

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

% *Date of Judgment:20.07.2012*

+ COMPANY PETITION NO.118 OF 2012

Axis Convergence Private Limited ...Transferor Company-1/
Petitioner Company-1

AND

Visesh Infotecnics Limited ...Transferee Company-2/
Petitioner Company-2

Through :- Mr. P Nagesh with Mr. Rishi Sood Advocate for Petitioner Companies
Mr. K.S. Pradhan, Dy. Registrar of Companies for the Regional Director
Mr. Rajiv Bahl, Advocate for the official Liquidator

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

INDERMEET KAUR, J. (Oral)

1 This second motion joint petition has been filed under Sections
391 to 394 of the Companies Act, 1956 by the petitioner Companies

seeking sanction of the Scheme of Arrangement (For Short Scheme) of Axis Convergence Private limited (Transferor Company) with Visesh Infotecnics Limited (Transferee Company).

2 The registered office of the petitioner Transferor and Transferee Companies are situated at New Delhi, within the jurisdiction of this Hon'ble Court.

3 The petitioner companies had earlier filed C.A. (M) No. 169 of 2011 seeking directions of this Court for dispensation/ convening of meetings. Vide order dated 5th January 2012, this Court allowed the application and dispensed with the requirement of convening meetings of Equity Shareholders , Secured and Unsecured Creditors of Transferor Company and directed convening of meetings of Equity Shareholders and Secured Creditors of Transferee company under the Supervision of the Court.

4 The separate meetings of Equity Shareholders and Secured Creditors of the Transferee Company were duly convened on 18th February 2012 at Bipin Chandra Pal Memorial Trust, A-81, Chittranjan Park, New Delhi-110019 and the Chairpersons appointed by this court
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have filed their reports which are on record. As per the Chairpersons Report, the Scheme has been unanimously approved by the Equity Shareholders and Secured Creditors of the Transferee Company.

5 The petitioner Transferor companies have thereafter filed the present petition seeking sanction of the Scheme of Arrangement vide order dated 16.03.2012, notice in the Petition was directed to be issued to the Regional Director, Northern Region, the Official Liquidator and to the Unsecured Creditor 'M/s. Global Absolute Research Private Limited'. Citations were also directed to be published in "Business Standard" (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, the Official Liquidator and to the Unsecured creditor 'M/s. Global Absolute Research Private Limited' and also regarding Publication of Citations in the aforesaid News papers on 5th July 2012, copies of the news papers cuttings, in original, containing the publications have been filed with the affidavit of service.

6 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 dated 17.07.2012 stating 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.

7 In response to the notices issued in the Petition, learned Regional Director, Northern Region, Ministry of Corporate Affairs has filed his affidavit / report dated 16th July 2012. Relying on clause 2.16 of Part-II of the Scheme of Arrangement, he has stated that , upon sanction of the Scheme of Arrangement all the employees of the Transferor company shall become the employees of Transferee Company without any break or interruption in their services upon sanctioning of the Scheme of arrangement by the Hon'ble Court.

8 Further, the Regional Director in Para 5 of the affidavit Mr. B.K. Bansal, Regional director have observed that the Bombay Stock

Exchange vide letter dated 28th November, 2011 has given 'No Objection' to the proposed scheme of Arrangement wherein the Petitioner Company has undertaken to lock in 25% of the new equity Shares i.e. 1,48,47,379 Equity Shares For a period of three Years from the date of listing of new shares at BSE.

9 In pursuance to the aforesaid observation the Counsel for the Petitioner Companies undertakes to lock in 25% of new Equity shares for a period of three years from the date of listing of new shares at BSE and the said undertaking shall be furnished before the Bombay Stock Exchange within three weeks from today. In pursuance to the undertaking given by the Counsel for the petitioner Company the objections raised by Regional Director no longer survive.

10 Further, the Petitioner Companies in pursuance to the order dated 16th March 2012 have served a Copy of the Notice along with the Copy of the Company Petition to the unsecured Creditor namely 'M/s. Global Absolute Research Private Limited' through Speed Post and Courier Receipt dated 10th July 2012. However, No objection has been received from the said Creditor till date.

11 No objection has been received to the Scheme of Arrangement from any other party, Mr. Peeyush Aggarwal, Director of Transferor and Transferee Companies has filed an affidavit dated 16th July 2012 confirming that neither the petitioner companies nor their Legal Counsel has received any objection pursuant to the citations published in the Newspapers.

12 Even today, during the course of hearing, Mr K.S. Pradhan Deputy Registrar of Companies for Regional Director (Northern Region), Mr. Rajiv Bahl appearing for the Official Liquidator state that they have no objection to the present scheme being sanctioned.

13 In view of the approval accorded by the Shareholders and Creditors of the petitioner Companies, representations/ reports filed by the Regional Director, Northern Region and the official liquidator , attached with this court to the proposed scheme of Arrangement, there appears to be no impediment to the grant of sanction to the Scheme of Arrangement. Consequently sanction is hereby granted to the Scheme of Arrangement under Section 391 and 394 of the Companies Act, 1956. 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 30 days from receipt of the same. In terms of the provisions of Section 391 and 394 of the Companies Act, 1956 and in terms of the Scheme, the whole or part of the undertaking, the property, 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.

14 Learned counsel for the petitioners states that the petitioner Companies would voluntarily deposit a sum of Rs.1,00,000/- in the

Common Pool Fund of the Official Liquidator within three weeks from today. The statement is accepted.

15 The petition is allowed in the above terms.

16 Order Dasti

INDERMEET KAUR, J

JULY 20, 2012

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