

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
 COMPANY JURISDICTION
+ **COMPANY APPLICATION (MAIN) Nos.59 & 60 of 2008**
% **DATED 02.04.2008**

In the matter of the:

Companies Act, 1956

And

Applications under Sections 391(1), 393 & 394 of the
Companies Act, 1956

Scheme of Arrangement of:

Moon Paper & Machinery Pvt. Ltd. ... Applicant/Transferor
Company

With

Kafila Forge Ltd. ... Applicant/Transferee
Company

Through: Mr. Pawanjit .S. Bindra,
Advocates

VIPIN SANGHI, J. (ORAL)

1. These are two applications under Section 391(1) read with Sections 393 and 394 of the Companies Act, 1956 (hereinafter referred to as the Act) by applicants Moon Paper & Machinery Pvt. Ltd.(Applicant/Transferor Company) with Kafila Forge Ltd. (Applicant/Transferee Company) seeking directions from the Court for convening, holding and conducting separate meetings of the equity shareholders, secured and unsecured creditors, which are statutorily required for sanctioning the scheme of arrangement for amalgamation of applicant companies . CA(m)Nos. 59& 60 of 2008 are filed by the

Transferor and Transferee companies respectively.

2. The registered offices of both the Applicant companies are situated at 32, Rajasthani Udyog Nagar, G.T. Karnal Road, Delhi-110001 and that of Transferee company is at F-25, Lajpat Nagar-I, New Delhi-110033, that is, within the jurisdiction of this Court.

3. The Board of Directors of both the Applicant companies have passed separate resolutions approving the scheme of arrangement on 14.01.2008, copies of which have been filed on record.

4. Both the Applicant companies have filed their respective Memorandums and Articles of Association along with the application. The audited balance sheets of both the Applicant Companies as on 31.3.2007 have been filed on record.

5. The Transferee company and the Transferor company have also filed the scheme of amalgamation and salient features of the amalgamation have been incorporated and detailed in the application.

6. The applicant companies have stated that no proceedings under Sections 235 to 251 of the Act are pending against the Transferor company and Transferee company.

7. The Applicant/Transferor Company was incorporated on 13.08.1979 and the authorized share capital of the Transferor company is Rs.1.5 crores divided into 15 lacs equity shares of Rs.10/- each. The issued, subscribed and paid up capital of the Transferor

Company is Rs.1,37,00,000/- divided into 13,70,000 Equity shares of Rs.10/- each.

8. The Applicant/Transferee Company was incorporated on 06.03.1990 and the authorized share capital of the Transferee company is Rs.2 crores divided into 2 lacs equity shares of Rs.100/- each. The issued, subscribed and paid up share capital of the Applicant/Transferee Company is Rs.1,95,00,000/- divided into 1,95,000 equity shares of Rs.100/- each.

9. The Applicant/Transferor Company has 15 Equity Shareholders. All the Shareholders have given their consents in the writing, the same has been filed on record. Thus it is just and equitable to dispense with the holding of the meeting of the Equity Shareholders of the transferor company, which is otherwise required for considering, and if thought fit, approving the scheme of amalgamation of the applicant companies.

10. The Applicant/Transferee Company has 19 Equity Shareholders. All the Shareholders have given their consents in the writing, the same has been filed on record. Thus it is just and equitable to dispense with the holding of the meeting of the Equity Shareholders of the transferee company, which is otherwise required for considering, and if thought fit, approving the scheme of amalgamation of the applicant companies.

11. The Applicant/Transferor company has 2 Secured Creditors. The applicant has sought the holding of the meeting of its

Secured Creditors for considering, and if thought fit, approving the scheme. Considering the facts and circumstances, the meeting of the Secured Creditors of the Transferor company, be held on 24th May, 2008 at 11:00 a.m., at 32, Rajasthani Udyog Nagar, G.T. Karnal Road, Delhi-110001. I appoint Shri Arun Birbal, Advocate Mobile No.9810029804 as the Chairperson and Mr. Amit Bansal, Advocate Mobile No.9810072413 as the Alternate Chairperson for the meeting of the Secured Creditors of the Transferor company. The quorum for the said meeting shall be two Secured Creditors in number constituting 100% in value of the total Secured Debt. The Chairperson and the Alternate Chairperson shall ensure that the notices convening the meeting of Secured Creditors of the applicant company along with copies of scheme and statement under Section 393 of the Companies Act, 1956, shall be sent to the Secured Creditors of the Transferor company by UPC at their registered or last known addresses at least 21 days before the date appointed for meeting, in their presence or in the presence of their authorized representatives. The notice shall also be published in newspapers 'The Statesman' (English edition) and 'Veer Arjun' (Hindi edition) in terms of the Companies (Court) Rules, 1959, at least 21 days before the day appointed for the meeting.

12. The Applicant/Transferor company has 142 Un-Secured Creditors. The applicant has sought the holding of the meeting of its Un-Secured Creditors for considering, and if thought fit, approving the scheme. Considering the facts and circumstances, the meeting of the Un-Secured Creditors of the Transferor company, be held on 24th May,

2008 at 12.00 noon, at 32, Rajasthani Udyog Nagar, G.T. Karnal Road, Delhi-110001. I appoint Shri Arun Birbal, Advocate Mobile No.9810029804, as the Chairperson and Shri Amit Bansal, Advocate Mobile No.9810072413, as the Alternate Chairperson for the meeting of the Un-Secured Creditors of the Transferor company. The quorum for the said meeting shall be twenty five Un-Secured Creditors in number constituting 20% in value of the total Un-Secured Debt. The Chairperson and the Alternate Chairperson shall ensure that the notices convening the meeting of Un-secured Creditors of the applicant company along with copies of scheme and statement under Section 393 of the Companies Act, 1956, shall be sent to the Un-secured Creditors of the Transferor company by UPC at their registered or last known addresses at least 21 days before the date appointed for meeting, in their presence or in the presence of their authorized representatives. The notice shall also be published in newspapers 'The Statesman' (English edition) and 'Veer Arjun' (Hindi edition) in terms of the Companies (Court) Rules, 1959, at least 21 days before the day appointed for the meeting.

13. The Applicant/Transferee company has 4 Secured Creditors. The applicant has sought the holding of the meeting of its Secured Creditors for considering, and if thought fit, approving the scheme. Considering the facts and circumstances, the meeting of the Secured Creditors of the Transferee company, be held on 24th May, 2008 at 2.30 pm, at 32, Rajasthani Udyog Nagar, G.T. Karnal Road, Delhi-110001. I appoint Ms. Alpana Poddar, Advocate Mobile

No.9810220011 as the Chairperson and Mr. Arjun Pant, Advocate Mobile No.9811071260, as the Alternate Chairperson for the meeting of the Secured Creditors of the Transferee company. The quorum for the said meeting shall be three Secured Creditors in number constituting 50% in value of the total Secured Debt. The Chairperson and the Alternate Chairperson shall ensure that the notices convening the meeting of Secured Creditors of the applicant company along with copies of scheme and statement under Section 393 of the Companies Act, 1956, shall be sent to the Secured Creditors of the Transferee company by UPC at their registered or last known addresses at least 21 days before the date appointed for meeting, in their presence or in the presence of their authorized representatives. The notice shall also be published in newspapers 'The Statesman' (English edition) and 'Veer Arjun' (Hindi edition) in terms of the Companies (Court) Rules, 1959, at least 21 days before the day appointed for the meeting.

14. The Applicant/Transferee company has 155 Un-Secured Creditors. The applicant has sought the holding of the meeting of its Un-Secured Creditors for considering, and if thought fit, approving the scheme. Considering the facts and circumstances, the meeting of the Un-Secured Creditors of the Transferee company, be held on 24.05.2008 at 3.30 pm, at 32, Rajasthani Udyog Nagar, G.T. Karnal Road, Delhi-110001. I appoint Ms. Alpana Poddar, Advocate Mobile No.9810220011, as the Chairperson and Arjun Pant, Advocate Mobile No.9811071260, as the Alternate Chairperson for the meeting of the Un-Secured Creditors of the Transferee company. The quorum for the

said meeting shall be twenty five Un-Secured Creditors in number constituting 20% in value of the total Un-Secured Debt. The Chairperson and the Alternate Chairperson shall ensure that the notices convening the meeting of Un-secured Creditors of the applicant company along with copies of scheme and statement under Section 393 of the Companies Act, 1956, shall be sent to the Un-secured Creditors of the Transferee company by UPC at their registered or last known addresses at least 21 days before the date appointed for meeting, in their presence or in the presence of their authorized representatives. The notice shall also be published in newspapers 'The Statesman' (English edition) and 'Veer Arjun' (Hindi edition) in terms of the Companies (Court) Rules, 1959, at least 21 days before the day appointed for the meeting.

15. In all the aforesaid meetings, voting by proxy shall be permitted, if prescribed form duly signed by the person entitled to attend and vote at the meeting is filed with the registered office of the applicant company at least forty eight hours before the meeting. The chairpersons and the alternate chairpersons shall also ensure that the proxy registers are properly maintained and they shall inspect the same from time to time. In case the quorum for any of the aforesaid meeting is not met, then the meeting shall be adjourned by 30 minutes and then the members present and voting shall constitute the required quorum. For the purpose of quorum, the valid proxies shall also be considered.

16. The consolidated fees of each of the Chairpersons for the meetings aforesaid shall be Rs.45,000/- and the consolidated fees of each of the Alternate Chairpersons shall be Rs.40,000/- in addition to meeting their incidental expenses. The Chairpersons appointed by this Court shall file their report within two weeks from the date of holding of the meeting. The Alternate Chairpersons shall also attend the meeting and assist the respective Chairperson in conducting the meeting and in filing the report.

17. The Chairpersons and the Alternate Chairpersons shall be at the liberty to issue directions to the management of the Applicant companies so that meetings of the Secured and unsecured creditors are conducted in a just, free and fair manner.

The applications are allowed in terms of the above order.

April 2nd, 2008
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(VIPIN SANGHI)
JUDGE