

IN THE HIGH COURT OF DELHI
COMPANY APPLICATION (MAIN) NO. 74/2016

Reserved on 11th May, 2016
Date of pronouncement: 19th July, 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

Scheme of Amalgamation of:

Toyo Ink Businessnetwork India Private Limited

Applicant/Transferor Company

WITH

Toyo Ink India Private Limited

Applicant/Transferee Company

**Through Mr. Abhimanyu Bhandari and
Mr. Navneet Sehdev, Advocates for the
applicants**

SUDERSHAN KUMAR MISRA, J.

1. This joint application has been filed under Sections 391 and 394 of the Companies Act, 1956 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 Toyo Ink Businessnetwork India Private Limited (hereinafter referred to as the transferor company) with Toyo Ink India 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 originally incorporated under the Companies Act, 1956 on 17th September, 2007 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi under the name and style of TechNova Toyo Ink Private Limited. The company changed its name to Toyo Ink Businessnetwork India Private Limited and obtained the fresh certificate of incorporation on 2nd December, 2010.

4. The transferee company was incorporated under the Companies Act, 1956 on 3rd August, 2006 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

5. The present authorized share capital of the transferor company is Rs.4,90,00,000/- divided into 49,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid up capital of the company is Rs.4,90,00,000/- divided into 49,00,000 equity shares of Rs.10/- each.

6. The present authorized share capital of the transferee company is Rs.3,56,00,00,000/- divided into 35,60,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid up capital of the company is

Rs.3,55,17,92,000/- divided into 35,51,79,200 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 company, along with the report of the auditors, and of the transferee company 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 scheme will result in optimum and efficient utilization of capital, resources, assets and facilities; enhancement of competitive strengths including financial resources; consolidation of businesses and enhancement of economic value addition and shareholders' value and better management and focus on growing the businesses.

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:-

“01 equity share of Rs.10/- each of the transferee company for every 5.224 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 are pending against the applicant companies.

11. The Board of Directors of the transferor and transferee companies in their separate meetings held on 5th 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 02 equity shareholders and 02 unsecured creditors. Both the equity shareholders and both the 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 and unsecured creditors 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 creditor of the transferor company, as on 30th November, 2015.

13. The transferee company has 02 equity shareholders and 424 unsecured creditors. Both the equity shareholders and 215 out of 424 unsecured creditors, being 50.7% in number and more than 3/4th in value, 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 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. There is no secured creditor of the transferee company, as on 30th November, 2015.

14. The application stands allowed in the aforesaid terms.

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SUDERSHAN KUMAR MISRA, J.

July 19, 2016