

**THE NATIONAL COMPANY LAW TRIBUNAL,
PRINCIPAL BENCH**

NEW DELHI

COMPANY PETITION NO. CAA-05 (PB) /2019

Under Section 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

Incredible Realcon Private Limited Transferor Company

WITH

Ireo Private Limited Transferee Company

Judgment delivered on: 19.02.2019

CORAM:

CHIEF JUSTICE (Rtd.) M.M. KUMAR, Hon'ble President

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

For Applicants: Mr. Kartikeya Goel, Advocate



ORDER

S. K. Mohapatra, Member

This Company Petition jointly filed by the Petitioner companies has come up before us for admission and for fixing a date of hearing of the Company Petition as well as for a direction in relation to publication in press to be effected and notices to be issued to the authorities concerned in relation to date of hearing of the Petition and calling for the objections, if any, to the Scheme of Amalgamation (hereinafter for brevity referred to as the “Scheme”) between the Petitioner Companies

It is seen from the records that the First Motion application seeking dispensation from convening the meetings of Shareholders and Creditors of petitioner companies was filed before this Bench vide CA (CAA) No. 169 (PB) 2018 and based on such joint application moved under Sections 230-232 of the Companies Act, 2013, the meetings of Equity Shareholders, Secured Creditors of transferor company and optional convertible ‘Series B’ debenture holders of the transferee company were dispensed with, vide order dated 09.10.2018 passed by this Bench. Directions were also issued in the same order to convene meetings of debenture holders, unsecured creditors of Transferor Company and



equity shareholders, preference shareholders, compulsory convertible debenture holders (Series A), secured creditors and unsecured creditors of Transferee Company.

Subsequently, in compliance of the order dated 09.10.2018 the aforementioned meetings were duly convened on 15.12.2018 and the proposed Scheme was unanimously approved by the members present and voting in the respective meetings. The reports of the Chairperson and Scrutinizer have also been placed on record.

It is pertinent to mention here that there was a delay of two days in filing of the present petition which was condoned vide order dated 09.01.2019 passed by this Bench.

Thereafter the present second motion petition has come up before us for fixing a date of hearing as well as for other consequential directions in terms of provisions of Sections 230 to 232 of Companies Act, 2013 read with Rule 16 of the Companies (Compromise, Arrangements and Amalgamations) Rules, 2016.

Rule 16 of the Companies (Compromise, Arrangements and Amalgamations) Rules, 2016 envisages that:



“16. Date and notice of hearing. - (1) The Tribunal shall fix a date for the hearing of the petition, and notice of the hearing shall be advertised in the same newspaper in which the notice of the meeting was advertised, or in such other newspaper as the Tribunal may direct, not less than ten days before the date fixed for the hearing.

(2) The notice of the hearing of the petition shall also be served by the Tribunal to the objectors or to their representatives under sub-section (4) of section 230 of the Act and to the Central Government and other authorities who have made representation under rule 8 and have desired to be heard in their representation.”

Therefore, in the present second motion petition filed under Sections 230 to 232 of Companies Act, 2013 read with Rule 16 of the Companies (Compromise, Arrangements and Amalgamations) Rules, 2016, the prayer for fixing a date of hearing as well as for other consequential directions is allowed with the following directions: -

(i) Notice of the hearing shall be advertised in the newspapers namely, “Business Standard” (English, Delhi edition) and “Business Standard” in Vernacular (Hindi,



Delhi edition) not less than 10 days before the next date fixed for hearing.

(ii) In addition to the public notice, each of the Petitioners shall serve the notice of the Petition on the following Authorities namely, (a) Central Government through Regional Director (Northern Region), Ministry of Corporate Affairs; (b) Registrar of Companies, NCT of Delhi & Haryana, Ministry of Corporate Affairs; (c) the Income Tax Department; (d) Official Liquidator; and to such other Sectoral Regulatory Authorities who are likely to be affected by the Scheme at least 30 days before the date fixed for hearing of the above Petition. The said authorities are directed to send their representations if any, within 30 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.

(iii) Further, notices shall also be served to the Objector(s) or to their representative, 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 Annexures filed therewith at least 15 days before the date fixed for hearing.

(iv) Both the Petitioner companies shall at least 7 days before the date of hearing of the Petition file an affidavit of service in relation to paper publication effected as well as service of notices on the Authorities specified above including the Sectoral Regulators as well as to the Objectors, if any.

(v) Objections, if any, to the Scheme contemplated by the authorities to whom notices have been given, may file their objections on or before the date fixed for hearing, failing which it will be considered that there is no objection on the part of the authorities to the approval of the Scheme by this Tribunal and subject to other conditions being satisfied as may be applicable under the Companies Act, 2013 and relevant rules framed thereunder.

(vi) The Petitioner Companies shall individually comply with proviso to sub section (3) of Section 232 or proviso to sub section (7) of Section 230, 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 Company's auditor.

(vii) *The next date of hearing of the Petition shall be on 02.04.2019 for the consideration of the approval of the Scheme of Amalgamation as contemplated between the Petitioner Companies.*

Let copy of the order be served to the parties.

A handwritten signature in black ink, appearing to be 'M.M. KUMAR', is written on a yellow rectangular background.

(M.M. KUMAR)

PRESIDENT

A handwritten signature in black ink, appearing to be 'S.K. MOHAPATRA', is written on a yellow rectangular background.

(S. K. MOHAPATRA)

MEMBER (T)