

IN THE NATIONAL COMPANY LAW TRIBUNAL: CHANDIGARH
(through Hybrid Mode)
COURT-I

Item No. 3

CP (CAA) No. 12/Chd/Pb/2024
(2nd Motion)

IN THE MATTER SCHEME OF ARRANGEMENT OF:

IVY HEALTH AND LIFE SCIENCES PRIVATE LIMITED,

bearing PAN: AABCI4594F and
CIN: U85110PB2005PTC027898
having its registered office at
Administrative Block, Ivy Hospital,
Sector 71, SAS Nagar, Mohali-160071, Punjab

...Demerged Company/ Petitioner No. 1

And

CAREIVY HOSPITALS PRIVATE LIMITED

bearing PAN: AALCC2814L and
CIN: U86100PB2023PTC059469
having its registered office at
Administrative Block, Ivy Hospital,
Sector 71, SAS Nagar, Mohali-160071, Punjab

...Resulting Company/ Transferor Company/ Petitioner No. 2

And

IVY HEALTHCARE INFRASTRUCTURE PRIVATE LIMITED

bearing PAN: AACCI1476R and
CIN: U85110PB2008PTC032023
having its registered office at
Administrative Block, Ivy Hospital,
Sector 71, SAS Nagar, Mohali-160071, Punjab

...Transferee Company/ Petitioner No. 3

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

Order delivered on 03.05.2024

CORAM:

SH. UMESH KUMAR SHUKLA
HON'BLE MEMBER (T)

SH. HARNAM SINGH THAKUR
HON'BLE MEMBER (J)

PRESENT:

For the Petitioner Companies : Mr. Rohit Khanna, Advocate
Mr. Raghav Kapoor, Advocate

This is a Joint Second Motion Company Petition for sanction and approval of Scheme of Arrangement (hereinafter referred to as the “Scheme”) between **Ivy Health and Life Sciences Private Limited** (hereinafter referred to as the “Demerged Company” or “Petitioner No. 1”), **Careivy Hospitals Private Limited** (hereinafter referred to as the “Resulting Company” or “Transferor Company” or “Petitioner No. 2”) and **Ivy Healthcare Infrastructure Private Limited** (hereinafter referred to as the “Transferee Company” or “Petitioner No. 3”) (hereinafter collectively called as the “Petitioners” and their respective shareholders and creditors filed by the Petitioner Companies through their authorized representative under Sections 230 to 232 and other applicable provisions of Companies Act, 2013 (hereinafter referred to as the “Act”) and the Companies (Compromise, Arrangements and Amalgamations) Rules, 2016 (hereinafter referred to as the “Rules”). The copy of the Scheme has been annexed at Annexure P-1 with the petition.

2. The Petitioner have also prayed for interim directions to fix a date of hearing of the petition and direct notice of the hearing be advertised in Punjab edition of newspapers namely “Tribune” (English) and “Ajit” (Punjabi) and service of the notice to the Statutory Authorities.

3. The Petitioners had filed Joint First Motion Application CA (CAA) No. 54/Chd/Pb/2023 and this Tribunal vide order dated 22.12.2023 allowed the prayers, as detailed below, for dispensing with the requirement of convening the meetings of Equity Shareholders of Demerged Company, Transferor Company and Transferee Company in view of their consent in writing received by way of affidavits and to convene the meetings of Secured Creditors and Unsecured Creditors of Demerged Company and Transferee Company on 27.01.2024:

Particulars	Demerged Company/ Petitioner No. 1		Transferor Company/ Petitioner No. 2		Transferee Company/ Petitioner No. 3	
	Total (Nos.)	Consent Affidavits	Total (Nos.)	Consent Affidavits	Total (Nos.)	Consent Affidavits
Equity Shareholders	5	100% in value	3	100% in value	61	100% in value
Equity Shareholders	Nil	N.A.	Nil	N.A.	Nil	N.A.
Secured Creditors	4	Meeting to be convened	Nil	N.A.	2	Meeting to be convened
Unsecured Creditors	1492	Meeting to be convened	Nil	N.A.	732	Meeting to be convened

4. Subsequently, the Petitioners filed CA No. 12/2024 for seeking certain clarifications and the Tribunal vide its order dated 19.01.2024 allowed the CA and directed to convene the above meetings on 09.03.2024.

5. This Tribunal vide its Order dated 22.12.2023 also appointed Justice T.S. Dhindsa as Chairperson, Mr. Raghav Kakkar, Advocate as Alternate Chairperson and Mr. Sahil Goel, Chartered Accountant as Scrutinizer to conduct the meeting. The Chairperson has filed their reports alongwith the report of the Scrutinizer as under:

Sr. No.	Meeting of	Chairpersons/ Alternate Chairperson/ Scrutinizer	Chairperson's Report		
			Diary No. of Report	Date of Report	Date of meeting
1.	Secured Creditors of Petitioner No. 1	Justice T.S. Dhindsa Chairperson	03556/4 dated 15.03.2024	15.03.2024	09.03.2024
2.	Unsecured Creditors of Petitioner No. 1	Mr. Raghav Kakkar, Advocate Alternate Chairperson Mr. Sahil Goel, Practicing Chartered Accountant, Scrutinizer	03556/5 dated 15.03.2024	15.03.2024	09.03.2024
3.	Secured Creditors of Petitioner No. 3		03556/6 dated 15.03.2024	15.03.2024	09.03.2024
4.	Unsecured Creditors of Petitioner No. 3		03556/7 dated 15.03.2024	15.03.2024	09.03.2024

6. As per the above Reports, the Scheme has been approved by the Secured and Unsecured Creditors of Petitioner No. 1 and 3 with the votes casted in favour of the Scheme as below:

Particulars	Secured Creditors			Unsecured Creditors		
	Valid Votes	Votes in favour	%age of Valid votes	Valid Votes	Votes in favour	%age of Valid votes
Petitioner No. 1	3	3	98.48%	197	197	57.30%
Petitioner No. 3	2	2	100%	104	104	53.96%

7. However, there appears to be some clerical or other mistake(s) in the above reports of Chairman/ Scrutinizer. The petitioner companies are directed to clarify and submit the revised report depicting the correct details including the details contained in the following table:

Name of the Company		Petitioner Company 1		Petitioner Company 3	
		Number	Value (Rs.)	Number	Value (Rs.)
Secured Creditors	Total				
	Present				
	Voted				
	%age of Total				
	%age of Present				
Unsecured Creditors	Total				
	Present				
	Voted				
	%age of Total				
	%age of Present				

8. This Tribunal, vide its Order dated 19.04.2024, directed the Petitioner Companies to file an affidavit specifically mentioning under which clause of Schedule I of Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations, 2011, the Petitioner Companies are exempt from issuing the notice to the CCI and also to clarify by way of an affidavit that there is no regulator for the hospital business as well as lab business within one week.

9. The Petitioner Companies, vide Diary No. 01087/01 dated 02.05.2024 have filed Affidavits separately for Petitioner Company No. 1, 2 and 3 in which they have stated that the petitioner companies are a part of the same group of companies and are involved in the business of operating hospitals and labs in such hospitals, in the State

of Punjab and in terms of Regulation 4 of the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations, 2011 (“**Regulations**”) read with Clause 8 of Schedule I of the Regulations, the present scheme is exempted from the requirements of a notice under the Competition Act, 2002. Clause 8 of Schedule I is reproduced herein below:

(8) “An acquisition of shares or voting rights or assets, by one person on enterprise, of another person or enterprise within the same group, except in cases where the acquired enterprise is jointly controlled by enterprises that are not part of the same group”(emphasis supplied)

10. It is also submitted in the above affidavits that there is no specific sectoral regulator from whom consent is required for the hospital business or the labs business being operated therefrom.

11. Having regard to the above, before finally examining the matter for approval of the proposed Scheme of Arrangement, this Tribunal directs the following-

- I. The next date of hearing of the petition shall be on 12.07.2024.
- II. The notice of the hearing shall be published, not less than 10 days before the next date of hearing in two newspapers, namely, Tribune” (English) and “Ajit” (Punjabi), both in Punjabi Edition. The copy of the notice shall also be placed on the websites of both the Petitioner Companies.
- III. This notice is to enable the interested parties/ persons to raise their objections, if any, on the proposed Scheme between the Petitioner Companies.
- IV. In addition to the public notice, Petitioners shall serve the notice of petition, as required under 230(5) of the Act on the (i) Regional Director, Northern Region, Ministry of Corporate Affairs, New Delhi (ii) Concerned Registrar

of Companies (iii) Concerned Official Liquidator (iv) Reserve Bank of India (v) Jurisdictional Income Tax Authorities through the Nodal Officer-Principal Commissioner of Income Tax, NWR, Aayakar Bhawan, Sector 17-E, Chandigarh by mentioning the PAN of the respective Petitioner Companies and to such other Sectoral Regulatory Authorities, if any applicable, who are likely to be affected by the scheme, at least 30 days before the date fixed for hearing of the above petition. The above Authorities are directed to send their representations if any, within thirty days from the date of receipt of such notice as per the provisions of Sub-Section 5 of Section 230 of the Companies Act, 2013.

- V. Further, notices shall also be served to the objector(s) or to their representatives, if any as contemplated under Sub-Section 4 of Section 230 of the Companies Act, 2013, who may have made representation and who have desired to be heard in their representation along with a copy of the petition and the annexure filed therewith at least 15 days before the date fixed for hearing.
- VI. The Petitioner Companies shall at least 7 days before the date of hearing of the Petition file an affidavit of service regarding newspaper publication with newspaper clippings as well as service of notices on the Authorities specified above.
- VII. The Objections, if any, to the 'Scheme' contemplated by the authorities to whom notice has been given may be filed on or before the date of hearing fixed herein, failing which it will be considered that there is no objection to the approval of the 'Scheme' on the part of the authorities and this Tribunal will proceed in the matter, subject to other conditions being satisfied as

may be applicable under the Companies Act, 2013 and relevant Rules framed thereunder.

- VIII. The petitioner companies shall individually comply with the proviso of section 232(3) or proviso to section 230(7) of the Companies Act, 2013, as may be applicable under the circumstances on or before the date fixed for hearing by filing the required certificate of the Company's auditor.
- IX. The petitioner companies shall also file an affidavit denoting the objections received from public pursuant to the publication of notice of hearing in the newspapers.
- X. The Registry shall also report before the date fixed as to whether any objection has been received to the proposed 'Scheme.

Let a copy of the order be served to the parties.

-sd-
(Umesh Kumar Shukla)
Member (Technical)

-sd-
(Harnam Singh Thakur)
Member (Judicial)

May 03, 2024
SM