

IN THE HIGH COURT OF DELHI
COMPANY APPLICATION (MAIN) NO. 162/2015

Reserved on 12th October, 2015
Date of pronouncement: 6th November, 2015

In the matter of

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

And

**Application under Sections 391 to 394 of the
Companies Act, 1956**

Scheme of Amalgamation of:

Boom Investments Private Limited

Applicant/Transferor Company

WITH

Mohair Investment and Trading Company Private Limited

Applicant/Transferee Company

**Through Mr. N. Ganpathy and
Ms. Manpreet Lamba, Advocates for the
applicants**

SUDERSHAN KUMAR MISRA, J.

1. This joint application has been filed under Sections 391 to 394 of the Companies Act, 1956 by the applicant companies seeking directions of this court to dispense with the requirement of convening the meetings of their equity shareholders, preference shareholders, secured and unsecured creditors to consider and approve, with or without modification, the proposed Scheme of Amalgamation of Boom Investments Private Limited (hereinafter referred to as the transferor company) with Mohair Investment and Trading Company 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 was originally incorporated under the Companies Act, 1956 on 30th January, 1984 with the Registrar of Companies, Punjab, H. P. & Chandigarh at Jalandhar. The company shifted its registered office from the State of Punjab to Delhi and obtained a certificate in this regard from the Registrar of Companies, NCT of Delhi & Haryana at New Delhi on 28th August, 2003.

4. The transferee company was incorporated under the Companies Act, 1956 on 26th May, 1982 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

5. The present authorized share capital of the transferor company is Rs.48,89,50,000/- divided into 2,15,00,000 equity shares of Rs.10/- each aggregating to Rs.21,50,00,000/-; 3,00,000 12.5% non-cumulative redeemable preference shares of Rs.100/- each aggregating to Rs.30,00,000/-; and 24,39,500 5% non-cumulative redeemable preference shares of Rs.100/- each aggregating to Rs.24,39,50,000/-. The issued, subscribed and paid-up share capital of the company is Rs.48,68,68,200/- divided into 2,12,91,820 equity shares of Rs.10/- each aggregating to Rs.21,29,18,200/-; 3,00,000 12.5% non-cumulative

redeemable preference shares of Rs.100/- each aggregating to Rs.30,000,000/-; and 24,39,500 5% non-cumulative redeemable preference shares of Rs.100/- each aggregating to Rs.24,39,50,000/-.

6. The present authorized share capital of the transferee company is Rs.51,55,50,000/- divided into 1,95,00,000 equity shares of Rs.10/- each aggregating to Rs.19,50,00,000/-; 10,000 11% non-cumulative redeemable preference shares of Rs.100/- each aggregating to Rs.10,00,000/-; 3,40,000 12.5% non-cumulative redeemable preference shares of Rs.100/- each aggregating to Rs.3,40,00,000/-; and 28,55,500 5% non-cumulative redeemable preference shares of Rs.100/- each aggregating to Rs.28,55,50,000/-. The issued, subscribed and paid-up share capital of the company is Rs.50,55,76,000/- divided into 1,90,00,500 equity shares of Rs.10/- each aggregating to Rs.19,00,05,000/-; 210 11% non-cumulative redeemable preference shares of Rs.100/- each aggregating to Rs.21,000/-; 3,00,000 12.5% non-cumulative redeemable preference shares of Rs.100/- each aggregating to Rs.3,00,00,000/-; and 28,55,500 5% non-cumulative redeemable preference shares of Rs.100/- each aggregating to Rs.28,55,50,000/-.

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, and unaudited provisional accounts, as on 31st July, 2015, of the transferor and transferee companies, along with the reports of the auditors, 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 submitted by the applicants that both the transferor and transferee companies are holding shares in Max India Limited and also have cross holding between themselves. It is claimed that the proposed amalgamation will simplify the promoters holding in Max India Limited and the inter se cross-holding between them. It is further claimed that the proposed amalgamation will lead to reduction in administrative cost and overhead expenses which would further lead to greater and effective executive control, synergy of operation and optimum utilization of available resources.

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 shares to the shareholders of the transferor company in the following ratio:

“86 equity shares of Rs.10/- each of the transferee company for every 100 equity share of Rs.10/- each held by the shareholders in the transferor company.”

“01 non-cumulative redeemable preference share of the transferee company, credited as fully paid up, for every 01 fully paid up 12.5% non-cumulative redeemable preference shares of Rs.100/- each held by them in the transferor company.”

“01 non-cumulative redeemable preference share of the transferee company, credited as fully paid up, for every 01 fully paid up 5% non-cumulative redeemable preference shares of Rs.100/- each held by them 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 10th August, 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 has 02 equity shareholders, 02 preference shareholders and 01 unsecured creditor. Both the equity shareholders, both the preference 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,

preference shareholders and unsecured creditor of the transferor company 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, as on 31st July, 2015.

13. The transferee company has 02 equity shareholders, 01 preference shareholder, holding all types of preference shares, and 01 unsecured creditor. Both the equity shareholders, the sole preference shareholder 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, preference shareholder and unsecured creditor 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 creditor of the transferee company, as on 31st July, 2015.

14. The application stands allowed in the aforesaid terms.
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SUDERSHAN KUMAR MISRA, J.

November 06, 2015