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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CO.APPL.(M) 8/2016

IN THE MATTER OF AV BEVERAGES
PRIVATE LIMITED ... Transferor/Applicant No.1

WITH

SOLAR PRINT PROCESS PRIVATE LIMITED
... Transferee /Applicant No.2
Through: Ms Gurkamal Hora Arora, Adv.

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER

<u>O R D E R</u>

% **15.01.2016**

1. This is a first motion application, which is jointly moved by applicant no.1/ transferor company and applicant no.2/ transferee company (hereafter collectively referred to as the applicants) under Section 391 and 394 of the Companies Act, 1956 (in short the Act) in connection with the Scheme of Amalgamation proposed by them (hereafter referred to as the Scheme). A copy of the proposed scheme is enclosed with the application.

2. The registered offices of the applicants are situate, within the National Capital Territory of Delhi and, therefore, within the territorial jurisdiction of this Court.

3. The details of the dates of incorporation of the applicants, their authorized, issued, subscribed and paid up capital have been set out in paragraph II of the application.

4. The copies of Memorandum and Articles of Association as well as the

latest audited annual accounts for the year ended 31.03.2015 of the applicants have been filed.

5. I am informed by the learned counsel for the applicants that no proceedings under Section 235 to 251 of the Act are pending against any of the applicants as on date.

6. The proposed scheme has been approved by the respective Board of Directors (BOD) of applicants. The copies of the BOD resolution of the applicants of even date 03.04.2015 have been filed.

6.1 It is averred that applicant no.1/ transferor company is a 100% subsidiary of applicant no.2/ transferee company. It is, thus, averred that on amalgamation the shares of applicant no.1/ transferor company will stand cancelled/ extinguished and, therefore, no shares would be issued and/or allotted in the applicant no.2/ transferee company. It is thus further submitted that valuation of shares of the applicants is not necessary.

7. The status of the shareholders, secured and unsecured creditors of the applicant companies and the consent obtained by them for the proposed scheme is set out in the table given below:-

Particulars	Transferor Company	Transferee Company
Number of Shareholders	2	4
Consent Given	All	All
Number of Secured Creditors	Nil	4
Consent given	N.A.	99%
Number of Unsecured Creditors	2	81
Consent Given	1 in number and 99.4% by value	63 in number and 92.43% in value

8. A prayer has been made to dispense with the requirement of convening the meetings of the shareholders and the creditors (i.e. the unsecured and secured creditors) of the applicants.

9. Having regard to the fact that all the shareholders of the applicants have given their consent, to my mind, there is no need to convene the meeting of the shareholders, and therefore, the same can be dispensed with. It is ordered accordingly.

9.1 In so far as the secured creditors are concerned, there are no secured creditors in the transferor company, whereas in so far as transferee company is concerned, I am told, 99% of the secured creditors, in value, have given their consent. Therefore, to my mind, in so far as this class of entities is concerned, the prayer for dispensation of meeting can be allowed. It is ordered accordingly.

9.2 That brings me to the last class of persons and / or entities i.e. unsecured creditors. The table set out in paragraph 7 above, would show that, in so far as transferor company is concerned, 99.4%, of the unsecured creditors, in value, have granted their consent to the proposed scheme, and as regards the transferee company, 92.43% of unsecured creditors, in value, have similarly given their consent. Therefore, to my mind, meeting of this class of persons and / or entities also need not be convened. The requirement of convening a meeting is, thus, dispensed with.

10. The application stands allowed in the aforesaid terms.

11. Dasti.

RAJIV SHAKDHER, J

JANUARY 15, 2016

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