IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 29.11.2016

DELIVERED ON : 16.12.2016

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The Honourable **Mr.Justice RAJIV SHAKDHER**

C.P.Nos.268 to 270 of 2016

Scientific Games India Private Limited
Unit 1 & 4, 11th Floor,
Crest Building, International Tech Park Chennai,
Taramani - CSIR Road, Taramani,
Chennai, Tamil Nadu - 600 113, India
represented by its Director
Mr.Ramakrishnan Thiagarajan

.. Petitioner in C.P.No.268 of 2016
/ 1st Transferor Company

WMS Gaming Solutions India Private Limited
Unit 1 & 4, 11th Floor,
Crest Building, International Tech Park Chennai,
Taramani - CSIR Road, Taramani,
Chennai, Tamil Nadu - 600 113, India
represented by its Director
Mr.Ramakrishnan Thiagarajan

.. Petitioner in C.P.No.269 of 2016
/ 2nd Transferor Company

Bally Technologies India Private Limited
Unit 1 & 4, 11th Floor,
Crest Building, International Tech Park Chennai,
Taramani - CSIR Road, Taramani,
Chennai, Tamil Nadu - 600 113, India
represented by its Director
Mr.Ramakrishnan Thiagarajan

.. Petitioner in C.P.No.270 of 2016
/ Transferee Company

Petitions filed under Sections 391 to 394 of the Companies Act, 1956 to sanction the Scheme of Amalgamation.

For Petitioners : Mr.Pawan Jabhakh
for M/s.Harishankar Mani

Mr.D.Ramesh Kumar, CGSC
for Regional Director
Ministry of Company Affairs,Chennai

Mr.Achutha Ramaiah
Official Liquidator

## **COMMON ORDER**

1. These company petitions are preferred under Sections 391 to 394 of the Companies Act, 1956 for seeking a sanction of the scheme of amalgamation concerning Scientific Games India Private Limited (in short 1st transferor company), WMS Gaming Solutions India Private Limited (in short 2nd transferor company) and Bally Technologies India Private Limited (in short transferee company), with effect from 01.04.2015. The scheme of amalgamation (in short scheme) is appended as Annexure '4' to the respective petitions.

2. The petitioner in C.P.No.268 of 2016 is the 1st transferor company; the petitioner in C.P.No.269 of 2016 is the 2nd transferor company and the petitioner in C.P.No.270 of 2016 is the transferee company.

2.1. I may only note that hereafter, the transferor and transferee companies will be collectively referred to as petitioners.

3. A perusal of the record shows that the petitioners have complied with the prescribed procedure.

3.1. A copy of three (3) separate resolutions of even date, i.e., 06.04.2016, passed by the Board of Directors of the petitioners approving the scheme is enclosed as Annexure '3' to the respective petitions.

4. It is stated that the 1st transferor company has no secured creditor. A certificate of the Chartered Accountant confirming the same is appended as Annexure '6' to C.P.No.268 of 2016.

4.1. It is averred that the 1st transferor company has no unsecured creditor. A certificate of the Chartered Accountant confirming the same is appended as additional typed set of document to C.P.No.268 of 2016.

4.2. It is stated that the 1st transferor company has two (2) shareholders. The affidavits of equity shareholders of the 1st transferor company giving their consent to the proposed scheme are appended as Annexure '8' to C.P.No.268 of 2016.

4.3 This Court, by order dated 29.04.2016, passed in C.A.No.473 of 2015, dispensed with the convening, holding and conducting of the meeting of the shareholders of the 1st transferor company to consider the proposed Scheme, inter alia, for the reason that its equity shareholders had given their consent to it.

5. It is stated that the 2nd transferor company has no secured creditor. A certificate of the Chartered Accountant confirming the same is appended as Annexure '6' to C.P.No.269 of 2016.

5.1. It is averred that the 2nd transferor company has fifteen (15) unsecured creditors, valued at Rs.16,40,857/-. A certificate of the Chartered Accountant confirming the same is appended as additional typed set of document to C.P.No.269 of 2016.

5.2. It is further averred that the above expenses are in the nature of stationery expenses, xerox expenses and travel expenses etc.

5.3. It is also averred that, as on 05.04.2016, the net worth of the 2nd transferor company is at Rs.17,70,97,584/-; current assets at Rs.26,67,42,025/-; non-current assets at Rs.36,76,98,171/- and cash balance available at Rs.3,05,13,366/-.

5.4. It is averred that the amalgamation which is in offing, will be beneficial to the petitioners and, will result in better and more efficient operation of the concerned companies.

5.5. It is stated that the 2nd transferor company has two (2) shareholders. The affidavits of equity shareholders of the 2nd transferor company giving their consent to the proposed scheme are appended as Annexure '8' to C.P.No.269 of 2016.

5.6. This Court, by order dated 29.04.2016, passed in C.A.No.474 of 2016, dispensed with the convening, holding and conducting of the meeting of the shareholders of the 2nd transferor company to consider the proposed Scheme, inter alia, for the reason that its equity shareholders had given their consent to it.

6. It is stated that the transferee company has one (1) secured creditor. A certificate of the Chartered Accountant confirming the same is appended as Annexure '6' to C.P.No.270 of 2016.

6.1. It is seen that the above-said secured creditor of the transferee company have given their consent to the proposed Scheme, which is appended as Annexure '6' to C.P.No.270 of 2016.

6.2. It is averred that the transferee company has ten (10) unsecured creditors, valued at Rs.7,88,097/-. A certificate of the Chartered Accountant confirming the same is appended as additional typed set of documents to C.P.No.270 of 2016.

6.3. It is further averred that the above expenses are in the nature of stationery expenses, xerox expenses and travel expenses etc.

6.4. It is also averred that, as on 05.04.2016, the net worth of the transferee company is pegged at Rs.86,96,86,093/-; the current assets and non-current assets, are valued at Rs.93,65,04,233/- and Rs.73,24,83,108/- respectively, while cash balance available is shown as Rs.15,84,24,400/-.

6.5. It is averred that the amalgamation which is in offing, will be beneficial to the petitioners and, will result in better and more efficient operation of the concerned companies.

6.6. It is stated that the transferee company has two (2) shareholders. The affidavits of equity shareholders of the transferee company giving their consent to the proposed scheme are appended as Annexure '8' to C.P.No.270 of 2016.

6.7. This Court, by order dated 29.04.2016, passed in C.A.No.475 of 2016, dispensed with the convening, holding and conducting of the meeting of the shareholders of the transferee company to consider the proposed Scheme, inter alia, for the reason that its equity shareholders had given their consent to it.

7. Upon notice being issued, the Regional Director, Ministry of Company Affairs has filed his report stating that he has no objection to the scheme being sanctioned. Furthermore, in the said report, the Regional Director has observed as follows:

> *".....It is submitted that Clause 9.5 of the scheme has proposed to change the name of the transferee company to that of the first transferor company herein. The transferee company may be directed to comply with the procedures laid down under the Companies Act, 2013 and rules framed thereunder while changing the name of the transferee company....."*

7.1. Learned counsel for the petitioners, to the above observation of the Regional Director, submitted that post the issuance of advertisements as per the directions of this Court, no objections have been received from any third parties, creditors or other stakeholders. Furthermore, the transferee company has undertaken to comply with the specific requirements, if necessary, under Clause 9.7 of the Scheme. For the sake of convenience, Clause 9.7 of the Scheme reads as follows:

> *"9.7...... The Transferee Company agrees to comply with any specific requirement, if necessary or directed by Court for completing the name change process viz., filing of the necessary documents,*

*resolutions, form etc. with the Registrar of Companies, Chennai or any other applicable authority to give effect to change in the name of the Transferee Company from "Bally Technologies India Private Limited" to "Scientific Games India Private Limited."*

7.2. Having regard to the aforesaid, according to me, the aforesaid concern/objection, if it may be called one of the Regional Director, is suitably taken care of.

8. The Official Liquidator has also filed his report along with the report prepared by the Chartered Accountant. The Chartered Accountant, in his report, states that the affairs of the transferor companies have not been conducted in a manner prejudicial to the interest of its members or to public interest, and that, he has not come across any act of misfeasance by the Directors attracting the provisions of Sections 542 and 543 of the Companies Act, 1956. It is further stated that the records maintained in the office of the Registrar of Companies were also caused to be inspected by the said Chartered Accountant. In the absence of any material that the affairs of the transferor companies were being conducted in a manner prejudicial to the interest of its members or public interest, the Official Liquidator

has filed his report before this Court for appropriate orders.

9. I have perused the proposed scheme filed along with the company petitions as also the affidavits placed on record. I find that the Scheme as proposed is not prejudicial to the interest of any person or entity, which has a stake/interest in the petitioner companies. The said scheme, as framed, is not violative of any statutory provisions.

10. The scheme as formulated is fair, just, sound and is not contrary to any public policy or public interest. No proceedings appear to be pending under the provisions of Sections 231 to 237 of the Companies Act, 1956. All the statutory provisions appear to have been complied with.

11. Consequently, there shall be an order approving the scheme of amalgamation of Scientific Games India Private Limited (1st transferor company), WMS Gaming Solutions India Private Limited (2nd transferor company) and Bally Technologies India Private Limited (transferee company), with effect from 01.04.2015, as per the procedure laid down under Sections 391 to 394 of the Companies Act.

12. Taking note of the report of the Chartered Accountant as enclosed by the Official Liquidator, in terms of the order passed by this Court, both the transferor companies shall stand dissolved, albeit, without winding up.

13. It is made clear, that this order will not be construed as an order granting exemption from payment of stamp duty or, taxes or, any other charges, if any, payable, as per the relevant provisions of law or, from any applicable permissions that may have to be obtained or, even compliances that may have to be made, as per the mandate of law.

14. The learned Senior Central Government Standing Counsel will be entitled to a fee of Rs.5,000/-, which shall be paid by the transferee company.

15. The above petitions are disposed of in the aforementioned terms.

Index: Yes / No
Internet: Yes / No 16.12.2016
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**RAJIV SHAKDHER,J.**

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Pre-Delivery Common Order in

C.P.Nos.268 to 270 of 2016

Dated: 16.12.2016