

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

COMPANY PETITION NO. CA (CAA)-36 (PB) / 2019

Under Section 230-232 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

Aircity Footcare Private LimitedTransferor Company No.1

AND

Rithvik Dealers LimitedTransferor Company No.2

WITH

Ishani Enterprises Private LimitedTransferee Company

Judgment delivered on: 22.04.2019

CORAM:

CHIEF JUSTICE (Rtd.) M.M. KUMAR, HON'BLE PRESIDENT

S. K. MOHAPATRA, HON'BLE MEMBER (T)

For Applicants: Mr. Aashish Middha, Advocate



ORDER

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, for seeking appropriate orders/directions for dispensing with the respective meetings of shareholders, secured creditors and unsecured creditors of all the companies, in connection with the proposed Scheme of Amalgamation 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 Aircity Footcare Private Limited (Applicant Company No. 1 /transferor company No.1) was incorporated on 31.05.2016 under the provisions of the Companies Act, 2013. 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.2,50,000/- divided into 25,000 Equity Shares of Rs. 10 each. The registered office of the Transferor Company no.1 is situated at House No. 204, Ground Floor, Syndicate House, Inderlok, Delhi- 110035.
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4. It is submitted that the Transferor Company no.1 has 2 Equity Shareholders and both the equity shareholders of the company have given their consent affidavits to the Scheme constituting 100% in value and 100% in number.



The consent affidavits of all the members have been placed on record. It is further represented that the transferor company no.1 has neither any secured creditor nor any unsecured creditor. Certificate of chartered accountant in respect of status of the creditors in the company has been placed on record. Since the transferor company no.1 has no secured creditor and no unsecured creditor, the requirement of convening of their respective meetings does not arise. In relation to the shareholders, the transferor company no.1 seeks dispensation from convening and holding of their meeting on the ground that all the shareholders have given consent affidavits in favour of the Scheme.

5. M/s Rithvik Dealers Limited (Applicant Company No. 2/transferor company No.2) was incorporated on 18.03.2016 under the provisions of the Companies Act, 2013. The present Authorized Share Capital of the Transferor Company no.2 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. 5,00,000/- divided into 50,000 Equity Shares of Rs. 10/- each. The registered office of the Transferor Company No. 2 is situated at Unit no. 314, 3rd Floor, Opp. Plot no. 39, RG Mall, Sector-9, Rohini Delhi – 110085.

6. It is submitted that the Transferor Company no.2 has 7 Equity Shareholders and all the equity shareholders of the company have given their consent affidavits to the Scheme constituting 100% in value and 100% in number. The consent affidavits of all the members have been placed on record. It is further represented that the transferor company no.2 has neither any secured creditor nor any unsecured creditor. Certificate of chartered accountant in respect of status of the creditors in the company has been placed on record. Since the transferor company no.2 has no secured creditor and no unsecured creditor, the requirement of convening of their respective meetings does not arise. In relation to the shareholders, the transferor company no.2 seeks dispensation from convening and holding of their



meeting on the ground that all the shareholders have given consent affidavits in favour of the Scheme.

7. M/s Ishani Enterprises Private Limited (Applicant Company No.3/Transferee Company) was incorporated on 16.06.2010 as a private limited company. The present Authorized Share Capital of the Transferee Company is Rs.17,00,000/- divided into 1,70,000 Equity Shares of Rs. 10/- each. The present Issued, Subscribed and paid-up Share Capital of the Company is Rs.16,50,000/- divided into 1,65,000 Equity Shares of Rs. 10/- each. The registered office of the Transferee Company is situated at C-27, Lawrence Road, Industrial Area, Delhi – 110035.
8. It is submitted that the Transferee Company has 2 Equity Shareholders and both the equity shareholders of the company 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 neither any secured creditor nor



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

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

10. It is seen that the board of directors of all the three applicant companies vide separate meetings, held on 31.12.2018 respectively have unanimously approved the proposed Scheme of Amalgamation. Copies of such board resolutions passed thereat have been placed on record by the applicant companies.



- 11.** All the applicant companies have filed their respective Memorandum and Articles of Associations. The applicants have also filed their respective latest audited financial statements for the year ending 31.03.2018.
- 12.** 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, 2019.
- 13.** All the companies have submitted that no investigation proceeding has been instituted nor pending under Sections 210-226 of the Companies Act, 2013 or under Sections 235-251 of the Companies Act, 1956 against applicant companies.
- 14.** 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.



15. The certificates of statutory auditors of all the applicant companies have been placed on record confirming that the accounting treatment in the scheme is in conformity with the Accounting Standard notified by the Central Government under Section 2(2) and Section 133 of the Companies Act, 2013.

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

A. In relation to the Transferor Company No.1:

- *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.*
- *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.

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

B. In relation to the Transferor Company No. 2:

- *The meeting of Equity Shareholders is dispensed with as there are only 7 equity shareholders in the company and all of their consent affidavits in favour of the Scheme have been placed on record.*

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- *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.

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

C. In relation to the Transferee Company: -

- *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.*
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- *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.

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

17. 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.

18. 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 and 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.

Sd/-

**(M.M. KUMAR)
PRESIDENT**

22.04.2019

Sd/-

**(S. K. MOHAPATRA)
MEMBER (T)**

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