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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Judgment: 24.9.2012

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C.A (M) No.155/2012

IN THE MATTER OF:

Scheme of Arrangement

BY AND BETWEEN:

KAMAKHYA COSMETICS AND PHARMACEUTICALS PVT.
LTD.

AND

MODI REVLON PVT. LTD.

..... Applicants

Through: Mr. D. Bhattacharyya, Advocate
with Mr. Piyush Sharma and Ms. Deeti
Ojha, Advocates.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

INDERMEET KAUR, J. (Oral)

1. This first motion joint Application has been filed under Sections 391 to 394 of the Companies Act, 1956 (for short 'Act') in respect of a Scheme of Amalgamation (for short 'Scheme') of KAMAKHYA COSMETICS AND PHARMACEUTICALS P. LTD. (hereinafter referred to as 'Transferor Company') with MODI REVLON P. LTD.

(hereinafter referred to as 'Transferee Company'). A copy of the proposed Scheme is filed along with the present application.

2. The registered offices of both the Transferor and Transferee Companies are situated within the National Capital Territory of Delhi and are within the jurisdiction of this Court.

3. Details with regard to the date of incorporation of the Transferor and transferee Companies, their authorized, issued, subscribed and paid up capital have been given in the Application.

4. Copies of the Memorandum and Articles of Association as well as the latest audited Annual Accounts for the year ended 31st December, 2011 of both the Transferor and Transferee Companies have also been enclosed with the Application.

5. Learned counsel for the Applicant Companies submits that no proceeding under Sections 235 to 251 of the Act is pending against any of the Applicant Companies as on the date of the present Application.

6. The proposed Scheme has been approved by the Board of Directors of both the Applicant Companies. Copies of the Board Resolutions have been filed along with the Application.

7. The status of the Shareholders, Secured and Un-Secured Creditors of the Transferor and Transferee Companies and the consents obtained from them for the proposed Scheme is clearly apparent from the chart given in the Application which is as follows:

Company	No. of Shareholder	Consent Given & %	No. of Secured Creditors	Consent Given & %	No. of Unsecured Creditors	Consent Given & %
Transferor Company	(Wholly owned subsidiary of Transferee Company)	All	Nil	N/A	8	Nil
Transferee Company	2	All	1	Nil	140	Nil

8. A prayer has been made for dispensation of the requirement of convening meeting of Shareholders of the Transferor Company.

9. In view of the written consent/NOC given, the requirement of convening meeting of Shareholders of the Transferor and Transferee Company is dispensed with.

10. Since the Transferor Company has no Secured Creditor, the question of convening their meetings does not arise.

11. A prayer has been made seeking directions for convening separate meetings of Un-Secured Creditors of the Transferee Company and Secured Creditors and Un-Secured Creditors of the Transferee Company.

13. Consequently, this Court directs that separate meetings of the Un-Secured Creditors of the Transferor Company and Secured

Creditors and Un-Secured Creditors of the Transferee Company shall be held on 30th October, 2012 at 13th Floor, Modi Towers, New Delhi 110019 at 11.00 a.m., 2.00 p.m. and 3.30 p.m. respectively.

14. Ms.Lalit Mohini Bhat, Advocate, Cell No.9910155009 is appointed as the Chairperson and Mr.Naresh Garg, Officer of this Court, Cell No.9717394803 is appointed as the Alternate Chairperson for the meeting of the Unsecured Creditors of the Transferor Company. They shall be paid a fee of Rs.50,000/- each. Mr.Baktwer Singh, Cell No.9868489861 and Mr.Inder Singh, Official of this Court, Cell No.9711690597 and shall provide secretarial assistance to the Chairperson and the Alternate Chairperson. They shall be paid a fee of Rs.10,000/- each for this purpose.

15. Mr.Aseem Swaroop, Advocate, Cell No.9971612887 is appointed as the Chairperson and Mr.Syed Burhanur Rahman, Advocate, Cell No.9990628150 is appointed as the Alternate Chairperson for the meeting of the Secured Creditors of the Transferee Company. They shall be paid a fee of Rs.50,000/- each. Ms.Anita Joshi, Official of this Court, Cell No.9871140535 and Mr.Maan Singh, Cell No.9968505240 shall provide secretarial assistance to the Chairperson and the Alternate Chairperson. They shall be paid a fee of Rs.10,000/- each for this purpose.

16. Mr.Juvraj Singh Bindra, Advocate Cell No.9927822210 is appointed as the Chairperson and Mr.Yashpal, Officer of this Court, Cell No.9910390955 is appointed as the Alternate Chairperson for the

meeting of the Unsecured Creditors of the Transferee Company. They would be paid a fee of Rs.50,000/- each. Mr. Anil Kumar, Official of this Court, Cell No.8527000560 and Mr.Ritesh Kumar, Official of this Court, Cell No.9910598250 shall provide secretarial assistance to the Chairperson and the Alternate Chairperson. They shall be paid a fee of Rs.10,000/- each for this purpose.

17. The Transferor and the Transferee Company are also directed to publish notice of the aforesaid proposed meetings in 'Financial Express' (English, Delhi edition) and 'Jan Satta' (Hindi, Delhi Edition). The advertisements shall be published minimum twenty-one days in advance before the scheduled date of meetings.

18. Individual notices of the proposed meetings would be sent by ordinary post minimum twenty-one days in advance before the scheduled date of meetings. The Chairpersons shall ensure that the dispatch is made under their supervision or their authorized representatives.

19. The Quorum for the meeting of the Un-Secured Creditors of the Transferee Company and Secured Creditors and Un-Secured Creditors of the Transferee Company are fixed as follows:-

Company	Nature of Meeting	Nos	Quorum
Transferor Company	Unsecured Creditors	8	3
Transferee Company	Secured Creditor	1	1
	Unsecured Creditors	140	56

20. It is also directed that if the Quorum is not present in the meetings, the meetings would be adjourned for thirty minutes and the persons present in the meetings would be treated as proper Quorum.

21. It is also directed that in the event, the original consent/no-objection of the secured creditors of the Transferee Company is produced before the Chairperson/Alternate Chairperson, the meeting shall be deemed to have proper quorum even if no authorized representative of the Bank/secured creditor is present in person.

21. Voting by proxy is permitted provided that the proxy in the prescribed form and duly signed by the person entitled to attend and vote in the aforesaid meetings or by his authorized representative, is filed with the Company at its registered office, not later than forty-

eight hours before the said meetings.

22. The Chairpersons/ Alternate Chairpersons shall file their reports within two weeks of the conclusion of the meetings.

23. The Application stands allowed in the aforesaid terms.

Order Dasti.

INDERMEET KAUR, J

SEPTEMBER 24, 2012

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