

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT II**

CA(CAA) No. 45/MB/2024

IN THE MATTER OF THE COMPANIES ACT,
2013

AND

IN THE MATTER OF SECTION 234 READ
WITH SECTIONS 230 TO 232, 52, 66 AND
OTHER APPLICABLE PROVISIONS OF THE
COMPANIES ACT, 2013

AND

SCHEME OF AMALGAMATION &
ARRANGEMENT (MERGER BY
ABSORPTION) OF HALLIBURTON
OFFSHORE SERVICES, INC. (TRANSFEROR
COMPANY) WITH HALLIBURTON INDIA
OPERATIONS PRIVATE LIMITED
(TRANSFeree COMPANY) AND THEIR
RESPECTIVE SHAREHOLDERS

Halliburton India Operations)

Private Limited)

(CIN:)

U11202MH2016FTC288437))

a company incorporated under)

the provisions of the Companies)

Act, 2013 having its registered)

office at Unit No 604, 6th Floor,)

...Applicant Company

/Transferee Company

Satellite Gazebo East Wing
Guru Hargovindji Marg, AG
Link Road, Andheri East
Mumbai, Maharashtra 400093,
India.

PAN: AAECH0313A

AND

**Halliburton Offshore Services,)
Inc.)
a company incorporated under)
Cayman Islands Laws as an)
exempted company having its)
registered office at Sterling Trust)
(Cayman) Limited, P.O. Box
1043, Whitehall House, 238
North Church Street, George
Town, Grand Cayman, Cayman
Islands.**

..Non-Applicant
Company /Transferor
Company

PAN: AAACH5154M

Order delivered on 08.07.2024

Coram:

**Anil Raj Chellan
Member (Technical)**

**Kuldip Kumar Kareer
Member (Judicial)**

For the Applicant Company: Mr Dhritiman Bhattacharyya, Advocate with Ms.
Deeti Ojha, Advocate i/b Mr. Shreyas Patel,
Advocate

ORDER

Per: Coram

1. Perused the Company Scheme Application, along with the Affidavits dated 23.03.2024 of Mr. Jagdish Kirankumar Panchal, Director and Authorised Signatory of the Applicant Company in support of the Company Scheme Application and heard Mr D. Bhattacharyya, Advocate for the Applicant Company.
2. The instant Scheme of Amalgamation and Arrangement (Merger by Absorption), is an inbound cross border merger whereby the Transferor Company, which is incorporated under the laws of Cayman Islands will amalgamate, merge and be absorbed by the Applicant (Transferee) Company, which is incorporated under the Companies Act 2013 and having its registered office in Mumbai, within the jurisdiction of this Tribunal.
3. Both the companies are engaged in the business of providing services and equipment in relation to the oil and gas sector involving exploration, development and production activities.
4. The Ld. Counsel for the Applicant Company further submits that, upon the Scheme becoming effective and in consideration of the amalgamation of the Transferor Company with the Applicant Company, the Applicant Company shall, without any further application, act or deed, issue and allot its shares, credited as

fully paid up to the members of Transferor Company, whose name is recorded in the register of members of the Transferor Company on the Record Date in the following ratio:

“1 (One) equity share in Transferee Company of the face value of Rs.10/- (Rupees Ten Only) each, credited as fully paid-up for 300 (Three Hundred) Ordinary Shares held by such member in the Transferor Company.”

The share entitlement ratio has been determined by Ernst & Young Merchant Banking Services LLP, Registered Valuer (Registration No. IBBI/RV-E/05/2021/155) in its report dated 04.03.2024.

5. Under the Scheme the Applicant Company shall credit the aggregate face value of the equity shares issued to its share capital account and the difference between the face value of shares issued and the fair value of shares issued will be credited to Securities Premium Account of the Applicant Company. The Securities Premium arising pursuant to the Scheme and the existing credit balance of Securities Premium shall be adjusted with the Profit & Loss debit balances in the books of accounts of the Applicant Company and the Securities Premium Account of the Applicant Company shall stand reduced accordingly. The reduction of share capital by way of utilization of the aforesaid Securities Premium account shall be effected as an integral part of the Scheme, however the

reduction would not involve either a diminution of liability in respect of unpaid share capital or payment of paid-up share capital.

6. The background, rationale and benefits of the Scheme as set out therein are as follows:

The Transferor Company is a sister subsidiary of the Transferee Company and the entire beneficial interest in the shares of both the companies are held by a common parent company, Halliburton U.S. International Holdings, Inc. The Transferee Company is carrying out business activities in India similar as that of Transferor Company, which operates in India through a project office. Accordingly, the Scheme proposes to streamline its group structure and consolidate the business of the Transferor Company in a single entity through amalgamation. The amalgamation of the Transferor Company including the India project office operations will achieve the following additional benefits:

- a) Synergies in business activities;
- b) Operational flexibilities in the conduct of business in India;
- c) Establishment of structure which aligns to long term business objective;
- d) Continuing of long-term business existence in India through a corporate structure benefitting various stakeholders such as employees, creditors, customers, governments, regulatory authorities etc.;

- e) Focused approach of the management for India business operations;
- f) Optimal utilization of resources within projects in India and abroad;
and
- g) Reduction in overheads, including administrative, statutory compliances, managerial and other expenditure, operational rationalization, organizational efficiency, and avoiding duplication of efforts at the Cayman Islands and India levels.

7. The Applicant Company has filed a specific affidavit of Mr. Jagdish Kirankumar Panchal with the present application confirming that:

- A. The Transferor Company is incorporated in Cayman Islands, which does not share land border with India and hence, the provisions of Rule 25-A (4) of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 is not applicable.
- B. Pursuant to the Scheme shares will be issued by the Applicant Company to the shareholders of the Transferor Company which are incorporated in the USA. Hence, the provisions of Press Note No. 3 (2020 Series) dated 17th April, 2020 issued by Government of India (Ministry of Commerce and Industry, Department for Promotion of Industry and Internal Trade, FDI Policy Section) are not attracted.
- C. The Applicant Company has obtained a certificate in terms of regulation 9(2) of the Foreign Exchange Management (Cross Border Merger) Regulations, 2018 from two Directors of the Applicant Company and the same has been annexed to the instant application.

8. Another affidavit has also been filed by Mr. Jagdish Kirankumar Panchal u/s 230(2) of the Companies Act 2013 confirming that:
- a. no investigation or proceedings under the Companies Act, 1956 / Companies Act, 2013 have been instituted or are pending in relation to the Applicant Company.
 - b. there are no legal proceedings against the Applicant Company or the Transferor Company that adversely impact the sanction of the Scheme by this Hon'ble Tribunal.
 - c. the proposed Scheme is not a corporate debt restructuring scheme and hence a creditor's responsibility statement and other requirements of section 230(2)(c) are not applicable in the present case.
 - d. no winding up or insolvency petition is pending or admitted against the Applicant Company.
 - e. The shares of Applicant Company are not listed on any stock exchanges.
 - f. The activities of the Applicant Company and the Transferor Company are not governed by any sectoral regulator and the Applicant Company is not registered as a NBFC with Reserve Bank of India.
 - g. No clearance of Competition Commission of India is required for the present Scheme

9. The Ld. Counsel for the Applicant Company submits that the Board of Directors of the Applicant Company and the Transferor Company vide their separate resolutions dated 05.03.2024 approved the Scheme. The Appointed Date for the purpose of the Scheme is 1st April 2024.
10. The position of shareholders and creditors of the Applicant Company are set out in the application along with the consents (in form of affidavits) and the same is tabulated below:

Company	Shareholders	Secured Creditors	Unsecured Creditors
Transferee/ Applicant Company	Equity: 2 Consent: All <i>Dispensation Prayed</i>	NIL	219 <i>Meeting Prayed</i>

11. In the above background, the Applicant Company has sought an order from this Tribunal seeking dispensation of the meeting of the shareholders of the Applicant Company in view of the consent given by all shareholders of the Applicant Company by way of Affidavit. In view of the said consents the requirement of convening the meetings of the shareholders of the Applicant Company is hereby dispensed with.

12. The question of convening or dispensation of the meeting of the secured creditors of the Applicant Company does not arise, as there are none.
13. The Applicant Company has sought an order from this Tribunal directing the Applicant Company to hold a meeting of its unsecured creditors to seek their approval to the Scheme. Given the preceding and view of the provisions of Section 230 of the Companies Act, 2013, the following directions are issued:

(a) The meeting of the unsecured creditors of the Applicant Company be convened as prayed for on 06.09.2024 at 11 am through video conferencing with the facility of remote e-voting, subject to notice of the meeting being issued. The quorum of the meeting of the unsecured creditors shall be 1/3rd in value of the unsecured creditors.

(b) In case the required quorum, as noted above, for the meetings is not present at the commencement of the meeting, the meeting shall be adjourned by 30 minutes and thereafter the persons present, and voting shall be deemed to constitute the quorum.

(c) At least 30 clear days before the said meeting, to be held as aforesaid, a notice in the prescribed Form CAA.2, convening the said meeting at the place, day, date and time as aforesaid, together with a copy of the Scheme, a copy of a statement disclosing all material facts as required under Section

230(3) of the Companies Act, 2013 read with Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rule, 2016 shall be sent by courier / R.P.A.D / hand delivery / e-mail to each of the unsecured creditors at their registered address / registered email-address, as per the records of the Applicant Company.

(d) At least 30 clear days before the meetings of the unsecured creditor of the Applicant Company, a notice convening the meeting, as aforesaid be published on the website of the Applicant Company (if any) as well as in the Mumbai Edition of Business Standard in the English language and a Marathi translation thereof in Loksatta (Mumbai edition), stating that copies of the Scheme and the statements required to be furnished pursuant to Section 230 (3) of the Companies Act, 2013 read with Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 and the Form of Proxy/ies may be obtained free of charge at the registered office of the Applicant Company as aforesaid and/ or at the offices of its Advocate, Shreyas Patel, 133, Jehangir Building, 3rd Floor, Mahatma Gandhi Road, Fort, Mumbai — 400 001.

14. That Mr. Chritarth Palli, Advocate, having e-mail id: chritarth04palli@gmail.com and mobile no. 9888277971 shall be the Chairperson of the aforesaid meeting of

the unsecured creditor of the Applicant. The fee of Rs. 1,50,000/- shall be payable to the Chairperson.

15. That the scrutinizer for the aforesaid meeting shall be the Company Secretary of the Company itself or any other officer to be appointed by the Board of Directors.
16. The Chairperson appointed by the Tribunal for the meeting of the unsecured creditors of the Applicant Company, to issue a notice of the meeting to the unsecured creditors of the Applicant Company and publication of the date of notices of the respective meetings in the newspapers. The said Chairperson should have all the powers as per the Articles of Association, also under the Companies Act, 2013 and the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 in relation to the conduct of the respective meeting, including for deciding procedural questions that may arise or any other matter including an amendment to the Scheme or the resolution, if any proposed at the meeting by any person(s).
17. The value of the debt of the creditors shall be in accordance with Annexure-O of the instant application and where the entries in the records or registers are disputed, the Chairperson of the meeting shall determine the number and holding value, as the case may be, for the respective meetings, and his decision in that behalf would be final.

18. The Chairperson of the meeting to file an affidavit not less than 7 (Seven) days before the date fixed for the holding of the meetings of creditors and report to this Tribunal that the directions regarding the issue of the notices and the advertisements have been duly complied with.
19. The Chairperson of the meetings to report to this Tribunal, the result of the respective meeting of the creditor directed to be convened as aforesaid, within 10 (ten) days of the conclusion of the meetings.
20. The Applicant Company is directed to serve notices of present Application along with its enclosures upon:- (i) Regional Director, Western Region, (ii) Registrar of Companies, Mumbai, (iii) Jurisdictional Income Tax Authority and the Nodal Authority in the Income-Tax Department i.e. Pr. Chief Commissioner of Income Tax, 3rd Floor, Aaykar Bhawan, Maharishi Karve Road, Mumbai – 400020, e-mail: Mumbai.pccit@incometax.gov.in (iv) Jurisdictional Goods & Service Tax Authority, (v) Reserve Bank of India (RBI) (vi) Ministry of Corporate Affairs and any other regulatory body, as may be required under any applicable law for time being in force, with a direction that they may, if they so wish, submit their representations, if any, within a period of thirty days (30) from the date of receipt of such notice to the Tribunal with copy of such representations shall simultaneously be served upon the Applicant Company failing which, it shall be

presumed that the authorities have no representations to make on the proposed Scheme.

21. That the Applicant Company to file an Affidavit of Service of the directions given by the Tribunal in the Registry for service of notice to the statutory authorities as stated above and do report to this Tribunal that the directions regarding the issue of notices have been duly complied with.

Sd/-

ANIL RAJ CHELLAN
MEMBER (TECHNICAL)

Sd/-

KULDIP KUMAR KAREER
MEMBER (JUDICIAL)