

IN THE HIGH COURT OF DELHI
COMPANY APPLICATION (MAIN) NO. 104/2015

Reserved on 1st July, 2015
Date of pronouncement: 21st July, 2015

In the matter of

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

And

**Application under Section 391(1) of the
Companies Act, 1956**

Scheme of Amalgamation of:

Matina Enterprises Private Limited

Applicant/Transferor Company

WITH

Proec Energy Limited

Applicant/Transferee Company

**Through Mr. Rajeev K. Goel, Advocate
for the applicants**

SUDERSHAN KUMAR MISRA, J.

1. This joint application has been filed under Section 391(1) 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 Matina Enterprises Private Limited (hereinafter referred to as the transferor company) with Proec Energy 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 10th September, 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 5th January, 1993 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi under the name and style of Nippon Vink Chemical Industries India Limited. The company changed its name to Proec Energy Limited and obtained the fresh certificate of incorporation on 23rd March, 2006.

5. The present authorized share capital of the transferor company is Rs.24,00,000/- divided into 2,40,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.23,50,000/- divided into 2,35,000 equity shares of Rs.10/- each.

6. The present authorized share capital of the transferee 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.19,00,800/- divided into 1,90,080 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, of the transferor and transferee companies, along with the report 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 affidavits. It is submitted by the applicants that the transferor and transferee companies are closely held group companies and the proposed amalgamation would result in business synergy, consolidation and pooling of their resources. It is 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:-

“01 equity share of Rs.10/- each of the transferee company, credited as fully paid up, for every 44 equity shares of Rs.10/- held 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 20th December, 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 have been placed on record.

12. The transferor company has 02 equity shareholders and 10 unsecured creditors. Both the equity shareholders and 07 out of 10 unsecured creditors, being 70% in number and 80% 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 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. There is no secured creditor of the transferor company, as on 31st March, 2014.

13. The transferee company has 07 equity shareholders, 03 secured creditors and 274 unsecured creditors. All the equity shareholders, all the secured creditors and 144 out of 274 unsecured creditors, being 52.55% in number and 78.43% 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.

14. The application stands allowed in the aforesaid terms.

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SUDERSHAN KUMAR MISRA, J.

July 21, 2015