

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

(CAA)-67/PB/2020 In CA(CAA)-32/PB/2020

Under Sections 230 to 232 of the Companies Act, 2013

In the matter of Scheme of Amalgamation

Between

HAPTIK INFOTECH PRIVATE LIMITED

... Transferor/Petitioner Company 1

With

TIMES INTERNET LIMITED

...Transferee/Petitioner Company 2

And

THEIR RESPECTIVE SHAREHOLDERS AND CREDITORS

Order Delivered on: 31.05.2021

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**B.S.V. PRAKASH KUMAR,
HON'BLE ACTG. PRESIDENT**

**HEMANT KUMAR SARANGI,
HON'BLE MEMBER (TECHNICAL)**

For the Petitioners : *Mr. Abhishek Seth, Ms. Devika Chopra
& Anurag Pandey, Advocates*

For the RD & OL : *Ms. Shankri Mishra, Advocate*

For the I.T. Dept. : *Mr. Arjit Sharma & Luqman S. Hasan, Advocates*

ORDER

Order Pronounced on: 31.05.2021

Under consideration is Company Petition **CAA-67/PB/2020**
filed under Sections 230 to 232 of the Companies Act, 2013
read with the Companies (Compromises, Arrangements &

Amalgamations) Rules, 2016. The purpose of the Company Petition is to obtain sanction of the Scheme of Amalgamation (in short, “**Scheme**”) by virtue of which **Haptik Infotech Private Limited** (hereinafter referred to as “**Transferor/Petitioner Company-1**”) is proposed to be merged with **Times Internet Limited** (hereinafter referred to as “**Transferee/Petitioner Company-2**”) as a going concern.

2. The Transferor/Petitioner Company-1 is a Private Limited Company and was incorporated under the Companies Act, 2013 on 25.08.2014, with its Registrar of Companies, Mumbai. The Registered office was shifted to 1st Floor, Express Building, 9-10 Bahadurshah Zafar Marg, Delhi- 110002 and fresh certificate was issued by the Registrar of Companies, Delhi & Haryana on 04.09.2019 and engaged in the business of IT Consulting which includes providing strategic outsourcing and integration services, Software Development, etc. The Transferee/Petitioner Company-2 is a Public Limited Company and was incorporated under the Companies Act, 1956 on 04.05.1999, with its Registrar of Companies, Mumbai. The Registered office of Transferee Company was shifted under the jurisdiction of Registrar of Companies, NCT

of Delhi & Haryana on 29.04.2005. The Current office address of Transferee Company is at Express Building, 9-10 Bahadurshah Zafar Marg, Delhi- 110002 and is engaged in the business of IT Consulting which includes providing strategic outsourcing and integration services, software development, etc. The Board of Directors of the Transferor Company and Transferee Company vide Board Resolution dated 13/12/2019 approved the said Scheme of Amalgamation.

3. This Tribunal vide its order dated 24/07/2020 in CA(CAA)32/PB/2020 directed a meeting to be held of the Equity Shareholders and further dispensed with the requirement of convening the meetings of the Equity Shareholders of Transferor Company, Preference Shareholders of Transferee Company and Secured and Unsecured Creditors of the Petitioner Companies. Further, the Petitioner Company was directed to effect paper publication in “Financial Express” (English, Delhi Edition) and “Jansatta” (Hindi, Delhi Edition). The same were effected on 03/08/2020 and proof of the same was filed with the Tribunal vide Affidavit. The Petitioner Companies have complied with all the directions passed in the above orders of this Tribunal.

4. The Counsel appearing on behalf of the Petitioner Companies submitted that the proposed amalgamation of the Transferor Company into the Transferee Company would provide synergistic linkages besides economies in costs by combining the total business functions and the related activities and operations and thus contribute to the profitability of the amalgamated Company. The proposed Scheme would result in business synergy, pooling of financial and human resource of the Companies and strengthen the operations and management of the Companies for the most beneficial utilization of these factors in the combined entity. Further submitted that the scheme will result in elimination of duplicate work, reduction in overheads and costs, operational rationalisation, optimal utilization of financial, human and other resource, consolidation of managerial expertise and enhancement of overall business efficiency.

5. The Official Liquidator has filed its report wherein no specific objection has been raised against the approval of the Scheme. It is submitted in the report that, as per clause 4.3 of the Scheme, the Authorized Share Capital of the Transferor Company shall be combined /merged with the Authorized

Share Capital of the Transferee Company. The Official Liquidator has further submitted that he has not received any complaint against the proposed Scheme of Amalgamation from any person/party interested in the Scheme in any manner and that affairs of the Transferor Company do not appear to have been conducted in a manner prejudicial to the interest of its members or to public interest as per the provisions of the Companies Act, 1956/2013 whichever is applicable. It was further submitted that Clause 4.6 of the Scheme provides for the protection of the interest of the employees, workmen, officers and all the staff of the Transferor Company.

6. The Regional Director, MCA has filed his report/affidavit, along with the report of the Registrar of Companies, New Delhi. The Transferee Company has also filed rejoinder affidavit regarding replying to the observations of the RD.

- i. The Regional Director had filed the Representation Affidavit to the petition and in para 11(a) had stated that as per Financial Statements as at 31.03.2019 of the Transferor Company, it is observed that the Company has transferred its entire business to Reliance Jio Digital Services Limited and received the entire proceeds of sale. These funds are currently parked into liquid*

funds. In response to it, the Authorised Signatory of the Petitioner Companies states that the business was slump sold as per the Business Transfer Agreement. The sale proceeds were parked under liquid assets. Further taking into consideration that merger of these two entities would result in synergy, pooling of financial and human resource of the Companies and strengthening of the operations and management of the Companies entity, the shareholders of both Companies decided to close down transferor entity i.e. Haptik Infotech Private Limited and merge it into its holding company i.e. Times Internet Limited.

- ii. *In Para 11(b) of the Affidavit filed by RD referring to the RoC report has submitted that the Petitioner Companies have not disclosed the clause of combination of authorized share capital of companies in the scheme. The same may be clarified from the petitioner companies whether any combination of authorized share capital have to be done and if so, scheme has to be amended and also the transferee company shall comply with section 232 (i) of the companies Act, 2013 and pay the difference fee on consolidated authorized share capital of transferee company, after setting off the fee already paid by the Transferor Company on their respective capital.* In this regard it is stated and undertaken that there is no proposal for the merging of the authorized share capital of the petitioner companies and upon the approval of the scheme the authorized share capital of the transferor company shall not merge with the Transferee Company.

7. In view of above the objection of the RD does not survive and the petition stands to be allowed. The Official Liquidator, Ministry of Corporate Affairs, New Delhi has also submitted his report through a representation, wherein it has not raised any objection against the Scheme of Amalgamation.

8. The Income Tax Department in its separate report before this Tribunal has stated that in the case of the Transferee Company i.e. Times Internet Limited a demand of Rs. 2,65,320 for the Assessment Year 2019-20 has been raised by CPC and which is pending including assessment proceedings for Assessment Year 2018-19 against the Transferee Company are also pending. It has been stated in the said representation that the proposed merger of the Petitioner Companies should not effect the recovery of the said outstanding demands including any additional demands in future. In response to the ITD report, the transferee company had filed undertaking that all recovery proceedings initiated by the Income Tax Department relating to the above-mentioned outstanding demands or any future tax demands against the Transferee Company and also the Transferor Company will not be adversely effected and all the said demands shall continue

against the Transferee Company and shall be subject to the outcome of the pending appeal, scrutiny and assessment proceedings. In view of above the objection of the ITD does not survive.

9. We have gone through the reports of the Ld. Regional Director (Northern Region), Ministry of Corporate Affairs, New Delhi, Ld. Official Liquidator, Ministry of Corporate Affairs, New Delhi and the Income Tax Department and after perusing the same, we are of the view that the sanction of the present Scheme is not in violation of any provision of Income Tax as well as not against public policy, nor it would be prejudicial to the public interest at large.

10. A certificate of Statutory Auditor of the Petitioner Companies have been placed on record to the effect that Accounting Treatment proposed in the Scheme of Amalgamation is in conformity with the Accounting Standard notified by the Central Government as specified under the provisions of Section 133 of the Companies Act, 2013. The Appointed date of the said Scheme is 01.04.2019.

11. There is no requirement for any modification and the said Scheme of Amalgamation appears to be fair and

reasonable and is not contrary to public policy and not violative of any provisions of law. All the statutory requirements of sections 230 to 232 of the Companies Act, 2013 are complied with. Taking into consideration the above facts, the Company Petition is allowed and the Scheme of Amalgamation annexed with the Petition is hereby sanctioned which shall be binding on the members, creditors and shareholders of the Transferor Company.

12. While approving the scheme as above, we further clarify that this order will not be construed as an order granting exemption from payment of stamp duty or taxes or any other charges, if payable, as per the relevant provisions of law or from any applicable permissions that may have to be obtained or, even compliances that may have to be made as per the mandate of law.

13. The Companies to the said Scheme or other person interested shall be at liberty to apply to this Bench for any direction that may be necessary with regard to the working of the said Scheme.

14. The Transferor Companies shall be dissolved without winding up from the date of the filing of the certified copy of this order with the Registrar of Companies.

15. The Transferor Companies are directed to file the certified copy of this order along with a copy of the Scheme of Amalgamation with the concerned Registrar of Companies, electronically along with E-Form INC-28, in addition to physical copy, as per the relevant provisions of the Companies Act, 2013 within 30 days of receipt of the order.

16. Accordingly, the Scheme **stands sanctioned** and **CAA-67/PB/2020** stands disposed of.

SD/-

**(B.S.V PRAKASH KUMAR)
ACTNG. PRESIDENT**

SD/-

**(HEMANT KUMAR SARANGI)
MEMBER (TECHNICAL)**

31.05.2021
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