IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO. 840 OF 2015.

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 769 OF 2015.

Tech Mahindra BPO Limited

....Petitioner/ the First Transferor Company

AND

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO. 841 OF 2015.

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 770 OF 2015

New vC Services Private Limited

....Petitioner/ the Second Transferor Company

In the matter of the Companies Act, 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 Tech Mahindra BPO Limited, the First Transferor Company

AND

New vC Services Private Limited, the Second Transferor Company

WITH

Tech Mahindra Limited, the Transferee Company

AND

Their Respective Shareholders and Creditors

Called for hearing

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

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

Mr. Vinod Sharma, the Official Liquidator.

CORAM: K. R. Shriram, J.

DATE: 4th March, 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 a Scheme of Amalgamation of Tech Mahindra BPO Limited, the First Transferor Company and New vC Services Private Limited, the Second Transferor Company with Tech Mahindra Limited, the Transferee Company, under Sections 391 to 394 and other relevant provisions of the Companies Act, 2013.

3. The Learned Counsel for the Petitioners states that the First Transferor Company has been carrying on the business of Business Process Outsourcing contracts for the clients in India and abroad, for operating and management processes and the Second Transferor Company has been carrying on the business of providing online technical support for all processes, transactions, activities performed by business in various industries within India and across the world and the Transferee Company has been carrying on the business of providing information technology and information technology enabled services. The proposed scheme of Amalgamation will have the benefit as per the opinion of the management, that the amalgamation will enable the Transferee Company to consolidate the businesses and lead to broad base the area of operation and create a stronger financial base which would be advantageous to combine the activities and all the Companies are under same Management and it would be advantageous to combine the activities and operations in a single Company and that greater integration and greater financial strength and flexibility for the amalgamated entity and strengthening position in the industry, in terms of the asset base, revenues, service range and that the improved organizational capability and leadership, arising from the combination of human capital who collectively have diverse skills, talent and vast experience to compete successfully in an increasingly competitive industry and that the combination of the businesses would increase the long term value for shareholders and investors and that the benefits of

operational synergies in terms of economies of scale, more focused operational efforts, rationalization, standardization and simplification of business processes and productivity improvements and that simplified corporate structure.

4. The learned Advocate appearing on behalf of the Petitioner company submits that by an order passed by this court on 11th September, 2015 in Company Summons for Direction No. 769 and 770 of 2015 the filing of a separate Company Summons for Direction and Company Scheme Petition in relation to the proposed Scheme by the Transferee Company i.e. Tech Mahindra Limited was dispensed with as no new shares will be issued and in view of Judgment passed by this Court in *Mahaamba Investments Limited Versus IDI Limited (2001) 105 Company Cases (pages 16 to 18)*.

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

6. 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.

7. 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.

8. The Official Liquidator has filed his report on 29th day of January, 2016 in Company Scheme Petition Nos. 840 to 841 of 2015 stating that the affairs of the Transferor Companies have been conducted in a proper manner and that the Transferor Company may be ordered to be dissolved. However, as required by the Official Liquidator's said Report, the Petitioner Company undertakes that prosecution or any such action under Companies Act, 1956 or any other law, resulting out of inspection under section 209 A of the Companies Act, 1956, shall be enforced against M/s Tech Mahindra Ltd., the transferee Company i.e. wherein the transferor company M/s Tech Mahindra BPO Ltd. (name changed from Satyam BPO Ltd.) will be merged.

9. The Regional Director has filed an Affidavit on 17th day of December, 2015 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:-

"That the Deponent respectfully 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.

10. So far as the observation in paragraph 6 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 Nos. 840 and 841 of 2015 are made absolute in terms of prayers clause (a) to (d).

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 Companies to pay costs of Rs.10,000/- each 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.