

IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH

Company Petition TP (CAA) No. 261/KB/2017  
Arising out of C.P. No. 773/2016 dated 16-08-2016  
(Connected with CA No.579/2016)

IN THE MATTER OF:

An Application under Section 391(2) and 394 of the  
Companies Act, 1956 ;

-And-

IN THE MATTER OF:

(1) Saraogi Nivesh Private Limited, a company  
incorporated under the provisions of the Companies Act,  
1956 and having its Registered Office at 23B, N.S.  
Road, 1<sup>st</sup> Floor, Room No. 112, Kolkata – 700 001 within  
the aforesaid jurisdiction ;

And

(2) Juhi Agencies Private Limited, a company  
incorporated under the provisions of the Companies Act,  
1956 and having its registered Office at 23B, N.S.  
Road, 1<sup>st</sup> Floor, Room No. 112, Kolkata – 700 001 within  
the aforesaid jurisdiction ;

Sd

Sd

And

(3) Pretom Dealers Private Limited, a company incorporated under the provisions of the Companies Act, 1956 and having its registered Office at 23B, N.S. Road, 1<sup>st</sup> Floor, Room No. 112, Kolkata – 700 001 within the aforesaid jurisdiction ;

.. Transferor Companies

WITH

(4) Rajgharana Merchants Private Limited, , a company incorporated under the provisions of the Companies Act, 1956 and having its registered Office at 23B, N.S. Road, 1<sup>st</sup> Floor, Room No. 112, Kolkata – 700 001 within the aforesaid jurisdiction ;

.. Transferee Company

1. Saraogi Nivesh Private Limited
2. Juhi Agencies Private Limited
3. Pretom Dealers Private Limited
4. Rajgharana Merchants Private Limited

... Petitioners

Date of pronouncement of the Order : 22-02-2018

Coram : Mr. V.P. Singh, Member(Judicial)  
Mr. Jinan K. R., Member(Judicial)

Sd

Sd

For the Petitioners:

Mr. J Patnaik, Pr. CS

Ms. Tia Inla, Deputy Director, C/o. Regional Director(Eastern Region),  
Ministry of Corporate Affairs

Per Jinan K.R. Member(Judicial)

ORDER

1. The object of this petition is to obtain sanction of this Tribunal to the Scheme of Amalgamation between Saraogi Nivesh Private Limited, the Transferor Company No.1, Juhi Agencies Private Limited, the Transferor Company No.2, Pretom Dealers Private Limited, the Transferor Company No.3, with Rajgharana Merchants Private Limited, the Transferee Company and their respective members for the amalgamation of the Transferor Companies into the Transferee Company, a copy of which is annexed with the Petition and marked as Annexure "A".

2. By the said Scheme of Amalgamation, all the rights, claim and interest whatsoever of the Transferor Company and their entire undertakings together with all the assets and liabilities relating thereto as a going concern is proposed to be transferred to and be vested in the Transferee Company on the terms and conditions and in the manner fully stated in the Scheme of Amalgamation.

Sd

Sd



3. It has been stated in the Petition that the Scheme of Amalgamation would ensure higher retained earning leading to enhanced intrinsic value of shareholding to the investors.
4. The corporate restructuring resulting from the Scheme of Amalgamation will integrate all the activities leading to increased opportunities in all the areas of business.
5. The amalgamated Company would have stronger fundamentals which enhance its credit rating and resource raising the ability in the financial markets.
6. The Scheme of Amalgamation will enable the establishment of a larger company with larger resources and a larger capital base facilitating further expansion and development of the business of all the companies.
7. The Scheme of Amalgamation will have beneficial results for all the Petitioner Companies concerned, their shareholders, employees and concerned.
8. The Board of Directors of the Transferee Company and the Transferor Companies have already, in their respective Board meetings, by resolution passed unanimously, approved the Scheme of Amalgamation.

Sd

Sd

9. The Petitioner Companies had filed a Company Application No.579/2016 before the Hon'ble High Court at Calcutta praying for dispensing with the holding of meeting of the shareholders of the Petitioner Company No.1, 2, 3 and 4 in view of the written consent given by all the equity shareholders of the Petitioner Companies to the Scheme of Amalgamation and have also consented to waive the holding and convening of the meeting of the shareholders.

10. The Hon'ble High Court, Calcutta was pleased to pass an order dated 08-08-2016 in the said Company Application No. 579 of 2016, for dispensing with the meeting of the shareholders of the Petitioner Companies.

11. A copy of the said Order of the Hon'ble High Court, Calcutta is annexed with the Petition and marked as Annexure "J".

12. It has been stated in the Petition that the assets of the Petitioner Companies are sufficient to meet all its liabilities and the Scheme of Amalgamation will not adversely affect the rights of any of the creditors of the Petitioner Company in any manner whatsoever.

13. The Petitioner Companies made due provisions for payment of all the liabilities as and when the same will fall due.

14. It has been also stated in the Petition that there are no proceedings pending under the provisions of Sections 206 to 229, as made applicable from

April 01, 2014 of the Companies Act, 2013 against any of the Petitioner Companies.

15. The petitioners had made the petition bearing CP No. 773/2016 dated 16-08-2016 before the Hon'ble High Court, Calcutta, which has since been transferred to this Tribunal having numbered as TP(CAA) No. 261/KB/2017, among other things, seeking final sanction to the Scheme of Amalgamation and for orders facilitating and giving effect to the same.

15. Further, vide affidavit dated 31-01-2018 filed by the Petitioner Companies, it has been stated that the Petitioner Companies have no creditors as on 11-12-2017.

16. The original certificates as obtained from the Chartered Accountant of the respective Petitioner Companies are annexed with the Petition and marked Annexure "X".

17. It has also been stated in the said affidavit dated 31-01-2018 that after publication on 30-08-2016 in English in "Business Standard" and in Bengali in "Dainik Statesman", the Petitioner Companies have not received any objection or complaint from anywhere till date with regard to the Scheme of Amalgamation.

18. In view of the fact that there are no creditors of the Petitioner Companies as on 11-12-2017, as stated in the affidavit dated 31-01-2018, the Petitioner



Companies have prayed for dispensation of convening and holding of separate meetings of the Creditors of the Petitioner Companies by this Tribunal.

19. Heard the arguments of the Ld. Pr. CS for the petitioner Companies.

20. In view of the fact that there are no creditors of the Petitioner Companies as on 11-12-2017, as stated in the affidavit dated 31-01-2018 by the Petitioners, convening and holding of separate meetings of the Creditors of the Petitioner Companies, does not arise.

21. Let notice be served as per requirements of sub section (5) of section 230 of the Companies Act, 2013 along with all the documents including a copy of the Scheme of Amalgamation on the Central Government, through the Regional Director, Eastern Region, Ministry of Corporate Affairs, Kolkata, the Registrar of Companies, West Bengal and the concerned Assessing Officer along with the Chief Commissioner of Income Tax with PAN numbers of the Petitioner Companies, by hand delivery through personal messenger or by Speed post, E-Mail, both, and also on the Official Liquidator attached to the High Court, Calcutta, having jurisdiction over the Petitioner Companies.

The Petitioner Companies shall file an affidavit, along with the copy of the notice within 7 days regarding service of the notice.

22. The petitioner Companies shall send notice through e-mail also and file copies of the mails along with an affidavit. The notice shall specify that representation, if any, should be filed before this Tribunal within 30 days of the

date of receipt of the notice with a copy of such representation being sent simultaneously to the petitioners and their advocates, if no such representation is received by the Tribunal within the said period, it shall be presumed that such authorities have no representation to make on the Scheme of Amalgamation.

23. Such notices shall be sent under section 230(5) of the companies act, 2013 in Form no. CAA.3 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 with necessary variations incorporating the directions therein.

24. Let the advertisement of the hearing of this petition be published once in the English daily, "The Business Standard" and in the Bengali daily, "The Statesman", stating the PAN numbers of all the petitioner companies, at least 10 days before the date fixed for hearing in Form No. NCLT 3A of the National Company Law Tribunal Rules, 2016 with necessary variations.

25. The Petition is fixed for hearing on 10-04-2018.

26. Certified copy of the order may be issued, if applied for, upon compliance with all the requisite formalities.

  
(V.P. Singh)  
Member(Judicial)

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(Jinan K.R.)  
Member(Judicial)