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IN THE HIGH COURT OF DELHI AT NEW DELHI

COMPANY JURISDICTION

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CP Nos.274, 275 & 276 of 2007

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DATED 19.03.2008

In the matter of :

The Companies Act, 1956

Scheme of Amalgamation of:

Hilton International Ltd.

...Applicant/Transferor
Company no.1

Optibelt Pvt. Ltd.

...Applicant/ Transferor
Company No.2

with

Forech India Ltd.

....Applicant/Transferee
Company

Advocate for

Through : Mr. Amit Dayal,

the petitioner
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 three petitions under Sections 391-394 of the Companies Act, 1956 seeking sanction of the Scheme of Amalgamation of Hilton International Ltd. (Applicant/ transferor company no.1),

Optibelt Pvt. Ltd. (Applicant/transferor company no.2) with Forech India Ltd. (Applicant/transferee company).

2. The Applicant/Transferor company No.1 was incorporated on 17.06.1994. The applicant/ Transferor Company No.2 was incorporated on 7.11.1997 and the applicant/transferee company was incorporated on 21.01.1983.

3. The registered office of the Applicant/transferor company no.1 is at B-I/40, Safdarjung Enclave, New Delhi-110029, and of applicant transferor company no.2 and applicant/transferee company are at S-23, Green Park Extension, New Delhi-110016, thus, within the jurisdiction of this Court.

4. The authorized share capital of the Applicant/Transferor company No.1 is Rs.5 crores divided into 50 lacs equity shares of Rs.10/- each, while the issued, subscribed and paid up equity share capital of the Applicant/Transferor company no.1 is Rs.1,76,40,890/- divided into 17,64,089 equity shares of Rs. 10/- each.

5. The authorized share capital of the Applicant/Transferor company no.2 is Rs.20 lac divided into 2 lacs equity shares of Rs. 10/- each, while the issued, subscribed and paid up equity share capital of the Applicant/Transferor company no.2 is Rs.11,00,020/- divided into 1,10,002 equity shares of Rs. 10/- each.

6. The authorized share capital of the Applicant/Transferee company is Rs.5 crore divided into 40 lacs equity shares of Rs.10/- each and 1 lac Redeemable Non Cumulative Preference Shares of Rs.100/- each. The issued, subscribed and paid up Share Capital of Applicant/Transferee company is Rs.2,08,58,700/- divided into 20,85,870 equity Shares of Rs.10/- each.

7. The petitioner companies had filed Company Application (M) Nos.133-135/2007 which was allowed by order dated 21.08.2007. By the aforesaid order, the requirement of conducting the statutory meetings of the equity shareholders and Secured creditors of both the transferor companies and the transferee company, and the meeting of the un-secured creditors of the transferor company no.2, for the purpose of considering and, if thought fit, approving the said Scheme of Amalgamation was dispensed with.

8. The Court directed the meeting of the unsecured creditors of the Transferor company no.1 to be convened at S-23, Green Park Extension, New Delhi-110016, on 20.10.2007 at 10.30 a.m., for the purpose of considering and, if thought fit, approving the said Scheme of Amalgamation.

9. Mr. Atul Kumar, Advocate and Mr. Gaurav Barathi, Advocate were appointed as the Chairperson and the Alternate Chairperson respectively of the meeting of unsecured creditors of the Transferor

company no.1. The required quorum was fixed as 20 unsecured creditors in number and 15% in value of the total unsecured debt. The Chairperson of the said meeting, in his report dated 02.11.2007, has reported that 33 unsecured creditors, entitled together to 49.52% in value of the total unsecured debt, attended the meeting, either in person or through their representatives, thus satisfying the required quorum. In the said meeting the said Scheme was approved unanimously. The copy of the Chairperson's report has been filed on record.

10. The Court directed the meeting of the unsecured creditors of the Transferee company to be convened at S-23, Green Park Extension, New Delhi-110016, on 20.10.2007 at 11.30 am , for the purpose of considering and, if thought fit, approving the said Scheme of Amalgamation.

11. Ms. Avnish Ahlawat, Advocate and Ms. Ananya Verma, Advocate were appointed as the Chairperson and the Alternate Chairperson respectively of the meeting of unsecured creditors of the Transferee company. The required quorum was fixed as 20 unsecured creditors in number and 15% in value of the total unsecured debt. The Chairperson of the said meeting, in her report dated 2.11.2007, has reported that 32 unsecured creditors, entitled together to 21.45% in value of the total unsecured debt, attended the meeting, either in person or through their representatives, thus satisfying the required

quorum. In the said meeting the said Scheme was approved unanimously. The copy of the Chairperson's report has been filed on record.

12. Vide order dated 05.12.2007, citations were directed to be published in "The Statesman" (English edition) and "Jansatta" (Hindi edition), in terms of Companies (Court) Rules, 1959. An affidavit dated March 15, 2008 has been filed by one Mr. Sandeep Gupta, the authorized representative of the petitioner companies about the publication of the citations in "The Statesman" (English edition) and "Jansatta" (Hindi edition), on 07.02.2008. The said publication containing the said citations were also produced along with the affidavit.

13. Notices were issued to the OL and the Regional Director (Northern Region) vide order dated 05.12.2007. Pursuant to the notice issued to the OL, a report dated 15.03.2008 has been filed by the Official Liquidator. The Official Liquidator states that he had sought information from the petitioner company vide its letter No.OL/TECH/AMAL/114/440 dated 13.02.2008, upon which the requisite information was furnished by the Petitioner Companies.

14. The OL states 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.

15. The report has also been filed by Shri Dhan Raj, Regional Director (R.D.) (Northern Region) by an affidavit, dated 13.03.2008. The only objection raised by the R.D is with regard to the compliance of the accounting standard-14. The petitioner has filed an affidavit of one Mr. Sandeep Gupta dated 17.03.2008, stating that the petitioner companies will comply with accounting standard-14 as approved by the Government. In view of the aforesaid the objection of the R.D does not stand.

16. 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 1st April 2007, the Transferor companies stand dissolved without being wound up. The O.L. shall be paid expenses amounting to Rs.10,000/- within two weeks, to be deposited in the Common Pool Fund.

17. The petition is disposed of in terms of the above order.

March 19, 2008
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VIPIN SANGHI,
JUDGE