

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH(COURT-II) SPECIAL BENCH**

C.A. (CAA) NO. 32/KB/2023

**An Application under Section 230-232 of the Companies Act, 2013 read with Companies
(Compromises, Arrangement and Amalgamations) Rules, 2016;**

In the matter of:

Disciplined Investments Limited, an unlisted public limited company incorporated on 7th August, 1979, under the provisions of the Companies Act, 1956 (validly existing under the Companies Act, 2013) having its registered office at 31, Netaji Subhas Road, Kolkata-700001, in the State of West Bengal.

..... First Transferor/ First Applicant

And

Haldia Investment Company Limited, an unlisted public company incorporated on 19th April, 1974, under the provisions of the Companies Act, 1956 (Validly existing under the Companies Act, 2013) having its registered office at 31, Netaji Subhas Road, Kolkata - 700001, in the State of West Bengal.

.....Second Transferor/ Second Applicant

And

Cosmopolitan Investments Limited, an unlisted public company incorporated on 31st July, 1979, under the provisions of the Companies Act, 1956 having its registered office at 31, Netaji Subhas Road, Kolkata 700001, in the State of West Bengal.

.....Transferee/ Third Applicant

And

In the matter of:

1. Disciplined Investments Limited
2. Haldia Investment Company Limited
3. Cosmopolitan Investments Limited

.....Applicant Companies

Date of Hearing: 15.03.2023

Order pronounced on: 17.03.2023

Coram:

Smt. Bidisha Banerjee, Hon'ble Member (Judicial)

Shri Rahul Bhatnagar, Hon'ble Member (Technical)

Appearances

1. Miss Barsha Dikshit, Pr. CS] For the Applicants

ORDER

Per Bidisha Banerjee, Member (Judicial):

1. The instant Application has been jointly filed in the first stage of proceedings under section 230(1) read with section 232(1) of the Companies Act, 2013 ('Act') for orders and directions with regard to meetings of shareholders and creditors in connection with the Scheme of Amalgamation of Disciplined Investments Limited (hereinafter referred to as '**First Transferor Company**'), Haldia Investment Company Limited (hereinafter referred to as '**Second Transferor Company**') (hereinafter collectively referred as "**Transferor Companies**") and Cosmopolitan Investments Limited (hereinafter referred to "**Transferee Company**") whereby and whereunder, the Transferor Companies are proposed to be merged into the Transferee Company from the **Appointed Date, viz. 1st April, 2023**, in the manner and on the terms and conditions as stated in the said Scheme of Amalgamation (hereinafter referred to as "**Scheme**"). A copy of the proposed Scheme of Amalgamation is annexed to the Application and marked as **Annexure "D", at page nos. 190 to 214.**
2. It is submitted by the Ld. PCS appearing for the Applicants that the shares of the Applicant Companies are not listed on any stock exchange. Further, the Applicants have the following classes of shareholders and creditors, as on the cut-off date, i.e., 15th January, 2023:

PARTICULARS	AS ON 15 TH JANUARY, 2023			
	EQUITY SHARE HOLDERS	PREFERENCE SHARE HOLDERS	SECURED CREDITORS	UNSECURED CREDITORS
TRANSFEROR COMPANY NO 1 / APPLICANT NO 1	7	NIL	NIL	NIL
TRANSFEROR COMPANY NO 2 / APPLICANT NO 2	7	NIL	NIL	NIL
TRANSFeree COMPANY / APPLICANT NO 3	7	NIL	NIL	NIL

3. Certificate verifying the list of shareholders of the Transferor and Transferee Companies, as on the Cut Off Date, i.e., 15th January, 2023, are enclosed with the Application and collectively marked as **Annexure ‘E’, at page Nos. 215 to 217.** Certificate verifying the list of creditors of the Transferor and Transferee Companies, as on 15th January, 2023, are enclosed with the Application and collectively marked as **Annexure – ‘F’, at page nos. 218 to 220.**
4. It is stated in the Application that the Board of Directors of the Applicant Companies have, at their respective Board Meetings held on 16th January, 2023, approved the proposed Scheme of Amalgamation. The CTC of the Board Resolutions are collectively annexed to the Application and marked as **Annexure- “G”, at page no. 221 to 219.**
5. It is further stated in the Application that the circumstances which justify and/or necessitate the said Scheme are as follows:
 - a. To achieve greater integration and greater financial strength and flexibility, to maximise overall shareholder value.
 - b. To achieve cost savings from more focused operational efforts, rationalisation, standardisation and simplification of business processes, productivity improvements and rationalization of administrative expenses.
 - c. The consolidation of activities of the Transferor Companies and the Transferee Company by way of merger will lead to operational synergies, greater productivity and economical operations for future growth of the Transferee Company.
 - d. The merger will provide for pooling of the managerial, technical and financial resources of the Transferor Companies and the Transferee Company which will help in increasing the competitiveness of the Transferee Company.

- e. The merger will result in economies of scale, reduction in overheads including administrative, managerial and other expenditure, operational rationalisation, organisational efficiency and optimal utilisation of resources.
 - f. The merger will result in a significant reduction in the multiplicity of legal and regulatory compliances required at present to be carried out by the Transferor Companies and the Transferee Company.
 - g. The increased asset base of the Transferee Company would have better financial viability and clearer focus, which would be in the interests of all creditors, including the creditors of the Transferor Companies, if any.
 - h. The banks, creditors and financial institutions, if any, are not adversely affected by the proposed merger as their security and asset cover will be maintained.
6. It is further stated in the Application that the shares of the Applicant Companies have been fixed on a fair and reasonable basis on the basis of the Valuation Report prepared by Ms. Madhumita Karar, Registered Valuer. The report is annexed to the Application and marked as **Annexure “L”, at page Nos. 360 to 376.**
 7. It is further stated that Accounting Treatment mentioned in the Scheme is in conformity with the applicable accounting standards as per Section 133 of the Act, and is annexed to the Application and marked as **Annexure “K”, at page no. 359.**
 8. It is further represented that the Scheme does not contemplate any corporate debt restructuring exercise as contemplated under Section 230(2) of the Act. It is further represented that the Application filed by the applicants is maintainable in view of Rule 3 (2) of the Rules.
 9. It is further stated that the all the shareholders of Transferor Companies and 99.97% shareholders of the Transferee Company have given their consent w.r.t. the proposed Scheme of Amalgamation by way of “No-Objection Certificate” which form part of Application *vide* annexures ‘I & J’ at page 288 to 358.
 10. It is also stated in the Application that there are no creditors (secured/ unsecured) in any of the Applicant Companies.
 11. It is stated in the Application that Second Applicant Company is an NBFC and accordingly in terms of the RBI Master Directions, an application seeking objection, if any on the Scheme was sent to the Reserve Bank of India on 27th January, 2023, and that so far no objection has been received from the RBI. Proof of filing of

application with RBI is annexed to the Application and marked as **Annexure “O”**, at **page nos. 389 to 390.**

12. Directions are sought accordingly, for dispensing with the meetings of the shareholders and secured and unsecured creditors of the respective Applicant Companies.
13. Heard the Pr. C.S. for the Applicant Companies and have perused the Application and the concerned documents annexed to the Application, the following orders are passed:-

ORDER

- a. In view of the consents given in the affidavit by all the shareholders Transferor Companies and 99.97% shareholders of the Transferee Company, meeting of the shareholders of all the three Applicant Companies are hereby dispensed with under section 230 (1) with section 232 (1) of the Act.
- b. In view of the fact that there are no secured or unsecured creditors in any of the Applicant Companies, the question of convening/ dispensing with the meetings does not arise at all.
- c. The Applicant Companies shall serve notice under section 230 (5) of the Companies Act, 2013 read with Rule 8 of the Companies (Compromise, Arrangements and Amalgamations) Rules, 2016, with suitable changes, along with all accompanying documents, including a copy of the aforesaid Scheme and statement under the provisions of the Companies Act, 2013 to the following authorities viz.
 - i. Central Government, through Regional Director, Eastern Region, Ministry of Corporate Affairs, Kolkata
 - ii. Registrar of Companies, West Bengal
 - iii. Income Tax Department of the Office having jurisdiction over the respective Applicant Companies
 - iv. Official Liquidator, Kolkata; and
 - v. Reserve Bank of India, Kolkata
- d. The Applicant Company shall serve the notice, as aforesaid, by hand delivery, through special messenger, by registered or speed post and by way of email within 7 days from the date receiving this order. The notice shall specify that representation, if any should be filed before this Tribunal within 30 days of the

date of receipt of the notice with a copy of such representation being sent simultaneously to the Applicants and/or their Authorised Representatives. If no such representations are received by the Tribunal within the said period, it shall be presumed that such authorities have no representations to make on the proposed composite Scheme of Amalgamation.

- e. The Applicant Companies must, at least 7 days before the date of hearing of the petition, file an affidavit of service of notices on the Authorities specified above including the Sectoral Regulators.

14. The Company Application being **CA (CAA) No. 32/KB/2023** is disposed of accordingly.

15. Urgent certified copies of this Order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

Rahul Bhatnagar
Member(Technical)

Bidisha Banerjee
Member(Judicial)

Signed on this, the 17th day of March, 2023.