

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
COURT NO. IV, NEW DELHI

CAA-26/ND/2021

Connected with CA(CAA)-121/ND/2019

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

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

In the matter of Scheme of Amalgamation

OF

M/S DONRIVER INDIA PRIVATE LIMITED
.... (APPLICANT NO.1/TRANSFEROR COMPANY)

AND

M/S CIENA COMMUNICATIONS INDIA PRIVATE LIMITED
....(APPLICANT NO.2/TRANSFeree COMPANY)

Order Pronounced on: 25.02.2021

CORAM:

DR. DEEPTI MUKESH,
HON'BLE MEMBER (Judicial)

MS. SUMITA PURKAYASTHA,
HON'BLE MEMBER (Technical)

For the Applicant : Mr. Mohd. Nazim, PCS,
Mr. Gaurav Gupta

MEMO OF PARTIES

M/S DONRIVER INDIA PRIVATE LIMITED

Registered Office at:

G-41, GROUND FLOOR,
WEST PATEL NAGAR,
NEW DELHI – 110008.

.... (APPLICANT NO.1/TRANSFEROR COMPANY)

M/S CIENA COMMUNICATIONS INDIA PRIVATE LIMITED

Registered office at:

KOCHHAR & CO., SUITE/UNIT NO. 1120-1121,
11th FLOOR, DLF TOWER A
JASOLA DISTRICT CENTER,
NEW DELHI – 110025.

....(APPLICANT NO.2/TRANSFeree COMPANY)

ORDER

Per-Dr. Deepti Mukesh, Member (J)

1. This petition for second motion has been filed under the provisions of Sections 230-232 of the Companies Act, 2013 read with Rule 15(1) of the Companies (Compromise, Arrangements, Amalgamation) Rules, 2016 for the Scheme of Arrangement (for brevity Scheme) praying for fixing a date of hearing of the main Company Petition for approving the scheme of arrangement by way of merger as well as for issuance of direction concerning publication of notices to be carried and notices to be issued to the authorities concerned including regulators, if any.
2. From the records, it is seen that the First Motion application was filed before this Tribunal vide CA(CAA)-121/ND/2019 moved under Sections 230-232 of the Companies Act, 2013 and vide order dated 20.03.2020

directions were issued by this Tribunal, wherein the meeting of the Equity Shareholders, Secured Creditors and Unsecured Creditors of all the Applicant Companies were dispensed with. It is submitted that immediately the lockdown was declared. Hence, certified copy could not be applied for. The certified copy was received on 13.08.2020 and the present application is filed on 20.08.2020.

3. Taking into consideration the above facts and record, it is hereby ordered as follows:

(i) The date of hearing of the Petition filed for the approval of the Scheme is fixed on **26th April, 2021**.

(ii) Notice of the hearing shall be advertised in the newspapers namely, "Indian Express" (English, Delhi edition) and "Jansatta" (Hindi, Delhi edition) not less than 10 days before the aforesaid date fixed for hearing.

(iii) In addition to the public notice, each of the Applicant(s) 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 through the Income Tax Cell at DCIT (High Court Cell), Lawyer's Chamber, Block No. 1, Room No. 428 & 429, Delhi High Court, New Delhi, along with full details of assessing officer and PAN numbers of all the

applicant companies; (d) Official Liquidator; and to such other Sectoral Regulatory Authorities who may govern the working of the respective companies involved in the Scheme at least 30 days before the date fixed for hearing of the above Petition.

(iv) Further, notices shall also be served to Objector(s) or to their representative, if any, as contemplated under Sub-Section (4) of Section 230 of the Act 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.

(v) All the Applicants shall at least 7 days before the date of hearing of the Petition shall file an affidavit of service in relation to publication effected in the newspapers as well as service of notices on the Authorities specified above including the Sectoral regulator as well as to Objectors, if any.

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

(vii) Each Applicant Company shall individually comply with

proviso to sub section (3) of Section 232 or proviso to sub section (7) of Section 230, of the Act, 2013, as may be applicable under the circumstances on or before the date fixed for hearing by filing the certificate of statutory auditors of the applicant companies.

(viii) The next date of hearing of the Petition shall be on **26th April, 2021** for the consideration of the approval of the Scheme of Arrangement as contemplated between the Applicant Companies.

Sd/-
SUMITA PURKAYASTHA
MEMBER (T)

Sd/-
DR. DEEPTI MUKESH
MEMBER (J)