

IN THE HIGH COURT OF DELHI
COMPANY APPLICATION (MAIN) NO. 41/2015

Reserved on 24th March, 2015
Date of pronouncement: 8th May, 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 Rule 9 of the
Companies (Court) Rules, 1959**

Scheme of Amalgamation of:

Philco Overseas Limited

Applicant/Transferor Company

WITH

Superfreeze India Limited

Applicant/Transferee Company

**Through Mr. Tariq Muneer, Advocate
for the applicants**

SUDERSHAN KUMAR MISRA, J.

1. This joint application has been filed under Section 391 to 394 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 Philco Overseas Limited (hereinafter referred to as the transferor company) with Superfreeze India 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 25th October, 1994 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

4. The transferee company was incorporated under the Companies Act, 1956 on 24th July, 1996 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

5. The present authorized share capital of the transferor 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.14,50,000/- divided into 1,45,000 equity shares of Rs.10/- each fully paid-up.

6. The present authorized share capital of the transferee company is Rs.1,75,00,000/- divided into 17,50,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.1,68,36,000/- divided into 16,83,600 equity shares of Rs.10/- each fully paid-up.

7. Copies of 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 company, along with the report of the auditors, and the audited balance sheet, as on 31st March, 2014, of the transferee company 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 by the applicants that the proposed Amalgamation would result in consolidation and simplification of the group structure; reducing operational and compliance costs, achieving operational and management efficiency; and synergies arising out of consolidation of business, such as, enhancement of net worth of the combined business to capitalize on future growth potential, optimal utilization of resources.

9. 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 as under:-

“10,97,000 fully paid up equity shares of Rs.10/- each in the share capital of the transferee company in the proportion of the number of equity shares held by the shareholders in the transferor company.”

10. 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.

11. The Board of Directors of the transferor and transferee companies in their separate meetings held on 10th March, 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 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 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, as on 10th March, 2014.

13. The transferee company has 09 equity shareholders and 21 unsecured creditors. 05 out of 09 equity shareholders, being 56% in number and 99.54% in value, and all 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 10th March, 2014.

14. The Application stands allowed in the aforesaid terms.

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SUDERSHAN KUMAR MISRA, J.

May 08, 2015