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BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

CORAM

Shri V. P. Singh
Hon'ble Member (J)

Shri S. Vijayaraghavan
Hon'ble Member (T)

LLP. A No.119/KB/2017

In the matter of The Limited Liability Partnership Act, 2008

AND

In the matter of:

Section 60, 61 and 62 of the Limited Liability Partnership Act, 2008

AND

In the matter of : ALPS TRADECOM LLP, a LLP incorporated under the Limited Liability Partnership Act, 2008 and having its present registered office at 29A, Weston Street, Kolkata – 700 012

AND

LUBSTOR TRADECOM LLP, a LLP incorporated under the Limited Liability Partnership Act, 2008 and having its present registered office at 20/856, Auckland Jute Mill Line, Jagaddal – 743 125

..... APPLICANTS

Present for the Party:

1. Mr. A. K. Shrivastava, Advocate		
2. Ms. Pujashree Dhocholia, Advocate		For Applicants
3. Akash Sharma, PrCS		

Date of pronouncing the order: 24.5.2017

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Per Shri Vijai Pratap Singh, Member (J)

O R D E R

This joint application has been filed under Section 60, 61 and 62 of the Limited Liability Partnership Act, 2008 (hereinafter referred to as LLP Act) by Alps Tradecom LLP (hereinafter referred to as Transferee LLP) and Lubstor Tradecom LLP (hereinafter referred to as Transferor LLP) for the ultimate object of obtaining sanction of this Tribunal to the proposed scheme of amalgamation between the aforesaid LLPs. As per Official Notification being GSR.333(E) dated 29.04.2015, the Central Government has notified that the provisions of section 458 of the Companies Act, 2013 (18 of 2013), [except proviso to sub-section (1)] shall apply to a limited liability partnership from the date of publication of this notification in the Official Gazette. The applicants have filed the application under section 60, 61 and 62 of the LLP Act, 2008 but it is not in proper format as prescribed under Rule 35(1) of the LLP Rules, 2009. The said Rule 35(1) prescribes that an application under sub-section (1) of section 60 for an order convening a meeting of creditors or partners or creditors and partners shall be supported by an affidavit. A copy of the proposed compromise or arrangement shall be annexed to the affidavit as an exhibit thereto. The affidavit in support thereof shall be in Form 20. Accordingly, the applicants are hereby directed to furnish all the required information as mandated under Rule 35(1) in the prescribed Form 20 of the LLP Rules, 2009.

It also appears from the records that the applicants have not filed no objection / consent of the major creditor (viz. M/s. Yaduka Agrotech Private Limited) of Alps Tradecom LLP as mentioned in page 13 of the Petition. It is further mentioned that all the consent letters in original of the applicant LLPs along with a copy of the Board

Resolution of the creditor aforesaid are annexed as Annexure 'E' to the application; but no such consent letter from the major creditor appears to have been annexed to the application .

The applicants have also filed the copies of consent/Board Resolution of both the LLPs as stated in Para 10 of the application which are annexed thereto as Annexure 'E'.

The applicants are further directed to file an Affidavit annexing the consent letters / Board Resolution of all the partners as well as creditors (if any) of LLPs.

List the matter on 30.05.2019 for hearing.

Sd/-
(S. Vijayaraghavan)
MEMBER(T)

Sd/-
(Vijai Pratap Singh)
MEMBER(J)

Signed this the 24th day of May, 2017