

**THE NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, CHANDIGARH
(through web-based video conferencing platform)**

**CA (CAA) No. 7/Chd/Hry/2024
(1st Motion)**

**Under Sections 230 to 232 of the
Companies Act, 2013 and Rules 3
and 5 of the Companies
(Compromise, Arrangements and
Amalgamations) Rules, 2016**

IN THE MATTER OF SCHEME OF ARRANGEMENT:

Northcred Services Private Limited

Having its registered office at
H.No. 2486, Aravli Vihar, Sector 49
Faridabad, Haryana- 1210021
PAN: AAGCN4477P,
Assessing Officer Ward No.
Exemptions Ward, Faridabad

...Applicant Company No.1/Transferor Company

And

Valuedrive Technologies Private Limited

having its registered office at
8th Floor, Tower A,
Capital Business Park Road,
Sector 48, Gurugram
Haryana- 122018
PAN: AAGCV7548B
Assessing Officer Ward No. 4 (1)
Gurgaon, Haryana

...Applicant Company No.2/Transferee Company

Order delivered on: 16 .04.2024

**Coram: HON'BLE MR. HARNAM SINGH THAKUR, MEMBER (JUDICIAL)
HON'BLE MR. SUBRATA KUMAR DASH, MEMBER (TECHNICAL)**

Present through Video Conferencing: -

For the Applicant Companies: Mr. Suman Kumar Jha, Advocate

Per: Harnam Singh Thakur, Member (Judicial)

Subrata Kumar Dash, Member (Technical)

ORDER

This is a joint First Motion Application filed by Applicant Companies namely; **Northcred Services Private Limited** (for short hereinafter referred to as Applicant Company No.1/Transferor Company) and **Valuedrive Technologies Private Limited** (for short hereinafter referred to as Applicant Company No.2/Transferee Company) under Section 230-232 of the Companies Act, 2013 (the Act) and other applicable provisions of the Act read with Companies (Compromises, Arrangements, and Amalgamations) Rules, 2016 (the Rules) in relation to the Scheme of Arrangement between the Applicant Companies. The said Scheme is attached as Annexure A-1 of the Application.

2. The Applicant Companies have prayed for dispensing with the requirement for convening the meetings of the Equity Shareholders of Applicant Company No.1 and Applicant Company No.2 and of Preference Shareholders of Applicant Company No.1 and Applicant Company No.2 and of Secured and Unsecured Creditors of Applicant Company No.1 and Applicant Company No.2.

3. The Applicant Company No.1/Transferor Company is presently engaged in the business of sale, maintenance, repair and refurbishment of motor vehicles and related parts and accessories.

4. The Applicant Company No.2/Transferee Company owns and is engaged in the business of managing an online platform, namely "Spinny" facilitating discussions and transactions related to the sale and purchase of used old cars and also grants the right to use this platform.

5. It is submitted that the registered offices of the Applicant Companies are situated in the State of Haryana, and, therefore, both applicant companies are under the territorial jurisdiction of this Bench.

6. The rationale of the Scheme is given below:-

- (a) streamlined group structure and management
- (b) optimum and efficient utilization of financial resources and rationalization of capital, resources, assets and facilities;
- (c) enhancement of competitive strengths, including financial resources ;
- (d) obtaining synergy benefits;
- (e) better management and focus on growing the business;

7. It is stated that the Board of Directors of Applicant Company No.1, and Applicant Company No. 2, in their meetings held on December 26, 2023, have considered and unanimously approved the Scheme of Arrangement subject to sanctioning of the same by this Tribunal. The copies of the Board Resolutions of the Applicant Company No. 1 and Applicant Company No. 2 are attached as Annexures A-2, and A-10 of the application.

8. The appointed date of the Scheme is 01.04.2024 as mentioned in Part-I Clause 1.3 of Scheme of Arrangement which is attached as Annexure A-1 of the application.

9. It is stated that Applicant Company No.1 and Applicant Company No.2 have filed the audited financial statements as on 31.03.2023 which are attached as Annexure A-9 and Annexure A-17, respectively of the application.

10. It is submitted that no corporate debt restructuring is envisaged in the proposed Scheme of Arrangement.

11. It is further submitted that in pursuance of the proviso to Sec. 230 (7) and Section 232 (3) of the Act, Applicant Companies have filed the certificates dated 08.02.2024, issued by statutory auditors of applicant companies certifying that

the Scheme is in compliance with the Accounting Standards under Section 133 of the Act and the same are attached as Annexure A-19 of the application.

12. It is further submitted by the counsel for applicant companies that since the application is being filed for the amalgamation of the Wholly Owned Subsidiary company i.e., Transferor Company into its holding company being the Transferee Company. The Transferee Company holds 100% of the paid-up share capital of the Transferor Company, both directly and through its nominee shareholder. Hence, there is no requirement of the share exchange ratio.

13. It is further submitted that the Transferor Companies is a wholly owned subsidiary of the Transferee Company, upon this Scheme becoming effective, as a consequence of the amalgamation of the Transferor Companies with Transferee Company, all shares which the Transferee Company holds in the Transferor Companies (either directly or through nominees) shall stand cancelled without any issue or allotment of shares or payment whatsoever by the Transferee Company. Consequently, there is no need for a valuation report for the purposes of the Scheme.

14. It is deposed by way of an Affidavit furnished by the authorized representative of the Applicant Companies that the applicant that the notices are required to be issued on a) Central Government through Regional Director (Northern Region), Ministry of Corporate Affairs; New Delhi; (b) Registrar of Companies (NCT of New Delhi and Haryana); (c) the Official Liquidator (Attached to the High Court of Delhi); and (d) Jurisdictional Income Tax Authorities. It is further deposed by way of an affidavit that they are not regulated or governed by the Competition Commission of India (CCI) or any other Sectoral

Regulator or Regulatory Authority. Hence, notice is not required to be served on the CCI or any other Sectoral regulator or Regulatory Authority. (Annexure A-22)

15. It is deposed by the authorised representative of Applicant Companies that there are no material investigations or legal proceedings pending against the Applicant Companies under Section 210 to 227 of the Companies Act, 2013 and Section 235 to 251 of the Companies Act, 1956, or any other applicable law. Moreover, there are no proceedings pending under the Insolvency & Bankruptcy Code, 2016 or the Companies Act, 2013 before the jurisdictional Adjudicating Authority. The aforesaid affidavits, dated 09.02.2024, are attached as Annexure A-21 of the petition.

16. The Applicant Companies have furnished the following documents:-

- i. Proposed Scheme of Arrangement (Annexure A-1 of the application).
- ii. Certificate of Incorporation along with Memorandum and Articles of Association of the Applicant Companies (Annexures A-3 of the application).
- iii. List of Equity Shareholders of the Applicant Company No.1 as on 30.09.2023. (Annexure A-4 of the application).
- iv. List of Equity Shareholders of the Applicant Company No.2 as on 30.09.2023 (Annexure A-12 of the application).
- v. Consent Affidavits of Equity Shareholders of the Applicant Company No.1 (Annexure A-4 of the application).
- vi. List of Secured Creditors of the Applicant Company No.1 as on 30.09.2023 duly certified by VHMT & Company., Chartered Accountants (Annexure A-6 of the application).

- vii. List of Secured Creditors of the Applicant Company No.2 as on 30.09.2023 duly certified by VHMT & Company, Chartered Accountants (Annexure A-14 of the application).
- viii. List of Unsecured Creditors of the Applicant Company No.1 as on 30.09.2023 duly certified by VHMT & Company, Chartered Accountants (Annexure A-7 of the application).
- ix. List of Unsecured Creditors of the Applicant Company No.2 as on 30.09.2023 duly certified by VHMT & Company, Chartered Accountants (Annexure A-15 of the application).
- x. Consent Affidavits of Unsecured Creditors of the Applicant Company No.1 (Annexure A-7 of the application).
- xi. Certificates of Statutory Auditors to the effect that the Accounting treatment proposed in the Scheme is in conformity with Section 133 of the Companies Act, 2013 (Annexure A-19 of the application).
- xii. Audited Financial Statement as on 31.03.2023 of the Applicant Company No.1 and 2 (Annexure A-9 and A-17 respectively of the application).
- xiii. Supplementary Financial Statements for the period ended on 30.09.2023 of the Applicant Company No.1 and 2 (Annexure A-9 and A-17 respectively of the application).
- xiv. Affidavit with regard to the Sectoral Regulator of the Applicant Companies (Annexures A-22 of the application).
- xv. Affidavits stating that there are no legal proceedings against the Applicant Companies (Annexure A-20 of the application).

17. The Applicant Companies have furnished the details of the Equity Shareholders, Secured Creditors and Unsecured Creditors as follows:

Name of the Applicant Companies	Shareholders along with their consent on affidavit		Creditors along with their consents on affidavit					
	Equity Shareholders	Consents submitted on affidavit	Preference Shareholders	Consents submitted on affidavit	Secured Creditors	Consents submitted on affidavit	Unsecured Creditors	Consents submitted on affidavit
Applicant Company No.1	2 (Two)	100% in value	1	100% in value	Nil	Nil	273 (Two Hundred and Seventy Three)	97.89% in value
Applicant Company No.2	17 (Seventeen)	NA	31 (Thirty One)	NA	14	100% in value	943 (Nine Hundred and Forty Three)	90.18% in value

18. Accordingly, the directions of this Bench in the present case are as under:-

I. In relation to Applicant Company No.1/Transferor Company:

- a. The meeting of the Equity Shareholders is dispensed with keeping in view the shareholding and ownership pattern of the company and the fact that the consent by way of affidavits have been received;
- b. The meeting of the Preference Shareholders is dispensed with keeping in view the shareholding and ownership pattern of the company and the fact that the consent by way of affidavits have been received;
- c. Since, there are no Secured Creditors in the Applicant Company No.1/Transferor Company. Therefore, there is no scope for any meeting;
- d. The meeting of the Unsecured Creditors of the Applicant Company No.1/Transferor Company is dispensed with as the consent of the Unsecured Creditor holding 97.89% in value have been received by way of affidavits.

II. In relation to Applicant Company No.2/Transferee Company:

- a. The Transferee Company is a wholly owned subsidiary of the Transferor Company. Reference is made to the decision in the case of ***Momagic Technologies Pvt. Ltd., Company Appeal (AT) No. 147/2022***, wherein the Hon'ble NCLAT dispensed with the meetings of shareholders of the Transferee Company on the grounds that no new shares are being issued, the rights of the shareholders of the Company are not being affected, the scheme does not involve reorganisation of the share capital, and the net worth of the Company post amalgamation would remain highly positive. Accordingly, the meeting of the Equity Shareholders is dispensed with.
- b. The meeting of the Preference Shareholders is dispensed with, since the Transferee Company is a wholly owned subsidiary of the Transferor Company.
- c. The meeting of the Secured Creditors of the Applicant Company No.2/Transferor Company No.2 is dispensed with keeping in view the shareholding and ownership pattern of the company and the fact that the consent by way of affidavits have been received;
- d. The meeting of the Unsecured Creditors of the Applicant Company No.2/Transferor Company No.2 is dispensed with keeping in view the shareholding and ownership pattern of the company and the fact that the consent by way of affidavits have been received;

19. So far as the prayer for serving a notice to the various authorities as espoused in Prayer (ii), Section – 230(5) read with Section – 230(3) of Companies Act, 2013 provides for issuance of notice in case a meeting is

convened. However, all the meetings are dispensed in terms of Section – 230(9) of Companies Act, 2013. Hence, there is no requirement for issuing notice to the sectoral regulators at this stage.

20. The application is allowed in the aforesaid terms.

**Sd/-
(Subrata Kumar Dash)
Member (Technical)**

**Sd/-
(Harnam Singh Thakur)
Member (Judicial)**

April 16 , 2024

ASG