IN THE HIGH COURT OF DELHI
COMPANY APPLICATION (MAIN) NO. 103/2015

Reserved on 2nd July, 2015
Date of pronouncement: 27th July, 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 read with Rules 6 and 9 of the Companies (Court) Rules, 1959

Scheme of Amalgamation of:

Felix Software Solutions Private Limited
Applicant/Transferor Company No. 1

Genpact India
Applicant/Transferor Company No. 2

Genpact Infrastructure (Bhubaneswar) Private Limited
Applicant/Transferor Company No. 3

Genpact India Business Processing Private Limited
Applicant/Transferor Company No. 4

Genpact Infrastructure (Jaipur) Private Limited
Applicant/Transferor Company No. 5

NGEN Media Services Private Limited
Applicant/Transferor Company No. 6

Pharmalink Consulting Operations Private Limited
Applicant/Transferor Company No. 7

WITH

Empower Research Knowledge Services Private Limited
Non-Applicant/Transferee Company

Through Mr. Mahesh Aggarwal with Mr. Rajeev Kumar, Advocates for the applicants

SUDERSHAN KUMAR MISRA, J.

1. This joint application has been filed under Sections 391 and 394 of the Companies Act, 1956 read with Rules 6 & 9 of the Companies (Court) Rules, 1959 by the applicant/transferor companies seeking directions of this court to dispense with the requirement of convening the meetings of their equity shareholders, secured and unsecured creditors and for convening a meeting of the unsecured creditors of the applicant/transferor company no. 2 to consider and approve, with or without modification, the proposed Scheme of Amalgamation of Felix Software Solutions Private Limited (hereinafter referred to as the transferor company no. 1); Genpact India (hereinafter referred to as the transferor company no. 2); Genpact Infrastructure (Bhubaneswar) Private Limited (hereinafter referred to as the transferor company no. 3); Genpact India Business Processing Private Limited (hereinafter referred to as the transferor company no. 4); Genpact Infrastructure (Jaipur) Private Limited (hereinafter referred to as the transferor company no. 5); NGEN Media Services Private Limited (hereinafter referred to as the transferor company no. 6) and Pharmalink Consulting Operations Private Limited (hereinafter referred to as the transferor company no. 7) with Empower Research Knowledge Services Private Limited (hereinafter referred to as the transferee company).

2. The registered offices of the transferor companies are situated at New Delhi, within the jurisdiction of this Court. However, the registered office of the transferee company is situated at Telangana, outside the jurisdiction of this Court. Learned counsel for the applicant submitted that a separate application will be filed by the transferee company in the court of competent jurisdiction for sanction of the Scheme of Amalgamation in respect of the transferee company.

3. The transferor company no. 1 was originally incorporated under the Companies Act, 1956 on 17th February, 2007 with the Registrar of Companies, Andhra Pradesh. The company shifted its registered office from the state of Andhra Pradesh to Delhi and obtained a certificate in this regard from the Registrar of Companies, NCT of Delhi & Haryana at New Delhi on 28th August, 2014.

4. The transferor company no. 2 was originally incorporated under the Companies Act, 1956 on 30th October, 1996 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi under the name and style of GE Capital International Services (Private Company with limited liability). The word 'Private' was deleted from the name of the company w.e.f. 01.04.2000. The company has been converted into a private company w.e.f. 08.04.2003. The company changed its name to Genpact India and obtained the fresh certificate of incorporation on 6th June, 2006.

5. The transferor company no. 3 was originally incorporated under the Companies Act, 1956 on 23rd August, 2006 with the Registrar of Companies, Rajasthan at Jaipur under the name and style of Genpact Infrastructure (Bhubneshwar) Private Limited. The company shifted its registered office from the state of Rajasthan to Delhi and obtained a certificate in this regard from the Registrar of Companies, NCT of Delhi & Haryana at New Delhi on 27th April, 2010. Thereafter, the company changed its name to Genpact Infrastructure (Bhubaneswar) Private Limited and obtained the fresh certificate of incorporation on 9th April, 2008.

6. The transferor company no. 4 was originally incorporated under the Companies Act, 1956 on 24th August, 2006 with the Registrar of Companies, Rajasthan at Jaipur. The company shifted its registered office from the state of Rajasthan to Delhi and obtained a certificate in this regard from the Registrar of Companies, NCT of Delhi & Haryana at New Delhi on 27th April, 2010.

7. The transferor company no. 5 was originally incorporated under the Companies Act, 1956 on 24th August, 2006 with the Registrar of Companies, Rajasthan at Jaipur. The company shifted its registered office from the state of Rajasthan to Delhi and obtained a certificate in

this regard from the Registrar of Companies, NCT of Delhi & Haryana at New Delhi on 27th April, 2010.

8. The transferor company no. 6 was incorporated under the Companies Act, 1956 on 29th August, 2006 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

9. The transferor company no. 7 was originally incorporated under the Companies Act, 1956 on 3rd April, 2012 with the Registrar of Companies, Maharashtra at Mumbai. The company shifted its registered office from the state of Maharashtra to Delhi and obtained a certificate in this regard from the Registrar of Companies, NCT of Delhi & Haryana at New Delhi on 12th May, 2015.

10. The present authorized share capital of the transferor company no.1 is Rs.1,00,000/- divided into 10,000 equity shares of Rs.10/- each. The present 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.

11. The present authorized share capital of the transferor company no.2 is Rs.25,00,00,000/- divided into 2,50,00,000 equity shares of Rs.10/- each. The present issued, subscribed and paid-up share capital

of the company is Rs.1,56,87,000/- divided into 15,68,700 equity shares of Rs.10/- each.

12. The present authorized share capital of the transferor company no.3 is Rs.5,00,00,000/- divided into 50,00,000 equity shares of Rs.10/- each. The present issued, subscribed and paid-up share capital of the company is Rs.10,00,000/- divided into 1,00,000 equity shares of Rs.10/- each.

13. The present authorized share capital of the transferor company no.4 is Rs.5,00,00,000/- divided into 50,00,000 equity shares of Rs.10/- each. The present issued, subscribed and paid-up share capital of the company is Rs.10,00,000/- divided into 1,00,000 equity shares of Rs.10/- each.

14. The present authorized share capital of the transferor company no.5 is Rs.5,00,00,000/- divided into 50,00,000 equity shares of Rs.10/- each. The present issued, subscribed and paid-up share capital of the company is Rs.10,00,000/- divided into 1,00,000 equity shares of Rs.10/- each.

15. The present authorized share capital of the transferor company no.6 is Rs.20,00,00,000/- divided into 2,00,00,000 equity shares of

Rs.10/- each. The present issued, subscribed and paid-up share capital of the company is Rs.17,00,00,000/- divided into 1,70,00,000 equity shares of Rs.10/- each.

16. The present authorized share capital of the transferor company no.7 is Rs.1,00,000/- divided into 10,000 equity shares of Rs.10/- each. The present 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.

17. 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, and the provisional accounts of the transferor and transferee companies, as on 31st March, 2015, have also been filed.

18. 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 that the proposed amalgamation will provide an opportunity to better leverage the consolidated assets and capital base, build a stronger and sustainable business, and improve the potential for further growth and

expansion of the business. It is further claimed that consolidation of entities in a single platform will provide operational synergies, which in turn eliminate inefficiencies and streamline corporate structures and cash flow.

19. So far as the share exchange ratio is concerned, the Scheme provides that the entire share capital of the transferor companies no. 2, 3, 4, 5, 6 & 7 are held by the transferee company, therefore, no shares shall be allotted by the transferee company. Further, since transferor company no. 1 is a wholly owned subsidiary of the transferor company no. 2 which shall get merged into the transferee company, therefore, no shares shall be issued pursuant to amalgamation of transferor company no. 1 into the transferee company.

20. 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.

21. The Board of Directors of the transferor companies no. 1, 2, 3, 4, 5, 6 & 7 and the transferee company in their separate meetings held on 20th April, 2015, 22nd April, 2015, 23rd April, 2015, 23rd April, 2015, 23rd April, 2015, 20th April, 2015, 23rd April, 2015 and 23rd April, 2015 respectively 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.

22. The transferor company no. 1 has 02 equity shareholders and 02 unsecured creditors. Both the equity shareholders and both the unsecured creditors 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 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 creditor of the transferor company no. 1, as on 31st March, 2015.

23. The transferor company no. 2 has 02 equity shareholders and 02 secured creditors. Both the equity shareholders and both the secured creditors 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 secured creditors 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.

24. The transferor company no. 3 has 02 equity shareholders and 01 unsecured creditor. Both the equity shareholders and the only 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 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 creditor of the transferor company no. 3, as on 31st March, 2015.

25. The transferor company no. 4 has 02 equity shareholders and 01 unsecured creditor. Both the equity shareholders and the only 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 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 creditor of the transferor company no. 4, as on 31st March, 2015.

26. The transferor company no. 5 has 02 equity shareholders and 01 unsecured creditor. Both the equity shareholders and the only 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 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 creditor of the transferor company no. 5, as on 31st March, 2015.

27. The transferor company no. 6 has 02 equity shareholders and 12 unsecured creditors. Both the equity shareholders and all the unsecured creditors 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 no. 6 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 no. 6, as on 31st March, 2015.

28. The transferor company no. 7 has 02 equity shareholders and 11 unsecured creditors. Both the equity shareholders and all the unsecured creditors 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 no. 7 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 no. 7, as on 31st March, 2015.

29. The transferor company no. 2 has 366 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 transferor company no. 2 shall be held on 5th September, 2015 at 11:00 a.m. at the registered office of the company at Genpact India, Second Floor, Delhi Information Technology Park, Shastri Park, New Delhi–110053. Mr. Y. P. Singh, Advocate, (Mobile No. 9953711028) is appointed as the Chairperson and Ms. Nidhi Tewari, Advocate, (Mobile

No. 9910421795) is appointed as the Alternate Chairperson to conduct the said meeting. The Quorum of the meeting of the unsecured creditors of the transferor company no. 2 shall be 50 in number and more than 25% in value of the total unsecured debt.

30. 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 transferor company no. 2 at least 48 hours before the meeting. The Chairperson and Alternate Chairperson shall ensure that the proxy register is properly maintained.

31. The Chairperson and Alternate Chairperson shall ensure that notices for convening the aforesaid meeting of the unsecured creditors of the transferor company no. 2, 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 creditors of the transferor company no. 2 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 “Jansatta” (Hindi) editions in terms of the Companies (Court) Rules, 1959 at least 21 days before the date appointed for the meeting.

32. The Chairperson and Alternate Chairperson will be at liberty to issue suitable directions to the management of the transferor company no. 2 so that the aforesaid meeting of the unsecured creditors of the transferor company no. 2 is conducted in a just, free and fair manner.

33. 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.

34. The application stands allowed in the aforesaid terms.

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SUDERSHAN KUMAR MISRA, J.

July 27, 2015