

S.No.5

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH – 1  
VC AND PHYSICAL (HYBRID) MODE  
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON  
08-07-2024 AT 10:30 AM**

**CP (CAA) No. 09/230/HDB/2024**  
u/s. 230 of Companies Act, 2013

**IN THE MATTER OF:**

M/s. Medsamrt Logistics Pvt Ltd (Transferor Company) & M/s. Keimed Pvt Ltd  
(Transferee Company) **...Petitioner**

**C O R A M:-**

**DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)  
SH. CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)**

**ORDER**

Orders pronounced. In the result, **CP (CAA) No. 09/230/HDB/2024 is allowed,**  
subject to the directions mentioned in the order.

**Sd/-**  
**MEMBER (T)**

**Sd/-**  
**MEMBER (J)**

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH, HYDERABAD-1**

CP (CAA) No.9/230/HDB/2024

Connected with

CA (CAA) NO.61/230/HDB/2023

Under Sections 230 and 232 of the Companies Act, 2013 read with the  
companies (compromises, arrangements and amalgamations) Rules, 2016

**IN THE MATTER OF  
KEIMED PRIVATE LIMITED  
(TRANSFEREE COMPANY)  
AND  
ITS SHAREHOLDERS AND CREDITORS**

**KEIMED PRIVATE LIMITED**

[Formerly known as Keimed Limited],

CIN: U72200TG2000PTC033837

Having its registered office at

10-3-316/A Masab Tank Hyderabad - 500 028,

Telangana, India,

Represented by its Director, Mr. Arvind Kumar Venkat.

...Petitioner Company/Transferee Company

**DATE OF ORDER: 08.07.2024**

**CORAM:-**

**DR. VENKATA RAMAKRISHNA BADARINATH NANDULA,**

**HON'BLE MEMBER (JUDICIAL)**

**SH. CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)**

## **Counsels / Parties Present**

For the Petitioner : Mr.Sanjay Kishore, Counsel .  
For the Respondent: Smt.Kusum Yadav, Assistant Regional Director  
Mr.D.Vasantrao Meshram, Assistant O.L

## **PER BENCH**

1. This Petition is filed by the Petitioner Company under Section 230 to 232 of the Companies Act, 2013 read with the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 and other applicable provisions of the Companies Act, 2013 by inter-alia praying for sanction of the Scheme of Amalgamation (Annexure-7) between Transferor Company and Transferee Company and their respective shareholders, creditors and also other agencies, Departments and Authorities of the Central, State and other local authorities.
2. The averments made in the Petition are briefly described as under:
  - a. The Transferor Company, M/s. Medsmart Logistics Private Limited (“**Transferor Company**” or “**MEDSMART**”) was incorporated on 31<sup>st</sup> August 2016 under the provisions of the Companies Act, 2013 in the State of Tamil Nadu. The CIN of the Transferor Company is U52609TN2016PTC115288 and registered under the Registrar of Companies, Tamil Nadu. It is engaged in the business of Medical and Pharmaceuticals products (hereinafter referred to as the “**Business of the Transferor Company**”). A copy of the Certificate of Incorporation,

Memorandum and Articles of Association of the Transferor Company are annexed as **Annexure 1** to this Petition.

- b. The authorized, issued, subscribed and paid-up share capital of the Transferor Company as on 31<sup>st</sup> September, 2023 are as under:

<b>Particulars</b>	<b>Amount (in INR)</b>
<b>Authorized Capital</b>	
10,00,000 Equity shares of INR 10 each	1,00,00,000
<b>Total</b>	<b>1,00,00,000</b>
<b>Issued, Subscribed and Paid-up</b>	
10,000 equity shares of INR 10 each	1,00,000
<b>Total</b>	<b>1,00,000</b>

Subsequent to 31<sup>st</sup> March, 2023, there has been no change in the authorized, issued, subscribed and paid-up share capital of the Transferor Company. A copy of the latest audited financial statements of the Transferor Company as on 31<sup>st</sup> March, 2022 and unaudited financial statement as on 31<sup>st</sup> September, 2023, is annexed as **Annexure 2** and **Annexure 3** respectively to the Petition.

- d. The authorized, issued, subscribed and paid-up share capital of the Transferee Company as on 31<sup>st</sup> September, 2023 is as under:

<b>Particulars</b>	<b>Amount in INR</b>
<b>Authorized Capital</b>	
1,01,00,000 equity shares of INR 10 each	10,10,00,000
<b>Total</b>	<b>10,10,00,000</b>
<b>Issued, Subscribed and Paid-up</b>	
59,48,959 equity shares of INR 10 each	5,94,89,590
<b>Total</b>	<b>5,94,89,590</b>

A copy of the latest audited financial statements of the Transferee Company as on 31<sup>st</sup> March, 2023 and unaudited financial statement as on 31<sup>st</sup> September, 2023 are annexed as **Annexure 5** and **Annexure 6** respectively to the Petition.

3. The Board of Directors of the Petitioner Companies has approved the Scheme of Transferor Company and Transferee Company vide resolutions dated 29.08.2023 and 11.09.2023. Certified copies of Board Resolutions of the Petitioner Companies approving the Scheme is annexed and marked as **Annexure-17** respectively to the Application. A copy of the Scheme as approved by the Board of Directors of the Applicant Companies is annexed and marked as **Annexure-7** to the Petition.

**4. BENEFITS ARISING OUT OF AMALGAMATION:**

The Transferor Company and the Transferee Company are in similar line of business i.e., dealing in medical and pharmaceuticals products. With the intent of aligning the business operations undertaken by the Transferor Company and the Transferee Company, the Board of Directors of the Companies propose, by way of this Scheme, to amalgamate the Transferor Company into the Transferee Company in accordance with the terms hereof. The said amalgamation would have the following benefits:

- a. Consolidation of activities of the Transferor Company and the Transferee Company, which are similar to each other, and thereby resulting in efficient management of the businesses, higher revenues, profitability and market share;
- b. Expansion of consolidated business and unlock value for all stakeholders;
- c. Cost savings due to integrated business functions and synergy generated, thereby enhancing shareholder value, realizing operational synergies and increasing operational efficiency;
- d. Opportunity to leverage the combined assets, financial, managerial and technical resources and build a stronger sustainable business.

Thus, as a whole the consolidation shall be beneficial to the interest of the Transferor Company and the Transferee Company, their shareholders, their creditors, employees, customers and all other concerned and connected thereto.

5. **COMPLIANCE OF ACCOUNTING STANDARD**

It is averred that the certificate issued by the statutory auditors of the Transferee Company stating that the accounting treatment as provided for in the scheme, is in accordance with the accounting principles laid down under the Act. A copy of the certificate issued by the statutory Auditors of the Transferee Company is annexed herewith as **Annexure -9**.

6. **CONSIDERATION**

Upon Part B of the Scheme becoming effective, and in consideration of the transfer and vesting of the Undertaking. Transferee Company shall without any further application, act, instrument or deed, issue and allot, in demat form, to all the equity shareholders of Transferor Company, whose names appears in the register of members as on the Record Date (as defined in the Scheme), fully paid up equity shares in the following share exchange ratio:

"465.24 equity shares of INR 10/- each credited as fully paid-up shares of Transferee Company for every 100 equity shares of INR 10/- each fully paid-up held by such equity shareholder in Transferor Company".

In case any shareholder's holding in the Transferor Company is such that such shareholder becomes entitled to a fraction of a share of the Transferee Company, the Transferee Company shall not issue fractional share certificates to such

shareholders. Any fraction equal to or more than 0.5 arising out of such allotment shall be rounded off to the next higher integer and fraction less than 0.5 shall be rounded off to the earlier lower integer. A copy of the Valuation Report for determining swap ratio issued by a Registered Valuer is annexed as **Annexure 8** to the petition.

7. It is averred that upon the coming into effect of this Scheme, the Transferor Company shall stand dissolved without winding-up without any further act or deed.

8. **DECLARATION BY THE PETITIONER COMPANIES**

- a. No similar Petition/ petition under Section 230 to Section 232 has been filed by the Petitioner Companies with reference to the Scheme and there has been no material change in the affairs of the Petitioner Companies except in what has been done in the normal course of business.
- b. No investigation or proceedings under the Companies Act, 1956 / Companies Act, 2013 have been instituted or are pending in relation to the Petitioner Companies.
- c. The Directors of the Petitioner Companies have no material interest in the Scheme except in their capacity as directors and/or shareholders.



9. While it is so, on 28.11.2023, this Tribunal upon hearing the Applicant Company in respect of the prayer for dispensing the meetings of shareholders and for conveying the meeting of creditors of the Applicant Company, this Tribunal passed the following order:

“This Tribunal hereby dispensed with convening the meeting of equity Shareholders and hereby ordered to convene meetings of the Creditors of the Transferee Company. Further ordered publication and notices to the Statutory regulators.”.

The copy of the order is annexed as Annexure-11 to the Petition.

10. After complying with the directions of this Tribunal vide order dated 07.02.2024, Petitioner Company had filed the present Company Petition for sanction of the Scheme. Thus, this Tribunal vide order dated 22.02.2024 ordered notices to all the statutory authorities as per Rule 16 of Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. Subsequently notices were issued on all the statutory Authorities. It is further submitted that the Petitioner Companies as per the order of this Tribunal, carried out publication in the Business Standard (English) and Nava Telangana (Telugu) Newspapers on 28.02.2024 and filed the Compliance Memo with this Tribunal on 18.03.2024.

#### **11. REGIONAL DIRECTOR, SOUTHEAST REGION REPORT:**

- The Regional Director vide his report dated 02.04.2024 has made certain observations. The Petitioner Companies have filed affidavit dated 04.04.2024, in response to the observations made by the

Regional Director, Southeast Region, Ministry of Corporate Affairs,  
Hyderabad.

<b>Observations made by the Regional Director</b>	<b>Reply to the observations by the Petitioner Company</b>
<p><b>Para 4(c)</b></p> <p>It is submitted that Transferee Company in its reply in point no.20 has mentioned that the total no of unsecured creditors was 339 out of which creditors attended the court convened meeting and the percentage of voting in favour is given as 68.95% , whereas in the report of scrutinizer the percentage is given as 100% which is contradictory. Hence clarification may be furnished by the petitioner company.</p>	<p>It is submitted that the percentage given in the report of the Scrutinizer is correct, wherein 47 number of unsecured and Trade creditors were present and voted in favour of the Resolution, and 3 members votes were declared invalid.</p>
<p><b>Para 4(d-f)</b></p> <p>Hon'ble Tribunal may please to direct the Petitioner Company to preserve the books, comply with statutory laws, shall pay differential fee and stamp duty, file Inc-28 with the Registrar of Companies.</p>	<p>The Petitioner Companies vide this affidavit undertakes to comply with all the Applicable provisions and rules under the Companies Act, 2013.</p>

<p><b>Para 5</b></p> <p>Hon'ble Tribunal may direct the Petitioner Companies to furnish an undertaking that, if any demand arises from the Income Tax Department with respect to Transferor Companies and Transferee Company, Transferee Company is ready to pay the said dues as per rules.</p>	<p>The Petitioner Company undertakes to take all necessary steps and action and pay dues, if any to the extent applicable with respect to any tax demand as per the provisions of the Income Tax, Act, 1961.</p>
<p><b>Para 6(a)</b></p> <p>Clause 12.1 of Part C of the Scheme provides for an automatic increase in Authorized Capital of the Transferee Company with that of the Transferor Company which is not correct. The transferee Company shall pay the differential fee and stamp dues payable on the said increase in Authorized capital after deducting such fees and duties paid but the Transferor Company before the merger in terms of provisions of Section 232(3)(i) of the Act.</p>	<p>Petitioner company undertakes to comply as per the provisions of Section 232(3)(i) of the Companies Act, 2013.</p>
<p><b>Para 6(b)</b></p> <p>Hon'ble Tribunal may direct the Transferee Company to furnish an undertaking with</p>	<p>Petitioner Company undertakes to comply Section 188 of the Act , 2013.</p>

regard to compliance of the provisions of section 188 of the Companies Act, 2013.	
<b>Para 6(f)</b> Petitioner company be directed to furnish an undertaking the necessary compliances made under Section 185/186 of the Companies Act, 2013.	Petitioner Company undertakes to comply Section 185 and 186 of the Act , 2013

- The Regional Director filed further report dated 16.04.2024 stating that petitioner company has complied with the observations raised by the Deponent and hence matter may be decided on merits.
12. **Assistant Official Liquidator** Mr.D.Vasantrao Meshram, from OL office vide order dated 13.06.2024 stated that since the Transferor Company is in the jurisdiction of the office of the OL, Chennai, no observations by the Office of OL, Hyderabad is filed and the only objection is regarding jurisdiction. Further stated that Hon'ble NCLT, Chennai has allowed the Transferor Company petition on 28.06.2024 and the copy of the same has been filed.
13. We have heard the Learned Counsel appearing for the Petitioner Companies and perused the material papers on record. As regards to the observations pointed out by the Regional Director and compliance filed by the petitioner company, it appears that Petitioner

Companies undertake to comply the necessary observations whenever required. After hearing the Counsel for the Petitioner Companies and considering the material on record, we are of the view that scheme is not opposed to public interest and the proposed Scheme is in the interests of the Transferor Company, the Transferee Company and their respective shareholders, employees, creditors and all persons concerned. Hence the scheme can be approved with appointed date as 01.04.2022. All the statutory compliances have been made under Section 230 to 232 of the Companies Act, 2013. Hence ordered.

### **ORDER**

- (i). The Scheme of Amalgamation is hereby sanctioned with appointed date as 01.04.2022 and shall be binding on all the members, employees, creditors and all other stakeholders of the Petitioner Company
  
- (ii). While Approving the Scheme, we made it clear that this order should not be construed as an order in anyway granting exemption from payment of Stamp Duty, taxes or any other charges, if any, payable in accordance with law or in respect of any permission/compliance with any other requirement which may be specially required under any law.

- (iii). The whole of the assets, property, rights and Liabilities of the Transferor Company shall be transferred without the requirement of any further act or deed to the Petitioner/Transferee Company.
- (iv). We direct the Petitioner company to comply with all the observations pointed out by the Regional Director.
- (v). We direct the Petitioner company to comply with all the observations pointed out by the Official Liquidator.
- (vi). We direct the Petitioner Company to preserve the books of accounts and papers and records and the same shall not be disposed of without the prior permission of the Central Government in terms of provisions of Section 239 of the Companies Act, 2013.
- (vii). We direct the Petitioner Company to ensure statutory compliance of all applicable laws and also on sanctioning of the present Scheme the Petitioner Companies shall not be absolved for any of their statutory liability in any manner.
- (viii). All the legal proceedings pending by or against the Transferor Company shall be continued by or against the Transferee Company.
- (ix). We direct the petitioner Company to comply with the observations if any with the Income Tax Authorities as per law.

- (x). We direct the petitioner Company to comply with the observations if any with the Competition Commission of India as per law.
- (xi). The Petitioner Company is directed to strictly comply with the Accounting Treatment Standards prescribed under Section 133 of the Companies Act, 2013.
- (xii). The sanction of the Scheme by this Tribunal shall not forbid the revenue authority from taking appropriate recourse for recovering the existing and previous tax liabilities of the Transferor and Transferee Companies.
- (xiii). We direct the Transferee Company to comply with the provisions of Section 2 (41) of the Companies Act, 2013.
- (xiv). The Petitioner Company shall until the completion of the Scheme of Amalgamation, file a statement in such form and within such time as prescribed with the Registrar every year duly certified by a Chartered Accountant or a Cost Accountant or a Company Secretary to the effect that the Scheme of Amalgamation is being complied with in accordance with the orders of the Tribunal as required under Section 232 (7) of the Companies Act, 2013.
- (xv). We direct the Petitioner Company involved in the Scheme to comply with Rule 17 (2) of the Companies (Compromise, Arrangement and Amalgamation) Rules, 2013. The Petitioner Companies within 30 days after the date of receipt of certified copy of the order, shall cause

certified copy to be delivered in Form INC-28 to the Registrar of Companies concerned for registration and on such certified copy being delivered, Registrar of Companies concerned shall take all necessary consequential action in respect of the Petitioner Companies.

- (xvi). The Petitioner Company is further directed to take all consequential and statutory steps required in pursuance of the approved Scheme of merger under the provisions of the Companies Act, 2013 and submit necessary compliance and undertaking relating to the objections raised by the Regional Director (SER), MCA, GoI, Hyderabad.
- (xvii). Any person shall be at the liberty to apply to the Tribunal in the above matter for any directions that may be necessary.
- (xviii). Accordingly, the **CP (CAA) 09/230/HDB/2024** is hereby allowed and disposed of.

SD

Charan Singh  
Member Technical

Pavani

SD

Dr. Venkata Ramakrishna Badarinath Nandula  
Member Judicial