

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL  
NEW DELHI**

**SPECIAL BENCH**

**Coram: SHRI R.VARADHARAJAN, MEMBER (JUDICIAL)**

**SHRI S.K.MOHAPATRA, MEMBER (TECHNICAL)**

**CA (CAA)-84 (PB)/2019**

**IN THE MATTER OF SECTIONS 230-232 OF THE COMPANIES ACT,  
2013**

**In the matter of:**

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

**AND**

**In the matter of Scheme of Amalgamation**

**OF**

**AYUM ENTERPRISES PRIVATE LIMITED**

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(APPLICANT / TRANSFEROR COMPANY NO.1)

**AND**

METOS MARKETING PRIVATE LIMITED

(APPLICANT / TRANSFEROR COMPANY NO. 2)

**AND**

PRSASTI PTOJECTS PRIVATE LIMITED

(APPLICANT / TRANSFEROR COMPANY NO. 3)

**WITH**

VALORE ENTERPRISES PRIVATE LIMITED

(APPLICANT / TRANSFEREE COMPANY NO.4)

**MEMO OF PARTIES:**

1. AYUM ENTERPRISES PRIVATE LIMITED

3293/6, F/F,

PEEPAL MAHADEV, HAUZ QAZI

DELHI 110006

..APPLICANT / TRANSFEROR COMPANY NO.1

2. METOS MARKETING PRIVATE LIMITED

3293/6, F/F,



PEEPAL MAHADEV, HAUZ QAZI

DELHI 110006

..APPLICANT / TRANSFEROR COMPANY NO.2

3. PRSASTI PROJECTS PRIVATE LIMITED

3293/6, F/F,

PEEPAL MAHADEV, HAUZ QAZI

DELHI 110006

..APPLICANT / TRANSFEROR COMPANY NO.3

4. VALORE ENTERPRISES PRIVATE LIMITED

32, DELHI STOCK EXCHANGE BUILDING,

ASAF ALI ROAD,

DELHI - 110002

..APPLICANT / TRANSFEREE COMPANY

**For the Applicants:** MS. BHARTI KASHYAP (COMPANY SECRETARY IN PRACTICE)



## ORDER

**Delivered on: 29.07.2019**

1. This is an application which is filed by the applicant companies above named jointly under section 230-232 of Companies Act, 2013, and other applicable provisions of the Companies Act, 2013 read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 in relation to the Scheme of Arrangement by way of Amalgamation (hereinafter referred to as the "SCHEME" ) proposed between the applicants. The said Scheme is also annexed as Annexure "A-6" to the application. The applicants above named have preferred the instant application in effect for the following purpose as evident inter alia for the reliefs sought for in the Application, namely:

- A) Dispense with the requirement of convening separate meetings of shareholders of the Transferor Company No. 1 to 3 and of the Transferee Company. None of the Transferor Company No. 1 to 3 and the Transferee Company has any Secured Creditor or Unsecured Creditor.
- B) Pass such other/ further order (s) as this Hon'ble Tribunal may deem fit and proper; and
- C) Notice of the present Application / the proposed meetings may be directed to be served on (a) the central Government through the office of the Regional Director, Northern Region, Ministry of

Corporate Affairs, New Delhi; (b) the Registrar of Companies, Delhi and Haryana, New Delhi; (c) The Official Liquidator, Ministry of Corporate Affairs, New Delhi, and (d) the Income Tax Department.

2. An affidavit in support of the above application sworn for and on behalf of the Transferor Company No. 1, Transferor Company 3 and the Transferee Company by one Mr. Mahendra Kumar Gupta, and on behalf of the Transferor Company No.2 by one Mr. Ayush Gupta has been filed, being the Director of the respective Companies along with the application. Ld. Counsel for the joint applicants took us through the averments made in the application as well as the typed set of documents annexed there with. It is further represented that a joint application filed by the applicants are maintainable in view of Rule 3(2) of the Companies (Compromises, Arrangements and Arrangements) Rules 2016 and it is also represented that the registered office of all the applicant companies are situated within the territorial jurisdiction of this Tribunal and the Registrar of Companies, NCT, New Delhi.

3. In relation to Ayum Enterprises Private Limited being the Transferor Company No. 1, in the Scheme marked as Annexure "A-6", it is represented that it is having 03 Equity Shareholders and all of them have given their consents by way of affidavit. It is further represented by the counsel for Applicants that the Transferor Company No. 1 has NO Secured and Unsecured Creditors as on 28.02.2019. In relation to the secured and and



unsecured creditors of the Transferor Company No. 1, dispensation from convening and holding of the meetings in view of above is sought for.

4. In relation to Metos Marketing Private Limited being the Transferor Company No. 2 in the Scheme marked as Annexure "A-6", Learned Counsel represents that company is having 05 Equity Shareholders and all of them have given their respective consents by way of affidavit. It is further represented by the counsel for Applicants that the Transferor Company No.2 has NIL Secured and Unsecured Creditor as on 28.02.2019. In relation to the secured and unsecured creditors of the Transferor Company No. 2, convening and holding of the meetings in view of above does not arise.

5. In relation to Prsasti Projects Private Limited being the Transferor Company No. 3 in the Scheme marked as Annexure "A-6", Learned Counsel represents that company is having 03 Equity Shareholders and all of them have given their respective consents by way of affidavit. It is further represented by the counsel for Applicants that the Transferor Company No. 3 has NIL Secured and Unsecured Creditor as on 28.02.2019. In relation to the secured and unsecured creditors of the Transferor Company No. 3, convening and holding of the meetings of above does not arise.

6. In relation to Valore Enterprises Private Limited being the Transferee Company in the Scheme marked as Annexure "A-6", Learned Counsel represents that company is having 03 Equity Shareholders and all of them

have given their respective consents by way of affidavit. It is further represented by the counsel for Applicants that the Transferee Company has NIL Secured and Unsecured Creditor as on 28.02.2019. In relation to the secured and unsecured creditors of the Transferee Company, convening and holding of the meetings in view of the above does not arise.

7. We have perused the joint application and the connected documents / papers filed therewith including the Scheme of Arrangement contemplated between the Applicant companies.
  
8. From the certificate of incorporation filed, it is evident that the Transferor Company No.1 is a private limited company incorporated under the provisions of Companies Act, 1956 on 06.10.1995, vide CIN: U74110DL1995PTC072992 with Registrar of Companies, NCT of Delhi & Haryana under the name and style of "Ayush Fincap Private Limited'. The Transferor Company No.1 on 29.01.2019 changed its name to 'Ayum Enterprises Private Limited'
  
9. The Authorized Share Capital of the Transferor Company No. 1 is Rs.30,00,000/- (Rupees Thirty Lacs Only) divided into 30,000 (Thirty Thousand Only) Equity Shares of Rs.100/- (Rupees One Hundred only) each. The Present Issued, Subscribed and Paid-up Share Capital of the Transferor Company No.1 is Rs. 18,50,000/- (Rupees Eighteen Lacs and Fifty Thousand

Only) divided into 18,500 (Eighteen Thousand Five Hundred Only) Equity Shares of Rs.100/- (Rupees One Hundred only) each.

10. From the certificate of incorporation filed, it is evident that the Transferor Company No.2 is a private limited company incorporated under the provisions of Companies Act, 1956 on 14.05.1996, vide CIN: U51494DL1996PTC078851 with Registrar of Companies, NCT of Delhi & Haryana under the name and style of "Metos Marketing Private Limited".

11. The Authorized Share Capital of the Transferor Company No. 2 is Rs.10,00,000/- (Rupees Ten Lacs Only) divided into 1,00,000 (One Lakh) Equity Shares of Rs.10/- (Rupees Ten only) each. The Present, Issued, Subscribed and Paid-up Share Capital of the Transferor Company No.2 is Rs. 9,18,000/- (Rupees Nine Lakhs Eighteen Thousand Only) divided into 91,800 (Ninety Thousand Eight Hundred) Equity Shares of Rs.10/- (Rupees Ten only) each.

12. From the certificate of incorporation filed, it is evident that the Transferor Company No.3 is a private limited company incorporated under the provisions of Companies Act, 1956 on 30.01.1992, vide CIN: U74999DL1993PTC047403 with Registrar of Companies, NCT of Delhi & Haryana under the name and style of "P.A.T. Mercantile & Finance Company Private Limited'. The Transferor Company No.3 on 01.02.2019 changed its name to 'Prsasti Projects Private Limited'



13. The Authorized Share Capital of the Transferor Company No. 3 is Rs.5,00,000/- (Rupees Five Lacs Only) divided into 5,000 (Five Thousand) Equity Shares of Rs.100/- (Rupees One Hundred only) each. The present Issued, Subscribed and Paid-up Share Capital of the Transferor Company No. 3 is Rs.5,00,000/- (Rupees Five Lacs Only) divided into 5,000 (Five Thousand) Equity Shares of Rs.100/- (Rupees One Hundred only) each.
14. From the certificate of incorporation filed, it is evident that the Transferee Company is a private limited company incorporated under the provisions of Companies Act, 1956 on 24.06.1994, vide CIN: U74999DL1994PTC059807 with Registrar of Companies, NCT of Delhi & Haryana under the name and style of "D.N. Kansal Securities Private Limited". The Transferor Company No.3 on 22.01.2019 changed its name to 'Valore Enterprises Private Limited'
15. The Authorized Share Capital of the Transferee Company is Rs.1,00,00,000/- (Rupees One Crore Only) divided into 1,00,000 (One Lakh) Equity Shares of Rs.100/- (Rupee One Hundred only) each. The present Issued, Subscribed and Paid-Up Share Capital of the Transferee Company as on date is Rs.49,53,000/- (Rupees Forty Nine Lakhs and Fifty Three Thousand Only) divided into 49,530 (Forty nine Thousand Five hundred and Thirty) Equity Shares of Rs.100/- (Rupee One Hundred only) each.

16. All the applicants have filed their respective Memorandum and Articles of Association inter alia delineating their object clauses as well as their last available audited financial statements for the year ended 31.03.2018 along with the Provisional Balance Sheets as at 28.02.2019.
17. The Board of Directors of the Transferor Company No.1, 2 and 3 and the Transferee Company vide meeting held on 22.04.2019 , have unanimously approved the proposed Scheme of Amalgamation as contemplated above and copies of resolutions passed thereon have been placed on record by the respective companies.
18. The appointed date as specified in the Scheme is 1<sup>st</sup> April, 2018 subject to the directions of this Tribunal.
19. The Applicant companies have stated in the petition that no investigation proceedings are pending against them under Sections 210 or any other applicable provisions of the Companies Act, 2013.
20. That the Applicant Companies have complied with the proviso to Section 230 (7) and Section 232 (3) by filing the certificate of the statutory auditor of the Company in relation to compliance with the Accounting Standards under section 133 of the Companies Act, 2013.



21. Taking into consideration the application filed jointly by the Applicant Companies and the documents filed therewith, this Tribunal propose to issue the following directions with respect to calling, convening and holding of the meetings of the Equity Shareholders, Secured and Unsecured Creditors, or dispensing with the same as well as issue of notices including by way of paper publication as follows:-

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

(i) With respect to Equity shareholders:

Since it is represented by the Transferor Company No.1 there are 03 Equity shareholders in the Company, whose consents have been obtained by way of affidavits and are placed on record, the necessity of convening and holding a meeting of the shareholders to consider and if thought fit, to approve the scheme is dispensed with.

(ii) With respect to Secured Creditor:

Since it is represented by the Transferor Company No. 1 that there is no Secured Creditor in the Company, the necessity of convening a meeting does not arise.

(iii) With respect to Unsecured Creditors:

Since it is represented by the Transferor Company No. 1 that there is no Unsecured Creditor in the Company, the necessity of convening a meeting does not arise.



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

(i) With respect to Equity shareholders:

Since it is represented by the Transferor Company No.2 there are 05 Equity shareholders in the Company whose consents have been obtained by way of affidavits and are placed on record, the necessity of convening and holding a meeting of shareholders to consider and if thought fit, to approve the scheme is dispensed with.

(ii) With respect to Secured Creditor:

Since it is represented by the Transferor Company No.2 that there is no Secured Creditor in the Company, the necessity of convening a meeting does not arise.

(iii) With respect to Unsecured Creditors:

Since it is represented by the Transferor Company No. 2 that there is no Unsecured Creditor in the Company, the necessity of convening a meeting does not arise.

**C) In relation to the Transferor Company No.3:**

(i) With respect to Equity shareholders:

Since it is represented by the Transferor Company No.3 there are 03 Equity shareholders in the Company whose consents have been obtained by way of affidavits and are placed on record, the necessity of





convening and holding a meeting of the shareholders to consider and if thought fit, to approve the scheme is dispensed with.

(ii) With respect to Secured Creditor:

Since it is represented by the Transferor Company No. 3 that there is no Secured Creditor in the Company, the necessity of convening a meeting does not arise.

(iii) With respect to Unsecured Creditors:

Since it is represented by the Transferor Company No.3 that there is no Unsecured Creditor in the Company, the necessity of convening a meeting does not arise.

**D) In relation to Transferee Company:**

(i) With respect to Equity shareholders:

Since it is represented by the Transferee Company that there are 03 Equity shareholders in the Company, one of them has given its consent by way of affidavit and is placed on record, the necessity of convening and holding a meeting of shareholders to consider and if thought fit, to approve of the scheme is dispensed with.

(ii) With respect to Secured Creditor:

Since it is represented by the Transferee Company that there is no Secured Creditor in the Company, the necessity of convening a meeting does not arise.



(iii) With respect to Unsecured Creditors:

Since it is represented by the Transferee Company that there are 3 Unsecured Creditors in the company whose consents have been obtained and are placed on record, the necessity of convening and holding a meeting of unsecured creditors to consider and if thought fit, to approve of the scheme is dispensed with.

The application stands allowed on the aforesaid terms. Let the Application for approval of the scheme of Amalgamation be filed within a period of seven days from the date of this order

Sd/-

**(S.K.MOHAPATRA)**

**MEMBER (TECHNICAL)**

Sd/-

**(R.VARADHARAJAN)**

**MEMBER (JUDICIAL)**

U.D.MEHTA/K