IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO. 920 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 817 OF 2015

AERIES TECHNOLOGY SOLUTIONS PRIVATE LIMITED

...... Transferor Company

AND

COMPANY SCHEME PETITION NO. 921 OF 2015

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 818 OF 2015

AERIES (INDIA) PRIVATE LIMITED

….. Transferee Company

In the matter of the Company Act, 1956;

AND

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

AND

In the matter of Scheme of Amalgamation of Aeries Technology Solutions Private Limited with Aeries (India) Private Limited and their respective Shareholders

Called for hearing

Mr. Hemant Sethi and Mr. Ajit Singh Tawar i/b. Hemant Sethi & Co., Advocates for the Petitioner in all Petitions.

Mr. H.V. Mehta , i/b Mr. A. A. Ansari for Regional Director in both the Petitions .

Mr. Vinod Sharma , Official Liquidator Present

CORAM: B.P Colabawalla, J.

DATE: 22nd April, 2016

PC:

1. Heard the learned counsel for the Petitioner Company. None appears before the Court to oppose the Petition and to contravene averments made in the Petition.

2. The sanction of the Court is sought to Scheme of Amalgamation between Aeries Technology Solutions Private Limited with Aeries (India) Private Limited and their respective shareholders ("the Scheme" or "this Scheme").

3. The learned Counsel for the Petitioner Company states that the Transferor Company is currently engaged in the business of providing software development, financial, accounting and other support services. The Petitioner Company is currently engaged in the business of providing management and facility services, software solutions & services and technology related process outsourcing.

4. That the rationale for the Scheme is consolidation of the business. The amalgamation would result in reduction in overheads, administrative, managerial and other expenditure, operational rationalization, organizational efficiency, and optimal utilization of various resources and the management of the Petitioner Company believe that amalgamation would result in consolidation of managerial expertise of the Company involved thereby giving additional strength to the operations and management of the transferee Company.

5. Learned Counsel for the Petitioner further states that the Board of Directors of the Petitioner Company have approved the said Scheme of Amalgamation by passing Board Resolutions which are annexed to the respective Company Scheme Petitions.

6. The Learned Counsel for the Petitioner further states that the Petitioner Company has complied with all the directions passed in the respective Company Summons for Direction and that the Company

Scheme Petitions have been filed in consonance with the orders passed in respective Company Summons for Direction.

7. The Learned Counsel, appearing on behalf of the Petitioner, states that the Petitioner Company 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 Company shall undertake to comply with all statutory requirements if any, as required under the Company 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 28th 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 Court.

9. The Regional Director has filed an Affidavit on 17th February, 2016 stating therein that save and except as stated in paragraph 6 (a) to (b) 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(b), of the said affidavit it is stated that:

   (a) *Clause 11.6 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 Standards 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 the income tax authority and approval of the scheme by the Honorable 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. As far as observations made in paragraph 6(a) of Affidavit of the Regional Director is concerned, the Petitioner Company through their Counsel submit that the Petitioner Company shall pass necessary accounting entries in connection with the Scheme to comply with the applicable Accounting Standards.

11. In so far as observations made in paragraph 6(b) of the Affidavit of Regional Director is concerned, the Petitioner Company through their Counsel submit that the tax implications, if any, arising out of this scheme is subject matter of assessment of the income tax return by the Income Tax Department and the Petitioner Company is bound to comply with all applicable provisions of Income Tax Act, and all tax issues arising out of Scheme will be met and answered in accordance with law.

12. The Learned Counsel for Regional Director on instructions of Mr. M. Chandanamuthu, 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 Petitioner Company and agrees with the amendments sought by the Petitioner Company. The said undertakings given by the Petitioner Company is accepted.

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, Company Scheme Petition No. 920 of 2015 & 921 of 2015 are made absolute in terms of prayer clause (a) of the respective Company Scheme Petition.

15. The Petitioner Company agrees to lodge a copy of this order and the amended Scheme, along with the form of minutes duly authenticated by the Company Registrar, High Court, 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 duly authenticated by the Company Registrar, High Court, Bombay with the concerned Registrar of Company, electronically, along with E-Form 21 / E-Form INC 28 in addition to physical copy as per the provisions of the Company Act 1956 / 2013, whichever is applicable.

17. The Petitioner Company agrees to pay costs of Rs. 10,000/- each to the Regional Director, Western Region, Mumbai and the Petitioner Company in Company Scheme Petition No. 920 of 2015 to pay cost of Rs. 10,000/- to Official Liquidator, High Court, Bombay. Costs to be paid within four weeks from the date of the order.

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

19. All concerned regulatory authorities to act on a copy of this order and the Scheme annexed to respective Company Scheme Petition 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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