IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO. 806 OF 2015.

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 730 OF 2015.

TRIF REAL ESTATE AND DEVELOPMENT LIMITED

....Petitioner/ the Demerged Company

AND

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO. 807 OF 2015.

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 731 OF 2015.

MARA BUILDER PRIVATE LIMITED

....Petitioner/ the Transferor Company/ Resulting Company

AND

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO. 808 OF 2015.

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 732 OF 2015.

TATA REALTY AND INFRASTRUCTURE LIMITED

....Petitioner/ the Transferee Company

In the matter of the Companies Act, 1 of 1956 and other relevant provisions of the Companies Act, 2013;

AND

In the matter of Sections 391 to 394 read with Sections 100 to 104 of the Companies Act, 1956 and Section 52 of the Companies Act, 2013;

AND

In the matter of Composite Scheme of Arrangement and Amalgamation of TRIF REAL ESTATE AND DEVELOPMENT LIMITED, the Demerged Company AND MARA BUILDER PRIVATE LIMITED, the Resulting Company/ Transferor Company WITH TATA REALTY AND INFRASTRUCTURE LIMITED, the Transferee Company

Called for hearing

Mr. Rajesh Shah i/b Rajesh Shah & Co., Advocate for the Petitioners.

Mr. D. R. Shah i/b Mr. A.A. Ansari for the Regional Director.

Mr. Vinod Sharma, the Official Liquidator present.

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 Petitions.

2. The sanction of the Court is sought to composite Scheme of Arrangement and Amalgamation of TRIF REAL ESTATE AND DEVELOPMENT LIMITED or "TRIF", the Demerged Company and MARA BUILDER PRIVATE LIMITED or "MARA", the Resulting Company/ Transferor Company with TATA REALTY AND INFRASTRUCTURE LIMITED or "TRIL", the Transferee Company, under Sections 391 to 394 read with Sections 100 to 104 of the Companies Act, 1956 and Section 52 of the Companies Act, 2013.

3. The Learned Counsel for the Petitioners states that the Demerged Company has been carrying on the business in India of development of real estate and infrastructure facilities and the Transferor Company/ Resulting Company presently in the business of Real Estate and Infrastructure Development and the Transferee Company has been carrying on the business real estate and infrastructure development. The TRIL is one of the leading developers of real estate and infrastructure facilities and that TRIF is carrying on its project broadly comprising of residential division already under development and development of balance portion. TRIF intends

to transfer it's residential division into MARA and that after transfer of Residential Division of TRIF, MARA intends to merge into TRIL so that the value for the shareholders of TRIL can be maximised and that the management of TRIL, MARA and TRIF proposes to achieve the above pursuant to Composite Scheme of Arrangement and Amalgamation under Sections 391 to 394 of the Companies Act, 1956 read with Section 52 of the Companies Act, 2013 and any other relevant provisions of the Companies Act, 1956 and the Companies Act, 2013 and that the restructuring will explicitly result in consolidation of business of developing a residential project under TRIL; and Focussed management attention to respective businesses; and long term value unlocking of businesses

4. The Learned Counsel for the Petitioners further states that the Board of Directors of the Petitioner Companies have approved the said composite Scheme of Arrangement and Amalgamation by passing Board Resolutions which are annexed to the respective Company Scheme Petitions.

5. The Learned Counsel for the Petitioners further states that 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 orders passed in respective Company Summons for Directions.

6. The Learned Counsel appearing on behalf of the Petitioners have stated that the Petitioner Companies have complied with all requirements as per directions of this Court and they have filed necessary affidavit of compliance in the Court. Moreover, the 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.

7. The Official Liquidator has filed his report on 12th day of January, 2016 in Company Scheme Petition No. 807 of 2015 stating that the affairs of the Transferor Company has been conducted in a proper manner and that the Transferor Company may be ordered to be dissolved.

8. The Regional Director has filed an Affidavit on 6th day of January, 2016 stating therein, save and except as stated in paragraph 6, it appears that the Scheme is not prejudicial to the interest of shareholders and public. In paragraph 6 of the said Affidavit, the Regional Director has stated that:-

"6. That the Deponent further submits that

(a) Clause 14.3 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) 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. So far as the observation in paragraph 6 (a) of the Affidavit of Regional Director is concerned (though clause reference inadvertently mentioned as 14.3 instead of 12.3) , the Petitioner Company through its counsel 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

10. So far as the observation in paragraph 6(b) of the Affidavit of Regional Director is concerned, the Learned Counsel for the Petitioner Companies submit that the Petitioner Companies are bound to comply with all applicable provisions of 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 undertakings given by the Petitioners. The above undertakings are 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, Company Scheme Petition No. 806 of 2015 is made absolute in terms of prayers clause (a) to (d) and 807 of 2015 is made absolute in terms of prayer clauses (a) to (d) and 808 of 2015 is made absolute in terms of prayer clauses (a) to (c).

14. The Petitioner Companies to file 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 the purpose of adjudication of stamp duty payable, if any, on the same within 60 days from the date of the Order.

15. The Petitioners are directed to file a certified copy of order along with a copy of the 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. 807 of 2015 to pay costs of Rs.10,000/- to the Official Liquidator, High Court, Bombay. Cost 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 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 correct copy of original signed order.

Uploaded by : Shankar Gawde, Stenographer.