IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO. 591 OF 2016.

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 433 OF 2016.

VIG MANAGEMENT SERVICES PRIVATE LIMITED

.... the Petitioner Company

In the matter of the Companies Act, 1 of 1956 and other relevant provision of the Companies Act, 2013;

AND

In the matter of Sections 391 to 394 of the Companies Act, 1956 and other relevant provision of the Companies Act, 2013;

AND

In the matter of Scheme of Amalgamation of VIG MANAGEMENT SERVICES PRIVATE LIMITED, ("VIG" or "the Transferor Company" with VEE TEE AUTO MANUFACTURING COMPANY

PRIVATE LIMITED ("Vee Tee" or "the Transferee Company")

<u>Called for hearing</u>

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

Mr. N. D. Sharma i/b Mr. Pankaj Kapoor for Regional Director.

Mr. Vinod Sharma for Official Liquidator.

CORAM: S. C. Gupte, J.
DATE: 2nd December, 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 VIG MANAGEMENT SERVICES PRIVATE LIMITED, ("VIG" or "the Transferor Company" with VEE TEE AUTO MANUFACTURING COMPANY PRIVATE LIMITED ("Vee Tee" or "the Transferee Company"), under Sections 391 to 394 of the Companies Act, 1956 and other relevant provision of the Companies Act, 2013.

3. The learned counsel appearing on behalf of the Petitioner Company submits that by an order passed in the court on 8th July, 2016 in Company Summons for Direction No. 433 of 2016, the filing of separate Company Summons for Direction and Company Scheme Petition in relation to the proposed Scheme of Amalgamation by the Transferee Company, namely VEE TEE AUTO MANUFACTURING COMPANY PRIVATE LIMITED was dispensed with as Transferee Company is 100% holding Company of the Petitioner Company and in view of the Judgment passed by this Court in Mahaamba Investments Limited Versus IDI Limited (2001) 105 Company Cases (pages 16 to 18).

4. The Learned Counsel for the Petitioner states that the Petitioner Company and has been carrying on the business of offering properties on rent offering surplus funds as loans and the Transferee Company has been carrying on the business of manufacturing and trading in Automobile Parts, having its two manufacturing units at Haridwar, one unit at Gaziabad and distribution setups at Mumbai & Delhi. The Petitioner Company is wholly owned subsidiary of the Transferee Company and that the management of the Companies are of the opinion that the merger will lead to synergies of operations and more particularly

the following benefits and that the amalgamation will enable the Transferee Company to consolidate the businesses and lead to synergies in **o**peration and create a stronger financial base and that it would be advantageous to combine the activities and operations of both companies into a single Company for synergistic linkages and the benefit of combined financial resources and this will be reflected in the profitability of the Transferee Company and that this Scheme of amalgamation would result in merger and thus consolidation of business of the Transferor Company and the Transferee Company in one entity, all the shareholders of the merged entity will be benefited by result of the amalgamation of Business and availability of a common operating platform and that the Amalgamation of the Transferor Company with the Transferee Company will also provide an opportunity to leverage combined assets and build a stronger sustainable business. Specifically, the merger will enable optimal utilization of existing resources and provide an opportunity to fully leverage strong assets, capabilities, experience, expertise and infrastructure of both the companies and the merged entity will also have sufficient funds required for meeting its long term capital needs as provided for in the scheme and that the Scheme of amalgamation will result in cost saving for both the companies as they are capitalizing on each others core competency and resources which is expected to result in stability of operations, cost savings and higher profitability levels for the Amalgamated Company and that the Transferor Company is a wholly owned subsidiary of the Transferee Company and the shareholders would consolidate their holdings and leverage the share value consequent to higher profitability

5. The Learned Counsel for the Petitioner further states that the Board of Directors of the Petitioner Company has approved the said Scheme of Amalgamation and by passing Board Resolutions which are annexed to the respective Company Scheme Petitions.

6. The Learned Counsel for the Petitioner further states that, Petitioner Company 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.

7. The Learned Counsel appearing on behalf of the Petitioner has stated that the Petitioner Company has complied with all requirements as per directions of this Court and they have filed necessary affidavit of compliance in the Court. Moreover, the Petitioner Company 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.

8. The Regional Director has filed an Affidavit on 23rd day of November, 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,

(i) In addition to compliance of AS-14, the Transferee Company shall pass such accounting entries which are necessary in connection with the scheme to comply with other applicable Accounting Standards such as AS-5 etc.

(ii) 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. So far as the observation in paragraph 6(i) of the Affidavit of Regional Director is concerned, the Learned Counsel for the Petitioner Company submit that in addition to compliance of AS-14, the Transferee Company shall pass such accounting entries

which are necessary in connection with the scheme to comply with other applicable accounting standards such as AS-5 etc.

10. So far as the observation in paragraph 6 (ii) of the Affidavit of Regional Director is concerned, the Petitioner Company through its counsel submitted that the Petitioner Company will 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

11. The Learned Counsel for Regional Director on instructions of Mr. Dalmiya, 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 Petitioner. The above undertakings are accepted.

12. The Official Liquidator has filed his report on 17th November, 2016 stating therein that the affairs of the Petitioner Company has been conducted in a proper manner and that the Transferor Company may be ordered to be dissolved.

13. 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.

14. Since all the requisite statutory compliances have been fulfilled, Company Scheme Petition is made absolute in terms of prayers clause (a) to (d) subject to sanctioning of the Scheme by the High Court of Bombay.

15. The Petitioner Company 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.

16. The Petitioner Company is directed to file a 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.

17. The Petitioner Company to pay costs of Rs.10,000/- each to the Regional Director, Western Region, Mumbai and to the Official Liquidator each. Cost to be paid within four weeks from the date of the Order.

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

(S. C. Gupte, J.)

CERTIFICATE

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

Uploaded by: Shankar Gawde, Stenographer