

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

CA (CAA)-12(ND)/2020

UNDER SECTIONS 230-232 OF THE COMPANIES ACT, 2013

In the matter of Scheme of Arrangement/Demerger

Memo of Parties

BLACKIE & SON (Calcutta) PRIVATE LTD

CIN: U74899DL1979PTC014517

Company Incorporated under Companies Act, 1956

Having its registered office at:

7361, Ravindra Mansion, Ram Nagar,

Qutab Road, New Delhi-110055

..... (APPLICANT -1/Transferor Company No. 1)

NIRJA PUBLISHERS & PRINTERS PRIVATE LIMITED

CIN: U74899DL1971PTC005776

Company Incorporated under Companies Act 1956

Having its registered office at:

7361, Ravindra Mansion, Ram Nagar

Qutab Road, New Delhi-11005

... (APPLICANT COMPANY-2/Transferor Company No. 2)

DS DIGITAL PRIVATE LIMITED

CIN: U72200DL2008PTC173250

Company Incorporated under Companies Act 1956

Having its registered office at:

A-27, 2nd Floor, Mohan Cooperative Industrial Estate

New Delhi-110044

... (APPLICANT COMPANY-3/Demerged Company No. 1)

ds
Nirja Publishers & Printers Pvt. Ltd.

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SAFARI DIGITAL EDUCATION INITIATIVES

CIN- U80904DL2010PTC204512

Company Incorporated under Companies Act 1956

Having its registered office at:

A-27,2nd Floor, Mohan Cooperative Industrial Estate

New Delhi-110044

... (APPLICANT COMPANY-4/Demerged Company No. 2)

S CHAND & COMPANY LIMITED

CIN-U80904DL2010PTC204512

Company Incorporated under Companies Act 1956

Having its registered office at:

A-27,2nd Floor, Mohan Cooperative Industrial Estate

New Delhi-110044

... (APPLICANT COMPANY-5/Transferee Company No. 1)

Coram: CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

SAROJ RAJWARE, MEMBER (TECHNICAL)

**For the Applicants: Mr. Rajeev K Goel, Mr. Ajay Garg
Mr. Praveen K Bharti, Mr. Kartikeya**

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O R D E R

Delivered on: 19.02.2020

SAROJ RAJWARE, MEMBER (TECHNICAL)

1. Under consideration an application filed by the petitioner companies i.e., Black & Son Private Limited (for brevity "Transferor Company No. 1"), Nirja Publishers & Printers Pvt. Ltd. (Transferor Company No. 2) with S Chand & Company Limited (for brevity "Transferee Company"), demerger of Education Business of DS Digital Pvt. Ltd. into S Chand & Company and Amalgamation of DS Digital Pvt. Ltd. with the residual business remained in the Company after the demerger of Education Business with Safari Digital Education Initiatives Pvt. Ltd. jointly under section 230-232 of Companies Act, 2013, and other applicable provisions of the Companies Act, 2013 read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 in relation to the Scheme of Arrangement by way of Amalgamation and Demerger (hereinafter referred to as the "SCHEME") proposed between the applicants. The said Scheme is also annexed as Annexure "A-8" to the application. The applicants above named have preferred the instant application in effect for the following purpose as evident inter alia from the reliefs sought for in the Application, namely:


Nirja Publishers & Printers Pvt. Ltd.
CA (CAA)-12/ND/2020

- a. Dispense with the requirement of convening meetings of Equity Shareholders of the Transferor Companies No. 1 & 2 and the demerged companies no. 1 & 2.
- b. Dispense with the requirement of convening meetings of Preference Shareholders (Series-I) and Preference Shareholders(Series-II) of the Demerged Company No. 1.
- c. Dispense with the requirement of convening meeting of Unsecured Creditors of the Demerged Company No. 2, The transferor Company No. 1 and the demerged company no. 2 do not have any secured creditor. Further the transferor company no. 1 does not have any Unsecured Creditor.
- d. Convene separate meetings of equity shareholders of the Transferee Company No. 1, Secured Creditors of the Transferor Company no. 2, the demerged company no. 1 and the transferee company no. 1 and unsecured creditors of the Transferor Company No. 2, the demerged company no. 1 and the transferee company no. 1.
- e. Appoint a common chairperson to chair the meetings and to direct the chairperson to file his/her reports on the meetings before this Hon'ble Tribunal. A common scrutinizer may also be appointed for the aforesaid meetings.

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- f. Fix the quorum and if the quorum is not present in the meeting, the meeting may be adjourned, meeting may be treated the proper quorum.
- g. Voting by proxies may be allowed at the meetings. Further, valid proxies may also be counted for the purpose of quorum for the meetings.
- h. Direct publication of the notice of the proposed meetings in the "business standard" (English) and "business standard" (hindi) newspapers which are circulated in the district in which the respective registered office of applicant companies.
- i. Direct dispatch of individual notices of the proposed meetings by speed post or registered post or courier or by hand or any other manner.
- j. Pass further appropriate directions for convening, holding and conducting of the meetings as prayed above.
- k. Direct service of notice of present application on central government through the office of the RD, ministry of Corporate affairs, official liquidator, income tax, SEBI Mumbai, BSE Ltd., Mumbai, National Stock exchange of India Ltd., Mumbai.
- l. Pass such other/ further orders as this Hon'ble Tribunal may deem fit and proper.



2. Transferor Company Number 1, 2 demerged company 1 & 2 are wholly owned subsidiaries of Transferee Company.
3. An affidavit in support of the above application sworn for and on behalf of all the Applicant Companies by one Mr. Saurabh Mittal, Sheeba Dhamija and Jagdeep Singh, Company Secretaries of the respective Companies along with the application has been filed 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 and Haryana.
4. In relation to Blackie & Son Private Limited being the Transferor Company No. 1, in the Scheme marked as Annexure "A-8", it is represented that it is having 2 Equity Shareholders and both of them have given their consents by way of affidavit. Further, it has "nil" Unsecured Creditors and has no Secured Creditor. In relation to the shareholders of the Transferor Company, it seeks for dispensing with holding of the meetings as consent affidavit has been placed on record. In respect of Secured and Unsecured creditors of the transferor company number 1 it is represented that there are no secured creditors , hence convening of meeting be dispensed with.
5. In relation to Nirja Publishers & Printers Private Limited being the Transferor Company No. 2, in the Scheme marked as Annexure "A-8", it is represented that it is having 2 Equity Shareholders and both of them have given their consent by way of affidavits. The Transferor Company



number 2 has "64" Unsecured Creditors whose consents have not been obtained, so the necessity of meeting arises. It has one Secured Creditor whose consent has also not been obtained, so the necessity of meeting arises. In relation to the shareholders of the Transferor Company, it seeks for dispensing with holding of the meetings as consent has been placed on record in the form of affidavit and in respect of Secured and Unsecured creditors the necessity of meeting arises.

6. In relation to DS Digital Private Limited being the Demerged Company No. 1, in the Scheme marked as Annexure "A-8", it is represented that it is having 4 Equity Shareholders and 99.99% of the total value consent has been placed on record, hence necessity of meeting does not arise. Further the Demerged Company no. 1 has "339" Unsecured Creditors and 2 secured creditors whose consents have not been obtained, so the necessity of meeting arises. In relation to the shareholders of the Transferor Company, it seeks for dispensing with holding of the meetings as consent have been placed on record in the form of affidavits and in respect of Secured and Unsecured creditors the necessity of meeting arises.

7. In relation to Safari Digital Education Initiatives Private Limited being the Demerged Company No. 2, in the Scheme marked as Annexure "A-8", it is represented that it is having 4 shareholders and the consent has been placed on record in the form of affidavits, hence necessity of meeting does not arise. It has "266" Unsecured Creditors, out of which 96.15% of the

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total value given the consent, therefore necessity of meeting does not arise. It is also represented by the counsel for Applicants that the Demerged Company no.2 has Nil Secured Creditor, so the necessity of meeting does not arise. In relation to the shareholders of the Transferor Company, it seeks for dispensing with holding of the meetings as consent have been placed on record in the form of affidavits and in respect of Unsecured creditors the necessity of meeting arises.

8. In relation to S. Chand and Company Limited being the Transferee Company in the Scheme marked as Annexure "A-8", Company is having 47,477 Shareholders whose consent have not been obtained, thus necessity of meeting arises. Further it has "10" Secured creditors whose consents have not been obtained, hence necessity of meeting arises and 2,234 Unsecured creditors, whose consents have not been obtained, hence necessity of meeting arises.

9. In relation to the territorial jurisdiction, Ld. Counsel for the applicant companies submit that since the registered office of the respective companies fall within the purview of Registrar of Companies, NCT, New Delhi, this Tribunal has the necessary territorial jurisdiction to entertain the joint application.

10. We have perused the joint application and the connected documents / papers filed therewith including the Scheme of Arrangement contemplated between the Applicant companies.



11. Both the applicants have filed their respective Memorandum and Articles of Association inter alia delineating their object clauses as well as their last available Audited Annual Accounts for the year ended 31.03.2019 and un-audited financial statements for the period ended 30.09.2019.

12. The Board of Directors of the Applicant companies (Transferor Company No. 1 & 2) vide meeting held on 15th November 2017 and 9th April 2018, and for Applicant Companies (Demerged Company No. 1 & 2, Transferee Company) vide meeting held on 14th November, 2017 and 6th April 2018, 17th November, 2017 and 6th April 2018 respectively, have unanimously approved the proposed Scheme of Amalgamation as contemplated above and copies of resolutions passed thereon have been placed on record by the companies.

13. The appointed date as specified in the Scheme is 1st April, 2017 subject to the directions of this Tribunal.

14. 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 Unsecured Creditors, and dispensing with



meetings of shareholders and secured creditors as well as issue of notices including by way of paper publication as follows: -

A. Wednesday, 25th March, 2020 at A-27, 2nd Floor, Mohan Cooperative Industrial Estate, New Delhi-110044

Meetings Of	Time
Secured Creditors of the Transferor Company No. 2	2:00 pm
Secured Creditors of the Demerged Company No. 1	3:00 pm
Secured Creditors of Transferee Company	4:00 pm

B. Thursday, 26th March 2020 at the Executive Club Resort, 439, Kharak Road, Shahrpur Extension, Sat Bari, Chhatarpur, New Delhi-110074

Shareholders of The Transferee company	10:30 am
Unsecured Creditors of Transferor Company 2	2:00 pm
Unsecured Creditors of Demerged Company 1	3:00 pm
Unsecured Creditors of Transferee Company 1	4:00 pm

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15. The quorum of the said meetings will be as follows

Meeting Of Resulting Company	Total No.	Available Number
Secured creditors of transferor company 2	1	1
Secured creditors of demerged company 1	2	1
Secured creditors of transferee company	10	2
Unsecured creditors of Transferor Company 2	64	10
Unsecured creditors of demerged company 1	339	25
Unsecured creditors of transferee Company	2234	25
Shareholders of transferee Company	47477	25

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- i) The Chairperson for the said meetings Mr. Bijan Kr. Singh (9810736922) shall act as the Chairperson and Mr. V.P Sharma (9810144324) shall act as the alternate chairperson appointed herein along with Scrutinizer shall ensure that the registers are properly maintained. The fee of the chairperson for the aforesaid meetings shall be 1,00,000/- and the fee of the alternate chairperson shall be Rs 75,000/- in addition to meeting their incidental expenses.
- ii) Mr. Parveen Kumar (9910617844) is appointed as a Scrutinizer and would be entitled to fee of Rs.50,000/- for services in addition to meet incidental expenses. The Chairperson(s) will file their reports within a week from the date of holding of the above said meetings.
- iii) In case the quorum as noted above for the above meeting of the Applicant Companies is not present at the meetings, then the meetings shall be adjourned by half an hour, and thereafter the persons present and voting shall 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 meeting. 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 companies to attain at least the quorum fixed, if not more in relation to approval of the scheme.

- iv) That individual notices of the above said meetings shall be sent by the Applicant Companies through registered post or speed post or through courier or 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.
- v) 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 "Business Standard" in English, and "Business Standard" in Vernacular 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 respective Applicant Companies.
- vi) Voting shall be allowed on the proposed Scheme by voting in person, or proxy the Chairperson shall as aforesaid be



responsible to report the result of the meeting within a period of 7 days of the conclusion of the meeting with details of voting on the proposed scheme.

- vii) The companies shall individually send notice to concerned regional director, MCA, the Income Tax Authorities, Registrar of Companies NCT Delhi & Haryana, Official Liquidator and Real Estate Regulatory Authority, as well as other sectoral regulators 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.
- viii) 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.
- ix) 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.
- x) 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.

S. A.

(SAROJ RAJWARE)
MEMBER (TECHNICAL)

U.D.Mehta/D

S. A.

(CH. MOHD SHARIEF TARIQ)
MEMBER (JUDICIAL)

This order of the bench consisting of above mentioned Members was pronounced in open court on behalf of the Bench by one of the Member under 157.

court officer