

IN THE HIGH COURT OF DELHI
COMPANY APPLICATION (MAIN) NO. 95/2016

Reserved on 13th July, 2016
Date of pronouncement: 3rd August, 2016

In the matter of

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

And

**Application under Sections 391 and 394 of the
Companies Act, 1956 read with Rule 9 of the
Companies (Court) Rules, 1959**

Scheme of Amalgamation of:

ATM Credit and Investments Private Limited
Applicant/Transferor Company

WITH

Sheetal Mercantile Private Limited
Applicant/Transferee Company

Through Mr. Rajesh Aggarwal,
Advocate for the applicants

SUDERSHAN KUMAR MISRA, J.

1. This joint application has been filed under Sections 391 and 394 of the Companies Act, 1956 read with Rule 9 of the Companies (Court) Rules, 1959 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 ATM Credit and Investments Private Limited (hereinafter referred to as the transferor company) with Sheetal

Mercantile Private 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 10th March, 1992 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

4. The transferee company was incorporated under the Companies Act, 1956 on 1st May, 1992 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

5. The present authorized share capital of the transferor company is Rs.2,75,00,000/- divided into 27,50,000 equity shares of Rs.10/- each. The issued, subscribed and paid up capital of the company is Rs.2,51,20,200/- divided into 25,12,020 equity shares of Rs.10/- each.

6. The present authorized share capital of the transferee company is Rs.11,00,00,000/- divided into 1,10,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid up capital of the company is Rs.6,95,10,020/- divided into 69,51,002 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 affidavits. It is claimed by the applicants that the proposed amalgamation will result in reduction of overheads, administrative, managerial and other expenditure and bring organizational efficiency and optimal utilization of various resources. It is further claimed that the proposed amalgamation will result in significant reduction in the multiplicity of legal and regulatory compliances required at present to be carried out by the applicant companies and also avoid duplication of administrative functions and eliminate multiple record keeping.

9. So far as the share exchange ratio is concerned, the Scheme provides, 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:

“26 equity shares of Rs.10/- each of the transferee company for every 33 equity shares of Rs.10/- each held in the transferor company.”

10. It has been submitted by the applicants that no proceedings under Sections 235 to 251 of the Companies Act, 1956 or under Sections 207-229 of the Companies Act, 2013 are pending against the applicant companies.

11. The Board of Directors of the transferor and transferee companies in their separate meetings held on 21st December, 2015 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 05 equity shareholders. All 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 18th February, 2016.

13. The transferee company has 06 equity shareholders, 02 secured creditors and 19 unsecured creditors. All equity shareholders, both secured creditors and all unsecured creditors 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 meetings of the equity shareholders, secured and unsecured 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 application stands allowed in the aforesaid terms.

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SUDERSHAN KUMAR MISRA, J.

August 03, 2016