IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO. 597 OF 2016

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 537 OF 2016

J S Chemi Equipment Private Limited … Petitioner / Transferor Company

AND

COMPANY SCHEME PETITION NO. 598 OF 2016

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 538 OF 2016

Zelle Biotechnology Private Limited … Petitioner / Transferee Company

In the matter of the Companies Act, 1956 (I of 1956)

And

In the matter of Sections 391 to 394 of the Companies Act, 1956 (I of 1956);

And

In the matter of the Scheme of Amalgamation of

J S Chemiequipment Private Limited ("Transferor Company")

with

Zelle Biotechnology Private Limited ("Transferee Company") and their respective shareholders and creditors

Called for Hearing

Mr. Ajinkya Kurdukar, Advocate for the Petitioner Companies.
Mr. Pavan. S. Patil, for Regional Director

Coram : A.K.Menon, J.
Date : 27th October , 2016

MINUTES OF ORDER

1. Heard the learned counsel for the Petitioner Companies. None appears before the Court to oppose the Petitions and nor any party has contravened averments made in the Petition.

2. The sanction of the Court is sought under Sections 391 to 394 of the Companies Act, 1956 to the Scheme of Amalgamation of J S Chemi Equipment Private Limited the "Transferor Company" with Zelle Biotechnology Private Limited the "Transferee Company" and their respective shareholders.

3. Learned Counsel for the Petitioner Companies states that the Transferor Company is engaged in the business of carrying on research and development in the field of biotechnology and pharmaceuticals and other related services. The Transferee Company is engaged in the business of carrying on research and development in the field of

biotechnology and pharmaceuticals and other related services since incorporation.

4. In view of commonality of business interest and commonality of shareholding in the Transferor Company and Transferee Company, and enabling the Transferor Company and the Transferee Company to consolidate their business operations and provide significant impetus to their growth, resulting in enhancing the scale of operations and reduction in overheads, administrative, managerial and other expenditure, operational rationalization, organizational efficiency, and optimal utilization of various resources, resulting in improved shareholder value for the Transferor as well as Transferee Company by way of improved financial structure and cash flows, increased asset base and stronger consolidated revenue and profitability and in enhanced leveraging capability of the combined entity which in turn will allow the combined entity to undertake future expansion strategies and to tap bigger opportunities in the industry thereby consolidation of the managerial expertise of the companies involved, thereby giving additional strength to the operations and management of the Petitioner Company post-amalgamation and other reasons which are enumerated in the Petition.

5. The Petitioner Companies approved the said Scheme by passing the Board Resolution in their respective meetings and which are annexed to the respective Company Scheme Petition.

6. The Counsel for the Petitioners further states that the Petitioners have complied with all requirements as per the directions of this Court and they have filed necessary Affidavits of compliance in the Court. Moreover, the Petitioners through their Counsel undertakes to comply with all statutory requirements, if any, as required under the

Companies Act, 1956/ 2013 and the rules made there under. The said undertaking is accepted.

7. The learned Counsel for the Regional Director on instruction from Mr. R. K. Dalmia, Deputy Director, in the office of Regional Director, Ministry of Corporate Affairs filed his Affidavit in the given matter on 21st October, 2016 had recorded that:

'6. The Deponent further submits that,

(i)'the Petitioner companies had accepted the Pooling of Interest method as set out in AS 14 however the Petitioner Companies should also shall pass entries as mentioned in the AS-5 of the Accounting Standards therefore the Deponent prays that the Hon'ble Court shall pass such orders as deem fit'

(ii)That the Deponent further submits that the Tax issue arising if any out of this scheme shall be subject to final decision of the Income Tax Authority and approval of the Scheme by the 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.'

8. So far as the observation in the paragraph 6(i) of the Affidavit of the Regional Director is concerned, the Learned Counsel submits that the Petitioner Companies have accepted and shall in fact follow the Purchase Method as set out in the Accounting Standard 14, and not the Pooling of Interest method, and that all the necessary accounting entries to the effect shall be duly passed upon the Scheme coming into effect. The same is accepted by the Regional Director and the Regional Director states that it appears that the scheme is not prejudicial to the interest of the shareholders and the public.

9. So far as the observation in the paragraph 6(ii) of the Affidavit of the Regional Director is concerned, the Learned Counsel for the Petitioner Companies submits that the Petitioner Companies shall comply with all the applicable provisions of Income Tax Act and all the tax issues arising out of the Scheme shall be met and answered in accordance with the law.

10. The Official Liquidator has filed his report dated 18th October, 2016 stating therein that the affairs of the Petitioner/Transferor Company has been conducted in a proper manner and that the Petitioner/Transferor Company may be ordered to be dissolved by this Court.

11. 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. None of the parties concerned have come forward to oppose the Scheme.

12. Since all the requisite statutory compliances have been fulfilled all the Company Scheme Petitions 597 & 598 of 2016 are made absolute in terms of prayer clauses (a) and (b) of the respective Petitions.

13. 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 receipt of the order.

14. Petitioner Companies are directed to file a copy of this order alongwith a copy of the Scheme of Arrangement with the concerned Registrar of companies, electronically, along with E-form INC-28 in addition to the

physical copy, within 30 days from the date of issuance of the order by the Registry.

15. The Petitioners in Company Scheme Petitions 597 & 598 of 2016 to pay costs of Rs. 10,000/- each to the Regional Director, Western Region Mumbai and the Petitioner in Company Scheme Petition 597 of 2016 filed by Transferor Company to pay cost of Rs.10,000/- to the Official Liquidator, High Court, Bombay. The costs will be paid within four weeks from today.

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

17. All concerned authorities to act on a copy of this order along with Scheme and form of minutes annexed to the Petition duly authenticated by the Company Registrar, High Court (O. S.), Bombay.

(A.K.Menon, J)

CERTIFICATE

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

Uploaded by : Shankar Gawde, Stenographer