

IN THE HIGH COURT OF DELHI
COMPANY APPLICATION (MAIN) NO. 69/2016

Reserved on 18th May, 2016
Date of pronouncement: 27th July, 2016

In the matter of

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

And

**Application under Section 391(1) of the
Companies Act, 1956**

Scheme of Amalgamation of:

Lahmeyer International (India) Private Limited

Applicant/Transferor Company

WITH

Tractebel Engineering Private Limited

Applicant/Transferee Company

**Through Mr. Arun Saxena and
Mr. Simran Jyot Singh, Advocates for
the applicants**

SUDERSHAN KUMAR MISRA, J.

1. This joint application has been filed under Section 391(1) 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 Lahmeyer International (India) Private Limited (hereinafter referred to as the transferor company) with Tractebel Engineering 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 1st September, 1993 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

4. The transferee company was originally incorporated under the Companies Act, 1956 on 2nd March, 2000 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi under the name and style of Tractebel Engineers and Constructors Private Limited. The company changed its name to Tractebel Engineering Private Limited and obtained the fresh certificate of incorporation on 22nd July, 2009.

5. The present authorized share capital of the transferor company is Rs.5,00,00,000/- divided into 5,00,000 equity shares of Rs.100/- each. The issued, subscribed and paid-up share capital of the company is Rs.4,12,00,000/- divided into 4,12,000 equity shares of Rs.100/- each including 12,000 equity shares of Rs.100/- each allotted by way of right shares by the Board of Directors in its meeting held on 8th March, 2016.

6. The present authorized share capital of the transferee company is Rs.4,00,00,000/- divided into 40,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.1,16,00,000/- divided into 11,60,000 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, 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 affidavit. It is claimed by the applicants that the proposed Scheme would result in business synergy and consolidation of these companies into one large company with a stronger asset base. It is further claimed that the Scheme would result in pooling of resources of the entities to their common advantage, resulting in greater economies of scale, more productive utilization of resources, cost and operational efficiencies, faster and effective decision making and its implementation, which would be beneficial for all stakeholders.

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:

“14.87 equity shares of Rs.10/- each of the transferee company, credited as fully paid up, for every 01 equity share of Rs.100/- 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 9th March, 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 02 equity shareholders, 04 secured creditors and 75 unsecured creditors. Both the equity shareholders, 03 out of 04 secured creditors, being 75% in number and 80.66% in value, and 67 out of 75 unsecured creditors, being 89.33% in number and 97.95% 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, secured 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.

13. The transferee company has 02 equity shareholders and 64 unsecured creditors. Both the equity shareholders and 53 out of 64 unsecured creditors, being 82.81% in number and 98.66% 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 9th March, 2016.

14. The application stands allowed in the aforesaid terms.

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SUDERSHAN KUMAR MISRA, J.

July 27, 2016