

IN THE HIGH COURT OF DELHI
COMPANY PETITION NO. 754/2014

Reserved on 17th March, 2015
Date of pronouncement: 14th May, 2015

In the matter of

The Companies Act, 1956 & the Companies Act, 2013 (to the extent applicable):

And

**Petition under Sections 391 to 394 of the
Companies Act, 1956**

Scheme of Arrangement between:

DLK Designs Private Limited

Petitioner/Demerged Company

AND

Kanodia Technoplast Limited

Non-Petitioner/Resulting Company

**Through Mr. P. Nagesh and Mr. Anand
M. Mishra, Advocates for the
petitioners
Mr. Atma Sah, Assistant Registrar of
Companies for the Regional Director**

SUDERSHAN KUMAR MISRA, J.

1. This petition has been filed under Sections 391 to 394 of the Companies Act, 1956 by the petitioner/demerged company seeking sanction of the Scheme of Arrangement between DLK Designs Private Limited (hereinafter referred to as the petitioner/demerged company) and Kanodia Technoplast Limited (hereinafter referred to as the resulting company).

2. The registered offices of the petitioner/demerged company and resulting company are situated at New Delhi, within the jurisdiction of this court.

3. The petitioner/demerged company was incorporated under the Companies Act, 1956 on 17th September, 2007 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

4. The present authorized share capital of the petitioner/demerged company is Rs.5,00,000/- divided into 50,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.1,98,000/- divided into 19,800 equity shares of Rs.10/- each.

5. Copies of the Memorandum and Articles of Association of the petitioner/demerged company and the resulting company have been filed on record. The audited balance sheets, as on 31st March, 2013, of the petitioner/demerged company and the resulting company, along with the report of the auditors, and the unaudited provisional accounts, as on 31st March, 2014, of the petitioner/demerged company and the resulting company have also been filed.

6. A copy of the Scheme of Arrangement has been placed on record and the salient features of the Scheme have been incorporated and detailed in the petition and the accompanying affidavit. It is submitted by the petitioner that the petitioner/demerged company is a wholly owned subsidiary of the resulting company and that the Packaging Business Undertaking of the petitioner/demerged company is proposed to be

transferred to the resulting company. It is claimed that the proposed demerger will synergize operational advantages and achieve economies of scale of operations and elimination of overheads. It is further claimed that the proposed demerger will provide optimum and efficient utilization of capital, resources, assets and facilities and also enhance the competitive strengths including financial resources.

7. So far as the share exchange ratio is concerned, the Scheme provides that since the entire equity share capital of the petitioner/demerged company is held by the resulting company itself, no new equity or preference shares would be issued by the resulting company in consideration of transfer and vesting of the Packaging Business Undertaking of the petitioner/demerged company in the resulting company.

8. It has been submitted by the petitioner that no proceedings under Sections 235 to 251 of the Companies Act, 1956 are pending against the petitioner/demerged company.

9. The Board of Directors of the petitioner/demerged company and the resulting company in their separate meetings held on 10th June, 2014 and 9th June, 2014 respectively have unanimously approved the proposed Scheme of Arrangement. Copies of the Resolutions passed at

the meetings of the Board of Directors of the petitioner/demerged company and the resulting company have been placed on record.

10. The petitioner/demerged company had earlier filed CA (M) No. 153/2014 seeking directions of this court to dispense with the requirement of convening the meetings of its shareholders, secured and unsecured creditors, which are statutorily required for sanction of the Scheme of Arrangement. Vide order dated 18th November, 2014, this court allowed the application and dispensed with the requirement of convening and holding the meetings of the equity shareholders, secured and unsecured creditors of the demerged company to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Arrangement.

11. The petitioner companies have thereafter filed the present petition seeking sanction of the Scheme of Arrangement. Vide order dated 9th December, 2014, notice in the petition was directed to be issued to the Regional Director, Northern Region. Citations were also directed to be published in 'Business Standard' (English) and 'Jansatta' (Hindi) editions. Affidavit of service has been filed by the petitioners showing compliance regarding service on the Regional Director, Northern Region, and also regarding publication of citations in the aforesaid newspapers on 29th December, 2014. Copies of the newspaper clippings containing the publications have been filed along with the affidavit of service.

12. In response to the notices issued in the petition, Mr. A.K. Chaturvedi, Regional Director, Northern Region, Ministry of Corporate Affairs has filed his report dated 24th February, 2015, which was taken on record vide order dated 29th April, 2015 passed in CA 1057/2015. Relying on Clause 8.1 of Part-B of the Scheme, he has stated that, upon sanction of the Scheme of Arrangement, all the employees of the demerged company, in relation to the Packaging Business Undertaking, shall become the employees of the resulting company without any break or interruption in their services. He has further submitted that in Clause 6.2.1 of Part-B of the Scheme, it has been stated that the demerger will be accounted for in the books of the resulting company by adoption of Purchase Method of accounting in accordance with the Accounting Standard-14 issued by the Institute of Chartered Accountants of India.

13. No objection has been received to the Scheme of Arrangement from any other party. The petitioner companies, in the affidavit dated 10th February, 2015 of Sh. Chetan Kanodia, Director of the demerged company have submitted that neither the petitioner companies nor their counsel have received any objection pursuant to the citations published in the newspapers on 29th December, 2014.

14. Considering the approval accorded by the shareholders and creditors of the petitioner company to the proposed Scheme of

Arrangement and the affidavit filed by the Regional Director, Northern Region, not raising any objection 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 Sections 391 and 394 of the Companies Act, 1956. The petitioner company will comply with the statutory requirements in accordance with law. Certified copy of this order be filed with the Registrar of Companies within 30 days. It is also clarified that this order will not be construed as an order granting exemption from payment of stamp duty as payable in accordance with law. Upon the sanction becoming effective from the appointed date of Arrangement, i.e. 1st April, 2013, the 'Packaging Business Undertaking' of the demerged company shall stand merged in the resulting company.

15. Learned counsel for the petitioner/demerged company submits that the petitioner would voluntarily deposit a sum of Rs.50,000/- in the Common Pool Fund of the Official Liquidator within two weeks from today. The statement is accepted.

16. The petition is allowed in the above terms.

Dasti.

SUDERSHAN KUMAR MISRA, J.

May 14, 2015