

IN THE HIGH COURT OF DELHI
COMPANY APPLICATION (MAIN) NO. 112/2015

Reserved on 2nd 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 Sections 391 and 394 of the
Companies Act, 1956 read with Rules 6 & 9 of
the Companies (Court) Rules, 1959**

Scheme of Amalgamation of:

Naveen Import Private Limited

Applicant/Transferor Company No. 1

Garg Travel & Tours Private Limited

Applicant/Transferor Company No. 2

Latex Enterprises Private Limited

Applicant/Transferor Company No. 3

Pine Mercantile Private Limited

Applicant/Transferor Company No. 4

Ramesh Pandit Builders & Promoters Private Limited

Applicant/Transferor Company No. 5

Sun Alucop Private Limited

Applicant/Transferor Company No. 6

Madhur Muskan Buildcon Private Limited

Applicant/Transferor Company No. 7

WITH

Ekta Infratech 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 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 Naveen Import Private Limited (hereinafter referred to as the transferor company no. 1); Garg Travel & Tours Private Limited (hereinafter referred to as the transferor company no. 2); Latex Enterprises Private Limited (hereinafter referred to as the transferor company no. 3); Pine Mercantile Private Limited (hereinafter referred to as the transferor company no. 4); Ramesh Pandit Builders & Promoters Private Limited (hereinafter referred to as the transferor company no. 5); Sun Alucop Private Limited (hereinafter referred to as the transferor company no. 6); and Madhur Muskan Buildcon Private Limited (hereinafter referred to as the transferor company no. 7) with Ekta Infratech 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 18th June, 2009 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 11th October, 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 7th August, 2000 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 18th May, 2009 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 26th June, 1998 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

8. The transferor company no. 6 was incorporated under the Companies Act, 1956 on 21st June, 2007 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

9. The transferor company no. 7 was incorporated under the Companies Act, 1956 on 17th March, 2005 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

10. The transferee company was incorporated under the Companies Act, 1956 on 17th June, 2009 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

11. The present authorized share capital of the transferor company no.1 is Rs.6,00,000/- divided into 60,000 equity shares of Rs.10/- each. The issued, subscribed and paid up capital of the company is Rs.2,64,600/- divided into 26,460 equity shares of Rs.10/- each.

12. The present authorized share capital of the transferor company no.2 is Rs.35,00,000/- divided into 3,50,000 equity shares of Rs.10/- each. The issued, subscribed and paid up capital of the company is Rs.16,01,000/- divided into 1,60,100 equity shares of Rs.10/- each.

13. The present authorized share capital of the transferor company no.3 is Rs.10,00,000/- divided into 1,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid up capital of the company is Rs.6,06,000/- divided into 60,600 equity shares of Rs.10/- each.

14. The present authorized share capital of the transferor company no.4 is Rs.20,00,000/- divided into 2,00,000 equity shares of Rs.10/-

each. The issued, subscribed and paid up capital of the company is Rs.3,60,000/- divided into 36,000 equity shares of Rs.10/- each.

15. The present authorized share capital of the transferor company no.5 is Rs.6,00,000/- divided into 60,000 equity shares of Rs.10/- each. The issued, subscribed and paid up capital of the company is Rs.3,78,000/- divided into 37,800 equity shares of Rs.10/- each.

16. The present authorized share capital of the transferor company no.6 is Rs.10,00,000/- divided into 1,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid up capital of the company is Rs.2,87,000/- divided into 28,700 equity shares of Rs.10/- each.

17. The present authorized share capital of the transferor company no.7 is Rs.10,00,000/- divided into 1,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid up capital of the company is Rs.9,50,000/- divided into 95,000 equity shares of Rs.10/- each.

18. The present authorized share capital of the transferee company is Rs.16,00,000/- divided into 1,60,000 equity shares of Rs.10/- each. The issued, subscribed and paid up capital of the company is Rs.3,82,000/- divided into 38,200 equity shares of Rs.10/- each.

19. 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.

20. 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 enable the company concerned to rationalize and streamline their management, businesses and finances and lead to a better and more economic control, over the running and management of the businesses and undertakings of the said company.

21. 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:-

“01 equity share of Rs.10/- each, credited as fully paid-up, of the transferee company for every 01 equity share of Rs.10/- each fully paid-up held in the transferor company no. 1.”

“01 equity share of Rs.10/- each, credited as fully paid-up, of the transferee company for every 01 equity share of Rs.10/- each fully paid-up held in the transferor company no. 2.”

“01 equity share of Rs.10/- each, credited as fully paid-up, of the transferee company for every 01 equity share of Rs.10/- each fully paid-up held in the transferor company no. 3.”

“01 equity share of Rs.10/- each, credited as fully paid-up, of the transferee company for every 01 equity share of Rs.10/- each fully paid-up held in the transferor company no. 4.”

“01 equity share of Rs.10/- each, credited as fully paid-up, of the transferee company for every 01 equity share of Rs.10/- each fully paid-up held in the transferor company no. 5.”

“01 equity share of Rs.10/- each, credited as fully paid-up, of the transferee company for every 01 equity share of Rs.10/- each fully paid-up held in the transferor company no. 6.”

“01 equity share of Rs.10/- each, credited as fully paid-up, of the transferee company for every 01 equity share of Rs.10/- each fully paid-up held in the transferor company no. 7.”

22. 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.

23. The Board of Directors of the transferor and transferee companies in their separate meetings held on 25th March, 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.

24. The transferor company no. 1 has 10 equity shareholders and 01 unsecured creditor. All 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. 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.

25. The transferor company no. 2 has 09 equity shareholders and 01 unsecured creditor. All 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. 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 March, 2015.

26. The transferor company no. 3 has 12 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. 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 31st March, 2015.

27. The transferor company no. 4 has 17 equity shareholders and 02 unsecured creditors. All 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. 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.

28. The transferor company no. 5 has 16 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. 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 31st March, 2015.

29. The transferor company no. 6 has 13 equity shareholders and 01 unsecured creditor. All 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 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.

30. The transferor company no. 7 has 07 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. 7 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. 7, as on 31st March, 2015.

31. The transferee company has 18 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 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 31st March, 2015.

32. The application stands allowed in the aforesaid terms.

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SUDERSHAN KUMAR MISRA, J.

July 21, 2015