

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH**

NEW DELHI

Present: SHRI R.VARADHARAJAN, MEMBER (JUDICIAL)

COMPANY PETITION NO. 822 OF 2016

CONNECTED WITH

COMPANY APPLICATION (MAIN) NO. 96 OF 2016

**(TRANSFERRED FROM THE FILE OF HON'BLE HIGH COURT OF
DELHI)**

IN THE MATTER OF SECTION 391 & 394 OF

THE COMPANIES ACT, 1956

(PRESENTLY SECTIONS 230-232 OF THE COMPANIES ACT, 2013)

AND

IN THE MATTER OF SCHEME OF AMALGAMATION

AMONGST

KALIEDIO IMPEX PRIVATE LIMITED

...TRANSFEROR COMPANY NO.1/ PETITIONER NO.1



HITECH CANS AND PACKAGING PRIVATE LIMITED

...TRANSFEROR COMPANY NO.2 / PETITIONER NO.2

MISHA LEASING AND CREDITS LIMITED

...TRANSFEROR COMPANY NO.3/ PETITIONER NO.3

AND

RELIANCE MUTUAL BENEFITS LIMITED

...TRANSFEROR COMPANY NO.4/ PETITIONER NO.4

AND

DATCAL SYSTMES PRIVATE LIMITED

...TRANSFEROR COMPANY NO.5/ PETITIONER NO.5

AND

RAJ NAGAR SERVICE STATION PRIVATE LIMITED

...TRANSFEROR COMPANY NO.6/ PETITIONER NO.6

AND

B.V. GARMENTS LIMITED

...TRANSFEROR COMPANY NO.7/ PETITIONER NO.7

WITH

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RELIANCE INTERCONTINENTAL LIMITED

...TRANSFEREE COMPANY/ PETITIONER NO.8

AND

Their respective Shareholders and Creditors

ADVOCATE FOR THE PETITIONERS: Mr. Tariq Muneer, Advocate

FOR REGIONAL DIRECTOR, (NR), MCA: Mr. Manish Raj, Company

Prosecutor

FOR OFFICIAL LIQUIDATOR: Ms. Chetana Kandpal, Company Prosecutor,

Office of Official Liquidator, Delhi



Order

The above matter was reserved on 10.07.2017 for passing orders.

However, while in the process and up on the perusal of the Scheme of Amalgamation, it is noticed that the share exchange ratio stated in clause 12 of the scheme is as follows:

12.1 Upon the coming into effect of the Scheme, and in consideration for the transfer of and vesting of the properties, assets, properties, undertaking, debts and liabilities of the Transferor Companies in the Transferee Company in terms of this Scheme, the Transferee Company shall without any further application, act, instrument or deed, discharge the consideration in the following manner :

i) 2.01 fully paid up equity share of Rs.10/- each in the Transferee Company shall be issued and allotted for every 1 (one) equity share of Rs.10/- each held in the Transferor Company No.1 and 500 shares held by the Transferor Company No.6 in the Transferor Company No.1 shall stand cancelled without any further act or deed upon this scheme becoming effective,

(ii) 0.09 fully paid up equity share of Rs.10/- each in the Transferee Company shall be issued and allotted for every 1 (One) equity share of Rs.10/- each held in the



Transferor Company No.2 and 1,000, 2000, 35,500 and 26,500 shares held by the Transferee Company, Transferor Company No.6, Transferor Company No.7, Transferor Company No.5 in the Transferor Company No.2 shall stand cancelled without any further act or deed upon this scheme becoming effective.

iii) 0.29 fully paid up equity share of Rs.10/- each in the Transferee Company shall be issued and allotted for every 1 (One) equity share of Rs.10/- each held in the Transferor Company No.3 and 10,000, 2500 and 2,800 shares held by the Transferee Company, Transferor Company No.2, Transferor Company No.6 in the Transferor Company No.3 shall stand cancelled without any further act or deed upon this scheme becoming effective.

iv) 0.04 fully paid up equity share of Rs.10/- each in the Transferee Company shall be issued and allotted for every 1 (one) equity share of Rs.10/- each held in the Transferor Company No.4 and 10,000, 25,000, and 2500 shares held by the Transferee Company, Transferor Company No.3 shall stand cancelled without any further act or deed upon this scheme becoming effective.

v) 3.47 fully paid up equity share of Rs.10/- each in the Transferee Company shall be issued and allotted for every 1 (one) equity share of Rs.100/- each held in the Transferor Company No.5.

vi) 1.78 fully paid up equity share of Rs.10/- each in the Transferee Company shall be issued and allotted for every 1 (one) equity share of Rs.10/- each held in the Transferor company No.6 and 800 shares held by the Transferee Company in the Transferor company No.6 shall stand cancelled without any further act or deed upon this scheme becoming effective.

vi) 1.78 fully paid up equity share of Rs.10/- each in the Transferee Company shall be issued and allotted for every 1 (one) equity share of Rs.10/- each held in the Transferor company No.6 and 800 shares held by the Transferee Company in the Transferor company No.6 shall stand cancelled without any further act or deed upon this scheme becoming effective.

vi) 0.52 paid up equity share of Rs.10/- each in the Transferee Company shall be issued and allotted for every 1 (one) equity share of Rs.10/- each held in the Transferor company No.7 and 10,000, 8,000 and 3000 shares held by the Transferee Company in the Transferor company No.3 and Transferor company No.4 in the Transferor company No.6 shall stand cancelled without any further act or deed upon this scheme becoming effective.

12.2 Equity shares issued and allotted by the Transferee Company in terms of this scheme shall be



subject to the provisions of the memorandum and Articles of Association of the Transferee company and shall rank pari passu in all respects with the then existing equity shares in the Transferee company, including in respect of dividends, if any, that may be declared by the Transferee company, on or after the effective date.

12.3 Any fraction arising out of allotment of equity shares as per Clause 12.1 shall be rounded off to the nearest integer.

12.4 The issue and allotment of equity shares in the Transferee Company by the Transferee Company to the members of Transferor Company as provided in this scheme as an Integral part thereof, shall be deemed to have been carried out as if the applicable provisions of the Act were duly complied with.

12.5 Apart from the cancellation of existing shares of the Transferee Company held by the Transferor companies as provided in Clause 13.1 herein, there shall be no change in the shareholding pattern or control in the Transferee Company upon this scheme becoming effective.

12.6 Upon the coming into effect of this Scheme, the share certificate representing the shares of Transferor Company (ies) in the Transferee Company shall be cancelled without requirement of any further act or



deed for cancellation thereof by the Transferee Company.

12.8 Upon the coming into effect of the Scheme, all the equity shares held by the Transferor Company (ies) in other Transferor company (ies) as provided in Clause 13.3 herein shall be cancelled without requirement of any further act or deed for cancellation thereof by the respective Transferor Company (ies).

12.9 Upon the coming into effect of the Scheme the share certificate held by the transferor company (ies) representing the shares in the other Transferor Company (ies) shall be cancelled without requirement of any further act or deed for cancellation thereof by the respective Transferor Company (ies).

12.10 In view of the above proposition the interest of shareholders of Transferee Company is not affected in any manner whatsoever. There will be no introduction of new shareholders or issue of new shares by Transferee Company subsequent to amalgamation of the Transferor companies.

12.11 The Transferor companies are profitable and commercially solvent and its undertaking (s) can fully cared and honour its creditors, if any and all liabilities , therefore, by virtue of amalgamation of undertaking of the Transferor companies into the Transferee company , the creditors shall not be affected in any manner whatsoever.”



However, in support of the above Share Exchange Ratio as disclosed in the scheme, no valuation report has been annexed in support of it either at the 1st motion stage or in the 2nd motion stage. The petitioner is afforded an opportunity to file the requisite valuation report in support of the above share exchange ratio along with an affidavit within a period of one week from today in terms of Rule 24 of Companies (Compromises, Arrangements & Amalgamations) Rules, 2016'.

Post the matter on 28.07.2017.

s d/-

(R.VARADHARAJAN)
MEMBER (JUDICIAL)