

**THE NATIONAL COMPANY LAW TRIBUNAL
BENCH, AT MUMBAI**

**C.P. (CAA) 91/MB/2024
IN
C.A. (CAA) /99/MB/2022**

*In the matter of
The Companies Act, 2013 (18 of 2013);
And
In the matter of
Sections 232 r/w Section 230
and other applicable provisions of the Companies
Act, 2013 and Rules framed thereunder as in force
from time to time;
and
In the matter of
Scheme of Amalgamation*

Hightide Logistics Private Limited
CIN: U63090MH2003PTC142606

...Petitioner Company 1/
Transferor Company

Gordon Woodroffe Logistics Limited
CIN: U29191MH2000PLC321395

...Petitioner Company 2/
Transferee Company

(Hereinafter collectively referred to as 'the Petitioner Companies')

Order delivered on 19.07.2024

Coram:

Shri Prabhat Kumar
Hon'ble Member (Technical)

Justice V.G. Bisht (Retd.)
Hon'ble Member (Judicial)

Appearances (through)

For the Petitioner Companies :

Mr. Nitin Gutka, Practising
Company Secretary

For the Regional Director : Mr. Bhagwati Prasad, Deputy
Director, Western Region,
Mumbai

ORDER

1. Heard Authorized Representative for Petitioner Companies as well as Representative of the Regional Director, Western Region, Mumbai. No objector has come before this Tribunal to oppose the Scheme and nor has any party controverted any averments made in the Petitions, except otherwise stated hereunder.
2. The present Scheme is a Scheme of Merger amongst **Hightide Logistics Private Limited** (Transferor Company) with **Gordon Woodroffe Logistics Limited**, (Transferee Company) and their respective Shareholders (scheme) under the provisions of sections 232 r/w Section 230 of the companies Act, 2013 and other applicable provisions of the Companies Act, 2013.
3. The Transferor Company was incorporated to primarily carry out the business of container agents, cargo agents, steamer agents, clearing and forwarding agents, freight forwarders, ship chandlers and stevedores and ancillary objects. Currently, the Transferor Company is inactive in commercial operations. The Transferee Company is carrying on the business of freight forwarding, customs house agent, forwarding and commission agents, insurance agents, general agents, contractors and ancillary objects.
4. The Board of Directors of the Petitioner Companies in their respective meetings held on 06.03.2023 have approved the Scheme.

The Appointed Date for the Scheme is 01.04.2022. The Transferor Companies are wholly owned subsidiaries of the Transferee Company.

5. The rationale of the scheme is as under:
 - a. Shareholders / ultimate beneficial owners of the Transferor Company and the Transferee Company are part of the same family and promoter group which implies that both the companies are owned and controlled by same set of shareholders.
 - b. The merger shall result in consolidation of resources; facilitating optimum utilization of assets and other resources for future growth; avoiding duplication of efforts.
 - c. The combined entity would be able to effectively optimize the statutory and administrative compliances.
 - d. Consolidate and effectively manage the Transferor Company and the Transferee Company in a single unified entity by eliminating multiple entities.
 - e. Greater efficiency in overall combined business including synergies, efficiency of operations, cash flow management, consolidation of resources and increased asset base for the purpose of development of businesses of the combined entity, enhancing their -growth opportunities and maximizing the shareholder's value
 - f. The proposed amalgamation will eliminate the duplication in administrative cost and multiple record keeping thus resulting in cost savings for the Companies. The proposed amalgamation would also reduce the overall compliance cost of the combined entity; and

g. In view of the aforesaid as well as pursuant to strategic review of the Transferor' Company and Transferee Company, the Board of Directors of the Companies have considered and proposed this Scheme of merger by absorption of entire undertaking and business of the Transferor Company with the Transferee Company. This merger will not affect the rights, interests of any stakeholder and shall benefit all the stakeholders of the said Companies.

6. Consideration for under the scheme is as under: -

“Upon the Scheme becoming effective and in consideration of the transfer and vesting of the Undertaking of the Transferor Company in the Transferee Company. in terms of the Scheme as consideration the Transferee Company shall issue and allot 1 '(one) equity share of Rs 10/- (Ten) each to the shareholders of the Transferor Company for every 1 (One) equity share of the face value Rs.10/- (Ten) each held by them in the Transferor Company.”

7. The Petitioner Companies have complied with all requirements as per directions of this Tribunal vide order dated 06.06.2023 in C.A. (CAA) 99/2023 and they have filed necessary Affidavits of compliance in this Tribunal. Moreover, the Petitioner Company undertakes to comply with all statutory requirements, if any, as required under the Companies Act, 2013 and the Rules made there under whichever is applicable. The said undertaking is accepted.

8. The Regional Director has filed his Report dated 05.06.2024 making certain observations and the Petitioner Companies have undertaken/made following submission that :
- a. No Inquiry, inspection, investigation, prosecutions and complaints under Companies Act, 2013 are pending against the Petitioner Companies;
 - b. The Transferee Company shall comply with the provision of section 232(3)(i) of the Companies Act, 2013, as applicable, and pay the difference of fees and stamp duty on increasing the authorized capital after setting off of the fee and stamp duty paid by the Transferor Company while giving effect to increase in the authorized share capital of the Transferee Company;
 - c. The interest of creditors shall be protected;
 - d. The Scheme enclosed to the Company Application and Company Petition are one and same and there is no discrepancy or no change is made;
 - e. The approval of the scheme by the Tribunal may not deter such authorities to deal with any of the issues arising after giving effect to the scheme.
 - f. The appointed date is 1st day of April, 2022 and undertake to comply with the requirements and clarified vide circular no. F. NO. 7/12/2019/CL-1 dated 21.08.2019 issued by the Ministry of Corporate Affairs;
 - g. None of the promoters is individually having control over the affairs of the Petitioner Companies by virtue of their shareholding or management rights or shareholders agreements or voting agreements or in any other manner

nor the promoters are acting together or in concert and, all the related party transactions are approved by the board members for smooth functioning of the business operations of the Petitioner Companies. The board members have their own decision-making ability and they do not act together or in concert. Hence, the Petitioner Companies are not required to file Form BEN-2 with the Registrar of Companies;

- h. The Transferee Company will comply with Income Tax Provisions in relation to proceedings/claims under Income Tax Act against the Transferor Company.
9. Mr. Bhagwati Prasad, Additional Director for the Office of Regional Director (WR), Mumbai appeared on the date of hearing and submits that above explanations and clarifications given by the Petitioner Companies in rejoinder are satisfactory and they have no further objection to the Scheme.
10. The Official Liquidator has filed his Report dated 24th June, 2024 inter-alia stating that the affairs of the Transferor Company have been conducted in proper manner.
11. From the material on record, the Scheme of Amalgamation appears to be fair and reasonable and is not violative of any provisions of law and is not contrary to public policy. Since all the requisite statutory compliances have been fulfilled, Company Scheme Petition No.91 of 2024 is made absolute in terms of prayer clauses of the Petitions.

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12. The Income Tax Department will be at liberty to examine the aspect of any tax payable as a result of this scheme and in case it is found that the scheme ultimately results in tax avoidance under the provisions of the Income Tax Act, it shall be open to the income tax authorities to take necessary action as possible under the Income Tax Law.
13. The Petitioner Company is directed to file a 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 the physical copy within 30 days from the date of issuance of the Order by the Registry.
14. The Petitioner Company to lodge a copy of this Order and the Scheme duly authenticated by the Deputy Registrar, National Company Law Tribunal, Mumbai Bench, with the concerned Superintendent of Stamps for the purpose of adjudication of stamp duty payable, if any, on the same within 60 days from the date of receipt of the Order.
15. The Transferor Companies will be dissolved without winding up.
16. All authorities concerned to act on a copy of this Order along with Scheme duly authenticated by the Deputy Registrar, National Company Law Tribunal, Mumbai Bench.

Sd/-

Prabhat Kumar
Member (Technical)

Sd/-

Justice V.G. Bisht
Member (Judicial)