

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SCHEME PETITION NO.816 OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO. 741 OF 2015

ELECTRONICA EXPORTS PRIVATE LIMITED

....Petitioner Company/Transferor Company

With

COMPANY SCHEME PETITION NO.817 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO.742 OF 2015

MUGDHA INVESTMENT AND FINANCE PRIVATE LIMITED

....Petitioner Company/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
Electronica Exports Private Limited ('the Transferor
Company')

WITH

Mugdha Investment and Finance Private Limited ('the
Transferee Company')

AND

Their respective Shareholders

Called for hearing

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

Mr. Ruuja Ambekar i/b Mr. A.A. Ansari for Regional Director

Mr. Vinod Sharma, Official Liquidator Present in CSP No. 816 of 2015.

CORAM: K.R. Shriram, J.

DATE: 12th February, 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 to the Scheme of Amalgamation of Electronica Exports Private Limited with Mugdha Investment and Finance Private Limited and their respective Shareholders.
3. The Learned Counsel for the Petitioners states that Petitioner Company in Company Scheme Petition No. 816 of 2015 is engaged in manufacturing of CNC lathe machines and the Petitioner Company in Company Scheme Petition No. 817 of 2015 is a private company incorporated to carry on the business of investment, leasing and finance company and is registered as an NBFC with RBI under Section 45IA of Reserve Bank of India.
4. The Learned Counsel for the Petitioners states that the Scheme will result into following benefits namely simplifying the Group structure, minimizing the cost of administration of two legal entities, better and more economic and efficient

management, controlling and running of the businesses of the companies concerned and to pool the resources of both the companies for growth.

5. The 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 Petitioner Companies has stated that they 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 / the Companies Act, 2013 and the Rules made there under. The said undertakings given by the Petitioner Companies are accepted.
8. The Regional Director has filed an Affidavit on 11th January, 2016 stating therein, save and except as stated in paragraphs 6 (a) and 6 (b), it appears that the Scheme is not prejudicial to the interest of shareholders and public. In paragraphs 6 (a) and 6 (b) of the said Affidavit, the Regional Director has stated that:-

“6. That the Deponent further submits that,

(a) The Transferee Company is a Non Deposit taking NBFC Company Registered with the Reserve Bank of India, Transferee Company may be directed to file a copy of the scheme along with the copy of this Hon'ble Court's order with the RBI within 30 days and shall also comply with the other applicable provisions of RBI Act.

(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 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."

9. As far as observations made in paragraph 6(a) of Affidavit of the Regional Director is concerned, the Petitioner/Transferee Company through their Counsel undertakes to file the copy of the Scheme along with copy of the Hon'ble Court's order with the RBI within 30 days and shall also comply with the other applicable provisions of RBI Act.

10. As far as observations made in paragraph 6(b) of Affidavit of the Regional Director is concerned, the Petitioner Company through their Counsel submits that the Petitioner Company is bound to comply with all applicable provisions of the Income Tax Act and all tax issues arising out of the Scheme of Amalgamation will be met and answered in accordance with law.

11. The Learned Counsel appearing for the Regional Director on instructions of Mr. M. Chandanamuthu, Joint Director (Legal) in the Office of the Regional Director states that they are satisfied with the undertakings given by the Petitioner Companies. The said undertakings are accepted.
12. The Official Liquidator has filed his report on 2nd February, 2016, stating that the affairs of the Transferor Company have been conducted in a proper manner and that Transferor Company may be ordered to be dissolved without being wound up.
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, Company Scheme Petitions No. 816 of 2015 and 817 of 2015 are made absolute in terms of the prayer clause (a) to (d) and (a) to (c) of the respective Company Scheme Petition.
15. 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 the order.
16. 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.

17. The Petitioners in both the Company Scheme Petitions to pay costs of Rs.10,000/- each to the Regional Director, Western Region, Mumbai and Petitioner Company in Company Scheme Petition No. 816 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.
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 the Scheme duly authenticated by the Company Registrar, High Court (O. S.), Bombay.

(K.R. Shriram, J.)

CERTIFICATE

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

Uploaded by: Shankar Gawde, Stenographer.