

IN THE HIGH COURT OF DELHI
COMPANY APPLICATION (MAIN) NO. 101/2016

Reserved on 15th July, 2016
Date of pronouncement: 3rd August, 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:

Samarpit Poly Film India Private Limited

Applicant/Transferor Company No. 1

Tovay Ink India Private Limited

Applicant/Transferor Company No. 2

WITH

Sandeep Laminators Private Limited

Applicant/Transferee company

Through Mr. Praveen K. Mittal,
Advocate for the applicant

SUDERSHAN KUMAR MISRA, J.

1. This joint application has been filed under Sections 391 & 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 Samarpit Poly Film India Private Limited (hereinafter referred to as the transferor company no. 1) and Tovay Ink India Private Limited (hereinafter referred to as the transferor company

no. 2) with Sandeep Laminators 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 originally incorporated under the Companies Act, 1956 on 2nd July, 1999 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi under the name and style of Arpit Polyfilm Private Limited. The company changed its name to Samarpit Polyfilm India Private Limited and obtained the fresh certificate of incorporation on 9th April, 2003.

4. The transferor company no. 2 was originally incorporated under the Companies Act, 1956 on 2nd November, 1999 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi under the name and style of Cobra Ink India Private Limited. The company changed its name to Tovay Ink India Private Limited and obtained the fresh certificate of incorporation on 13th May, 2008.

5. The transferee company was incorporated under the Companies Act, 1956 on 22nd September, 1992 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

6. The present authorized share capital of the transferor company no.1 is Rs.1,80,00,000/- divided into 18,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.1,79,67,400/- divided into 17,96,740 equity shares of Rs.10/- each.

7. The present authorized share capital of the transferor company no.2 is Rs.23,00,000/- divided into 2,30,000 equity shares of Rs.100/- each. The issued, subscribed and paid-up share capital of the company is Rs.22,85,200/- divided into 2,28,520 equity shares of Rs.100/- each.

8. The present authorized share capital of the transferee company is Rs.3,00,00,000/- divided into 30,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.1,32,75,200/- divided into 13,27,520 equity shares of Rs.10/- each.

9. 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.

10. 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 pooling of their financial, commercial and other resources, economies of scale and reduction of overheads. It is further claimed that with enhanced capabilities and resources at its disposal, the transferee company will have greater flexibility and strength to meet requirements for further growth of business activities.

11. 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:

“30 equity shares of Rs.10/- each of the transferee company, credited as fully paid up, for every 100 equity shares of Rs.10/- each held in transferor company no. 1.”

“13 equity shares of Rs.10/- each of the transferee company, credited as fully paid up, for every 100 equity shares of Rs.10/- each held in transferor company no. 2.”

12. It has been submitted by the applicants that no proceedings under Sections 210 to 227 of the Companies Act, 2013 are pending against the transferor and transferee companies.

13. The Board of Directors of the transferor and transferee companies in their separate meetings held on 24th 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.

14. The transferor company no. 1 has 28 equity shareholders and 15 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. There 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. 1, 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. 1, as on 24th March, 2016.

15. The transferor company no. 2 has 09 equity shareholders and 06 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. There 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 24th March, 2016.

16. The transferee company has 41 equity shareholders, 01 secured creditor and 11 unsecured creditors. 36 out of 41 equity shareholders, being 87.80% in number and 82.40% in value, the sole secured creditor 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, secured 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.

17. The application stands allowed in the aforesaid terms.

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SUDERSHAN KUMAR MISRA, J.

August 03, 2016