

IN THE HIGH COURT OF DELHI
COMPANY APPLICATION (MAIN) NO. 68/2015

Reserved on 27th 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 and 394 read
with Sections 100 to 104 of the Companies
Act, 1956**

Scheme of Amalgamation of:

Dedicated Investments Private Limited

Applicant/Transferor Company No. 1

Sambhav Finlease Private Limited

Applicant/Transferor Company No. 2

Naru Investments Private Limited

Applicant/Transferor Company No. 3

Moda Eleganza Private Limited

Applicant/Transferor Company No. 4

Mahajan Polybag Private Limited

Applicant/Transferor Company No. 5

WITH

AL Consultants Private Limited

Applicant/Transferee Company

**Through Mr. Ashish Middha, Advocate
for the applicants**

SUDERSHAN KUMAR MISRA, J.

1. This joint application has been filed under Sections 391 and 394 read with Sections 100 to 104 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 and preference shareholders, secured and unsecured creditors to consider and approve,

with or without modification, the proposed Scheme of Amalgamation of Dedicated Investments Private Limited (hereinafter referred to as the transferor company no.1); Sambhav Finlease Private Limited (hereinafter referred to as the transferor company no.2); Naru Investments Private Limited (hereinafter referred to as the transferor company no.3); Moda Eleganza Private Limited (hereinafter referred to as the transferor company no.4); and Mahajan Polybag Private Limited (hereinafter referred to as the transferor company no.5) with AL Consultants 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 1st January, 1992 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 20th May, 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 17th August, 1989 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

6. The transferor company no. 4 was incorporated under the Companies Act, 1956 on 26th April, 1995 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

7. The transferor company no. 5 was incorporated under the Companies Act, 1956 on 8th January, 1991 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

8. The transferee company was incorporated under the Companies Act, 1956 on 11th February, 1992 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

9. The present authorized share capital of the transferor company no.1 is Rs.7,20,00,000/- divided into 7,20,000 equity shares of Rs.100/- each. The issued, subscribed and paid up capital of the company is Rs.7,10,00,200/- divided into 7,10,002 equity shares of Rs.100/- each fully paid-up.

10. The present authorized share capital of the transferor company no.2 is Rs.2,20,00,000/- divided into 2,20,000 equity shares of Rs.100/- each. The issued, subscribed and paid up capital of the company is Rs.2,14,37,500/- divided into 2,14,375 equity shares of Rs.100/- each fully paid-up.

11. The present authorized share capital of the transferor company no.3 is Rs.1,50,00,000/- divided into 5,00,000 equity shares of Rs.10/- aggregating to Rs.50,00,000/- and 10,00,000 6% redeemable non cumulative preference shares of Rs.10/- each fully paid up aggregating to Rs.1,00,00,000/-. The issued, subscribed and paid up capital of the company is Rs.1,48,96,150/- divided into 4,89,615 equity shares of Rs.10/- aggregating to Rs.48,96,150/- and 10,00,000 6% redeemable non cumulative preference shares of Rs.10/- each fully paid up aggregating to Rs.1,00,00,000/-.

12. The present authorized share capital of the transferor company no.4 is Rs.3,20,00,000/- divided into 3,20,000 equity shares of Rs.100/- each. The issued, subscribed and paid up capital of the company is Rs.3,16,00,000/- divided into 3,16,000 equity shares of Rs.100/- each fully paid-up.

13. The present authorized share capital of the transferor company no.5 is Rs.1,50,00,000/- divided into 5,00,000 equity shares of Rs.10/- aggregating to Rs.50,00,000/- and 10,00,000 6% redeemable non cumulative preference shares of Rs.10/- each fully paid up aggregating to Rs.1,00,00,000/-. The issued, subscribed and paid up capital of the company is Rs.1,17,70,000/- divided into 3,31,000 equity shares of Rs.10/- aggregating to Rs.33,10,000/- and 8,46,000 6% redeemable non

cumulative preference shares of Rs.10/- each fully paid up aggregating to Rs.84,60,000/-.

14. The present authorized share capital of the transferee company is Rs.1,27,00,000/- divided into 2,70,000 equity shares of Rs.10/- aggregating to Rs.27,00,000/- and 10,00,000 6% redeemable non cumulative preference shares of Rs.10/- each fully paid up aggregating to Rs.1,00,00,000/-. The issued, subscribed and paid up capital of the company is Rs.1,05,80,200/- divided into 2,60,520 equity shares of Rs.10/- aggregating to Rs.26,05,200/- and 7,97,500 6% redeemable non cumulative preference shares of Rs.10/- each fully paid up aggregating to Rs.79,75,000/-.

15. 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.

16. 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 affidavits. It is claimed by the applicants that the proposed scheme will result in formation of a larger company enabling further growth and development of the

businesses of the said company thus enabling the said company to obtain greater facilities possessed and enjoyed by one large company compared to a small company for raising capital, securing and conducting trade and business on favourable terms and other related benefits. It is further claimed that the proposed amalgamation will result in reduction in overheads and other expenses, reduction in administrative and procedural work, eliminate duplication of work, better and more productive utilization of various resources and will enable the undertakings concerned to effect internal economies and optimize productivity.

17. 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:-

“149 equity shares of Rs.10/- each of the transferee company for every 100 fully paid up equity shares of Rs.100/- each held in the transferor company no. 1.”

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

“76 equity shares of Rs.10/- each of the transferee company for every 100 fully paid up equity shares of Rs.10/- each held in the transferor company no. 3 and 01 6% redeemable non cumulative preference shares of Rs.10/- each for every 01 fully paid up 6% redeemable non cumulative preference shares of Rs.10/- each held in transferor company no. 3.”

“32 equity shares of Rs.10/- each of the transferee company for every 100 fully paid up equity shares of Rs.100/- each held in the transferor company no. 4.”

“135 equity shares of Rs.10/- each of the transferee company for every 100 fully paid up equity shares of Rs.10/- each held in the transferor company no. 5 and 01 6% redeemable non cumulative preference shares of Rs.10/- each for every 01 fully paid up 6% redeemable non cumulative preference shares of Rs.10/- each held in transferor company no. 5.”

18. It has been submitted by the applicants that no proceedings under Sections 235 to 251 of the Companies Act, 1956 and the Companies Act, 2013 (to the extent applicable) are pending against the applicant companies.

19. The Board of Directors of the transferor and transferee companies in their separate meetings held on 10th April, 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.

20. The transferor company no. 1 has 15 equity shareholders. All 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. 1 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. 1, as on 17th April, 2015.

21. The transferor company no. 2 has 13 equity shareholders. All 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 17th April, 2015.

22. The transferor company no. 3 has 14 equity shareholders and 02 preference shareholders. All the equity shareholders 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 transferor company no. 3 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. 3, as on 17th April, 2015.

23. The transferor company no. 4 has 13 equity shareholders. All 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. 4 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. 4, as on 17th April, 2015.

24. The transferor company no. 5 has 14 equity shareholders and 03 preference shareholders. All the equity shareholders and all 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 transferor company no. 5 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. 5, as on 17th April, 2015.

25. The transferee company has 14 equity shareholders and 02 preference shareholders. All the equity shareholders 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. There is no secured or unsecured creditor of the transferee company, as on 17th April, 2015

26. The application stands allowed in the aforesaid terms.

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SUDERSHAN KUMAR MISRA, J.

May 21, 2015