

IN THE HIGH COURT OF DELHI
COMPANY APPLICATION (MAIN) NO. 58/2015

Reserved on 15th July, 2015
Date of pronouncement: 18th August, 2015

In the matter of

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

And

**Application under Sections 391(1) & 394 of the
Companies Act, 1956**

Scheme of Amalgamation of:

Sharma Farms Private Limited

Applicant/Transferor Company

WITH

Globus Projects Private Limited

Applicant/Transferee Company

**Through Mr. Amit Goel, Advocate for
the applicants**

SUDERSHAN KUMAR MISRA, J.

1. This joint application has been filed under Sections 391(1) & 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 the equity shareholders, secured creditors and unsecured creditors of the transferor company and the equity shareholders and secured creditors of the transferee company and for convening a meeting of the unsecured creditors of the transferee company to consider and approve, with or without modification, the proposed Scheme of Amalgamation of Sharma Farms Private Limited (hereinafter referred to as the transferor company) with Globus Projects 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 June, 2005 with the Registrar of Companies, Punjab, H.P. & Chandigarh. The company shifted its registered office from the State of Punjab to Delhi and obtained a certificate in this regard from the Registrar of Companies, NCT of Delhi & Haryana at New Delhi 7th January, 2014.

4. The transferee company was originally incorporated under the Companies Act, 1956 on 13th September, 2005 with the Registrar of Companies, Punjab, H.P. & Chandigarh. The company shifted its registered office from the State of Chandigarh to Delhi and obtained a certificate in this regard from the Registrar of Companies, NCT of Delhi & Haryana at New Delhi 19th November, 2013.

5. The present authorized share capital of the transferor company is Rs.2,00,00,000/- divided into 20,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.1,54,70,000/- divided into 15,47,000 equity shares of Rs.10/- each.

6. The present authorized share capital of the transferee company is Rs.10,00,00,000/- divided into 1,00,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.7,44,60,000/- divided into 74,46,000 equity shares of Rs.10/- each.

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, along with the reports of the auditors, of the transferor and transferee companies 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 business synergy and consolidation of these companies into one large company with a stronger asset base. It is further claimed that the proposed amalgamation will result in usual economies of a centralized and a large company including elimination of duplicate work, reduction in overheads, better and more productive utilization of human and other resources and enhancement of overall business efficiency. It will enable these companies to combine their managerial and operating strength, to

build a wider capital and financial base and to promote and secure overall growth of their businesses.

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 company in the following ratio:

“68 equity shares of Rs.10/- each of the transferee company, credited as fully paid up, for every 100 fully paid up equity shares of Rs.10/- each 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 16th February, 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 03 equity shareholders and 01 unsecured creditor. All the equity shareholders and the sole 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 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, as on 31st January, 2015.

13. The transferee company has 06 equity shareholders. All the equity shares 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 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 31st January, 2015

14. The transferee company has 15 unsecured creditors and a direction is sought to convene and hold their meeting to seek their approval to the proposed Scheme of Amalgamation. Considering the facts and circumstances aforesaid, the meeting of the unsecured creditors of the transferee company shall be held on 19th September,

2015 at 12:00 noon at Svelte Hotel & Personal Suites, Lounge, Select Citywalk, A-3, District Centre, Saket, New Delhi – 110017. Mr. Yogesh Malhotra, Advocate, (Mobile No. 9811151411) is appointed as the Chairperson and Ms. Natasha Thakur, Advocate, (Mobile No. 8800900377) is appointed as the Alternate Chairperson to conduct the said meeting. The Quorum of the meeting of the unsecured creditors of the transferee company shall be 4 in number and more than 25% in value of the total unsecured debt.

15. In case the quorum as noted above for the above meeting is not present at the meeting, then the meeting shall be adjourned by half an hour, and thereafter the persons present and voting shall be deemed to constitute the quorum. For the purpose of computing the quorum the valid proxies shall also be considered, if the proxy in the prescribed form duly signed by the person entitled to attend and vote at the meeting is filed with the registered office of the applicant company at least 48 hours before the meeting. The Chairperson and Alternate Chairperson shall ensure that the proxy register is properly maintained.

16. The Chairperson and Alternate Chairperson shall ensure that notices for convening the aforesaid meeting of the unsecured creditors of the transferee company, along with copies of the Scheme of Amalgamation and the statement under Section 393 of the Companies

Act, 1956, shall be sent to the unsecured creditor of the transferee company by ordinary post at their registered or last known addresses at least 21 days before the date appointed for the meeting, in their presence or in the presence of their authorized representatives. Notice of the meeting shall also be published in the Delhi editions of the newspapers "Business Standard" (English) and (Hindi) in terms of the Companies (Court) Rules, 1959 at least 21 days before the date appointed for the meeting.

17. The Chairperson and Alternate Chairperson will be at liberty to issue suitable directions to the management of the applicant company so that the aforesaid meeting of the unsecured creditor of the transferee company is conducted in a just, free and fair manner.

18. The fee of the Chairperson and the Alternate Chairperson for the aforesaid meeting shall be Rs.50,000/- each in addition to meeting their incidental expenses. The Chairperson will file his report within two weeks from the date of holding of the aforesaid meeting.

19. The application stands allowed in the aforesaid terms.

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SUDERSHAN KUMAR MISRA, J.

August 18, 2015