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IN THE HIGH COURT OF DELHI AT NEW DELHI

COMPANY JURISDICTION

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CP Nos.224 & 225 of 2007

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DATED 28.03.2008

In the matter of :

The Companies Act, 1956

Scheme of Amalgamation of:

Mohan Exports (India) Pvt. Ltd. ...Petitioner/Transferor Company

with

Mohan Energy Corporation Pvt. Ltd. ...Petitioner/Transferee Company

Through : Mr. V.N.Kaura & Mr. Paramjit
Benipal, Advocates for the
petitioners.
Mr. R.D. Kashyap, Deputy R.O.C for
Regional Director
Ms. Manisha Tyagi, Counsel for the
OL.

VIPIN SANGHI, J. (ORAL)

1. These are two petitions under Sections 391-394 of the Companies Act, 1956 seeking sanction of the Scheme of Amalgamation of Mohan Exports (India) Pvt. Ltd.(Petitioner/Transferor company) with Mohan Energy Corporation Pvt. Ltd.(Petitioner/Transferee company).

CP No.224/2007 has been preferred by the transferor company and CP No.225/2007 has been preferred by the transferee company.

2. The Petitioner/Transferor company was incorporated on 16.03.1974. The Petitioner/Transferee company was incorporated on 12.05.2006.

3. The registered office of the Petitioner/Transferor company is situated at Mohan House-7, Community Centre, Zamrudpur, Kailash Colony Extension, New Delhi-110048 and of Petitioner/Transferee Company is situated at Mohan House-8-9, Community Centre, Zamrudpur, Kailash Colony Extension, New Delhi-110048, thus, within the jurisdiction of this Court.

4. The authorized share capital of the Petitioner/Transferor company is Rs.10 crores divided into 9,90,000 equity shares of Rs.100/- each and 10,000 Preference Shares of Rs.100/- each, while the issued, subscribed and paid up equity share capital of the Petitioner/Transferor company is Rs.4,96,80,000/- divided into 4,96,800 equity shares of Rs. 100/- each.

5. The authorized share capital of the Petitioner/Transferee company is Rs.5 crores divided into 50 lacs equity shares of Rs. 10/- each. The issued, subscribed and paid up Share Capital of

Petitioner/Transferee company is Rs.5 lacs divided into 50,000 equity Shares of Rs.10/- each.

6. The transferor and the transferee companies had filed Company Applications (M) Nos. 102&103/2007 respectively which were allowed by a common order dated 9.07.2007. By the aforesaid order, the requirement of conducting the statutory meetings of the equity shareholders of the Petitioner/Transferor company and Equity Shareholders, Secured and Unsecured Creditors of the Petitioner/Transferee Company, for the purpose of considering and, if thought fit, approving the said Scheme of Amalgamation were dispensed with.

7. The Court directed the meeting of the unsecured creditors of the Transferor company to be convened at Mohan House-7, Community Centre, Zamrudpur, Kailash Colony Extension, New Delhi-110048, on 18.08.2007 at 11.30 a.m, for the purpose of considering and, if thought fit, approving the said Scheme of Amalgamation.

8. Mr. Mukul Talwar, Advocate and Ms. Suvira Lal, Advocate were appointed as the Chairperson and the Alternate Chairperson respectively of the meeting of unsecured creditors of the Transferor company . The required quorum was fixed as 15unsecured creditors in number and 20% in value of the total unsecured debt. The Chairperson

of the said meeting, in his report dated 29.08.2007, has reported that 31 unsecured creditors, entitled together to Rs.14,73,52,226.23/- in value of the unsecured debt, attended the meeting, either in person or through their representatives and proxy, Since the quorum was not present the meeting was adjourned by half an hour and then the persons present and voting constituted the required quorum. The said Scheme was approved unanimously. The copy of the Chairperson's report has been filed on record.

9. The Court directed the meeting of the secured creditors of the Transferor company to be convened at Mohan House-7, Community Centre, Zamrudpur, Kailash Colony Extension, New Delhi-110048, on 18.08.2007 at 10.30. a.m, for the purpose of considering and, if thought fit, approving the said Scheme of Amalgamation.

10. Mr. Mukul Talwar, Advocate and Ms. Suvira Lal, Advocate were appointed as the Chairperson and the Alternate Chairperson respectively of the meeting of secured creditors of the Transferor company. The Chairperson of the said meeting, in his report dated 29.08.2007, has reported that 2 secured creditors, entitled together to 100% in value of the secured debt, attended the meeting, either in person or through their representatives and proxy, thus satisfying the required quorum. The said Scheme was approved unanimously. The copy of the Chairperson's report has been filed on record.

11. Vide orders dated 14.09.2007 in both the aforesaid petitions, citations were directed to be published in "The Statesman" (English edition) and "Dainik Jagran" (Hindi edition), in terms of Companies (Court) Rules, 1959. An affidavit dated 16.11.2007 has been filed by one Mr. Sajjan Singh Negi, the authorized representative of the petitioner company about the publication of the citations in "The Statesman" (English edition) and "Dainik Jagran" (Hindi edition), on 05.10.2007. The said publication containing the said citations were also produced along with the affidavit.

12. Notices were issued to the OL and the Regional Director (Northern Region) vide order dated 14.09.2007. Pursuant to the notice issued to the OL, a report dated 16.02.2008 has been filed by the Official Liquidator. The Official Liquidator has stated that he sought information from the petitioner company vide its letter No.OL/TECH/AMAL/80/1196 dated 30.10.2007, upon which the requisite information was furnished by the Petitioner Companies.

13. The OL has stated that he has considered the accounts of Petitioner companies as on 31st March 2007. The OL in its report has stated that he has not received any complaint against the Scheme of Amalgamation from any person/parties interested in the scheme in any manner whatsoever, and on the basis of information submitted by the petitioner companies. Thus it is inferred that the affairs of the

petitioner companies do not appear to have been conducted in a manner prejudicial to the interest of the members, creditors, or public and in accordance with the provisions of Section 394(1) of the Companies Act, 1956.

13A. The report has also been filed by Shri Dhan Raj, Regional Director(R.D) (Northern Region) by an affidavit, dated 12.02.2008. The R.D. has stated that he has no objection to the scheme of amalgamation.

14. There is no other legal impediment to sanction of the Scheme of Amalgamation which is annexed to the petition. Consequently, sanction is hereby granted to the Scheme of Amalgamation under Sections 391 and 394 of the Companies Act, 1956. The petitioner companies will comply with the statutory requirements in accordance with law. Certified copies of this order be filed with the Registrar of Companies within five weeks. It is also clarified that this order will not be construed as an order granting exemption from payment of stamp duty that is payable in accordance to law. Upon sanction becoming effective from the appointed date of amalgamation, that is 1.01.2007, the Transferor company stands dissolved without being wound up. The O.L. shall be paid one set of expenses amounting to Rs.10,000/- within two weeks, to be deposited

in the Common Pool Fund.

15. The petitions are disposed of in terms of the above order.

March 28, 2008
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VIPIN SANGHI
JUDGE