**IN THE HIGH COURT OF DELHI**

COMPANY PETITION NO. 64/2015

**Reserved on 6th August, 2015**
**Date of pronouncement: 9th September, 2015**

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

And

**Petition under Section 391(2) & 394 of the Companies Act, 1956**

Scheme of Amalgamation of:

C. A. Process Industries Private Limited
Petitioner/Transferor Company No. 1

Interia Crafts Private Limited
Petitioner/Transferor Company No. 2

Northern Distributors Private Limited
Petitioner/Transferor Company No. 3

WITH

Jaipuria Beverages & Food Industries Private Limited
Petitioner/Transferee Company

**Through Mr. Mukesh Sukhija, Advocate for the petitioners**
**Ms. Aparna Mudiam, Assistant Registrar of Companies for the Regional Director**
**Mr. Rajiv Bahl, Advocate for the Official Liquidator**

**SUDERSHAN KUMAR MISRA, J.**

1. This joint petition has been filed under Sections 391(2) & 394 of the Companies Act, 1956 by the petitioner companies seeking sanction of the Scheme of Amalgamation of C. A. Process Industries Private

Limited (hereinafter referred to as the transferor company no. 1); Interia Crafts Private Limited (hereinafter referred to as the transferor company no. 2) and Northern Distributors Private Limited (hereinafter referred to as the transferor company no. 3) with Jaipuria Beverages & Food Industries 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 28th October, 1988 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 31st December, 1986 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 2nd August, 1991 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

6. The transferee company was originally incorporated under the Companies Act, 1913 on 2nd June, 1947 with the Registrar of

Companies, Rajasthan at Jaipur under the name and style of The Rajputana Stores Limited. The company changed its name to The Rajputana Stores (Private) Limited and obtained the fresh certificate of incorporation on 18th August, 1962. Thereafter, the company shifted its registered office from the State of Rajasthan to NCT of Delhi and obtained a certificate in this regard from the Registrar of Companies, NCT of Delhi & Haryana at New Delhi on 4th April, 1991. Subsequently, the company changed its name to Jaipuria Beverages & Food Industries Private Limited and obtained the fresh certificate of incorporation on 3rd June, 2006.

7. The present authorized share capital of the transferor company no.1 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.5,00,000/- divided into 50,000 equity shares of Rs.10/- each.

8. The present authorized share capital of the transferor company no.2 is Rs.50,00,000/- divided into 50,000 equity shares of Rs.100/- each. The present issued, subscribed and paid-up share capital of the company is Rs.20,00,000/- divided into 20,000 equity shares of Rs.100/- each.

9. The present authorized share capital of the transferor company no.3 is Rs.1,00,00,000/- divided into 9,00,000 equity shares of Rs.10/- aggregating to Rs.90,00,000/- and 10,00,000 equity shares of Rs.1/- each aggregating to Rs.10,00,000/-. The present issued, subscribed and paid-up share capital of the company is Rs.50,00,000/- divided into 5,00,000 equity shares of Rs.10/- each.

10. The present authorized share capital of the transferee company is Rs.5,15,00,000/- divided into 40,000 equity shares of Rs.100/- each aggregating to Rs.40,00,000/-; and 4,75,000 redeemable preference shares of Rs.100/- each aggregating to Rs.4,75,00,000/-. The present issued, subscribed and paid-up share capital of the company is Rs.5,07,27,600/- divided into 32,276 equity shares of Rs.100/- each aggregating to Rs.32,27,600/- and 4,75,000 redeemable preference shares of Rs.100/- each aggregating to Rs.4,75,00,000/-.

11. Copies of the Memorandum and Articles of Association of the transferor and transferee companies have been filed on record with the joint application, being CA(M) 9/2015, earlier filed by the petitioners. The audited balance sheets, as on 31st March, 2014, of the transferor and transferee companies, along with the report of the auditors, had 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 petition and the accompanying affidavit. It is submitted by the petitioners that the transferor companies no. 1 to 3 are not engaged in any business activity and the transferee company is earning income from renting of the properties and the dividend income. It is claimed that the proposed amalgamation would result in business synergy and consolidation of these companies into one large company with a stronger asset base. It is further claimed that the proposed amalgamation will result in 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 businesses.

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 for every 100 fully paid up equity shares of Rs.10/- each held in the transferor company no. 1."

> "58 equity shares of Rs.100/- each of the transferee company for every 100 fully paid up equity share of Rs.100/- each held in the transferor company no. 2."
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> "13 equity shares of Rs.100/- each of the transferee company for every 100 fully paid up equity share of Rs.10/- each held in the transferor company no. 3."

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

15. The Board of Directors of the transferor and transferee companies in their separate meetings held on 31st October, 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 petitioner companies had earlier filed CA (M) No. 9/2015 seeking directions of this court to dispense with the requirement of convening the meetings of their equity shareholders, preference shareholders, secured and unsecured creditors, which are statutorily required for sanction of the Scheme of Amalgamation. Vide order dated 28th January, 2015, this court allowed the application and dispensed with the requirement of convening and holding the meetings of the shareholders and creditors of the transferor and transferee companies, to

consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation.

17. The petitioner companies have thereafter filed the present petition seeking sanction of the Scheme of Amalgamation. Vide order dated 6th February, 2015, notice in the petition was directed to be issued to the Regional Director, Northern Region, and the Official Liquidator. Citations were also directed to be published in 'Business Standard' (English) and (Hindi) Delhi editions. Affidavit of service has been filed by the petitioners showing compliance regarding service on the Regional Director, Northern Region and the Official Liquidator, and also regarding publication of citations in the aforesaid newspapers on 4th March, 2015. Copies of the newspaper clippings containing the publications have been filed along with the affidavit of service.

18. Pursuant to the notices issued, the Official Liquidator sought information from the petitioner companies. Based on the information received, the Official Liquidator has filed a report dated 9th June, 2015 wherein he has stated that he has not received any complaint against the proposed Scheme of Amalgamation from any person/party interested in the Scheme in any manner and that the affairs of the transferor companies do not appear to have been conducted in a manner

prejudicial to the interest of their members, creditors or public interest, as per second proviso of Section 394(1) of the Companies Act, 1956.

19. In response to the notices issued in the petition, Mr. A. K. Chaturvedi, Regional Director, Northern Region, Ministry of Corporate Affairs has filed his report dated 20th July, 2015. Relying on Clause 8(a) of Section D of the Scheme, he has stated that, upon sanction of the Scheme of Amalgamation, all the employees of the transferor companies shall become the employees of the transferee company without any break or interruption in their services. He has further submitted that in Clause 15(a) of Section G of the Scheme, it has been stated that amalgamation shall be an 'amalgamation in the nature of merger' as defined in Accounting Standard-14 issued by the Institute of Chartered Accountants of India and shall be accounted for under the 'pooling of interest' method in accordance with the said AS-14. He further submitted that in Clause 10 of Section E of the Scheme, it has been stated that upon this scheme becoming effective, the transferor companies shall stand dissolved without the process of winding up.

20. No objection has been received to the Scheme of Amalgamation from any other party. The petitioner companies, in the affidavit dated 20th July, 2015 of Sh. Vishal Goyal, authorized signatory of the petitioner companies, have submitted that neither the petitioner companies nor

their counsel have received any objection pursuant to the citations published in the newspapers on 4th March, 2015.

21. Considering the approval accorded by the shareholders and creditors of the petitioner companies to the proposed Scheme of Amalgamation and the affidavits filed by the Regional Director, Northern Region, and the Official Liquidator not raising any objection to the proposed Scheme of Amalgamation, there appears to be no impediment to the grant of sanction to the Scheme of Amalgamation. Consequently, sanction is hereby granted to the Scheme of Amalgamation under Sections 391 and 394 of the Companies Act, 1956. The petitioner companies will comply with the statutory requirements in accordance with law. Certified copy of this order be filed with the Registrar of Companies within 30 days. It is also clarified that this order will not be construed as an order granting exemption from payment of stamp duty as payable in accordance with law. Upon the sanction becoming effective from the appointed date of Amalgamation, i.e. 1st April, 2014, the transferor companies no. 1, 2 & 3 shall stand dissolved without undergoing the process of winding up.

22. Learned counsel for the Official Liquidator prays that costs of at least Rs.1,00,000/- should be paid by the petitioners keeping in view the fact that the matter has involved examination of extensive records and

also prioritized hearings. Learned counsel for the petitioner companies states that the same is acceptable to him. Looking to the circumstances, the petitioners shall deposit a sum of Rs.1,00,000/- by way of costs with the Common Pool Fund of the Official Liquidator within two weeks.

23. The petition is allowed in the above terms.

**Dasti.**

**SUDERSHAN KUMAR MISRA, J.**

**September 09, 2015**