

IN THE HIGH COURT OF DELHI
COMPANY APPLICATION (MAIN) NO. 72/2015

Reserved on 29th April, 2015
Date of pronouncement: 21st 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**

Scheme of Amalgamation of:

Leading Point Powertronics Private Limited

Applicant/Transferor Company No. 1

Leading Point Technology Private Limited

Applicant/Transferor Company No. 2

WITH

ERD Technologies Private Limited

Applicant/Transferee Company

**Through Mr. Saurabh Kalia, 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 Amalgamation of Leading Point Powertronics Private Limited (hereinafter referred to as the transferor company No. 1) and Leading Point Technology Private Limited (hereinafter referred to as the transferor

company No. 2) with ERD Technologies 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 29th April, 2006 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

4. The transferor company no. 2 was originally incorporated under the Companies Act, 1956 on 25th February, 1985 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi under the name and style of Sassun Fibres Private Limited. The company changed its name to Leading Point Technology Private Limited and obtained the fresh certificate of incorporation on 1st February, 2011.

5. The transferee company was incorporated under the Companies Act, 1956 on 4th March, 2013 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.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.34,23,600/- divided into 3,42,360 equity shares of Rs.10/- each.

7. The present authorized share capital of the transferor company no.2 is Rs.2,00,00,000/- divided into 2,00,000 equity shares of Rs.100/- each. The issued, subscribed and paid-up share capital of the company is Rs.1,58,02,000/- divided into 1,58,020 equity shares of Rs.100/- each.

8. The present authorized share capital of the transferee 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.1,00,000/- divided into 10,000 equity shares of Rs.10/- each.

9. 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 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 application and the accompanying affidavit. It is claimed by the applicants that the proposed amalgamation would provide greater integration and greater financial strength for the amalgamated entity,

which would result in maximizing overall shareholder value, and will improve the competitive position of the combined entity. It is further claimed that the proposed amalgamation would improve organizational capabilities and leadership, arising from the pooling of human capital who have the diverse skills, talent and vast experience to compete successfully in an increasingly competitive industry.

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:-

“18 fully paid up equity shares of Rs.10/- each of the transferee company for every 01 fully paid up equity share of Rs.10/- each held by the shareholders in the transferor company no. 1.”

“39 fully paid up equity shares of Rs.10/- each of the transferee company for every 01 equity share of Rs.100/- each fully paid up held by the shareholders in the transferor company no. 2.”

12. It has been submitted by the applicants that no proceedings under Sections 235 to 251 of the Companies Act, 1956 and/or Sections 206 to 229 of the Companies Act, 2013 are pending against the applicant companies.

13. The Board of Directors of the transferor and transferee companies in their separate meetings held on 27th January, 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.

14. The transferor company no. 1 has 05 equity shareholders, 01 secured creditor and 67 unsecured creditors. All the equity shareholders, the only secured creditor and 64 out of 67 unsecured creditors, being 95.52% in number and 95.88% 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 no. 1 to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation is dispensed with.

15. The transferor company no. 2 has 02 equity shareholders. Both 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 no. 2 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 no. 2, as on 31st January, 2015.

16. The transferee company has 02 equity shareholders, 02 secured creditors and 73 unsecured creditors. Both the equity shareholders, both the secured creditors and 69 out of 73 unsecured creditors, being 94.52% in number and 99.63% 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 transferee company to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation is dispensed with.

17. The Application stands allowed in the aforesaid terms.

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SUDERSHAN KUMAR MISRA, J.

May 21, 2015