

IN THE HIGH COURT OF DELHI AT NEW DELHI

Order reserved on: 28.11.2016

Order delivered on: 16.01.2017

CO. APPL. (M) 161/2016

IN THE MATTER OF:

LIONFORGE INTERTRADE PRIVATE LIMITED

... Applicant/Transferor Company

AND

PERPETUAL CAPITAL SERVICING PRIVATE LIMITED

... Applicant/Transferee Company

Through: Mr. Manik Dogra, Advocate with
Mr. Siddharth Das, Advocate

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J.

CO. APPL. 4702/2016 (Exemption)

Exemption granted, subject to all just exemptions.

The application is disposed of accordingly.

CO. APPL. (M) 161/2016

1. The present is an application filed jointly, under Sections 391 & 394 of the Companies Act, 1956 (hereinafter referred to as 'the Act') read with Rules 6

& 9 of the Companies (Court) Rules, 1959, by Lionforge Intertrade Private Limited (hereinafter referred to as 'Transferor Company') and Perpetual Capital Servicing Private Limited (hereinafter referred to as 'Transferee Company') in connection with the proposed scheme of Amalgamation (hereinafter referred to as 'proposed Scheme') between the Transferor Company and the Transferee Company.

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

3. The registered office of the Transferee Company is situated at Mumbai, outside the jurisdiction of this Court. An affidavit has been filed on behalf of the Transferee Company to the effect that the Transferee Company has instituted a separate application before the Hon'ble High Court of Judicature at Bombay seeking dispensation of the requirement of convening meetings of shareholders and unsecured creditors of the Transferee Company.

4. A copy of the proposed scheme has been enclosed along with the application and the same is on record. The salient features of the proposed scheme have been incorporated and detailed in the application and the accompanying affidavit.

5. The Transferor Company was originally incorporated under the Act on 16.05.2007 with the Registrar of Companies, N.C.T. of Delhi & Haryana at New Delhi, under the name and style of 'M/s. HAI Trading Company Limited'.

Thereafter, the Transferor Company changed its name to Presidio Trading and Intermediaries Private Limited on 22.08.2008; to THI Trading and Intermediaries Pvt. Ltd on 28.04.2009; to Presidio Intermediaries and Trading Private Limited on 24.08.2010. Subsequently, the Transferor Company changed its name to its present name and obtained a fresh certificate of incorporation dated 15.06.2015, in this behalf, from the Registrar of Companies, N.C.T. of Delhi and Haryana.

6. The authorized share capital of the Transferor Company, as on 31.03.2016, is Rs.20,06,900/- divided into 10,000 equity shares of Rs.10/- each and 19,069 preferential shares of Rs.100/- each. The issued, subscribed and paid-up share capital of the Transferor Company is Rs.20,06,300/- divided into 10,000 equity shares of Rs.10/- each and 19,063 preferential shares of Rs.100/- each, as on 31.03.2016.

7. A copy of the Memorandum of Association and Articles of Association of the Transferor Company has been filed on record. The audited balance sheet, as on 31.03.2016, of the Transferor Company, along with the report of the auditors, has also been filed and the same is on record.

8. It has been stated in the present application that no proceedings under Sections 235 to 251 of the Act (or the corresponding provisions of the Companies Act, 2013) are pending against the Transferor Company.

9. The Board of Directors of the Transferor Company in its meeting held on 17.10.2016 has unanimously approved the proposed scheme. Copy of the Resolution passed at the meeting of the Board of Directors of the Transferor Company has been placed on record.

10. So far as the share exchange ratio is concerned, the proposed scheme provides that, upon coming into effect of the proposed scheme, the Transferee Company shall issue and allot equity shares to the shareholders of the Transferor Company in the following ratio:

“36 equity shares of Rs.10/- each, credited as fully paid up, of the transferee company for every 1 equity shares of Rs.10/- each held in transferor company.

Any fraction of share arising out of the aforesaid share exchange process, if any, will be rounded off to nearest whole number.”

11. The status of the equity shareholders, preference shareholders and unsecured creditors of the Transferor Company and the consents obtained therefrom to the proposed scheme has been set out in a table forming part of the present application, which reads as hereinunder:

Company	No. of Equity Shareholders	No. of Preference Shareholders	No. Secured Creditors	No. of Unsecured Creditors
Transferor Company	02	01	NIL	02
Consents	01	ALL	N.A.	ALL

12. A prayer has been sought, in the present application, for dispensing with the requirement of convening the meetings of the shareholders and creditors of the Transferor Company.

13. The Transferor Company has 02 equity shareholders. 01 out of the two equity shareholders (being 99.99% in value of the total shareholding) has given its written consent/NOC to the proposed scheme. The said written consent/NOC has been placed on record and has been examined and found in order.

14. The Transferor Company has 01 preference shareholder, being the Transferee Company. The sole preference shareholder has given its written consent/NOC to the proposed scheme. The said written consent/NOC has been placed on record and has been examined and found in order.

15. In view thereof, the requirement of convening meetings of the equity and preference shareholders of the Transferor Company to consider and if thought fit, approve, with or without modification, the proposed scheme, is dispensed with.

16. The Transferor Company has 02 unsecured creditors. 01 out of the two unsecured creditors has given its written consent/NOC to the proposed scheme. The second creditor is the Transferee Company. The said written consent/NOC has been placed on record and has been examined and found in order.

17. In view thereof, the requirement of convening meeting of the unsecured creditors of the Transferor Company to consider and if thought fit, approve, with or without modification, the proposed scheme, is dispensed with.

18. The Transferor Company does not have any secured creditors. Therefore, the question of convening the meeting of secured creditors of the Transferor Company does not arise.

19. Ordered accordingly.

20. The Application stands allowed in the aforesaid terms and is accordingly disposed of.

JANUARY 16, 2017
sb/mk

SIDDHARTH MRIDUL, J