IN THE HIGH COURT OF DELHI

COMPANY APPLICATION (MAIN) NO. 21/2015

Reserved on 23rd February, 2015
Date of pronouncement: 17th March, 2015

In the matter of

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

And

Application under Sections 391(1) of the Companies Act, 1956

Scheme of Amalgamation of:

M/s. Sharma Investments Limited
Applicant/Transferor Company No. 1

M/s. Tomar Investments Limited
Applicant/Transferor Company No. 2

M/s. Kamlapati Infrastructure Limited
Applicant/Transferor Company No. 3

M/s. Sidhivinayak Horticulture Limited
Applicant/Transferor Company No. 4

WITH

M/s. KVS Ispat Private Limited
Applicant/Transferee Company

Through Mr. Mukesh Sukhija, Advocate for the applicants

SUDERSHAN KUMAR MISRA, J.

1. This joint application has been filed under Section 391(1) 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 M/s. Sharma Investments Limited (hereinafter referred to as the transferor company no. 1); M/s. Tomar Investments Limited (hereinafter referred to as the transferor company no. 2); M/s. Kamlapati Infrastructure Limited (hereinafter referred to as the transferor company no. 3) and M/s. Sidhivinayak Horticulture Limited (hereinafter referred to as the transferor company no. 4) with M/s. KVS Ispat 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 27th March, 1995 with the Registrar of Companies, Uttar Pradesh at Kanpur under the name and style of Sharma Investments Private Limited. The company changed its name to Sharma Investments Limited and obtained the fresh certificate of incorporation on 6th December, 2006. Thereafter, the company shifted its registered office from the State of Uttar Pradesh to NCT of Delhi and obtained a certificate in this regard from the Registrar of Companies, NCT of Delhi & Haryana at New Delhi on 27th January, 2015.

4. The transferor company no. 2 was originally incorporated under the Companies Act, 1956 on 3rd April, 1995 with the Registrar of Companies, Uttar Pradesh at Kanpur under the name and style of Tomar Investments

Private Limited. The company changed its name to Tomar Investments Limited and obtained the fresh certificate of incorporation on 7th December, 2006. Thereafter, the company shifted its registered office from the State of Uttrakhand to NCT of Delhi and obtained a certificate in this regard from the Registrar of Companies, NCT of Delhi & Haryana at New Delhi on 26th November, 2014.

5. The transferor company no. 3 was originally incorporated under the Companies Act, 1956 on 26th December, 2006 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi with the name and style of Kamlapati Financial Consultants Limited. The company changed its name to Kamlapati Infrastructure Limited and obtained the fresh certificate of incorporation on 17th September, 2007.

6. The transferor company no. 4 was originally incorporated under the Companies Act, 1956 on 15th January, 2007 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi with the name and style of Sidhivinayak Holding Limited. The company changed its name to Sidhivinayak Horticulture Limited and obtained the fresh certificate of incorporation on 19th May, 2008.

7. The transferee company was incorporated under the Companies Act, 1956 on 5th May, 2008 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.3,00,00,000/- divided into 3,00,000 equity shares of Rs.100/- each. The present issued, subscribed and paid-up share capital of the company is Rs.1,91,10,000/- divided into 1,91,100 equity shares of Rs.100/- each.

9. The present authorized share capital of the transferor company no.2 is Rs.3,00,00,000/- divided into 3,00,000 equity shares of Rs.100/- each. The present issued, subscribed and paid-up share capital of the company is Rs.1,80,00,000/- divided into 1,80,000 equity shares of Rs.100/- each.

10. The present authorized share capital of the transferor company no.3 is Rs.5,00,00,000/- divided into 5,00,000 equity shares of Rs.100/- each. The present issued, subscribed and paid-up share capital of the company is Rs.23,12,000/- divided into 23,120 equity shares of Rs.100/- each.

11. The present authorized share capital of the transferor company no.4 is Rs.5,00,00,000/- divided into 5,00,000 equity shares of Rs.100/- each. The present issued, subscribed and paid-up share capital of the company is Rs.29,10,000/- divided into 29,100 equity shares of Rs.100/- each.

12. The present authorized share capital of the transferee company is Rs.11,01,00,000/- divided into 1,10,10,000 equity shares of Rs.10/- each. The present issued, subscribed and paid-up share capital of the company is Rs.22,60,000/- divided into 2,26,000 equity shares of Rs.10/- each.

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 acquisition of related businesses can generate synergies among the companies, and acquisition of counter-cyclical businesses can reduce the risks associated with economic, technological, regulatory or competitive shocks. It is claimed that the proposed Scheme will provide greater integration and greater financial strength and flexibility for the transferee company, which would result in maximizing overall shareholder value and will improve the competitive position of the combined entity.

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:-

> "44 equity shares of Rs.10/- each of the transferee company for every 100 equity shares of Rs.100/- each fully paid up held in the transferor company no. 1."
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> "47 equity shares of Rs.10/- each of the transferee company for every 100 equity shares of Rs.100/- each fully paid up held in the transferor company no. 2."
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> "177 equity shares of Rs.10/- each of the transferee company for every 100 equity shares of Rs.100/- each fully paid up held in the transferor company no. 3."
>
> "203 equity shares of Rs.10/- each of the transferee company for every 100 equity shares of Rs.100/- 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 and transferee companies in their separate meetings held on 23rd 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.

18. The transferor company no. 1 has 08 equity shareholders and 01 unsecured creditor. All 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. 1 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. 1, as on 26th December, 2014.

19. The transferor company no. 2 has 07 equity shareholders and 01 unsecured creditor. All 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. 2 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 26th December, 2014.

20. The transferor company no. 3 has 09 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. 3 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. 3, as on 26th December, 2014.

21. The transferor company no. 4 has 09 equity shareholders and 01 unsecured creditor. All 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 26th December, 2014.

22. The transferee company has 14 equity shareholders and 02 unsecured creditors. All 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 26^{th} December, 2014.

23. The application stands allowed in the aforesaid terms.

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SUDERSHAN KUMAR MISRA, J.

March 17, 2015