IN THE HIGH COURT OF DELHI
COMPANY APPLICATION (MAIN) NO. 22/2015

Reserved on 24th March, 2015
Date of pronouncement: 21st 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 read with Rule 9 of the Companies (Court) Rules, 1959

Scheme of Amalgamation of:

Uzanto Consulting India Private Limited
Applicant/Transferor Company

WITH

LinkedIn Technology Information Private Limited
Applicant/Transferee Company

Through Mr. Akhil Sibal, Mr. Amit Mishra, Mr. Shashank Gautam, Ms.Shraddha Deshmukh & Mr. Aditya Singhal, Advocates for the applicants

SUDERSHAN KUMAR MISRA, J.

1. This joint application has been filed under Section 391 of the Companies Act, 1956 read with Rule 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 their equity shareholders, secured and unsecured creditors to consider and approve, with or without modification, the proposed Scheme of Amalgamation of Uzanto Consulting India Private Limited (hereinafter referred to as the transferor company) with LinkedIn Technology Information 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 2nd June, 2004 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

4. The transferee company was incorporated under the Companies Act, 1956 on 31st December, 2009 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

5. The present authorized share capital of the transferor company is Rs.10,00,000/- divided into 1,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid up capital of the company is Rs.6,00,010/- divided into 60,001 equity shares of Rs.10/- each.

6. The present authorized share capital of the transferee company is Rs.50,00,00,000/- divided into 5,00,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid up capital of the company is Rs.1,19,47,440/- divided into 11,94,744 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 March, 2014, of the transferor and

transferee companies, along with the report of the auditors, 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 proposed amalgamation would result in pooling of resources of the entities to their common advantage, resulting in more productive utilization of the resources, costs and operational efficiencies, faster and effective decision making and its implementation, which would be beneficial for all stakeholders. It is further claimed that the proposed amalgamation would result in economies of scale, reduction in overheads and other expenses.

9. So far as the share exchange ratio is concerned, the Scheme provides that transferee company will not issue any shares to the shareholders of the transferor company as the transferor company is a wholly owned subsidiary of the transferee company and all the equity shares held by the transferee company in the transferor company will be cancelled upon the Scheme becoming finally effective.

10. It has been submitted by the applicants that no proceedings under Sections 235 to 250A 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 14th 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.

12. The transferor 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 transferor company to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation is dispensed with.

13. 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.

14. The transferor company has unsecured creditors to the tune of Rs.7,91,004/-. The consents of these unsecured creditors have not been placed on record. The transferee company has unsecured creditors to the tune of Rs.96,32,92,063/-, out of which one unsecured creditor, namely LinkedIn Ireland, has given its consent/no objection in writing to the proposed Amalgamation. The same has been placed on record and found in order. The consents of remaining unsecured creditors to the tune of Rs.53,76,25,927/- have not been placed on record. Learned counsel for the applicants submitted that these creditors consist entirely of sundry creditors and their dues are payable in the ordinary course of business and the transferee company will continue to pay their dues with its normal payment cycle. He has submitted that the transferee company has sufficient financial resources to pay the amounts due to these sundry creditors and neither the amounts nor any of the rights of the sundry creditors will be varied pursuant to the Scheme. He has further submitted that on amalgamation of the transferor company into the transferee company, there is no negative impact on the net worth of the transferee company and the net worth of the transferee company will increase post merger and therefore, the interests of the creditors of the transferor and transferee companies will not be adversely affected. He has placed on record a certificate issued by V. V. Kale & Company, Chartered Accountants, showing the pre and post amalgamation net worth of the transferee company. He, therefore, prays that the requirement of

convening and holding the meetings of the unsecured creditors of the transferor and transferee companies may kindly be dispensed with.

15. A perusal of the audited balance sheet of the transferor and transferee companies, as on 31st March, 2014, reveals that the companies have reserves and surplus of Rs.1,55,14,476/- and Rs.16,13,24,858/- respectively. As per the certificate issued by V. V. Kale & Company, Chartered Accountants, the post-amalgamation net worth of the transferee company will increase from Rs.58,86,88,296/- to Rs.59,19,29,185/-. Therefore, the rights of the unsecured creditors of the transferor and transferee companies are not likely to be affected and the transferee company will be in a position to discharge all its liabilities, upon sanction of the Scheme of Amalgamation. In view of the above, the requirement of convening and holding the meetings of the unsecured creditors of the transferor and transferee companies 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 and transferee companies, as on 30th September, 2014.

16. The application stands allowed in the aforesaid terms.

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SUDERSHAN KUMAR MISRA, J.

May 21, 2015