

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-V**

CA(CAA)/ 57/MB/ 2024

In the matter of the Companies Act, 2013;

AND

In the matter of Sections 230 to 232 and other
applicable provisions of the Companies Act,
2013 and rules framed thereunder;

AND

In the matter of Scheme of Arrangement of
India Transact Services Limited (“Demerged
Company/ First Applicant Company”)
having CIN U72900MH2007PLC172249
and AGS Transact Technologies Limited
 (“Resulting Company/ Second Applicant
Company”) having CIN
L72200MH2002PLC138213 and their
respective shareholders (‘Scheme’)

India Transact Services Limited, A
public limited company incorporated under
the provisions of Companies Act, 1956
having its registered office at 601-602, Trade
World, B-Wing, Kamala Mill Compound,

Senapati Bapat Marg, Lower Parel, Mumbai ...Demerged Company/ First Applicant
– 400013, Maharashtra, India. Company
CIN U72900MH2007PLC172249

AGS Transact Technologies Limited A
public limited company incorporated under
the provisions of Companies Act, 1956
having its registered office at 601-602, Trade
World, B-Wing, Kamala Mill Compound,
Senapati Bapat Marg, Lower Parel, Mumbai
– 400013, Maharashtra, India
CIN L72200MH2002PLC138213

...Resulting Company/ Second Applicant
Company

The First Applicant Company and Second Applicant Company shall be collectively referred to as “Applicant Companies”

Order Dated:01.05.2024

Coram:

Madhu Sinha
Hon’ble Member (Technical)

Reeta Kohli
Hon’ble Member (Judicial)

Appearance:

For the Applicant Companies: Mr. Hemant Sethi, Ms. Devanshi Sethi, Ms. Tanaya Sethi i/b
Hemant Sethi & Co., Advocates.

ORDER

1. The Learned Counsel for the Applicant Companies states that the present Scheme is Scheme of Arrangement of India Transact Services Limited (“Demerged Company/ First Applicant Company”) having CIN U72900MH2007PLC172249 and AGS Transact Technologies Limited (“Resulting Company/ Second Applicant Company”) having CIN L72200MH2002PLC138213 and their respective shareholders (‘Scheme’), under the provisions of Sections 230 to 232 of the Companies Act, 2013.
2. The Demerged Company is a wholly owned subsidiary of the Resultant Company. The shares of the Resulting Company are listed on the National Stock Exchange of India and Bombay Stock Exchange.
3. The Learned Counsel for the Applicant Companies states that the resolution passed by the Board of Directors of the First Applicant Company and Second Applicant Company in their respective meetings conducted on 19th March, 2024 approved the Scheme.
4. The Learned Counsel for the Applicant Companies further submits the nature of business of the Applicant Companies and Rationale for the Scheme: -

India Transact Services Limited

The First Applicant Company is present engaged in the business of providing a device based and device less payment solutions, prepaid and loyalty programs and other

payment services including a payment gateway and processing platform for routing commercial and retail payments between buyers and sellers across the country. It also holds a valid Prepaid Payment Instruments (“PPI”) license, issued by the Reserve Bank of India.

AGS Transact Technologies Limited

The Second Applicant Company is engaged in the business of supplying, installing and managing technology-based automation products and providing related services to its customers in Banking, Petroleum, Color and Retail sectors. It also provides complete ATM Outsourcing, Intelligent Cash Deposit (ICD), ATM Managed Services, Digital payment services which includes toll and transit solutions, services through point of sale (POS) machine, transaction switching and processing services to various banks, financial institutions and other companies.

Rationale of the Scheme:

The rationale for the Scheme is as under:

- The Resulting Company is engaged in the business of providing customized products and services comprising ATM and Cash Recycler Machines (“CRM”) outsourcing, cash management and digital payment solutions. The Demerged Company is engaged in the business of Merchant Acquisition Business and also holds a valid PPI license, issued by the Reserve Bank of India. The Demerged Company is a wholly owned subsidiary of the Resulting Company.
- Currently, many large Merchant Acquisition Business contracts are secured by the Resulting Company which are further subcontracted and serviced by the Demerged Company.

- The Scheme aims to consolidate the Merchant Acquisition Business activities under the Resulting Company, fostering better, more efficient, and economical resource management. This consolidation is expected to create synergies, particularly in the development of the Merchant Acquisition Business, offering improved opportunities for growth and scalability.
- The Scheme, inter-alia, also leads to vertical integration of the Merchant Acquisition Business into the Resulting Company, thereby enabling it to position itself in a better manner in the market. The Resulting Company will be capable of providing a comprehensive range of services, from software solutions development to seamless transaction platforms, enhancing its competitiveness and market presence allowing the Resulting Company to offer the entire range of services to its customers starting from development and designing of software solutions to providing payment platforms for carrying out transactions.
- The Scheme shall facilitate the Demerged Company to entirely focus on the PPI business, which includes contracts from prominent entities like Patanjali Ayurved Limited, Bharuwa Solution Pvt. Limited and Bangalore Metro Rail Corporation Limited (BMRCL). The Demerged Company has also initiated pilot in automated fuelling based solution through the PPI business. This focused approach is expected to enable the Demerged Company to capitalize on the existing contracts and explore prospective business opportunities, thus aligning with and attracting potential clients interested in the PPI business. PPI license enables us to provide consumer centric solutions and open loop PPI card shall create better opportunities providing better consumer experience in making payments.
- The Scheme will reduce management overlap and integrate the business functions, thereby streamlining the business structure of the group. The Scheme will

ultimately result in better, efficient, and economical management, cost savings, pooling of resources, creating better synergies across the group, optimum utilization of resources, rationalization of administrative expenses/ services, and further development and growth of the respective businesses.

- The Scheme is between a holding company and its wholly owned subsidiary and shall not in any manner be prejudicial to the interests of concerned shareholders/ creditors of the Companies and the general public at large.

In view of the aforesaid advantages, the Board of Directors of the Demerged Company and the Resulting Company have considered and proposed this Scheme of Arrangement between ITSL and AGS and their respective shareholders and creditors at their meetings dated 19 March, 2024 and 19 March 2024, respectively.

5. The share capital of the First Applicant Company as on 31st December, 2023 is as under:

| Share Capital | Rs. |
|---|-----------------------|
| Authorized Capital | |
| 14,50,00,000 Equity Shares of Rs. 10/- each | 1,45,00,00,000 |
| Total | 1,45,00,00,000 |
| Issued, Subscribed and Paid-up Share Capital | |
| 14,50,00,000 Equity Shares of Rs. 10/- each | 1,45,00,00,000 |
| Total | 1,45,00,00,000 |

6. The share capital of the Second Applicant Company as on 31st December, 2023 is as under:

| Share Capital | Rs. |
|---|-----------------------|
| Authorized Capital | |
| 16,00,00,000 Equity Shares of Rs. 10/- each | 1,60,00,00,000 |
| TOTAL | 1,60,00,00,000 |
| Issued, Subscribed and Paid-up Share Capital | |
| 12,14,03,076 Equity Shares of Rs. 10/- each | 1,21,40,30,760 |
| TOTAL | 1,21,40,30,760 |

7. The Learned Counsel for the Applicant Companies submit that the Demerged Company is the wholly owned subsidiary of Resulting Company. The entire issued, subscribed and paid-up share capital of Rs. 1,45,00,00,000 (Rupees One Hundred Forty-Five Crore Only) of the Demerged Company is held by the Resulting Company and/or its nominees. Accordingly, upon coming into effect of the Scheme, no shares of the Resulting Company shall be allotted in lieu of the transfer of the Demerged Undertaking pursuant to this Scheme, in light of the Resulting Company being the holding company of the Demerged Company.
8. The Learned Counsel for the First Applicant Company submits that there are 7 (Seven) Equity Shareholders in the First Applicant Company and the consent affidavits of all the Equity Shareholders of the First Applicant Company have been annexed as **Annexure**

'II' to 'I7' (Pg. Nos. 484- 509) to the Company Application. In view of the fact that all the Equity Shareholders of the First Applicant Company have given their consent to the Scheme, the meeting of the Equity Shareholders of the First Applicant Company is hereby dispensed with.

9. The Learned Counsel of the First Applicant Company submits that as on 29th February, 2024, there are 3 Secured Creditors of the First Applicant Company/ Demerged Company of value of Rs. 16,58,28,133/- (Rupees Sixteen Crore Fifty-Eight lakhs Twenty-Eight Thousand One Hundred and Thirty-Three Only). The Learned Counsel for the Applicant Companies submits that the present Scheme is an arrangement between the Applicant Companies and their Shareholders as contemplated in Section 230(1)(b) and not in accordance with the provisions of Section 230(1)(a) of the Companies Act, 2013, as there is no compromise or arrangement with creditors as it does not affect the rights and interests of the Unsecured Creditors of the First Applicant Company. Further, there is no diminution of liability of any of the Secured Creditors of the First Applicant Company. Also, the Secured Creditors will be paid off in the ordinary course of business. In view of the fact that there is no compromise or arrangement with creditors, the meeting of the Secured Creditors of the First Applicant Company will get their consent or give notice to each bankers individually. The Learned Counsel submits that the First Applicant Company undertakes to file consent affidavit of 90% or more in value of the Secured Creditors of the First Applicant Company before the final hearing.
10. The Learned Counsel of the First Applicant Company submits that as on 29th February, 2024, there are 183 Unsecured Creditors of the First Applicant Company/ Demerged Company of value of Rs. 50,54,87,735/- (Rupees Fifty Crore Fifty-Four Lakhs Eighty-Seven Thousand Seven Hundred and Thirty-Five Only). 1 unsecured creditor of the

First Applicant Company amounting to Rs. 46,20,82,312/- (Rupees Forty-Six Crore Twenty Lakhs Eighty-Two Thousand Three Hundred and Twelve Only) being 91.41% of the value of the unsecured creditors has provided its consent affidavit(s) to the proposed scheme of Arrangement annexed at Annexure-‘L’ (Pg. Nos. 527-534). In any case, the present Scheme is an Arrangement between the Applicant Companies and its shareholders as contemplated under Section 230(1)(b) and not in accordance with the provisions of Section 230(1)(a) of the Companies Act, 2013 as there is no Compromise and/or Arrangement with the creditors as no sacrifice is called for. The rights of the Unsecured Creditors will not be affected as the creditors would be paid off in the ordinary course of business. As there is no arrangement or compromise with any of the Unsecured Creditors there is no requirement of convening a meeting of the Unsecured Creditors of the First Applicant Company. All unsecured creditors are being paid off in the ordinary course of business. Further, in view of the consent affidavit tendered by the Unsecured Creditor of the First Applicant Company, the meetings of the Unsecured Creditor be hereby dispensed with.

11. The Learned Counsel for the Applicant Companies submit that as far as the Equity Shareholders of the Second Applicant Company/ Resulting Company are concerned there are 1,02,102 Equity Shareholders as on 31st December, 2023 as available on the website of Bombay Stock Exchange. There are 16 Secured Creditors of value of Rs. 6,21,62,34,141/- (Rupees Six Hundred and Twenty-One Crores Sixty-Two Lakhs Thirty-Four Thousand One Hundred and Forty-One Only) and 3,048 Unsecured Creditors of value of Rs. 2,43,47,61,168/- (Rupees Two Hundred and Forty-Three Crores Forty-Seven Lakhs Sixty-One Thousand One Hundred and Sixty-Eight Only) as on 29th February, 2024. Notice to be given the above said secured and unsecured creditors.

12. It is respectfully submitted that the Hon'ble National Company Law Appellate Tribunal in the case of DLF Phase-IV Commercial Developers Limited & Ors, In Company Appeal (AT) No. 180 of 2019, Ambuja Cements Limited, In Company Appeal (AT) No. 19 of 2021, and Patel Hydro Power Private Limited, In Company Appeal (AT) No. 137 of 2021, and in Company Appeal (AT) No 109 of 2023 in case of Reliance Industries Limited have held that Scheme of arrangement/Amalgamation between subsidiary and Holding Company does not warrant meetings of its shareholders and creditors. The facts of the case are similar to the present matter . In view of the judgements cited hereinabove, the meetings of the equity shareholders and creditors of the Second Applicant Company be hereby dispensed with.
13. Learned Counsel for the Applicant Companies submit that copies of the net-worth certificate as prepared by the Chartered Accountant evidencing positive net-worth pre and post sanction of the Scheme of Arrangement of the Applicant Companies is annexed at **Annexure Q1 to Q3** (Pg. 689 to 694).
14. The Applicant Companies are accordingly directed to serve notices along with copy of Scheme upon:-
- (i) concerned Income Tax Authorities within whose jurisdiction the Applicant Company's assessments are made i.e., for the First Applicant Company,
 - (ii) concerned nodal officer
 - (iii) the Central Government through the office of Regional Director, Western Region, Ministry of Corporate Affairs, Mumbai, Maharashtra;
 - (iv) Registrar of Companies, Mumbai, Maharashtra;
 - (v) Bombay Stock Exchange by the Second Applicant Company
 - (vi) National Stock Exchange by the Second Applicant Company

- (vii) SEBI
- (viii) Securities Exchange Board of India by the Second Applicant Company
- (ix) Bankers

pursuant to sub-section (5) of Section 230 of the Companies Act, 2013 and as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, with a direction that they may submit their representations, if any, within a period of thirty days from the date of receipt of such notice to the Tribunal with copy of such representations shall simultaneously be served upon the Applicant Companies, failing which, it shall be presumed that the authorities have no representations to make on the proposals.

15. The Applicant Companies to file an affidavit of service of the directions given by the Tribunal for proving service of notice to the Regulatory Authorities by the Applicant Companies, have been duly complied with.
16. Ordered accordingly.

SD/-

Madhu Sinha

Hon'ble Member (Technical)

/Aakansha/

SD/-

Reeta Kohli

Hon'ble Member (Judicial)