

IN THE HIGH COURT OF DELHI
COMPANY APPLICATION (MAIN) NO. 8/2015

Reserved on 16th January, 2015
Date of pronouncement: 28th January, 2015

In the matter of

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

And

Application under Sections 391 to 394 & Sections 100 to 103 of the Companies Act, 1956

Scheme of Amalgamation of:

M/s. Bhartiya Finstock Private Limited

Applicant/Transferor Company No. 1

M/s. Bhartiya Global Holdings Private Limited

Applicant/Transferor Company No. 2

M/s. Bhartiya Infotech Private Limited

Applicant/Transferor Company No. 3

WITH

M/s. Springdale Trading Private Limited

Applicant/Transferee Company

**Through Mr. Kunal Tandon, Advocate
for the applicants**

SUDERSHAN KUMAR MISRA, J.

1. This joint application has been filed under Sections 391 to 394 and Sections 100 to 103 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, secured and unsecured creditors to consider and approve, with or without modification, the proposed Scheme of Amalgamation of

M/s.Bhartiya Finstock Private Limited (hereinafter referred to as the transferor company no. 1); M/s. Bhartiya Global Holdings Private Limited (hereinafter referred to as the transferor company no. 2) and M/s.Bhartiya Infotech Private Limited (hereinafter referred to as the transferor company no. 3) with M/s. Springdale Trading 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 26th August, 2005 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

4. The transferor company no. 2 was incorporated under the Companies Act, 1956 on 2nd September, 1999 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

5. The transferor company no. 3 was incorporated under the Companies Act, 1956 on 25th January, 2000 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

6. The transferee company was incorporated under the Companies Act, 2013 on 17th November, 2014 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.2,00,00,000/- divided into 20,00,000 equity shares of Rs.10/- each. The present issued, subscribed and paid-up share capital of the company is Rs.1,00,000/- divided into 10,000 equity shares of Rs.10/- each fully paid-up.

8. The present authorized share capital of the transferor company no.2 is Rs.50,00,000/- divided into 5,00,000 equity shares of Rs.10/- each. The present issued, subscribed and paid-up share capital of the company is Rs.1,00,200/- divided into 10,020 equity shares of Rs.10/- each fully paid-up.

9. The present authorized share capital of the transferor company no.3 is Rs.50,00,000/- divided into 5,00,000 equity shares of Rs.10/- each. The present issued, subscribed and paid-up share capital of the company is Rs.1,00,200/- divided into 10,020 equity shares of Rs.10/- each fully paid-up.

10. The present authorized share capital of the transferee company is Rs.2,00,000/- divided into 20,000 equity shares of Rs.10/- each. The present issued, subscribed and paid-up share capital of the company is Rs.1,00,000/- divided into 10,000 equity shares of Rs.10/- each fully paid-up.

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 affidavit. It is submitted by the applicants that the proposed amalgamation will lead to consolidation of the investments of Bhartiya Group in a single entity and creation of a linear and clean shareholding structure of the Bhartiya Group. It is claimed that the proposed amalgamation would lead to overall reduction in administrative, managerial and other expenditure and operational rationalization, organizational efficiency, optimal utilization of various resources, and pooling of resources.

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 redeemable non-cumulative preference shares to the shareholders of the transferor companies in the following ratio:-

“49 redeemable non-cumulative preference shares of the face value of Rs.10/- each credited as fully paid-up in the share capital of the transferee company for every 1 (one) fully paid-up equity share of the face value of Rs.10/- each held in the transferor company no. 1.”

“62 redeemable non-cumulative preference shares of the face value of Rs.10/- each credited as fully paid-up in the share capital of the transferee company for every 1 (one) fully paid-up equity share of the face value of Rs.10/- each held in the transferor company no. 2.”

“39 redeemable non-cumulative preference shares of the face value of Rs.10/- each credited as fully paid-up in the share capital of the transferee company for every 1 (one) fully paid-up equity share of the face value of Rs.10/- each held in the transferor company no. 3.”

14. It has been submitted by the applicants that no investigation proceedings under Sections 237, 243, 247(1A), 250A and 251 or any other applicable provisions of the Companies Act, 1956 or under Sections 210, 211, 212(1) to (7) & (11) to (17), 214, 215, 216(1) & (3), 217, 219, 220, 223, 224(1), (3) and (4) and 225 or any other applicable provisions of the Companies Act, 2013 are pending against the applicant companies.

15. The Board of Directors of the transferor and transferee companies in their separate meetings held on 5th December, 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 02 equity shareholders and 04 unsecured creditors. Both the equity shareholders and all the 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 and unsecured creditors 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 creditor of the transferor company no. 1, as on 30th November, 2014.

17. The transferor company no. 2 has 02 equity shareholders and 03 unsecured creditors. Both the equity shareholders and all the 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 and unsecured creditors 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 03 equity shareholders and 03 unsecured creditors. All the equity shareholders and all the 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 and unsecured creditors 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 creditor of the transferor company no. 3, as on 30th November, 2014.

19. The transferee company has 02 equity shareholders. Both the equity shareholders 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 meeting of the equity shareholders of the transferee company 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 transferee company, as on 12th December, 2014.

20. The application stands allowed in the aforesaid terms.

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SUDERSHAN KUMAR MISRA, J.

January 28, 2015