

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO 865 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 654 OF 2015

Telelogic India Private Limited.....Petitioner

AND

COMPANY SCHEME PETITION NO 866 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO 655 OF 2015

Unica Softtech Systems India Private Limited....Petitioner

In the matter of the Companies Act,
1956;

AND

In the matter of Sections 391 to 394 of
the Companies Act, 1956;

AND

In the matter of Scheme of
Amalgamation of BigFix Software
(India) Private Limited and Telelogic
India Private Limited and Unica
Softtech Systems India Private Limited
with Sterling Commerce Solutions India
Private Limited and their respective
shareholders

Called for hearing

Mr. Hemant Sethi i/b Mr. Hemant Sethi & Co. Advocates , in both the
Petitioners.

Mr. Anand O Singh i/b Pankaj Kapoor for Regional Director in both the
Petitions.

Mr. Vinod Sharma, Official Liquidator, High Court, Bombay, a/w Ms. Yogini
Chauhan, Deputy Official Liquidator, present.

CORAM: B.P.Colabawalla, J.

DATE: 1st July 2016

PC:

1. Heard the learned counsel for the Petitioner Companies.
2. The sanction of the Court is sought to the Scheme of Amalgamation of BigFix Software (India) Private Limited and Telelogic India Private Limited and Unica Softtech Systems India Private Limited with Sterling Commerce Solutions India Private Limited and their respective shareholders.
3. The learned Counsel for the Petitioners are engaged in the business of providing IT ITES services.
4. The reason justifying Amalgamation is that both the Companies are contemplating this Scheme of Amalgamation which would *inter alia* have the benefits of Greater integration, financial strength and flexibility for the amalgamated entity, which would result in maximising overall shareholder value, and will improve the competitive position of the combined entity. Greater efficiency in cash management of the amalgamated entity, and unfettered access to cash flow generated by the combined business which can be deployed more efficiently to fund organic and inorganic growth opportunities, to maximise shareholder value. Cost savings are expected to flow from more focused operational efforts, rationalization, standardization and simplification of business processes, productivity improvements, improved procurement, usage of common resource pool like human resource, administration, finance, accounts, legal, technology and

other related functions, leading to elimination of duplication and rationalization of administrative expenses.

5. The Transferor Company and the Transferee Company have approved the Scheme by passing the Board Resolutions which are annexed to the respective Company Scheme Petitions.
6. The Counsel for the Petitioners further states that the Petitioner Companies have complied with all the directions passed in Company Summons for Direction and that the Company Scheme Petition have been filed in consonance with the orders passed in respective Company Summons for Direction.
7. The Counsel for the Petitioners further states that the Petitioner Companies have complied with all requirements as per the directions of this Court and they have filed necessary Affidavits of compliance in the Court. Moreover, the Petitioner Companies through their Counsel undertakes to comply with all statutory requirements, if any, as required under the Companies Act, 1956 or Companies Act 2013, as may be applicable and the rules made there under. The said undertaking is accepted.
8. The Regional Director has filed an Affidavit on 21st April 2016 stating therein that save and except as stated in paragraph 6 (a) and (b) of the said Affidavit, 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 :

(a) That the Registered office of 1st Transferor Company and Transferee company is situated in the State of Karnataka. Hence the Transferor Company has to file similar petition

before the Hon'ble High Court of Karnataka at Bangalore for approving the said Scheme .

- (b) *That the Deponent further submits that the Tax issues if any arising out of this scheme shall be subject to final decision of Income Tax Authority and approval of the Scheme by the 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 the Affidavit of Regional Director is concerned the Counsel for the Petitioners state that the Scheme has been approved by the Karnataka high Court on 19th February 2016.
10. As far as observations made in paragraph 6 (b) of Affidavit of the Regional Director is concerned, the Petitioner Companies submit that the Petitioner Companies are 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.
11. The Counsel for the Regional Director on instructions of Mr. M Chandanamuthu, Joint Director (Legal) 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.
12. The Official Liquidator has filed his report on 21st June 2016 in Company Scheme Petition Nos. 865 of 2015 and 866 of 2015 stating therein that the affairs of the Petitioner Companies have been conducted in a proper manner and that the Petitioner Companies may be ordered to be dissolved.
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. None of the parties concerned has come forward to oppose the Scheme.

14. Since all the requisite statutory compliances have been fulfilled, Company Scheme Petition No. 865 and 866 of 2015 filed by the Petitioner Companies are made absolute in terms of prayer clauses (a) of the respective Petitions.
15. The Petitioner Company to lodge 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 receipt of the order.
16. Petitioner Company 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 21 / E-Form INC 28 in addition to physical copy as per the provisions of the Companies Act 1956 / 2013.
17. The Petitioners to pay cost of Rs.10,000/- each to the Regional Director, Western Region, Mumbai and 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 authorities to act on a copy of this order along with 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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