

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

**CO. APPL.(CAA) 158/ND/2018**

IN THE MATTER OF:

M/s Divine Investments Private Limited  
Applicant No.1/Transferor Company

AND

M/s Gentech Chemicals Private Limited  
Applicant No.2/Transferor Company

AND

M/s Super Wares Private Limited  
Applicant No.3/Transferor Company

AND

M/s Meridian Marketing Private Limited  
Applicant No. 4/ Transferor Company

AND

M/S Pee Kay Alkalies Private Limited  
Applicant No.5/ Transferor Company

AND

M/S Quick Lithographers Private Limited  
Applicant No.6/Transferor Company

AND

M/S Starlite Synthetic Private Limited  
Applicant No.7/ Transferor Company

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WITH

M/S Lily Commercial Private Limited  
Applicant No.8/ Transferee Company

PRESENT: CS Manish Gupta

**CORAM:**

**MS. INA MALHOTRA, MEMBER (JUDICIAL)**  
**MS. DEEPA KRISHAN, MEMBER (TECHNICAL)**

**Order Delivered on- 05.10.2018**

**ORDER**

**PER SMT. INA MALHOTRA, MEMBER (J)**

This is a joint petition filed by way of a 1<sup>st</sup> Motion under Sections 230-232 of the Companies Act, 2013 (hereinafter referred to as 'the Act') by M/s Divine Investment Private Limited (Applicant No.1/Transferor Company), M/s Gentech Chemicals Private Limited (Applicant No.2/Transferor Company) and M/s Super Wares Private Limited (Applicant No.3/Transferor Company ) and M/S Meridian Marketing Private Limited (Applicant No.4/ Transferor Company) and Pee Kay Alkalies Private Limited (Applicant No.5/ Transferor Company) and Quick Lithographers Private Limited (Applicant No.6/ Transferor Company) and Starlite Synthetics Private Limited (Applicant No.7/ Transferor Company) in connection with the Scheme of Amalgamation (hereinafter referred to as 'the Scheme') for merging its business with M/s Lily Commercial Private Limited (Applicant No. 8/ Transferee Company).



2. As per averments, the registered offices of the Transferor and Transferee Companies are situated in the National Capital Territory of Delhi, falling within the territorial jurisdiction of this Court.

3. The Applicant No. 1 / Transferor No. 1 Company was incorporated under the Act on 21<sup>st</sup> May, 1990 under the name and style of "Divine Investment Private Limited" having CIN U74899 DL1990 PTC040195. Its authorized share capital is Rs. 1,00,00,000/- while its issued, subscribed and paid up capital is 50,00,000/-.

4. The Applicant No. 2 / Transferor No. 2 Company was incorporated under the Act on 19<sup>th</sup> January, 1984 under the name and style of "Gentech Chemicals Private Limited" having CIN U00000 DL1984 PTC017357. Its authorized share capital is Rs. 1,00,00,000/- while its issued, subscribed and paid up capital is 49,95,150

5. The Applicant No. 3 / Transferor No. 3 Company was incorporated under the Act on 18<sup>th</sup> September, 1987 under the name and style of "Super Wares Private Limited" having CIN U74899 DL1987 PTC 029267. Its authorized share capital is Rs. 1,00,00,000/- while its issued, subscribed and paid up capital is 49,94,850/-.

6. The Applicant No. 4/ Transferor No. 4 Company was incorporated under the Act on 27<sup>th</sup> November, 1978 under the name and style of "Meridian Marketing Private Limited" having CIN U74899 DL1978 PTC 009336. Its authorized share capital is Rs. 40,00,000/- while its issued, subscribed and paid up capital is 36,00,000/-.

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7. The Applicant No. 5/ Transferor No. 5 Company was incorporated under the Act on 27<sup>th</sup> December, 1995 under the name and style of "PEE Kay Alkalies Private Limited" having CIN U74899 DL1995 PTC 074946. Its authorized share capital is Rs. 1,00,00,000/- while its issued, subscribed and paid up capital is 65,00,200.

8. The Applicant No. 6/ Transferor No. 6 Company was incorporated under the Act on 28<sup>th</sup> December, 1995 under the name and style of "Quick Lithographers Private Limited" having CIN U74899 DL1995 PTC 074988. Its authorized share capital is Rs. 1,50,00,000/- while its issued, subscribed and paid up capital is 1,00,00,400.

9. The Applicant No. 7/ Transferor No. 7 Company was incorporated under the Act on 01 June , 1990 under the name and style of " Starlite Synthetics Private Limited" having CIN U74899 DL1990 PTC 040352. Its authorized share capital is Rs. 2,10,00,000/- while its issued, subscribed and paid up capital is 10,549,200/-.

10. The Transferee Company/ Applicant No. 8 was incorporated under the Act on 27<sup>th</sup> March, 1985 under the name and style of "Lily Commercial Private Limited" having CIN U65923 DL1985 PTC306331. Its authorized share capital is Rs.3,00,00,000/- while its issued, subscribed and paid up capital is 28,990,000/-.

7. As per averments, the Transferor Companies are desirous of amalgamating with the Transferee Company and have formulated a Scheme of Amalgamation.

8. Copies of the Memoranda of Association and Articles of Association along with their audited Balance Sheets, as on 31.03.2018 and reports of the Statutory Auditors of all the Applicant Companies have been filed.

The Memorandum and Articles of Association of each company provides for entering into a Scheme of such Amalgamation.

The Audited Accounts of each of the applicant companies as on 31.03.2018 has been filed. It has also been certified by the Statutory Auditors of each of the applicant companies that the Accounting Treatment as in the Scheme is in compliance with the Accounting Standards prescribed u/s 133 of the Companies Act 2013.

9. The applicant companies are group companies belonging to the same management. The MERGER is therefore sought to be justified for the following reasons:-

- a. Since the business carried on by the Transferor Companies & the Transferee Company complement each other, the amalgamation of the Transferor Companies with the Transferee Company will enable consolidation of business operations;
- b. It will provide significant impetus to the growth in the form of enhanced scale of operations leading to optimum

utilization of various recourses and infrastructures with reduction in overheads, administrative costs, managerial and other expenditure;

- c. The amalgamation will also provide the Transferee Company a strong and focused base to undertake the business more advantageously and thereby enabling the increase in its profitability and net worth for the shareholders;
- d. The amalgamation will also create a simplified corporate structure focused on capitalizing the strategic investment opportunities and providing a concreted management focus for development of the business of the Company.

The Appointed Date of the Scheme is 1<sup>st</sup> April, 2018.

10. So far as the Share Exchange Ratio is concerned, in terms of the scheme, it has been determined in accordance with the Report on Valuation of Shares & Share Exchange Ratio dated 26<sup>th</sup> June, 2018, issued by S.R. Dinodia & Co. LLP, Chartered Accountants, New Delhi, as per the settled principles of valuation viz. based on the net asset value of each company.

11. The Board of Directors of each applicant companies vide their respective meetings held on 16 July, 2018 have unanimously approved the proposed Scheme of Amalgamation. Copy of the board resolutions passed have been filed.

12. Vide the present application, a prayer is made for dispensation of convening meetings in view of the following facts:-

**A. In respect of the Transferor Company No.1 / Applicant Company No.1:-**

- It has 18 Equity Shareholders who have accorded their consent vide affidavits placed on record.
- It has no Secured or unsecured creditor as certified by the Chartered Accountant.

In view of the consent affidavits of its 18 Equity shareholders being on record, the requirement of convening the meeting of the shareholders is dispensed with. Further, as there is no secured or unsecured creditor, the question of convening their meeting does not arise.

**B. In respect of the Transferor Company No.2/ Applicant Company No.2:-**

- It has 05 Equity Shareholders who have accorded their consent vide affidavits placed on record.
- It has no Secured or Unsecured creditor as certified by the Chartered Accountant.

In view of the consent accorded by its 5 Equity Shareholders, the requirement of convening the meeting of the shareholders is dispensed with. Further, as there is no secured



or unsecured creditor, the question of convening their meeting does not arise.

**C. In relation to the Transferor Company No.3 / Applicant Company No.3:-**

- It has 8 Equity shareholders who all have accorded their consent vide affidavits placed on record.
- It has no Secured or Unsecured creditor as certified by the Chartered Accountant.

In view of the consent affidavits of its 8 Equity shareholders being on record, the requirement of convening the meeting of the shareholders is dispensed with. Further, as there is no secured or unsecured creditor, the question of convening their meeting does not arise.

**D. In relation to the Transferor Company No.4 / Applicant Company No.4:-**

- It has 12 Equity shareholders who all have accorded their consent vide affidavits placed on record.
- It has no Secured or Unsecured creditor as certified by the Chartered Accountant.

In view of the consent affidavits of its 12 Equity shareholders being on record, the requirement of convening the



meeting of the shareholders is dispensed with. Further, as there is no secured or unsecured creditor, the question of convening their meeting does not arise.

**E. In relation to the Transferor Company No.5 / Applicant Company No.5:-**

- It has 04 Equity shareholders who all have accorded their consent vide affidavits placed on record.
- It has no Secured or Unsecured creditor as certified by the Chartered Accountant.

In view of the consent affidavits of its 04 Equity shareholders being on record, the requirement of convening the meeting of the shareholders is dispensed with. Further, as there is no secured or unsecured creditor, the question of convening their meeting does not arise.

**F. In relation to the Transferor Company No.6 / Applicant Company No.6:-**

- It has 8 Equity shareholders who all have accorded their consent vide affidavits placed on record.
- It has no Secured or Unsecured creditor as certified by the Chartered Accountant.

In view of the consent affidavits of its 8 Equity shareholders being on record, the requirement of convening the meeting of the shareholders is dispensed with. Further, as there



is no secured or unsecured creditor, the question of convening their meeting does not arise.

**G. In relation to the Transferor Company No.7 / Applicant Company No.7:-**

- It has 19 Equity shareholders who all have accorded their consent vide affidavits placed on record.
- It has no Secured or Unsecured creditor as certified by the Chartered Accountant.

In view of the consent affidavits of its 19 Equity shareholders being on record, the requirement of convening the meeting of the shareholders is dispensed with. Further, as there is no secured or unsecured creditor, the question of convening their meeting does not arise.

**H. In relation to the Transferee Company No.8/Applicant Company No.8:-**

- It has 10 Equity Shareholders, who all have accorded their consent vide affidavits placed on record.
- It has no Secured or Unsecured creditor as certified by the Chartered Accountant.

In view of the consent accorded by its 10 Equity Shareholders the requirement of convening the meeting of the shareholders is dispensed with. Further, as there is no secured



or unsecured creditor, the question of convening their meeting does not arise.

13. The proposed Scheme of Amalgamation is annexed along with the present application.

14. It has also been submitted that there are no proceedings pending inquiry or investigation in respect of the applicant company.

15. Further, it has been stated that the scheme will be beneficial to the applicant companies and their respective shareholders and creditors.

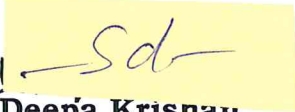
16. It is submitted that the proposed arrangement is sought to be made under the provisions of Section 230 to 232 of the Companies Act, 2013 and the Scheme if sanctioned by this Tribunal, will take effect from the date of on which certified copy of the order of sanctioning of proposed Scheme, passed by this Tribunal is filed with the Registrar of Companies after obtaining necessary sanctions, orders or approvals.

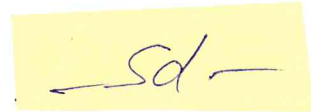
17. While dispensing with the meetings, this Bench also directs that notices be sent to the Central Government through the office of the Regional Director (Northern Region), the Income Tax Authorities, Registrar of Companies, NCT of Delhi & Haryana, Official Liquidator and other sectoral regulators or authorities as required under sub-section (5) of section 230 of the Companies Act, 2013 who may have significant bearing on the operation of the applicant companies along with copy of required documents and disclosures required under the provisions of

Companies Act, 2013 read with Companies (Compromises, Arrangement, and Amalgamation) Rules, 2016. Copies of the notices along with the proof of dispatch be filed before this Bench along with the affidavit of compliance.

18. All the aforesaid directions are to be complied with strictly in accordance with the applicable law including forms and formats contained in the Companies (Compromises, Arrangements, Amalgamations) Rules, 2016 as well as the provisions of the Companies Act, 2013 by the Applicant.

As sequel to the above, the present application stands allowed by dispensing with the meetings of shareholders and creditors of the applicant companies.

  
**Deepa Krisnan**  
Member (T)

  
**Ina Malhotra**  
Member (J)