

IN THE HIGH COURT OF DELHI
COMPANY APPLICATION (MAIN) NO. 72/2016

Reserved on 6th May, 2016
Date of pronouncement: 30th May, 2016

In the matter of

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

And

Application under Sections 391 to 394 of the Companies Act, 1956

Scheme of Amalgamation of:

IIDC Limited

Applicant/Transferor Company

WITH

IL&FS Township & Urban Assets Limited

Non-Applicant/Transferee Company

**Through Mr. Aman Leekha, Advocate
for the applicant**

SUDERSHAN KUMAR MISRA, J.

1. This application has been filed under Sections 391 to 394 of the Companies Act, 1956 by the applicant/transferor company seeking directions of this court to dispense with the requirement of convening the meetings of its equity shareholders and secured creditors and for convening a meeting of its unsecured creditors to consider and approve, with or without modification, the proposed Scheme of Amalgamation of IIDC Limited (hereinafter referred to as the applicant/transferor company) and IL&FS Township & Urban Assets Limited (hereinafter referred to as the transferee company).

2. The registered office of the applicant/transferor company is situated at New Delhi, within the jurisdiction of this Court. However, the registered office of the transferee company is situated at Mumbai, Maharashtra outside the jurisdiction of this Court. Learned counsel for the applicant has submitted that separate application has been filed by the transferee company in the courts of competent jurisdiction for sanction of the Scheme of Amalgamation.

3. The applicant/transferor company was originally incorporated under the Companies Act, 1956 on 7th December, 1999 with the Registrar of Companies, Maharashtra at Mumbai under the name and style of India Water Infrastructure Company Limited. The company changed its name to IL&FS Project Development Corporation Limited and obtained the fresh certificate of incorporation on 4th October, 2001. The company again changed its name to IL&FS Infrastructure Development Corporation Limited and obtained the fresh certificate of incorporation on 8th July, 2002. Thereafter, the company shifted its registered office from the State of Maharashtra to NCT of Delhi and obtained a certificate in this regard from the Registrar of Companies, NCT of Delhi & Haryana at New Delhi on 22nd April, 2004. The company finally changed its name to IIDC Limited and obtained the fresh certificate of incorporation on 20th December, 2013.

4. The present authorized share capital of the applicant/transferor company is Rs.35,00,00,000/- divided into 3,50,00,000 equity shares of Rs.10/- each. The present issued, subscribed and paid-up share capital of the company is Rs.20,00,00,000/- divided into 2,00,00,000 equity shares of Rs.10/- each.

5. A copy of the Memorandum and Articles of Association of the applicant/transferor company has been filed on record. The audited balance sheet, as on 30th September, 2015, along with the reports of the auditors, and the provisional accounts, as on 31st January, 2016 of the applicant/transferor company, has also been filed.

6. 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 affidavit. It is submitted by the applicant that both the transferor and transferee companies are wholly owned subsidiaries of the same entity and the proposed amalgamation will maximize the synergies and minimize the operating costs. It is claimed that the proposed amalgamation will result into emergence of a strong consolidated entity to manage the businesses more advantageously, economically and efficiently to the benefits of the shareholders.

7. 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:

“2,00,00,000 equity shares of Rs.10/- each fully paid up of the transferee company for 2,00,00,000 equity shares of Rs.10/- each fully paid up held in the transferor company”

8. It has been submitted by the applicant that no proceedings under Sections 235 to 251 of the Companies Act, 1956 or corresponding sections of the Companies Act, 2013 are pending against the applicant/transferor company.

9. The Board of Directors of the applicant/transferor company in their meeting held on 5th February, 2016 have unanimously approved the proposed Scheme of Amalgamation. A copy of the Resolution passed at the meeting of the Board of Directors of the applicant/transferor company has been placed on record.

10. The applicant/transferor company has 09 equity shareholders and 01 secured creditor. All the equity shareholders and the sole secured creditor 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 and secured creditor of the applicant/transferor company to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation is dispensed with.

11. The applicant/transferor company has 281 unsecured creditors (including 8 customers) and a direction is sought to convene and hold their meeting to seek their approval to the proposed Scheme of Amalgamation. Considering the facts and circumstances aforesaid, the meeting of the unsecured creditors of the applicant/transferor company shall be held on 12th July, 2016 at 11:00 a.m. at Niryat Bhawan, Rao Tula Ram Marg, Opp. Army Hospital Research & Referral, New Delhi – 110057. Mr. R.N. Pareekh, Advocate, (Mobile No. 9310804503) is appointed as the Chairperson and Ms. Shrishti Sharma, Advocate, (Mobile No. 9582249534) is appointed as the Alternate Chairperson to conduct the said meeting. The Quorum of the meeting of the unsecured creditors of the applicant/transferor company shall be 50 in number and more than 25% in value of the total unsecured debt.

12. In case the quorum as noted above for the above meeting is not present at the meeting, then the meeting shall be adjourned by half an hour, and thereafter the persons present and voting shall be deemed to constitute the quorum. For the purpose of computing the quorum the

valid proxies shall also be considered, if the proxy in the prescribed form duly signed by the person entitled to attend and vote at the meeting is filed with the registered office of the applicant/transferor company at least 48 hours before the meeting. The Chairperson and Alternate Chairperson shall ensure that the proxy register is properly maintained.

13. The Chairperson and Alternate Chairperson shall ensure that notices for convening the aforesaid meeting of the unsecured creditors of the applicant/transferor company, along with copies of the Scheme of Amalgamation and the statement under Section 393 of the Companies Act, 1956, shall be sent to the unsecured creditors of the applicant/transferor company by ordinary post at their registered or last known addresses at least 21 days before the date appointed for the meeting, in their presence or in the presence of their authorized representatives. Notice of the meeting shall also be published in the Delhi editions of the newspapers "Indian Express" (English) and "Jansatta" (Hindi) editions in terms of the Companies (Court) Rules, 1959 at least 21 days before the date appointed for the meeting.

14. The Chairperson and Alternate Chairperson will be at liberty to issue suitable directions to the management of the applicant/transferor company so that the aforesaid meeting of the unsecured creditors of the applicant/transferor company is conducted in a just, free and fair manner.

15. The fee of the Chairperson and the Alternate Chairperson for the aforesaid meeting shall be Rs.50,000/- each in addition to meeting their incidental expenses. The Chairperson will file his report within two weeks from the date of holding of the aforesaid meeting.

16. The application stands allowed in the aforesaid terms.

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SUDERSHAN KUMAR MISRA, J.

May 30, 2016