

IN THE HIGH COURT OF DELHI
COMPANY APPLICATION (MAIN) NO. 33/2015

Reserved on 11th March, 2015
Date of pronouncement: 16th April, 2015

In the matter of

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

And

Application under Sections 391 and 394 of the Companies Act, 1956

Scheme of Amalgamation of:

ASL Power Limited

Applicant/Transferor Company No. 1

ASL Steel & Power Limited

Applicant/Transferor Company No. 2

GNex Landholdings Private Limited

Applicant/Transferor Company No. 3

GNex Realty Private Limited

Applicant/Transferor Company No. 4

WITH

GNex Buildwell Private Limited

Applicant/Transferee Company

**Through Mr. P.K. Mittal, Advocate for
the applicants**

SUDERSHAN KUMAR MISRA, J.

1. This joint application has been filed under Sections 391 and 394 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 ASL Power Limited (hereinafter referred to as the transferor company no. 1); ASL Steel & Power Limited (hereinafter referred to as the transferor company no. 2); GNex Landholdings Private Limited (hereinafter referred to as the transferor company no. 3) and GNex Realty Private Limited (hereinafter referred to as the transferor company no. 4) with GNex Buildwell 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 10th February, 2010 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 20th January, 2010 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 18th December, 2012 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

6. The transferor company no. 4 was incorporated under the Companies Act, 1956 on 18th December, 2012 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

7. The transferee company was incorporated under the Companies Act, 1956 on 19th December, 2012 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

8. The present authorized share capital of the transferor company no.1 is Rs.25,00,000/- divided into 2,50,000 equity shares of Rs.10/- each. The present issued, subscribed and paid-up share capital of the company is Rs.5,03,000/- divided into 50,300 equity shares of Rs.10/- each fully paid up.

9. The present authorized share capital of the transferor company no.2 is Rs.25,00,000/- divided into 2,50,000 equity shares of Rs.10/- each. The present issued, subscribed and paid-up share capital of the company is Rs.5,03,000/- divided into 50,300 equity shares of Rs.10/- each fully paid up.

10. The present authorized share capital of the transferor company no.3 is Rs.1,00,000/- divided into 10,000 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. The present authorized share capital of the transferor company no.4 is Rs.1,00,000/- divided into 10,000 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.

12. The present authorized share capital of the transferee company is Rs.1,00,000/- divided into 10,000 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.

13. 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.

14. 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 shareholders of the transferor and transferee companies are almost common. It is claimed that the Scheme will result in pooling of their financial, commercial and other resources, economies of scales and reduction of overheads. It is further claimed that with enhanced capabilities and resources at its disposal, the transferee company will have greater flexibility and strength to meet requirements for further growth of business activities.

15. 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:-

“100 equity shares of Rs.10/- each of the transferee company, credited as fully paid up, for every 100 equity shares of Rs.10/- each fully paid up held in the transferor company no. 1.”

“96 equity shares of Rs.10/- each of the transferee company, credited as fully paid up, for every 100 equity shares of Rs.10/- each fully paid up held in the transferor company no. 2.”

“101 equity shares of Rs.10/- each of the transferee company, credited as fully paid up, for every 100 equity shares of Rs.10/- each fully paid up held in the transferor company no. 3.”

“93 equity shares of Rs.10/- each of the transferee company, credited as fully paid up, for every 100 equity shares of Rs.10/- each fully paid up held in the transferor company no. 4.”

16. 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.

17. The Board of Directors of the transferor companies no. 1, 2, 3 & 4 and the transferee company in their separate meetings held on 31st December, 2014, 29th December, 2014, 30th December, 2014, 27th December, 2014 and 26th December, 2014 respectively 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.

18. The transferor company no. 1 has 07 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 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 or unsecured creditor of the transferor company no. 1, as on 31st December, 2014.

19. The transferor company no. 2 has 07 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 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 or unsecured creditor of the transferor company no. 2, as on 31st December, 2014.

20. The transferor company no. 3 has 02 equity shareholders and 01 unsecured creditor. Both the equity shareholders and the only unsecured creditor 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 creditor 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 31st December, 2014.

21. The transferor company no. 4 has 02 equity shareholders and 01 unsecured creditor. Both the equity shareholders and the only unsecured creditor 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 creditor of the transferor company no. 4 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. 4, as on 31st December, 2014.

22. The transferee 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 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.

23. The application stands allowed in the aforesaid terms.

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SUDERSHAN KUMAR MISRA, J.

April 16, 2015