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***IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ COMPANY APPLICATION (M) NO. 205/2010

Date of decision: 19th November, 2010

HCL CORPORATION LIMITED Transferor Company.

AND

SLOCUM INVESTMENTS (DELHI) PRIVATE LIMITED
Transferee Company.

AND

GUDDU INVESTMENTS (PONDI) PRIVATE LIMITED.....
Resultant Company.

Through Mr. Mahesh Aggarwal, Mr. Bhagvan
Swarup Shukla & Mr. Rajeev Kumar,
Advocates.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

ORDER (ORAL)

1. This first motion under Sections 391 and 394 of the Companies Act, 1956 (Act, for short) has been filed by HCL Corporation Limited (hereinafter referred to as the transferor company), Slocum Investments (Delhi) Private Limited (hereinafter referred to as the transferee company) and Guddu Investments (Pondi) Private Limited (hereinafter referred to as the resultant company) in respect of the scheme of amalgamation and arrangement, which has been enclosed as Annexure C to this application.

2. It is stated in the application that the transferor company is the holding company of the transferee company and the scheme envisages merger of the transferor company into the transferee company but a part of the transferee company is proposed to be merged with the resultant company. In the application, details of authorized, subscribed and paid up share capital of the three applicant companies has been stated. Copy of the latest audited balance sheets of the three applicant companies have

also been filed.

3. Along with the application, the three applicant companies have enclosed copy of the Resolutions passed by the Board of Directors of the three applicant companies approving the proposed scheme of amalgamation. It is stated in the application that no proceedings under Sections 235 and 251 of the Act are pending against the three applicant companies.

4. The transferor company has ten shareholders and no secured creditor as per the averments made in the application. The transferor company has filed certificate issued by a Chartered Accountant in which it is stated that the transferor company does not have any secured creditor. The transferor company has two unsecured creditors to whom Rs.43,27,065/- is payable. The transferor company has obtained consent of the said two unsecured creditors, which have been enclosed at pages 320 to 322. In view of the consent given by the shareholders and the unsecured creditors of the transferor company, the need and requirement to call for meeting of the shareholders and unsecured creditors of the transferor company is dispensed with. As the transferor company does not have any secured creditor, meeting of the secured creditors is not required to be held.

5. The transferee company has four shareholders as per the list enclosed and the said shareholders have given their consents/no objection certificates. The transferee company has no secured creditor and has one secured creditor. Certificate of a Chartered Accountant has been filed in support of the aforesaid statement that the transferee company does not have any secured creditor and has only one unsecured creditor. The unsecured creditor has given his consent, which has been enclosed with the application. In these circumstances, the need and requirement to convene and hold meeting of the shareholders and unsecured creditor of the transferee company is dispensed with. Meeting of the secured creditor of the transferee company is not required as the transferee company does not have any secured creditor.

6. The resultant company has four shareholders and the said

shareholders have given their consents/no objection certificates to the proposed scheme of amalgamation, which have been enclosed at pages 310 to 315. The resultant company does not have any secured creditor as per the certificate of a Chartered Accountant and as per the averments made in the application and has one unsecured creditor, who has given his no objection certificate/consent to the proposed scheme. In these circumstances, need and requirement to call for meetings of the shareholders and unsecured creditors of the resultant company is dispensed with. Meeting of secured creditors of the resultant company is not required as the resultant company does not have any secured creditor.

7. The question of share exchange ratio and swap ratio has not been examined at this stage and will be examined at the time of second motion.

The application is disposed of.

DASTI.

SANJIV KHANNA, J.

NOVEMBER 19, 2010
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