

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
NEW DELHI BENCH
COURT VI
NEW DELHI**

Company Application No.CA (CAA) 92/ND/2020

In the matter of:

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

AND

IN THE MATTER OF SCHEME OF AMALGAMATION

AMONGST

1. Swastik World Wide Private Limited

Having Its Registered Office at

Flat No. 43-B,

F/F, Pocket- A & B

Dilshad Garden, New Delhi.

...Transferor Company No. 1/Applicant Company No. 1

And

2. Avirat Urja Private Limited

Having Its Registered Office at

43-B, Dilshad Garden.

Shahdara, Delhi

...Transferor Company No.2/Applicant Company No. 2

And

3. Vaibhav Resources Private Limited

Having Its Registered Office at

Flat No. 43-B, Pocket A &B, MIG Flats, Dilshad Garden,

New Delhi.



.... Transferor Company No.3/Applicant Company No. 3

And

4. Maan Resources Prjvate Limited

Having Its Registered Office at Plot No. F/5, Upper Ground Floor,
Sewak Park, Dwarka, New Delhi.

... Transferee Company/ Applicant Company No. 4

Order Delivered on: 07.12.2020

Coram:

SHRI. P.S.N. PRASAD

Hon'ble Member (Judicial)

DR. V.K. SUBBURAJ

Hon'ble Member (Technical)

Present: Ms. Rekha Mittal, Advocate.

ORDER

P.S.N PRASAD, HON'BLE MEMBER (Judicial)

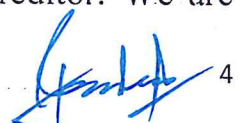
1. This is an application filed by the applicant companies under Sections 230 to 232 and other applicable provisions of the Companies Act, 2013 (for brevity 'The Act') read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (for brevity 'The Rules') in relation to the Scheme (for brevity the "SCHEME") proposed between the applicants.
2. An Affidavit in support of the application sworn for and on behalf of all Transferor Companies has been filed by the Authorized Signatory of the respective Companies.



3. It is represented that the Scheme does not contemplate any corporate debt restructuring exercise as contemplated under Section 230(2) of the Act. Learned Counsel has taken us through the averments made in the application as well as the typed set of documents annexed there with.
4. It is further represented that the application filed by the applicants is maintainable in view of Rule 3(2) of the Rules. Learned Counsel also submits that the registered offices of the Applicant Companies are situated within the territorial jurisdiction of this tribunal and fall within the territorial jurisdiction of the Registrar of Companies, NCT, New Delhi.
5. In relation to the Applicant Company No. 1 in the Schem, it has been represented that company has 6 equity shareholders and nil Secured Creditor. We are further apprised that the Applicant Company No.1 has 31 Unsecured Creditor and the unsecured creditors representing 97.20% have given their consent by way of affidavit in the favour of the Scheme. As the company has no secured creditor, the requirement of convening meetings of secured creditors does not arise. In relation to the shareholders and unsecured creditors, the transferor company No.1 seeks dispensation from convening and holding of their respective meetings on the ground that all the shareholders as well the Unsecured Creditors holding more than 97% of total value have given consent affidavits in favour of the Scheme.



6. In relation to the Applicant Company No. 2 in the Scheme, it has been represented that company has 4 equity shareholders and nil Secured Creditor. We are further apprised that the Applicant Company No.2 has 4 Unsecured Creditors and all the unsecured creditors have given their consent by way of affidavit in the favour of the scheme. As the company has no secured creditor, the requirement of convening meetings of secured creditors does not arise. In relation to the shareholders and unsecured creditors, the transferor company No.2 seeks dispensation from convening and holding of their respective meetings on the ground that all the shareholders as well all the Unsecured Creditors have given consent affidavits in favour of the Scheme.
7. In relation to the Applicant Company No. 3 in the Scheme, it has been represented that company has 6 equity shareholders and nil Secured Creditor. We are further apprised that the Applicant Company No.3 has 10 Unsecured Creditor and all the unsecured creditors have given their consent by way of affidavit in the favour of the scheme. As the company has no secured creditor, the requirement of convening meetings of secured creditors does not arise. In relation to the shareholders and unsecured creditors, the transferor company No.3 seeks dispensation from convening and holding of their respective meetings on the ground that all the shareholders as well all the Unsecured Creditors have given consent affidavits in favour of the Scheme.
8. In relation to the Applicant Company No. 4 in the , it has been represented that company has 5 equity shareholders and nil Secured Creditor. We are

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further apprised that the Applicant Company No.4 has 08 Unsecured Creditors and the creditors representing 99.69% of total unsecured creditors have given their consent by way of affidavit. As the company has no secured creditor, the requirement of convening meetings of secured creditors does not arise. In relation to the shareholders and unsecured creditors, the transferor company No.4 seeks dispensation from convening and holding of their respective meetings on the ground that all the shareholders as well the Unsecured Creditors holding more than 99% of total value have given consent affidavits in favour of the Scheme.

9. The above application has been placed before us and this Tribunal proceeds to entertain the same. We have perused the application and the connected documents filed along with the Scheme contemplated amongst the Applicant Companies.

10. Applicant Company No. 1 was incorporated on 01.05.1992 under the provisions of the Companies Act, 1956 under the name "Swastik World Wide Private Limited". The authorised share capital of the Company is Rs. 15,00,000/- and issued, subscribed and paid-up share capital of the Applicant Company-1 is Rs. 7,01,700/- only.

11. Applicant Company No. 2 was incorporated under the provisions of Companies Act, 1956. on 02.09.1997 under the name "Avirat Urja Private Limited". The authorised share capital is Rs. 2,00,00,000/- and the Issued



subscribed and paid-up share capital of the Applicant Company- 2 is Rs 1,08,00,800/- only.

12.Applicant Company No. 3 was incorporated under the provisions of Companies Act, 1956 on 26.08.1996 under the name “Vaibhav Resources Private Limited”. The authorised share capital is Rs. 10,00,000/- and the Issued subscribed and paid-up share capital of the Company is Rs 1,50,000/-

13.Applicant Company No. 4 was incorporated under the provisions of Companies Act, 1956 on 22.09.1992 under the name “ Maan Resources Private Limited”. The authorised share capital is Rs.75,00,000/- and the Issued subscribed and paid-up share capital of the Company is Rs 65,02,000/.

14.The Board of Directors of the Applicant Companies vide separate meetings dated 20.03.2020 have unanimously passed resolutions and approved the proposed Scheme of Arrangement as contemplated above and copies of resolutions have also been placed on record by the Companies.

15.Taking into consideration the application and the documents filed therewith, we propose to issue the following directions with respect to calling, convening and holding of the meetings of the Shareholders, Secured and Unsecured Creditors or dispensing with the same which are as follows: -

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

- i. The meeting of Equity Shareholders is dispensed with as there are only 6 equity shareholders in the company*

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and all of their consent affidavits in favour of the Scheme have been placed on record.

- ii. 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.*
- iii. The meeting of unsecured creditors is also dispensed with because there are only 31 unsecured creditors in the company and the consent affidavit from the unsecured creditors holding more than 97% of their total value have given their consent affidavits in favour of the Scheme have been placed on record.*

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

- i. The meeting of Equity Shareholders is dispensed with as there are only 4 equity shareholders in the company and all of their consent affidavits in favour of the Scheme have been placed on record.*
- ii. 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.*



- iii. *The meeting of Unsecured creditors is also dispensed with because are only 4 unsecured creditors in the company and all of their consent affidavits in favour of the Scheme have been placed on record.*

C. In relation to the Transferor Company No.3: -

- i. *The meeting of Equity Shareholders is dispensed with as there are only 6 equity shareholders in the company and all of their consent affidavits in favour of the Scheme have been placed on record.*
- ii. *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.*
- iii. *The meeting of Unsecured creditors is also dispensed with because are only 10 unsecured creditors in the company and all of their consent affidavits in favour of the Scheme have been placed on record.*

D. In relation to the Transferee Company: -

- i. *The meeting of Equity Shareholders is dispensed with as there are only 5 equity shareholders in the company and all of their consent affidavits in*



favour of the Scheme have been placed on record.

ii. *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.*

iii. The meeting of Unsecured creditors is also dispensed with as there are 8 Unsecured Creditor sof Transferee Company as on and the creditors representing 99.69% of total value have given their consent by way of affidavit. In view of the above the present joint application stands allowed by dispensing with the meetings of shareholders and creditors of both the applicant companies.

E. 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, Lok -Nayak -Bhavan, 8th Floor, Khan Market, New Delhi -110

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001; 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 (5) the Securities and Exchange Board of India(SEBI) (f) the BSE Limited (BSE); (g) the National Stock Exchange of India Limited (NSE); (h) the Multi Commodity Exchange of India Limited (MCX); and (i) the National Securities Depository Limited (NSDL)

F. 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-

(DR. V.K.SUBBURAJ)
MEMBER (TECHNICAL)

-Sd-

(P.S.N PRASAD)
MEMBER (JUDICIAL)