IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SUMMONS FOR DIRECTION NO. 84 OF 2015

In the matter of Companies Act, 1956, (1 of 1956);

AND

In the matter of Sections 391 to 394 of the Companies Act, 1956 read with Section 100 to 102 and other applicable provisions of the Companies Act, 1956 (to the extent applicable provisions of the Companies Act, 2013);

AND

In the matter of Scheme of Amalgamation of Berkshire Advisors Private Limited with Inga Management and Investment Private Limited and their respective shareholders

Inga Management And Investment Private Limited is a private company incorporated under the Company Act, 1956 having its registered office at 3/3, Seema Society, N Dutta Marg, Andheri (West), Mumbai – 400 053, in the State of Maharashtra.)))))))) ……Applicant Company

<u>Called Summons for Directions for Hearing</u>

Mr. Hemant Sethi with Mr. Ajit Singh Tawar i/b. Hemant Sethi & Co., for Applicant

Coram: S. J. Kathawalla, J.

Date: 6th February, 2015

MINUTES OF THE ORDER

UPON the application of the Applicant Company above named by a Company Summons for Directions AND UPON HEARING Mr. Hemant Sethi instructed by M/S Hemant Sethi & Co., Advocates for the Applicant Company, AND UPON READING the Affidavit dated 11th day of December, 2014 of Mr. Virendra Chaurasia, Authorised Signatory of the Applicant Company, in support of Summons for Directions and the Exhibits therein referred to, IT IS ORDERED THAT:

1. That convening and holding the meeting of the Equity Shareholders of the Applicant Company for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of Amalgamation of Berkshire Advisors Private Limited with Inga Management and Investment Private Limited and their respective shareholders, is dispensed with in view of the consent given by all the three Equity Shareholders of the Applicant Company, which are annexed as **Exhibit "I-1" to "I-3"** to the Affidavit in support of the Summons for Directions.

2. That convening and holding the meeting of the Preference Shareholders of the Applicant Company for the purpose of

considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of Amalgamation of Berkshire Advisors Private Limited with Inga Management and Investment Private Limited and their respective shareholders, is dispensed with in view of the consent given by all the three Preference Shareholders of the Applicant Company, which are annexed as **Exhibit “J-1” to “J-3”** to the Affidavit in support of the Summons for Directions.

3. That the question of convening and holding of the meeting of the Secured Creditors of the Applicant Company does not arise since, there are no Secured Creditors in the Applicant Company as stated in paragraph 14 of the Affidavit in support of the Company Summons for Direction.

4. That convening and holding the meeting of the Unsecured Creditors of the Applicant Company, for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed arrangement embodied in the Scheme of Amalgamation of Berkshire Advisors Private Limited with Inga Management and Investment Private Limited and their respective shareholders is dispensed with in view of the averments made in paragraph 15 of the Affidavit in support of the Summons for Direction inter-alia stating that the present Scheme is an Arrangement between the Applicant Company and its shareholders as contemplated under Section 391(1)(b) and

not in accordance with the provisions of Section 391(1)(a) of the Companies Act, 1956 and there is no Compromise and/or Arrangement with the Creditors as no sacrifice is called for. In terms of the proposed Scheme, the Transferee Company will take over all the assets and liabilities of the Transferor Company and the Unsecured Creditors will be paid off in the ordinary course of business and that the Applicant Company undertakes to issue individual notice of the hearing of the Petition by R.P.A.D. to all its Unsecured Creditors and also undertakes to publish the notice of hearing of the Petition in two local newspapers i.e. 'Free Press Journal', in English language and translation thereof in 'Navshakti', in Marathi language, both having circulation in Mumbai. The said undertaking is accepted.

5. Pursuant to Clause 2.1 to 2.3 of the Scheme of Amalgamation, the Preference shares of the Transferee Company on the Effective Date shall be reduced and the Preference share capital of the transferee shall stand cancelled without any payment. The proposed reduction shall be effected as an integral part of the Scheme and the said reduction does not involve either diminution of liability in respect of unpaid share capital or payment to any shareholder of any paid up share capital and the rights of the Creditors are not affected. The Applicant Company undertakes to pass Special Resolution as required under Petition 100 of the Companies Act, 1956 and annex copy thereof with the

Company Scheme Petition. In view of the above the procedure prescribed under section 101(2) of the Companies Act, 1956 is dispensed with.

(S. J. Kathawalla, J)