

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SCHEME PETITION NO. 806 OF 2016
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTIONS NO. 769 OF 2016.**

In the matter of Petition under Section
391 to 394 of the Companies Act, 1956
or any re-enactment thereof;

And

In the matter of Scheme of
Amalgamation of Idea Mobile
Commerce Services Limited (Transferor
Company) with Aditya Birla Idea
Payments Bank Limited (Transferee
Company)

Aditya Birla Idea Payments Bank Limited

... Petitioner Company

Called for Hearing.

Senior Counsel Mr. Pradeep Sancheti a/w Advocate Sandeep Singhi, Advocate Jayesh Desai i/b. Singhi & Co., Advocates for the Petitioner.

Counsel Mr. Ashwini Singh i/b. Pankaj Kapoor for Regional Director.

Coram: S. C. Gupte, J

Date: 9th December, 2016

MINUTES OF THE ORDER

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 IDEA MOBILE COMMERCE SERVICES LIMITED with ADITYA BIRLA IDEA PAYMENTS BANK LIMITED & their respective shareholders and creditors.
3. The Counsel for the Petitioners state that in view of Directive of Reserve Bank of India it is desirable to merge and amalgamate IDEA MOBILE COMMERCE SERVICES LIMITED ("Transferee Company") into ADITYA BIRLA IDEA PAYMENTS BANK LIMITED ("Transferee Company"). The amalgamation of all undertakings of Transferor Company into the Transferee Company shall enable effective implementation of Reserve Bank of India directive.

4. Learned Counsel for the Petitioner further states that the Board of Directors of the Petitioner Company has approved the said Scheme of Amalgamation by passing Board Resolution which is annexed to the Company Scheme Petition.
5. The learned Counsel for the Petitioner further states that the Petitioner Company has complied with all the directions passed in the Company Summons for Direction and that the Company Scheme Petition has been filed in consonance with the order passed in Company Summons for Direction.
6. 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 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.
7. The Regional Director has filed an Affidavit on 7th December, 2016 stating therein, save and except as stated in paragraphs 6a, 6b, 6c & 6d thereof, it appears that the Scheme is not prejudicial to the interest of share holders and public. In paragraph 6 a, b, c & d of the said Affidavit, the Regional Director has stated that:

- a) 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.
- b) The Petitioner Company shall make compliance of AS-14 and also pass such Accounting Entries which are necessary in connection with the scheme to comply with other applicable Accounting Standards such as AS-5 etc and ensure that the Financial Statement of the Transferee Company does not impair the true and fairview of the Financial Statements of the Transferee company post-amalgamation.
- c) Petitioner in Clause I of the Scheme in the preamble inter alia has mentioned that, the present scheme shall be effective, inter alia, on compliance of the terms, conditions and procedure enumerated in the letter dated 13th June, 2016 addressed by RBI to the Transferor Company for the transfer of the PPI business from the Transferor Company to the Transferee Company. In this regard petitioner company undertakes to comply the same.
- d) That the Deponent further submits that, the Registered Office of the Transferor company is situated in the State of National Capital Territory of Delhi. Hence the present scheme of amalgamation

between the Transferor and Transferee Company will be subject to the condition of obtaining similar approval from Hon'ble High Court of Delhi in respect of Transferor Company.

8. In so far as observations made in paragraph 6a of the Affidavit of Regional Director is concerned, the Transferee Company through their Counsel undertakes that the decision of the Income Tax Authority will be binding on the Petitioner Company 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 shall be binding on the petitioner company.
9. As far as observations made in paragraph 6b of the Affidavit of Regional Director is concerned, the Transferee Company through their Counsel undertakes 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-5, to the extent as applicable and ensure that the Financial Statement of the Transferee Company does not impair the true and fair view of the Financial Statements of the Transferee company post amalgamation.

10. As far as observations made in paragraph 6c of the Affidavit of Regional Director is concerned, the Id Counsel on behalf of the Petitioner clarifies that upon approval of the Scheme by this Court to Petitioner Company Scheme shall be effective, inter alia, on compliance of the terms, conditions and procedure enumerated in the letter dated 13th June, 2016 addressed by RBI to the Transferor Company for the transfer of the PPI business from the Transferor Company to the Transferee Company. In this regard petitioner company undertake to comply the same.
11. As far as observation made in Paragraph 6d is concerned learned Counsel for the Petitioner submits that the matter was heard before the Hon'ble High Court, Delhi on the 7th December, 2016 and agrees and undertakes that the present Order shall be subject to obtaining similar approval from Hon'ble High Court of Delhi.
12. The Learned Counsel for Regional Director on instructions of Mrs. P. Sheela, 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 are accepted.
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 Petition No. 806 of 2016 is made absolute in terms of the prayer clause (a) of the Company Scheme Petition.
15. Learned Counsel for the Petition submits that there are no immovable assets which are being transferred by virtue of the Scheme, However, the Petitioner Company is 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 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 Petitioner the Company Scheme Petition to pay costs of Rs. 10,000/- to the Regional Director, Western Region, Mumbai. 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 Company Registrar, High Court (O.S.), Bombay.

(S.C.GUPTE, J.)

I certify that this Order uploaded is a true and correct copy of the original signed order. Uploaded By: Shankar Gawde, Stenographer.