

IN THE HIGH COURT OF DELHI
COMPANY APPLICATION (MAIN) NO. 129/2015

Reserved on 16th July, 2015
Date of pronouncement: 18th August, 2015

In the matter of

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

And

**Application under Sections 390 & 391 of the
Companies Act, 1956 read with Rules 6 & 9 of
the Companies (Court) Rules, 1959**

Scheme of Arrangement between:

Skyway Ventures Limited

Applicant/Transferor Company

AND

Sai Industries Limited

Applicant/Transferee Company

**Through Mr. Anand Mohan, Advocate
for the applicants**

SUDERSHAN KUMAR MISRA, J.

1. This joint application has been filed under Sections 390 & 391 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 secured and unsecured creditors and for convening of separate meetings of their equity shareholders to consider and approve, with or without modification, the proposed Scheme of Arrangement between Skyway Ventures Limited (hereinafter referred to as the transferor company) and

Sai Industries 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 originally incorporated under the Companies Act, 1956 on 21st February, 2008 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi under the name and style of Visionary Realty Developers Limited. The company changed its name to Skyway Ventures Limited and obtained the fresh certificate of incorporation on 18th September, 2013.

4. The transferee company was incorporated under the Companies Act, 1956 on 16th September, 1991 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

5. The present authorized share capital of the transferor company is Rs.16,90,00,000/- divided into 1,69,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.14,22,65,000/- divided into 1,42,26,500 equity shares of Rs.10/- each.

6. The present authorized share capital of the transferee company is Rs.5,00,00,000/- divided into 50,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.2,96,75,911/- divided into 30,00,000 equity shares of Rs.10/- each aggregating to Rs.3,00,00,000/- less calls in arrears of Rs.3,24,089/-.

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 reports of the auditors, have also been filed.

8. A copy of the Scheme of Arrangement 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 proposed Scheme would lead to synergies operational advantage and achieve economies of scale of operations and elimination of overheads; optimum and efficient utilization of capital, resources, assets and facilities; enhancement of competitive strengths including financial resources; consolidation of business and enhancement of economic value addition and shareholder value and better management and focus on growing the 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 for every 01 equity share of Rs.10/- each held by the shareholders 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 25th January, 2014 have unanimously approved the proposed Scheme of Arrangement. 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 04 unsecured creditors. All the unsecured creditors have given their consents/no objections in writing to the proposed Scheme of Arrangement. 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 unsecured creditors of the transferor company to consider and, if thought

fit, approve, with or without modification, the proposed Scheme of Arrangement is dispensed with. There is no secured creditor of the transferor company, as on 15th March, 2015.

13. The transferee company has 02 unsecured creditors. Both the unsecured creditors have given their consents/no objections in writing to the proposed Scheme of Arrangement. 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 unsecured creditors of the transferee company to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Arrangement is dispensed with. There is no secured creditor of the transferee company, as on 15th March, 2015.

14. The transferor company has 394 equity shareholders and a direction is sought to convene and hold their meeting to seek their approval to the proposed Scheme of Arrangement. Considering the facts and circumstances aforesaid, the meeting of the equity shareholders of the transferor company shall be held on 18th September, 2015 at 10:30 a.m. at Shalimar Bagh Club, New Delhi. Mr. C. Mukund, Advocate, (Mobile No. 9810313591) is appointed as the Chairperson and Mr. Hari Om Gautam, Advocate, (Mobile No. 9810057143) is appointed as the Alternate Chairperson to conduct the said meeting. The Quorum of the

meeting of the equity shareholders of the transferor company shall be 70 in number and more than 25% in value of the total equity share capital.

15. The transferee company has 1629 equity shareholders and a direction is sought to convene and hold their meeting to seek their approval to the proposed Scheme of Arrangement. Considering the facts and circumstances aforesaid, the meeting of the equity shareholders of the transferee company shall be held on 18th September, 2015 at 01:00 p.m. at Shalimar Bagh Club, New Delhi. Mr. Yogesh Jagia, Advocate, (Mobile No. 9810043405) is appointed as the Chairperson and Mr. Ranjan Roy, Advocate, (Mobile No. 9810157399) is appointed as the Alternate Chairperson to conduct the said meeting. The Quorum of the meeting of the equity shareholders of the transferee company shall be 150 in number and more than 25% in value of the total equity share capital.

16. In case the quorum as noted above for the above meetings is not present at the meetings, then the meetings 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 meetings is filed with the registered offices of the applicant companies at least 48

hours before the meeting. The Chairpersons and Alternate Chairpersons shall ensure that the proxy registers are properly maintained.

17. The Chairpersons and Alternate Chairpersons shall ensure that notices for convening the aforesaid meetings of the equity shareholders of the transferor and transferee companies, along with copies of the Scheme of Arrangement and the statement under Section 393 of the Companies Act, 1956, shall be sent to the equity shareholders of the transferor and transferee companies by ordinary post at their registered or last known addresses at least 21 days before the date appointed for the meetings, in their presence or in the presence of their authorized representatives. Notice of the meetings shall also be published in the Delhi editions of the newspapers "Business Standard" (English) and (Hindi) in terms of the Companies (Court) Rules, 1959 at least 21 days before the date appointed for the meetings.

18. The Chairpersons and Alternate Chairpersons will be at liberty to issue suitable directions to the management of the applicant companies so that the aforesaid meetings of the equity shareholders of the transferor and transferee companies are conducted in a just, free and fair manner.

19. The fee of the Chairpersons and the Alternate Chairpersons for the aforesaid meetings shall be Rs.50,000/- each in addition to meeting their

incidental expenses. The Chairpersons will file their reports within two weeks from the date of holding of the aforesaid meetings.

20. The application stands allowed in the aforesaid terms.

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SUDERSHAN KUMAR MISRA, J.

August 18, 2015