

IN THE HIGH COURT OF DELHI
COMPANY APPLICATION (MAIN) NO. 140/2015

Reserved on 5th November, 2015
Date of pronouncement: 10th December, 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

Scheme of Arrangement between:

H.I. Estate Private Limited

Applicant/Transferor Company No. 1

Kuldeep Singh Sons Private Limited

Applicant/Transferor Company No. 2

KSB Global Limited

Applicant/Transferor Company No. 3

AND

Herman Infratech Private Limited

Applicant/Transferee Company

**Through Mr. Rakesh Kumar, Advocate
for the applicants**

SUDERSHAN KUMAR MISRA, J.

1. This joint application has been filed under Sections 391 to 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 Arrangement between H.I. Estate Private Limited (hereinafter referred to

as the transferor company no. 1); Kuldeep Singh Sons Private Limited (hereinafter referred to as the transferor company no. 2) and KSB Global Limited (hereinafter referred to as the transferor company no. 3) and Herman Infratech 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 14th March, 2002 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 28th February, 1996 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 22nd March, 1995 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

6. The transferee company was originally incorporated under the Companies Act, 1956 on 17th March, 2004 with the Registrar of

Companies, NCT of Delhi & Haryana at New Delhi under the name and style of Hermann Business School Private Limited. The company changed its name to Herman Infratech Private Limited and obtained the fresh certificate of incorporation on 19th February, 2014.

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

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

9. The present authorized share capital of the transferor company no.3 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.72,00,700/- divided into 7,20,070 equity shares of Rs.10/- each.

10. 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

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.

11. 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.

12. A copy of the Scheme of Arrangement 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 Scheme will result in reduction of overheads and other expenses, elimination of duplication of work, reduction in administrative and procedural work, rationalization and streamlining of management, businesses and finances and it will enable better and more productive utilization of various resources by pooling the resources of the undertakings of applicant companies and will optimize productivity, leading to better and more efficient and economic running, control and management of the combined businesses.

13. So far as the share exchange ratio is concerned, the Scheme provides that the shareholders of the transferor companies shall not

receive any consideration in lieu of transfer/merging of shares with the transferee company. Hence, the transferee company is not required to issue any shares to the transferor companies.

14. 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.

15. The Board of Directors of the transferor and transferee companies in their separate meetings held on 26th October, 2015 have unanimously approved the proposed Scheme of Arrangement. 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 transferor company no. 1 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 Arrangement. 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 transferor company no.1 to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Arrangement is dispensed with. There is no

secured creditor of the transferor company no. 1, as on 15th January, 2015.

17. The transferor company no. 2 has 09 equity shareholders and 06 unsecured creditors. All the equity shareholders and all the unsecured creditors have given their consents/no objections in writing to the proposed Scheme of Arrangement. 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 transferor company no. 2 to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Arrangement is dispensed with. There is no secured creditor of the transferor company no. 2, as on 15th January, 2015.

18. The transferor company no. 3 has 08 equity shareholders and 12 unsecured creditors. All the equity shareholders and 01 out of 12 unsecured creditors holding 99.14% of the total unsecured debt have given their consents/no objections in writing to the proposed Scheme of Arrangement. 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 transferor company no. 3 to consider and, if

thought fit, approve, with or without modification, the proposed Scheme of Arrangement is dispensed with. There is no secured creditor of the transferor company no. 3, as on 15th January, 2015.

19. 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 Arrangement. 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 Arrangement is dispensed with. There is no secured creditor of the transferee company, as on 15th January, 2015

20. The application stands allowed in the aforesaid terms.

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SUDERSHAN KUMAR MISRA, J.

December 10, 2015