

IN THE HIGH COURT OF DELHI
COMPANY APPLICATION (MAIN) NO. 123/2015

Reserved on 9th 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 Section 391 of the
Companies Act, 1956 read with Rule 9 of the
Companies (Court) Rules, 1959**

Scheme of Arrangement between:

Indiabulls Finance Company Private Limited
Applicant/Transferor Company
AND

Indiabulls Commercial Credit Limited
Applicant/Transferee Company

**Through Mr. Amar Gupta & Mr. Divyam
Aggarwal, Advocate for the applicants**

SUDERSHAN KUMAR MISRA, J.

1. This joint application has been filed under Section 391 of the Companies Act, 1956 read with Rule 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 and preference shareholders and the secured creditors of the transferor company and for convening of separate meetings of their unsecured creditors and the secured creditors of the transferee company to consider and approve, with or without modification, the proposed Scheme of Arrangement between Indiabulls Finance Company Private Limited

(hereinafter referred to as the transferor company) and Indiabulls Commercial Credit 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 18th March, 2005 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi under the name and style of Indiabulls Investment Private Limited. The company changed its name to Indiabulls Finance Company Private Limited and obtained the fresh certificate of incorporation on 9th May, 2005.

4. The transferee company was originally incorporated under the Companies Act, 1956 on 7th July, 2006 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi under the name and style of Indiabulls Commercial Credit Limited. The company changed its name to Indiabulls Infrastructure Credit Limited and obtained the fresh certificate of incorporation on 21st January, 2009. The company again changed its name to Indiabulls Commercial Credit Limited and obtained the fresh certificate of incorporation on 12th March, 2015.

5. The present authorized share capital of the transferor company is Rs.11,00,00,000/- divided into 1,10,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.10,94,20,960/- divided into 1,09,42,096 equity shares of Rs.10/- each.

6. The present authorized share capital of the transferee company is Rs.30,00,00,000/- divided into 3,00,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.23,95,20,000/- divided into 2,39,52,000 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, 2015, along with the reports of the auditors, of the transferor and transferee companies 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 submitted by the applicants that the Scheme will help to avoid overlap in the landing activities of both the companies, duplication of resources, systems, skills and process, reduce overall cost, improve synergies, enable the achievement of economies of scale, reduce administrative costs entailed by the conduct of the businesses through separate entities, provide

enhanced flexibility in funding of expansion plans, promote management efficiency and optimize the resources of the transferee company.

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:

“03 equity shares of Rs.10/- each of the transferee company, credited as fully paid up, for every 01 equity share of Rs.10/- each fully paid up held 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 and/or other applicable provisions of the Companies Act, 2013 are pending against the applicant companies.

11. The Board of Directors of the transferor and transferee companies in their separate meetings held on 16th April, 2015 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 07 equity shareholders and 01 secured creditor. All the equity shareholders and the only secured creditor 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 meetings of the equity shareholders and secured creditors of the transferor company to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Arrangement is dispensed with.

13. The transferee company has 07 equity shareholders and 01 preference shareholder. All the equity shareholders and the only preference shareholder 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 meetings of the equity shareholders and preference shareholder of the transferee company to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Arrangement is dispensed with.

14. The transferor company has 03 unsecured creditor 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 unsecured creditors of the transferor company shall be held on 28th August, 2015 at 12:30 p.m. at Claridges Hotel, New Delhi. Mr. Yogesh Malhotra, Advocate, (Mobile No. 9811151411) is appointed as the Chairperson and Ms. Ushma Malik,

Advocate, (Mobile No. 9999202372) is appointed as the Alternate Chairperson to conduct the said meeting. The Quorum of the meeting of the unsecured creditors of the transferor company shall be 02 in number and more than 25% in value of the total unsecured debt.

15. The transferee company has 04 secured creditors 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 secured creditors of the transferee company shall be held 28th August, 2015 at 10:30 a.m. at Claridges Hotel, New Delhi. Mr. Subhiksh Vasudev, Advocate, (Mobile No. 9810710871) is appointed as the Chairperson and Mr. Varun Jamwal, Advocate, (Mobile No. 8860878830) is appointed as the Alternate Chairperson to conduct the said meeting. The Quorum of the meeting of the secured creditors of the transferee company shall be 2 in number and more than 25% in value of the total secured debt.

16. The transferee company has 04 unsecured creditors 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 unsecured creditors of the transferee company shall be held 28th August, 2015 at 11:30 a.m. at Claridges Hotel, New Delhi. Mr. Ashok Gurnani, Advocate, (Mobile No. 9810109039) is appointed as the Chairperson and Mr. Inderjeet Singh,

Advocate, (Mobile No. 9818285641) is appointed as the Alternate Chairperson to conduct the said meeting. The Quorum of the meeting of the unsecured creditors of the transferee company shall be 2 in number and more than 25% in value of the total unsecured debt.

17. 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.

18. The Chairpersons and Alternate Chairpersons shall ensure that notices for convening the aforesaid meetings of the unsecured creditors of the transferor company and secured and unsecured creditors of the transferee company, along with copies of the Scheme of Arrangement and the statement under Section 393 of the Companies Act, 1956, shall be sent to the unsecured creditors of the transferor company and secured and unsecured creditors of the transferee company 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 “Jansatta” (Hindi) editions in terms of the Companies (Court) Rules, 1959 at least 21 days before the date appointed for the meetings.

19. 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 unsecured creditors of the transferor company and secured and unsecured creditors of the transferee company are conducted in a just, free and fair manner.

20. 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.

21. The application stands allowed in the aforesaid terms.

Dasti

SUDERSHAN KUMAR MISRA, J.

July 27, 2015