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

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CO.PET. 218/2011

In the matter of

ABHINAND AGRO PVT. LTD.

..... Petitioner

Through: Mr. Rajeev Goel, Adv. for petitioner  
companies

Mr. Rajiv Bahl, Adv. for Official Liquidator

Mr. K.S. Pradhan, DY.ROC for RD (NR)

**CORAM:**

**HON'BLE MR. JUSTICE MANMOHAN**

**ORDER**

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**11.11.2011**

1. This second motion joint petition has been filed under Sections 391 & 394; 100 to 104 of the Companies Act, 1956 (for short 'Act') seeking sanction to the Scheme of Arrangement (for short 'Scheme') for (a) Amalgamation of Abhinand Agro Pvt Ltd. ('Transferor Company') with TPS Infrastructure Ltd. ('Transferee Company'); and (b) Re-arrangement/Reduction of post merger share capital of the Transferee Company.

Signature Not Verified

Digitally Signed By: AMULYA  
Certify that the digital file and  
physical file have been compared and  
the digital data is as per the physical  
file and no page is missing.

2. The registered offices of the Petitioner Companies are situated at New Delhi, within the jurisdiction of this Court.

3. Details with regard to the date of incorporation of Petitioner Companies, their authorized, issued, subscribed and paid up capital have been given in the Petition.

4. Copies of the Memorandum and Articles of Association as well as the latest audited Annual Accounts for the year ended 31<sup>st</sup> March, 2010 and Provisional Accounts for the period ended 15<sup>th</sup> December, 2010 of the Petitioner Companies have also been enclosed with the Petition.

5. Copies of the Resolutions passed by the Board of Directors of the Petitioner Companies approving the Scheme have also been placed on record.

6. It has been submitted that no proceeding under sections 235 to 251 of the Act is pending against the Petitioner Companies.

7. The Petitioner Companies had earlier filed CA (M) 47 of 2011 seeking directions of this Court for dispensation/convening of meetings. Vide order dated 7<sup>th</sup> March, 2011, this Court allowed the Application and requirements of convening meetings of the Equity Shareholders and Unsecured Creditors of the Transferor Company and the Equity Shareholders and Preference Shareholders of the Transferee Company were dispensed

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with. The Transferor Company did not have any Secured Creditors. This Court further directed convening of separate meetings of Secured and Un-secured Creditors of the Transferee Company under its supervision for the purpose of considering and approving the proposed Scheme.

8. It is stated that separate meetings of Secured and Un-secured Creditors of the Transferee Company were duly convened and held on Saturday, 23<sup>rd</sup> April, 2011 at 3.00 P.M. and 4.00 P.M. respectively at Conference Hall, Rajendra Bhawan, 210, Deen Dayal Upadhyay Marg, New Delhi-110 002 and the Scheme was approved unanimously, in the said meetings held under the supervision of this Court without any modification. The respective Chairpersons have already reported the result of the aforesaid meetings to the Court by way of their Reports.

9. The Petitioner Companies had thereafter filed the present Petition seeking sanction to the Scheme. Vide order dated 6<sup>th</sup> May, 2011, notice of the Petition was directed to be issued to the Regional Director, Northern Region and the Official Liquidator attached with this Court. Citations were also directed to be published in 'Business Standard' (English Edition) and 'Jansatta (Hindi Edition). Affidavit of Service and Publication has been filed by the Petitioners showing compliance regarding service of the Petition on the Regional Director, Northern Region and the Official Liquidator, and also

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regarding publication of citations in the aforesaid newspapers on 18<sup>th</sup> October, 2011. Copies of the newspapers' cuttings, in original, containing the publications have also been filed along with the Affidavit of Service.

10. Pursuant to the notice issued, the Official Liquidator sought information from the Petitioner Companies. Based on the information received, the Official Liquidator has filed his report on 11<sup>th</sup> October, 2011, wherein he has stated that he has not received any complaint against the proposed Scheme from any person/party interested in the Scheme in any manner and that the affairs of the Transferor Company, which is a subject matter of dissolution, do not appear to have been conducted in a manner prejudicial to the interest of its members, creditors or to public interest.

11. In response to the notice issued in the Petition, Mr. B K Bansal, Regional Director, Northern Region, Ministry of Corporate Affairs has filed his Affidavit dated 13<sup>th</sup> October, 2011. Relying on the Scheme, he has stated that all the employees of the Transferor Company shall become the employees of the Transferee Company without any break or interruption in their services upon sanctioning of the Scheme by the Court.

12. No objection has been received to the Scheme from any other party; Mr Virendra Oberoi, Managing Director of the Transferee Company has filed an affidavit confirming that neither the Petitioner Companies nor their

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Counsel has received any objection pursuant to citations published in the newspapers.

13. Even today, during the course of hearing, neither Mr. Rajiv Bahl, learned counsel for the Official Liquidator nor Mr. K.S. Pradhan, Deputy Registrar of Companies appearing for Regional Director (NR) have raised any objection to the present Scheme being sanctioned by the Court.

14. In view of the approval accorded by the Shareholders and Creditors of the Petitioner Companies; affidavit/report filed by the Regional Director, Northern Region and the Official Liquidator, attached with this Court to the proposed Scheme, there appears to be no impediment to the grant of sanction to the Scheme. Consequently, sanction is hereby granted to the Scheme under Sections 391 and 394; 100 to 104 of the Act. The Petitioner Companies will comply with the statutory requirements in accordance with law. Certified copy of the formal order be filed with the Registrar of Companies within thirty days from the date of receipt of the same. In terms of the provisions of Sections 391 and 394; 100 to 104 of the Act, all the properties, rights and powers of the Transferor Company be transferred to and vest in the Transferee Company without any further act or deed. Similarly, all the liabilities and duties of the Transferor Company be transferred to the Transferee Company without any further act or deed. Upon

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the Scheme coming into effect, the Transferor Company shall stand dissolved without winding up. It is, however, clarified that this order will not be construed as an order granting exemption from payment of stamp duty or any other charges, if payable, in accordance with any law; or permission/compliance with any other requirement which may be specifically required under any law.

15. The Petitioner Companies would voluntarily deposit a sum of Rs. 1,00,000/- with the Common Pool fund of the Official Liquidator within three weeks from today. The said statement is accepted.

16. The Petition is allowed in the above terms.

Order Dasti.

  
MANMOHAN, J

NOVEMBER 11, 2011  
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