IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO 818 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO 737 OF 2015

OXYGEN HEALTHCARE COMMUNICATIONS PRIVATE LIMITED ……… Petitioner/ Transferor Company 1

AND

COMPANY SCHEME PETITION NO 819 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO 738 OF 2015

OXYGEN MEDIA SERVICES PRIVATE LIMITED

………… Petitioner/ Transferor Company 2

AND

COMPANY SCHEME PETITION NO 820 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO 739 OF 2015

FILMSNYOU.COM (INDIA) PRIVATE LIMITED

………… Petitioner/ Transferee Company

In the matter of the 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 Oxygen Healthcare Communications Private Limited ("OHCPL") and Oxygen Media Services Private Limited ("OMSPL") with Filmsnyou.Com (India) Private Limited ("FIPL") and their respective shareholders and creditors.

Called for Hearing

Mr. Hemant Sethi i/b Hemant Sethi & Co., Advocates for the Petitioners in all the Company Scheme Petitions

Mr. A. R. Verma i/b Mr. A. A. Ansari for Regional Director in all the Company Scheme Petitions

Mr. Vinod Sharma, Official Liquidator present.

CORAM: B. P. Colabawalla, J.

DATE: 1st July , 2016

1. Heard the learned counsel for the Petitioner Companies. 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 High Court is sought under Sections 391 to 394 of the Companies Act, 1956, to the Scheme of Amalgamation of Oxygen Healthcare Communications Private Limited ("Transferor Company 1") and Oxygen Media Services Private Limited ("Transferor Company 2") with Filmsnyou.Com (India) Private Limited ("Transferee Company") and their respective Shareholders and Creditors.

3. Learned Counsel for the Petitioners states that the Petitioner in Company Scheme Petition No. 818 of 2015 is primarily engaged in the business of integrated healthcare marketing and Petitioner in Scheme Petition No. 819 of 2015 is a highly technology driven company with entire field reporting through sales force automation system and Petitioner in Scheme Petition

No. 820 of 2015 is a technology driven company and specializes in healthcare and media related technology.

4. The rationale for the Scheme is to enable creation of a larger entity and derive optimal management and synergy benefits which will result in business synergies besides economies in cost by combining all the functions, related activities and operations and benefits in the form of managerial and technical expertise. It will also lead to greater integration and flexibility for the amalgamated entity and strengthening position in the industry, in terms of the asset base, revenues, products and service range.

5. The Petitioner Companies approved the said Scheme by passing Board Resolutions which are annexed to the respective Company Scheme Petitions.

6. The Counsel for the Petitioners state that Petitioner Companies have complied with all directions passed in Company Summons for Directions and that the Scheme has been filed in consonance with the orders passed in respective Company Summons for Directions.

7. The Counsel for the Petitioners further states that the Petitioner Companies 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 the Rules made there under. The said undertakings is accepted.

8. The Regional Director has filed an Affidavit on 7th April, 2016 stating therein that save and except as stated in paragraph 6(a) to 6(d) of the said affidavit, it appears that the Scheme is not prejudicial to the interest of shareholders and public.

In paragraph 6(a) to 6(d), of the said affidavit it is stated that:

a) *Clause no. 10 of the Scheme provides for issue of shares upon coming into effect of this Scheme. The authorized share capital of Transferee Company may not be sufficient to issue further shares as provided in the Scheme. The Transferee Company shall, if and to the extent required, increase its Authorised Share Capital to facilitate issue of New Equity Shares under this Scheme as provided in Clause 10 of the Scheme. In this connection, the Transferee Company may be directed to comply with the provisions of section 61/64 of Companies Act, 2013 corresponding to section 94/97 of Companies Act, 1956, in respect of filing of necessary forms with the Registrar of Companies after payment of necessary filing fee and stamp duty as applicable on the said forms.*
b) *Clause 11.6 of the Scheme provides for adjustment for differences in Accounting Policies between Transferor Companies and Transferee Company. In this regard, it is submitted that in addition to compliance of Accounting Standard – 14, the Transferee Company shall pass such accounting entries which are necessary in connection with the Scheme to comply with any other applicable accounting standards such as AS- 5, etc.*
c) *Clause no. 13 of the Scheme states that the name of the Transferee Company shall be changed to "Oxygen Media Services Private Limited". In this connection, Petitioner*

Companies may be directed to comply with the provisions of section 13(2), (3) & (6) alongwith section 15 of the Companies Act, 2013 read with section 21/23 of the Companies Act, 1956 in respect of filing of necessary forms with the Registrar of Companies and the proposed new name will be allowed subject to availability of the same, by the Registrar of Companies since under the computerized MCA 21 System of allotting the names, it is systematically not possible to reserve the names. Therefore, the name if available at the time of filing of such application, shall be made available by the Registrar of Companies.

d) *It is respectfully submitted 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. Learned Counsel for the Petitioner Companies submits that as far as observations made in paragraph 6 (a) of Affidavit of the Regional Director is concerned, clause 12 of the Scheme provides for combination of authorised share capital of the Transferor Company 1 and Transferor Company 2 together with that of the Transferee Company. The consolidated authorised capital would be sufficient to facilitate issue of New Equity Shares as provided in the Scheme.

10. As far as observations made in paragraph 6 (b) of Affidavit of the Regional Director is concerned, the Transferee Company undertakes that in addition

to compliance of Accounting Standard 14, the Transferee Company shall pass such accounting entries as may be necessary in connection with the Scheme of Amalgamation to comply with any other applicable accounting standards.

11. As far as observations made in paragraph 6 (c) of Affidavit of the Regional Director is concerned, the Transferee through their Counsel undertakes that the relevant provisions of the Companies Act, 1956/2013 in respect of filing of necessary forms with the Registrar of Companies for change of name will be complied with.

12. As far as observations made in paragraph 6 (d) of Affidavit of the Regional Director is concerned, the Transferee Company submits that the Transferee Company is bound to comply with all applicable provisions of the Income-Tax Act, 1961 and all tax issues arising out of the Scheme of Amalgamation will be met and answered in accordance with law.

13. The Counsel for the Regional Director on instructions of Mr. S Ramakantha Joint Director in the office of Regional Director, Ministry of Corporate Affairs, Western Region, Mumbai, states that they are satisfied with the undertaking and submission given by the Petitioner Companies. The said undertaking given by the Petitioner Companies is accepted.

14. The learned Counsel for the Petitioner states the Petitioner Companies have filed Affidavit dated 18th April 2016 seeking modification to the Scheme by shifting the Appointed Date from 1st April 2015 to 1st April 2016 and consequential change in fair share entitlement ratio. The Counsel for the

Petitioners further states that the proposed modification to the Scheme has been approved by the Board of Directors in their respective meetings held on 7th April 2016. Further all the Equity Shareholders of the Petitioner Companies have consented to the proposed modification. The Counsel for the Petitioners therefore seek leave to amend Scheme as per Schedule annexed as Exhibit-A to the respective affidavit dated 18th April 2016.

15. Leave to amend the Scheme is allowed in terms of draft amendment annexed as Exhibit-A to the Affidavit dated 18th April 2016 filed by the Petitioner Companies. Amendment to the Scheme to carried out within 4 weeks from today.

16. 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.

17. Since all the requisite statutory compliances have been fulfilled, the Company Scheme Petitions No. 818 of 2015 to 820 of 2015 filed by the Petitioner Companies are made absolute in terms of prayer clause (a) of the respective Petitions.

18. 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 receipt of Order.

19. Petitioner Companies are 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 provisions of the Companies Act 1956 / 2013.

20. The Petitioner Companies in all the Company Scheme Petitions to pay costs of Rs. 10,000/- each to the Regional Director, Western Region, Mumbai and Petitioner Companies in Company Scheme Petition No. 818 and 819 of 2015 to pay cost 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.

21. Filing and issuance of the drawn up order is dispensed with.

22. 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.

(B. P. Colabawalla, J.)

CERTIFICATE

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

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