IN THE HIGH COURT OF DELHI
COMPANY APPLICATION (MAIN) NO. 67/2015

Reserved on 10th August, 2015
Date of pronouncement: 11th September, 2015

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

And

Application under Sections 391, 392 & 394 of the Companies Act, 1956 read with Rules 6 & 9 of the Companies (Court) Rules, 1959

Scheme of Amalgamation of:

Nine Dot Nine Interactive Private Limited
Applicant/Transferor Company
WITH

Nine Dot Nine Mediaworx Private Limited
Applicant/Transferee Company

Through Mr. Himanshu Bhushan and Mr.U. Mukherjee, Advocates for the applicants

SUDERSHAN KUMAR MISRA, J.

1. This joint application has been filed under Sections 391, 392 & 394 of the Companies Act, 1956 read with Rules 6 & 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, preference shareholders, secured and unsecured creditors to consider and approve, with or without modification, the proposed Scheme of Amalgamation of Nine Dot Nine Interactive Private Limited (hereinafter referred to as the transferor company) with Nine Dot

Nine Mediaworx 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 was originally incorporated under the Companies Act, 1956 on 7th January, 2000 with the Registrar of Companies, Maharashtra at Mumbai under the name and style of Jasubhai Digital Media Private Limited. The company changed its name to Nine Dot Nine Interactive Private Limited and obtained the fresh certificate of incorporation on 18th February, 2008. Thereafter, the company shifted its registered office from the State of Maharashtra to Delhi and obtained a certificate in this regard from the Registrar of Companies, NCT of Delhi & Haryana at New Delhi on 12th January, 2015.

4. The transferee company was incorporated under the Companies Act, 1956 on 1st September, 2007 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

5. The present authorized share capital of the transferor company is Rs.2,50,00,000/- divided into 25,00,000 equity shares of Rs.10/- each.

The issued, subscribed and paid-up share capital of the company is Rs.2,48,83,950/- divided into 24,88,395 equity shares of Rs.10/- each.

6. The present authorized share capital of the transferee company is Rs.1,00,00,000/- divided into 2,00,000 equity shares of Rs.10/- each aggregating to Rs.20,00,000/- and 8,00,000 preference shares of Rs.10/- each aggregating to Rs.80,00,000/-. The issued, subscribed and paid-up share capital of the company is Rs.21,63,380/- divided into 1,10,403 equity shares of Rs.10/- each aggregating Rs.11,04,030/- and 1,05,935 compulsory convertible preference shares of Rs.10/- each aggregating to Rs.10,59,350/-.

7. 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 reports of the auditors, 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 amalgamation would enable the applicant companies to realize the substantial benefit of greater synergies between

their businesses, operations and economies. It is further claimed that the amalgamation would to lead to better and more efficient and productive utilization of resources and capabilities of these companies, reduce administrative and overhead costs, lead to greater and effective executive control and synergy in use of infrastructure facilities.

9. So far as the share exchange ratio is concerned, the Scheme provides that the transferor company is a wholly owned subsidiary of the transferee company, no shares or consideration shall be issued/paid by the transferee company pursuant to the amalgamation of the transferor company in accordance with the Scheme.

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 13th March, 2015 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 05 equity shareholders, 01 secured creditor and 12 unsecured creditors. All the equity shareholders, the sole secured creditor and 09 out of 12 unsecured creditors, being 75% in number and 99.5% in value, 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, secured and unsecured creditors of the transferor company to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation is dispensed with.

13. The transferee company has 08 equity shareholders and 02 preference shareholders. 07 out of 08 equity shareholders, being 87.5% in number and 97.2% in value, and both the preference 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 meetings of the equity shareholders and preference shareholders of the transferee company to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation is dispensed with.

14. The transferee company has 02 secured creditors and 36 unsecured creditors, as on 28th February, 2015. Learned counsel for the applicant has submitted that the loan of one secured creditor, viz. HDFC Bank, has been paid in full on 1st August, 2015 and at present there is only one secured creditor of the transferee company. The said sole secured creditor and 29 out of 36 unsecured creditors, being 80.5% in number and 84.8% in value, 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 secured 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.

15. The application stands allowed in the aforesaid terms.

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SUDERSHAN KUMAR MISRA, J.

September 11, 2015