

NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH  
COURT- V

12) C.A.(CAA)/232(MB)2022

CORAM:

SMT. ANURADHA SANJAY BHATIA  
Member (Technical)

SHRI H. V. SUBBA RAO  
Member (Judicial)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON **25.11.2022**.

NAME OF THE PARTIES: JM FINANCIAL CAPITAL LIMITED

UNDER SECTION 230 OF THE COMPANIES ACT, 2013

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**ORDER**

Mr. Harsh Ruparelia, Advocate appearing for the Applicant and Ms. Rupa Sutar, Authorized representative of Regional Director, MCA (WR), Mumbai are present through virtual hearing. Heard the Counsel appearing for the applicant.

**Reserved for order.** Detailed order follows.

SD/-

ANURADHA SANJAY BHATIA  
Member (Technical)

SD/-

H. V. SUBBA RAO  
Member (Judicial)

/K/

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

**C.A. (CAA) / 232 (MB) / 2022**

In the matter of the Companies Act, 2013

AND

In the matter of Section 230 to  
Section 232 of the Companies Act,  
2013 (the Act) and other applicable  
provisions of the Act read with  
Companies (Compromises,  
Arrangements and Amalgamation)  
Rules, 2016

AND

In the matter of Scheme of  
Arrangement which provides for  
**merger of JM Financial Capital  
Limited ('First Applicant Company'  
or 'Transferor Company' )**

INTO

**JM Financial Services Limited**  
(**'Second Applicant Company'** or  
**'Transferee Company'** for **Part C** of  
the Scheme

AND

**'the Demerged Company'** for **Part D**  
of the Scheme) followed by **demerger**  
of the **'Demerged Undertaking'** of  
**JM Financial Services Limited**  
(**'Second Applicant Company'** or  
**'Transferee Company'** for **Part C** of  
the Scheme

And

**'the Demerged Company'** for **Part  
D** of the Scheme) into **JM Financial**

**Limited** ('Resulting Company' or  
'Third Applicant Company') and their  
respective shareholders ('the Scheme'  
or 'this Scheme')

**Details of the Applicant Companies:**

**JM FINANCIAL CAPITAL LIMITED,** a )  
company incorporated under the )  
provisions of the Companies Act, 2013, )  
having its registered office at 7<sup>th</sup> Floor, )  
Cnergy, Appasaheb Marathe Marg, )  
Prabhadevi, Mumbai – 400 025 )... FIRST APPLICANT COMPANY  
**CIN: U65190MH2015PLC270754**

**JM FINANCIAL SERVICES LIMITED,** )  
a company incorporated under the )  
provisions of the Companies Act, 1956, )  
having its registered office at 7<sup>th</sup> Floor, )  
Cnergy, Appasaheb Marathe Marg, )  
Prabhadevi, Mumbai – 400 025 ) ... SECOND APPLICANT COMPANY  
**CIN: U67120MH1998PLC115415**

**JM FINANCIAL LIMITED,** a company )  
incorporated under the provisions of )  
the Companies Act, 1956, having its )  
registered office at 7<sup>th</sup> Floor, Cnergy, )  
Appasaheb Marathe Marg, Prabhadevi, )  
Mumbai – 400 025 ) ... THIRD APPLICANT COMPANY  
**CIN: L67120MH1986PLC038784**

**.... Collectively known as Applicant  
Companies**

Order Reserved On: 25.11.2022  
Order Pronounced On: 05.12.2022

Coram: **Shri H.V. Subba Rao, Hon'ble Member (Judicial)**  
**Smt. Anuradha Sanjay Bhatia, Hon'ble Member (Technical)**

*Appearances (via video conferencing)*

For the Applicant(s): CA Harsh Ruparelia i/b A R C H and Associates,  
Authorised Representative

### **ORDER**

1. The Tribunal was convened by videoconference.
2. The Authorised Representative for the Applicant Companies states that the present Scheme of Arrangement provides for merger of JM Financial Capital Limited ('First Applicant Company' or 'Transferor Company') into JM Financial Services Limited ('Second Applicant Company' or 'Transferee Company' for Part C of the Scheme and 'the Demerged Company' for Part D of the Scheme) followed by demerger of the 'Demerged Undertaking' of JM Financial Services Limited ('Second Applicant Company' or 'Transferee Company' for Part C of the Scheme and 'the Demerged Company' for Part D of the Scheme) into JM Financial Limited ('Resulting Company' or 'Third Applicant Company') and their respective shareholders ('the Scheme' or 'this Scheme'), under the provisions of Sections 230 to 232 and other applicable provisions of the Companies Act, 2013 and rules & regulations framed thereunder.
3. The Scheme of Arrangement has been approved by the Board of Directors of the Applicant Companies on **July 20, 2022** by the First Applicant Company; **May 23, 2022** (Second Applicant Company) and **May 24, 2022** (Third Applicant Company) providing for demerger of the 'Demerged Undertaking' of JM Financial Services Limited into JM Financial Limited. The proposed Scheme was modified to its present state which provides for merger of JM Financial Capital Limited into JM

Financial Services Limited followed by demerger of the 'Demerged Undertaking' of JM Financial Services Limited into JM Financial Limited and their respective shareholders as on July 21, 2022 for the Second Applicant Company and August 2, 2022 for the Third Applicant Company. Further, BSE and NSE were intimated on May 24, 2022 and Intimation of modification was sent on August 2, 2022.

4. The Authorised Representative for the Applicant Companies further submits that the First Applicant Company is a wholly owned subsidiary of the Second Applicant Company and entire share capital of the First Applicant Company is owned and controlled by the Second Applicant Company. Upon effectiveness of Part C of the Scheme, the Second Applicant Company would not be required to issue and allot any shares to the shareholders of the First Applicant Company.
5. The Authorised Representative for the Applicant Companies further submits that the Second Applicant Company is a wholly owned subsidiary of the Third Applicant Company and entire share capital of the Second Applicant Company is owned and controlled by the Third Applicant Company. Upon effectiveness of Part D of the Scheme, the Third Applicant Company would not be required to issue and allot any shares to the shareholders of the Second Applicant Company.
6. The Authorised Representative for the Applicant Companies further submits that rationale for the Scheme is as under: -

1. **Rationale for Merger**

First Applicant Company is a wholly owned subsidiary of Second Applicant Company. Amalgamation of the First Applicant Company with and into the Second Applicant Company would, *inter alia*, entail the following benefits:

- a. comply with the Rule 8(1)(f) and Rule 8(3)(f) of Securities Contract (Regulations) Rules, 1957 (SCRR), which states that members of a stock exchange, shall not engage either as principal or employee, in any business, other than that of securities or commodity derivatives, except as a broker or agent, not involving any personal financial liability.
- b. pursuant to the NSE Circular Ref No: NSE/COMP/50957 dated 7 January 2022, investments made in companies engaged in other businesses such as non-banking financial company ("NBFC") etc. shall fall under the aforesaid restrictions to the said Rules of SCRR.
- c. assist in rationalizing the corporate structure and reduction of shareholding tiers;
- d. reduction in the multiplicity of legal and regulatory compliances required at present to be carried out by both the First Applicant Company and Second Applicant Company;
- e. reduction in the number of Non-Banking Financial Companies within the JM Financial Group through surrender of the NBFC license to the Reserve Bank of India as a result of the amalgamation; and
- f. result in savings of administration and other costs associated with managing separate entities.

The amalgamation is in the interest of the shareholders, creditors and all other stakeholders of the respective companies and is not

prejudicial to the interests of the concerned shareholders, creditors and other stakeholders.

**2. Rationale for Demerger**

It is proposed to demerge the Demerged Undertaking of the Second Applicant Company into the Third Applicant Company since it is envisaged that the following benefits would, inter alia, accrue to the Second Applicant Company and the Third Applicant Company:

- a) Segregation of the Demerged Undertaking will enable the Second Applicant Company to provide greater focus on the stock broking and other distribution related activities, being the core activities of the Second Applicant Company.
- b) The Demerger shall allow the Second Applicant Company to pursue an independent growth strategy for its targeted client base.
- c) The activities of the Demerged Undertaking are in consonance with the existing activities of the Third Applicant Company and hence, would allow the management of the Third to synergize with the existing business activities and target client base, in line with its overall strategy.

Accordingly, the Management of the Applicant Companies, have formulated this Scheme to undertake various steps as envisaged under Part C and Part D of this Scheme pursuant to the provisions of Sections 230-232 and other relevant provisions of the Companies Act, 2013 (including any statutory modification

or re-enactment or amendment thereof for the time being in force).

There is no likelihood that interests of any shareholder(s) or creditor(s) of the Applicant Companies would be prejudiced as a result of the Scheme. The Scheme does not affect the rights of the creditors of the Applicant Companies. There will not be any reduction in amounts payable to the creditors of the Applicant Companies, nor shall there be any change in terms with creditors which is adverse to their interests, pursuant to the sanctioning of this Scheme. Without prejudice to the above, the Scheme is an arrangement between the Applicant Companies and their respective shareholders, as contemplated under Section 230(1)(b) of the Companies Act, 2013 and not a Scheme envisaged under Section 230(1)(a) of the Companies Act, 2013.

7. In view of the fact that the equity shareholder of the First Applicant Company has given their consent affidavit, the meeting of the equity shareholder of the First Applicant Company is hereby dispensed with.
8. The Authorised Representative for the Applicant Companies submits that the entire share capital of the First Applicant Company is held by the Second Applicant Company. Further, the consent affidavit given by the sole shareholder of the First Applicant Company i.e., the Second Applicant Company, which has been filed with Company Scheme Application.
9. In view of the fact that the equity shareholder of the Second Applicant Company has given its consent affidavit, the meeting of the equity shareholder of the Second Applicant Company is hereby dispensed with.



10. The Authorised Representative, for the Applicant Companies, submits that the entire equity share capital of the Second Applicant Company is held by the Third Applicant Company. Further the consent affidavit given by the sole equity shareholder of the Second Applicant Company i.e., the JM Financial Limited, which has been filed with Company Scheme Application.
11. The Authorised Representative for the Applicant Companies submits that the entire preference share capital of the Second Applicant Company is held by the Third Applicant Company. Further the consent affidavit given by the sole preference shareholder of the Second Applicant Company i.e., the JM Financial Limited, which has been filed with Company Scheme Application.
12. In view of the fact that the preference shareholder of the Second Applicant Company has given their consent affidavit, the meeting of the preference shareholder of the Second Applicant Company is hereby dispensed with.
13. There are no secured creditors in the First Applicant Company, therefore, the question of convening and holding of meeting of Secured Creditors and issue of notices to them does not arise.
14. The Authorised Representative for the Applicant Companies submits that, there are 3 (Three) Secured Creditors of the aggregate value of INR 18,94,10,392/- in the Second Applicant Company. The Second Applicant Company is directed to obtain consent affidavits of at least ninety percent of value of total Secured Creditors as on June 30, 2022 as per Section 230(9) of the Companies Act 2013 **before the final hearing**. The undertaking is accepted. Therefore, the meeting of

secured creditors of the Second Applicant Company is hereby dispensed with.

15. The Authorised Representative for the Applicant Companies submits that as on June 30, 2022, there is 1 (One) Secured Creditor of the aggregate value of INR 60,48,357/- in the Third Applicant Company. The Third Applicant Company is directed to obtain consent of its sole secured creditor, The Third Applicant Company undertakes to obtain consents in writing or no dues certificate (in case, the said secured creditors are paid-off) from its Sole Secured Creditor as on June 30, 2022 **before the final hearing** . The undertaking is accepted. Therefore, the meeting of secured creditors of the Third Applicant Company is hereby dispensed with.
16. The Authorised Representative for the First Applicant Company submits that as on June 30, 2022, there are 619 (Six Hundred Nineteen) Unsecured Creditors of the aggregate value of INR 39,48,79,043/-. The First Applicant Company is directed to obtain consent affidavits of at least ninety percent of value of total Unsecured Creditors having outstanding balances above the threshold of Rs.5,00,000/- which would constitute approx. 94% in value of total Unsecured Creditors as on June 30, 2022 as per Section 230(9) of the Companies Act 2013.
17. The Authorised Representative, for the Applicant Companies, submits that as on June 30, 2022, there are 45,375 (Forty-Five Thousand Three Hundred Seventy-Five) Unsecured Creditors of the aggregate value of INR 1659,79,95,837/- in Second Applicant Company. Therefore, the Second Applicant Company is directed to issue notice to those unsecured creditors having outstanding balances above the threshold of Rs. 1,00,000 as on June 30, 2022 with the Second Applicant

Company, which would constitute approx. 92% in value of the Unsecured Creditors of the Second Applicant Company as on June 30, 2022, by Registered Post Acknowledgement Due / Speed Post / Courier / Hand Delivery and through Email (to those creditors whose email addresses are duly registered with the Second Applicant Company for the purpose of receiving such notices by email), at their last known addresses, as per the records of the Second Applicant Company.

18. The Authorised Representative for the Applicant Companies submits that as on June 30, 2022, there are 27 (Twenty-Seven) Unsecured Creditors of the aggregate value of INR 85,40,82,357/- in the Third Applicant Company. The Third Applicant Company is directed to obtain consent affidavits of at least ninety percent of value of total Unsecured Creditors as on June 30, 2022 as per Section 230(9) of the Companies Act, 2013.
19. This Bench, in view of the above submissions, directs that holding of meetings of equity shareholders, preferential share-holders of the demerged company is dispensed with. This Board further directs that although meetings of secured creditors (wherever applicable) and unsecured creditors (wherever applicable) are dispensed with, consent affidavits are required to be filed before the final hearing as mandated by Section 230(9) of the Companies Act, 2013.
20. The Applicant Companies are accordingly directed to serve notice along with copy of scheme by Registered Post-AD/Speed Post and hand delivery along with its enclosures upon:- (i) concerned Income Tax Authorities within whose jurisdiction the Applicant Company's assessments are made i.e., for the First Applicant Company, DCIT CIRCLE 6(1)(2), Aayakar Bhavan, Churchgate, in Mumbai, having PAN: AADCJ6176E, for the Second Applicant Company, DCIT CIRCLE

4(3)(1), Aayakar Bhavan, Churchgate, Mumbai, having PAN: AAACJ5977A, and for the Third Applicant Company DCIT CIRCLE 4(3)(1), Aayakar Bhavan, Churchgate, Mumbai, having PAN: AAACJ2590B; (ii) the Central Government through the office of Regional Director, Western Region, Mumbai; (iii) concerned Registrar of Companies, Mumbai; (iv) Securities and Exchange Board of India (SEBI) (only in case of the Second and Third Applicant Company); (v) BSE Limited (only in case of Third Applicant Company); (vi) National Stock Exchange of India Limited (NSE) (only in case of Third Applicant Company); (vii) Reserve Bank of India (only in case of First Applicant Company) pursuant to sub-section (5) of Section 230 of the Companies Act, 2013; and (viii) concerned GST Authority and as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, through R.P.A.D or by Email or by speed post or registered post or by courier or hand delivery with a direction that they may submit their representations, if any, within a period of 30 (thirty) days from the date of receipt of such notice to the Tribunal with copy of such representations shall simultaneously be served upon the respective Applicant Companies, failing which, it shall be presumed that the authorities have no representations to make on the proposed Scheme.

21. The First Applicant Company, being the Transferor Company is also directed to serve notice upon Official Liquidator, High Court, Bombay, pursuant to section 230(5) of the Companies Act, 2013 and as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 through R.P.A.D or by email or by speed post or registered post or by courier or hand delivery. The Tribunal is appointing **M/s. Akshay & Co.**, Chartered Accountants, residing at 401, Mani Bhavan, Above ICICI Bank , Next to Citi Centre, S.V. Road Goregaon (West). Mumbai 400 062, email id: [akshay.company@rediffmail.com](mailto:akshay.company@rediffmail.com), Contact: 9820334472/28725277, to assist the Official Liquidator to scrutinize

the books of accounts of the said Transferor Company for the last five years and submit its report to the Tribunal. The Transferor Company to pay fees of Rs. 1,50,000/- for this purpose. If no representation/response is received by the Tribunal from Official Liquidator, High Court, Bombay within a period of 30 (thirty) days from the date of receipt of such notice, it will be presumed that they have no representation / objection to the proposed Scheme as per rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

22. The Applicant Companies to file affidavit of service in the Registry proving dispatch of notices to the Regulatory Authorities and proof of dispatch of notices to the creditors of the Applicant Companies (wherever applicable) and to report to this Tribunal that the directions regarding the issue of notices have been duly complied with.
23. Ordered accordingly.

**SD/-**

**ANURADHA SANJAY BHATIA**  
**MEMBER (TECHNICAL)**

**SD/-**

**H.V. SUBBA RAO**  
**MEMBER (JUDICIAL)**