

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH**

NEW DELHI

CA (CAA)-83(ND)/2017

Present: SHRI R.VARADHARAJAN, MEMBER (JUDICIAL)

IN THE MATTER OF SECTIONS 230-232 OF THE COMPANIES ACT, 2013

In the matter of:

Sections 230-232 and other applicable provisions of the Companies Act, 2013 read with Companies (Compromises, Arrangements, and Amalgamations) Rules, 2016.

AND

IN THE MATTER OF SCHEME OF AMALGAMATION

OF

PIPL BUSINESS ADVISORS AND INVESTMENT PRIVATE LIMITED

(APPLICANT/AMALGAMATING COMPANY-1)

AND

GSPL ADVISORY SERVICES AND INVESTMENTS PRIVATE LIMITED

(APPLICANT/ AMALGAMATING COMPANY-2)



WITH

NIIT TECHNOLOGIES LIMITED
(APPLICANT/ AMALGAMATED COMPANY)

WITH

Their respective Shareholders and Creditors

MEMO OF PARTIES

PIPL BUSINESS ADVISORS AND INVESTMENT PRIVATE LIMITED

Company registered under the Companies Act, 2013

Having Registered Office at:

8, Balaji Estate, First Floor, Guru Ravi Das

Kalkaji, New Delhi

CIN: U74140DL2016PTC291929

.....Applicant/Amalgamating Company-1

GSPL ADVISORY SERVICES AND INVESTMENTS PRIVATE LIMITED

Company registered under the Companies Act, 2013

Having Registered Office at:

8, Balaji Estate, First Floor, Guru Ravi Das

Kalkaji, New Delhi

CIN: U74120DL2016PTC291995

.....Applicant/Amalgamating Company-2



NIIT TECHNOLOGIES LIMITED

Company registered under the Companies Act, 1956

Having Registered Office at:

8, Balaji Estate, First Floor, Guru Ravi Das

Kalkaji, New Delhi

CIN: L65993DL1992PLC048753

.....Applicant/Amalgamated Company

For the Applicants: Mr. UK. Choudhry, Senior Advocate

Mr. Anirudh Das, Advocate

Mr. kamaljeet Singh, Advocate

Mr. Himanshu Vij, Advocate



ORDER

Order Delivered on:

22.09.2017

CA-(CAA) 83 (ND)/2017

This order is passed in continuation to the earlier order dated 30.08.2017 wherein the applicants were directed to establish that the deponent of the affidavit filed in support of the application is duly authorized to verify and sign on behalf of the Transferee Company. Since it is evident from the order passed in CA 40/C-III/ND/2017 on 14.09.2017, it is established that the deponent is the Company Secretary specified. The Ld. Senior Counsel represents that the Scheme does not contemplate any corporate debt restructuring exercise as contemplated under Section 230(2) of the Act. It is further represented that a joint application filed by the applicants are maintainable in view of Rule 3(2) of the Companies (Compromises, Arrangements and Amalgamations) Rules 2016 and it is also represented that the registered office of all the applicant companies are situated within the territorial jurisdiction of this Tribunal and falling within Registrar of Companies, NCT, New Delhi.



1. In relation to PIPL Business Advisors and Investment Private Limited being the Applicant/ Amalgamating Company-1, in the Scheme marked as Annexure – “1”, it is represented that it is having 2 (Two) Equity Shareholders .It is further represented by the counsel for Applicants that the Applicant/ Amalgamating Company-1 as on 16th June, 2017 has no Secured and Unsecured Creditor. In relation to the shareholders of the Applicant/ Amalgamating Company-1, the Applicant / Amalgamating Company-1 seeks dispensation from convening and holding of the meetings in view of consent affidavits having been obtained and placed on record.

2. In relation to GSPL Advisory Services and Investments Private Limited being the Applicant/ Amalgamating Company-2 in the Scheme marked as Annexure-“1”, Learned Counsel represents that the company is having 2 (Two) Equity Shareholders. It is further represented by the counsel for Applicants that the Applicant Amalgamating Company-2 as on 16th June, 2017 has no secured and Unsecured Creditor. In relation to the Equity Shareholders, Secured and Unsecured creditors of the Applicant/ Amalgamating Company-2, it seeks dispensation of the meeting for the purpose of obtaining their approval to the proposed Scheme of Amalgamation in view of consent affidavits having been obtained and placed on record or there being none which obviates the necessity of convening a meeting.



3. In relation to NIIT Technologies Limited being the Applicant/ Amalgamated Company in the Scheme marked as Annexure-“1”, Learned Counsel represents that the company is having 38173 Equity Shareholders. It is further represented by the counsel for Applicants that the Applicant/ Amalgamated Company as on 31st May, 2017 has 2 (Two) secured and 444 Unsecured Creditors. In relation to the Equity Shareholders and unsecured Creditors, the Applicant/ Amalgamated Company prays for convening of the meeting and seeks dispensation in respect to meeting of the secured creditors as consents by way of affidavit having been obtained and having the same been placed on record. It is represented that the shares of the Applicant / Amalgamated Company are listed on National stock exchange (NSE) and Bombay stock exchange (BSE).

4. The Scheme as per the averments made in the application has been proposed to achieve the following objectives, namely:

(a) The amalgamation would lead to simplification of the shareholding structure and reduction of shareholding tiers and also provides transparency to the promoter's direct engagement with the Amalgamated Company.

(b) The amalgamation is being undertaken pursuant to a succession planning of the promoters intended to streamline the promoter's shareholding in the Applicant/ Amalgamated Company, inter alia held through Applicant / Amalgamated Company 1 and Applicant / Amalgamated Company 2.



(c) The amalgamation would not change the aggregated promoter's shareholding in the Applicant/ Amalgamated Company. All the costs and charges arising out of this scheme shall be borne by the promoters.

5. Learned Counsel for the Applicants also represents that the provisions of Section 233 of 2013 Act will not apply as the Scheme is a composite Scheme. The above joint application has been filed on 27.06.2017 and this Tribunal hence proceeds to entertain the above joint application filed under the 2013 Act. Further, the registered office of all the applicant Companies are situated within New Delhi and are subject to the jurisdiction Registrar of Companies, NCT, New Delhi and hence are amenable to the territorial jurisdiction of this Tribunal.
6. We have perused the joint application and the connected documents / papers filed therewith including the Scheme of Amalgamation contemplated between the Applicant companies.
7. From the certificate of incorporation filed, it is evident that Applicant/ Amalgamating Company-1 was incorporated in the name of PIPL Business Advisors and Investment Private Limited on 1st March, 2016 under the Companies Act, 2013 in the NCT of Delhi.



8. The Authorized Share Capital of the Applicant/ Amalgamating Company-1 is Rs.1,00,00,000 equity shares of Rs.10/- each divided into 10,00,000 equity shares of Rs.10 each and the Issued, Subscribed and Paid-up Share Capital of the Applicant/ Amalgamating Company-1 is 5,10,000 divided into 51,000 Equity Shares of Rs.10/- each.
9. The main objects of the Applicant/ Amalgamating Company-1 are as follows:
- (i) to act as business consultant, management consultant and provide advisory services, training, consultancy in the field of information technology, administrative, commercial, industrial, public relations, scientific, technical and other levies, statistical, accountancy or quality control and data processing whether in India or abroad.
 - (ii) To acquire and hold share, stocks, debentures, debenture stock, bonds, obligations and securities issued or guaranteed by any company constituted or carrying on business in India or elsewhere or securities issued or guaranteed by any government, municipality, public body or other local authority.
 - (iii) To act as principal, agents, sub-agents, consultants or otherwise deal in to attain above objects stated in paras (1) & (2).
10. From the certificate of incorporation filed, it is evident that the Applicant/ Amalgamating Company-2 was incorporated on 2nd March, 2016 under the Companies



Act, 2013 as GSPL Advisory Services and Investment Private Limited in the NCT of Delhi.

11. The Authorized Share Capital of the Applicant/ Amalgamating Company-2 is Rs.1,00,00,000 divided into 10,00,000 Equity Shares of Rs.10/- each and the Issued, Subscribed and Paid-up Share Capital of the Applicant/ Amalgamating Company-1 is Rs.5,10,000 divided into 51,000 Equity Shares of Rs.10/- each.

12. The main objects of the Applicant/ Amalgamated Company-2 :

1. (i) "To act as business consultant, management consultant, and provide advisory services, training consultancy in the field of information technology, administrative, commercial, industrial, public relations, scientific, technical, and other levies, statistical, accountancy, quality control and data processing, whether in India or abroad.
2. To acquire and hold share, stocks, debentures, debenture stock, bonds, obligations and securities issued or guaranteed by any company constituted or carrying on business in India or elsewhere or securities issued or guaranteed by any Government, Municipality, public body or other local authority.
3. To act as principal, agents, sub-agents, consultants, or otherwise deal in to attain above objects stated in paras (1) & (2) above.

13. From the certificate of incorporation filed, it is evident that the Applicant / Amalgamated Company was originally incorporated on 13th May, 1992 under the



Companies Act, 1956 as a private limited company under the name of NIIT Investments Private Limited in the NCT of Delhi and Haryana. The status of the Applicant/ Amalgamated Company was changed from a private limited company to a public limited company on 28th September, 1992 and thereafter, its name was of the company has been changed to its present name on 12th May, 2004.

14. The Authorized Share Capital of the Applicant/ Amalgamated Company is Rs.75,00,00,000 divided into 750,00,000 Equity Shares of Rs.10/- each and the Issued, Subscribed and Paid-up Share Capital of the Applicant/ Amalgamated Company is Rs.61,36,21,740 divided into 61,362,174 Equity Shares of Rs.10/- each.

15. The main objects of the Applicant/ Amalgamated Company is:

1. To render Consultancy and related services in Financial, Marketing, Export, Imports, Technical, Scientific Software, Hardware and related disciplines.
2. To carry on the business of providing and supply of end-to-end Information Technology Solutions, including turnkey solutions, including systems integration of software, computers, peripherals, networking and communication components, cabling, power supply equipment, appropriate fixtures, metering and monitoring devices, conventional and broad-band wireless, wireline and optical communications equipment and to undertake all other related activities.
3. To carry on the business of providing all kinds of information technology based and enabled served in India and abroad, electronic remote processing, e-services,



including all types of internet based/web enabled services, transaction processing, fulfillment services, business support services including but not limited to providing financial and related services of all kinds and description including bill services, processing services, data base services, data entry business, marketing services, business information and management services, training and consultancy services business, organizations, concerns, firms, corporations, local bodies, trusts, states, governments and other entities; to establish and operate service processing centers for providing services for back office and processing requirements, contracting and communicating to and on behalf of overseas customers by voice, data image, letters using dedicated international private lines; and to handle Business process management, remote help desk management, remote management; remote customer interaction, customer relationship management and customer servicing through call centers, email based activities and letter/facsimile based communication, knowledge storage and management, data management, warehousing, search, integration and analysis for financial and non-financial data.

4. To act as information technology consultants and to operate a high technology data processing center for providing information processing, analysis, development, accounting and business information and to customers in India and abroad; to carry on the business of gathering, collating, compiling, processing, analyzing, distributing, selling, publishing data and information and services and providing access to information regarding financial operations and management financial services, investment services business and commercial operations, financial status, credit worthiness and rating consumer responses and management of business of all kinds and descriptions.



5. To carry on the business of e-learning services including but not limited to content development and support, animation, learning support, learning management systems support and knowledge services; to carry on the business of data digitization by digitizing physical and manual records such as text images, video and audio to carry on the business in India and abroad, geographic information systems by digitization and processing of spatial data to carry on the business of medical transcription over different channels for servicing the health sector.
 6. To carry on the business as internet service provider and undertake any and all kinds of internet/ web based activities and transactions; to design, develop, sell, provide, maintain, market, buy, import, export, sell and license computer software, hardware, computer systems and programs products, services and to give out computer machine time and to carry on the business of collecting, collating, storing, devising other systems including software programs and systems.
 7. To set up, develop, manage and operate Special Economic zones, Software Technology Parks or other Export Promotion Parks for IT/ITes entities for itself and others, and to undertake allied activities in connection thereof including leasing/letting out the same.
16. All the applicants have filed their respective Memorandum and Articles of Association as well as their last available audited financial statements for the year ended 31.03.2017 for Amalgamating Companies and 31.03.2016 for the Amalgamated



Company. In addition the Amalgamated company has provided the provisional financial statements for the period ending 31.03.2017 ✓

19. The appointed date as specified in the Scheme is 31.03.2017 subject to the directions of this Tribunal.

20. The Board of Directors of the Applicant companies vide separate meetings held on 24th March, 2017, have unanimously approved the proposed Scheme of Amalgamation as contemplated above and copies of resolutions passed thereat have been placed on record by the companies.

21. All the companies have submitted that no investigation proceedings are pending against them under Sections 210 or any other applicable provisions of the Companies Act, 2013.

22. Taking into consideration the application filed jointly by the Applicant Companies and the documents filed therewith, this Tribunal propose to issue the following directions with respect to calling, convening and holding of the meetings of the shareholders, secured and Unsecured Creditors, or dispensing with the same as well as issue of notices including by way of paper publication as follows:-

A) In relation to the Applicant/ Amalgamating Company-1:

(i) With respect to Equity shareholders:



Since it is represented by the Applicant Amalgamating Company-1 that there are only 2 (Two) Equity shareholders in the Company whose consents by way of affidavit have been obtained and are placed on record, the necessity of convening and holding a meeting to consider and it thought fit, the approval of the scheme is dispensed with.

(ii) With respect to Secured Creditors:

Since it is represented by the Applicant Amalgamating Company-1 that there is no Secured Creditor in the Company, the necessity of convening a meeting does not arise.

(iii) With respect to Unsecured Creditors:

Since it is represented by the Applicant Amalgamating Company-1 that there is no Unsecured Creditor in the Company, the necessity of convening a meeting does not arise.

B) In relation to Applicant Amalgamating Company-2:

(i) With respect to Equity shareholders:

Since it is represented by the Applicant Amalgamating Company-2 that there are only 2 (Two) Equity shareholders in the Company whose consents by way of affidavit have been obtained and are placed on record, therefore the necessity of



convening and holding a meeting to consider and if thought fit, the approval of the scheme is dispensed with.

(ii) With respect to Secured Creditors:

Since it is represented by the Applicant Amalgamating Company-2 that there is no Secured Creditor in the Company, the necessity of convening a meeting does not arise.

(iii) With respect to Unsecured Creditors:

Since it is represented by the Applicant Amalgamating Company-2 that there is no Unsecured Creditor in the Company, the necessity of convening a meeting does not arise.

C) In relation to Applicant Amalgamated Company:

(i) With respect to Equity shareholders:

Meeting of the Equity shareholders of the Applicant /Amalgamated Company is directed to be held at 10:00 AM at Ocean Pearl Retreat, Chattarpur, New Delhi on 28th October, 2017 subject to the notice of meeting being issued. The quorum for the meeting of the Equity shareholders of Applicant /Amalgamated Company shall be 7,634 in number or 20% in value in terms of the total equity share capital for the equity shareholdings meeting.



(ii) With respect to Secured Creditors:

Since it is represented by the Applicant Amalgamated Company that there are 2 (Two) Secured Creditors in the Company whose consent have been obtained and are placed on record, therefore the necessity of convening and holding a meeting to consider and if thought fit, the approval of the scheme is dispensed with.

(iii) With respect to Unsecured Creditors:

Meeting of the Unsecured Creditors of the Applicant /Amalgamated Company is directed to be held at 2:00 PM at Ocean Pearl Retreat, Chattarpur, New Delhi on 28th October, 2017 subject to the notice of meeting being issued. The quorum for the meeting of the Unsecured Creditors of Applicant /Amalgamated Company shall be 90 in number or 20% in value in terms.

D) In case the quorum as noted above for the above meetings of the Applicant Companies are not present at the meetings, then the meetings shall be adjourned by half an hour, and thereafter the persons present and voting shall be deemed to constitute the quorum. For the purpose of computing the quorum the valid proxies shall also be considered, if the proxy in the prescribed form, duly signed by the person entitled to attend and vote at the meeting, is filed with the registered office of the applicant companies at least 48 hours before the meetings. The Chairperson and Alternate Chairperson appointed herein along with Scrutinizer shall ensure that the proxy



registers are properly maintained. However, every endeavor should be made by the applicant / Transferee Company to attain at least the quorum fixed, if not more in relation to approval of the scheme.

E) Mr. Krishanendu Datta, Advocate (9810138786) is appointed as the Chairperson and Mr. N.P.S Chawla, Advocate (9958535300) is appointed as the Alternate Chairperson for the meeting of Equity Shareholders and unsecured Creditors as may have been directed to be convened by this Tribunal as above of the Applicant Companies.

F) The fee of the Chairperson for the aforesaid meetings shall be Rs. 1,50,000/- and the fee of the Alternate Chairperson shall be Rs. 1,00,000/- in addition to meeting their incidental expenses. Mr. Dinesh Chandra Arora, Company Secretary (45341003) is appointed as a Scrutinizer and would be entitled to fee of Rs.75,000 for his services in addition to meeting his incidental expenses. The Chairpersons will file their reports within two weeks from the date of holding of the above said meetings.

G) That individual notices of the said meetings shall be sent by the Applicant Companies through registered post or speed post or through courier or through e-mail, 30 days in advance before the scheduled date of the meeting, indicating the day, date, the place and the time as aforesaid, together with a copy of Scheme of Amalgamation, copy of explanatory statement, required to be sent under the Companies Act, 2013 and the prescribed form of proxy shall also be sent along and in addition to the above any



other documents as may be prescribed under the Act or rules may also be duly sent with the notice.

H) That the Applicant Companies shall publish advertisement with a gap of atleast 30 clear days before the aforesaid meetings, indicating the day, date and the place and time as aforesaid, to be published in the English Daily Business Standard in English, and in Hindi Daily ^{"JANSATTA"} stating the copies of Scheme of Amalgamation, the Explanatory Statement required to be furnished pursuant to Section 230 of the Companies Act, 2013 and the form of proxy shall be provided free of charge at the registered office of the Applicant Companies.

I) Voting shall be allowed on the proposed Scheme by voting in person, by proxy, through postal ballot or through electronic means as may be applicable to the respective companies under the Act and rules framed there under. The Chairperson shall as aforestated be responsible to report the result of the meeting within two weeks of the conclusion of the meeting with details of voting on the proposed scheme.

J) The companies shall individually send notice to Central Government, the Income Tax Authorities, Registrar of Companies NCT Delhi & Haryana, SEBI, National Stock Exchange, Bombay Stock Exchange, Official Liquidator and Regional Director as well as other sectoral regulators including Ministry of Information & Technology who may have significant bearing on the operation of the applicant companies or the Scheme per se along with copy of required documents and disclosures required under the



provisions of Companies Act, 2013 read with Companies (Compromises, Arrangements, Amalgamations) Rules, 2016.

K) The applicant companies shall further furnish copy of the Scheme free of charge within 1 day of any requisition for the Scheme made by every creditor or member of all the companies entitled to attend the meetings as aforesaid.

L) The authorized representative of the Applicant Companies shall furnish an affidavit of service of notice of meetings and publication of advertisement and compliance of all directions contained herein at least a week before the proposed meetings.

M) All the aforesaid directions are to be complied with strictly in accordance with the applicable law including forms and formats contained in the Companies (Compromises, Arrangements, Amalgamations) Rules, 2016 as well as the provisions of the Companies Act, 2013 by the Applicants.

The application stands allowed on the aforesaid terms.

Sd -
(R. VARADHARAJAN)
MEMBER (JUDICIAL)