

**IN THE HIGH COURT OF DELHI**  
**COMPANY APPLICATION (MAIN) NO. 24/2015**

**Reserved on 10<sup>th</sup> July, 2015**  
**Date of pronouncement: 18<sup>th</sup> August, 2015**

**In the matter of**

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

And

**Application under Sections 391 to 394 of the  
Companies Act, 1956 read with Rules 6 & 9 of  
the Companies (Court) Rules, 1959**

Scheme of Amalgamation of:

Sunshine Global Agro Limited

Applicant/Transferor Company No. 1

Sunshine Global Education Limited

Applicant/Transferor Company No. 2

WITH

L M Technobuild Private Limited

Applicant/Transferee Company

**Through Mr. Saurabh Seth and  
Mr. Shubham Jaiswal, Advocates for  
the applicants**

**SUDERSHAN KUMAR MISRA, J.**

1. This joint application has been filed under Sections 391 to 394 of the Companies Act, 1956 read with Rules 6 & 9 of the Companies (Court) Rules, 1959 by the applicant companies seeking directions of this court to dispense with the requirement of convening the meetings of the equity shareholders of the transferor company no. 1; equity shareholders, secured and unsecured creditors of the transferor company no. 2 and equity shareholders and unsecured creditors of the transferee company, and for convening separate meetings of the secured and unsecured

creditors of the transferor company no. 1 and secured creditor of the transferee company, to consider and approve, with or without modification, the proposed Scheme of Amalgamation of Sunshine Global Agro Limited (hereinafter referred to as the transferor company no. 1) and Sunshine Global Education Limited (hereinafter referred to as the transferor company no.2) with L M Technobuild 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 originally incorporated under the Companies Act, 1956 on 1<sup>st</sup> June, 2004 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi under the name and style of Sunshine Forestry Private Limited. The company changed its name to Sunshine Global Agro Private Limited and obtained the fresh certificate of incorporation on 10<sup>th</sup> May, 2008. The company again changed its name to Sunshine Global Agro Limited and obtained the fresh certificate of incorporation on 28<sup>th</sup> May, 2008.

4. The transferor company no. 2 was incorporated under the Companies Act, 1956 on 9<sup>th</sup> March, 2010 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

5. The transferee company was incorporated under the Companies Act, 1956 on 2<sup>nd</sup> December, 2008 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi

6. The present authorized share capital of the transferor company no.1 is Rs.2,70,00,000/- divided into 27,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.2,39,25,000/- divided into 23,92,500 equity shares of Rs.10/- each.

7. 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 issued, subscribed and paid-up share capital of the company is Rs.5,00,000/- divided into 50,000 equity shares of Rs.10/- each.

8. The authorized share capital of the transferee company is Rs.50,00,000/- divided into 5,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.26,75,000/- divided into 2,67,500 equity shares of Rs.10/- each.

9. 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 31<sup>st</sup> March, 2014, of the transferor and

transferee companies, along with the report of the auditors, have also been filed.

10. 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 by the applicants that the synergy from the combined resources of the transferor companies and the transferee company would lead to optimum growth and development of the business of the transferee company after amalgamation. It is further claimed that the amalgamation will result in increased financial strength and flexibility and will enhance the ability of the transferee company to undertake large projects, thereby contributing to enhancement of future business potential.

11. 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:-

“50 equity shares of Rs.10/- each of the transferee company, credited as fully paid-up, for every 01 equity share of Rs.10/- each held by the shareholders in the transferor company no. 1.”

“01 equity share of Rs.10/- each of the transferee company, credited as fully paid-up, for every 01 equity share of Rs.10/- each held by the shareholders in the transferor company no. 2.”

12. 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.

13. The Board of Directors of the transferor and transferee companies in their separate meetings held on 25<sup>th</sup> July, 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.

14. The transferor company no. 1 has 06 equity shareholders. 02 out of 06, being 33.33% in number and 80% in value, 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 transferor company no. 1 to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation is dispensed with.

15. The transferor company no. 2 has 07 equity shareholders. 06 out of 07, being 85.7% in number and 75% in value, 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 transferor company no. 2 to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation is dispensed with.

16. The transferee company has 03 equity shareholders. 02 out of 03, being 66.6% in number and 92.4% in value, 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.

17. The transferor company no. 2 and the transferee company have 02 unsecured creditors each. Out of these 02 unsecured creditors, transferor company no. 1 is one of the unsecured creditors in both the companies. Mohd. Mokarram is the other unsecured creditor in both the companies, who has given his consents/no objections in writing to the proposed Scheme of Amalgamation. His 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 unsecured creditors of the transferor company no. 2 and 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 transferor company no. 2, as on 31<sup>st</sup> March, 2013.

18. The transferor company no. 1 has 01 secured creditor and a direction is sought to convene and hold its meeting to seek its approval to the proposed Scheme of Amalgamation. Considering the facts and circumstances aforesaid, the meeting of the secured creditor of the transferor company no. 1 is directed to be held on 21<sup>st</sup> September, 2015 at 10:30 am at the registered office of the company at D-30, Madhuban Road, 3<sup>rd</sup> Floor, Shakarpur Extension, Delhi – 110092. Mr. Kamal Mehta, Advocate, (Mobile No. 9810249271) is appointed as the Chairperson and Mr. Jitender Bhardwaj, Advocate, (Mobile No. 9811672065) is appointed as the Alternate Chairperson to conduct the said meeting. The Quorum of the meeting of the secured creditor of the transferor company no. 1 shall be 1 in number.

19. The transferor company no. 1 has 19781 unsecured creditors and a direction is sought to convene and hold their meeting to seek their approval to the proposed Scheme of Amalgamation. Considering the facts and circumstances aforesaid, the meeting of the unsecured

creditors of the transferor company no. 1 is directed to be held on 21<sup>st</sup> September, 2015 at 12:30 pm at the registered office of the company at D-30, Madhuban Road, 3<sup>rd</sup> Floor, Shakarpur Extension, Delhi – 110092. Mr. Mukesh Sukhija, Advocate, (Mobile No. 9810296468) is appointed as the Chairperson and Mr. Harpreet Singh, Advocate, (Mobile No. 9811267302) is appointed as the Alternate Chairperson to conduct the said meeting. The Quorum of the meeting of the unsecured creditors of the transferor company no. 1 shall be 200 in number and more than 25% in value of the total unsecured debt.

20. The transferee company has 01 secured creditor and a direction is sought to convene and hold its meeting to seek its approval to the proposed Scheme of Amalgamation. Considering the facts and circumstances aforesaid, the meeting of the secured creditor of the transferee company is directed to be held on 21<sup>st</sup> September, 2015 at 11:30 am at the registered office of the company at D-30, Madhuban Road, 3<sup>rd</sup> Floor, Shakarpur Extension, Delhi–110092. Ms. Payal Chawla, Advocate, (Mobile No. 9811777786) is appointed as the Chairperson and Ms. Madhuri Jain, Advocate, (Mobile No. 9999814492) is appointed as the Alternate Chairperson to conduct the said meeting. The Quorum of the meeting of the secured creditor of the transferee company shall be 1 in number.

21. In case the quorum as noted above for the above meetings is not present at the meetings, then the meetings shall be adjourned by half an hour, and thereafter the persons present and voting shall be deemed to constitute the quorum. For the purpose of computing the quorum the valid proxies shall also be considered, if the proxy in the prescribed form duly signed by the person entitled to attend and vote at the meetings is filed with the registered offices of the applicant companies at least 48 hours before the meetings. The Chairpersons and Alternate Chairpersons shall ensure that the proxy registers are properly maintained.

22. The Chairpersons and Alternate Chairpersons shall ensure that notices for convening the aforesaid meetings of the secured and unsecured creditors of the transferor company no. 1 and the secured creditor of the transferee company, along with copies of the Scheme of Amalgamation and the statement under Section 393 of the Companies Act, 1956, shall be sent to the secured and unsecured creditors of the transferor company no. 1 and the secured creditor of the transferee company by ordinary post at their registered or last known addresses at least 21 days before the date appointed for the meetings, in their presence or in the presence of their authorized representatives. Notice of the meeting of unsecured creditors of the transferor company no. 1 shall also be published in the Delhi, Bihar and West Bengal editions of the

newspapers “Times of India” (English) and “Navbharat Times” (Hindi) in terms of the Companies (Court) Rules, 1959 at least 21 days before the date appointed for the meetings. Since there is only one secured creditor each of the transferor company no. 1 and the transferee company and individual notices are directed to be issued to them, therefore, the requirement of publishing notices in the newspapers in respect of the meetings of the secured creditors of the transferor company no. 1 and the transferee company is dispensed with.

23. The Chairpersons and Alternate Chairpersons will be at liberty to issue suitable directions to the management of the applicant companies so that the aforesaid meetings of the secured and unsecured creditors of the transferor company no. 1 and the secured creditor of the transferee company are conducted in a just, free and fair manner.

24. The fee of the Chairpersons and the Alternate Chairpersons for the aforesaid meetings shall be Rs.50,000/- each in addition to meeting their incidental expenses. The Chairpersons will file their reports within two weeks from the date of holding of the aforesaid meetings.

25. The application stands allowed in the aforesaid terms.  
**Dasti**

**SUDERSHAN KUMAR MISRA, J.**

**August 18, 2015**