

SL. No.1

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO: II**

Hearing Through: VC and Physical (Hybrid) Mode

CORAM: SHRI. RAJEEV BHARDWAJ, HON'BLE MEMBER (J)

CORAM: SHRI. SANJAY PURI, HON'BLE MEMBER (T)

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH, HELD ON 10.07.2024 AT 10:30 AM**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CA (CAA) No.20/230/2024
NAME OF THE COMPANY	Emtac Laboratories Pvt Ltd (Transferor Co.) and Vimata Labs Ltd (Transferee Co.)
NAME OF THE PETITIONER(S)	
NAME OF THE RESPONDENT(S)	
UNDER SECTION	u/s 230 of Companies Act

ORDER

Orders pronounced, recorded vide separate sheets. In the result, the Company application is allowed.

Sd/-
MEMBER (T)

Sd/-
MEMBER (J)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, COURT – II**

CA (CAA) No. 20/230/HDB/2024

*[U/s 230 to 232 of the Companies Act, 2013
and other applicable provisions of the Companies Act, 2013]*

IN THE MATTER OF SCHEME OF AMALGAMATION OF

**M/S. EMTAC LABORATORIES PRIVATE LIMITED
(TRANSFEROR COMPANY)**

AND

**M/S. VIMTA LABS LIMITED
(TRANSFeree COMPANY)**

AND

THEIR RESPECTIVE SHAREHOLDERS AND CREDITORS

M/s. EMTAC Laboratories Private Limited

Registered Office at Plot No.11/6,
Road No.9, IDA, Nacharam, Rangareddi,
Hyderabad, Telangana, India-500076.
Represented by its Company Secretary,
Smt Sujani Vasireddi.

....First Applicant Company/ Transferor Company

And

M/s. Vimta Labs Limited

Registered Office at Plot No.141/2 & 142,
IDA Phase II, Charlapalli, R.R. District,
Hyderabad-500 051, Telangana, India.
Represented by its Managing Director,
Smt Harita Vasireddi.

....Second Applicant Company/ Transferee Company

Date of Order:10.07.2024

CORAM:

Sri Rajeev Bhardwaj, Hon'ble Member (Judicial)
Sri Sanjay Puri, Hon'ble Member (Technical)

Counsel/Parties present:

For the Applicant : Mr. V.B. Raju, Advocate

[**PER: BENCH**]

ORDER

1. This is a Joint Application filed on behalf of the Applicants, M/s. EMTAC Laboratories Private Limited (Transferor Company) with M/s. Vimta Labs Limited (Transferee Company) under Sections 230-232 of the Companies Act, 2013, inter-alia seeking the following reliefs:
 - i. To dispense with the requirement of holding of the meeting of the Equity Shareholders of the First Applicant Company/Transferor Company as all the equity shareholders of the First Applicant Company/Transferor Company have given their consent affidavits.
 - ii. To dispense with the requirement of holding the meetings of the Secured and Unsecured Creditors of the First Applicant Company/Transferor Company since the Sole Secured Creditor and requisite Unsecured Creditors have given their consents.
 - iii. To dispense with the requirement of holding of the meeting of the Equity Shareholders, Secured Creditors and Unsecured Creditors of the Second Applicant/Transferee Company since the First Applicant/Transferor Company is a wholly owned subsidiary of the Second Applicant/Transferee Company.
2. The Registered Offices of the Applicant Companies are situated in the State of Telangana.
3. The Brief facts of the case:

I. First Applicant Company/ Transferor Company:

- i. M/s. EMTAC Laboratories Private Limited (First Applicant Company/Transferor Company) was incorporated on 17.10.2014 with CIN: U74200TG2014PTC096043.
- ii. The main objects of the First Applicant/Transferor Company are:
 - a. To carry on the business of Products Assessment and Certification of all types of consumer and industrial products in the filed of Electrical, Electronic, Mechanical and Thermal by establishing necessary laboratories and conducts tests as per National/International standards and offer services to its customers/sponsors in India and abroad.
 - b. To carry on Inspections at the request of its customers/public Organizations and certify the products/processes.
 - c. To Collaborate with and or participate in National/International Standards Organization/association activities in furtherance of its objects.
 - d. To conduct Standards, Research & Development programs in the field of human interventional testing, biomedical instruments, electrical, electronic and information technology gadgets and automotive components.
 - e. To provide Consultancy for products/process development in achieving desired standards of equity.

iii. **NATURE OF BUSINESS**

The First Applicant/Transferor Company is engaged in business of Testing and Certification of all types of physical security products, Electrical, Electronic and Mechanical products.

(A copy of the Memorandum and Articles of Association of the First Applicant Company/ Transferor Company is filed as Annexure-1 at Page Nos.28 to 56 of the Application).

- iv. The authorized, issued, subscribed and paid-up capital of the First Applicant Company/ Transferor Company as on 31.03.2024 is as follows:

Particulars	Amount (In Rs.)
Authorised Share Capital	
49,99,950 equity shares of Rs.10/- each	4,99,99,500
TOTAL	4,99,99,500
Issued, subscribed and paid-up share capital	
34,16,500 equity shares of Rs.10/- each fully paid up	3,41,65,000
TOTAL	3,41,65,000

Subsequent to 31.03.2024, there is no change in the authorized, issued, subscribed and paid-up share capital and the entire share capital of First Applicant/Transferor Company is held by Second Applicant/Transferee Company and its nominee.

(A Copy of the Audited Balance Sheet as at 31st March, 2024 of the Transferor Company is filed as Annexure-2 at Page Nos.57-102 of the application).

II. Second Applicant Company/ Transferee Company:

- i. M/s. Vimta Labs Limited (Second Applicant/Transferee Company) was incorporated on 16.11.1990 with CIN: L24110TG1990PLC011977.
- ii. The main objects of the Second Applicant/Transferee Company are:
- a. To continue to carry on in India or abroad, the trade, business, activities and/or other adventures of the partnership firm by the name and style of M/s. Vimta Labs, a partnership firm, at present with its principal place of business in Hyderabad, together with all the properties, assets, liabilities, undertaking

establishments, factories, laboratories, belongings, funds, rights, goodwill privileges, obligations and contracts of the said firm or in connection therewith and to run, improve and develop the same as an on-going concern.

- b. To carry on the business of the testing, analysis and quality assurance stems of various industrial, non-industrial, agricultural and other materials, such as Metals, Minerals, Drugs and Pharmaceuticals, Chemicals, Fertilizers, Pesticides, Oils, Foods, Feeds, Civil Engineering and Building Materials, Mechanical, Electrical and Electronic goods and to conduct Microbiological, Toxicological and Bio availability Studies and to render consultancy and training in all the above fields and for this purpose to establish laboratories and get the same approved by appropriate authorities.

iii. **NATURE OF BUSINESS**

The Second Applicant/Transferee Company is engaged in business of Contract Research and Testing Organization which includes Electro Magnetic Interference (EMI)/Electro Magnetic Compatibility (EMC) testing.

(A copy of the Memorandum and Articles of Association of the Second Applicant/ Transferee Company is filed as Annexure-3 at Page Nos.103 to 152 of the Application).

- iv. The authorized, issued, subscribed and paid-up share capital of the Second Applicant/Transferee Company as on 31.03.2024 is as follows:

Particulars	Amount (In Rs.)
Authorised Share Capital	
3,50,00,000 equity shares of Rs.2/- each	7,00,00,000
TOTAL	7,00,00,000
Issued, subscribed and paid-up share capital	

2,21,70,583equity shares of Rs.2/- each fully paid up	4,43,41,166
TOTAL	4,43,41,166

Subsequent to 31.03.2024, there is no change in the authorized, issued, subscribed and paid-up share capital of the Company.

(A Copy of the Audited Balance Sheet as at 31st March, 2024 of the Transferee Company is filed as Annexure-4 at Page Nos.153-295 of the Application).

3. **Rationale and Purpose of the Scheme of Amalgamation:**

ELPL is a wholly owned subsidiary of VLL. Both ELPL and VLL are in similar lines of business. It is proposed to amalgamate ELPL with VLL to consolidate the business of both companies within a single entity with a view to achieve operational synergies and efficiency in administrative functions. The Scheme will result in cost savings through operational synergies, pooling of resources, legal entity rationalization and reduction of administrative responsibilities, and legal & regulatory compliances.

The Scheme is in the interest of ELPL, VLL and their respective stakeholders.

4. The Board of Directors of the Transferor Company and Transferee Company at their respective meetings held on 29.03.2024 and 30.03.2024, have approved the Scheme of Amalgamation of M/s. EMTAC Laboratories Private Limited (Transferor Company) with M/s. Vimta Labs Limited (Transferee Company) and their respective Shareholders and Creditors with appointed date as 01.04.2024.

(The copies of the Board Resolutions of the Transferor Company and Transferee Company approving the Scheme of Amalgamation are filed as Annexure-5 and Annexure-6 at Page Nos.296-299 of the Application).

5. The salient/material features of the proposed Scheme of Amalgamation are detailed in Page Nos.10 to 14 of the Application.

6. **CONSIDERATION:**

ELPL is a wholly owned subsidiary of VLL. Therefore, there shall be no issue of shares as consideration for the amalgamation of ELPL with VLL.

7. **ACCOUNTING TREATMENT:**

Notwithstanding anything to the contrary in the other parts of the scheme, the Transferee Company shall give effect to the accounting treatment in books of accounts in accordance with the standards specified under Section 133 of the Act read with the Companies (Indian Accounting Standards) Rules, 2015, as applicable on the Appointed Date.

- a. The Transferor and Transferee Company, both being entities under common control, shall account for the amalgamation in its financial statements in accordance with the “Pooling of Interest Method” laid down by Appendix C of Ind AS 103 – Business combinations prescribed under Section 133 of the Act and other generally accepted accounting read with the recent clarifications issued by Institute of Chartered Accountants of India (ICAI).
- b. The Transferee Company shall upon the scheme coming into effect, record all the assets (including goodwill), liabilities and reserves of the Transferor Companies vested in it pursuant to this Scheme. At their existing carrying amounts and in same form as appearing in the consolidated financial statements of the Transferee Company.
- c. As a result, investment in the equity of the Transferor Company as appearing in the books of Transferee Company shall stand cancelled. To the extent there are inter-company loans, advances & any other balances whatsoever between the Transferor and

Transferee Company, the same shall stand cancelled without any further act or deed, upon becoming of operating the scheme.

- d. In case of any difference in accounting policy between the Transferor Company and Transferee Company, the impact of the same till the appointed date will be quantified and adjusted in the reserves to ensure that the financial statements of the Transferee Company to reflect the financial position on the basis of consistent accounting policy.
- e. On this scheme becoming effective, the financial information in the financial statements of the transferee company in respect of prior periods will be restated as if Amalgamation had occurred form (a) the beginning of the preceding period in the financial statements or (b) the date when control was acquired, whichever is later.

8. **DISSOLUTION OF ELPL:**

On the Scheme becoming effective, ELPL shall stand dissolved without going through the process of winding up and the Board and any committees thereof of ELPL shall without any further act, instrument or deed be and stand discharged. On and from the Effective Date, the name of ELPL shall be deemed to be struck off from the records of the RoC.

9. A copy of the Scheme of Amalgamation as approved by the Board of Directors of First Applicant/Transferor Company and Second Applicant/Transferee Company is filed as **Annexure-7 at Page Nos.300-329 of the Application.**
10. Certificate issued by M/s. Gattamaneni & Co., Chartered Accountants certifying that the proposed Scheme of Amalgamation of First Applicant/Transferor Company and Second Applicant/Transferee

Company is in conformity with the accounting standards as prescribed under the provisions of under Section 133 of the Companies Act, 2013.

(A copy of the certificate issued by the Chartered Accountant confirming the Accounting Treatment proposed in the Scheme is filed as Annexure-8 at Page Nos.330-332 of the Application).

11. **NO VALUATION REPORT:**

As the First Applicant/Transferor Company is a wholly owned subsidiary of the Second Applicant/Transferee Company and pursuant to the Scheme, no consideration is proposed to be involved, hence, the requirement of obtaining a valuation report is not applicable in this case.

12. **INTIMATION TO THE STOCK EXCHANGE:**

It is respectfully submitted that the Second Applicant/Transferee Company is a listed company having its shares listed and traded on the BSE Limited and National Stock Exchange of India Limited (NSE). However, since the present Scheme solely provides for the Amalgamation of its wholly owned subsidiary into its parent company, no formal approval, is required from the Stock Exchanges or Securities and Exchange Board of India (“SEBI”) for the Scheme, in terms or provisions of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations 2015, read with the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) (Amendment) Regulations, 2017, and SEBI Circular No.CFD/DIL3/CIR/2017/21, dated 10th March, 2017 and Circular No.CFD/DIL3/CIR/2018/2, dated 03rd January, 2018, and Master Circular No.SEBI/HO/CFD/DIL1/CIR/P/2021/0000000665 dated November 23, 2021 issued by SEBI and other applicable provisions, if any.

In terms of the SEBI Regulations, the present Scheme of Amalgamation is only required to be filed with BSE Limited (BSE) and National Stock Exchange of India Limited (NSE) (the Stock Exchanges where the

Transferee Company is listed) for the purpose of disclosure and dissemination on its website. In compliance with Regulation 37(6) of the SEBI Regulations, the Second Applicant/Transferee Company has filed the copy of the aforesaid Scheme and board resolution of the Second Applicant/Transferee Company approving the Scheme, with BSE and NSE for the purpose of disclosure.

(A copy of the email sent to BSE and NSE for filing of the Scheme is filed as Annexure-9 at Page Nos.333-337 of the Application).

13. **CONSENTS OF EQUITY SHAREHOLDERS:**

- i. There are 2 shareholders in the First Applicant/Transferor Company and they have given their no objection to the proposed Scheme by means of consent affidavits who are interested in the Scheme of Amalgamation.

(A copy of the list of shareholders and no objection affidavits received from them duly certified by M/s. D. Hanumanta Raju & Co, PCS, Hyderabad is filed as Annexure-10 at Page Nos.338-340 of the Application).

- ii. As on 31st May, 2024 the Second Applicant/Transferee Company has 18,550 equity shareholders holding 2,21,70,583 equity shares.

(The certified issued by M/s. D. Hanumanta Raju & Co, PCS, Hyderabad, certifying the summary of the shareholding pattern is filed as Annexures-11 and 12 at Page Nos.341-342 of the Application).

14. **SECURED CREDITORS:**

- i. As on the date of filing of the Application, there is 1 (one) Secured Creditor in First Applicant/Transferor Company and no objection received from the said creditor along with list duly certified by Chartered Accountant is filed as **Annexure-13 at Page Nos.343-346 of the Application.**

- ii. As on the date of filing of the Application, there are 2 (two) Secured Creditors in Second Applicant/Transferee Company and copy of the list of secured creditors duly certified by Chartered Accountant is filed as **Annexure-14 at Page Nos.347-348 of the Application.**

15. **UNSECURED CREDITORS:**

- i. As on the date of filing of the Application, there are 11 (Eleven) Unsecured Creditors in First Applicant/Transferor Company and no objection affidavits received from 5 (Five) Unsecured Creditors amounting to 94% of the Unsecured Creditor in value along with list of Unsecured Creditors duly certified by Chartered Accountant is filed as **Annexure-15 at Page Nos.349-356 of the Application.**
- ii. As on the date of filing of the Application, there are 502 (Five Hundred and Two) Unsecured Creditors in Second Applicant/Transferee Company and copy of the list of Unsecured creditors duly certified by Chartered Accountant is filed as **Annexure-16 at Page Nos.357-370 of the Application.**

16. The interest of the equity shareholders of the Second Applicant/Transferee Company will not be adversely affected by the proposed Scheme. The First Applicant/Transferor Company is a wholly owned subsidiary of the Second Applicant/Transferee Company. Thus, the entire economic interest of the First Applicant/Transferor Company is held by the Second Applicant/Transferee Company. Hence, upon the Scheme becoming effective, inter alia, in recognition of the fact that the Companies Act, 2013 prohibits a company from holding its own shares, no share of the Second Applicant/Transferee Company shall be issued and allotted in lieu or exchange of the holding of Second Applicant/Transferee Company in the First Applicant/Transferor Company. Thus, the proposed Scheme does not result in any dilution in shareholding of Second Applicant/Transferee Company's shareholders including public shareholders and that the shareholding and other rights

of the members of the Second Applicant/Transferee Company shall continue to subsist with no new shares being issued and with no change in the paid-up share capital structure.

17. The Scheme does not adversely affect the rights and interests of the creditors of the Second Applicant/Transferee Company. Pursuant to the Scheme, all the assets and liabilities of the First Applicant/Transferor Company in the manner provided in the Scheme. As on date, the assets of the First Applicant/Transferor Company exceed its liabilities and will be sufficient to meet its liabilities. Further, as on date, the assets of the Second Applicant/Transferee Company exceed its liabilities and would be sufficient to discharge the said liabilities, in the ordinary course of business.
18. This Tribunal in C.A. (CAA) No.4/230/HDB/2024 in the matter of Scheme of merger of M/s. Soubhagya Confectionery Private Limited with M/s. Lotus Chocolate Company Limited, in C.A. (CAA) No.223/230/HDB/2020 M/s. Vaidehi Avenues Limited and M/s. Aster Rail Private Limited with M/s. NCC Limited, in C.A. (CAA) No.23/230/HDB/2022 M/s. GOCL Corporation Limited with M/s. ADPL Estates Limited and in C.A. (CAA) No.47/230/HDB/2023 in the matter of Scheme of merger of M/s. Mviyes Pharma Ventures Private Limited and M/s. Auronext Pharma Private Limited with M/s. Aurobindo Pharma Limited, the Hon'ble NCLT, Mumbai Bench in C.A. (CAA) No.2629/MB/2019 in the matter of scheme of merger of M/s. Ness Software Services Private Limited with M/s. Ness Technologies (India) Private Limited where the facts of the matter were similar to that in the instant case, in consonance with the ratio of the said Tribunal in the matter of (i). Housing Development Finance Corporation Limited in re in CSA No.243 of 2017, (ii). Godrej Consumer Products Limited, in CSA No.915 of 2017, (iii). Mahindra CIE Automotive Limited, in CSA No.899 of 2017 and (iv). Godrej Properties Limited, in CSA No.1019 of 2017, had dispensed with the requirement to hold meeting of Shareholders and creditors of the Transferee Company therein. Further, the Hon'ble NCLAT in the

matter of M/s. Patel Hydro Power Private Limited and Ors Vs. M/s. Patel Engineering Limited held as follows:

“12. To reiterate, we observe that the rights and liabilities of Secured and Unsecured Creditors were no getting affected in any manner by way of the proposed scheme as no new shares are being issued by the ‘Transferee Company’ and no compromise is offered to any Secured and Unsecured Creditors of the ‘Transferee Company’. Therefore, we are of the considered view that when the ‘Transferor and Transferee Company’ involve a parent Company and a Wholly Owned Subsidiary the meeting of Equity Shareholders, Secured Creditors and Unsecured Creditors can be dispensed with as the facts of this case substantiate that the rights of the Equity Shareholders of the ‘Transferee Company’ are not being affected. Therefore, we hold that obtaining 90% consent Affidavits from its unsecured creditors is not required keeping in view the facts of the attendant case.” (A copy of the order passed by the Hon’ble NCLAT Patel Hydro Power Private Limited and Ors. Vs. Patel Engineering Limited).

19. Therefore, it is averred that there is no requirement to convene meetings of shareholders and secured and unsecured creditors of the Second Applicant/Transferee Company and accordingly may be dispensed with.

ORDER

20. After hearing the Learned Counsel for the Applicant Companies and after considering the material on record, the following order is passed:
- a. Hereby dispensed with the requirement of holding of the meeting of the Equity Shareholders of the First Applicant/Transferor Company as all the equity shareholders of the First Applicant/Transferor Company have given their consent affidavits.
 - b. Hereby dispensed with the requirement of holding of the meeting of the Secured and Unsecured Creditors of the First Applicant/Transferor Company since the Sole Secured Creditor and requisite Unsecured Creditors have given their consents.
 - c. Hereby dispensed with the requirement of holding of the meeting of the Equity Shareholders, Secured Creditors and Unsecured Creditors of the

Second Applicant/Transferee Company since the First Applicant/Transferor Company is a wholly owned subsidiary of the Second Applicant/Transferee Company.

- d. Notwithstanding the above, when the Applicant Companies approach this Tribunal seeking approval of the Scheme, it would be open for any person who is interested in the Scheme of Amalgamation to put forth their contentions before this Tribunal.
- e. Accordingly, the Company Application C.A. (CAA) No.20/230/HDB/2024 is allowed and disposed of.

Sd/-
(Sanjay Puri)
Member (Technical)

Apoorva

Sd/-
(Rajeev Bhardwaj)
Member (Judicial)