IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO. 102 OF 2016

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 926 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 Tata Infrastructure Capital Limited, Transferor Company No. 1 and India Collections Management Limited, Transferor Company No. 2 with Tata Capital Limited, Transferee Company and Their Respective Shareholders and Creditors

India Collections Management Limited,)
a Company incorporated under the)
Companies Act, 1956 and having its registered)
office at One Forbes, Dr. V B Gandhi Marg,)
Fort Mumbai 400 001) .... Petitioner Company/ Transferor Company No. 2

Called for Hearing

Mr. Karthik Somasundram a/w Mr. Anirban Sen i/b. M/s Krishnamurthy and Co., Advocates for the Petitioner Company.

Mr. P.S. Gujar i/b Mr. Pankaj Kapoor for Regional Director.

Mr. Vinod Sharma, Official Liquidator present

Coram: B.P. Colabawalla, J.

Date: 22nd April, 2016

1. Heard 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 Tata Infrastructure Capital Limited and India Collections Management Limited with Tata Capital Limited and their respective shareholders and creditors.

3. Learned Counsel for the Petitioner Company states that the Petitioner Company was incorporated mainly for the purpose of carrying on the business of providing receivables and collections management services in the banking, financial and other industrial sectors and consultancy and advisory services in relation thereto, but has not commenced any business activity yet.

4. The rationale of the Scheme is that the Board of Directors of the Transferor Companies and the Transferee Company are of the opinion that since both the Transferor Companies have not commenced any business activity and

there is no future plans to commence any business operations, the proposed Amalgamation will achieve management efficiency and would help in reducing the administrative cost since it would eliminate the non operational subsidiaries.

5. The Petitioner Company, Transferor Company No. 1 and Transferee Company have approved the Scheme of Amalgamation by passing Board Resolutions which are annexed to the Company Scheme Petition.

6. The Learned Advocate appearing on behalf of the Petitioner Company 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 undertakes to comply with all statutory requirements, if any, as required under the Companies Act, 1956/ 2013 and the Rules made there under. The said undertaking given by the Petitioner Company is accepted.

7. The Regional Director has filed an Affidavit on 21st April, 2016 stating therein, that save and except as stated in paragraph 6 (a), (b), (c) & (d) 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 26(c) 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 Registered Office of the 1st Transferor Company is situated in the State of Tamil Nadu. Hence the 1st Transferor Company has to file similar petition before the Hon'ble High Court of Madras for approving the said scheme.*

(c) *As the Transferee Company is Non- Deposit Accepting Core Investment Company registered with the Reserve Bank of India, Transferee Company may be directed to file a copy of the scheme along with the copy of this Hon'ble Court's order with the RBI within 30 days and shall also comply with the other applicable provisions of RBI Act.*

(d) *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.*

8. So far as the observation in paragraph 6 (a) of the Affidavit of Regional Director is concerned, the Petitioner Company through its counsel undertakes

to follow the accounting treatment provided in the Scheme and to comply with the requirements of the relevant applicable accounting standards.

9. So far as the observation in paragraph 6 (b) of the Affidavit of Regional Director is concerned, the Learned Counsel for the Petitioner Company submits that the 1st Transferor Company had filed Company Petition No. 16 of 2016 in The High Court of Judicature At Madras for sanctioning the Scheme of Amalgamation and by an order of 21st March, 2016, the Scheme of Amalgamation has been sanctioned by the Hon'ble High Court of Madras.

10. So far as the observation in paragraph 6 (c) of the Affidavit of Regional Director is concerned, the Transferee Company is directed to file a copy of the scheme along with a copy of the order duly certified by the Company Registrar with the RBI within 30 days of receipt of the same and shall also comply with the other applicable provisions of RBI Act.

11. So far as the observation in paragraph 6 (d) of the Affidavit of Regional Director is concerned, the Learned Counsel for the Petitioner Company submits that the Petitioner Company is bound to comply with all applicable provisions of Income Tax and all tax issues arising out of the Scheme will be met and answered in accordance with law.

12. The Learned Counsel for Regional Director on instructions of Mr. Chandanamuthu, Joint Director (Legal) in the office of the Regional Director, Ministry of Corporate Affairs, Western Region, Mumbai states that they are

satisfied with undertakings given by the Petitioner Company as stated herein above. The said undertakings given by the Petitioner Company are accepted.

13. The Official Liquidator has filed his report on 21st April, 2016 stating therein that the Affairs of the Transferor Company No. 2 have been conducted in proper manner and that the Transferor Company No. 2 may be ordered to be dissolved by this Hon'ble Court.

14. 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.

15. Since all the requisite statutory compliances have been fulfilled, the Company Scheme Petition filed by the Petitioner Company is made absolute in terms of the prayer made under clauses (A), (B) and (D) of the Petition.

16. The Petitioner Company is directed to lodge a copy of this order along with a copy of the Scheme of Amalgamation duly authenticated by the Company Registrar, High Court (O.S.), Bombay, 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.

17. The Petitioner Company is directed 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.

18. The Petitioner Company to pay costs of Rs. 10,000/- each to the Regional Director, Western Region, Mumbai, and 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 the order uploaded is a true and correct copy of Original singed order.

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