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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CO.PET. 263/2011

IN THE MATTER OF

M/S. FPO BUSINESS SOLUTIONS

(I) PRIVATE LTD. & ANR. Petitioners

Through Mr. N.P.S. Chawla, Advocate for
petitioner-companies.Mr. K.S. Pradhan, Dy. ROC for RD
(NR).Mr. Rajiv Bahl, Advocate for Official
Liquidator.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

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21.10.2011

1. This second motion joint Petition has been filed under Sections 391 & 394 of the Companies Act, 1956 (for short 'Act') seeking sanction of the Scheme of Amalgamation (for short 'Scheme') of M/s. FPO Business Solutions India Private Limited (hereinafter referred to as 'Transferor Company') with M/s. Quattro FPO Solutions Private Limited (hereinafter referred to as '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.

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

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

Q 4. Copies of the Memorandum and Articles of Association as well as the latest audited Annual Accounts for the year ended 31st March, 2010 of both 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.

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

7. So far as the share exchange ratio is concerned, the Scheme provides that as the entire issued, subscribed and paid up share capital of the Transferor Company is held by the Transferee Company either directly or through its subsidiary, therefore, upon sanction of the Scheme, the said share capital of the Transferor Company will stand cancelled and there will be no issue and allotment of shares by the

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Transferee Company in consideration of the amalgamation of the Transferor Company with the Transferee Company.

8. The Petitioner Companies had earlier filed CA (M) No. 101 of 2011 seeking directions of this Court for dispensation of meetings. Vide order dated 30th May, 2011, this Court allowed the application and dispensed with the requirement to convene meetings of the Shareholders of the Transferor and Transferee Companies and Secured Creditor of the Transferee Company. Both the Transferor and Transferee Companies have no unsecured creditors.

9. The Petitioner Companies have thereafter filed the present petition seeking sanction of the Scheme. Vide order dated 3rd June, 2011, notice of the petition was directed to be issued to the Regional Director, Northern Region and the Official Liquidator. Citations were also directed to be published in 'Financial Express' (English, Delhi Edition) and 'Jansatta' (Hindi, Delhi 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 on 30th June, 2011 and on the Official Liquidator on 29th June, 2011, and also regarding publication of citations in the aforesaid newspapers on 30th September, 2011. Copies of the newspapers'

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cuttings, in original, containing the publications have been filed along with the Affidavit of Service.

10. Pursuant to the notices issued, the Official Liquidator sought information from the Petitioner Companies. Based on the information received, the Official Liquidator has filed his report on 18th 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 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 notices issued in the petition, the Regional Director, Northern Region, Ministry of Corporate Affairs has filed his affidavit on 3rd October, 2011. The Regional Director in his affidavit has submitted that as per Clause 10.1 of Section C of the Scheme all the permanent 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. In response to the said observation of the Regional Director, the Petitioner Companies have submitted that the same shall be duly ensured.

12. No objection has been received to the Scheme from any other party. Mr. N.P.S. Chawla, learned counsel for the Petitioner Companies, has filed an affidavit dated 18th October, 2011, confirming that neither the Petitioner Companies nor he has received any objection pursuant to citations published in the newspapers.

13. Even today, during the course of hearing, Mr. K.S. Pradhan, Deputy Registrar of Companies for Regional Director, Northern Region and Mr. Rajiv Bahl, learned counsel for Official Liquidator state that they have no objection to the present Scheme being sanctioned.

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 Official Liquidator respectively 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 of the Act. The Petitioner Companies will comply with the statutory requirements in accordance with law. Certified copy of the 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

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394 of the Act, and in terms of the Scheme, the whole or part of the undertakings, 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, in terms of the Scheme, all the liabilities and duties of the Transferor Company be transferred to the Transferee Company without any further act or deed. Upon 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 taxes 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. Learned Counsel for the Petitioners states that the Petitioner Companies would voluntarily deposit a sum of Rs. 75,000/- 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

OCTOBER 21, 2011

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