IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO. 825 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTIONS NO. 606 OF 2015

Rajhans Alloys Private Limited ...Petitioner Company

AND

COMPANY SCHEME PETITION NO. 826 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTIONS NO. 607 OF 2015

Rajhans Metals Private Limited …Petitioner Company

In the matter of the Companies Act, 1956;

And

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

And

In the matter of the Scheme of Amalgamation under sections 391 to 394 of the Companies Act, 1956 of Rajhans Alloys Private Limited and Rajhans Metals Private Limited and their respective shareholders

Called for Hearing

Mr. Peshwan Jehangir and Mr. Anindya Basarkod of M/s. Khaitan & Co., Advocates for the Petitioner Companies.

Mr. Dushyant Kumar i/b A.A. Ansari for the Regional Director in the petitions.

Mr. Vinod Sharma, Official Liquidator present

Coram: K. R. Shriram, J.

Date: 12h February, 2016

P.C:

1. Heard Learned Counsel for the Parties. No objector has come before the Court to oppose the Scheme and nor has any party controverted any averments made in the Petitions.

2. The sanction of the Court is sought Sections 391 to 394 of the Companies Act, 1956 as amended and the corresponding provisions of the Companies Act, 2013 for merger of Rajhans Alloys Private Limited ("**RAPL**" or "the **Transferor Company**") with Rajhans Metals Private Limited ("**RMPL**" or "the **Transferee Company**"), and their respective shareholders.

3. The Learned Counsel for the Petitioner Companies states that both the Transferor Company and the Transferee Company are presently engaged in the business of manufacturing, processing & trading of various alloy products.

4. The Learned Counsel for the Petitioner Companies states that proposed Scheme of Amalgamation is beneficial since, *inter alia*, the proposed Amalgamation will (i) enable the Transferee Company to use the resources of Transferor Company for

the development and growth of business; (ii) increase in net worth of the Transferee Company, which will facilitate effective and better mobilization of financial resources; (iii) reduce overheads and other expenses facilitating administrative convenience and ensure optimum utilization of available services and resources; and (iv) as the business operations of the Transferee Company expand and considering that the Transferor Company operates in the same line of business as Transferee Company, there is a need to have a simpler, consolidated and focused business organisation structure.

5. The Petitioner Companies have approved the said Scheme by passing Board Resolutions which are annexed to the 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 Directions and that the respective Company Scheme Petitions have been filed in consonance with the order passed in the respective Summons for Directions.

7. The Learned Counsel appearing on behalf of the Petitioner Companies have further stated that the Petitioner Companies have complied with all the requirements as per directions of this Court and they have filed necessary affidavits of compliance in the Court. Moreover, the Petitioner Companies undertake to comply with all the statutory requirements, if any, under the Companies Act, 1956 and 2013, and rules made thereunder, whichever is applicable. The said undertaking is accepted.

8. The Regional Director has filed an Affidavit dated 1st February, 2016 stating therein that save and except as stated in paragraph 6 (a) and (b) of the said affidavit, it appears that the Scheme is not prejudicial to the interest of shareholders and public.

a. *Clause 2.4.6 of the scheme provides for adjustment for differences in Accounting Policies between Transferor Company and Transferee Comp[any* (sic). *In this regard, it is submitted that in addition to the compliance of Accounting Standard – 14, the Transferee Company shall pass such accounting entries which are necessary in connection with the scheme to comply with other applicable Accounting Standard such as AS-5 etc.*

b. *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 the Hon'ble High Court may not deter the Income Tax Authority to scrutinize the tax returns filed by the petition company after giving effect to the amalgamation. The decision of the Income Tax Authority is binding on the petitioner company.*

9. As far as the observation in paragraph 6 (a) of the Affidavit of the Regional Director is concerned, the Learned Counsel for the Petitioner Companies, states that the Transferee Company in addition to the compliance of Accounting Standard – 14, shall pass such accounting entries which are necessary in connection with the Scheme to comply with all other applicable Accounting Standard such as AS-5.

10. As far as the observation in paragraph 6 (b) of the Affidavit of the Regional Director is concerned, the Learned Counsel for the Petitioner Companies states that the Transferee Company Petitioner Companies are bound to comply with all applicable provisions of the Income Tax Act and that all tax issues arising out of the Scheme will be met and answered in accordance with law.

11. The Learned Counsel for the 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 undertakings given hereinabove by the Petitioner Companies through its counsel. The above undertakings are accepted.

12. The Official Liquidator has filed his report on 25th January, 2016 in Company Scheme Petition No. 825 of 2015 stating therein that the affairs of the Transferor Company have 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 violative of any provisions of law and is not contrary to public policy.

14. Since all the requisite statutory compliances have been fulfilled, the Company Scheme Petitions are made absolute in terms of prayer clauses (a) to (c) and (f) of both the Company Scheme Petitions.

15. 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 purposes of adjudication of stamp duty payable, if any, on the same within 60 days from the date of the Order.

16. The Petitioner Companies are directed to file a copy of this order alongwith a copy of the Scheme with the concerned Registrar of Companies, electronically, along with e-Form 21/INC28 in addition to physical copy as per relevant provisions of the Companies Act, 1956 and the Companies Act, 2013 and Rules made thereunder whichever are applicable.

17. The Petitioner Companies are directed to pay a cost of Rs 10,000/- each to the Regional Director, Western Region, Mumbai and the Transferor Company is directed to pay a cost of Rs 10,000/- to the Official Liquidator. Costs 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 attached thereto, duly authenticated by the Company Registrar, High Court (O. S.), Bombay.

(K. R. Shriram, J.)

C E R T I F I C A T E

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

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