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

\+ CO.APPL.(M) 30/2016

IN THE MATTER OF
FOUNDATION E-LEARNING PRIVATE LIMITED
.... Applicant No.1/ Transferor Company

WITH

CAMBRIDGE UNIVERSITY PRESS INDIA PRIVATE LIMITED
....Non- applicant / Transferee Company

Through: Mr. Sharad Vaid and Ms. Shilpi Jain, Advocates

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER

O R D E R

% **22.02.2016**

1. This is a first motion application filed by Foundation e-Learning Private Limited (applicant no.1/transferor company) (hereafter referred to as the transferor company) under section 391 to 394 of the Companies Act, 1956 (in short the Act) for approval of the scheme of amalgamation (hereafter referred to as the scheme) with Cambridge University Press India Private Limited (non-applicant /transferee company) (hereafter referred to as the transferee company). A copy of the scheme is enclosed with the application.

1.1 The registered office of the transferor company as also the transferee company are located in Delhi and, therefore, within the territorial jurisdiction of this Court.

2. The details with respect to incorporation and authorized, issued, subscribed and paid-up capital of the transferor company are set out in the preamble and paragraph 2.1 of the scheme.

2.1 Copies of Memorandum and Articles of Association as well as the latest audited annual accounts as on 31.03.2015 have been filed by the transferor company.

3. The scheme has been approved by the Board of Directors (BOD) of the transferor company as also the transferee company respectively. Copies of the BOD resolution of even date i.e. 06.01.2016 of the transferor company as well as the transferee company have been filed.

4. The transferor company avers that there that there are no proceedings pending against it, under Sections 235 to 251 of the Act.

5. The position with regard to equity shareholders and unsecured creditors of the transferor company, is as follows:

Company	No. of Equity Shareholders	Consent given	No. of Unsecured Creditors	Consent given
Transferor Company	2	ALL	1	ALL

6. A prayer has been made to dispense with the requirement of convening the meetings of the shareholders and the unsecured creditors of the transferor company. The letters of consent submitted by the shareholders have been seen and examined. They are found in order. Similarly, letters of consent of the unsecured creditors have been seen and found in order.

7. Given the fact that all shareholders and unsecured creditors of the transferor company have given their consent and / or 'No Objection' (NOC) to the scheme, there shall be no requirement to convene their meetings.

8. Further, it is prayed that directions be issued to dispense with the requirement of the transferee company to approach this court by filing any application/petition to seek sanction of the scheme, given the fact, that the transferor company is a wholly owned subsidiary of the transferee company.

9. Having regard to the fact that the transferor company is a wholly owned subsidiary company of the transferee company, I am inclined to agree with the prayer made in this behalf by the transferor company. As per clause 4.1 of the scheme, in particular, clause 4.1.1, upon the scheme becoming effective, no shares in the transferee company will be allotted in lieu of shares held by it and its nominee in the transferor company. The entire share capital of the transferor company shall stand cancelled and be extinguished without any further act or deed.

9.1 I am also told by the counsel for the transferor company that the interest of the creditors in the transferee company shall remain unaltered. Therefore, in consonance with the aforesaid position obtaining on facts and in law as is reflected in the judgment dated 16.01.2013 passed in CA 2332/2012 in Co.Appl.(M) No.179/2012, passed in the matter of : ***eMeter India Pvt. Ltd.***, I am inclined to hold that the transferee company need not file a separate or a joint application (which it has not in the present case) for obtaining sanction of the scheme.

10. The application stands disposed of in the aforesaid terms.

11. Dasti.

RAJIV SHAKDHER, J

FEBRUARY 22, 2016