IN THE HIGH COURT OF DELHI

COMPANY PETITION NO. 717/2014

Reserved on 23rd February, 2015
Date of pronouncement: 17th March, 2015

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

And

Petition under Section 391(2) & 394 of the Companies Act, 1956

Scheme of Amalgamation of:

M/s. Pulse Realty Private Limited
Petitioner/Transferor Company

WITH

M/s. Luke Securities Private Limited
Petitioner/Transferee Company

Through Mr. Mukesh Sukhija, Advocate for the petitioners
Ms. Aparna Mudiam, Assistant Registrar of Companies for the Regional Director
Mr. Rajiv Bahl, Advocate for the Official Liquidator

SUDERSHAN KUMAR MISRA, J.

1. This joint petition has been filed under Sections 391(2) & 394 of the Companies Act, 1956 by the petitioner companies seeking sanction of the Scheme of Amalgamation of M/s. Pulse Realty Private Limited (hereinafter referred to as the transferor company) with M/s. Luke Securities 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 incorporated under the Companies Act, 1956 on 19th October, 2004 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

4. The transferee company was originally incorporated under the Companies Act, 1956 on 7th March, 1994 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi under the name and style of Rajesh & Ashok Securities Private Limited. The company changed its name to Luke Securities Private Limited and obtained the fresh certificate of incorporation on 11th February, 2010.

5. The present authorized share capital of the transferor company 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.67,58,000/- divided into 6,75,800 equity shares of Rs.10/- each.

6. The present authorized share capital of the transferee company is Rs.1,50,00,000/- divided into 15,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.1,11,00,000/- divided into 11,10,000 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 with the joint application, being CA(M) 154/2014, earlier filed by the petitioners. The audited balance sheets, as on 31st March, 2013, of the transferor and transferee companies, along with the report of the auditors, had 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 petition and the accompanying affidavit. It is submitted by the petitioners that both the companies are closely held private limited companies and that the transferee company is presently engaged in consultancy services. It is claimed 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:

> "3.20 equity shares of Rs.10/- each of the transferee company for every 01 equity share of Rs.10/- each held by the shareholders in the transferor company".

10. It has been submitted by the petitioners that no proceedings under Sections 235 to 251 of the Companies Act, 1956 are pending against the transferor and transferee companies.

11. The Board of Directors of the transferor and transferee companies in their separate meetings held on 11th August, 2014 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 had been placed in CA(M) 154/2014.

12. The petitioner companies had earlier filed CA (M) No. 154/2014 seeking directions of this court to dispense with the requirement of convening the meetings of their shareholders, secured and unsecured creditors, which are statutorily required for sanction of the Scheme of Amalgamation. Vide order dated 7th November, 2014, this court allowed the application and dispensed with the requirement of convening and

holding the meetings of the equity shareholders, secured and unsecured creditors of the transferor and transferee companies to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation.

13. The petitioner companies have thereafter filed the present petition seeking sanction of the Scheme of Amalgamation. Vide order dated 21st November, 2014, notice in the petition was directed to be issued to the Regional Director, Northern Region, and the Official Liquidator. Citations were also directed to be published in 'Indian Express' (English) and 'Dainik Bhaskar' (Hindi) editions. Affidavit of service has been filed by the petitioners showing compliance regarding service on the Regional Director, Northern Region and the Official Liquidator, and also regarding publication of citations in the aforesaid newspapers on 11th December, 2014. Copies of the newspaper clippings containing the publications have been filed along with the affidavit of service.

14. Pursuant to the notices issued, the Official Liquidator sought information from the petitioner companies. Based on the information received, the Official Liquidator has filed a report dated 19th February, 2015 wherein he has stated that he has not received any complaint against the proposed Scheme of Amalgamation from any person/party interested in the Scheme in any manner and that the affairs of the transferor company do not appear to have been conducted in a manner

prejudicial to the interest of its members, creditors or public interest, as per second proviso of Section 394(1) of the Companies Act, 1956.

15. In response to the notices issued in the petition, Mr. A. K. Chaturvedi, Regional Director, Northern Region, Ministry of Corporate Affairs has filed his report dated 20th February, 2015. Relying on Clause 8 of Section D of the Scheme, he has stated that, upon sanction of the Scheme of Amalgamation, all the employees of the transferor company shall become the employees of the transferee company without any break or interruption in their services. He has further submitted that in Clause 15(a) of Section G of the Scheme, it has been stated that amalgamation shall be an 'amalgamation in the nature of merger' as defined in Accounting Standard-14 issued by the Institute of Chartered Accountants of India and shall be accounted for under the 'pooling of interest' method in accordance with the said AS-14. He further submitted that in Clause 10 of Section E of the Scheme, it has been stated that upon this scheme becoming effective, the transferor company shall stand dissolved without the process of winding up.

16. No objection has been received to the Scheme of Amalgamation from any other party. The petitioner companies, in the affidavit dated 19th February, 2015 of Sh. Manoj Kumar, Director of the petitioner companies, have submitted that neither the petitioner companies nor their counsel

have received any objection pursuant to the citations published in the newspapers on 11th December, 2014.

17. Considering the approval accorded by the equity shareholders, secured and unsecured creditors of the petitioner companies to the proposed Scheme of Amalgamation and the affidavits filed by the Regional Director, Northern Region, and the Official Liquidator not raising any objection to the proposed Scheme of Amalgamation, there appears to be no impediment to the grant of sanction to the Scheme of Amalgamation. Consequently, sanction is hereby granted to the Scheme of Amalgamation under Sections 391 and 394 of the Companies Act, 1956. The petitioner companies will comply with the statutory requirements in accordance with law. Certified copy of this order be filed with the Registrar of Companies within 30 days. It is also clarified that this order will not be construed as an order granting exemption from payment of stamp duty as payable in accordance with law. Upon the sanction becoming effective from the appointed date of Amalgamation, i.e. 1st April, 2013, the transferor company shall stand dissolved without undergoing the process of winding up.

18. The petition is allowed in the above terms.

Dasti.

SUDERSHAN KUMAR MISRA, J.

March 17, 2015