

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,  
KOLKATA BENCH  
KOLKATA**

**C.P.(CAA) No.897/KB/2018  
Connected with  
CA(CAA) No.98/KB/2018**

**Coram: Mr. Jinan K.R., Member (Judicial)**

**In the matter of:**

**An application under Section 230 to 232 of the Companies Act, 2013 and Companies (Compromises, Arrangements and Amalgamations) Rules, 2016;**

**In the matter of:**

**JSS SOFTWARE & PARKS PRIVATE LIMITED**, a Company incorporated under the provisions of the Companies Act, 1956 having its Registered office at A-3/7, Gillander House, 8, N S Road, Kolkata-700001, West Bengal, within the aforesaid jurisdiction;

~ And ~

**In the matter of:**

**E - MAT SOLUTIONS PRIVATE LIMITED**, a Company incorporated under the provisions of the Companies Act, 1956 having its Registered office at A-3/7, Gillander House, 8, N S Road, Kolkata-700001, West Bengal, within the aforesaid jurisdiction;

~ And ~

**In the matter of:**

**SAHOO PROJECTS PRIVATE LIMITED**, a Company incorporated under the provisions of the Companies Act, 1956 having its Registered office at A-3/7, Gillander House, 8, N S Road, Kolkata-700001, West Bengal, within the aforesaid jurisdiction;

~ And ~

**In the matter of:**

1. JSS Software & Parks Private Limited;
2. E - Mat Solutions Private Limited;
3. Sahoo Projects Private Limited;

.....Petitioners

**Counsel on Record:**

Mr. Shashi Agarwal, Pr. C.A.                    ] - For the Petitioner  
Mr. Tapas Kumar Das, Advocate            ]

**Date of Pronouncement of Order:24th July, 2018**

**ORDER**

1. This petition has been filed for sanctioning of the proposed Scheme of Amalgamation relating amalgamation of E - Mat Solutions Private Limited, Sahoo Projects Private Limited (hereinafter referred to as "Transferor Companies") with JSS Software & Parks Private Limited ("Transferee Company") where all the assets, properties, rights and claims whatsoever of the Transferor Company and their entire undertaking together with all rights and obligations relating thereto are proposed be transferred to and vested in the Transferee Company on the terms and conditions fully stated in the Scheme of Amalgamation ("Scheme"), a copy whereof is annexed hereto and marked with letter "A" to this petition).

2. JSS Software & Parks Private Limited ("JSS Software" and/or "Transferee Company") was incorporated on "23rd December 1999" as a Private Limited Company limited by shares under the provisions of the Companies Act, 1956.

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The authorised Share Capital of "JSS Software" is Rs 5,00,00,000/- (Rupees Five Cores) divided into 49,00,000 Class A Equity Shares of 10/- each, 50,000 Class B Equity Shares of 10/- each and 50,000 0% Redeemable Preference Shares of Rs 10/- each. The issued, subscribed and paid-up share capital is Rs 4,09,76,050/- (Rupees Four Cores Nine Lakhs Seventy Six Thousand Fifty) divided into 40,60,247 Class A Equity Shares of 10/- each fully paid-up, 31,000 Class B Equity Shares of 10/- each fully paid-up and 6,358 0% Redeemable Preference Shares of Rs 10/- each fully paid-up.

3. E - Mat Solutions Private Limited ( "E - Mat Solutions" and/or "First Transferor Companies") was incorporated on "17th April 2006" as a Private Limited Company limited by shares under the provisions of the Companies Act, 1956.

The authorised Share Capital of "E - Mat Solutions" is Rs 10,00,000/- (Rupee Ten Lakhs Only) divided into 75,000 Class A Equity Shares of 10/- each and 25,000 Class B Equity Shares of 10/- each. The issued, subscribed and paid-up share capital is Rs 5,10,200/- (Rupees Five Lakhs Ten Thousand Two Hundred) divided into 30,020 Class A Equity Shares of 10/- each fully paid-up and 21,000 Class B Equity Shares of 10/- each fully paid-up.

The Auditors of the Transferor Companies have not made any adverse remark or comment in their Auditor Report. The Auditors' reports do not

disclose any irregularity or mismanagement in the affairs of the respective Transferor Companies. The affairs of the Transferor Companies have been conducted prudently and property. No petition under Section 397 or 398 of the Companies Act, 1956 and / or corresponding provisions of Companies Act, 2013 have any point of time been filed against any of the Transferor Companies.

The assets of the petitioner Companies are sufficient to meet all their liabilities. Further, the said Scheme of Amalgamation does not involve any compromise or composition with the creditors of the Petitioner Companies. The Scheme will not affect the rights of the creditors of the Petitioner Companies in any manner whatsoever.

It is submitted that the scheme of amalgamation is in conformity with the accounting standards prescribed under Section 133. A certificate from Chartered Accountant relating to compliance of Accounting Standard is annexed with the application and marked with letter "J".

The ratio of exchange stipulated under the said scheme has been arrived at taking into account the book value of the assets and other relevant factors of the transferor companies and the transferee company.

It is further stated that there are no proceedings pending under Sections 235 to 251 of the Companies Act 1956 and / or corresponding provisions of Companies Act, 2013 against any of the petitioner Companies.

It is further stated that no one will be prejudiced by the proposed Scheme of Amalgamation and that the sanction of the said Scheme is in the interest of and for the benefit of the petitioners companies and their respective shareholders and all concerned.

The sanctioning of the Scheme of Amalgamations will be for the benefit of the Company.

Sahoo Projects Private Limited (hereinafter referred to as "Sahoo" and/or "Second Transferor Companies ") was incorporated on "07th June 2007" as a Private Limited Company limited by shares under the provisions of the Companies Act, 1956.

The authorised Share Capital of "Sahoo" is Rs 25,00,000/- (Rupee Twenty Five Lakhs) divided into 75,000 Class A Equity Shares of 10/- each, 25,000 Class B Equity Shares of 10/- each and 1,50,000 Preference Shares of Rs 10/- each. The issued, subscribed and paid-up share capital is Rs 16,13,000/- (Rupees Sixteen Lakhs Thirteen Thousand Only) divided into 11,300 Class A Equity Shares of 10/- each fully paid-up and 1,50,000 Preference Shares of Rs 10/- each fully paid-up.

5. By an order dated 4th Day of May,2018 in Company Application C.A.(CAA) NO. 98/KB/2018, this Tribunal dispensed the meetings of the equity shareholders and unsecured creditors, as applicable, of all the Petitioner Companies for the purpose of considering and if thought fit for approving with or without modification, the said Scheme of Amalgamation in view of the written consent obtained from the Equity Shareholders and unsecured creditors, as applicable, of the respective companies, whereas meeting of the secured creditors was directed to held on 18/06/2018. The said order further directed that Ms. Abhijit Nagee , Practising Company

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Secretary, as the Chairperson of the meeting of the secured Creditor of the Transferee Company. A copy of the said order dated 4<sup>th</sup> may,2018 is annexed and marked with the letter "G" to this petition.

6. In terms of the order this Tribunal notices has been sent to Income Tax Department, Official Liquidator, Registrar of Companies and Regional Director, Eastern Region (MCA). But till now no copy of report has been received from any Statutory Authorities. Copy of Affidavit of Service/ compliance filed in terms of order of Hon'ble NCLT is annexed and marked with letter "H" to this petition.

7. The Ms. Abhijit Nagee, acted as Chairperson of the meeting of One secured Creditor of the Transferee Company. On the date of meeting, the said secured Creditor being one in number of the Transferee Company did not attended the meeting. Accordingly in the terms of the said it is clear that the said secured creditor has no objection to the said scheme of amalgamation as it has given no-objection in the form of letter. Copy of the chairman report without annexure is annexed and marked with letter "I" to this petition.

8. A certificate from Chartered Accountant relating to compliance of Accounting standard is annexed and marked with letter "J" to this petition.

Heard the arguments of the Ld. Pr. C.A for the Petitioner Companies. Order with the following directions is passed:

## ORDER

a) The date of hearing of this petition filed jointly by the petitioner for sanction of the Scheme is fixed on ~~31/08/2018~~. 4/9/18

b) Notice of haring of this petition in form NCLT 3A shall be advertised in once each in the "Aajkaal" in Bengali and in "The Business Standard" in English newspaper, not less than 10 days before the aforesaid date fixed for hearing.

c) In addition to the above public notice, the petitioner companies shall serve notice of the petition on the following authorities namely (a) Central Government, through the Regional Director, Eastern Region, Ministry of Corporate Affairs, Kolkata, (b) Registrar of Companies, West Bengal (c) Income Tax Department having jurisdiction over the Transferor Company and Transferee company (d) Official Liquidator and such other relevant sectoral regulators / authorities, if applicable, which are likely to be affected by the proposed scheme, by sending the same by hand delivery through special messenger or by registered post or speed post and by e-mail within 7 days from the date of this order for filing their representation, if any, within 30 days from the date of notice. Notice along with the PAN Numbers of the petitioner companies should also be served upon the Commissioner of Income tax by email or speed post or by messenger. Applicant companies are also directed to mention their respective PAN in the notice.

(d) 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 applicants and/or 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.

(e) All the petitioner companies at least 7 days before the date of hearing shall file as affidavit of service in relation to the paper publication as well service of notices on the authorities specified above including the sectoral regulators, if any.

The C.P. (CAA) No.897/KB/2018 connected with C.A. (CAA) No. 98/KB/2018 is directed to be listed for further hearing on **Friday 31/08/2018.** 4/9/18

Urgent certified copy of this order, if applied for be issued upon compliance with all requisite formalities.

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4/9/18  
(Jinan K.R.)  
Member (J)

Signed this day of 24<sup>th</sup> July 2018.

PS\_Aloke