

THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO. 809 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 648 OF 2015

JETAIRPORT SERVICES PRIVATE LIMITED,

....Petitioner Company.

AND

COMPANY SCHEME PETITION NO. 810 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 649 OF 2015

GLOBAL TRAVEL SOLUTIONS PRIVATE LIMITED,

....Petitioner Company.

WITH

COMPANY SCHEME PETITION NO. 811 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 650 OF 2015.

INDIA CAPITOL RESOURCE SERVICES PRIVATE LIMITED,

....Petitioner Company.

In the matter of Companies Act,
1956,

And

In the matter of Sections 391 &
394 of the Companies Act, 1956

And

In the matter of Scheme of
Amalgamation of Jetairport
Services Private Limited, the
Transferor Company No. 1 and
Global Travel Solutions Private
Limited, the Transferor Company
No. 2 with India Capitol Resource

Services Private Limited, the
Transferee Company.

Called for hearing

Mr. Prabhu Velar with Mr. Chandrakant Mhadeshwar,
Advocates for the Petitioner.

Mr. D. N. Mishra i/b Mr. A. A. Ansari for Regional Director in
all the Petitions.

Mr. Vinod Sharma, Official Liquidator, present in Company
Scheme Petition Nos. 809 of 2015 and 810 of 2015.

CORAM: K. R. SHRIRAM, J.

DATE: 26th February 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 Petition.

2. The sanction of the Court is sought to a Scheme of
Amalgamation of Jetairport Services Private Limited, the
Transferor Company No. 1 and Global Travel Solutions Private
Limited, the Transferor Company No. 2 with India Capitol
Resource Services Private Limited, the Transferee Company,
under Sections 391 to 394 of the Companies Act, 1956.

3. The Board of Directors of the Transferor Companies and
Transferee Company have approved the said Scheme of

Amalgamation by passing the Board Resolutions which are annexed to the respective Company Scheme Petitions.

4. The learned Advocate for the Petitioners further states that, Petitioner Companies have complied with all the directions passed in Company Summons for Directions and that the Company Scheme Petitions have been filed in consonance with the orders passed in respective Company Summons for Directions and seeks sanctions to the said proposed scheme of Amalgamation.

5. The learned counsel appearing on behalf of the Petitioners have stated that the Transferor Company and Transferee Company 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 rules made there under whichever is applicable. The said undertaking is accepted.

6. The Official Liquidator has filed his report on 25th January, 2016 in Company Scheme Petition No. 809 of 2015 and 810 of 2015 stating that the affairs of the Transferor

Companies has been conducted in a proper manner and that the Transferor Companies may be ordered to be dissolved.

7. The Regional Director has filed an Affidavit on 18th December, 2015 stating therein, save and except as stated in paragraph 6(a) to 6(c), it appears that the Scheme is not prejudicial to the interest of shareholders and public. In paragraph 6(a) to 6(c) of the said Affidavit, it is stated as under.

“6. (a) Clause 7.6 of the scheme provides for adjustment for differences in Accounting Policies between Transferor Company and Transferee Company. 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) From clause 7.4 of the scheme the following words appearing in bracket be deleted viz "(TMK Comment: Please recheck and confirm the contents of para 7.4 with the Auditors)" from the scheme, in as much as these portions has no relevance to the scheme.

(c) 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 company after giving effect to the amalgamation the decision of the Income Tax Authority is binding on the petitioner company”

8. So far as the observation of the Regional Director, Western Region, Mumbai in paragraph 6(a) of his affidavit is concerned, the Transferee Company through its advocate undertakes that in addition to accounting treatment given in the scheme, the Transferee Company shall pass such accounting entries as may be necessary in connection with the Scheme to comply with any other Accounting Standards.

9. So far as the observation in paragraph 6 (b) of the Affidavit of Regional Director is concerned, the Learned Advocate appearing on behalf of the Petitioners submit that there are some typographical errors in clause 7.4 of the Scheme. The words appearing in clause 7.4 i.e. viz "(TMK Comment: Please recheck and confirm the contents of para 7.4 with the Auditors)" are required to be deleted. Hence, the Learned Advocate for the Petitioner Companies seeks leave of this Court to amend the Scheme by deleting the words "(TMK Comment: Please recheck and confirm the contents of para 7.4 with the Auditors)" appearing in clause 7.4 of the Scheme. Leave to amend the Scheme is granted. Amendments to be carried out within period of two weeks from the date of the order.

10. So far as the observation of the Regional Director, Western Region, Mumbai, as stated in paragraph 6(c) of his Affidavit is concerned, the Petitioner Companies submit that the Petitioners are bound to comply with all applicable provisions of the 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. M. Chandana Muthu, 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 and amendment sought by the Advocate for the Petitioner Company. The said undertaking is accepted.

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, both the Company Scheme Petitions are made absolute in terms of prayer clauses (a).

14. The Petitioner Companies to lodge a copy of this order and the amended 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.

15. Petitioners are directed to file a copy of this order along with a copy of the amended 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.

16. The Petitioner Companies to pay costs of Rs.10,000/- each to the Regional Director, Western Region, Mumbai and the Petitioner in the Company Scheme Petition No. 809 of 2015 and 810 of 2015 to pay costs of Rs.10,000/- each to the Official Liquidator, High Court, Bombay. Costs to be paid within four weeks from the date of the Order.

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 amended Scheme 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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