

IN THE HIGH COURT OF DELHI
COMPANY APPLICATION (MAIN) NO. 66/2016

Reserved on 2nd 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 to 394 of the Companies Act, 1956

Scheme of Amalgamation of:

Logical Apps Solutions Private Limited

Applicant/Transferor Company No. 1

AmberPoint Technology India Private Limited

Applicant/Transferor Company No. 2

Sunday Bazar Internet Sales Private Limited

Applicant/Transferor Company No. 3

People Soft India Private Limited

Applicant/Transferor Company No. 4

J D Edwards Software India Private Limited

Applicant/Transferor Company No. 5

Fatwire Software India Private Limited

Applicant/Transferor Company No. 6

Fidelio India Private Limited

Applicant/Transferor Company No. 7

Sophoi Technologies Private Limited

Applicant/Transferor Company No. 8

BitzerMobile India Private Limited

Applicant/Transferor Company No. 9

GoldenGate Technologies South Asia Private Limited

Applicant/Transferor Company No. 10

Phase Forward Software Services India Private Limited

Applicant/Transferor Company No. 11

Profitlogic Software Private Limited

Applicant/Transferor Company No. 12

Relsys (India) Private Limited

Applicant/Transferor Company No. 13

Siebel Systems Software (India) Private Limited

Applicant/Transferor Company No. 14

WITH

Oracle India Private Limited

Applicant/Transferee Company

Through Mr. Abhinav Vashisht, Sr. Advocate with Mr. Dheeraj Nair, Mr. Raghav Sabharwal, Mr. Kunal Chaturvedi, Ms. Sonal Gupta and D. Aggarwal, Advocates for the applicants

SUDERSHAN KUMAR MISRA, J.

1. This joint application has been filed under Sections 391 to 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 Logical Apps Solutions Private Limited (hereinafter referred to as the transferor company no. 1); AmberPoint Technology India Private Limited (hereinafter referred to as the transferor company no. 2); Sunday Bazar Internet Sales Private Limited (hereinafter referred to as the transferor company no. 3); People Soft India Private Limited (hereinafter referred to as the transferor company no. 4); J D Edwards Software India Private Limited (hereinafter referred to as the transferor company no. 5); Fatwire Software India Private Limited (hereinafter referred to as the transferor company no. 6); Fidelio India Private Limited

(hereinafter referred to as the transferor company no. 7); Sophoi Technologies Private Limited (hereinafter referred to as the transferor company no. 8); BitzerMobile India Private Limited (hereinafter referred to as the transferor company no. 9); GoldenGate Technologies South Asia Private Limited (hereinafter referred to as the transferor company no. 10); Phase Forward Software Services India Private Limited (hereinafter referred to as the transferor company no. 11); Profitlogic Software Private Limited (hereinafter referred to as the transferor company no. 12); Relsys (India) Private Limited (hereinafter referred to as the transferor company no. 13) and Siebel Systems Software (India) Private Limited (hereinafter referred to as the transferor company no. 14) with Oracle 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 no. 1 was incorporated under the Companies Act, 1956 on 26th May, 2006 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

4. The transferor company no. 2 was incorporated under the Companies Act, 1956 on 28th January, 2005 with the Registrar of

Companies, Pune. The company shifted its registered office from the state of Maharashtra to the State of Karnataka and obtained a certificate in this regard from the Registrar of Companies, Karnataka on 30th March, 2011. Thereafter, the company shifted its registered office from the State of Karnataka to Delhi.

5. The transferor company no. 3 was incorporated under the Companies Act, 1956 on 30th March, 2000 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

6. The transferor company no. 4 was incorporated under the Companies Act, 1956 on 30th July, 1999 with the Registrar of Companies, Maharashtra at Mumbai. The company shifted its registered office from the State of Maharashtra to the State of Karnataka and obtained a certificate in this regard from the Registrar of Companies, Karnataka on 19th April, 2011. Thereafter, the company shifted its registered office from the State of Karnataka to Delhi.

7. The transferor company no. 5 was incorporated under the Companies Act, 1956 on 15th March, 2002 with the Registrar of Companies, Maharashtra at Mumbai. The company shifted its registered office from the State of Maharashtra to the State of Karnataka and obtained a certificate in this regard from the Registrar of Companies,

Karnataka on 20th September, 2011. Thereafter, the company shifted its registered office from the State of Karnataka to Delhi.

8. The transferor company no. 6 was incorporated under the Companies Act, 1956 on 27th July, 2010 with the Registrar of Companies, Andhra Pradesh at Hyderabad. Thereafter, the company shifted its registered office from the State of Telangana to the NCT of Delhi.

9. The transferor company no. 7 was incorporated under the Companies Act, 1956 on 13th July, 1994 with the Registrar of Companies, Karnataka at Bangalore. Thereafter, the company shifted its registered office from the State of Karnataka to the NCT of Delhi and obtained a certificate in this regard from the Registrar of Companies, NCT of Delhi & Haryana at New Delhi on 15th September, 2008.

10. The transferor company no. 8 was incorporated under the Companies Act, 1956 on 24th November, 2004 with the Registrar of Companies, Pune. The company shifted its registered office from the state of Maharashtra to the State of Karnataka and obtained a certificate in this regard from the Registrar of Companies, Karnataka on 30th March, 2011. Thereafter, the company shifted its registered office from the State of Karnataka to Delhi.

11. The transferor company no. 9 was originally incorporated under the Companies Act, 1956 on 9th August, 2011 with the Registrar of Companies, Karnataka at Bangalore under the name and style of Friktori Software Private Limited. The company changed its name to BitzerMobile India Private Limited. Thereafter, the company shifted its registered office from the State of Karnataka to Delhi.

12. The transferor company no. 10 was incorporated under the Companies Act, 1956 on 22nd October, 2007 with the Registrar of Companies, Maharashtra at Mumbai. The company shifted its registered office from the State of Maharashtra to the State of Karnataka and obtained a certificate in this regard from the Registrar of Companies, Karnataka on 1st April, 2011. Thereafter, the company shifted its registered office from the State of Karnataka to Delhi.

13. The transferor company no. 11 was incorporated under the Companies Act, 1956 on 27th November, 2007 with the Registrar of Companies, Andhra Pradesh. The company shifted its registered office from the State of Andhra Pradesh to the State of Karnataka and obtained a certificate in this regard from the Registrar of Companies, Karnataka on 20th September, 2011. Thereafter, the company shifted its registered office from the State of Karnataka to Delhi.

14. The transferor company no. 12 was incorporated under the Companies Act, 1956 on 11th August, 2004 with the Registrar of Companies, Tamil Nadu at Chennai. Thereafter, the company shifted its registered office from the State of Tamil Nadu to Delhi.

15. The transferor company no. 13 was incorporated under the Companies Act, 1956 on 28th August, 1998 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

16. The transferor company no. 14 was incorporated under the Companies Act, 1956 on 10th September, 2003 with the Registrar of Companies Karnataka at Bangalore. Thereafter, the company shifted its registered office from the State of Karnataka to Delhi.

17. The transferee company was originally incorporated under the Companies Act, 1956 on 18th January, 1993 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi under the name and style of Oracle Software India Private Limited. The word 'Private' has been deleted from the name of the company w.e.f. 01.07.1996. The word 'Private' has again been added to the name of the company w.e.f. 12.10.2001. Thereafter, the company changed its name to Oracle India

Private Limited and obtained the fresh certificate of incorporation on 30th October, 2001.

18. The present authorized share capital of the transferor company no.1 is Rs.5,00,000/- divided into 50,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.4,05,300/- divided into 40,530 equity shares of Rs.10/- each.

19. The present authorized share capital of the transferor company no.2 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.1,00,00,000/- divided into 10,00,000 equity shares of Rs.10/- each.

20. The present authorized share capital of the transferor company no.3 is Rs.10,76,63,410/- divided into 1,07,66,341 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.10,76,63,410/- divided into 1,07,66,341 equity shares of Rs.10/- each.

21. The present authorized share capital of the transferor company no.4 is Rs.50,00,000/- divided into 5,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.45,00,000/- divided into 4,50,000 equity shares of Rs.10/- each.

22. The present authorized share capital of the transferor company no.5 is Rs.2,00,00,000/- divided into 20,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.98,34,090/- divided into 9,83,409 equity shares of Rs.10/- each.

23. The present authorized share capital of the transferor company no.6 is Rs.10,00,000/- divided into 1,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.1,00,000/- divided into 10,000 equity shares of Rs.10/- each.

24. The present authorized share capital of the transferor company no.7 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.47,00,000/- divided into 4,70,000 equity shares of Rs.10/- each.

25. The present authorized share capital of the transferor company no.8 is Rs.1,00,000/- divided into 10,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.1,00,000/- divided into 10,000 equity shares of Rs.10/- each.

26. The present authorized share capital of the transferor company no.9 is Rs.1,00,000/- divided into 10,000 equity shares of Rs.10/- each.

The issued, subscribed and paid-up share capital of the company is Rs.1,00,000/- divided into 10,000 equity shares of Rs.10/- each.

27. The present authorized share capital of the transferor company no.10 is Rs.50,00,000/- divided into 5,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.1,00,000/- divided into 10,000 equity shares of Rs.10/- each.

28. The present authorized share capital of the transferor company no.11 is Rs.10,00,000/- divided into 1,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.10,00,000/- divided into 1,00,000 equity shares of Rs.10/- each.

29. The present authorized share capital of the transferor company no.12 is Rs.10,00,000/- divided into 1,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.9,40,000/- divided into 94,000 equity shares of Rs.10/- each.

30. The present authorized share capital of the transferor company no.13 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.50,02,620/- divided into 5,00,262 equity shares of Rs.10/- each.

31. The present authorized share capital of the transferor company no.14 is Rs.5,00,000/- divided into 50,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.1,00,000/- divided into 10,000 equity shares of Rs.10/- each.

32. The present authorized share capital of the transferee company is Rs.8,05,00,000/- divided into 80,50,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.1,12,57,430/- divided into 11,25,743 equity shares of Rs.10/- each.

33. 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.

34. 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 that the proposed scheme will lead to better administration and reduction in costs from more focused operational efforts, rationalization, standardization and simplification of business and compliance processes. It is further claimed that the proposed Scheme will lead to rationalization

of administrative process, provide flexibility in the overall organizational structure of transferee company's operations thus enabling it to achieve operational and management efficiency etc.

35. 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 companies in the following ratio:

“01 equity share of Rs.10/- each fully paid up of the transferee company for every 813 equity shares of Rs.10/- each fully paid up held in the transferor company no. 1.”

“01 equity share of Rs.10/- each fully paid up of the transferee company for every 1,191 equity shares of Rs.10/- each fully paid up held in the transferor company no. 2.”

“01 equity share of Rs.10/- each fully paid up of the transferee company for every 1,452 equity shares of Rs.10/- each fully paid up held in the transferor company no. 3.”

“01 equity share of Rs.10/- each fully paid up of the transferee company for every 86 equity shares of Rs.10/- each fully paid up held in the transferor company no. 4.”

“01 equity share of Rs.10/- each fully paid up of the transferee company for every 2,148 equity shares of Rs.10/- each fully paid up held in the transferor company no. 5.”

“01 equity share of Rs.10/- each fully paid up of the transferee company for every 90 equity shares of Rs.10/- each fully paid up held in the transferor company no. 6.”

“01 equity share of Rs.10/- each fully paid up of the transferee company for every 10 equity shares of Rs.10/- each fully paid up held in the transferor company no. 7.”

“01 equity share of Rs.10/- each fully paid up of the transferee company for every 121 equity shares of Rs.10/- each fully paid up held in the transferor company no. 8.”

“01 equity share of Rs.10/- each fully paid up of the transferee company for every 46 equity shares of Rs.10/- each fully paid up held in the transferor company no. 9.”

“01 equity share of Rs.10/- each fully paid up of the transferee company for every 357 equity shares of Rs.10/- each fully paid up held in the transferor company no. 11.”

“01 equity share of Rs.10/- each fully paid up of the transferee company for every 3,858 equity shares of Rs.10/- each fully paid up held in the transferor company no. 12.”

“01 equity share of Rs.10/- each fully paid up of the transferee company for every 140 equity shares of Rs.10/- each fully paid up held in the transferor company no. 13.”

“01 equity share of Rs.10/- each fully paid up of the transferee company for every 19 equity shares of Rs.10/- each fully paid up held in the transferor company no. 14.”

It has been further provided that since the transferor company no.10 is a wholly owned subsidiary of the transferee company, no shares will be allotted by the transferee company to the shareholders of the transferor company no. 10.

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

37. The Board of Directors of the transferor and transferee companies in their separate meetings held on 17th March, 2016 and the Board of Directors of the transferor company no. 7 in their meeting held on 12th April, 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.

38. The transferor company no. 1 has 02 equity shareholders. Both 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 meetings of the equity shareholders of the transferor company no. 1 to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation is dispensed with. There is no secured and unsecured creditor of the transferor company no. 1, as on 17th March, 2016.

39. The transferor company no. 2 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 no. 2 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 no. 2, as on 17th March, 2016.

40. The transferor company no. 3 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 no. 3 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 no. 3, as on 17th March, 2016.

41. The transferor company no. 4 has 02 equity shareholders and 06 unsecured creditors. Both 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 no. 4 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 no. 4, as on 17th March, 2016.

42. The transferor company no. 5 has 02 equity shareholders and 01 unsecured creditor. Both the equity shareholders and the sole unsecured 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 unsecured creditor of the transferor company no. 5 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 no. 5, as on 17th March, 2016.

43. The transferor company no. 6 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

no. 6 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 no. 6, as on 17th March, 2016.

44. The transferor company no. 7 has 02 equity shareholders and 01 unsecured creditor. Both the equity shareholders and the sole unsecured 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 unsecured creditor of the transferor company no. 7 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 no. 7, as on 17th March, 2016.

45. The transferor company no. 8 has 02 equity shareholders. Both 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 no. 8 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 no. 8, as on 17th March, 2016.

46. The transferor company no. 9 has 02 equity shareholders. Both 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 no. 9 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 no. 9, as on 17th March, 2016.

47. The transferor company no. 10 has 02 equity shareholders. Both 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 no. 10 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 no. 10, as on 17th March, 2016.

48. The transferor company no. 11 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 no. 11 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 no. 11, as on 17th March, 2016.

49. The transferor company no. 12 has 02 equity shareholders and 01 unsecured creditor. Both the equity shareholders and the sole unsecured 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 unsecured creditor of the transferor company no. 12 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 no. 12, as on 17th March, 2016.

50. The transferor company no. 13 has 02 equity shareholders and 01 unsecured creditor. Both the equity shareholders and the sole unsecured 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 unsecured creditor of the transferor company no. 13 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 no. 13, as on 17th March, 2016.

51. The transferor company no. 14 has 02 equity shareholders. Both 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 no. 14 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 no. 14, as on 17th March, 2016.

52. The transferee company has 03 equity shareholders and 290 unsecured creditors. All the equity shareholders and 73 out of 290 unsecured creditors, being 25.17% in number and 99.56% 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 14th April, 2016.

53. The application stands allowed in the aforesaid terms.

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SUDERSHAN KUMAR MISRA, J.

July 19, 2016