

**THE NATIONAL COMPANY LAW TRIBUNAL,  
COURT – I, MUMBAI BENCH**

**C.A(CAA)/47/MB-I/2024**

*In the matter of*

*The Companies Act, 2013 (18 of 2013);*

*AND*

*In the matter of*

*Sections 232 r/w 230*

*and other applicable provisions of the  
Companies Act, 2013 and Rules framed  
thereunder as in force from time to time;*

*AND*

*In the matter of*

*Composite Scheme of Amalgamation*

**TIBCO Software India Private Limited**

CIN: U72200PN2002PTC134898

...Applicant Company 1/  
**Transferor Company 1**

**Snappydata Technologies Private Limited**

CIN: U74999PN2016FTC158098

...Applicant Company 2/  
**Transferor Company 2**

*(“Collectively referred as Applicant Companies”)*

*Order delivered on 25.04.2024*

*Coram:*

**Shri Prabhat Kumar**  
Hon’ble Member (Technical)

**Justice V.G. Bisht (Retd.)**  
Hon’ble Member (Judicial)

*Appearances (through)*

For the Applicant(s) : Mr. Kushal Kumar a/w Mr. Ajit  
Singh Tawar, Advocate

**ORDER**

1. Heard the learned counsel for the Applicant Companies.
2. The Counsel for the Applicant Companies submits that the present Scheme is a Scheme of Amalgamation of **TIBCO Software India Private Limited** (First Transferor Company) and **Snappydata Technologies Private Limited** (Second Transferor Company) and **Citrix Systems India Private Limited** (Third Transferor Company having jurisdiction with NCLT, Bengaluru) With **Cloud Software Group India Private Limited** (Transferee Company having jurisdiction with NCLT, Bengaluru) and their respective shareholders ('Scheme') under the provisions of Sections 232 r/w Section 230 of the Companies Act, 2013 and other applicable provisions of the Companies Act, 2013.
3. That the First Transferor Company and the Second Transferor Company are within the jurisdiction of the National Company Law Tribunal, Mumbai Bench and the Third Transferor Company and the Transferee Company are within the jurisdiction of the National Company Law Tribunal, Bengaluru Bench. The Third Transferor Company and the Transferee Company have filed a separate Application with the National Company Law Tribunal, Bengaluru Bench.
4. The respective Board of Directors of Applicant Companies at its respective Board Meeting held on 14<sup>th</sup> day of March, 2024 approved the proposed Scheme of Amalgamation. The Appointed Date of the

Scheme is 1st day of April, 2023.

5. The First Transferor Company is engaged in the business of rendering software-related services such as software development and support, marketing support and general and administrative support primarily to the Holding Company. The Second Transferor Company is engaged in the business of providing services for software development and supporting services primarily to the Holding Company.

6. The Counsel for the Applicant Companies further submit that the rationale for the Scheme are as follows:

The Amalgamation of the Transferor Companies with the Transferee Company, would *inter alia* have the following benefits:

- a. Picard Holdco, Inc., a Delaware corporation, USA ('Picard Holdco'), is the parent company of the Cloud Software Group of companies (the 'Cloud Group') and directly or indirectly own Cloud Software Group India Private Limited, Citrix Systems India Private Limited, TIBCO Software India Private Limited and SnappyData Technologies Private Limited. The management of Picard Holdco has determined that it is advisable and in the best interests of the Cloud Group that all the aforementioned companies which are incorporated in India under the Companies Act, 1956 or the Companies Act, 2013, as the case may be, be restructured and merged into one Company to manage the business affairs in India in a better manner.
- b. Achieving operational and management efficiency;

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- c. Elimination of multiple entities independently undertaking various projects and thereby eliminating duplication of administrative functions and reduction in the multiplicity of legal and regulatory compliances required at present to be carried out by the Transferor Companies;
- d. Enable pooling of resources of Transferor Companies and Transferee Company to their common advantage, resulting in more productive utilization of resources and achieving economies of scale.
- e. Reduction in compliances and statutory filings with various government departments.
- f. Achieving economies of scale.
- g. Combined capital resources would strengthen the financial position of the merged entity
- h. Synchronizing of efforts to achieve uniform corporate policy.
- i. Ease in decision making.
- j. To reflect the consolidated net worth of these companies in one balance sheet.

Particulars	Amount (in Rs)
<b><u>Authorized Share Capital</u></b>	
50,000 Equity Shares of Rs. 10/- each	5,00,000/-
<b>TOTAL</b>	<b>5,00,000/-</b>
<b><u>Issued, Subscribed and Paid-up Share Capital</u></b>	
10,450 Equity Shares of Rs. 10/- each fully paid	1,04,500/-
<b>TOTAL</b>	<b>1,04,500/-</b>

7. The Share Capital of the First Applicant Company / First Transferor Company, as on 31<sup>st</sup> day of March, 2023 is as under:

8. The Share Capital of the Second Applicant / Second Transferor Company, as on 31<sup>st</sup> day of March, 2023 is as under:

<b>Particulars</b>	<b>Amount in Rs</b>
<b><u>Authorized Share Capital</u></b>	
10,000 Equity Shares of Rs. 10/- each	1,00,000/-
<b>TOTAL</b>	<b>1,00,000/-</b>
<b><u>Issued, Subscribed and Paid-up Share Capital</u></b>	
10,000 Equity Shares of Rs. 10/- each fully paid	1,00,000/-
<b>TOTAL</b>	<b>1,00,000/-</b>

9. That upon the coming into effect of this Scheme and in consideration of the transfer of and vesting of the Undertaking of the Transferor Companies to the Transferee Company in terms of this Scheme, the Transferee Company shall, without any further application, act, instrument or deed, issue and allot to all the shareholders of the Transferor Companies whose names are registered in the Register of Members of the respective Transferor Company on the Record Date or his/her/its legal heirs, executors or administrators or, as the case may be, successors as under:

**To the equity shareholders of TSIPL/TIBCO/ First Transferor Company:**

*“37 fully paid-up equity shares (of INR 10/- each) of CSGIPL for every 30 fully paid-up equity shares (of INR 10/- each) in TSIPL.”*

**To the equity shareholders of STPL/ Second Transferor Company:**

*“145 fully paid-up equity shares (of INR 10/- each) of CSGIPL for every 10,000 fully paid-up equity shares (of INR 10/- each) in STPL.”*

**To the equity shareholders of CSIPL/ Third Transferor  
Company:**

*“3 fully paid-up equity shares (of INR 10/- each) of CSGIPL for every 10,000 fully paid-up equity shares (of INR 10/- each) in CSIPL.”*

10. There are 4 (Four) Equity Shareholders in the First Applicant Company holding 10,450 shares of Rs. 10 each aggregating to Rs. 10,04,500 as on 20.03.2024. The First Applicant Company submits that all the equity shares holders of the First Applicant Company have made their consent for approval of the scheme of amalgamation. Accordingly, in view of consent affidavit filed by the Applicant No.1 of all the equity shareholders, the question of meeting does not arise.
11. There are 2 (Two) Equity Shareholders in the Second Applicant Company holding 10,000 shares of Rs. 10 each aggregating to Rs. 1,00,000/- as on 20.03.2024. In view of the Consent Affidavits filed by all the Equity Shareholders of the Second Applicant Company, the meeting of the Equity Shareholders of the Second Applicant Company, for the purpose of considering and approving the proposed Scheme is hereby dispensed with.
12. That there are 1 (One) Secured Creditors amounting to Rs.27,63,500/- (Rupees Twenty Seven Lakhs Sixty Three Thousand Five Hundred Only) in the First Transferor Company as on 31<sup>st</sup> day of January, 2024. The List of Secured Creditors of the First Transferor Company certified by the Chartered Accountant of the First Transferor Company is annexed to the Company Scheme Application Further, the Counsel for the First Transferor Company submits that submitted that meeting of the Secured Creditors of the First Transferor Company be dispensed with as they will not be affected by the proposed

Scheme and further this Scheme of Amalgamation is contemplated under Section 230(l)(b) and not in accordance with the provisions of Section 230(l)(a) of the Companies Act, 2013 as there is no compromise and/or arrangement with the creditors as no sacrifice is called for. The Secured Creditors of the First Transferor Company will not be adversely affected by the proposed Scheme. Therefore, the requirement for convening the meeting of the Secured creditors of the First Applicant Company be dispensed with upon an undertaking to serve notice to the Secured Creditors of the First Applicant Company by Registered Post-AD, Speed Post and e-mail informing them about the Scheme and with a representation that "*If no response is received by the Tribunal from the concerned Authorities within 30 days of the date of receipt of the notice it will be presumed that the concerned Authorities has no objection to the proposed Scheme*". It is clarified that notice service through courier shall be taken on record only in cases where it is supported with Proof of Delivery having acknowledgement of the noticee.

13. There are 42 (Forty-Two) Unsecured Creditors as on 31<sup>st</sup> day of January, 2024 having outstanding amount of Rs.91,71,940/- (Rupees Ninety-One Lakh Seventy One Thousand Nine Hundred Forty Only) in First Applicant Company. The List of Unsecured Creditors of the First Transferor Company certified by the Chartered Accountant of the First Transferor Company is annexed to the Company Scheme. Further, the Counsel for the First Transferor Company submits that that meeting of the Unsecured Creditors of the First Transferor Company be dispensed with as they will not be affected by the proposed Scheme and further this Scheme of Amalgamation is 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 Unsecured Creditors as no sacrifice is called for. The Unsecured Creditors of the First Transferor Company will not be adversely affected by the proposed Scheme. Therefore, the requirement for convening the meeting of the Unsecured creditors of the First Applicant Company is dispensed with upon an undertaking to serve notice to all the Unsecured Creditors of the First Applicant Company by Registered Post-AD / Speed Post or through e-mail informing them about the Scheme with a representation that “*If no response is received by the Tribunal from the concerned Authorities within 30 days of the date of receipt of the notice it will be presumed that the concerned Authorities has no objection to the proposed Scheme*”. It is clarified that notice service through courier shall be taken on record only in cases where it is supported with Proof of Delivery having acknowledgement of the noticee.

14. That there are no Secured Creditors in the Second Transferor Company as on 31<sup>st</sup> day of January, 2024. The List of Secured Creditors of the Second Transferor Company certified by the Chartered Accountant of the Second Transferor Company. Therefore, the question of convening and holding of the meeting of Secured Creditors of the Second Transferor Company does not arise.
15. That there are no Unsecured Creditors in the Second Transferor Company as on 31<sup>st</sup> day of January, 2024. The List of Unsecured Creditors of the Second Transferor Company certified by the Chartered Accountant of the Second Transferor Company. Therefore, the question of convening and holding of the meeting of Unsecured Creditors of the Second Transferor Company does not arise.



16. The Applicant Companies shall serve the Notice in terms of Section 230 (5) of the Companies Act, 2013, upon -
- a. The Central Government, through Regional Director, Everest, 5<sup>th</sup> Floor, 100 Marine Drive, Mumbai-400002;
  - b. The Registrar of Companies, GST Department
  - c. Jurisdictional Income Tax Authorities; within whose jurisdiction; the Applicant Company's assessment are made; and the Nodal Authority in the Income Tax Department having jurisdiction over such authority i.e. Pr. CCIT, Mumbai, Address:- 3 rd Floor, Aayakar Bhawan, Mahrishi Karve Road, Mumbai – 400 020, Phone No. 022-22017654 [E-mail: Mumbai.pccit@incometax.gov.in];
  - d. Official Liquidator, High Court of Bombay
  - e. Any other sectoral regulator as may be directed by this Hon'ble Tribunal.
17. The Notice shall be served through by Registered Post-AD, Speed Post and email along with copy of Scheme and state that "*If no response is received by the Tribunal from the concerned Authorities within 30 days of the date of receipt of the notice it will be presumed that the concerned Authorities has no objection to the proposed Scheme*". It is clarified that notice service through courier shall be taken on record only in cases where it is supported with Proof of Delivery having acknowledgement of the noticee.
18. The Applicant Companies will submit –
- i. Details of Corporate Guarantee, Performance Guarantee and Other Contingent Liabilities, if any.
  - ii. List of pending IBC cases, if any, along with all other litigation;
  - iii. pending against the Applicant Companies having material impact on the proposed Scheme.
  - iv. The Applicant Companies shall submit details of all Letters

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of Credit sanctioned and utilized as well as Margin Money details; if any.

19.The Applicant Companies to file an affidavit of service within 10 working days after serving to notice to all the regulatory authorities as stated above and do report to this Tribunal that the directions regarding the issue of notices have been duly complied with.

Sd/-

**Prabhat Kumar**  
Member (Technical)

Sd/-

**Justice V.G. Bisht**  
Member (Judicial)