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

+ **COMPANY APPLICATION (M) NO. 213/2010**

**Date of decision: 7<sup>th</sup> December, 2010**

AQUARIUS SECURITIES PRIVATE LIMITED .. ...

Demerged Company.

AND

COMBITIC GLOBAL CAPLET PRIVATE LIMITED....

Resultant Company.

Through Mr. P. Nagesh and Mr. Rishi Sood,  
Advocates.

**CORAM:**

**HON'BLE MR. JUSTICE SANJIV KHANNA**

**ORDER (ORAL)**

1. This joint application under Sections 391, 392 and 394 of the Companies Act, 1956 (Act, for short) has been filed by Aquarius Securities Private Limited (hereinafter referred to as the Demerged Company, for short) and Combitic Global Caplet Private Limited (hereinafter referred to as the Resultant Company, for short) in respect of scheme of arrangement enclosed as Annexure-E to this application.

2. Along with the application, copy of the Memorandum and Articles of Association of the Demerged Company and the Resultant Company and their last audited balance sheets for the year ending 31<sup>st</sup> March, 2010 have been enclosed. Board of Directors of the Demerged Company and the Resultant Company have passed Resolutions approving the proposed scheme of arrangement.

3. The Demerged Company has two shareholders as per Annexure-C and the said shareholders have given their consent/no objection certificates to the proposed scheme of arrangement enclosed at pages 101 and 102. It is stated that the Demerged Company does not have any secured and unsecured creditor and certificates to the said effect have been enclosed at pages 92 and 93 of the application. In these circumstances, need to convene and hold meeting of the shareholders of the Demerged Company is

dispensed with. Meeting of the secured and unsecured creditors of the Demerged Company is not required to be held as the said company does not have any secured or unsecured creditor.

4. The Resultant Company has three shareholders as per list enclosed at page 15. The said shareholders have given their consent/no objection to the proposed scheme as per documents placed on record at pages 103 to 106. The Resultant Company does not have any secured or unsecured creditor as per certificates placed on record at pages 94 and 95. In view of the above, the need and requirement to call for and hold meeting of the shareholders of the Resultant Company is dispensed with. Meeting of the secured and unsecured creditors of the Resultant Company is not required as the said company does not have any secured or unsecured creditor.

5. I have examined the valuation report placed on record as Annexure-G. The valuer in the valuation has stated as under:-

“We have not made an appraisal or independent valuation of any of the assets or liabilities of the Companies and have not conducted an audit or due diligence or reviewed/validated the financial data provided by the management.

The assumptions contained herein, which are expressly adopted for the purpose of this Report, are based on the information made available to us at the time of making this Report. All data in this report is as provided to us and updated till the date of preparation of this report.”

6. The valuation report submitted is not acceptable as the said report is hedged with disclaimers and does not show due diligence and verification by the valuer. At the same time, the applicants want to rely upon the said report and want that the Court should accept the report. At the time of second motion, the applicants will file a fresh valuation report without any such disclaimers and the valuation report should be clear and specifically state that the due diligence was undertaken by the Chartered Accountant/valuer. Verification made and documents examined should be

stated. Share exchange ratio/swap ratio will be examined at the time of second motion.

The application is disposed of.

DASTI.

**SANJIV KHANNA, J.**

**DECEMBER 7, 2010**  
**VKR**