IN THE HIGH COURT OF DELHI
COMPANY APPLICATION (MAIN) NO. 34/2015

Reserved on 7th April, 2015
Date of pronouncement: 8th May, 2015

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

And

Application under Section 391 of the Companies Act, 1956

Scheme of Amalgamation of:

FKI Extrusions (India) Private Limited
Applicant/Transferor Company

WITH

B.D. Plasto Films Private Limited
Applicant/Transferee Company

Through Mr. G. K. Mishra, Advocate for the applicants

SUDERSHAN KUMAR MISRA, J.

1. This joint application has been filed under Section 391 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 FKI Extrusions (India) Private Limited (hereinafter referred to as the transferor company) with B.D. Plasto Films 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 was incorporated under the Companies Act, 1956 on 12th June, 1997 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

4. The transferee company was incorporated under the Companies Act, 1956 on 20th May, 1997 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

5. The present authorized share capital of the transferor company is Rs.5,00,000/- divided into 50,000 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.

6. The present authorized share capital of the transferee company is Rs.1,50,00,000/- divided into 15,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.1,00,00,000/- divided into 10,00,000 equity shares of Rs.10/- each.

7. 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 October, 2014, of the transferor and transferee companies have also been filed.

8. 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 claimed that the amalgamation will enable appropriate consolidation and integration of the operations and activities of the transferor and transferee companies and enable the merged entity to offer a comprehensive package of solutions from one entity as opposed to multiple entities. It is further claimed that the business of the amalgamated entity will be carried on more efficiently and economically as a result, inter alia, of pooling and more effective utilization of the combined resources of the said companies and substantial reduction in costs and expenses.

9. 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 company in the following ratio:

> "3.5 new equity shares of Rs.10/- each in the transferee company, credited as fully paid up, for every 01 equity share of Rs.10/- each fully paid-up held by them in the transferor company."

10. 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.

11. The Board of Directors of the transferor and transferee companies in their separate meetings held on 15th 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.

12. The transferor company has 02 equity shareholders and 02 unsecured creditors. Both the equity shareholders and both 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 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, as on 31st December, 2014.

13. The transferee company has 04 equity shareholders. All 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.

14. The transferee company has 31 unsecured creditors as on 31.12.2014. As per the certificate dated 25th February, 2015 of M/s.Arora Aggarwal & Associates, Chartered Accountants, 22 unsecured creditors have been paid in full as on 29.01.2015. Further, as per their certificate dated 20th April, 2015, one unsecured creditor, namely, 20 Microns Limited has also been paid in full. The remaining 08 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 meeting of the 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. There is no secured creditor of the transferee company, as on 31st December, 2014.

15. The application stands allowed in the aforesaid terms.

Dasti

SUDERSHAN KUMAR MISRA, J.

May 08, 2015