

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH, (COURT – I)
KOLKATA**

C.A.(CAA). 53/ KB /2024

Application under section 230 read with section 232 of the Companies Act, 2013, read with the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, and other applicable provisions of law.

IN THE MATTER OF:

A Scheme of Amalgamation (First Motion):

And

In the Matter of :

GATEWAY VENTURE CAPITAL LIMITED, bearing CIN: U67190WB2010PLC156461 (hereinafter referred to as the “Transferor Company No. 1”) is an Unlisted Public Limited Company, incorporated under the Companies Act, 1956 on 30th day of December, 2010 in the State of West Bengal. The registered office of the Transferor Company is situated at 31, Shakespeare Sarani, 2nd Floor, Room No-209-210, Kolkata-700017.

...Transferor Company No.1

And

GATEWAY DERIVATIVES PRIVATE LIMITED, bearing CIN: U74999WB2006PTC108857 (hereinafter referred to as the “Transferor Company No. 2”) is an Unlisted Private Company, incorporated under the Companies Act, 1956 on 04th day of April, 2006 in the State of West Bengal. The registered office of the Transferor Company is situated at 31, Shakespeare Sarani, 2nd Floor, Room No-209-210, Kolkata-700017, West Bengal.

...Transferor Company No.2

And

JAIMATADI VYAPAAR PRIVATE LIMITED, bearing CIN: U51109WB2005PTC102447 (hereinafter referred to as the “Transferor Company No. 3”) is an Unlisted Private Company, incorporated under the Companies Act, 1956 on 24th day of March, 2005 in the State of West Bengal. The registered office of the Transferor Company is situated at 31, Shakespeare Sarani, 2nd Floor, Room No-209-210, Kolkata-700017, West Bengal.

...Transferor Company No.3

And

PINKROSE REAL BUILD PRIVATE LIMITED, bearing CIN: U45400WB2011PTC169205 (hereinafter referred to as the “Transferor Company No. 4”) is an Unlisted Private Company, incorporated under the Companies Act, 1956 on 08th day of November, 2011 in the State of West Bengal. The registered office of the Transferor Company is situated at 31, Shakespeare Sarani, 2nd Floor, Room No-211, Kolkata-700017, West Bengal.
.....Transferor Company No.4

And

GATEWAY FINANCIAL SERVICES LIMITED, bearing CIN: U65999WB1994PLC065273 (hereinafter referred to as the “Transferee Company”) is an Unlisted Public Limited Company, incorporated under the Companies Act, 1956 on 26th day of September, 1994 in the State of West Bengal. The registered Office of the company is situated at 31, Shakespeare Sarani, 2nd Floor, Room No-209-210, Kolkata-700017, WB.
...Transferee Company

And

In the Matter of:

1. GATEWAY VENTURE CAPITAL LIMITED
2. GATEWAY DERIVATIVES PRIVATE LIMITED
3. JAIMATADI VYAPAAR PRIVATE LIMITED
4. PINKROSE REAL BUILD PRIVATE LIMITED
5. GATEWAY FINANCIAL SERVICES LIMITED

...Applicants

Date of Pronouncement: 05.07.2024

Coram:

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

Shri Balraj Joshi, Hon’ble Member (Technical)

Appearances for the Petitioner (via video conferencing):

Mr. Arani Guha, Adv.

Mrs. Sonam Agarwal, PCS

ORDER

Per: Bidisha Banerjee, Member (Judicial)

1. This is an application under sections 230 (1) and 232 (2) of the Companies Act, 2013 read with the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 filed by the Applicant Companies, namely, Gateway Venture Capital Limited, (the Transferor Companies No. 1), Gateway Derivatives Private Limited (the Transferor Companies No. 2), Jaimatadi Vyapaar Private Limited (the Transferor Companies No. 3), Pinkrose Real Build Private Limited (the Transferor Companies No. 4) with **Gateway Financial Services Limited (Transferee Companies)**, in connection with a proposed Scheme of Amalgamation of the applicant Companies. (“Scheme”) from the **Appointed Date, viz 01.04.2022**. in the manner and on the terms and conditions stated in the said Scheme of Amalgamation annexed with the Application marked as **Annexure-A, page 65-118, Volume – I**.
2. The Board of Directors of the Transferee Company and Transferor Company at their Board Meetings held on 30.01.2023 approved and resolved to carry out the said Scheme of Amalgamation. The copies of the resolution passed by the applicant Companies are annexed with the Application as **“Annexure G” (Page 272-276) of Transferor Company No.1, “Annexure H” (Page 277-281) of Transferor Company No.2, “Annexure I” (Page 282-286) of Transferor Company No.3, “Annexure J” (Page 287-291) of Transferor Company No.4 and “Annexure K” (Page 292-296) of Transferee Company**.
3. It is submitted by Ld. Counsel Authorized Representative appearing for the Applicants that the shares of the Applicant Companies are not listed on the any of stock exchanges. Further, the Applicant Companies have the following classes of shareholders and creditors:-

Applicant No.	No. of Equity Shareholders	No. of Secured Creditors	No. of Unsecured Creditors
Applicant Company No. 1	7	Nil	Nil
Applicant Company No. 2	4	Nil	Nil

Applicant Company No. 3	3	Nil	Nil
Applicant Company No. 4	4	Nil	Nil
Applicant Company No. 5	8	Nil	4

4. The statutory auditors of each of the Applicant Companies have given certificate certifying the list of secured and unsecured creditors in the Transferor Companies and Transferee Company as on 30.01.2023. The copies of such certificate along with the list of secured and unsecured creditors drawn as on the dates mentioned above, are annexed with the Application and marked as **“Annexure Z” (Page 562-564) of Transferor Company No.1, “Annexure AB” (Page 619-621) of Transferor Company No.2, “Annexure AD” (Page 674-676) of Transferor Company No.3, “Annexure AF” (Page 721-723) of Transferor Company No.4 and “Annexure AH” (Page 854-856) of Transferee Company.**
5. It is further submitted that all the equity shareholders of the Transferor Companies and Transferee Company have consented to the Scheme of Amalgamation by way of consent in the form of affidavit to waive off the convening and holding of meeting for consideration and approval of the Scheme of Amalgamation. The consents given by the equity shareholders of the Applicant Companies in the form of affidavits are annexed with the application and marked as **“Annexure M-1 to M-7” (Page 299-348) of Transferor Company No.1, “Annexure O-1 to O-4” (Page 351--378) of Transferor Company No.2, “Annexure Q-1 to Q-3” (Page 381-400) of Transferor Company No.3, “Annexure S-1 to S-4” (Page 403-431) of Transferor Company No.4 and “Annexure U-1 to U-8” (Page 433-488) of Transferee Company.**
6. It is further submitted that all the Transferor Companies and Transferee Company have NIL number of Secured Creditors, hence the requirement for obtaining the consent in writing by way of affidavit agreeing to the Scheme of Amalgamation and also consenting to waive holding of separate meeting of the creditors of the concerned Applicant Companies, as certified by the statutory auditor of the respective Applicant companies,

convening and holding of separate meetings of the creditors of the Applicant Companies, are not applicable.

7. It is further submitted that all the Transferor Companies have NIL number of Unsecured Creditors hence the requirement for obtaining the consent in writing by way of affidavit agreeing to the Scheme of Amalgamation and also consenting to waive holding of separate meeting of the creditors of the concerned Applicant Companies, as certified by the statutory auditor of the respective Applicant companies, convening and holding of separate meetings of the creditors of the Applicant Companies, are not applicable. The Transferee Company has 4 (Four) number of Unsecured Creditors, hence the requirement for obtaining the consent in writing by way of affidavit agreeing to the Scheme of Amalgamation are annexed with the Application and marked as “**Annexure AI-1 to AI-4** “(page 857-886).
8. The share exchange ratio for the arrangement has been fixed on a fair and reasonable basis of the Report dated 31st March 2022 prepared by the registered valuer pursuant to the applicable provisions of the Companies Act, 2013 and such recommendation has been accepted by the Board of Directors of all the Applicant Companies. The said report is annexed with the Application and marked as “**Annexure X**” in **Volume III** at **Page No. 504-524**.
9. The certificate by the Chartered Accountant in respect of the Applicant Companies verifying conformity with Accounting Standard under Section 133 of the Companies Act, 2013 is annexed with the Application and marked as “**Annexure W**” (**Page 494-503**).
10. Directions are sought accordingly for dispensing with meetings of the shareholders and the creditors of the Applicant Companies.
11. Heard Ld. Counsel/ Authorized Representative for the applicant and upon perusing the records and documents in the instant proceedings and considering the submissions made on behalf of the Applicants, we allow the instant application and pass the following directions:-

- a) In view of the consents given in affidavit form by all the shareholders of the Transferee and the Transferor Companies, meeting of shareholders of the Transferee and Transferor companies are hereby dispensed with.
- b) Since there are NIL secured and NIL unsecured Creditors in Transferor Companies, hence the requirement for obtaining the consent in writing by way of affidavit agreeing to the Scheme of Amalgamation and also consenting to waive holding of separate meeting of the creditors of the concerned Applicant Companies, as certified by the statutory auditor of the respective Applicant Companies, convening and holding of separate meetings of the creditors of the Applicant Companies, are not applicable;
- c) Since there are NIL Secured Creditors in Transferee Company, hence the requirement for obtaining the consent in writing by way of affidavit agreeing to the Scheme of Amalgamation and also consenting to waive holding of separate meeting of the creditors of the concerned Applicant Company, as certified by the statutory auditor of the respective Applicant Company, convening and holding of separate meetings of the creditors of the Applicant Company, is not applicable;
- d) The Transferee Company has 4 (Four) unsecured Creditors. The Unsecured Creditors have given their consent by way of an affidavit as such the requirement of holding separate meetings of Unsecured Creditors of Transferee Company is dispensed with.
- e) The Applicant to serve a notice under Section 230(5) of the Companies Act, 2013 along with all accompanying documents, including a copy of the aforesaid Scheme and statement under the provisions of the Companies Act, 2013 shall also be served on the:
 - Regional Director, Eastern Region, Ministry of Corporate Affairs, Kolkata;
 - Registrar of Companies with whom the Applicant(s) are registered;
 - Official Liquidator and
 - Income Tax Department having jurisdiction over the Applicant(s),
 - Jurisdictional GST Authorities;

12. These notices shall be sent by hand delivery through special messenger or by Regd AD /Speed post with tracking report and also by email within two weeks from the date of receiving this order. The notice shall specify that representation, if any, should be filed before this Tribunal within 30 days from the date of receipt of the notice with a copy of such representation being simultaneously sent to the Authorized Representative of the said Applicant(s).

Such notice shall be sent pursuant to Section 230(5) of the Companies Act, 2013 read with Rule 8(2) of the Companies (Compromises, Arrangements and Amalgamations) Rules 2016 in Form No. CAA 3 of the said Rules with necessary variations, incorporating the directions herein.

13. 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 of Amalgamation. The Applicant(s) to file an affidavit proving service of notice and compliance of all directions contained herein.
14. The application being **CA (CAA) No.53/KB/2024** is **disposed of** accordingly.
15. Certified copy of the order may be issued, if applied for, upon compliance with all the requisite formalities.

Balraj Joshi
Member (Technical)

SSG

Bidisha Banerjee
Member (Judicial)

This Order signed on 05.07.2024