

IN THE HIGH COURT OF DELHI
COMPANY APPLICATION (MAIN) NO. 68/2016

Reserved on 3rd 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:

Omni Wear Private Limited

Applicant/Transferor Company

WITH

Super Overseas Private Limited

Applicant/Transferee Company

**Through Mr. Saurabh Kalia and
Mr. Gursat Singh, 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 Omni Wear Private Limited (hereinafter referred to as the transferor company) with Super Overseas 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 29th April, 2005 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

4. The transferee company was incorporated under the Companies Act, 1956 on 11th December, 2001 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

5. The present authorized share capital of the transferor company is Rs.1,25,00,000/- divided into 12,50,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.1,02,00,000/- divided into 10,20,000 equity shares of Rs.10/- each.

6. The present authorized share capital of the transferee company is Rs.1,00,00,000/- divided into 10,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.87,50,000/- divided into 8,75,000 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 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 affidavit. It is claimed by the applicants that the proposed amalgamation is expected to result in integration and synergy of operations, economies of scale, reduction in overheads, administrative, managerial and other expenditure, organizational efficiency, and optimal utilization of resources.

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, credited as fully paid up, for every 0.13 equity share 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 and under Sections 206 to 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 29th January, 2016 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 03 equity shareholders and 04 unsecured creditors. All the equity shareholders and all 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 31st January, 2016.

13. The transferee company has 03 equity shareholders and 280 unsecured creditors. All the equity shareholders and all 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 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 31st January, 2016.

14. The application stands allowed in the aforesaid terms.

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SUDERSHAN KUMAR MISRA, J.

July 19, 2016