

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL

CHANDIGARH BENCH, CHANDIGARH

CA(CAA) – 43/CHD/HRY/2023

(Under sections 230-232 and other applicable provisions of the Companies Act, 2013 read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.)

IN THE MATTER OF SCHEME OF ARRANGEMENT OF

M/s Convergys India Services Private Limited

Registered Office at:

Two Horizon Centre, Level 6,
Wing B, Golf Course Road,
DLF-5, Sector 43, Gurgaon 122002

... Applicant Company 1/Demerged Company

AND

M/s Convergys Technologies (India) Private Limited

Registered Office at:

Two Horizon Centre, Level 6,
Wing B, Golf Course Road, DLF-5,
Sector 43, Gurgaon 122002, Haryana, India

... Applicant Company 2/Resulting Company No.1

M/s Concentrix Services (Netherland) BV

Registered Office at:

Kabelweg 43, Amsterdam,
Netherlands, 1014 BA.

... Non-Applicant Company/ Resulting Company No.2

For the Petitioner: Mr. Atul V. Sood, Advocate

CORAM:

SH. HARNAM SINGH THAKUR, HON'BLE MEMBER (JUDICIAL)

SH. RAHUL BHATNAGAR, HON'BLE MEMBER (TECHNICAL)

ORDER

PER – RAHUL BHATNAGAR, MEMBER (TECHNICAL)

HARNAM SINGH THAKUR, MEMBER (JUDICIAL)

Order Delivered on: 16.04.2024

1. This is a first motion application filed by the Applicant Company No 1, M/s Convergys India Services Private Limited (for brevity “Demerged Company / Applicant Company No 1”) and M/s Convergys Technologies (India) Private Limited (for brevity “Resulting Company No 1/ Applicant Company No 2”) and M/s Concentrix Services (Netherland) BV (for brevity “Resulting Company No 2/ Non Applicant Company”) under Section 230-232 of Companies Act, 2013 read with 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 in relation to the Scheme of Arrangement by way of Demerger (hereinafter referred to as the “SCHEME”) proposed between the applicants.
2. That the Demerged Company and the Resulting Company No 1 under the Scheme of Arrangement have their respective registered office in Haryana and hence are under the jurisdiction of the National Company Law Tribunal, Bench at Chandigarh. The Resulting Company No 2 under the Scheme of Arrangement having its registered office in Netherlands.

3. The Scheme of Arrangement by way of demerger was approved by Board of Directors of both the Applicant Companies No 1& 2 on 19th June 2023 and the copy of the same have been duly signed and filed along with the application.
4. The Scheme of Arrangement by way of demerger was approved by Board of Directors of Non-Applicant Company on 23rd June 2023 and the copy of the same have been duly signed and filed along with the application.
5. The Applicant Company No.1/Demerged Company – M/s Convergys India Services Private Limited, bearing Corporate Identification No. (CIN): U74899HR2001PTC111537, was incorporated under the provisions of the Companies Act, 1956 as a Private Limited Company vide Certificate of Incorporation dated 18.01.2001, having its registered office at Two Horizon Centre, Level 6, Wing B, Golf Course Road, DLF-5, Sector 43, Gurgaon 122002, Haryana, India. The Share Capital of the Applicant Company No. 1/ Demerged Company is as under: -

Particulars	Rs.
Authorised Share Capital	
4,00,00,000 Equity Shares of Rs.10/- each	40,00,00,000
38,00,000 Preference Shares of Rs. 100/- each	38,00,00,000
Total	78,00,00,000
Issued, Subscribed and Paid-up Share Capital	
60,48,500 Equity Shares of Rs.10/- each	6,04,85,000
Total	6,04,85,000

6. The Applicant Company No. 2/Resulting Company No 1 – M/s Concentrix Technologies (India) Private Limited, bearing Corporate

Identification No. (CIN): U72300HR2010PTC112259, was incorporated under the provisions of the Companies Act, 1956 as Private Limited Company vide Certificate of Incorporation dated 18.11.2010 with the Registrar of Companies, NCT of Delhi & Haryana and having its registered office at 9 Part of 2nd and 3rd Floor & Basement Near LIC office Daryaganj Central Delhi 110002. The Share Capital of the Resulting Company No 1 is as under: -

Particulars	Rs.
Authorised Share Capital	
91,00,000 Equity Shares of Rs. 10/- each	9,10,00,000
Total	9,10,00,000
Issued, Subscribed and Paid up Share Capital	
90,99,863 Equity Shares of Rs. 10/- each	9,09,98,630
Total	9,09,98,630

7. The Non-Applicant Company /Resulting Company No 2 – M/s Concentrix Services (Netherland) BV, bearing establishment Number 000020581289, is a company incorporated under the laws of Netherlands having its registered office at Kabelweg 43, Amsterdam, Netherlands, 1014 BA. Resulting Company 2 legally and beneficially owns 100% of the issued, subscribed and paid-up share capital of the Resulting Company 1. The Share Capital structure is as under: -

Particulars	Amount (in Euro)
Authorized Share Capital	
50,000 Shares of EUR 1 each	50,000
Total	50,000
Issued, Subscribed and Paid-up Share Capital	
18,142 Shares of EUR 1 each	18,142
Total	18,142

8. The Demerged Company as well as the Resulting Company have filed their respective Memorandum and Articles of Association, inter alia delineating their object clauses, as well as their last Audited Annual Accounts for the Financial 31.03.2023.
9. It has been stated that the Demerged Company has 2 Equity Shareholders. Certificate from the Chartered Accountants certifying list of Shareholders was annexed. All the Shareholders have given their respective consents by way of affidavits, which were annexed to the application. It was further represented that the Demerged Company has Nil Secured Creditors hence the necessity of convening or dispensing the meeting does not arise. The Demerged Company has 194 Unsecured Creditors. Out of 194 Unsecured Creditors, 111 Creditors (having 90.42% in value) have given their consent by way of an affidavit, which were annexed to the application. Certificate from Chartered Accountants certifying list of creditors was annexed. In relation to the Shareholders and Unsecured Creditors, it seeks to dispense with the

holding/convening of the meetings as their consent affidavits were placed on record.

10. It has been stated that the Resulting Company No 1 has 2 Equity Shareholders. Certificate from the Chartered Accountants certifying list of Shareholders was annexed. All the Shareholders have given their respective consents by way of affidavits, which were annexed to the application. It was further represented that the Resulting Company No 1 has Nil Secured Creditors hence the necessity of convening or dispensing the meeting does not arise. The Resulting Company No 1 has 48 Unsecured Creditors. Out of 48 Unsecured Creditors, 36 Creditors (having 92.51% in value) have given their consent by way of an affidavit, which were annexed to the application. Certificate from Chartered Accountants certifying list of creditors was annexed. In relation to the Shareholders and Unsecured Creditors, it seeks to dispense with the holding/convening of the meetings as their consent affidavits were placed on record.

11. The proposed scheme of demerger will have following benefits:

- The proposed arrangement is in line with the global outlook of Concentrix Group to segregate its business into Digital Business and CRM Business. It is proposed to only keep Digital Business at Demerged Company to focus entirely on the Digital Business to achieve size, scalability, integration and greater financial strength thereby maximising shareholder value. The CRM Business is proposed to be demerged into Resulting Company 1 which already houses CRM Business and will continue its focus on the CRM Business.

- To ensure that the capital structure of both verticals remains independent, as consideration of demerger, Resulting Company 2 shall issue its shares to the shareholders of Demerged Company (Concentrix US). This is warranted to align the global vision of Concentrix Group of two separate/ independent verticals. Concentrix US will house entire Digital Business footprint in India and Resulting Company 2 shall house the CRM Business.
- Currently, both the businesses have different client base and market dynamics, hence, this segregation is imminent
- This demerger will also result in Demerged Company and Resulting Company 1 achieving operational efficiencies by streamlining of relevant businesses and outlining independent growth strategies by focussing on their core operation and business plans

12. The Applicant Companies have stated that the provisions relating to the accounting treatment for the proposed scheme were in conformity with the applicable provisions of the Companies Act, 2013. Certificates from the Statutory Auditor of the Applicant Companies on the accounting treatment, as proposed in the Scheme, were annexed to the application and it is clearly stated that the accounting treatment is in conformity with that prescribed under Section 133 of Companies Act, 2013.

13. The Applicant Companies have stated that no litigation, proceedings or any investigation under Sections 235 to 251 of the Companies Act, 2013 or Sections 210 to 227 of the Companies Act, 2013 were pending against any of the Applicant Companies.

14. Taking into consideration the submissions and the documents filed therewith, the following directions are issued forthwith in respect of convening/holding or dispensing with the meetings of the Shareholders.

Secured and Unsecured Creditors as well as issue of notices including by way of paper publication as follows:

A. In relation to the Demerged Company:

- a) With respect to Equity Shareholders:** In view of consent affidavits from the 2 Equity Shareholders, having 100% voting share, been filed, convening the meeting of shareholders/members is dispensed with.
- b) With respect to Secured Creditors:** Since there are no Secured Creditors of the Demerged Company, hence, the necessity of convening or dispensing the meeting does not arise.
- c) With respect to Unsecured Creditors:** In view of consent affidavit from 111 Unsecured Creditors (90.42% in value), convening the meeting of Unsecured Creditors is dispensed with.

B. In relation to the Resulting Company No 1:

- a) With respect to Equity Shareholders:** In view of consent affidavits from the 2 Equity Shareholders, having 100% voting share been filed, convening the meeting of shareholders/members is dispensed with.
- b) With respect of Secured Creditors:** Since there are no Secured Creditors of the Resulting Company No 1, hence, the necessity of convening or dispensing the meeting does not arise.
- c) With regard to Unsecured Creditors:** In view of consent affidavit from 36 Unsecured Creditors (92.51% in value), convening the meeting of Unsecured Creditors is dispensed with.

15. Notice of this application shall be served on the following:

- i. The Regional Director, Northern Region, Ministry of Corporate Affairs, B-2 Wing, 2nd Floor, Pt. Deendayal Antyodaya Bhawan, CGO Complex, New Delhi-110003;
- ii. The Registrar of Companies, NCT of Delhi and Haryana, 4th Floor, IFCI Tower, 61, Nehru Place, New Delhi-110019;
- iii. The Income Tax Department (through its Nodal Officer, Principal Chief Commissioner of Income Tax, North West Region, Ayakar Bhawan, Sector 17-E, Chandigarh - 160017;
- iv. Assistant/Deputy Commissioner of Income Tax, Range Code Circle 4(2), Delhi, C. R. Building, Delhi, Range 32(2) in the case of Applicant Company 1/ Demerged Company and
- v. Assistant/Deputy Commissioner of Income Tax, Range Code Circle 2(1)(1), Bangalore, BMTC Building, Koramangala, Range 124(1) in the case of Applicant Company 2/ Resulting Company 1
- vi. Reserve Bank of India at General Manager, Legal Department, World Trade Centre, Cuffe Parade, Colaba, Mumbai, Maharashtra- 400005.
- vii. Any other sectoral regulators required to be served.

The application stands allowed on the aforesaid term and accordingly disposed of.

Sd/-

(RAHUL BHATNAGAR)
MEMBER (TECHNICAL)

April 16, 2024

AG

Sd/-

(HARNAM SINGH THAKUR)
MEMBER (JUDICIAL)