

IN THE HIGH COURT OF DELHI
COMPANY APPLICATION (MAIN) NO. 4/2015

Reserved on 12th January, 2015
Date of pronouncement: 20th January, 2015

In the matter of

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

And

Application under Sections 391(1) & 394 of the Companies Act, 1956

Scheme of Amalgamation of:

M/s. Spectrum Realty Private Limited

Applicant/Transferor Company No. 1

M/s. Jubliant Financial Consultants Private Limited

Applicant/Transferor Company No. 2

M/s. Avalon Financial Services Private Limited

Applicant/Transferor Company No. 3

WITH

M/s. Arvind Estates Private Limited

Applicant/Transferee Company

**Through Mr. Rajeev K. Goel, Advocate
for the applicants**

SUDERSHAN KUMAR MISRA, J.

1. This joint application has been filed under Sections 391(1) & 394 of the Companies Act, 1956 by the applicant companies seeking directions of this court to dispense with the requirement of convening the meetings of their equity shareholders, preference shareholders, secured and unsecured creditors to consider and approve, with or without modification, the proposed Scheme of Amalgamation of M/s. Spectrum

Realty Private Limited (hereinafter referred to as the transferor company no. 1); M/s. Jubliant Financial Consultants Private Limited (hereinafter referred to as the transferor company no. 2) and M/s. Avalon Financial Services Private Limited (hereinafter referred to as the transferor company no. 3) with M/s. Arvind Estates Private Limited (hereinafter referred to as the transferee company).

2. The registered offices of the transferor and transferee companies are situated at New Delhi, within the jurisdiction of this Court.

3. The transferor company no. 1 was incorporated under the Companies Act, 1956 on 1st February, 2006 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

4. The transferor company no. 2 was originally incorporated under the Companies Act, 1956 on 7th February, 2006 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi under the name and style of Jubliant Estates Private Limited. The company changed its name to Jubliant Financial Consultants Private Limited and obtained a fresh certificate of incorporation on 15th June, 2009.

5. The transferor company no. 3 was incorporated under the Companies Act, 1956 on 5th February, 2008 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

6. The transferee company was incorporated under the Companies Act, 1956 on 15th February, 1996 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

7. The present authorized share capital of the transferor company no.1 is Rs.51,00,000/- divided into 10,000 equity shares of Rs.10/- each aggregating to Rs.1,00,000/- and 5,00,000 preference shares of Rs.10/- each aggregating to Rs.50,00,000/-. The present issued, subscribed and paid-up share capital of the company is Rs.49,00,000/- divided into 10,000 equity shares of Rs.10/- each aggregating to Rs.1,00,000/- and 4,80,000 10% redeemable non-cumulative optionally convertible preference shares of Rs.10/- each aggregating to Rs.48,00,000/-.

8. The present authorized share capital of the transferor company no.2 is Rs.51,00,000/- divided into 10,000 equity shares of Rs.10/- each aggregating to Rs.1,00,000/- and 5,00,000 preference shares of Rs.10/- each aggregating to Rs.50,00,000/-. The present issued, subscribed and paid-up share capital of the company is Rs.49,00,000/- divided into 10,000 equity shares of Rs.10/- each aggregating to Rs.1,00,000/- and

4,80,000 10% redeemable non-cumulative optionally convertible preference shares of Rs.10/- each aggregating to Rs.48,00,000/-.

9. The present authorized share capital of the transferor company no.3 is Rs.2,00,00,000/- divided into 15,00,000 equity shares of Rs.10/- each aggregating to Rs.1,50,00,000/- and 5,00,000 preference shares of Rs.10/- each aggregating to Rs.50,00,000/-. The present issued, subscribed and paid-up share capital of the company is Rs.58,00,000/- divided into 1,00,000 equity shares of Rs.10/- each aggregating to Rs.10,00,000/- and 4,80,000 10% redeemable non-cumulative optionally convertible preference shares of Rs.10/- each aggregating to Rs.48,00,000/-.

10. The present authorized share capital of the transferee company is Rs.1,50,35,900/- divided into 5,000 equity shares of Rs.100/- each aggregating to Rs.5,00,000/- and 1,45,359 preference shares of Rs.100/- each aggregating to Rs.1,45,35,900/-. The present issued, subscribed and paid-up share capital of the company is Rs.1,48,93,800/- divided into 3,580 equity shares of Rs.100/- each aggregating to Rs.3,58,000/- and 1,45,358 10% redeemable non-cumulative optionally convertible preference shares of Rs.100/- each aggregating to Rs.1,45,35,800/-.

11. Copies of the Memorandum and Articles of Association of the transferor and transferee companies have been filed on record. The audited balance sheets, as on 31st March, 2014, of the transferor and transferee companies, along with the report of the auditors, have also been filed.

12. A copy of the Scheme of Amalgamation has been placed on record and the salient features of the Scheme have been incorporated and detailed in the application and the accompanying affidavits. It is submitted by the applicants that the transferor and transferee companies are closely held group companies and the proposed amalgamation would result in business synergy, consolidation and pooling of their resources for their most beneficial utilization in the combined entity. It is claimed that the proposed amalgamation will result in a usual economies of a centralized and a large company including elimination of duplicate work, reduction in overheads, better and more productive utilization of human and other resources and enhancement of overall business efficiency. It will enable these companies to combine their managerial and operating strength, to build a wider capital and financial base and to promote and secure overall growth of their business.

13. So far as the share exchange ratio is concerned, the Scheme provides that, upon coming into effect of this Scheme, the transferee

company shall issue and allot equity shares to the shareholders of the transferor companies in the following ratio:-

“1 (one) equity share of Rs.100/- each of the transferee company, credited as fully paid up, for every 961 equity shares of Rs.10/- each held in the transferor company no. 1.”

“1 (one) equity share of Rs.100/- each of the transferee company, credited as fully paid up, for every 34 equity shares of Rs.10/- each held in the transferor company no. 2.”

“1 (one) equity share of Rs.100/- each of the transferee company, credited as fully paid up, for every 284 equity shares of Rs.10/- each held in the transferor company no. 3.”

Further, the transferee company will also issue 1 (one) 10% non-cumulative optionally convertible preference share of Rs.100/- each, credited as fully paid-up, to the preference shareholders for every 10 (ten) preference shares of Rs.10/- each held in each of the transferor companies.

14. It has been submitted by the applicants that no proceedings under Sections 235 to 251 of the Companies Act, 1956 are pending against the applicant companies.

15. The Board of Directors of the transferor and transferee companies in their separate meetings held on 15th November, 2014 have unanimously approved the proposed Scheme of Amalgamation. Copies of the Resolutions passed at the meetings of the Board of Directors of the transferor and transferee companies have been placed on record.

16. The transferor company no. 1 has 03 equity shareholders and 01 preference shareholder. All the equity shareholders and the preference shareholder have given their consents/no objections in writing to the proposed Scheme of Amalgamation. Their consents/no objections have been placed on record. They have been examined and found in order. In view thereof, the requirement of convening the meetings of the equity shareholders and preference shareholder of the transferor company no.1 to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation is dispensed with. There is no secured or unsecured creditor of the transferor company no. 1, as on 30th November, 2014.

17. The transferor company no. 2 has 02 equity shareholders, 01 preference shareholder and 01 unsecured creditor. Both the equity shareholders, the preference shareholder and the unsecured creditor have given their consents/no objections in writing to the proposed Scheme of Amalgamation. Their consents/no objections have been placed on record. They have been examined and found in order. In view thereof, the requirement of convening the meetings of the equity shareholders, preference shareholder and unsecured creditor of the transferor company no. 2 to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation is

dispensed with. There is no secured creditor of the transferor company no.2, as on 30th November, 2014.

18. The transferor company no. 3 has 02 equity shareholders and 01 preference shareholder. Both the equity shareholders and the preference shareholder have given their consents/no objections in writing to the proposed Scheme of Amalgamation. Their consents/no objections have been placed on record. They have been examined and found in order. In view thereof, the requirement of convening the meetings of the equity shareholders and preference shareholder of the transferor company no.3 to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation is dispensed with. There is no secured or unsecured creditor of the transferor company no. 3, as on 30th November, 2014.

19. The transferee company has 08 equity shareholders, 03 preference shareholders, 01 secured creditor and 09 unsecured creditors. All the equity shareholders, preference shareholders, secured and unsecured creditors have given their consents/no objections in writing to the proposed Scheme of Amalgamation. Their consents/no objections have been placed on record. They have been examined and found in order. In view thereof, the requirement of convening the meetings of the equity shareholders, preference shareholders, secured

and unsecured creditors of the transferee company to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation is dispensed with.

20. The application stands allowed in the aforesaid terms.

Dasti

SUDERSHAN KUMAR MISRA, J.

January 20, 2015