-14 however the Petitioner Companies should also shall pass accounting entries as mentioned in AS-5 of the Accounting Standards. Therefore, Deponent prays that the Hon'ble Court may pass such orders as deem fit.*
- (ii) *The shares of the Transferor Company and Transferee Company are held by foreign body/NRI corporate as its shareholders. Hence for the allotment of new shares to the shareholder of Transferor Company, the Transferee Company may be directed to comply with FEMA/RBI regulations, etc as applicable in this regard.*
- (iii) *ROC- Pune had given observation as “ In clause 11 of the Scheme, it is stated that with effect from the appointed date the name of the Transferee Company (i.e Patni Control Systems Private Limited) shall be changed to that of Transferor Company (Agiliad Technologies Private Limited). This change may be allowed only after complying with the provisions of the section 4 and 13 of the Companies Act, 2013.*
- (iv) *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.”*

9. As far as observations made in paragraph 6 (i) of Affidavit of the Regional Director are concerned, the Petitioner/Transferee Company through their Advocate undertakes that it shall pass such accounting entries which may be necessary in connection with the Scheme to comply will comply with the AS-14 and other applicable accounting standards as per the provisions of the Companies Act, 1956.

10. As far as observations made in paragraph 6(ii) of Affidavit of the Regional Director are concerned, the Petitioner Companies through their Advocate submits that the Petitioner Companies will comply with the relevant provisions of FEMA/RBI regulations, etc as applicable in this matter.
11. As far as observations made in paragraph 6(iii) of Affidavit of the Regional Director are concerned, the Petitioner/Transferee Company through their Advocate undertakes that it shall comply with relevant provisions of the Companies Act, 2013.
12. As far as observations made in paragraph 6(iv) of Affidavit of the Regional Director are concerned, the Petitioner Companies through their Advocate undertakes to comply with all applicable provisions of the Income Tax Act and tax implications, if any arising out of the Scheme of Amalgamation will be subject to the decision of the Income Tax Authority.
13. The Learned Counsel appearing for the Regional Director on instructions of Mr. R. K. Dalmia, Deputy Director 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 Advocate on behalf of the Petitioner Companies. The said undertakings are accepted.
14. The Official Liquidator has filed his report on 25th October, 2016, stating that the affairs of the Transferor Company has been conducted in a proper manner and that the Transferor Company may be ordered to be dissolved without being wound up by this Court.

15. From the material on record, the Scheme appears to be fair and reasonable and is not in violation of any provisions of law and is not contrary to public policy.
16. Since all the requisite statutory compliances have been fulfilled, Company Scheme Petition No. 479 of 2016 is made absolute in term of prayer clauses (a) to (c) and Company Scheme Petition No.480 of 2016 is made absolute in terms of the prayer clauses (a) and (b).
17. The Petitioner Companies are directed to lodge a copy of this order and 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 order.
18. The 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 relevant provisions of the Companies Act 1956 / 2013, whichever is applicable.
19. 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. 479 of 2016 to pay cost of Rs.10,000/- 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 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.