

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH  
TRANSFERRED COMPANY SCHEME PETITION NO. 216 OF 2017

IDEX INDIA PRIVATE LIMITED

...Petitioner/Transferor Company

AND

TRANSFERRED COMPANY SCHEME PETITION NO. 217 OF 2017

RICHTER PUMPS AND VALVES INDIA PRIVATE LIMITED

...Petitioner/Transferor Company

In the matter of the Companies Act, 2013 and In the matter of Sections 230 to 232 of the Companies Act, 2013 and other applicable provisions of the Companies Act, 2013 (corresponding to Sections 391 to 394 of the Companies Act, 1956); read with Companies (Compromise, Arrangements and Amalgamation) Rules, 2016; and In the matter of Scheme of Amalgamation of IDEX India Private Limited and Richter Pumps and Valves India Private Limited with IDEX Fluid & Metering Private Limited and their respective Shareholders.

**Called for Hearing**

Mr. Hemant Sethi i/b Hemant Sethi & Co., Advocates for the Petitioner Companies

Mr. S Ramakantha, Joint Director in the office of Regional Director

**Coram: B.S.V. Prakash Kumar, Member (Judicial)**

**V. Nallasenapathy, Member (Technical)**

**Date: 30<sup>th</sup> March 2017**

**MINUTES OF ORDER**

- 1 Heard the learned counsel for the Petitioner Companies.
- 2 The sanction of this Tribunal is sought under Sections 230 to 232 of the Companies Act, 2013, to the Scheme of Amalgamation of IDEX India Private Limited and Richter Pumps and Valves India Private Limited with IDEX Fluid & Metering Private Limited and their respective Shareholders.
- 3 The Counsel for the Petitioner Companies submit that IDEX India Private Limited is engaged in the business of providing business services and management

service and Richter Pumps and Valves India Private Limited is engaged in the business of providing solutions of premium quality lined pumps, valves and control equipment used in demanding applications.

- 4 The respective Boards of Directors are of the view that the proposed Scheme of Amalgamation is beneficial to the respective shareholders, employees and all stakeholders of the Petitioner Companies. The proposed Scheme of Amalgamation is aimed at achieving the following business and commercial objectives:
  - a. Consolidation of businesses of the Group;
  - b. Reduction in number of companies and regulatory compliances thereof;
  - c. Ease of management;
  - d. Reduction of operating and administrative costs.
- 5 The Board of Directors of the Transferor Companies and the Transferee Company have approved the said Scheme of Amalgamation by passing necessary Board Resolutions which are annexed to the respective Company Scheme Petitions filed by the Petitioner Companies.
- 6 The Learned Counsel appearing on behalf of the Petitioner Companies further states that the Petitioner Companies have complied with all requirements as per directions of the Court/Tribunal and the necessary affidavits of compliance has been filed in the Court/Tribunal. Moreover, the Petitioner Companies through their Counsel undertake to comply with all statutory requirements, if any, as required under the Companies Act, 1956/2013 and the Rules made there under whichever is applicable. The said undertakings given by the Petitioner Companies are accepted.
- 7 The Official Liquidator has filed his report on 25<sup>th</sup> February, 2017 stating that the affairs of the Petitioner/ Transferor Companies have been conducted in a proper manner and that Transferor Companies may be ordered to be dissolved.

8 The Regional Director has filed his report dated 21<sup>st</sup> March 2017 stating therein that, save and except as stated below, it appears that the Scheme is not prejudicial to the interest of shareholders and public. In paragraph IV of the said Report, it is stated that:

- (a) *In addition to compliance of AS-14(IND AS-103), 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 (Ind AS-8) etc.,*
- (b) *As per clause 1.1.2 of the scheme "The Appointed Date" means the 1<sup>st</sup> April, 2016 or such other date as may be fixed or approved by the Competent Authority. In this regard, it is submitted in terms of provisions of section 232(6) of the Companies Act, 2013 it should be 1 April, 2016.*
- (c) *The Registered Office of the M/s Idex Fluid & Metering Private Limited, the Transferee Company is at Survey No. 256, GIDC Manjusar, Savli, Vadodara - 391 770, is outside the jurisdiction of this Hon'ble Tribunal and falls within the jurisdiction of Hon'ble Tribunal at Ahmedabad. Accordingly, similar approval be obtained by the Transferee Company from Hon'ble Tribunal at Ahmedabad.*
- (d) *As per existing practice, the Petition Companies are required to serve Notice for Scheme of Amalgamation to the Income Tax Department for their comments. It appears that the company vide letter dated 17<sup>th</sup> November, 2016 & 21<sup>st</sup> November, 2016 has served a copy of company petition No. 727 & 728 / 2016 (CSP 216 & 217/2017) along with relevant orders etc. to IT Department. Income Tax department vide letters dated 28.11.2016 & 06.12.2016 has sought 2 weeks for submission of their reply which are annexed herewith and marked as Annexure 'D1' to 'D3'. Further this Directorate has also issued a reminder letter to the Income Tax Department on 17<sup>th</sup> March, 2017. However, as on date, there is no response from Income Tax Department.*
- (e) *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 Tribunal 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.*

*(f) Clause 8 of the Scheme contemplates change of name. The same is subject to compliance with the provisions of section 4(2) & (3) of the Companies Act, 2013 r/w rule 8(8) of the Company (Incorporation) Rules, 2014.*

- 9 In so far as observations made in paragraph IV (a) of the Report of Regional Director is concerned, the Transferee Company through its Counsel undertakes that in addition to compliance of AS-14(IND AS-103), 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 (Ind AS-8) etc.
- 10 In so far as observations made in paragraph IV (b) of the Report of Regional Director is concerned, the Petitioner Company through its Counsel submit that as per Section 232(6) of the Companies Act, 2013 the Appointed Date is 1<sup>st</sup> April, 2016.
- 11 In so far as observations made in paragraph IV (c) of the Report of Regional Director is concerned, the Petitioner Companies through their Counsel submit that Bombay High Court via order dated 5<sup>th</sup> August 2016 passed in CSD No 668 and 669 of 2016 the filing of separate Company Summons for Directions and Company Scheme Petition was dispensed with in view of the fact that both the Transferor Companies are wholly owned subsidiaries of the Transferee Company and there is no re-organization of share capital of the Transferee Company and no new shares are being issued by the Transferee Company to the shareholders of the Transferor Companies and in view of observations made in Mahaamba Investment Ltd verses IDI Limited (2001) 105 Co cases page 16 to 18.
- 12 In so far as observations made in paragraph IV (d) and (e) of the Report of Regional Director is concerned, the Petitioner Companies through their Counsel submit that the Petitioner Company undertakes to comply with all applicable

provisions of the Income Tax Act and all tax issues arising out of the Scheme will be met and answered in accordance with law.

- 13 In so far as observations made in paragraph IV (f) of the Report of Regional Director is concerned, the Petitioner Companies through their Counsel submit that the Petitioner Company undertakes to comply with all the provisions of section 4(2) & (3) of the Companies Act, 2013 r/w rule 8(8) of the Company (Incorporation) Rules, 2014.
- 14 The observations made by the Regional Director have been explained by the Petitioner Companies in paragraphs 9 to 13 above. The clarifications and undertakings given by the Petitioner Companies are hereby accepted.
- 15 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.
- 16 Since all the requisite statutory compliances have been fulfilled, Transferred Company Scheme Petition No 727 and 728 of 2017 filed by the respective Petitioner Companies are made absolute in terms of prayer clause (a) of TCSP No 727 and 728 of 2017 of the respective Petitions.
- 17 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 the physical copy within 30 days from the date of issuance of the order by the Registry.
- 18 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, if any, on the same within 60 days from the date of receipt of the order.
- 19 The Petitioner Companies to pay costs of Rs.25,000/- each to the Regional Director, Western Region, Mumbai and to the Official Liquidator, High Court, Bombay.

- 20 Costs to be paid within four weeks from the date of receipt of the order.
- 21 All authorities concerned to act on a certified copy of this order along with the Scheme duly certified by the Deputy Director National Company Law Tribunal, Mumbai Bench.
- 22 Any person interested shall be at liberty to apply to the Tribunal in the above matter for any direction that may be necessary.

Sd/-  
**B.S.V. Prakash Kumar, Member (Judicial)**

Sd/-  
**V. Nallasenapathy, Member (Technical)**