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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CO.PET. 51/2015**
IN THE MATTER OF PRIAPUS REAL ESTATE PRIVATE LIMITED
& ORS.

..... Petitioner

Through: Mr Sudhir Nandrajog, Sr. Advocate with
Mr D.Bhattacharyya, Mr Rahul Khosla
and Ms Deeti Ojha, Advocates for
Applicant.
Ms Aparna Mudiam, Asst.ROC for RD.

CORAM:
HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

ORDER
% **06.10.2016**

CO.APPL. 3908/2016 (Condonation of delay)

The present application under Rule 9 of the Companies (Court) Rules, 1959 has been filed on behalf of the application for condonation of delay in filing the rejoinder to the reply filed on behalf of the Regional Director to Co.Appl. 2097/2016.

Notice.

Ms Aparna Mudiam, learned Asst. ROC appearing on behalf of the Regional Director, accepts notice and fairly does not oppose this application.

For the reasons stated in the application the same is allowed. The delay in filing the rejoinder is condoned.

The application is disposed of accordingly.

CO.APPL. 2097/2016

The present application filed on behalf of the applicant seeks rectification of the Appointed Date as '15.11.2014' in the Scheme of Amalgamation approved by this court by way of order dated 18.02.2016.

Mr Sudhir Nandrajog, learned senior counsel appearing on behalf of the applicant, states that subsequent to the grant of sanction to the Scheme of Amalgamation between the petitioner companies by this court, by way of order

dated 18.02.2016 and particularly at the time of filling in Form INC 28, it was noticed by the petitioner companies that the Appointed Date as reflected in the said order dated 18.02.2016 and as mentioned in the Scheme of Amalgamation was incorrectly stated as 15.12.2014 instead of 15.11.2014, owing to a clerical error.

Mr Nandrajog would further urge that as a consequence thereof, the Appointed Date in the Scheme as well as in the pleadings in the application seeking sanction of the Scheme of Amalgamation and in the order granting sanction to the Scheme of Amalgamation, came to be recorded as 15.12.2014 instead of 15.11.2014.

Mr Nandrajog states that in the event the inadvertent clerical error is not corrected, the operation of the Scheme of Amalgamation with the wrong Appointed Date shall be prejudicial and cause serious hardship to the business of the petitioner companies, as the rationale and decision of amalgamation of the petitioner companies was based on the Appointed Date of 15.11.2014.

A perusal of the application shows that the same is accompanied by a Board Resolution dated 29.04.2016, of the petitioner companies seeking rectification of the Appointed Date in terms of Para 14.1 of the Scheme of Amalgamation.

A reply has been filed on behalf of the Regional Director to the present application.

A perusal of the reply would show that the only cavil raised on behalf of the Regional Director is to the effect that the petitioner companies have not disclosed as to how the sanctioned Scheme is not workable on the Appointed Date of 15.12.2014 as recorded in the Scheme of Amalgamation by this court by way of order dated 18.02.2016.

However, Ms Mudiam, learned Asst. ROC appearing on behalf of the Regional Director, states that in view of the circumstance that the petitioner companies have clarified in the rejoinder filed on their behalf to the effect that

the rectified Appointed Date, i.e., 15.11.2014 does not have any impact on the financial position of the petitioner companies vis-a-vis the Appointed Date, i.e., 15.12.2014, as sanctioned by this court by way of order dated 18.02.2016; and that, since the Scheme envisaged amalgamation of two wholly owned subsidiaries in the parent company, no valuation exercise was carried out and hence, modification/rectification of Appointed Date will also not have any implication on the valuation/exchange ratio, they do not oppose the rectification of date as prayed for in the present application.

In view of the foregoing, the present application is allowed. The Appointed Date as stated in the Scheme of Amalgamation as well as the order dated 18.02.2016, shall be read as '15.11.2014' instead of '15.12.2014' as recorded earlier.

The modified Scheme is taken on record and is sanctioned. The modified Scheme of Amalgamation as sanctioned by this court be filed with the Registrar of Companies within thirty days from the date of receipt of the order.

It is made clear that except the modification directed hereinabove, all the other terms/directions passed vide order dated 18.02.2016 shall remain the same.

The application is disposed of accordingly.

SIDDHARTH MRIDUL, J

OCTOBER 06, 2016

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