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

+ **CO.APPL. (M) 43/2016**

IN THE MATTER OF

SAMTECH INFORMATICS PRIVATE LIMITED

.... Transferor Company No. 1/ Applicant No.1

AND

VICTORIA TELCOM SOLUTIONS PRIVATE LIMITED

..... Transferor Company no.2/Applicant No. 2

WITH

ASF INFRASTRUCTURE PRIVATE LIMITED

Applicant No. 3/Transferee Company

Through: Mr.Ashish Middha, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

01.04.2016

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1. This is a first motion (joint) application filed by Samtech Informatics Private Limited (i.e. transferor company no.1/ applicant no. 1) and Victoria Telcom Solutions Private Limited (i.e. transferor company no.2/ applicant no. 2) (hereafter referred to as the transferor companies) with ASF Infrastructure Private Limited (i.e.transferee company/applicant no. 3) under section 391 & 394 of the Companies Act, 1956 (in short the Act) for approval of the scheme of amalgamation (hereafter referred to as the scheme). A copy of the scheme is enclosed with the application.

1.1 The transferor companies and the transferee company, as referred to above, will hereafter be collectively referred to as the applicants.

2 The registered office of the applicants are located in Delhi and, therefore, within the territorial jurisdiction of this Court.

3. The transferor company no. 1 was incorporated on 11.04.2000, in consonance with the provisions of the Act.

3.1 The transferor company no. 2 was incorporated on 09.07.2003 under the provisions of the Act.

3.2 The transferee company, on the other hand, was incorporated prior in point of time i.e. on 16.01.1997, under the name and style: Yamuna Apartments Private Limited. Thereafter, with effect from 05.07.2005, the name of the transferee company was changed to its present name, viz, ASF Infrastructure Private Limited.

4. The details with respect to the authorized, issued, subscribed and paid-up capital of the applicants are set out in part II of the scheme.

5. 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 applicants.

6. The scheme has been approved by the respective Board of Directors (BOD) of the applicants. Copies of the BOD resolutions of even date i.e. 30.01.2016, whereby the scheme has been approved, are filed with the application.

7. The applicants further aver that there are no proceedings pending against them, under Sections 235 to 251 of the Act.

8. The position with regard to the equity shareholders and creditors (i.e. secured and unsecured) of the applicants and the consents obtained from them (wherever applicable) qua the scheme, is as follows:

Company	No. of Equity Shareholders	Consent given	No. of secured creditors	Consent given	No. of Unsecured creditors	Consents Given
Transferor Company no. 1	3	All	1	All	Nil	N.A.
Transferor Company No. 2	3	All	2	All	Nil	N.A.
Transferee Company	6	All	2	All	15	13 (88% in value and 80% in number)

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

9.1 Given the fact, that all shareholders and secured creditors of the applicants have given their consent and/or No-objection (NOC) to the scheme, there shall be no requirement to convene their meetings.

10. In so far as the unsecured creditors of the transferee company are concerned, it is averred that 13 out of 15 have given their consent. A scrutiny of the documents filed alongwith the joint application has revealed, that 14 letters of consent are on record. The position, in percentage terms, is as follows: 99.99% in value and 93.33% in number.

10.1 Accordingly, the prayer made for dispensing with the requirement of convening meetings of the unsecured creditors of the transferee company is also allowed. The reason for allowing the prayer made for dispensation of the requirement of convening meeting of the unsecured creditors of the

transferee company is that, the percentage of consent given, both in number and in value, in this case is above 75%.

11. The joint application stands disposed of, in the aforesaid terms.

12. Dasti.

RAJIV SHAKDHER, J

APRIL 01, 2016

