

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,

MUMBAI BENCH, MUMBAI

TRANSFERRED COMPANY SCHEME PETITION NO. 292 OF 2017

IIFL PROPERTIES PRIVATE LIMITED

(FORMERLY KNOWN AS 'ULTRA SIGN AND DISPLAY PRIVATE LIMITED')

...Transferor /Petitioner Company

AND

TRANSFERRRED COMPANY SCHEME PETITION NO. 293 OF 2017

IIFL FACILITIES SERVICES LIMITED

(FORMERLY KNOWN AS 'IIFL REALTY LIMITED')

...Transferee /Petitioner Company

In the matter of the Companies Act, 1956 (1 of 1956) and other relevant provisions of the Companies Act,2013;

AND

In the matter of Sections 391 to 394 of the Companies Act, 1956 AND Sections 230 to 232 of the Companies Act, 2013;

AND

In the matter of Scheme of Amalgamation

BETWEEN

IIFL Properties Private Limited (Formerly known as 'Ultra Sign and Display Private Limited') ('IPPL' or 'the Transferor Company')

WITH

IIFL Facilities Services Limited (Formerly known as 'IIFL Realty Limited') ('IFSL' or 'the Transferee Company')

AND

their respective Shareholders

CALLED FOR HEARING:

Mr. Rajesh Shah with Mr. Ahmed M Chunawala i/b M/s. Rajesh Shah & Co.,
Advocates for the Petitioner Company.

Coram: SH. B.S.V. Prakash Kumar Hon'ble Member (J) and SH. V .Nallasenapathy
Hon'ble Member (T)

Date: 30th March, 2017

MINUTES OF THE ORDER

1. Heard learned counsel for parties. No objector has come before this Hon'ble Tribunal to oppose the Scheme nor has any party controverted any averments made in the Petition.
2. The sanction of the tribunal is sought under Sections 230 to 232 of the Companies Act, 2013 to a Scheme of Amalgamation between IIFL Properties Private Limited (Formerly known as 'Ultra Sign and Display Private Limited') with IIFL Facilities Services Limited (Formerly known as 'IIFL Realty Limited') and their respective shareholders.
3. Learned counsel for the Petitioners states that the Transferor Company is engaged in the business of providing property and related infrastructure facility services mainly to group companies and the Transferee Company is engaged in the business of providing office and infrastructure related facility services mainly to group companies and providing property advisory, consultancy and allied services.
4. Learned counsel for the Petitioners further states that the Amalgamation of the Transferor Company with the Transferee Company will result in consolidation of the related business of the Transferor Company with that of the Transferee Company and will streamline the group structure.
5. The Petitioner Companies have approved the said Scheme of Amalgamation by passing the Board Resolutions which are annexed to the respective Company Scheme Petitions.
6. The Learned Advocate appearing on behalf of the Petitioner Companies states that the Petitions have been filed in consonance with the order passed in Company Summons for Direction Nos. 778 of 2016 and 779 of 2016 of the Bombay High Court.
7. The Learned Advocate appearing on behalf of the Petitioners states that the Petitioner Companies have complied with all requirements as per directions of the Hon'ble Bombay High Court and Hon'ble Tribunal and they have filed necessary Affidavits of compliance with Hon'ble Tribunal. Moreover, Petitioner Companies 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 undertaking is accepted.
8. Pursuant to transfer of the Company Scheme Petitions to this Hon'ble Tribunal, the Regional Director, Western Region, Mumbai has filed his Report on 27th

March, 2017 stating therein that save and except as stated in paragraph IV of the said Report, it appears that the Scheme is not prejudicial to the interest of shareholders and public.

Paragraph IV, of the said Report reads as follows:

- a) *In addition to compliance of AS-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) *As per clause 1.2 of the Scheme "The Appointed Date" means 1st April, 2015 or such other date as may be approved by the Hon'ble High Court of Judicature at Bombay, or any other competent authority. In this regard, it is submitted in terms of provisions of Section 232(6) of the Companies Act, 2013 it should be 1st April, 2015.*
- c) *As per existing practice, the Petitioner Companies are required to serve Notice for Scheme of Arrangements to the Income Tax Department for their comments. It appears that the company vide their letter dated 9th December, 2016 has served a copy company petition No. 815 & 816/2016 along with relevant orders etc., to IT Department. Further This Directorate has also issued reminder letter to the Income Tax Department dated 23.03.2017. However, as on date, there is no response from Income Tax Department.*
- d) *The tax implication if any arising out of the scheme is subject to final decision of Income Tax Authorities. The approval of the scheme by this Hon'ble Court may not deter the Income Tax Authority to scrutinize the tax return filed by the transferee Company after giving effect to the scheme. The decision of the Income Tax Authority is binding on the petitioner Company.*

9. As far as the observation of the Regional Director, Western Region, Mumbai, as stated in paragraph IV (a) of his report is concerned, the Petitioner Companies undertakes that the Transferee Company undertakes that in addition to compliance of AS-14 accounting treatment, the Transferee Company shall pass such accounting entries as may be necessary in connection with the Scheme to comply with other applicable accounting standards such as AS-5.

10. As far as the observation of the Regional Director, Western Region, Mumbai, as stated in paragraph IV (b) of his report is concerned, the Petitioner Companies

submits that the Appointed date for the Scheme of Amalgamation shall be 1st April, 2015.

11. As far as the observation of the Regional Director, Western Region, Mumbai, as stated in paragraph IV (c) and (d) of his report are concerned, the Petitioner Companies submit that the Petitioner Companies undertakes to comply with all applicable provisions of the Income-tax Act and all tax implications arising out of the Scheme of Amalgamation will be met and answered in accordance with applicable law.
12. The observations made by the Regional Director, Western Region, Mumbai, in the office of Regional Director, Ministry of Corporate Affairs, Western Region Mumbai have been explained by the Petitioner Companies in Para 9 to 11 above. The clarifications and undertakings given by the Petitioner Companies are accepted.
13. The Official Liquidator has filed his report on 14th March, 2017 in Transferred Company Scheme Petition Nos. 292 of 2017 inter alia, stating therein that the affairs of the Transferor Company has been conducted in a proper manner and that the Transferor Company may be ordered to be dissolved without winding up by this Hon'ble Tribunal.
14. From the material on record, the Scheme appears to be fair, reasonable and is not violative to any provisions of law nor is contrary to public interest.
15. Since all the requisite statutory compliances have been fulfilled, the Transferred Company Scheme Petition Nos. 292 of 2017 is made absolute in terms of prayer clauses (a) to (c) and Transferred Company Scheme Petition No. 293 of 2017 is made absolute in terms of prayer clauses (a) and (b).
16. The Petitioner Companies are directed to file a copy of this order along with a copy of the Scheme of Amalgamation with the concerned Registrar of Companies, electronically, along with e-Form INC-28, in addition to physical copy, within 30 days from the date of issuance of the order by the Registry.

17. The Petitioner Companies to lodge a copy of this order and the Scheme duly certified by the Deputy Director, National Company Law Tribunal, Mumbai Bench, with the concerned Superintendent of Stamps for the purpose of adjudication of stamp duty payable, as applicable.
18. The Petitioner Companies to pay costs of Rs. 25,000/- each to the Regional Director, Western Region, Mumbai and the Petitioner Company mentioned in Transferred Company Scheme Petition No. 292 of 2017 to pay costs of Rs. 25,000/- to the Official Liquidator, High Court, Bombay. Costs to be paid within four weeks from the date of the receipt of the order.
19. All authorities concerned to act on a copy of this order along with the Scheme duly certified by the Deputy Director, National Company Law Tribunal, Mumbai Bench.

Sd/-
B.S.V. Prakash Kumar Member (J)

Sd/-
V. Nallasenapathy Member (T)