

**NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI**

ORDER SHEET OF THE HEARING ON 29th APRIL, 2024, 10:30 A.M.

**CP (CAA)/2/GB/2024
and
IA (Comp. Act /4/GB/2024
In
CA (CAA)/1/GB/2023**

**Present: 1. Hon'ble Member (Judicial), Shri H.V. Subba Rao
2. Hon'ble Member (Technical), Shri Satya Ranjan Prasad**

In the Matter of	DNB Finance and Invesment Consultants Pvt. Ltd. 2. Jyoti Holdings pvt. Ltd. 3. Karishma Suppliers Pvt. Ltd. (Transferor Companies) And CR Vanijya Pvt. Ltd. (Transferee Company)
Under Section	U/s 230-232 of Companies Act, 2013

For Petitioner (s) : Mr. N. K. Gurumurthy, CA.

For Respondent (s) :

ORDER

Common Order pronounced in the open court *vide* separate sheets.

Sd/-

**Satya Ranjan Prasad
Member (Technical)**

Sd/-

**H.V. Subba Rao
Member (Judicial)**

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C.P (CAA) No. 2 / GB / 2024

Connected With

CA (CAA) No. 1/ GB / 2023

And

IA (Comp. Act) No. 4/GB/2024

In the Matter of:

A Petition under Section 230 to 232 of the Companies Act, 2013 and other applicable provisions of the Companies Act, 2013 read with the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 for sanction of Scheme of Arrangement;

-And-

In the matter of:

DNB FINANCE AND INVESTMENT CONSULTANTS PRIVATE LIMITED, a company incorporated under the provisions of the Companies Act, 1956 (CIN: U67120AS1997PTC005098) and having its Registered Office at Centre Point, 3rd Floor, Opposite Bora Service, G.S. Road, Guwahati- 781007 in the State of Assam;

....Transferor Company No 1 / Petitioner No 1

-And-

In the matter of:

JYOTI HOLDINGS PRIVATE LIMITED, a company incorporated under the provisions of the Companies Act, 1956 (CIN: U70109AS1997PTC005099) and having its Registered Office at Centre Point, 3rd Floor, Opposite Bora Service, G.S. Road, Guwahati- 781007 in the State of Assam;

....Transferor Company No 2 / Petitioner No 2

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IA (Comp. Act) No. 4/GB/2024

-And-

In the matter of:

KARISHMA SUPPLIERS PRIVATE LIMITED, a company incorporated under the provisions of the Companies Act, 1956 (CIN: U51109AS2007PTC018183) and having its Registered Office 2C, 2nd Floor, Itag Plaza, Tarun Nagar, G.S. Road, Kamrup, Guwahati-781005 in the State of Assam;

....Transferor Company No 3 / Petitioner No 3

-And-

In the matter of:

CR VANIJYA PRIVATE LIMITED, a company incorporated under the provisions of the Companies Act, 1956 (CIN: U51909AS2007PTC021479) and having its Registered Office at Centre Point, 3rd Floor, Opposite Bora Service, G.S. Road, Guwahati- 781007 in the State of Assam.

....Transferee Company / Petitioner No 4

IA (Comp.Act) No 4 / GB / 2024.

In the Matter of:

An Application under Rule 11, of NCLT Rules, 2016 for condonation of delay;

-And-

In the matter of:

DNB FINANCE AND INVESTMENT CONSULTANTS PRIVATE LIMITED, a company incorporated under the provisions of the Companies Act, 1956 (CIN: U67120AS1997PTC005098) and having its Registered Office at Centre Point, 3rd Floor, Opposite Bora Service, G.S. Road, Guwahati- 781007 in the State of Assam;

....Transferor Company No 1 / Petitioner No 1

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-And-

In the matter of:

JYOTI HOLDINGS PRIVATE LIMITED, a company incorporated under the provisions of the Companies Act, 1956 (CIN: U70109AS1997PTC005099) and having its Registered Office at Centre Point, 3rd Floor, Opposite Bora Service, G.S. Road, Guwahati- 781007 in the State of Assam;

....Transferor Company No 2 / Petitioner No 2

-And-

In the matter of:

KARISHMA SUPPLIERS PRIVATE LIMITED, a company incorporated under the provisions of the Companies Act, 1956 (CIN: U51109AS2007PTC018183) and having its Registered Office 2C, 2nd Floor, Itag Plaza, Tarun Nagar, G.S. Road, Kamrup, Guwahati- 781005 in the State of Assam;

....Transferor Company No 3 / Petitioner No 3

-And-

In the matter of:

CR VANIJYA PRIVATE LIMITED, a company incorporated under the provisions of the Companies Act, 1956 (CIN: U51909AS2007PTC021479) and having its Registered Office at Centre Point, 3rd Floor, Opposite Bora Service, G.S. Road, Guwahati- 781007 in the State of Assam.

....Transferee Company / Petitioner No 4

Coram:

Shri H. V. Subba Rao : Member (Judicial)
Shri Satya Ranjan Prasad : Member (Technical)

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Appearances:

For Petitioners : Ms. Aisha Amin (Adv.)
: Mr. N.Gurumurthy (FCA)

Order reserved on: 18.04.2024
Order pronounced on: 29.04.2024

COMMON ORDER

1. The instant Joint Petition has been filed under Section 230(6) of the Companies Act, 2013 (“Act”) for sanction of the Scheme of Amalgamation of **DNB FINANCE AND INVESTMENT CONSULTANTS PRIVATE LIMITED, JYOTI HOLDINGS PRIVATE LIMITED and KARISHMA SUPPLIERS PRIVATE LIMITED** (all “Transferor Companies”) with **CR VANIJYA PRIVATE LIMITED** (“Transferee Company”) from the Appointed Date, 01.04.2022 in the manner and on the terms and conditions stated in the said Scheme of Amalgamation (“Scheme”). A copy of the said Scheme is annexed to the Company Petition and marked – *Annexure A in VOL I at page No 47 to 84.*
2. It is submitted by the Ld. Counsel for the Petitioners that there has been a delay of 80 days in filing of the Company Petition and to remedy the same they have filed a delay condonation application in the form IA (Comp.Act) No. 4 /GB/2024.
3. Ld. Counsel for the Petitioners further submits that the Petitioner Transferee Company is a NBFC Company and is holding a valid Certificate of Registration issued by the said Bank.
4. It is submitted by Ld. Counsel appearing for the Petitioner(s) that the Appointed Date as per the Scheme is **01.04.2022**.

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5. It is submitted by Ld. Counsel appearing for the Petitioner(s) that the Valuation Report dated 17.01.2023 recommending the Swap Ratio, has been prepared by CA MUKESH BANKA, IBBI Registered Valuer. A copy of the said Report is annexed to the Company Petition marked – *Annexure – N in VOL III at Page No 345 to 361.*
6. It is submitted by Ld. Counsel appearing for the Petitioner(s) that the Board of Directors of the Petitioner Companies have at their respective meeting held on 17.01.2023 have passed resolution adopting the proposed Scheme of Amalgamation. A copy of the Board Resolution is annexed to the Company Petition marked – *Annexure – O in VOL III at Page No 362 to 365.*
7. It is submitted by Ld. Counsel appearing for the Petitioner(s) that the Statutory Auditor of the Petitioner Companies have by their certificate dated 18.01.2023 confirmed that the Accounting Treatment proposed in the Scheme of Amalgamation is in conformity with the Accounting Standards as prescribed under Section 133 of the Companies Act, 2013 and Rules made there under. A copy of the Certificate issued by Statutory Auditor of the Petitioner Companies are annexed to the Company Petition marked – *Annexure – P in VOL III at Page No 366 to 373.*
8. It is submitted by Ld. Counsel appearing for the Petitioner(s) that, the list of equity Shareholders of the Petitioner Companies as on 31.12.2022, duly certified by the Statutory Auditor of the Company are all collectively annexed to the Company Petition marked – *Annexure – J in VOL II at Page No 326 to 329.*
9. It is submitted by Ld. Counsel appearing for the Petitioner(s) that, the list of Preference Shareholders of the Petitioner No. 1 and Petitioner No. 2 as on 31.12.2022 duly certified by the Statutory Auditor of the Company are all collectively annexed to the Company Petition marked – *Annexure – K in VOL III at Page No 330 to 331.*

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10. It is submitted by Ld. Counsel appearing for the Petitioner(s) that, there are NIL Secured Creditors of the Petitioner Companies as on 31.12.2022, duly certified by the Statutory Auditor of the Company are all collectively annexed to the Company Petition marked – *Annexure – L in VOL III at Page No 332 to 336.*
11. It is submitted by Ld. Counsel appearing for the Petitioner(s) that, there are NIL Unsecured Creditors in respect of Petitioner No 1 and Petitioner No 2 as on 31.12.2022, duly certified by the Statutory Auditor of the Company are all collectively annexed to the Company Petition marked – *Annexure – L in VOL III at Page No 332 to 333.*
12. It is submitted by Ld. Counsel appearing for the Petitioner(s) that, the list of Unsecured Creditors in respect of Petitioner No 3 and Petitioner No 4, 31.12.2022, duly certified by the Statutory Auditors of the Company are all collectively annexed to the Company Petition marked – *Annexure – L in VOL III at Page No 334 to 336.*
13. It is submitted by Ld. counsel appearing for the Petitioner(s) that the Petitioner(s) have the following classes of shareholders and creditors:

PARTICULARS	AS ON 31 ST DECEMBER, 2022			
	EQUITY SHARE HOLDERS	PREFEREN CE SHARE HOLDERS	SECURED CREDITORS	UNSECURED CREDITORS
TRANSFEROR COMPANY NO 1 / PETITIONER NO 1	5	3	NIL	NIL
TRANSFEROR COMPANY NO 2 / PETITIONER NO 2	8	4	NIL	NIL
TRANSFEROR COMPANY NO 3 / PETITIONER NO 3	5	NIL	NIL	2
TRANSFEREE COMPANY / PETITIONER NO 4	11	NIL	NIL	4

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14. It is submitted by Ld. Counsel appearing for the Petitioner(s) that by an Order dated 26.10.2023, in Company Application No. C.A (CAA) NO. 1/GB/2023, this Tribunal made the following directions with regard to meetings of shareholders and creditors under Section 230(1) of the Act:
- “We have pursued the documents annexed to the Application and have heard the submissions made on behalf of the Applicants and pass the following orders:
- a. In view of the facts mentioned above, convening and holding of Meetings of Equity Shareholders of the Applicant Companies are hereby dispensed with;
 - b. Meeting of Preference Shareholders of the Applicant No 1 for considering the Scheme are dispensed with;
 - c. Meeting of Preference Shareholders of the Applicant No 2 for considering the Scheme are dispensed with;
 - d. Meeting of Unsecured Creditors of the Applicant No 3 for considering the Scheme are dispensed with in view of consent by 93.15% in value of Unsecured Creditors of Applicant No 3 having respectively given their consent to the Scheme by way of affidavits;
 - e. No requirement of meeting of Secured Creditors of the Applicant Companies on account of there being none as is duly verified by Auditor’s Certificate. No requirement of Meeting of Unsecured Creditors of Applicant No 1, Applicant No 2. No requirement of Meeting of Unsecured Creditors of Applicant No 4 as all Unsecured Creditors have been paid off prior to the filing of Company Application as duly verified by Auditor’s Certificate.”
15. The Ld. Counsel for the Petitioner(s) further submits that in compliance with Section 230(5) of the Companies Act, 2013 and the said order dated 26.10.2023, in Company Application No. C.A (CAA) NO. 1/GB/2023 notice along with all accompanying documents has already been served on the Statutory/Sectoral Authorities viz Regional Director North Eastern Region , Registrar of Companies,

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Guwahati, Official Liquidator, Guwahati, Income Tax Department having jurisdiction over the Company, Reserve Bank of India as directed by the said order by the modes prescribed in the said Order. An affidavit proving service of notices, as aforesaid, has been already been filed by the Petitioner with this Tribunal. Copy of the said affidavit is annexed to the Company Petition marked –*Annexure Q in Vol III at page No 374 to 405.*

16. Before dealing with the admittance of the Petition, we divert our attention to the delay condonation application filed by the Petitioner(s) through IA (Comp.Act) No 4 / GB / 2024. The Ld. Counsel/Authorised Representative attributes the delay of 80 days in filing to the health issues of Mrs. Bijaya Rathi, one of the directors, who was exclusively authorised by the Petitioner(s) to sign all documents and affirm affidavits. In addition, it is submitted that she had to shuttle between Guwahati and Mumbai on account of her health conditions, further adding to her unavailability. Therefore, in the interest of justice and also in the interest of all the stakeholders concerned, this Tribunal *vide* the present common order allows the condonation of delay as pleaded through IA (Comp.Act) No. 4/GB/2024. **Consequently, IA (Comp.Act) No 4 /GB/2024 stands disposed of.**
17. Thereafter, upon perusing the records and documents in the instant proceedings and considering the submissions made on behalf of the Petitioners, we admit the instant petition and fix the next date of hearing on **01.07.2024** and pass the following orders:
 - a. At least 10 (Ten) clear days before the said date fixed for hearing, the Petitioner shall cause notice of hearing to be advertised in “**THE ASSAM TRIBUNE**” in English Edition Newspaper and the “**AMAR ASOM**” in Assamese as per Rule 16(1) of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (“CAA Rules”).

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- b. Another notice pursuant to Section 230(5) of the Companies Act, 2013 along with accompanying documents, including the copies of the aforesaid Scheme and statement under the provisions of the Companies Act, 2013, shall be served again on the Statutory Authorities, having jurisdiction over the Petitioners, by sending the same to them by hand delivery or by post or by email within 2 (two) weeks from the date of receiving this order. The notice shall specify the next date of hearing of the petition, as aforesaid, and state that representation, if any, and if not already filed, should be filed before this Tribunal no later than 7 (Seven) days before the next date of hearing of the petition and a copy of such representation should be simultaneously sent to the Counsel of the said Petitioner.
- c. If no such representation is received by the Tribunal within such period, it shall be presumed that such Authorities have no representation to make on the said Scheme. Such notice shall be sent in Form No. CAA3 of the CAA Rules with necessary variations, incorporating the directions herein.
- d. The Petitioner is directed to file an affidavit confirming compliance of the abovementioned directions of this Tribunal, at least 3 (Three) days before the next date of hearing.
- e. Objections, if any, to the Scheme contemplated by the authorities to whom notice has been given on or before the date of hearing fixed herein may be filed, failing which it will be considered by this Tribunal that there is no objection to the approval of the Scheme of Amalgamation on the part of the authorities, subject to other conditions being applicable under the Companies Act, 2013 and relevant rules made there under.
- f. The Petitioner may also file their rejoinder affidavit(s) dealing with the objections/observations, if any, of the Authorities, at least 2 (Two) days before the next date of hearing.

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18. The Registry is directed to send e-mail copies of the order forthwith to all the Applicants and their Authorised Representatives for information and for taking necessary steps.
19. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

Sd/-

**Satya Ranjan Prasad
Member (Technical)**

Sd/-

**H.V Subba Rao
Member (Judicial)**

Signed this on 29th day of April, 2024.