IN THE HIGH COURT OF DELHI
COMPANY PETITION NO. 160/2015

Reserved on 8th October, 2015
Date of pronouncement: 6th November, 2015

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

And

Petition under Sections 391 & 394 of the Companies Act, 1956

Scheme of Amalgamation of:

Mobinteco Limited
Petitioner/Transferor Company No. 1

Y2CF Digital Media Limited
Petitioner/Transferor Company No. 2

WITH

Hike Limited
Petitioner/Transferee Company

Through Mr. P. Nagesh, Mr. Anand M. Mishra and Mr. Abhinav Lal, Advocates 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 & 394 of the Companies Act, 1956 by the petitioner companies seeking sanction of the Scheme of Amalgamation of Mobinteco Limited (hereinafter referred to as the transferor company no. 1) and Y2CF Digital Media Limited

(hereinafter referred to as the transferor company no. 2) with Hike 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 13th October, 2011 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 1st July, 2010 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

5. The transferee company was incorporated under the Companies Act, 1956 on 13th October, 2011 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

6. The present authorized share capital of the transferor company no.1 is Rs.85,00,00,000/- divided into 8,50,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.76,23,00,000/- divided into 7,62,30,000 equity shares of Rs.10/- each.

7. The present authorized share capital of the transferor company no.2 is Rs.1,10,00,000/- divided into 11,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.78,27,830/- divided into 7,82,783 equity shares of Rs.10/- each.

8. The present authorized share capital of the transferee company is Rs.100,00,00,000/- divided into 9,90,00,000 equity shares of Rs.10/- each aggregating to Rs.99,00,00,000/-; and 10,00,000 preference shares of Rs.10/- each aggregating to Rs.1,00,00,000/-. The present issued, subscribed and paid-up share capital of the company is Rs.87,49,57,790/- divided into 8,66,10,997 equity shares of Rs.10/- each aggregating to Rs.86,61,09,970/-; and 8,84,782 preference shares of Rs.10/- each aggregating to Rs.88,47,820/-

9. 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.

10. 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 claimed by

the petitioners that the proposed amalgamation will result in establishment of a larger company with large resources, a large capital base and a greater capacity to raise funds for expansion, modernization and development of the businesses of the companies concerned. It is further claimed that proposed amalgamation will enable the undertakings and businesses of the said companies to obtain greater facilities, possessed and enjoyed by one large company for securing and conducting its business on favourable terms and other benefits.

11. 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:-

> "01 equity share of Rs.10/- each of the transferee company, credited as fully paid-up, for every 141 equity shares of Rs.10/- each fully paid up held by the shareholders in the transferor company no. 1."
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> "01 equity share of Rs.10/- each of the transferee company, credited as fully paid-up, for every 5.61 equity shares of Rs.10/- each fully paid up held by the shareholders in the transferor company no.2."

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

13. The Board of Directors of the transferor and transferee companies in their separate meetings held on 5th 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.

14. The petitioner companies had earlier filed CA (M) No. 18/2015 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 3rd March, 2015, this court allowed the application and dispensed with the requirement of convening and holding the meetings of the shareholders and unsecured creditors of the transferor and transferee companies, there being no secured creditors of the petitioner companies, to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation.

15. The petitioner companies have thereafter filed the present petition seeking sanction of the Scheme of Amalgamation. Vide order dated 26th March, 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 petitioner showing compliance regarding service on the Official Liquidator and the Regional Director, Northern Region and also regarding publication of citations in the aforesaid newspapers on 15th May, 2015. Copies of the newspaper clippings containing the publications have been filed along with the said affidavit.

16. 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 8th 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.

17. 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 29th September, 2015. Relying on Clause 10 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 21 of the Scheme, it has been stated that the Accounting treatment shall be as per the Accounting Standard-14 i.e. "Accounting for Amalgamation" prescribed by the Institute of Chartered Accountants of India in accordance with Companies (Accounting Standards) Rules, 2006. He further submitted that in Clause 15 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.

18. No objection has been received to the Scheme of Amalgamation from any other party. The petitioner companies, in the affidavits dated 1st October, 2015 of Mr. Kavin Bharti Mittal, Director 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 15th May, 2015.

19. 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 November, 2014, the transferor companies no. 1 & 2 shall stand dissolved without undergoing the process of winding up.

20. Learned counsel for the Official Liquidator prays that costs of at least Rs.75,000/- 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.75,000/- by way of costs with the Common Pool Fund of the Official Liquidator within two weeks.

21. The petition is allowed in the above terms.

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SUDERSHAN KUMAR MISRA, J.

November 06, 2015