

IN THE HIGH COURT OF DELHI
COMPANY APPLICATION (MAIN) NO. 132/2015

Reserved on 6th August, 2015

Date of pronouncement: 1st September, 2015

In the matter of

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

And

**Application under Sections 391, 392 & 394 of
the Companies Act, 1956 read with Rules 6 &
9 of the Companies (Court) Rules, 1959**

Scheme of Amalgamation of:

Ramdoot Merchandise Private Limited

Applicant/Transferor Company No. 1

Aztec Laboratories Private Limited

Applicant/Transferor Company No. 2

WITH

Glorious Electronics India Private Limited

Applicant/Transferee Company

**Through Mr. P. Nagesh and Mr. Anand
M. Mishra, Advocates for the
applicants**

SUDERSHAN KUMAR MISRA, J.

1. This joint application has been filed under Sections 391, 392 & 394 of the Companies Act, 1956 read with Rules 6 & 9 of the Companies (Court) Rules, 1959 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 Ramdoot Merchandise Private Limited (hereinafter

referred to as the transferor company no. 1) and Aztec Laboratories Private Limited (hereinafter referred to as the transferor company no. 2) with Glorious Electronics India 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 10th March, 2005 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

3. The transferor company no. 2 was incorporated under the Companies Act, 1956 on 6th November, 1985 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

4. The transferee company was incorporated under the Companies Act, 1956 on 26th September, 2005 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

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

The issued, subscribed and paid-up share capital of the company is Rs.3,92,500/- divided into 39,250 equity shares of Rs.10/- each.

5. The present authorized share capital of the transferor company no.2 is Rs.1,00,00,000/- divided into 1,00,000 equity shares of Rs.100/- each. The issued, subscribed and paid-up share capital of the company is Rs.1,00,500/- divided into 1,005 equity shares of Rs.100/- each.

6. The present authorized share capital of the transferee company is Rs.40,00,000/- divided into 4,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.35,00,000/- divided into 3,50,000 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. The audited balance sheets, as on 31st March, 2014, along with the reports of the auditors, of the transferor and transferee companies 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 affidavit. It is claimed by the applicants that the Scheme of Amalgamation will result in

establishment of a larger company with large resources, larger capital base, greater capacity to raise funds for expansion, modernization and development of the businesses of the companies concerned. It is further claimed that the proposed amalgamation will enable the undertakings and businesses of the said companies to obtain greater facilities possessed and enjoyed by one large company for securing and conducting its business on favourable terms and other benefits.

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 companies in the following ratio:

“04 equity shares of Rs.10/- each fully paid up of the transferee company for every 07 equity shares of Rs.10/- each fully paid up held by the shareholders in the transferor company no. 1.”

It has been further submitted that no shares of the transferee company shall be allotted in lieu or exchange of its holding in the transferor company no. 2.

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 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.

12. The transferor company no. 1 has 02 equity shareholders and 01 unsecured creditor. Both the equity shareholders and the sole 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. 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 January, 2015.

12. The transferor company no. 2 has 02 equity shareholders and 03 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. 2 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. 2, as on 31st January, 2015.

13. The transferee company has 02 equity shareholders and 06 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 transferee company to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation is dispensed with.

14. In addition to the above, the transferee company has 01 secured creditor, as on 31st January, 2015, whose dues are paid in full and a 'No Dues Certificate' from the said secured creditor has been placed on record. Therefore, at present there is no secured creditor of the transferee company. Further, there are 75 trade creditors of the transferee company to whom a sum of Rs.1,85,93,450.59/- is payable

but their consents/no objections have not been placed on record. Learned counsel for the applicants has submitted that the sum payable to these creditors, except one whose amount is very insignificant, pertains to a period of less than six months which are payable in the ordinary course of business; and that the transferee company will continue to pay their dues in its normal payment cycle. He has further submitted that the transferee company has sufficient financial resources to pay the amounts due to these creditors and neither the amounts nor any of the rights of these creditors will be varied pursuant to the Scheme. He, therefore, prays that the requirement of convening and holding the meetings of the secured creditor and trade creditors of the transferee company may kindly be dispensed with. In view of the submissions made at the bar and the fact that the trade creditors are day-to-day creditors, whose sum will be payable in normal course of business, the requirement of convening the meetings of the secured creditor and trade creditors of the transferee company to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation is dispensed with

15. The application stands allowed in the aforesaid terms.

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SUDERSHAN KUMAR MISRA, J.

September 01, 2015