

**NATIONAL COMPANY LAW TRIBUNAL**

**COURT ROOM NO. 1,**

**MUMBAI BENCH**

**Item No. 22**

**IA 74/2024 (NEW IA) IN C.P.(CAA)/201(MB)2023**

CORAM:

**SH. PRABHAT KUMAR**

**JUSTICE V.G. BISHT (Retd.)**

**HON'BLE MEMBER (TECHNICAL)**

**HON'BLE MEMBER (JUDICIAL)**

ORDER SHEET OF THE HEARING ON **14.05.2024**

NAME OF THE PARTIES: **6SENSE INSIGHTS INDIA PRIVATE LIMITED**

Section 230-232 of the Companies Act, 2013 and Rule 11

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**ORDER**

Adv. Aniketh Nair a/w Adv. Dev Motta i/b Adv. Mustafa Motiwale for the  
Petitioner present.

**IA 74/2024**

1. This is an application filed under Rule 11 of the National Company Law Tribunal  
Rules, 2016 and seeking following relief –

- a. This Tribunal may be pleased to withdraw the Scheme of Amalgamation  
between Transferor Company and Transferee Company by recalling the  
order dated December 20, 2023 passed in the captioned matter - CP  
(CM) No. 201 of 2023 by this Tribunal;
- b. Pending the hearing and disposal of the captioned Company Petition, this  
Hon'ble Tribunal may be pleased to stay the order dated December 20,  
2023 passed in the captioned matter - CP (CM) No. 201 of 2023;
- c. pass any other and further orders which this Tribunal may deem fit  
and proper in the facts and circumstances of the present case.

2. The present Interlocutory Application has been filed by the Applicant Company

Transferee Company for withdrawal of the Scheme of Amalgamation between Transferor Company and Transferee Company by recalling the order dated December 20, 2023 ("Final Order") passed in the captioned matter - CP (CAA) No. 201 of 2023 by this Tribunal.

3. As per the Scheme, the share swap ratio is fifteen fully paid-up equity shares of Rs. 10 each of the Transferee Company shall be issued and allotted for every one fully paid-up equity share of Rs. 10 held in the Transferor Company. The aforesaid share swap ratio was based on the Valuation Report dated November 01, 2022. However, due to the global reduction in business and reorganization of business activities across regions, the revenue of Transferee Company and Transferor Company fell below the projected revenue for the Financial Year 2023-24 as projected in the Valuation Report.
4. Further, an amendment has been made to the Karnataka Stamp Act, 1957 with effect from February 03, 2024 whereby the stamp duty on the amalgamation has been increased from 1% to 5% i.e. increase of 4%. By this amendment, the Transferor Company would have to pay additional stamp duty on a higher valuation of Transferor Company.
5. As a result, the valuation and exchange ratio as provided in the Scheme is no longer a viable exchange ratio and the merger as was originally anticipated would not reflect the actual economics of the Transferor or the Transferee company and therefore the Transferee Company is seeking withdrawal.
6. The board of directors and shareholders of the Transferor Company and Transferee Company have passed resolutions to withdraw the Scheme of Amalgamation.
7. The Petition filed by Transferor Company before the Hon'ble NCLT, Bangalore Bench has been dismissed as withdrawn for the same reasons stated in this Interlocutory Application.

8. The Applicant has submitted that the co-ordinate Bengaluru Bench has allowed withdrawal of the approval in relation to scheme of arrangement, granted by it in the case of transferor company. The applicant has filed this application seeking similar orders in relation transferee company contending that the change in the stamp duty creates in the State of Karnataka has rendered the approve the scheme of arrangement unviable. We note that after withdrawal of its approval by the Bengaluru Bench in case of transferor company, the proposed scheme which was approve by us also has become in capable of being implemented. We further note that the scheme has still not become effective in view of the filing of the necessary forms with the jurisdiction of the Registrar of the Company Accordingly, we consider it appropriate to allow the withdrawal of the scheme.

9. Accordingly, IA 74 of 2024 is **allowed** and **disposed of**.

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**PRABHAT KUMAR**  
**MEMBER (TECHNICAL)**

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**JUSTICE V.G. BISHT**  
**MEMBER (JUDICIAL)**

Rehan Shaikh