

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**AHMEDABAD**  
**DIVISION BENCH**  
**COURT - 1**

ITEM No.3

Comp.Appl/24(AHM)2022 in C.A.(CAA)/47(AHM)2022

**Proceedings under Section Application under any other provisions**

**IN THE MATTER OF:**

Ratnakar Securities Pvt Ltd

.....Applicant

**Order delivered on: 21/12/2022**

**Coram:**

Dr. Madan B. Gosavi, Hon'ble Member(J)  
Mr.Kaushalendra Kumar Singh, Hon'ble Member(T)

**PRESENT:**

For the Applicant :  
For the Respondent :

**ORDER**

**Comp.Appl/24(AHM)2022**

This application is filed for seeking some modification in the order dated 23.11.2022 regarding the name of the newspaper wherein this Tribunal had directed the Applicant Company to advertise paper publication in "Business Standard" in English as well as Gujarati, Ahmedabad Edition. However, Learned Counsel for the Applicant now seeks permission to substitute the name of the newspaper "Business Standard" with "Financial Express". We heard Learned Counsel for the Applicant. The Comp.Appl/24(AHM)2022 stands allowed and disposed of.

The order is corrected and the corrected order be uploaded.

-SD-

**KAUSHALENDRA KUMAR SINGH  
MEMBER (TECHNICAL)**

-SD-

**DR. MADAN B GOSAVI  
MEMBER (JUDICIAL)**

Rajeev

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**AHMEDABAD**  
**DIVISION BENCH**  
**COURT - 1**

ITEM No. 158  
C.A.(CAA)/47(AHM)2022

**Order under Section 230-232 of Co. Act, 2013**

**IN THE MATTER OF:**

Ratnakar Securities Pvt Ltd

.....Applicant

.....Respondent

**Order delivered on ..23/11/2022**

**Coram:**

Dr. Madan B. Gosavi, Hon'ble Member(J)  
Kaushalendra Kumar Singh, Hon'ble Member(T)

**PRESENT:**

For the Applicant :

For the Respondent :

**ORDER**

The case is fixed for the pronouncement of the order. The order is pronounced in open Court vide separate sheet.

-SD-

**KAUSHALENDRA KUMAR SINGH**  
**MEMBER (TECHNICAL)**

-SD-

**DR. MADAN B GOSAVI**  
**MEMBER (JUDICIAL)**

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
COURT-I**

**C.A.(CAA)/47(AHM)2022**

[An application under section 230-232 of the Companies Act, 2013 read with Rule 11 of the NCLT Rules, 2016 and Rule 3 of the Companies (Companies, Arrangements, And Amalgamation) Rules, 2016.]

**In the matter of:**

**M/s. Ratnakar Securities Pvt. Ltd.**

CIN: U67120GJ1994PTC099563

Having its registered office at:

Shop 304, Sankalp Squqre-2,

Near Deluxe Apartment,

Nr. Kalgi Char Rasta, Jalaram Temple,

Paldi, Ahmedabad, Gujarat.

**....Applicant/  
(Transferor Company)**

**M/s. Mangalya Soft-tech Limited**

CIN: L32100GJ1992PLC017564

Having its registered address at:

302 Samruddhi, Opp Guj High-Court,

Income-Tax Circle, Ashram Road,

Ahmedabad- Gujarat.

....(Transferee Company)

**Order delivered on : 23.11.2022**

**Coram: DR. MADAN B. GOSAVI, MEMBER (JUDICIAL)**

**KAUSHANLENDRA KUMAR SINGH, MEMBER (TECHNICAL)**

**Appearance:**

For the Applicant : Mr. Pavan S Godiawala, Ld. Adv. along with Mr. Naishal J.  
Mody, Ld. Adv.

**ORDER**

1. This present application is filed by M/s. Ratnakar Securities Pvt. Ltd., - Transferor Company under section 230-232 of the Companies Act, 2013 read with Rule 11 of the NCLT Rules, 2016 and Rule 3 of the Companies (Companies, Arrangements, and Amalgamation) Rules, 2016 in view of the order dated 28.03.2022 passed in IA 859/2021 (an application for the approval of the Resolution Plan) wherein this Adjudicating Authority has directed the Resolution Professional ("RP") to undertake the procedure with respect to holding meetings of equity shareholders and creditors of the Transferor Company following the procedure under section 230-232 of the Companies Act, 2013, for approval of resolution plan. In the present application, the Transferor Company has made the following prayers:

- a) *The Hon'ble Tribunal would be pleased to ratify the action of the convening and holding of the meetings of the unsecured creditors held on 21/04/2016.*
- b) *The Hon'ble Tribunal would be pleased to ratify the action of the applicant of accepting the consent letter from the secured creditors approving the scheme of amalgamation of the applicant with corporate debtor and ratify the action of the applicant of accepting the consent affidavits of the equity shareholders of the Applicant Company for approving the scheme of amalgamation of the applicant with the corporate debtor.*
- c) *The Hon'ble Tribunal would be pleased to ratify the action of not publishing the advertisement for convening the meeting of the unsecured creditors and would be pleased to dispense with the requirement of publication of notice in the newspapers.*
- d) *The Hon'ble Tribunal would be pleased to declare the procedure as followed by the Resolution Applicant of convening of the meetings of the unsecured creditors with shorter notice and obtaining of the consents from the equity shareholders and secured creditors in due compliance of section 230-232 of the Companies Act, 2013*

*considering the Resolution Plan as duly approved by the member of CoC of the corporate debtor i.e. Mangalya Info-tech Limited.*

2. The averments made by the Transferor Company are summarised as under:

- I. The Scheme of Amalgamation is an intricate part of the Resolution Plan. The Applicant-Transferor Company is proposed to merge with M/s. Mangalya Soft-tech Ltd., - the Corporate Debtor (under CIRP) which was a listed company.
- II. M/s. Ratnakar Securities Private Limited (“Transferor Company”) having CIN No. U67120GJ1994PTC099563 is a Private Limited Company incorporated under the Companies Act, 1956 on 07.10.1994. The registered office of the Transferor Company is situated at Shop-304, "Sankalp Square-2", Nr. Delux Apartment, Nr. Kalgi Char Rasta, Jalaram Temple, Paldi, Ahmedabad Ahmedabad, Gujarat- 380006.
- III. M/s. Mangalya Soft-tech Limited – the Corporate Debtor under CIRP (now “Transferee Company”), having CIN No. L32100GJ1992PLC017564 is a listed Company incorporated under the Companies Act, 1956 on 05.05.1992. The registered office of the Transferee Company is situated at 302 Samruddhi, Opposite Gujarat High-Court Income-Tax Circle Ashram Road Ahmedabad.
- IV. M/s. Mangalya Soft-tech Limited was admitted in CIRP on 15.03.2021 in CP(IB) 197 of 2020 in an application filed under section 9 of the IBC, 2016. Mr. Pinakin Shah was appointed as Interim Resolution Professional.
- V. The Resolution Plan of the M/s. Ratnakar Securities Private Limited-Transferor Company was approved on 20.10.2021 unanimously with 100% voting share by the members of the Committee of Creditors (“CoC”) of the Transferee Company which inter-alia includes the amalgamation of the Resolution Applicant (here Transferor Company) pursuant to the provisions of section

230 to 232 of the Companies Act, 2013 to achieve following objectives:

- (a) To revive the Transferee company, by utilizing all the resources of the transferor company as all creditors, including statutory creditors are getting their all dues and so there is no haircut in any payment.*
- (b) The Amalgamation will result in the restoration of trading permission on BSE which will be in the benefit of the public shareholders.*
- (c) The amalgamation of the Transferee Company and the Transferor Company would also improve profitability by improving the efficiency and economic viability of the resultant undertaking as it will have the advantage of the larger scale of financial management and more resources will be available for the activities of the new undertaking.*
- (d) A larger company would generate more confidence amongst the persons dealing with the Company and will afford access to resources easily and at lower costs.*
- (e) The amalgamation will be advantageous to respective shareholders and all other concerned stakeholders including Government authorities.*

- VI. Upon hearing of IA/859(AHM)2021 (an application for approval of the Resolution Plan) on 28.03.2022, this Adjudicating Authority directed the RP to hold the meeting of Equity Shareholders and Creditors of the Transferor Company and follow the procedure under section 230 of the Companies Act, 2013. Further, this Adjudicating Authority on 19.04.2022 directed the RP to serve notice to all Statutory Authorities and file an affidavit.
- VII. The applicant has placed on record the certificate received from a Chartered Accountant certifying the Shareholder's, Secured and Unsecured Creditors of the Transferor Company as on 29.03.2022 which are as follows:

Sr. No	No of Equity Shareholder	No of Secured Creditors	No of Unsecured Creditors
1.	3	2	2497

- VIII. In compliance with the order dated 28.03.2022, by giving a shorter notice to the Creditors and pursuant to Rule 13(2) and Rule 14 of the Companies (Companies, Arrangements and Amalgamation) Rules, 2016, the RP chaired the meeting of the Unsecured Creditors on 12.04.2022 and submitted the Chairman report in Form CAA-4 stating that the meeting was attended by 41 Unsecured Creditors personally or by an authorized representative or as proxy and the scheme was approved unanimously by 100% votes.
- IX. It is submitted that considering the paucity of time, the Transferor Company after circulating the scheme to all Equity Shareholders, and Secured Creditors had obtained consent affidavit from the Equity Shareholders and Secured Creditors as they waived their right to attend their respective meetings. A copy of the consent affidavit is marked as Annexure-D (at pages 17 to 31). Hence, in the light of the consent affidavit, the meetings of the Equity Shareholders and Secured Creditors are not required to be convened.
- X. The Transferor Company has also served the notice to the Regional Director ("RD"), Registrar of Companies ("RoC"), Official Liquidator ("OL"), and the Income Tax Department. A copy of the same is annexed with Annexure-E (at pages 32 to 39 of this application).
- XI. In response to the notice received from the Transferor Company, the OL, RoC raised the query that the Transferor Company is required to clarify the appointed date. In response to the query of the OL and RoC, the Transferor Company has stated that the appointed date shall be the date when the resolution plan is approved by the CoC or such other date as directed by this Tribunal.

- XII. The Transferor Company has also submitted that the accounting treatment specified in the Scheme of Amalgamation, in the nature of the merger, is in conformity with the accounting standards prescribed under the Companies Act, 2013 and the certificate of the statutory auditor issued under section 133 of the Companies Act, 2013 is filed with the application as Annexure-I (at page-118 of this application).
- XIII. The Transferor Company has further submitted that the provisions of the Competition Commission of India Act, 2002 are not applicable in the present case. Hence, no notice is required to be served upon the Competition Commission of India.
- XIV. It is submitted that since the Scheme is an internal part of the Resolution Plan and Equity Shareholders and Secured Creditors have given their consent, the meetings of Secured Creditors and Equity Shareholders may be dispensed with.
- XV. It is submitted that the rights of the Shareholders and Creditors of the Transferor Company are duly safeguarded as the Corporate Debtor i.e the Transferee Company which was inoperative but was a listed entity and by the merger of the Transferor Company (being a going concern) with the Transferee Company, the benefit of listing shall also be available whereby the rights shall be further strengthened.
- XVI. It is submitted that this Adjudicating Authority by order dated 27.09.2022 in IA/859 (AHM)2021 in CP(IB) No. 197 of 2020 approved the Resolution Plan of the Transferor Company- M/s. Ratnakar Securities Pvt. Ltd.

3. Heard Learned Counsel Mr. Pavan S Godiawala for the Transferor Company. M/s. Mangalya Soft-tech Ltd.,- the Corporate Debtor in CP(IB) 197 of 2020 ( now the Transferee Company) which was admitted in CIRP on 15.03.2021. The Resolution Plan of M/s. Ratnakar Securities Pvt. Ltd.,- Transferor Company was approved with 100% voting share by the CoC wherein the proposed Scheme of Amalgamation was an integral part of the Resolution



Plan. The Resolution Professional filed an application, bearing application no. IA/859(AHM)2021 for approval of Resolution Plan. During the hearing of IA/859(AHM)2021 on 28.03.2022, this Adjudicating Authority directed the RP to hold the meeting of Equity Shareholders and Creditors of the Transferor Company and follow the procedure under section 230 of the Companies Act, 2013. Accordingly, the RP by giving shorter notice convened the meetings of Unsecured Creditors wherein 41 out of 2497 Unsecured Creditors attended the meeting either personally or by authorized representatives or proxy and voted in favour of the Scheme of Amalgamation. There are 3 (three) Equity Shareholders out of whom one is Foreign Shareholder and 2 (two) Secured Creditors, namely, Bank of India and HDFC Bank Ltd. All Equity Shareholders and Secured Creditors have given consent for the proposed Scheme of Amalgamation. Hence, the meeting of the same is not required to be convened. Further, on 19.04.2022, this Adjudicating Authority had directed the RP to serve notice upon all Statutory Authorities. As per Learned Counsel, the RoC and OL raised a query that the Scheme is required to clarify the appointed date. But after going through the record, it is found that no representation is filed by the Statutory Authorities in this proceeding. Hence, notice to Statutory Authorities is required to be issued. In the meantime, the application for approval of the Resolution Plan i.e., IA/859(AHM)2021 was allowed on 27.09.2022. The Resolution Plan is approved and the Transferor Company has convened the meeting of Unsecured Creditors and obtained consent from the Secured Creditors and Equity Shareholders for dispensation of their meetings. Hence, we pass the following orders:

### **ORDER**

- I. The meeting of Unsecured Creditors is not required to be convened as it has already been convened on 12.04.2022 and the Chairman has also filed the report in Form No. CAA 4.
- II. In the light of the consent affidavit received from the Equity Shareholders and Secured Creditors, the meeting of Equity Shareholders and Secured Creditors of the Transferor Company is dispensed with.

- III. The Transferor Company shall advertise paper publication in **“Financial Express”** in English as well as in Gujarati, Ahmedabad Edition, with respect to Scheme of Amalgamation calling upon objection, if any, from the creditors within thirty (30) days from the date of publication.
- IV. In compliance of sub-section (5) of section 230 and Rule 8 of the Companies (CAA) Rules, 2016, the Transferor Company shall send a notice to (i) the Central Government through the Regional Director, North Western Region, (ii) Registrar of Companies, Ahmedabad, (iii) Official Liquidator (iv) Income Tax Authority, and (v) the Reserve Bank of India stating that representation, if any, to be made by them shall be made within a period of (thirty) 30 days from the date of receipt of such notice, failing which it shall be presumed that they have no objection to make on the proposed scheme.
- V. Accordingly, the prayer made in this application is partly allowed.

-SD-

**KAUSHALEDRA KUMAR SINGH**  
**MEMBER (TECHNICAL)**

-SD-

**DR. MADAN B. GOSAVI**  
**MEMBER (JUDICIAL)**

Rajeev Kr. Sen/Stenographer  
Shweta G. Desai/ LRA