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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CO.APPL.(M) 26/2016**

**IN THE MATTER OF
HASKONINGDHV INDIA PRIVATE LIMITED
... Transferor Company /Applicant no.1**

AND

**HASKONINGDHV CONSULTING PRIVATE LIMITED
... Transferee Company/ Applicant no.2**

Through: Mr. D. Bhattacharyya and Ms. Deeti
Ojha, Advocates

**CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER**

ORDER

% **12.02.2016**

1. This is a first motion (joint) application, which is moved by Haskoningdhv India Private Limited (Applicant no. 1/ Transferor Company No.1) and Haskoningdhv Consulting Private Limited (Applicant no. 2/ Transferee Company) under Section 391 and 394 of the Companies Act, 1956 (in short the 1956 Act) in connection with the proposed scheme of amalgamation (hereafter referred to as the scheme). A copy of the scheme is enclosed with the application.
2. The registered office of the applicants are situate, within the National Capital Territory of Delhi and, therefore, this court has the necessary jurisdiction to deal with the matter.
3. The transferor company was incorporated on 26.05.1998 under the name and style : Haskoning India Private Limited, in consonance with provisions of the Act. Thereupon, in 2013, the name of the transferor

company was changed to its present name i.e. HaskoningDHV India Private Limited. Accordingly, a fresh Certificate of Incorporation was issued by the Registrar of Companies, NCT of Delhi and Haryana (ROC), on 06.06.2013.

4. In so far as the transferee company is concerned, it was incorporated prior in point of time i.e. on 23.03.1993 in the State of Uttar Pradesh (UP) under the name and style : M.D.P. Consultants Private Limited. In 1997, the registered office of the transferee company was shifted from UP to Delhi. Thereupon, the name of the transferee company was changed twice, once to DHV India Private Limited in 2006, and then, with effect from 11.06.2013 to its present name viz., HaskoningDHV Consulting Private Limited.

5. The details qua the authorized, issued, subscribed and paid up capital of the applicants have been set out in paragraph 4 of the scheme.

6. The copies of Memorandum and Articles of Association as well as the latest audited annual accounts for the year ended 31.03.2015 of the applicants have been filed.

7. I am informed by the learned counsel for the applicants that no proceedings under Section 235 to 251 of the 1956 Act or the corresponding provisions of the Companies Act, 2013 are pending against them as on date.

8. The scheme has been approved by the respective Board of Directors (BOD) of the applicants. The copy of the BOD resolution dated 04.12.2015 of the transferor company, approving the scheme, has been filed. Similarly, a copy of the BOD resolution dated 10.12.2015 of the transferee company is also on record.

9. The status of the shareholders, and unsecured creditors of the applicants, as averred by them, and the consent obtained from them qua the scheme is set out in the table given below:-

Company	No. Of Shareholders	Consent given	No. Of unsecured creditors	Consent given
Transferor Company	2	2	46	39 (84.78% in number and 97.44% in value)
Transferee Company	2	2	35	33 (94% in number and 99.98% in value)

10. As would be evident upon reading of the aforementioned table, it is clear that consent have been obtained from the equity shareholders of both the applicants.

10.1 In these circumstances, in so far as the equity shareholders of the applicants are concerned, the requirement to convene their meetings is dispensed with.

11. As far as the unsecured creditors are concerned, in the case of the transferor company 39 out of 46 have given their consent. The percentage of consents in terms of value and number is as follows: 97.44% in value 84.78% in number.

11.1 As regards the unsecured creditors of the transferee company, it is averred that 33 out of the total 35 have given their consent. A scrutiny of the documents filed alongwith joint application has revealed that one of the unsecured creditors has given its consent to the scheme prior to the scheme being sanctioned by the BOD of the transferee company. Notwithstanding the aforesaid discrepancy, the percentage of consents in terms of value and number are as follows: 97.28% in value and 91.43% in number.

12. Accordingly, the prayer made for dispensing with the requirement of convening meetings of the unsecured creditors of the applicants is allowed. The reason for allowing the prayer made for dispensation of the requirement of convening meetings of the unsecured creditors of the applicants, is that,

the percentage of consent given, in value, in both these cases is above 75%.

13. The joint application stands allowed in the aforesaid terms.

14. Dasti.

RAJIV SHAKDHER, J

FEBRUARY 12, 2016/kk