

IN THE HIGH COURT OF DELHI
COMPANY APPLICATION (MAIN) NO. 1/2015

Reserved on 5th January, 2015
Date of pronouncement: 20th January, 2015

In the matter of

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

And

Application under Sections 391 to 394 read with Sections 100 to 104 of the Companies Act, 1956 and the Companies Act, 2013 (to the extent applicable)

Scheme of Amalgamation of:

M/s. Dolphin Holdings Private Limited

Applicant/Transferor Company No. 1

M/s. Kakade Holdings Private Limited

Applicant/Transferor Company No. 2

M/s. Garud Impex Private Limited

Applicant/Transferor Company No. 3

WITH

M/s. Dolphin International Private Limited

Applicant/Transferee Company

**Through Mr. Ashok Chhabra, Advocate
for the applicants**

SUDERSHAN KUMAR MISRA, J.

1. This joint application has been filed under Sections 391 to 394 read with Sections 100 to 104 of the Companies Act, 1956 and the Companies Act, 2013 (to the extent applicable) 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 M/s. Dolphin Holdings Private Limited (hereinafter referred to as the transferor company no. 1); M/s. Kakade Holdings Private Limited (hereinafter referred to as the transferor company no. 2) and M/s. Garud Impex Private Limited (hereinafter referred to as the transferor company no. 3) with M/s. Dolphin International 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 4th March, 1991 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 10th June, 1992 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 1st November, 1989 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

6. The transferee company was originally incorporated under the Companies Act, 1956 on 2nd March, 1990 with the Registrar of Companies, NCT of Delhi & Haryana under the name and style of Dolphin Sales Private Limited. The company changed its name to Dolphin International Private Limited and obtained a fresh certificate of incorporation on 8th January, 1991. Thereafter, the word 'Private' was deleted from the name of the company w.e.f. 28th June, 1992. Subsequently, the company was converted into Public Limited Company w.e.f. 10th August, 2004. The company finally converted into a private limited company and changed its name to Dolphin International Private Limited and obtained a fresh certificate in this regard on 21st February, 2013.

7. The authorized share capital of the transferor company no. 1, as on 31st March, 2014, was Rs.7,00,000/- divided into 70,000 equity shares of Rs.10/- each. The issued, subscribed and paid up capital of the company is Rs.6,62,000/- divided into 66,200 equity shares of Rs.10/- each fully paid-up.

8. The authorized share capital of the transferor company no. 2, as on 31st March, 2014, was Rs.1,00,00,000/- divided into 10,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid up capital of the

company is Rs.5,45,200/- divided into 54,520 equity shares of Rs.10/- each fully paid-up.

9. The authorized share capital of the transferor company no. 3, as on 31st March, 2014, was 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.5,18,000/- divided into 51,800 equity shares of Rs.10/- each fully paid-up.

10. The authorized share capital of the transferee company, as on 31st March, 2014, was Rs.6,00,00,000/- divided into 60,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid up capital of the company is Rs.5,42,43,000/- divided into 54,24,300 equity shares of Rs.10/- each fully paid-up.

11. 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.

12. 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 transferee company is a recognized export house and it has been considered appropriate to eliminate multiplicity of companies by merging the transferor companies into the transferee company, so as to be able to work more cohesively, efficiently and effectively as a single unit and thereby bring about overall economy and reduction in costs and at the same time enable the management to give better focus on its core business and improve and enhance its working and operations. It is claimed that the proposed amalgamation would enable pooling of physical, financial and human resources of these companies for their most beneficial utilization in the combined entity which would result in usual economies of a centralized and 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 business.

13. 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:-

“1 (one) equity share of Rs.10/- each of the transferee company, credited as fully paid up, for every 3 (three) equity shares of Rs.10/- each held in the transferor company no. 1.”

“2 (two) equity shares of Rs.10/- each of the transferee company, credited as fully paid up, for every 5 (five) equity shares of Rs.10/- each held in the transferor company no. 2.”

“2 (two) equity shares of Rs.10/- each of the transferee company, credited as fully paid up, for every 5 (five) equity shares of Rs.10/- each held in the transferor company no. 3.”

14. It has been submitted by the applicants that no proceedings under Sections 235 to 251 of the Companies Act, 1956 and the Companies Act, 2013 (to the extent application) have been initiated or are pending against the applicant companies.

15. The Board of Directors of the transferor and transferee companies in their separate meetings held on 2nd June, 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.

16. The transferor company no. 1 has 05 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. 1 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.1, as on 31st May, 2014.

17. The transferor company no. 2 has 02 equity shareholders. Both 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. 2 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.2, as on 31st May, 2014.

18. The transferor company no. 3 has 02 equity shareholders. Both 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 May, 2014.

19. The transferee company has 07 equity shareholders & 04 secured creditors. All the equity shareholders and all 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 the secured creditors 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 unsecured creditor of the transferee company, as on 31st May, 2014.

20. The application stands allowed in the aforesaid terms.

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SUDERSHAN KUMAR MISRA, J.

January 20, 2015