

IN THE HIGH COURT OF DELHI
COMPANY PETITION NO. 243/2016

Reserved on 9th August, 2016
Date of pronouncement: 12th August, 2016

In the matter of

The Companies Act, 1956 & the Companies Act, 2013 (to the extent applicable):

And

**Petition under Sections 391 to 394 of the
Companies Act, 1956**

Scheme of Amalgamation of:

Bijli Holdings Private Limited

Petitioner/Transferor Company

WITH

PVR Limited

Petitioner/Transferee Company

**Through Mr. Deepak Diwan with
Mr. Vinod Kumar and Ms. Himanshi
Taneja, Advocates for the petitioners
Ms. Aparna Mudiam, Asstt. Registrar
of Companies for the Regional Director
Mr. Rajiv Bahl, Advocate for the
Official Liquidator**

SUDERSHAN KUMAR MISRA, J.

1. This joint petition has been filed under Sections 391 to 394 of the Companies Act, 1956 by the petitioner companies seeking sanction of the 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 with the joint application, being CA (M) 180/2015, earlier filed by the petitioners. The audited balance sheets, as on 31st March, 2015, of the transferor and transferee companies, along with the report of the auditors, had 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 petition and the accompanying affidavit. It is submitted by the petitioners 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 petitioners 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 petitioner 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 petitioner companies had earlier filed CA (M) No. 180/2015 seeking directions of this court to dispense with the requirement of convening the meetings of their equity shareholders, secured and

unsecured creditors, which are statutorily required for sanction of the Scheme of Amalgamation. Vide order dated 23rd December, 2015 this court allowed the application and dispensed with the requirement of convening and holding the meetings of the equity shareholders of the transferor and transferee companies, there being no secured or unsecured creditor of the transferor company, and directed convening of separate meetings of the secured and unsecured creditors of the transferee company, to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation.

13. The Chairpersons of the ordered meetings of the secured and unsecured creditors of the transferee company have filed their reports stating that the meetings were duly held on 27th February, 2016, as directed, and that the Scheme of Amalgamation has been approved by majority of the secured and unsecured creditors of the transferee company, present and voting, in the meetings.

14. The petitioner companies have thereafter filed the present petition seeking sanction of the Scheme of Amalgamation. Vide order dated 18th March, 2016, notice in the petition was directed to be issued to the Regional Director, Northern Region, and the Official Liquidator. Citations were also directed to be published in 'Business Standard' (English) and 'Jansatta' (Hindi) Delhi editions. Affidavit of service has been filed by the

petitioners showing compliance regarding service on the Official Liquidator and the Regional Director, Northern Region and also regarding publication of citations in the aforesaid newspapers on 1st April, 2016. Copies of the newspaper clippings containing the publications have been filed along with the said affidavit.

15. Pursuant to the notices issued, the Official Liquidator sought information from the petitioner companies. Based on the information received, the Official Liquidator has filed a report dated 25th July, 2016 wherein he has stated that he has not received any complaint against the proposed Scheme of Amalgamation from any person/party interested in the Scheme in any manner and that the affairs of the transferor company do not appear to have been conducted in a manner prejudicial to the interest of its members, creditors or public interest, as per second proviso of Section 394(1) of the Companies Act, 1956.

16. In response to the notices issued in the petition, Mr. Narender Kumar Bhola, Regional Director, Northern Region, Ministry of Corporate Affairs has filed his report dated 29th July, 2016 stating that the ROC in his report has not made any adverse observations to the proposed Scheme and that the Regional Director has no objection to the proposed Scheme of Amalgamation. However, the Regional Director has prayed that the petitioners may be directed to comply with the relevant circulars,

with regard to the necessary compliances, of the Security and Exchange Board of India (SEB) in respect of the proposed Scheme. Learned counsel for the petitioners undertakes to this Court on behalf of the petitioners that all necessary compliances, as mandated by SEBI, shall be carried out on the approval of the Scheme. The undertaking is accepted and the petitioners shall remain bound by the same. In view of the aforesaid, the observation made by the Regional Director stands satisfied.

17. No objection has been received to the Scheme of Amalgamation from any other party. The petitioner companies, in the affidavit dated 1st August, 2016 of Mr. Pankaj Dhawan, authorized signatory of the petitioner companies, have submitted that neither the petitioner companies nor their counsel have received any objection pursuant to the citations published in the newspapers on 1st April, 2016.

18. Considering the approval accorded by the equity shareholders and creditors of the petitioner companies to the proposed Scheme of Amalgamation and the affidavits filed by the Regional Director, Northern Region and the Official Liquidator not raising any objection to the proposed Scheme of Amalgamation, there appears to be no impediment to the grant of sanction to the Scheme of Amalgamation. Consequently, sanction is hereby granted to the Scheme of Amalgamation under

Sections 391 and 394 of the Companies Act, 1956. The petitioner companies will comply with the statutory requirements in accordance with law. Certified copy of this order be filed with the Registrar of Companies within 30 days. It is also clarified that this order will not be construed as an order granting exemption from payment of stamp duty as payable in accordance with law. Upon the sanction becoming effective from the appointed date of Amalgamation, i.e. 1st January, 2016, the transferor company shall stand dissolved without undergoing the process of winding up.

19. Learned counsel for the Official Liquidator prays that costs of at least Rs.1,00,000/- should be paid by the petitioners keeping in view the fact that the matter has involved examination of extensive records and also prioritized hearings. Learned counsel for the petitioner company states that the same is acceptable to him. As already directed vide order dated 09.08.2016, the petitioners shall deposit a sum of Rs.1,00,000/- by way of costs with the Delhi High Court Bar Association Lawyers Social Security and Welfare Fund, New Delhi.

20. The petition is allowed in the above terms.

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SUDERSHAN KUMAR MISRA, J.

August 12, 2016