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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CO.APPL. (M) 148/2016**

IN THE MATTER OF:

WG ASSOCIATES PRIVATE LIMITED

...Applicant/Transferor Company

AND

SMART SOLUTIONS INFRA-LOGISTICS PRIVATE LIMITED

... Non Applicant/Transferee Company

Through: Mr. Rajeev Kumar, Advocate

CORAM:
HON'BLE MR JUSTICE SIDDHARTH MRIDUL

ORDER
07.10.2016

1. The present is an application for first motion, filed jointly, under Sections 391 to 394 read with Sections 100 to 103 of the Companies Act, 1956 (hereinafter referred to as 'Act') is in connection with a Scheme of Amalgamation and Arrangement (hereinafter referred to as 'Scheme') between WG Associates Private Limited (hereinafter referred to as 'Transferor Company') and Smart Solutions Infra-Logistics Private Limited (hereinafter referred to as 'Transferee Company') and their respective shareholders.

2. The registered office of the Applicant Company is situated at New Delhi, and, therefore this Court has necessary jurisdiction to adjudicate the matter.
3. The Registered office of the Non-Applicant Company is situated at Mumbai within the jurisdiction of the Hon'ble High Court of Judicature at Bombay. It has been stated on behalf of the Applicant Company that the Non-Applicant Company has already instituted appropriate proceedings before the Hon'ble High Court of Judicature at Bombay seeking dispensation of the requirement of convening meetings of its shareholders and creditors.
4. The Transferor Company was incorporated on 15.01.1988 under the Companies Act, 1956, with the Registrar of Companies, NCT of Delhi & Haryana.
5. The Non-Applicant/Transferee Company was incorporated on 28.05.2010 under the Companies Act, 1956, and was issued a Certificate of Incorporation by Registrar of Companies, Bombay, Maharashtra. Details with regard to the incorporation of the Applicant Company have been stated in the Company Application.
6. The Authorised Share Capital of the Transferor Company, as on 31.03.2016 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 Transferor Company is Rs.1,00,000/-, divided into 10,000 Equity Shares of Rs.10/- each.
7. The Authorised Share Capital of the Transferee Company, as on 31.03.2016 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 Transferor Company is Rs.1,00,000/-, divided into 10,000 Equity Shares of Rs.10/- each.
8. Copies of the Memorandum of Association and Articles of Association of the Transferor Company have been placed on record. The audited accounts as on 31st March, 2016, together with report of the Auditors have also been placed

on record.

9. A copy of the Scheme has been filed along with the present application and the same is on record. The salient features of the Scheme are set out in detail in the affidavit filed alongwith the instant application. It has been submitted by the counsel appearing on behalf of the Transferor Company that the rationale behind the Scheme is that it would aid in simplifying the group structure, leading to more efficient and effective management and control of the business, and pooling in of the resources of both the companies for the purposes of growth.

10. It has been averred on behalf of the Transferor Company that no investigation proceedings have been initiated or are pending in relation to the Applicant/Demerged Company under Sections 235 to 251 of the Companies Act, 1956 or corresponding Sections of the Companies Act, 2013.

11. That the Board of Directors of the Transferor Company had, in their meeting held on 03.09.2016, approved the said Scheme and the Board of Directors of the Non-Applicant/Transferee Company had in their meeting held on 02.09.2016, approved the said Scheme. Copies of the said resolutions passed in the said meetings have been placed on record.

12. The status of consents obtained from the shareholders, secured and unsecured creditors of the Transferor company as is stated in the application and supported by documents filed therewith is reproduced as hereinunder:

Company	No. of Shareholders	Consent Given	No. of Secured Creditors	Consent Given	No. of Unsecured Creditors	Consent Given
Transferor Company	4	All	Nil	N/A	2	All

13. A prayer has been made for dispensation of the requirement of convening meetings of Equity Shareholders and Unsecured Creditors of the Transferor Company. Further, a prayer has been sought for dispensing with the requirement of giving individual notices to the Equity Shareholders in terms of Form-36 of the Company (Court) Rules, 1959.

14. The Transferor Company has 04 Equity Shareholders. Each of the said 04 Equity Shareholders has given their consents/no objections in writing to the proposed Scheme and for dispensing with convening and holding a meeting of the Equity Shareholders of the Transferor Company for consideration of the said Scheme. The said documents have been examined and the same have been found in order. In view of the consents/no objections given by the Equity Shareholders of the Transferor Company, the requirement of convening a meeting of the Equity Shareholders of the Transferor Company to consider, and if thought fit, approve, with or without modifications, the said Scheme, is dispensed with.

15. In view of the foregoing, the requirement of giving individual notices to the Equity Shareholders in terms of Form-36 of the Company (Court) Rules, 1959, is also dispensed with.

16. The Applicant Company has 02 unsecured creditors. Each of the 02 unsecured creditors has given its consent/no objection in writing to the proposed Scheme and for dispensing with convening and holding a meeting of the unsecured creditors of the Transferor Company for consideration of the said Scheme. The said document has been examined and the same has been found in order. In view of the consent/no objection given by the unsecured creditors of the Transferor Company, the requirement of convening a meeting of the unsecured creditors of the Transferor Company to consider, and if thought fit, approve, with or without modifications, the said Scheme is dispensed with.

17. A perusal of the record reveals that there are no secured creditors of the Transferor Company as on the date of filing of the instant application. Therefore the question of dispensing with the requirement of convening a meeting *qua* the same does not arise.

18. The application stands allowed in the aforesaid terms and is accordingly disposed of.

19. The copy of the order be given *dasti*.

SIDDHARTH MRIDUL, J

OCTOBER 07, 2016

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