IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO. 891 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 759 OF 2015

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 A. K. Steel Manufacturers Private Limited (the 'Transferor Company') with Titan.Antony Aviation India Private Limited (the 'Transferee Company')

A.K. Steel Manufacturers Private Limited)
A Company incorporated under the Companies)
Act, 1956, having its Registered Office at)
Plot No. A-390, M.I.D.C., Mahape, Thane– 400701)
... Petitioner Company

Called for Hearing

Mr. Dhiren Akbari, Advocate for the Petitioner Company.
Mr. Y.R.Mishra i/b Mr A.A Ansari for Regional Director.

Mr. Vinod Sharma, Official Liquidator Present.

Coram: B.P.COLABAWALLA, J.
Dated: 1st April, 2016

1. Heard the Learned Counsel for the Petitioner Company. 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 of A. K. Steel Manufacturers Private Limited with Titan.Antony Aviation India Private Limited.

3. Counsel for the Petitioner Company states that the Transferor Company is presently in business of manufacturing of Steel Products and Transferee Company is presently in business of fabrication of aircrafts refuellers, tankers and dispensers.

4. The Rational for the Scheme is that the Transferor Company is wholly owned subsidiary company of the Transferee Company. Transferor Company and Transferee Company are desirous of entering into a Scheme of Amalgamation for the purpose of consolidation of the business into a reasonably sized enterprise and with a view to achieving synergies in terms of optimizing capacity utilization which in turn will benefit the Petitioner and the Transferee Company. Both the companies are compatible in terms of nature of their business and are under the same management, common control and have common directors. Amalgamation would yield consolidation of holdings and interest. The amalgamation would empower the management to utilize the resources of the company in the best interest. The amalgamation would result in optimum utilization of management and other resources and would reduce the administrative costs.

5. The Petitioner Company and Transferee Company have approved the said Scheme by passing Board Resolutions which are annexed to the Company Scheme Petition.

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

7. The Learned Counsel appearing on behalf of the Petitioner has stated that it has complied with all requirements as per directions of this Hon'ble High Court and it has filed necessary Affidavits of compliance with the Hon'ble High Court. Moreover, Petitioner Company 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 given by the Petitioner Company is accepted.

8. The Regional Director has filed an Affidavit on 25th February, 2016 stating therein that save and except as stated in paragraph 6 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 it is stated that:

6. That the Deponent further submits that,

a. Clause 11.3 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 find 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. In so far as observations made in paragraph 6(a) of the Affidavit of Regional Director is concerned, the Petitioner Company through their Counsel submits that in addition to the compliance of Accounting Standard -14, the transferee company shall pass all such accounting entries which are

necessary in connection with the scheme to company with other applicable Accounting Standards.

10. In so far as observations made in paragraph 6(b) of the Affidavit of Regional Director is concerned, the Petitioner Company through their Counsel submits that approval of the scheme by this Court will not deter the Income Tax Authority to scrutinize the tax returns filed by the Petitioner Company after giving effect to the Arrangement and all tax issues arising out of the Scheme 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 by the Petitioner Company. The said undertakings given by the Petitioner Company is accepted.

12. The Official Liquidator has filed his report on 17th March, 2016 stating therein that the Affairs of the Transferor Company have been conducted in a proper manner and that the Transferor Company may be ordered to be dissolved by this Hon'ble Court.

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 filed by the Petitioner Company is made absolute in terms of prayer clause (a) to (i) of the Petition.

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 the 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 Company, electronically, along with E-Form INC 28 in addition to physical copy as per the provisions of the Companies Act 1956 /2013.

17. The Petitioner Company to pay costs of Rs.10,000/- to the Regional Director, Western Region, Mumbai. Costs to be paid within four weeks from the date of the Order.

18. The Petitioner Company to pay sum of Rs. 10,000/- to the Official Liquidator, High Court, Bombay. Costs to be paid within four weeks from the date of the Order.

19. Filing and issuance of the drawn up Order is dispensed with.

20. 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.

(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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