IN THE HIGH COURT OF DELHI
COMPANY APPLICATION (MAIN) NO. 167/2015

Reserved on 3rd November, 2015
Date of pronouncement: 16th November, 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:

Centurion Infrastructure Private Limited
Applicant/Transferor Company No. 1

Goga Builders Private Limited
Applicant/Transferor Company No. 2

Signature Portfolio Private Limited
Applicant/Transferor Company No. 3

WITH

While Brother Infrastructure Private Limited
Applicant/Transferee Company

Through Mr. Ashish Middha, Advocate for the applicants

<u>SUDERSHAN KUMAR MISRA, J.</u>

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 Centurion Infrastructure Private Limited (hereinafter referred to as the transferor company no. 1); Goga Builders Private Limited (hereinafter referred to as the transferor company no. 2) and Signature Portfolio Private Limited (hereinafter referred to as the transferor company no. 3) with While Brother Infrastructure 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 11th September, 2007 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 26th July, 1999 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

5. The transferor company no. 3 was originally incorporated under the Companies Act, 1956 on 9th October, 1998 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi under the name and style of GK Shoe Trends Private Limited. The company changed its

name to Signature Portfolio Private Limited and obtained the fresh certificate of incorporation on 15th June, 2010.

6. The transferee company was incorporated under the Companies Act, 1956 on 17th April, 2008 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

7. The present authorized share capital of the transferor company no.1 is Rs.12,00,000/- divided into 1,20,000 equity shares of Rs.10/- each. The issued, subscribed and paid up capital of the company is Rs.11,36,250/- divided into 1,13,625 equity shares of Rs.10/- each.

8. The present authorized share capital of the transferor company no.2 is Rs.18,00,000/- divided into 1,80,000 equity shares of Rs.10/- each. The issued, subscribed and paid up capital of the company is Rs.17,72,500/- divided into 1,77,250 equity shares of Rs.10/- each.

9. The present authorized share capital of the transferor company no.3 is Rs.15,00,000/- divided into 1,50,000 equity shares of Rs.10/- each. The issued, subscribed and paid up capital of the company is Rs.14,46,900/- divided into 1,44,690 equity shares of Rs.10/- each.

10. The present authorized share capital of the transferee company 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.9,34,750/- divided into 93,475 equity shares of Rs.10/- each.

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, 2015, 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 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 companies 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.

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:-

> "60 equity shares of Rs.10/- each of the transferee company for every 100 equity shares of Rs.10/- each held in the transferor company no. 1."
>
> "51 equity shares of Rs.10/- each of the transferee company for every 100 equity shares of Rs.10/- each held in the transferor company no. 2."
>
> "75 equity shares of Rs.10/- each of the transferee company for every 100 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 or similar section of the Companies Act, 2013 are pending against the applicant companies.

15. The Board of Directors of the transferor and transferee companies in their separate meetings held on 24th 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.

16. The transferor company no. 1 has 10 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 18th August, 2015.

17. The transferor company no. 2 has 11 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. 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 18th August, 2015.

18. The transferor company no. 3 has 09 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 18th August, 2015.

19. The transferee company has 09 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 18th August, 2015.

20. The application stands allowed in the aforesaid terms.

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SUDERSHAN KUMAR MISRA, J.

November 16, 2015