

IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH

C.P.(CAA)/35/MB-IV/2022

Connected with

C.A.(CAA)/131/MB-IV/2021

In the Matter Of

Companies Act, 2013

And

In the Matter Of

*Section 230-232 Of the Companies Act,
2013*

*And Other Applicable Provisions of the
Companies Act, 2013 r/w the Companies
(Compromises, Arrangements and
Amalgamations) Rules, 2016;*

In the Matter of

Scheme of Amalgamation

of

Scheme of Amalgamation between

Nucleus IT Enabled Services Limited

...Transferor Company

Asit C. Mehta Financial Services Limited

...Transferee Company

*the Amalgamated Company and their respective
Shareholders and Creditors*

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Nucleus IT Enabled Services Limited

CIN: U72900MH2008PLC182793

... Petitioner Company No. 1/
Transferor Company

Asit C. Mehta Financial Services Limited

CIN: L65900MH1984PLC091326

... Petitioner Company No. 1/
Transferor Company

Order delivered on: 20/01/2023

Coram:

Shri. Prabhat Kumar
Hon'ble Member (Technical)

Shri Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Applicants : Mr Ahmed M Chunawala, i/b Rajesh Shah
& Co, Advocates

For the Regional Director : Ms. Rupa Sutar, Deputy Director
Regional Director (WR), Mumbai

ORDER

Per: Kishore Vemulapalli, Member (Judicial)

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1. The Bench is conveyed through videoconference.
2. Heard the Ld. Counsel for the Petitioner Companies. No objector has come before this Tribunal to oppose the Scheme and nor has any party controverted any averments made in the Petitions to the said Scheme.
3. The sanction from the Tribunal is sought under Sections 232 read with Section 230 of the Companies Act, 2013 and other relevant provisions of the Companies Act, 2013 and the rules framed there under for the Scheme of Amalgamation between **Nucleus IT Enabled Services Limited**, the Amalgamating Company with **Asit C. Mehta financial Services Limited**, the Amalgamated Company and their respective Shareholders and Creditors.
4. Ld. Counsel for the Petitioner Companies submits that the Board of Directors of the Transferor Company and Transferor Company in their respective Company meetings conducted on 13th April 2021, for the Transferor Company and 16th April 2021 for the Transferee Company have approved the scheme.
5. The Learned Counsel appearing on behalf of the Petitioners states that the Petitions have been filed in consonance with the Order dated 17.08.2021 passed in C.A.(CAA) 131/MB-IV/2021 by this Bench.
6. The Ld. Counsel appearing on behalf of the Petitioner Companies further states that the Petitioner Companies have complied all the

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directions in C.A.(CAA) 131/MB-IV/2021 by this Bench and they have also filed necessary affidavits of compliance before this Tribunal.

7. The Learned Counsel for the Petitioner Companies states that the First Petitioner Company is set up to carry on business of IT Enabled Services & collection services for various types of Loans and that the Second Petitioner Company presently is engaged in the business of providing advisory and consultancy services on Fund mobilization and restructuring of Companies and renting vacant properties.
8. The rationale for the Scheme of Amalgamation of the Petitioner Companies, inter alia, includes the fact that both the Companies are under the same management. The management is of the opinion that the merger will lead to synergies of operations and more particularly the following benefits:
 - a. The merger will result in economies of scale, reduction in overheads including administrative, managerial and other expenditure, operational rationalization, organizational efficiency and optimal utilization of resources.
 - b. The merger will result in a significant reduction in the multiplicity of legal and regulatory compliances required at present to be carried out by both the Amalgamating Company and the Amalgamated Company.

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- c. Consolidating and improving the internal control systems and procedures which will bring greater management and operational efficiency due to integration of various similar functions being carried out by the entities such as human resources, finance, legal, management etc.
 - d. Simplification of group structure.
9. The Regional Director has filed his Report dated 30th March, 2022 making certain observations and the same have been addressed by the Petitioner Companies in the following manner: -
- a. the Transferee Company undertakes that in addition to compliance of AS-14 for accounting treatment, the Transferee Company shall pass such accounting entries as may be necessary in connection with the Scheme to comply with other applicable accounting standards such as AS-5 as applicable.
 - b. the Petitioner companies will comply with the requirements as to Appointed Date and clarified vide circular no. F. No.7/12/2019/CL-1 dated 21.08.2019 issued by the Ministry.
 - c. the setting off of fees paid by the Transferor Company on its Authorised Share Capital shall be accordance with provisions of section 232(3)(i) of the Companies Act, 2013.

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- d. as per Accounting Standard 14, the surplus/deficit if any arising out of the scheme of amalgamation shall be credited to the Capital Reserve. Such Capital Reserve shall not be free reserve and shall not be available for distribution of dividend.
 - e. The Transferee Company will comply with Income Tax Provisions in relation to proceedings/claims under Income Tax Act against the Transferor Company.
 - f. the prior approval from SEBI/Stock Exchange is not required in this case as it being amalgamation between a holding company with its subsidiary.
 - g. the Petitioner Companies submits that the interest of creditors will be protected.
10. Ms. Rupa Sutar, Deputy Director, Office of Regional Director (WR), Mumbai appeared on the date of hearing and submits that above explanations and clarifications given by the Petitioner Companies in rejoinder are satisfactory and they have no further objection to the Scheme.
11. The Official Liquidator has filed his report on 2nd February, 2022 in C.A.(CAA)131/C-IV/2021, inter alia, stating therein that the affairs of the Transferor Company have been conducted in a proper manner not prejudicial to the interest of the Shareholders of the Transferor

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Company and that the Transferor Company may be ordered to be dissolved by this Tribunal.

12. The Income Tax Department will be at liberty to examine the aspect of any tax payable as a result of this scheme and in case it is found that the scheme ultimately results in tax avoidance under the provisions of Income Tax Act, it shall be open to the income tax authorities to take necessary action as possible under the Income Tax Law.
13. From the material on record, the Scheme appears to be fair and reasonable and is not violative of any provisions of law and is not contrary to public policy considering that no objection has so far been received from any authority or creditors or members or any other stakeholders.
14. Since all the requisite statutory compliances have been fulfilled, C.P (CAA)35/MB-IV/ 2022 is made absolute in terms of clauses (a) to (c) of the said Company Scheme Petition.
15. The First Petitioner Company be dissolved without winding up.
16. Petitioner Companies are directed to file a copy of this Order along with a copy of the Scheme of Amalgamation with the concerned Registrar of Companies, electronically along with E-Form INC-28, in addition to physical copy within 30 days from the date of receipt of the Order from the Registry.

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17. The Petitioner Companies to lodge a copy of this Order and the Scheme duly authenticated by the Deputy Registrar or Assistant Registrar, National Company Law Tribunal, Mumbai Bench, with the concerned Superintendent of Stamps, for the purpose of adjudication of stamp duty payable within 60 days from the date of receipt of the Order, if any.
18. All authorities concerned to act on a copy of this Order along with Scheme duly authenticated by the Deputy Registrar or Assistant Registrar, National Company Law Tribunal, Mumbai.
19. The Appointed Date is 31st March, 2021.
20. Ordered Accordingly. Pronounced in open court today.

Sd/-

Prabhat Kumar
Member (Technical)
20/01/2023

Sd/-

Kishore Vemulapalli
Member (Judicial)