IN THE HIGH COURT OF DELHI
COMPANY APPLICATION (MAIN) NO. 168/2015

Reserved on 4th 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, 392 & 394 of the Companies Act, 1956 read with Rules 6 & 9 of the Companies (Court) Rules, 1959

Scheme of Amalgamation of:

T J Commodities Private Limited
Applicant/Transferor Company No. 1

TJS Agro Private Limited
Applicant/Transferor Company No. 2

Jai Ganga Dal & Roller Flour Mills Private Limited
Applicant/Transferor Company No. 3

Satish Foods Private Limited
Applicant/Transferor Company No. 4

WITH

Indo European Agro Private Limited
Applicant/Transferee Company

Through Mr. Rishi Sood, Advocate for the applicants

SUDERSHAN KUMAR MISRA, J.

1. This joint application has been filed under Sections 391, 392 & 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 T J Commodities Private Limited (hereinafter referred to as the transferor company no. 1); TJS Agro Private Limited (hereinafter referred to as the transferor company no. 2); Jai Ganga Dal & Roller Flour Mills Private Limited (hereinafter referred to as the transferor company no. 3) and Satish Foods Private Limited (hereinafter referred to as the transferor company no. 4) with Indo European Agro 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 12th October, 2006 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 27th May, 2008 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 1st March, 2007 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi under the name and

style of Disney Realtors Private Limited. The company changed its name to Jai Ganga Dal & Roller Flour Mills Private Limited and obtained the fresh certificate of incorporation on 31st May, 2011.

6. The transferor company no. 4 was originally incorporated under the Companies Act, 1956 on 20th March, 2007 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi under the name and style of Disney Projects Private Limited. The company changed its name to Satish Foods Private Limited and obtained the fresh certificate of incorporation on 27th May, 2011.

7. The transferee company was originally incorporated under the Companies Act, 1956 on 18th May, 1992 with the Registrar of Companies, Punjab, H. P. & Chandigarh at Jalandhar under the name and style of Indo-European Agro Limited. The company shifted its registered office from the Union Territory of Chandigarh to NCT of Delhi and obtained a certificate in this regard from the Registrar of Companies, NCT of Delhi & Haryana at New Delhi on 22nd July, 2003. Thereafter, the company changed its name to Indo-European Agro Private Limited and obtained the fresh certificate of incorporation on 7th October, 2004.

8. The present authorized share capital of the transferor company no.1 is Rs.1,00,00,000/- divided into 10,00,000 equity shares of Rs.10/-

each. The issued, subscribed and paid-up share capital of the company is Rs.60,00,000/- divided into 6,00,000 equity shares of Rs.10/- each.

9. The present authorized share capital of the transferor company no.2 is Rs.1,40,00,000/- divided into 14,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.74,30,000/- divided into 7,43,000 equity shares of Rs.10/- each.

10. The present authorized share capital of the transferor company no.3 is Rs.2,70,00,000/- divided into 27,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.2,09,50,000/- divided into 20,95,000 equity shares of Rs.10/- each.

11. The present authorized share capital of the transferor company no.4 is Rs.1,60,00,000/- divided into 16,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.1,06,00,000/- divided into 10,60,000 equity shares of Rs.10/- each.

12. The present authorized share capital of the transferee company is Rs.2,00,00,000/- divided into 20,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.1,10,00,000/- divided into 11,00,000 equity shares of Rs.10/- each.

13. 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.

14. 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 claimed by the applicants that the Scheme of Amalgamation will result in establishment of a larger company with large resources, larger capital base, greater capacity to raise funds for expansion, modernization and development of the businesses of the companies concerned. It is further claimed that the proposed amalgamation will enable the undertakings and businesses of the said companies to obtain greater facilities possessed and enjoyed by one large company for securing and conducting its business on favourable terms and other benefits.

15. 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:

> “01 equity share of Rs.10/- each fully paid up of the transferee company for every 1.34 equity shares of Rs.10/-

> each fully paid up held by the shareholders in the transferor company no. 1. Fraction of shares, if any, will be paid in cash."
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> "01 equity share of Rs.10/- each fully paid up of the transferee company for every 0.87 equity share of Rs.10/- each fully paid up held by the shareholders in the transferor company no. 3. Fraction of shares, if any, will be paid in cash."
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> "01 equity share of Rs.10/- each fully paid up of the transferee company for every 0.65 equity share of Rs.10/- each fully paid up held by the shareholders in the transferor company no. 4. Fraction of shares, if any, will be paid in cash."

It has been further submitted that since 100% shareholding of transferor company no. 2 is held by the transferee company, transferor company no. 1, transferor company no. 3 and transferor company no. 4, therefore, the transferee company shall not issue any share to the shareholders of the transferor company no. 2.

16. 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.

17. The Board of Directors of the transferor and transferee companies in their separate meetings held on 30th June, 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.

18. The transferor company no. 1 has 18 equity shareholders and 01 secured creditor. All the equity shareholders and the sole secured 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 and secured creditor 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 unsecured creditor of the transferor company no. 1, as on 30^{th} June, 2015.

19. The transferor company no. 2 has 04 equity shareholders and 01 secured creditor. All the equity shareholders and the sole secured 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 and secured creditor 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

unsecured creditor of the transferor company no. 2, as on 30th June, 2015.

20. The transferor company no. 3 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. 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 30th June, 2015.

21. The transferor company no. 4 has 04 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. 4 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. 4, as on 30th June, 2015.

22. The transferee company has 09 equity shareholders, 02 secured creditors and 02 unsecured creditors. All the equity shareholders, both the secured creditors and both the unsecured 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, secured and unsecured creditors of the transferee company to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation is dispensed with.

23. The application stands allowed in the aforesaid terms.

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SUDERSHAN KUMAR MISRA, J.

November 16, 2015