

**THE NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH,
AT NEW DELHI**

COMPANY PETITION NO. CA (CAA)-78 (PB)/2019

Under Sections 230 to 232 and other applicable provisions of the Companies Act, 2013 read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016

In the matter of
Scheme of Amalgamation of

Opus Interflora Private Limited

Transferor Company No. 1

AND

Daulat Dealmark Private Limited

Transferor Company No.2

AND

Kalash Tradelink Private Limited

Transferor Company No.3

AND

Baba Lokenath Retails Private Limited

Transferor Company No.4

AND

Moonlink Suppliers Private Limited

Transferor Company No.5



AND

Tapti Vintrade Private Limited

Transferor Company No.6

AND

Ujjwal Merchandise Private Limited

Transferor Company No.7

WITH

Tyfort Sales Promotion Private Limited

Transferee Company

Judgment delivered on: 13.05.2019

CORAM:

Dr. DEEPTI MUKESH, Hon'ble Member (J)

Mr. S. K. MOHAPATRA, Hon'ble Member (T)

For Applicants: Ms. Rekha Mittal, PCS



O R D E R

S.K. Mohapatra, Member

1. This application has been jointly filed by the Applicant Companies under Sections 230 to 232 of the Companies Act, 2013 read with the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 and the National Company Law Tribunal Rules, 2016, duly supported by separate affidavits of the Applicant Companies, seeking appropriate orders/directions for dispensing with the respective meetings of the shareholders, secured creditors and unsecured creditors of all the companies, in connection with the proposed Scheme of Amalgamation as contemplated between the applicant companies. The said Scheme of Amalgamation (hereinafter referred to as the "Scheme") has been placed on record along with the joint application.
2. It is represented that the registered offices of all the applicant companies are situated in New Delhi and therefore the subject matter of this joint application falls within the Jurisdiction of this Bench.



3. M/s Opus Interflora Private Limited (Transferor Company No.1) was incorporated on 15.03.2013 as a private limited company. The present Authorized Share Capital of the Transferor Company no.1 is Rs. 5,00,000/- divided into 50,000 Equity Shares of Rs. 10/- each. The present Issued, Subscribed and paid-up Share Capital of the Company is Rs. 1,00,000/- divided into 10,000 Equity Shares of Rs. 10/- each. The registered office of the Company is situated at C-7, Shopping Complex, Nimri Colony, Ashok Vihar, Phase-IV, Delhi – 110 052.

4. It is submitted that the transferor Company no.1 has two Equity Shareholders and both the equity shareholders have given their consent affidavits to the Scheme constituting 100% in value and 100% in number. The consent affidavits of each of the members have been placed on record. It is further represented that the transferor company no.1 has no secured creditor and three unsecured creditors. The certificates of chartered accountant in respect of creditors have also been placed on record. All the three unsecured creditors have given their consent affidavits in favour of the Scheme. As the company has no secured creditor, the



requirement of convening of the meeting of the secured creditors does not arise. In relation to the shareholders and unsecured creditors, the transferor company no.1 seeks dispensation from convening and holding of their respective meetings on the ground that all the shareholders and unsecured creditors of the company have given consent affidavits in favour of the Scheme.

5. M/s Daulat Dealmark Private Limited (Transferor Company No.2) was incorporated on 31.05.2010 as a private limited company. The present Authorized Share Capital of the Transferor Company no.2 is Rs. 30,00,000/- divided into 3,00,000 Equity Shares of Rs. 10/- each. The present Issued, Subscribed and paid-up Share Capital of the Company is Rs. 27,00,000/- divided into 2,70,000 Equity Shares of Rs. 10/- each. The registered office of the Company is situated at C-7, Local Shopping Centre, Nimri Cly, Phase-2, New, Delhi – 110 052.

6. It is submitted that the transferor Company no.2 has two Equity Shareholders and both the equity shareholders have given their consent affidavits to the Scheme constituting 100% in value and 100% in number. The consent affidavits



of each of the members have been placed on record. It is further represented that the transferor company no.2 has no secured creditor and two unsecured creditors. The certificates of chartered accountant in respect of creditors have also been placed on record. Both the unsecured creditors have given their consent affidavits in favour of the Scheme. As the company has no secured creditor, the requirement of convening of the meeting of the secured creditors does not arise. In relation to the shareholders and unsecured creditors, the transferor company no.2 seeks dispensation from convening and holding of their respective meetings on the ground that all the shareholders and unsecured creditors of the company have given consent affidavits in favour of the Scheme.

7. M/s Kalash Tradelink Private Limited (Transferor Company No.3) was incorporated on 20.05.2010 as a private limited company. The present Authorized Share Capital of the Transferor Company no.1 is Rs. 2,00,000/- divided into 20,000 Equity Shares of Rs. 10/- each. The present Issued, Subscribed and paid-up Share Capital of the Company is Rs. 1,94,000/- divided into 19,400 Equity Shares of Rs. 10/-



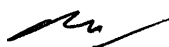
each. The registered office of the Company is situated at C-7, Local Shopping Centre, Nimri Cly, Phase-2, New Delhi-110052.

8. It is submitted that the transferor Company no.3 has two Equity Shareholders and both the equity shareholders have given their consent affidavits to the Scheme constituting 100% in value and 100% in number. The consent affidavits of each of the members have been placed on record. It is further represented that the transferor company no.3 has no secured creditor and two unsecured creditors. The certificates of chartered accountant in respect of creditors have also been placed on record. Both the unsecured creditors have given their consent affidavits in favour of the Scheme. As the company has no secured creditor, the requirement of convening of the meeting of the secured creditors does not arise. In relation to the shareholders and unsecured creditors, the transferor company no.3 seeks dispensation from convening and holding of their respective meetings on the ground that all the shareholders and unsecured creditors of the company have given consent affidavits in favour of the Scheme.



9. M/s Baba Lokenath Retails Private Limited (Transferor Company No. 4) was incorporated on 26.09.2008 as a private limited company. The present Authorized Share Capital of the Transferor Company no.4 is Rs. 1,00,00,000/- divided into 10,00,000 Equity Shares of Rs. 10/- each. The present Issued, Subscribed and paid-up Share Capital of the Company is Rs. 94,35,000/- divided into 9,43,500 Equity Shares of Rs. 10/- each. The registered office of the Company is situated at C-7, Local Shopping Centre, Nimri Cly, Phase-2, New Delhi-110052.

10. It is submitted that the transferor Company no.4 has three Equity Shareholders and all the three equity shareholders have given their consent affidavits to the Scheme constituting 100% in value and 100% in number. The consent affidavits of each of the members have been placed on record. It is further represented that the transferor company no.4 has no secured creditor and two unsecured creditors. The certificates of chartered accountant in respect of creditors have also been placed on record. Both the unsecured creditors have given their consent affidavits in favour of the Scheme. As the company has no secured



creditor, the requirement of convening of the meeting of the secured creditors does not arise. In relation to the shareholders and unsecured creditors, the transferor company no.4 seeks dispensation from convening and holding of their respective meetings on the ground that all the shareholders and unsecured creditors of the company have given consent affidavits in favour of the Scheme.

11. M/s Moonlink Suppliers Private Limited (Transferor Company No. 5) was incorporated on 20.05.2010 as a private limited company. The present Authorized Share Capital of the Transferor Company no.5 is Rs. 2,00,000/- divided into 20,000 Equity Shares of Rs. 10/- each. The present Issued, Subscribed and paid-up Share Capital of the Company is Rs. 1,96,000/- divided into 19,600 Equity Shares of Rs. 10/- each. The registered office of the Company is situated at C-7, Local Shopping Centre, Nimri Cly, Phase-2, New Delhi – 110 052.

12. It is submitted that the transferor Company no.5 has two Equity Shareholders and both the equity shareholders have given their consent affidavits to the Scheme constituting 100% in value and 100% in number. The consent affidavits



of each of the members have been placed on record. It is further represented that the transferor company no.5 has no secured creditor and two unsecured creditors. The certificates of chartered accountant in respect of creditors have also been placed on record. Both the unsecured creditors have given their consent affidavits in favour of the Scheme. As the company has no secured creditor, the requirement of convening of the meeting of the secured creditors does not arise. In relation to the shareholders and unsecured creditors, the transferor company no.5 seeks dispensation from convening and holding of their respective meetings on the ground that all the shareholders and unsecured creditors of the company have given consent affidavits in favour of the Scheme.

13. M/s Tapti Vintrade Private Limited (Transferor Company No. 6) was incorporated on 22.05.2010 as a private limited company. The present Authorized Share Capital of the Transferor Company no.6 is Rs. 30,00,000/- divided into 3,00,000 Equity Shares of Rs. 10/- each. The present Issued, Subscribed and paid-up Share Capital of the Company is Rs. 26,60,000/- divided into 2,66,000 Equity Shares of Rs. 10/-



each. The registered office of the Company is situated at C-7, Local Shopping Centre, Nimri Cly, Phase-2, New Delhi-110052.

14. It is submitted that the transferor Company no.6 has two Equity Shareholders and both the equity shareholders have given their consent affidavits to the Scheme constituting 100% in value and 100% in number. The consent affidavits of each of the members have been placed on record. It is further represented that the transferor company no.6 has no secured creditor and two unsecured creditors. The certificates of chartered accountant in respect of creditors have also been placed on record. Both the unsecured creditors have given their consent affidavits in favour of the Scheme. As the company has no secured creditor, the requirement of convening of the meeting of the secured creditors does not arise. In relation to the shareholders and unsecured creditors, the transferor company no.6 seeks dispensation from convening and holding of their respective meetings on the ground that all the shareholders and unsecured creditors of the company have given consent affidavits in favour of the Scheme.



15. M/s Ujjwal Merchandise Private Limited (Transferor Company No. 7) was incorporated on 15.09.2009 as a private limited company. The present Authorized Share Capital of the Transferor Company no.7 is Rs. 55,00,000/- divided into 5,50,000 Equity Shares of Rs. 10/- each. The present Issued, Subscribed and paid-up Share Capital of the Company is Rs. 51,27,000/- divided into 5,12,700 Equity Shares of Rs. 10/- each. The registered office of the Company is situated at C-7 Local Shopping Centre, Nimri Cly, Phase-2, New Delhi-110052.

16. It is submitted that the transferor Company no.7 has three Equity Shareholders and all the three equity shareholders have given their consent affidavits to the Scheme constituting 100% in value and 100% in number. The consent affidavits of each of the members have been placed on record. It is further represented that the transferor company no.7 has no secured creditor and two unsecured creditors. The certificates of chartered accountant in respect of creditors have also been placed on record. Both the unsecured creditors have given their consent affidavits in favour of the Scheme. As the company has no secured



creditor, the requirement of convening of the meeting of the secured creditors does not arise. In relation to the shareholders and unsecured creditors, the transferor company no.7 seeks dispensation from convening and holding of their respective meetings on the ground that all the shareholders and unsecured creditors of the company have given consent affidavits in favour of the Scheme.

17. M/s Tyfort Sales Promotion Private Limited (Transferee Company) was incorporated on 30.03.1995 as a private limited company. The present Authorized Share Capital of the Transferee Company is Rs. 25,00,000/- divided into 2,50,000 Equity Shares of Rs. 10/- each. The present Issued, Subscribed and paid-up Share Capital of the Company is Rs. 21,98,000/- divided into 2,19,800 Equity Shares of Rs. 10/- each. The registered office of the Company is situated at 25/33, 2nd floor, East Patel Nagar, New Delhi – 110 008.

18. It is submitted that the Transferee Company has five Equity Shareholders and all the equity shareholders have given their consent affidavits to the Scheme constituting 100% in value and 100% in number. The consent affidavits of each of the members have been placed on record. It is



further represented that the Transferee Company has no secured creditor and seven unsecured creditors. The certificates of chartered accountant in respect of creditors have also been placed on record. All the seven unsecured creditors have given their consent affidavits in favour of the Scheme. As the company has no secured creditor, the requirement of convening of the meeting of secured creditors does not arise. In relation to the shareholders and unsecured creditors, the Transferee Company seeks dispensation from convening and holding of their respective meetings on the ground that all the shareholders and unsecured creditors have given consent affidavits in favour of the Scheme.

19. We have perused the joint application and the connected documents / papers filed with the application including the Scheme of Amalgamation as contemplated between the Applicant companies.

20. It is seen that the board of directors of all the applicant companies vide separate meetings, held on 19.03.2019 respectively have unanimously approved the proposed Scheme of Amalgamation. Copies of the board resolutions



passed by the board of directors have been placed on record by the companies.

21. All the applicants have filed their respective Memorandum and Articles of Associations. The applicants have also filed their latest audited financial statements for the year ending 31.03.2018 and their respective un-audited provisional financial statements up to 28.02.2019.
22. It is submitted that the proposed merger is sought to be made under the provisions of Section 230 to 232 of the Companies Act, 2013 and the same if sanctioned by this Tribunal, the appointed date as provided in the Scheme shall be April 1st, 2018.
23. All the applicant companies have submitted that no proceedings for inspection, inquiry or investigation under the provisions of the Companies Act, 2013 or under the provisions of the Companies Act, 1956 is pending against any of the applicant companies.
24. The certificates of respective statutory auditors of all the applicant companies have been placed on record confirming that the accounting treatment in the scheme is in conformity with Section 133 of the Companies Act, 2013.

25. Further, it has been stated in the application that the Scheme will be beneficial to all the applicant companies and their respective shareholders, employees, creditors and other stake holders.

26. Taking into consideration the application filed jointly by all the Applicant Companies the following directions are issued: -

A) In relation to the Transferor Company no.1: -

(i) *The meeting of Equity Shareholders is dispensed with as there are only 2 equity shareholders in the company and all of their consent affidavits in favour of the Scheme have been placed on record.*

(ii) *The meeting of secured creditors is also dispensed with because there is no secured creditor in the company and therefore, the requirement of convening meeting of secured creditors does not arise.*



(iii) *The meeting of unsecured creditors is also dispensed with as there are only 3 unsecured creditors in the company and all of their consent affidavits in favour of the Scheme have been placed on record.*

B) In relation to the Transferor Company no.2: -

(i) *The meeting of Equity Shareholders is dispensed with as there are only 2 equity shareholders in the company and all of their consent affidavits in favour of the Scheme have been placed on record.*

(ii) *The meeting of secured creditors is also dispensed with because there is no secured creditor in the company and therefore, the requirement of convening meeting of secured creditors does not arise.*

(iii) *The meeting of unsecured creditors is also dispensed with as there are only 2 unsecured creditors in the company and all of their consent*



affidavits in favour of the Scheme have been placed on record.

C) In relation to the Transferor Company no. 3: -

(i) The meeting of Equity Shareholders is dispensed with as there are only 2 equity shareholders in the company and all of their consent affidavits in favour of the Scheme have been placed on record.

(ii) The meeting of secured creditors is also dispensed with because there is no secured creditor in the company and therefore, the requirement of convening meeting of secured creditors does not arise.

(iii) The meeting of unsecured creditors is also dispensed with as there are only 2 unsecured creditors in the company and all of their consent affidavits in favour of the Scheme have been placed on record.



D) In relation to the Transferor Company no.4: -

(i) *The meeting of Equity Shareholders is dispensed with as there are only 3 equity shareholders in the company and all of their consent affidavits in favour of the Scheme have been placed on record.*

(ii) *The meeting of secured creditors is also dispensed with because there is no secured creditor in the company and therefore, the requirement of convening meeting of secured creditors does not arise.*

(iii) *The meeting of unsecured creditors is also dispensed with as there are only 2 unsecured creditors in the company and all of their consent affidavits in favour of the Scheme have been placed on record.*

E) In relation to the Transferor Company no. 5: -

(i) *The meeting of Equity Shareholders is dispensed with as there are only 2 equity shareholders in the company and all of their*

consent affidavits in favour of the Scheme have been placed on record.

(ii) The meeting of secured creditors is also dispensed with because there is no secured creditor in the company and therefore, the requirement of convening meeting of secured creditors does not arise.

(iii) The meeting of unsecured creditors is also dispensed with as there are only 2 unsecured creditors in the company and all of their consent affidavits in favour of the Scheme have been placed on record.

F) In relation to the Transferor Company no.6: -

(i) The meeting of Equity Shareholders is dispensed with as there are only 2 equity shareholders in the company and all of their consent affidavits in favour of the Scheme have been placed on record.



(ii) *The meeting of secured creditors is also dispensed with because there is no secured creditor in the company and therefore, the requirement of convening meeting of secured creditors does not arise.*

(iii) *The meeting of unsecured creditors is also dispensed with as there are only 2 unsecured creditors in the company and all of their consent affidavits in favour of the Scheme have been placed on record.*

G) In relation to the Transferor Company no. 7: -

(i) *The meeting of Equity Shareholders is dispensed with as there are only 3 equity shareholders in the company and all of their consent affidavits in favour of the Scheme have been placed on record.*

(ii) *The meeting of secured creditors is also dispensed with because there is no secured creditor in the company and therefore, the*



requirement of convening meeting of secured creditors does not arise.

(iii) The meeting of unsecured creditors is also dispensed with as there are only 2 unsecured creditors in the company and all of their consent affidavits in favour of the Scheme have been placed on record.

H) In relation to the Transferee Company:-

(i) The meeting of Equity Shareholders is dispensed with as there are only 5 equity shareholders in the company and all of their consent affidavits in favour of the Scheme have been placed on record.

(ii) The meeting of secured creditors is also dispensed with because there is no secured creditor in the company and therefore, the requirement of convening meeting of secured creditors does not arise.



(iii) The meeting of unsecured creditors is also dispensed with as there are only 7 unsecured creditors in the company and all of their consent affidavits in favour of the Scheme have been placed on record.

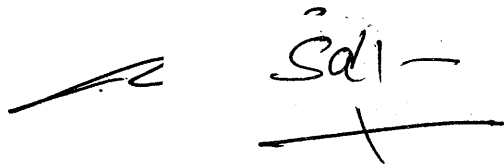
27. In view of the above the present joint application stands allowed by dispensing with the meetings of shareholders and creditors of all the applicant companies.

28. The applicants are directed to serve notice of the proposed Scheme on the Regional Director, Ministry of Corporate Affairs, B-2 Wing, 2nd Floor, Paryavaran Bhavan, CGO Complex, New Delhi-110 003, Registrar of Companies at 4th Floor, IFCI Tower, 61, Nehru Place, New Delhi-110 019; the Official Liquidator, Lok -Nayak -Bhavan, 8th Floor, Khan Market, New Delhi -110 001; the office of the Income Tax Department, Income Tax Officer, Ward - 7(4), Central Revenue Building, IP Estate, New Delhi-110 002 and Office of the Income Tax Department, Income Tax Officer, Additional Commissioner of Income Tax, Special Range-4, Central Revenue Building, IP Estate, New Delhi-110 002. The notices



to Income Tax authorities shall disclose sufficient details like PAN card numbers, ward numbers and assessing officers so that proper reply may be filed.

Let copy of the order be served to the parties.



(S. K. MOHAPATRA)

Member (T)



(DR. DEEPTI MUKESH)

Member (J)