

IN THE HIGH COURT OF DELHI
COMPANY APPLICATION (MAIN) NO. 106/2016

Reserved on 20th 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 Section 391 of the
Companies Act, 1956 read with Rules 6 & 9
of the Companies (Court) Rules, 1959**

Scheme of Arrangement between:

Lotte Engineering & Construction India Private Limited

Applicant Company

AND

Its shareholders and creditors

**Through Mr. Abhishek Seth and
Mr. Rajeev Kumar, Advocates for the
applicant**

SUDERSHAN KUMAR MISRA, J.

1. This application has been filed under Section 391 of the Companies Act, 1956 read with Rules 6 & 9 of the Companies (Court) Rules, 1959, by the applicant company seeking directions of this court to dispense with the requirement of convening the meetings of its equity shareholders, secured and unsecured creditors to consider and approve with or without modification, the proposed Scheme of Arrangement between Lotte Engineering & Construction India Private Limited (hereinafter referred to as the applicant company) and its shareholders and creditors.

2. The registered office of the applicant company is situated at New Delhi, within the jurisdiction of this Court.

3. The applicant company was incorporated under the Companies Act, 1956 on 4th October, 2007 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

4. The present authorized share capital of the applicant company is Rs.3,60,00,000/- divided into 36,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up capital of the company is Rs.69,22,750/- divided into 6,92,275 equity shares of Rs.10/- each.

5. A copy of Memorandum and Articles of Association of the applicant company has been filed on record. The audited balance sheet, as on 31st March, 2015, of the applicant company, along with the report of the auditors, has also been filed.

6. A copy of the Scheme of Arrangement 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 submitted by the applicant that the Scheme, *inter alia*, provides for purchase of equity shares of the applicant company from its existing shareholders. It

is further submitted that the company may, at the option of its shareholders, purchase upto 99.86% of the equity shares held by each shareholder, as on effective date, for a consideration of Rs.261/- per equity share. It is further submitted that the company intends to utilize its surplus funds by returning a part of capital to its shareholders and provide a partial exit to its shareholders.

7. It has been submitted by the applicant that no proceedings under Sections 235 to 251 of the Companies Act, 1956 or the corresponding sections of the Companies Act, 2013 are pending against the applicant company.

8. The Board of Directors of the applicant company in their meeting held on 28th April, 2016 have unanimously approved the proposed Scheme of Arrangement. A copy of the Resolution passed at the meeting of the Board of Directors of the applicant company has been placed on record.

9. The applicant company 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 Arrangement. 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 applicant company to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Arrangement is dispensed with. There is no secured creditor of the applicant company, as on 1st April, 2016.

10. The application stands allowed in the aforesaid terms.

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SUDERSHAN KUMAR MISRA, J.

August 12, 2016