IN THE HIGH COURT OF DELHI
COMPANY APPLICATION (MAIN) NO. 180/2015

Reserved on 7th December, 2015
Date of pronouncement: 23rd December, 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:

Bijli Holdings Private Limited
Applicant/Transferor Company

WITH

PVR Limited
Applicant/Transferee Company

Through Mr. Deepak Diwan, Advocate 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, secured and unsecured creditors to consider and approve, with or without modification, the proposed Scheme of Amalgamation of Bijli Holdings Private Limited (hereinafter referred to as the transferor company) with PVR 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 incorporated under the Companies Act, 1956 on 23rd May, 2012 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

4. The transferee company was originally incorporated under the Companies Act, 1956 on 26th April, 1995 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi under the name and style of Priya Village Roadshow Limited. The company changed its name to PVR Limited and obtained the fresh certificate of incorporation on 28th June, 2002.

5. The present authorized share capital of the transferor 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.1,80,48,600/- divided into 18,04,860 equity shares of Rs.10/- each.

6. The present authorized share capital of the transferee company is Rs.93,70,00,000/- divided into 9,37,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.46,54,86,880/- divided into 4,65,48,688 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, of the transferor and transferee companies, along with the report 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 Bijli Holdings forms part of the promoter group of PVR. It presently holds 1,00,31,805 equity shares in PVR constituting 21.55% of PVR's paid-up equity share capital. Pursuant to the proposed amalgamation, individual promoters of PVR would directly hold shares in PVR in the same proportion as they hold through the Bijli Holdings. It is claimed that the proposed amalgamation will result in the promoter group of PVR directly holding shares in PVR, which will lead not only to simplification of the shareholding structure and reduction of shareholding tiers but also demonstrate the promoter group's direct commitment to and engagement with PVR.

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:

> "1,00,31,805 fully paid up equity shares of Rs.10/- each credited as fully paid up in the share capital of the transferee company to the members of the transferor company in the ratio of their equity shareholding in the transferor company."

10. It has been submitted by the applicants that no proceedings under Sections 237, 243, 250, 250A and 251 of the Companies Act, 1956 or under Sections 210, 214, 215, 216(1), (3) & (4), 217, 219, 220, 223, 224(1), (3) & (4) and 225 of the Companies Act, 2013 are pending against the applicant companies.

11. The Board of Directors of the transferor company and the transferee company in their separate meetings held on 14th August, 2015 and 4th September, 2015 respectively 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. Both 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 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, as on 9th November, 2015.

13. The transferee company has 08 secured creditors. 06 out of 08 secured creditors, being 75% in number and 98.19% in value, 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 secured creditors of the transferee company to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation is dispensed with.

14. The transferee company is a listed company, whose shares are listed at National Stock Exchange and Bombay Stock Exchange. The company has 32,241 equity shareholders and 2138 unsecured creditors to whom a sum of Rs.44,51,74,110/- was payable, as on 31st October, 2015. Their consents are not placed on record. Learned counsel for the applicants seeks dispensation of the meetings of the equity shareholders and unsecured creditors on the ground that there will be no change in the promoter shareholding of the transferee company and the promoters

would continue to hold the same percentage of shares in the transferee company post amalgamation of the transferor company and, hence, there will be no change in the control and management of the transferee company, therefore, the rights of the shareholders including the public shareholders of the transferee company will not be affected in any manner whatsoever by the Scheme. Learned counsel has further submitted that the net worth of the transferee company shall remain unaffected pursuant to the merger, therefore, the rights of the shareholders and creditors of the company, will not be adversely affected. In support of his submission, learned counsel has placed on record a certificate dated 25th November, 2015 from Narender Singh & Co., Chartered Accountants certifying that, post amalgamation, the net worth of the transferee company will remain the same. I do not find the grounds given by learned counsel for the applicants sufficient to justify dispensation of the meetings of the equity shareholders and unsecured creditors of the transferee company. Any change in the capital structure or the holding pattern or a corporate entity must happen with the consent of the stakeholders, even though their rights may not be directly affected. Under the given circumstances, the transferee company is directed to convene and hold the meetings of its equity shareholders and unsecured creditors to seek their approval to the proposed Scheme of Amalgamation.

15. The meeting of the equity shareholders of the transferee company shall be held on 27th February, 2016 at 10:30 a.m. at Mapple Emerald Rajokri, NH-8, New Delhi. Ms. Manisha Tyagi, Advocate, (Mobile No. 9811007270) is appointed as the Chairperson and Mr. Ashutosh Gupta, Advocate, (Mobile No. 9871433339) 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 200 in number and more than 25% in value of the total equity share capital.

16. The meeting of the unsecured creditors of the transferee company shall be held on 27th February, 2016 at 01:30 p.m. at Mapple Emerald Rajokri, NH-8, New Delhi. Mr. N. K. Tyagi, Advocate, (Mobile No. 9871402101) is appointed as the Chairperson and Mr. Vikas Nautiyal, Advocate, (Mobile No. 8860176904) 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 100 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 office of the applicant company at least 48 hours before the meetings. 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 equity shareholders and unsecured creditors of the transferee company, along with copies of the Scheme of Amalgamation and the statement under Section 393 of the Companies Act, 1956, shall be sent to the equity shareholders 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) 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 company so that the aforesaid meetings of the equity shareholders and unsecured creditors of the transferee company is 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.

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SUDERSHAN KUMAR MISRA, J.

December 23, 2015