

DIVISION BENCH
COURT - II

S-11

**NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA**

C.P.(CAA)/124(KB)2024
IN
C.A.(CAA)/104(KB)2024

**CORAM: 1. HON'BLE MEMBER(J), SMT. BIDISHA BANERJEE
2. HON'BLE MEMBER(T), SHRI D. ARVIND**

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING ON 19TH JULY 2024

IN THE MATTER OF	GEETA GANESH PROMOTERS PRIVATE LIMITED
UNDER SECTION	SEC. 230-232 - SECOND MOTION

Appearance (via video conferencing/physically)

Mrs. Manju Bhuteria, Adv.] For the Petitioner
Ms. Aisha Amin, Adv.]

ORDER

1. Ld. Counsel appearing on behalf of the Petitioner present.
2. The instant Company Petition has been filed in the second stage of the proceedings under Section 230(6) read with Section 232(3) of the Companies Act, 2013 ("Act") for sanction and confirmation of the Scheme of Amalgamation of

Prasad Group Resources Private Limited	Transferor Company No 1 / Petitioner No.1
SSB Projects Private Limited	Transferor Company No 2/ Petitioner No.2
Tanuj Holdings Private Limited	Transferor Company No 3/ Petitioner No.3
Tolly Nirman Private Limited	Transferor Company No 4 / Petitioner No.4
Zenon (India) Private Limited	Transferor Company No 5 / Petitioner No.5

With **GEETA GANESH PROMOTERS PRIVATE LIMITED**-Transferee Company / Petitioner No 6, in the manner and on the terms and conditions and from the **Appointed Date** as defined in the said **Scheme of Amalgamation**

("Scheme"). A copy of the said Scheme is annexed to the Company Petition marked – **Annexure – A** in VOL I at Page No 46 to 76.

3. It is submitted by Ld. counsel appearing for the Petitioner (s) that as per the Scheme the **Appointed Date** is 1st day of financial year in which the Amalgamation becomes effective, or such other date as may be fixed or approved by the Appropriate Authority.
4. It is submitted by Ld. Counsel appearing for the Petitioner (s) that the Transferor Company / Petitioner No 3 and Transferor Company No 5 / Petitioner No 5 **are both NBFC** Companies and are duly registered with Reserve Bank of India and are holding a valid Certificate of Registration issued by the said Bank.

It is further submitted by Ld. Counsel appearing for the Petitioner (s) that upon coming into effect of the Scheme the said Transferor Company / Petitioner No 3 and Transferor Company No 5 / Petitioner No 5 shall cease to be NBFC Companies as they are merging with the Transferee Company / Petitioner No 6 which is a Non NBFC Company , accordingly the Transferee Company / Petitioner No 6 shall after due compliances shall **surrender** the Certificate of Registration issued by the said Bank to Transferor Company / Petitioner No 3 and Transferor Company No 5 / Petitioner No 5.

5. It is submitted by Ld. counsel appearing for the Petitioner (s) that the Board of Directors of the Petitioner Companies have at their respective meeting held on 10th January,2024 have passed resolution adopting the proposed Scheme of Amalgamation. A copy of the Resolution passed by the Board of Directors of the Petitioner Companies are all collectively annexed to the Company Petition marked – **Annexure – R** in VOL IV at Page No 530 to 535.
6. It is submitted by Ld. counsel appearing for the Petitioner (s) that the Valuation Report dated 20th December, 2023 recommending the Swap Ratio has been prepared by CA Mukesh Banka, IBBI Registered Valuer. A copy of the said Report is annexed to the Company Petition marked – **Annexure – Q** VOL IV at Page No 510 to 529.
7. It is submitted by Ld. counsel appearing for the Petitioner (s) that the statutory auditors of the Petitioner Companies have all by their certificate dated 15-02-2024 confirmed that the Accounting Treatment proposed in the Scheme of Amalgamation is in conformity with the Accounting Standards as prescribed under Section 133 of the Companies Act, 2013 and Rules made there under. A copy of the said Certificate

issued by Statutory Auditor of the Petitioner Companies are all collectively annexed to the Company Petition marked – **Annexure – S** in VOL IV at Page No 536 to 547.

8. It is submitted by Ld. counsel appearing for the Petitioner (s) that a copy of the order dated 05th June, 2024 passed by this Bench of the Tribunal is annexed to the Company Petition marked – **Annexure – P** in VOL IV at Page No 497 to 509.
9. It is submitted by Ld. counsel appearing for the Petitioner(s) that the list of equity shareholders of the Petitioner Companies as on 15th January,2024 duly certified by the statutory auditor of the Company are all collectively annexed to the Company Petition marked – **Annexure – N** in VOL IV at Page No 442 to 459.
10. It is submitted by Ld. counsel appearing for the Petitioner(s) that NIL Secured Creditors in respect of the Petitioner No 1 to Petitioner No 5 as on 15TH January,2024 and list of Secured Creditors of Petitioner No 6 as on 15th January,2024 duly certified by the statutory auditor of the Company are all collectively annexed to the Company Petition marked – **Annexure – O** in VOL IV at Page No 460 to 474 and 476 to 496.
11. It is submitted by Ld. counsel appearing for the Petitioner(s) that the list of Unsecured Creditors of the Petitioner Companies as on 15th January,2024 duly certified by the statutory auditor of the Company are all collectively annexed to the Company Petition marked – **Annexure – O** in VOL IV at Page No 460 to 496.
12. It is submitted by Ld. counsel appearing for the Petitioner (s) that, the Petitioner (s) have the following classes of shareholders and creditors:-

PARTICULARS	EQUITY SHARE HOLDERS 15-01-2024	PREFERENCE SHARE HOLDERS	SECURED CREDITORS 15-01-2024	UNSECURED CREDITORS 15-01-2024
TRANSFEROR COMPANY NO 1 / PETITIONER NO.1	11	NIL	NIL	16
TRANSFEROR COMPANY NO 2 / PETITIONER NO.2	8	NIL	NIL	9
TRANSFEROR COMPANY NO 3 / PETITIONER NO.3	8	NIL	NIL	3
TRANSFEROR COMPANY NO 4 / PETITIONER NO.4	6	NIL	NIL	7
TRANSFEROR COMPANY NO 5 / PETITIONER NO.5	4	NIL	NIL	24
TRANSFEREE COMPANY / PETITIONER NO.6	9	NIL	4	930

13. It is submitted by Ld. counsel appearing for the Petitioner(s) that, by an order dated 05th June,2024, in Company Application No. C.A (CAA) NO.104 / KB / 2024 this

Tribunal made the following directions with regard to meetings of shareholders and creditors under Section 230(1) of the Act:-

d. Meetings dispensed:

Equity Shareholders

Meeting of Equity Shareholders of the Petitioner Companies for considering the Scheme are dispensed with in view of shareholder representing 100% in value of shares of Petitioner Companies having respectively given their consent to the Scheme by way of affidavits without seeking modification(s).

Secured Creditors

Meeting of Secured Creditors of Petitioner No 6 for considering the Scheme are dispensed with in view of consent by Secured Creditors representing 100% in value of Secured Debt of Petitioner No 6 having respectively given their consent to the Scheme by way of affidavits without seeking modification(s).

Unsecured Creditors

Meeting of Unsecured Creditors of Petitioner No 1 for considering the Scheme are dispensed with in view of consent by Unsecured Creditors representing 90.28% in value of Unsecured Debt of Petitioner No 1 having respectively given their consent to the Scheme by way of affidavits without seeking modification(s).

Meeting of Unsecured Creditors of Petitioner No 2 for considering the Scheme are dispensed with in view of consent by Unsecured Creditors representing 90.33% in value of Unsecured Debt of Petitioner No 2 having respectively given their consent to the Scheme by way of affidavits without seeking modification(s).

Meeting of Unsecured Creditors of Petitioner No 3 for considering the Scheme are dispensed with in view of consent by Unsecured Creditors representing 96.32% in value of Unsecured Debt of Petitioner No 3 having respectively given their consent to the Scheme by way of affidavits without seeking modification(s).

Meeting of Unsecured Creditors of Petitioner No 4 for considering the Scheme are dispensed with in view of consent by Unsecured Creditors representing 99.88% in value of Unsecured Debt of Petitioner No 4

having respectively given their consent to the Scheme by way of affidavits without seeking modification(s).

Meeting of Unsecured Creditors of Petitioner No 5 for considering the Scheme are dispensed with in view of consent by Unsecured Creditors representing 97.59% in value of Unsecured Debt of Petitioner No 5 having respectively given their consent to the Scheme by way of affidavits without seeking modification(s).

Meeting of Unsecured Creditors of Petitioner No 6 for considering the Scheme are dispensed with in view of consent by Unsecured Creditors representing 90.12% in value of Unsecured Debt of Petitioner No 6 having respectively given their consent to the Scheme by way of affidavits without seeking modification(s).

e. No requirement of Meetings

Secured Creditors

No requirement of Meeting of Secured Creditors of Petitioner No 1, Petitioner No 2, Petitioner No 3, Petitioner No 4 and Petitioner No 5 – NIL Creditors duly verified by auditor’s certificate.

14. The Learned Counsel for the Petitioner(s) further submits that in compliance with Section 230(5) of the Companies Act, 2013 and the said order dated 05th June,2024, in Company Application No. C.A (CAA) NO.104 / KB / 2024 notice along with all accompanying documents has already been served on the Statutory / Sectoral Authorities, as directed by the said order as below:

COMPANY PETITION – ANNEXURE T / VOLUME IV

REGULATORY AUTHORITIES	DATE OF SERVICE	PAGE NO
THROUGH SPECIAL MESSENGER(HAND DELIVERY)		
Principal Commissioner of Income Tax – 2 / KOL	18-06-2024	548
Deputy Commissioner of Income Tax – Circle 1(2) / KOL	18-06-2024	550
Deputy Commissioner of Income Tax – Circle 1(2) / KOL	18-06-2024	552
Deputy Commissioner of Income Tax – Circle 1(2) / KOL	18-06-2024	554
Deputy Commissioner of Income Tax – Circle 1(2) / KOL	18-06-2024	556
Deputy Commissioner of Income Tax – Circle 1(2) / KOL	18-06-2024	558
Deputy Commissioner of Income Tax – Circle 3(4) / KOL	18-06-2024	559
Regional Director , Eastern Region	10-06-2024	561
Registrar of Companies , West Bengal	10-06-2024	563
Reserve Bank of India	10-06-2024	567
Official Liquidator , High Court Calcutta	11-06-2024	570
BY ELECTRONIC MAIL		

Principal Commissioner of Income Tax – 2 / KOL	13-07-2024	549
Deputy Commissioner of Income Tax – Circle 1(2) / KOL	13-07-2024	551
Deputy Commissioner of Income Tax – Circle 1(2) / KOL	13-07-2024	553
Deputy Commissioner of Income Tax – Circle 1(2) / KOL	13-07-2024	555
Deputy Commissioner of Income Tax – Circle 1(2) / KOL	13-07-2024	557
Deputy Commissioner of Income Tax – Circle 3(4) / KOL	13-07-2024	560
Deputy Commissioner of Income Tax – Circle 1(2) / KOL	13-07-2024	562
Registrar of Companies , West Bengal	13-07-2024	564 to 566
Reserve Bank of India	13-07-2024	568 to 569
Official Liquidator , High Court Calcutta	13-07-2024	571

15. Upon perusing the records and documents in the instant proceedings and considering the submissions made on behalf of the Petitioner(s), we admit the instant petition and fix the next date of hearing on **30th August, 2024**.
16. At least 10 (ten) clear days before the said date fixed for hearing, the Petitioner(s) shall cause notice of hearing to be advertised in the “**THE STATESMAN**” in English and Bengali translation thereof in “**AAJKAL**” in Kolkata Edition as per Rule 16(1) of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (“CAA Rules”).
17. Another notice pursuant to Section 230(5) of the Companies Act, 2013 along with accompanying documents, including the copies of the aforesaid Scheme and statement under the provisions of the Companies Act, 2013, as sent earlier, shall be served again on the aforesaid Statutory Authorities by sending the same to them ***by hand delivery through special messenger or by speed post and also by email*** within one week from the date of receiving this order. The notice shall specify the next date of hearing of the petition, as aforesaid, and state that representation, if any, and if not already filed, should be filed before this Tribunal no later than 7 (seven) days before the next date of hearing of the petition and a copy of such representation should be simultaneously sent to the Authorised Representative of the said Petitioner(s). If no such representation is received by the Tribunal within such period, it shall be presumed that such Authorities have no representation to make on the said Scheme. Such notice shall be sent in Form No. CAA3 of the CAA Rules with necessary variations, incorporating the directions herein.
18. The Petitioner(s) to file an affidavit confirming compliance of the abovementioned directions of this Tribunal, 3 (Three) days before the next date of hearing.
19. The Petitioner(s) may also file their rejoinder affidavit(s) dealing with the objections/ observations, if any, of the Authorities, 2 (Two) days before the next date of hearing.

20. Urgent Certified copy of this order, if applied or, be supplied to the parties, subject to compliance with all requisite formalities.

D. Arvind
Member (Technical)

Bidisha Banerjee
Member (Judicial)