

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH-IV**

**CA (CAA)/20/MB-IV/2024**

*In the matter of the Companies  
Act, 2013;*

*AND*

*In the matter of*

*Sections 230 to Section 232 of the  
Companies Act, 2013 and other  
applicable provisions of the  
Companies Act, 2013*

*read with Companies*

*(Compromises, Arrangements and  
Amalgamation) Rules, 2016;*

*AND*

*In the matter of  
The Scheme of Arrangement  
Between*

***Marsh McLennan Global  
Services India Private Limited***  
*("Transferor Company")*

*and*

***Mercer Consulting (India)  
Private Limited***  
*("Transferee Company")*

*And their respective  
Shareholders and Creditors.*

Marsh McLennan Global Services  
India Private Limited

[CIN: U74900MH2007FTC170605] ... First Applicant Company

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CA (CAA)/20/MB-IV/2024

Mercer Consulting (India)  
Private Limited ... Second Applicant Company  
[CIN: U51102MH1997PTC384266]

Order delivered on **07.05.2024**

*Coram:*

Smt. Anu Jagmohan Singh  
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli  
Hon'ble Member (Judicial)

*Appearances :*

For the Applicant(s) : Mr. Kumar Kislay a/w Mr.  
Ahsan Allana and Ms. Avni  
Sharma i/b JSA.

**ORDER**

1. Heard the Ld. Counsel for the Applicant Companies.
2. The Learned Counsel for the Applicant Companies submits that the present Scheme of Amalgamation between Marsh McLennan Global Services India Private Limited ("**Transferor Company**" or "**First Applicant**") and Mercer Consulting (India) Private Limited ("**Transferee Company**" or "**Second Applicant**") and their respective shareholders and creditors ("**Scheme**"), for the merger of the Transferor Company into the Transferee Company, under the provisions of Sections 230 to 232 of the Companies Act, 2013.
3. Ld. Counsel for the Applicant Companies submits that the Transferor Company is a private limited company incorporated on May 4, 2007. The Transferor Company is engaged in the business of human resource consulting and

support services to its group companies. The Transferee Company is a private limited company incorporated on January 6, 1997. It is engaged in the business of human resource consulting.

4. The Counsel for the Applicant Companies further submits that the **Rationale** for the Scheme is as under:
  - a. Merger of the Undertaking with the Transferee Company and the consequent issue of equity shares and compulsorily convertible debentures by the Transferee Company to the shareholders and debenture holders respectively of the Transferor Company, resulting in consolidation of the business operations of the Applicants.
  - b. The transfer and vesting of the Undertaking to the Transferee Company under the Scheme will achieve (a) consolidation of similar business; (b) optimum utilisation of manpower; (c) value enhancement and greater financial capacity; (d) facilitating future growth and treasury management; and (e) simplification of group structure.
  - c. The financial position of the Transferee Company shall reflect a positive net-worth upon the Scheme becoming effective.
  - d. Upon the coming into effect of the Scheme, the authorised share capital of the Transferee Company shall stand suitably increased. Accordingly, the

authorised share capital of the Transferee Company shall be INR 100,000,000 (Indian Rupees One Hundred Million) divided into 100,00,000 (Ten Million) equity shares of INR 10 (Indian Rupees Ten) each.

5. Ld. Counsel for the Applicant Companies submits that upon the Scheme becoming effective and as consideration for the Scheme, the Transferee Company shall allot (i) fully paid up equity shares to the members of the Transferor Company, whose name appears in the register of members of the Transferor Company as on the Effective Date; and (ii) compulsorily convertible debentures, to the debenture holders of the Transferor Company, whose names appear in the debenture register of the Transferor Company as on the Effective Date. The allotment shall be in the following manner/ratio:
  - a. 11,122 (Eleven Thousand One Hundred Twenty-Two) fully paid equity shares of INR 10 (Indian Rupees Ten) each of the Transferee Company will be issued and allotted for every 4,500 (Four Thousand Five Hundred) equity shares of INR 10 (Indian Rupees Ten) each held in the Transferor Company.
  - b. 696,467 (Six Hundred Ninety-Six Thousand Four Hundred Sixty-Seven) compulsorily convertible debentures of INR 10 (Indian Rupees Ten) each of the Transferee Company will be issued and allotted for every 2,000 (Two Thousand) compulsorily convertible debentures of INR 10 (Indian Rupees Ten) each held in

the Transferor Company.

6. Ld. Counsel for the Applicant Companies further submits that the Scheme has been approved by the Board of Directors of the Transferor Company and the Transferee Company at their respective Board Meetings held on **December 13, 2023**. The Appointed Date of the Scheme is fixed on **November 1, 2023**.
7. Ld. Counsel for the Applicant Companies submits that there are **two (2) Equity Shareholders** in the Transferor Company. The same has been certified by a chartered accountant and the certificate of the chartered accountant is annexed to the Company Application. The Transferor Company has obtained consent affidavits from all equity shareholders. In view of consent to the Scheme by way of Affidavits, the meeting of the Equity Shareholders of the Transferor Company is hereby dispensed with.
8. Ld. Counsel for Applicant Companies submits that there are **two (2) Equity Shareholders** in the Transferee Company. The same has been certified by a chartered accountant and the certificate of the chartered accountant is annexed to the Company Application. The Transferee Company has obtained consent affidavits from all Equity Shareholders. In view of consent to the Scheme by way of Affidavits, the meeting of the Equity Shareholders of the Transferee Company is hereby dispensed with.
9. Ld. Counsel Applicant Companies further submits that there are no Secured Creditors in the Transferor Company

and Transferee Company as on October 31, 2023, and therefore, the question of sending notices or convening Meeting of Secured Creditors of the Applicant Companies does not arise. The same has been certified by a chartered accountant and the certificate of the chartered accountant is annexed to the Company Application.

10. Ld. Counsel for the Applicant Companies submits that as on October 31, 2023, the Transferor Company has **41 Unsecured Creditors** to whom an amount of INR 41,28,06,189 (Indian Rupees Forty-One Crore Twenty-Eight Lakhs Six Thousand One Hundred Eighty-Nine) is owed, as set out in the Application. The same has been certified by a chartered accountant and the certificate of the chartered accountant is annexed to the Company Application. The Counsel for the Applicant Companies prays that this Tribunal may be pleased to allow the Transferor Company to convene and hold meeting of its unsecured creditors to consider and approve the Scheme, at such place(s) as may be determined by this Hon'ble Tribunal, and on such date(s) and time(s) as this Hon'ble Tribunal directs; and that a Chairperson may be appointed for the meeting to be held and direct issuance of notice for the purpose of convening holding and conducting the meeting after unsecured creditors of the Transferor Company.
11. This Bench directs the conducting of meeting of unsecured creditors of the Transferor Company as follows:
  - i. That the meeting of the Unsecured Creditors of the

Transferor Company will be conducted within 50 days from the date of receipt of order. The meeting will be convened and held for the purpose of considering and, if thought fit, approving with or without modification(s) the Scheme of Amalgamation through video conferencing with facility of remote e-voting, subject to notice of the meeting being issued.

- ii. In view of provisions of Section 230(4) read with Section 108 of the Companies Act, 2013 read with Rule 20 and other applicable provisions of the Companies (Management and Administration) Rules, 2014, the Transferor Company proposes to provide the facility of remote e-voting to its unsecured creditors in respect of the resolution to be passed at the aforesaid Meeting. The unsecured creditors of the Transferor Company are also allowed to avail the facility of e-voting during the aforesaid Meeting to be held through video conferencing. The e-voting facility for the unsecured creditors of the Transferor Company shall be provided in compliance with the conditions specified under the Companies (Management and Administration) Rules, 2014 and Secretarial Standard on General Meetings (SS2) issued by the Institute of Company Secretaries of India, as applicable.
- iii. That at least 30 (thirty) days before the said Meeting of the unsecured creditors of the Transferor Company, a Notice convening the said Meeting at the day, date and time as aforesaid, together with a copy of the Scheme, a

copy of Explanatory Statement disclosing all material facts as required under Section 230(3) of the Companies Act, 2013 read with Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 shall be sent by Registered Post-AD/Speed Post and through Email (registered with the Transferor Company) to all the Unsecured Creditors of the Transferor Company.

- iv. That at least 30 (thirty) days before the said Meeting of the unsecured creditors to be held as aforesaid, a Notice convening the said Meeting at the day, date and time as aforesaid be published once each in "**Free Press Journal**" in English having nation-wide circulation and "**Navshakti**" in Marathi, both having wide circulation in Mumbai, and stating that copies of the Scheme and the said statement required to be furnished pursuant to section 230 (3) of the Companies Act, 2013 can be obtained free of charge by emailing the Transferor Company at [mmgsindiafinance@mmc.com](mailto:mmgsindiafinance@mmc.com).
- v. That this Bench hereby appoints **Mr. A. K. Agarwal** (C.L.S. Rtd.); Contact No. 9324788403; Email: [anil1959agarwal@gmail.com](mailto:anil1959agarwal@gmail.com) as the Chairperson for the Meeting of the unsecured creditors of the Transferor Company. The fee of the Chairperson shall be **Rs. 75,000/-**, including applicable taxes.
- vi. That this Bench hereby appoints **Mr. Mitesh Shah**, ICSI No. F10070 COP 12891, Contact No. 9820464964,



Email: csmjshah@gmail.com, as the Scrutinizer for the meeting of the unsecured creditors of the Transferor Company. The fee for the professional appointed as the Scrutinizer for the meeting of the unsecured creditors of the Transferor Company shall be **Rs. 25,000/-**, including applicable taxed.

- vii. The quorum for the aforesaid Meeting of the unsecured creditors of the Transferor Company shall be 4 (in number) or 40% of the value of unsecured creditors. In case the required quorum as stated above is not present at the commencement of the Meeting, the Meeting shall be adjourned by 30 (thirty) minutes and thereafter the persons present shall be deemed to constitute the quorum.
- viii. That the Chairperson appointed for the aforesaid Meeting of the Transferor Company to issue and publish the notices of the Meeting referred to above. The said Chairperson shall have all powers pursuant to sections 230 and 232 of the Companies Act, 2013 read with other applicable provisions of the Companies Act, 2013, the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 and Companies (Management and Administration) Rules, 2014, to the extent necessary and applicable, in relation to the conduct of the Meeting including for deciding procedural questions that may arise at or at any adjournment thereof or any other matter including, an amendment to the Scheme or resolution, if any,

proposed at the Meeting by any person(s).

- ix. That the Chairperson shall file a compliance report not less than 7 (Seven) days before the date fixed for the holding of the Meeting of the unsecured creditors of the Transferor Company to this Tribunal that the directions regarding the issue of notices and advertisements have been duly complied with as per Rule 12 of Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
- x. The Chairperson shall be responsible to report the result of the meeting to this Tribunal within 2 weeks of the conclusion of the meeting with regard to the proposed Scheme.
12. Ld. Counsel for the Applicant Companies submits that as on October 31, 2023, the Transferee Company has **66 Unsecured Creditors** to whom an amount of INR 46,98,90,694/- (Indian Rupees Forty-Six Crores Ninety-Eight Lakhs Ninety Thousand Six Hundred Ninety-Four) is owed as set out in the Application. The same has been certified by a chartered accountant and the certificate of the chartered accountant is annexed to the Company Application. Therefore, the counsel for the Applicant Companies prays that this Tribunal may be pleased to allow the Transferee Company to convene and hold meeting of its unsecured creditors to consider and approve the Scheme, at such place(s) as may be determined by this Hon'ble Tribunal, and on such date(s) and time(s) as this Hon'ble

Tribunal directs; and that a Chairperson may be appointed for the meeting to be held and direct issuance of notice for the purpose of convening holding and conducting the meeting after unsecured creditors of the Transferee Company.

13. This Bench directs the conducting of meeting of unsecured creditors of the Transferee Company as follows:
  - i. That the meeting of the unsecured creditors of the Transferee Company will be convened within 50 days from the date of receipt of order. The meeting will be convened and held for the purpose of considering and, if thought fit, approving with or without modification(s) the Scheme of Amalgamation through video conferencing with facility of remote e-voting, subject to notice of the meeting being issued.
  - ii. In view of provisions of Section 230(4) read with Section 108 of the Companies Act, 2013 read with Rule 20 and other applicable provisions of the Companies (Management and Administration) Rules, 2014, the Transferee Company proposes to provide the facility of remote e-voting to its unsecured creditors in respect of the resolution to be passed at the aforesaid Meeting. The unsecured creditors of the Transferee Company are also allowed to avail the facility of e-voting during the aforesaid Meeting to be held through video conferencing. The e-voting facility for the unsecured creditors of the Transferee Company shall be provided

in compliance with the conditions specified under the Companies (Management and Administration) Rules, 2014 and Secretarial Standard on General Meetings (SS2) issued by the Institute of Company Secretaries of India, as applicable.

- iii. That at least 30 (thirty) days before the said Meeting of the unsecured creditors of the Transferee Company, a Notice convening the said Meeting at the day, date and time as aforesaid, together with a copy of the Scheme, a copy of Explanatory Statement disclosing all material facts as required under Section 230(3) of the Companies Act, 2013 read with Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 shall be sent by Registered Post-AD/Speed Post and through Email (registered with the Transferee Company) to all the unsecured creditors of the Transferee Company.
- iv. That at least 30 (thirty) days before the said Meeting of the unsecured creditors to be held as aforesaid, a Notice convening the said Meeting at the day, date and time as aforesaid be published once each in "**Free Press Journal**" in English having nation-wide circulation and "**Navshakti**" in Marathi, both having wide circulation in Mumbai, and stating that copies of the Scheme and the said statement required to be furnished pursuant to section 230 (3) of the Companies Act, 2013 can be obtained free of charge by emailing the Transferee Company at [Sonendra.jain@mmc.com](mailto:Sonendra.jain@mmc.com).

IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH-IV

CA (CAA)/20/MB-IV/2024

- v. That this Bench hereby appoints **Mr. A. K. Agarwal** (C.L.S. Rtd.); Contact No. 9324788403; Email: anil1959agarwal@gmail.com as the Chairperson for the Meeting of the Unsecured Creditors of the Transferee Company. The fee of the Chairperson shall be **Rs. 75,000/-**, including applicable taxes.
- vi. That this Bench hereby appoints **Mr. Mitesh Shah**, ICSI No. F10070 COP 12891, Contact No. 9820464964, Email: csmjshah@gmail.com, as the Scrutinizer for the meeting of the unsecured creditors of the Transferee Company. The fee for the professional appointed as the Scrutinizer for the meeting of the unsecured creditors of the Transferee Company shall be **Rs. 25,000/-**, including applicable taxed.
- vii. The quorum for the aforesaid Meeting of the unsecured creditors of the Transferee Company shall be 6 in number or 40% of the value of unsecured creditors. In case the required quorum as stated above is not present at the commencement of the Meeting, the Meeting shall be adjourned by 30 (thirty) minutes and thereafter the persons present shall be deemed to constitute the quorum.
- viii. That the Chairperson appointed for the aforesaid Meeting of the Transferee Company to issue and publish the notices of the Meeting referred to above. The said Chairperson shall have all powers pursuant to sections 230 and 232 of the Companies Act, 2013 read

with other applicable provisions of the Companies Act, 2013, the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 and Companies (Management and Administration) Rules, 2014, to the extent necessary and applicable, in relation to the conduct of the Meeting including for deciding procedural questions that may arise at or at any adjournment thereof or any other matter including, an amendment to the Scheme or resolution, if any, proposed at the Meeting by any person(s).

- ix. That the Chairperson shall file a compliance report not less than 7 (Seven) days before the date fixed for the holding of the Meeting of the unsecured creditors of the Transferee Company to this Tribunal that the directions regarding the issue of notices and advertisements have been duly complied with as per Rule 12 of Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
  - x. The Chairperson shall be responsible to report the result of the meeting to this Tribunal within 2 weeks of the conclusion of the meeting with regard to the proposed Scheme.
14. The Applicant Companies are directed to serve notices along with a copy of the Scheme under the provisions of Section 230 (5) of the Companies Act, 2013 and Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, upon the –

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MUMBAI BENCH-IV**

**CA (CAA)/20/MB-IV/2024**

- a. Central Government through the office of Regional Director (Western region), Mumbai.
  - b. Jurisdictional Registrar of Companies, Maharashtra, Mumbai.
  - c. Income Tax Authority having jurisdiction for the Transferor Company – PAN AABCJ8288K having jurisdiction at 1001-A, Supreme Business Park, Supreme City, Hiranandani Gardens, Powai, Mumbai – 400076 and for the Transferee Company – PAN AAACC8145M having jurisdiction at Unit No. 1201-02, Tower 2, One World Center, Jupiter Mills Compound, S.B. Marg, Elphinstone Road, Mumbai – 400013 and the Nodal Authority in the Income Tax Department having jurisdiction over such authority i.e., Pr. CCIT, Mumbai, Address: - 3rd Floor, Aayakar Bhawan, Mahrishi Karve Road, Mumbai – 400 020, Phone No. 022-22017654 [E-mail: Mumbai.pccit@incometax.gov.in];
  - d. Jurisdictional GST Authority(s) (proper officer), within whose jurisdiction such companies are assessed to tax under GST law;
  - e. Ministry of Corporate Affairs; and
  - f. Any other Sectoral/ Regulatory Authorities relevant to the Applicant Companies or their business.
15. The Transferor Company is also directed to serve the Copy of Scheme upon Official Liquidator, pursuant to section 230(5) of the Companies Act, 2013 and as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

16. The Notice shall be served through by Registered Post-AD/Speed Post and through email along with copy of scheme and state that *“If no response is received by the Tribunal from the concerned Authorities within 30 days of the date of receipt of the notice it will be presumed that the concerned Authorities has no objection to the proposed Scheme”*. It is clarified that notice service through courier shall be taken on record only in cases where it is supported with Proof of Delivery having acknowledgement of the noticee.
17. The Applicant Companies shall host the notices directed herein on their respective websites, if any.
18. With a view to avoid any conflict arising out from those unsecured creditors, whose email addresses are not available with the Applicant Companies or who have not received notice convening Meeting or notice seeking representations, as the case may be, the Applicant Companies shall host such notices on its website.
19. The Applicant Companies will submit –
  - i. Details of Corporate Guarantee, Performance Guarantee and Other Contingent Liabilities, if any.
  - ii. List of pending IBC cases, if any, along with all other litigation pending against the Applicant Companies having material impact on the proposed Scheme.
  - iii. The Applicant Companies shall submit details of all Letters of Credit sanctioned and utilized as well as



IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH-IV

CA (CAA)/20/MB-IV/2024

Margin Money details; if any.

20. The Applicant Companies shall file an affidavit of service within 10 working days after serving to notice to all the regulatory authorities as stated above and do report to this Tribunal that the directions regarding the issue of notices have been duly complied with

Sd/-  
**Anu Jagmohan Singh**  
Member (Technical)

Sd/-  
**Kishore Vemulapalli**  
Member (Judicial)