

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO 651 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 388 OF 2015

Aruvin Stone Machines Marketing Private Limited

.....Petitioner/Transferor Company

AND

COMPANY SCHEME PETITION NO 652 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 389 OF 2015

Rajasthan Udyog and Tools 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 Aruvin Stone Machines Marketing Private Limited with Rajasthan Udyog and Tools Private Limited and their respective shareholders

Called for hearing

Mr. Hemant Sethi, i/b M/s Hemant Sethi & Co. Advocate for the Petitioner Company

Mr. M.S. Bharawaj i/b Mr. Niraj Kumar for Regional Director in all the Petitions.

Mr. Vinod Sharma, Official Liquidator Present .

CORAM: S.C. GUPTE, J.

DATE: 29th APRIL 2016

PC:

1. Heard counsel 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 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 Aravin Stone Machines Marketing Private Limited with Rajasthan Udyog and Tools Private Limited and their respective shareholders.
3. The learned Counsel for the Petitioners state that Transferor Company is presently does not have any commercial activity of its own. The Transferee Company is presently engaged in business of manufacture of various types of castings, stone working machines and tools used in various industries.
4. The rational for the Scheme is that the Companies belong to the same Promoter Group and have common shareholding control besides common business objective. Combining them will help streamline and provide economies of scale and help to economise the operational costs and conserve Group resources. With consolidation, the Group will be better positioned to face diverse market risks. Tap the synergy of skilled experience between the companies. A combined pool of skill sets will have inherent synergic advantages that can be tapped to the greater advantage of the merged entity. It would also lead to stronger growth prospects for the personnel and organisations connected with these companies and thus in the interest of and for the welfare of, the employees of the companies concerned in this Scheme. The combined capability of the Amalgamated Company to invest in larger and more

sophisticated projects will consolidate the strategic strength of the amalgamated entity.

5. 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.
 6. The Learned Counsel 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 have been filed in consonance with the orders passed in respective Company Summons for Direction.
 7. The Learned Counsel appearing on behalf of the Petitioners has 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 undertakes 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 21st April , 2016 stating therein, save and except as stated in paragraphs 6 thereof, it appears that the Scheme is not prejudicial to the interest of shareholders and public. In paragraphs 6 of the said Affidavit, the Regional Director has stated that
6. That the Deponent further submit that,

That the Deponent further submits that the tax implication, if any, arising out of the Scheme is subject to final decision of Income Tax Authorities. The approval of the Scheme by this Hon'ble Court may not deter the Income Tax Authority to scrutinize the tax returns filed by the Transferee Company after giving effect to the Scheme. The decision of the Income Tax Authority is binding on the Petitioner Companies.

9. In so far as observations made in paragraph 6 of the Affidavit of Regional Director is concerned, the Petitioners clarify that the approval of the Scheme by this Court will not deter the Income Tax Authority to scrutinize the tax return filed by the Petitioner Companies after giving effect to the Scheme and all issues arising out of the Scheme will be met and answered in accordance with law.
10. The Learned Counsel for Regional Director on instructions of Mr. M. Chandanamuthu, Joint Director, Legal in the Office of the Regional Director, Ministry of Corporate Affairs, Western Region, Mumbai, states that they are satisfied with the undertaking given by the Petitioner Company. The said undertaking given by the Petitioner Company is accepted.
11. The Official Liquidator has filed his report on 2nd February, 2016 stating therein 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 by this Court.
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, the Company Scheme Petition No. 651 of 2015 to 652 of 2015 are made absolute in terms of the prayer clause (a) of the respective Company Scheme Petitions.
14. The Petitioner Companies are directed to lodge a copy of this order and Scheme duly authenticated by the Company Registrar, High Court, 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.

15. Petitioner is 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.
16. The Petitioners in Company Scheme Petitions No. 651 of 2015 and 652 of 2015 to pay costs of Rs.10,000/- each to the Regional Director, Western Region, Mumbai and Petitioners in Company Scheme Petition No. 651 of 2015 to pay cost of Rs.10,000/- to the Official Liquidator, High Court, Bombay. Costs to be paid within four weeks from today.
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 the 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 the original signed order.

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