

**NATIONAL COMPANY LAW TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.**

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**BEFORE NATIONAL COMPANY LAW TRIBUNAL, ALLAHABAD
BENCH, ALLAHABAD.**

COMPANY PETITION No. 51 OF 2016

(Under section 391-394 of the Companies Act, 1956)

CORAM: SRI H.P. CHATURVEDI, MEMBER (Judicial)

(DISTRICT-GAUTAMBUDH NAGAR)

IN THE MATTER OF

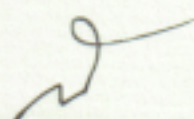
Petition to sanction of the scheme
of amalgamation among Sopra
India Private Limited and
Steria (India) and their respective
shareholders and creditors.

PRESENT: Sri Diptiman Singh, Advocate for petitioner and Sri
M.K. Bagri, OL for Central Government.

ORDER

(Pronounced on 28.04.2017)

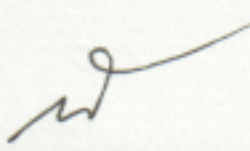
The present company petition is filed for the sanctioned of proposed scheme of amalgamation between Sopra India Private Limited (amalgamated company) and Steria India Ltd. (amalgamating company) and among their respective shareholders and creditors. The present petition was originally filed before the Hon'ble High Court of Allahabad bearing Company Petition No. 34 of 2016 as first stage motion petition, the Hon'ble High Court, Allahabad after hearing the parties passed an order dated 17.11.2016 dispensing with the requirement of convening with the meeting of its equity shareholders and unsecured creditors of petitioner amalgamated company. The Court also pleased to pass an order dated 02.12.2016 by listing the present petition for hearing along with



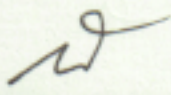
earlier application No. 34 of 2016 on 19.01.2017. The Hon'ble High Court further directed the applicant to make publication of general notice of hearing in the Newspapers "Financial Express (English Edition) published from Delhi and Rashtriya Sahara (Hindi Edition) published from Noida, it also directed to make service of notice of this petition to the Regional Director (MCA) Northern Region, New Delhi and Registrar of Companies, Kanpur Nagar, Uttar Pradesh pursuant to Section 394-A of the Companies Act, 1956.

Later on pursuant to the provisions of Section 434 (1) of the Companies Act, 2013, the present company petition came to be transferred to this Bench of the NCLT.

The petitioner company further file an affidavit dated 20.12.2016 before this Tribunal about of proof of service confirming that in compliance of the Hon'ble High Court, Allahabad order dated 02.12.2016 notices were duly published on 16.12.2016 in the Financial Express and newspaper on 16.12.2016 in the Rashtriya Sahara further service of present petition have also been made to Regional Director of Company Ministry of Corporate Affair, Northern Region as well as to the Registrar of the Companies. Thus the order / direction issued by the Hon'ble High Court, Allahabad in respect of the present company petition are duly complied with. The petitioner company also enclosed a copy of the paper publication made and reported further that till date of filing of affidavit no notice of any objection to the scheme was received from any person in the office of the Advocate of the petitioner company further it is reported that no notice of objection is received either by the Registry of the Hon'ble High Court, Allahabad before the transfer of this case to the Tribunal are before the Registry of this Tribunal. Thus it may be seen that no such notice or objection has been received against the present company petition for



sanction of the proposed scheme. It is also a matter of record that pursuant to the notice issued Regional Director and ROC, the OL representing the RD / ROC submitted an affidavit of the Regional Director, Northern Region dated 07.03.2017 before this Tribunal. Wherein, he has deposed inter alia pointing out such fact that in the petitioner company 99.99986 share of the transfery company are held by Steria U.K. Pvt. Ltd. which is situated at United Kingdom. The petitioner companies have stated that there will be no change in post amalgamation and this U.K. company will hold same percentage of share of the transferor company. Therefore, the petitioner companies may be directed to comply with the applicable provisions of FEMA / SBI guidelines. That apart the RD has also pointed out about some observation made auditors report for the year 31.01.2015 about pending case of income tax of transferi company in the Income Tax Appellate Tribunal (ITAT) and Hon'ble High Court. Such facts has been brought to the notice of the Income Tax Authorities vide RD's office letter dated 22.02.2017 and further reminder dated 02.03.2017 but its office did not receive any specific comments / observation from the Income Tax Authorities till the date of filing of affidavit. The RD also referred to the report of ROC, Kanpur informing such that in the auditors report for year ending 31.12.2013 and 31st December 2014, it has been stated that there has been no qualification in such report. The auditor also observed that though there have been slight delay in few cases but as per the examination of the books of the accounts and explanation given to the auditors the undisputed statutory dues in respect of the Provident Fund, Education, Production Fund, Employees State Insurance, Income Tax, Sales Tax, Wealth Tax, Service Tax, Custom Duty, Cess have generally been regularly deposited with the appropriate authorities and as per

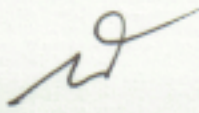


the information available no undisputed amount payable in respect of the above mentioned dues.

In the RD's affidavit, it is also informed that no such prosecution proceedings are pending against the company and its Director for violation of various loss under the Companies Act, 1956, FEMA, IPC, SEBI, RBI before any court. The RD also makes report about the certain provisions made in the proposed scheme about permanent employees of amalgamating company and who are in the pay role of amalgamating company shall become employees of the amalgamated company with effects from the effective date of the sanctioned of the scheme and it shall be without any interruption of their service as a result of the amalgamation with and transferred to the Amalgamated Company. As per other provision of the scheme being effective the amalgamating company shall stand dissolve without being wound up and without act or deed. The RD in its affidavit further also referred to about report of the ROC in respect of part-III of the proposed scheme stating that no shares shall be allotted by the amalgamating company either to itself or to any other shareholders holding share in the amalgamating company jointly with the amalgamated company (either held singly or jointly with any other person) and to holds all the share of the amalgamating company. The RD out in para 14 of his affidavit has pointed as below:

".....14. That as per Clause 4.2.1 (ii) it is inter alia stated that "subject to suitable adjustments being made to ensure uniformity of accounting policies, if any, all the assets and liabilities of the Amalgamating Company shall be transferred to and accounted for by the Amalgamated Company at their respective carrying amounts or book value in the Amalgamating Company, as on appointed date, as prescribed under pooling of interest method in Accounting Standard (AS) 14 on Accounting for Amalgamations prescribed by the Central Government under Companies (Accounting Standard) Rules, 2006, as amended from time to time....."

In response to the RD "affidavit, the petitioner company through its authorised signatory Sri Shekhran Ramkumar the Director of the amalgamated



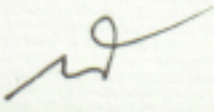
company dully filed an affidavit of undertaking stating inter alia:

".....2. I state that the present affidavit is being filed in compliance of the order dated 22.03.2017 of this Hon'ble Tribunal. I state that the petitioner / amalgamated company is in compliance with applicable rules and regulations issued under the Foreign Exchange Management Act, 1999 and by the Reserve Bank of India with respect to the foreign shareholding in its paid up equity share capital. I further state that with respect to the foreign shareholding in the petitioner / amalgamated company, the petitioner / amalgamated company undertakes to comply with all applicable Rules and Notifications issued under the Foreign Exchange Management Act, 1999 and by the Reserve Bank of India....."

The fact stated in the above affidavit are duly considered and taken on record.

We have heard the counsel for petitioner amalgamated company and Sri M.K. Bagri, learned OL representing the Central Government on the sanction of the proposed scheme. Leaned OL did not express any specific objection against sanction of the proposed scheme except to the comments / observation made in RD's affidavit dated 15.03.2017. He requested that these observation / comments needs due consideration by this Tribunal for its compliance before the sanctioning of the proposed scheme.

It is a matter of record that the petitioner amalgamated company has duly already submitted an undertaking through its authorised signatory Sri Shekhran Ramkumar in response to the observation / comments made by the Regional Director in his affidavit. It has also been clarified by way of companies affidavit filed by its authorised signatory Mrs. Vandana Arun Vachaspati that despite notices were issued to the Regional Director and ROC and further paper publication affected in newspaper in compliance of the Hon'ble High Court's order no kind of objection against the sanction of the proposed scheme were received in the company's counsel office or before this Tribunal.



Sri Diptiman Singh, learned counsel appearing for company petitioner during the course of arguments pointed out about the purpose of amalgamation which are incorporated well in paras 5 to 9 of the company petition as silent features of the scheme.

He further clarified that at present no proceedings for winding up are pending against the petitioner amalgamated company before any court nor any investigation proceedings either have been instituted are pending against the petitioner amalgamated company under Section 235 to 250-A of the Company Act, 1956.

For the sake of convenience, the silent feature of the proposed scheme as stated inter alia in paras 5 to 9 of the petition which are now reproduced hereinbelow:

.....5. That the silent features of the scheme are as follows:

5.1. That the appointed date under the scheme is 01.04.2016 and is the date with effect from which the scheme shall, upon being sanctioned by this Hon'ble Court, be operative.

5.2. That the scheme proposes that upon the scheme becoming effective and with effect from the appointed date, the amalgamating company shall stand transferred to and be vested in the amalgamated company as a going concern.

5.3. That the scheme further provides that upon the scheme becoming effective and with effect from appointed date:

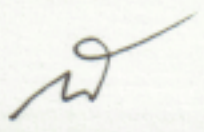
(i). All assets and properties of the amalgamating company shall stand transferred to and be vested in the amalgamated company;

(ii). All registrations, goodwill, illness, trademarks, service marks, copyrights, domain names, application for copyrights, trade names and trademarks in connection with or relating to the amalgamating company, shall stand transferred to and be vested in and / or be deemed to be transferred to and vested in the amalgamated company.

(iii). All contracts, deeds, bonds, agreements etc. to which the amalgamating company is party shall stand transferred to and vested in the amalgamated company.

(iv). All debts, liabilities etc. of the amalgamating company shall stand transferred to and be deemed to be the debts and liabilities of the amalgamated company.

5.4. That it is provided for in the scheme that all employees of the amalgamating company as on the effective date shall become the employees of the amalgamated company.



5.5. That all proceedings of whatsoever nature by or against the amalgamating company shall be continued and/or enforced by or against the amalgamated company as effectually and in the same manner and to the same extent as if the same had been instituted and/or pending and/or arising by or against the amalgamated company.

5.6. That the scheme further provides that upon the scheme becoming effective and with effect from the appointed date, the authorised share capital of the amalgamating company shall stand transferred to and be merged with the authorised share capital of the amalgamated company without any liability for payment of any additional fees or stamp duty.

5.7. That the scheme further provides that upon the scheme becoming effective no shares shall be allotted by the amalgamated company to itself and the shares held by the amalgamated company in the amalgamated company shall stand cancelled in terms of Clause 4 Part IV of the scheme.

5.8. That the scheme has been drawn up to comply with the conditions relating to amalgamation as specified specifically under Section 2 (1B) of the Income Tax Act, 1961.

5.9. That it is provided in the scheme that upon the scheme becoming effective the amalgamating company shall stand dissolved without being wound up.

6.1. That this Hon'ble Court by its order dated 17.11.2016 in the Company Application No. 34 of 2016 was pleased to dispense with the requirement of convening the meeting of the Equity Shareholders and unsecured Creditors of petitioner / amalgamated company. The petitioner / amalgamated company has no secured creditors.

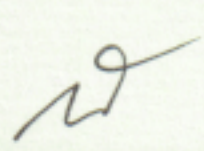
7.1. That it is submitted that the Directors of the Amalgamating Company do not have any material interest in the proposed scheme. The details of the present Directors of the Amalgamating Company and their equity shareholding in the Amalgamating company and the petitioner / amalgamated company.

7.2. That the details of the present Directors of the petitioner / amalgamated company and their equity shareholding in the amalgamating company and the petitioner / amalgamated company.

8. That the sanction of the scheme of Amalgamation will be for the benefit of the petitioner / amalgamated company, its shareholders and stakeholders and it is just and equitable that the scheme be sanctioned.

9. That it is stated that no investigation proceedings have been instituted and/or pending in relation to the petitioner / amalgamated company under sections 235 to 250-A of the Act.

Having considered the contents of the company petition as pointed out above and by perusal of the documents annexed therewith and after hearing the submission of counsel for the parties and learned OL, we are of the view that the present petition deserves to be allowed hence, it is allowed in terms of the prayer



clause C & D made in the petition which are being reproduced hereinbelow:

"(C). Sanction of Scheme of Amalgamation among Sopra India Private Limited and Steria (India) Limited and their respective shareholders and Creditors, being Annexure -1 to the petition, so as to be binding on the petitioner / Amalgamated Company and its Shareholders and Creditors.

(D). Pass such further and other orders as deemed proper in the facts and circumstances of the case."

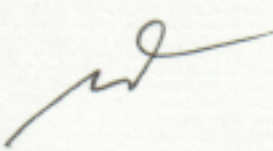
Further all the statutory compliance seems to have been complied with or further undertaken to be complied with by Petitioner Companies as per their Affidavits. Therefore, Company Scheme Petition filed by the Petitioner is made absolute in terms of its Prayer Clause. Accordingly, the Company Scheme of Amalgamation between Sopra India Private Limited with Steria (India) Limited Amalgamated Company is sanctioned.

Further a cost of Rs. 15,000/- is awarded in favour of the Central Government through the office of Regional Director (N.R.) towards legal expenses incurred which is payable by the company within four weeks from the receipt of authentic copy of this order.

The Petitioner Company may lodge a copy of this order along with Scheme of Amalgamation to the office of Registrar of Companies and also to communicate the office of superintendent of stamp of the U.P. State Government within 60 days of receipt of this order for the purpose of adjudication of stamp duty if payable.

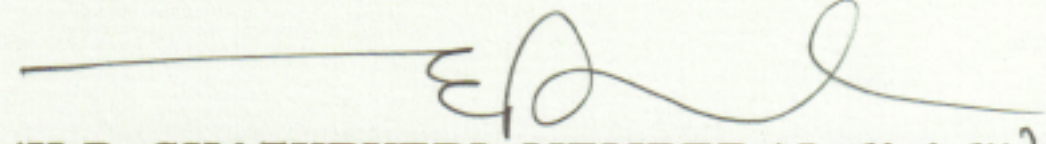
The counsel of the company may furnish a copy of draft order of sanction of the Scheme in the prescribed format under Companies (Compromises, Arrangement and Amalgamations) Rules, 2016 read with other rules for scrutiny and authentication by the Registry of this Tribunal.

The parties to act upon as per operative portion of the order and to take necessary steps as per the provisions of Companies Act and Rules.



All concerned regulatory authorities may act on a copy of this order along with the Scheme duly authenticated by the Assistant Registrar, National Company Law Tribunal, Allahabad Bench, Allahabad.

Accordingly Petition is allowed stands disposed of.



(H.P. CHATURVEDI, MEMBER (Judicial))

28/04/2017

Order Date : 28.04.2017
Sharad Srivastava