

IN THE HIGH COURT OF DELHI
COMPANY APPLICATION (MAIN) NO. 103/2016

Reserved on 15th July, 2016

Date of pronouncement: 12th August, 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 read with Rules 9 and 69
of the Companies (Court) Rules, 1959**

Scheme of Amalgamation of:

Lectrix Motors Private Limited

Applicant/Transferor Company

WITH

Livguard Batteries Private Limited

Applicant/Transferee Company

**Through Mr. R. Jawahar Lal,
Mr. Sanjeev Jain, Mr. Siddharth Bawa
and Mr. Shyamal Anand, 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 read with Rules 9 and 69 of the Companies (Court) Rules, 1959 by the applicant companies seeking directions of this court to dispense with the requirement of convening the meetings of their equity shareholders, debenture holders and secured creditors and for convening separate meetings of their unsecured creditors, to consider and approve, with or without modification, the proposed Scheme of Amalgamation of Lectrix Motors Private Limited (hereinafter referred to

as the transferor company) with Livguard Batteries 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 23rd April, 2007 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi under the name and style of Lectrix Motors Private Limited. The company changed its name to Lectrix Motors Limited and obtained the fresh certificate of incorporation on 6th October, 2007. The company again changed its name to Lectrix Motors Private Limited and obtained the fresh certificate of incorporation on 11th August, 2015.

4. The transferee company was originally incorporated under the Companies Act, 1956 on 20th January, 2012 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi under the name and style of Gourmante Fine Foods India Private Limited. The company changed its name to Livguard Batteries Private Limited and obtained the fresh certificate of incorporation on 4th July, 2014.

5. The present authorized share capital of the transferor company is Rs.2,50,00,000/- divided into 2,50,00,000 equity shares of Rs.1/- each. The issued, subscribed and paid-up share capital of the company is Rs.5,00,000/- divided into 5,00,000 equity shares of Rs.1/- each.

6. The present authorized share capital of the transferee company 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.2,28,000/- divided into 22,800 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 will result in cost savings in terms of economies of scale, sourcing benefits, vendor rationalization, consolidation, standardization and simplification of business processes and productivity improvements. It is further claimed that the Scheme

would bring greater operational efficiency, financial strength and flexibility for the transferee company with respect to coordination among different functions related to battery manufacturing, which would result in maximizing the overall shareholders' value.

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 66 equity shares of Rs.1/- 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 or under the corresponding provisions 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 15th 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.

12. The transferor company has 07 equity shareholders and 02 secured creditors. All the equity shareholders and both the secured 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 secured 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, 01 debenture holder and 01 secured creditor. Both the equity shareholders, the sole debenture holder 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, debenture holder and secured creditor of the transferee company, to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation is dispensed with.

14. The transferor company has 368 unsecured creditors and a direction is sought to convene and hold their meetings to seek their

approval to the proposed Scheme of Amalgamation. Considering the facts and circumstances aforesaid, the meeting of the unsecured creditors of the transferor company shall be held on 17th September, 2016 at 11:00 a.m. at Mapple Emerald Hotel, Rajokri, NH-8, New Delhi-110038. Mr. Anurag Jain, Advocate, (Mobile No. 9811235881) is appointed as the Chairperson and Mr. Tushar Gupta, Advocate, (Mobile No. 9871550054) is appointed as the Alternate Chairperson to conduct the said meeting. The Quorum of the meeting of the unsecured creditors of the transferor company shall be 70 in number and more than 25% in value of the total unsecured debt.

15. The transferee company has 176 unsecured creditors and a direction is sought to convene and hold their meetings to seek their approval to the proposed Scheme of Amalgamation. Considering the facts and circumstances aforesaid, the meeting of the unsecured creditors of the transferee company shall be held on 17th September, 2016 at 12:30 p.m. at Mapple Emerald Hotel, Rajokri, NH-8, New Delhi-110038. Mr. R. N. Pareekh, Advocate, (Mobile No. 9310804503) is appointed as the Chairperson and Mr. Gursat Singh Vachher, Advocate, (Mobile No. 9811105891) is appointed as the Alternate Chairperson to conduct the said meeting. The Quorum of the meeting of the unsecured creditors of the transferee company shall be 35 in number and more than 25% in value of the total unsecured debt.

16. In case the quorum as noted above for the above meetings is not present at the meetings, then the meetings 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 meetings is filed with the registered offices of the applicant companies at least 48 hours before the meetings. The Chairpersons and Alternate Chairpersons shall ensure that the proxy registers are properly maintained.

17. The Chairpersons and Alternate Chairpersons shall ensure that notices for convening the aforesaid meetings of the unsecured creditors of the transferor and transferee companies, 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 transferor and transferee companies by ordinary post at their registered or last known addresses at least 21 days before the date appointed for the meetings, in their presence or in the presence of their authorized representatives. Notice of the meetings shall also be published in the Delhi editions of the newspapers "The Statesman" (English) and

“Jansatta” (Hindi) in terms of the Companies (Court) Rules, 1959 at least 21 days before the date appointed for the meetings.

18. The Chairpersons and Alternate Chairpersons will be at liberty to issue suitable directions to the management of the applicant companies so that the aforesaid meetings of the unsecured creditors of the transferor and transferee companies are conducted in a just, free and fair manner.

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

20. The application stands allowed in the aforesaid terms.

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SUDERSHAN KUMAR MISRA, J.

August 12, 2016