

IN THE NATIONAL COMPANY LAW TRIBUNAL

KOLKATA BENCH

CP(CAA) 73 / KB / 2021

connected with

CA(CAA) 864 / KB / 2020

In the matter of:

The Companies Act, 2013;

And

In the matter of:

An application under Sections 230 to 232 and other applicable provisions of the Companies Act, 2013;

And

In the matter of:

Companies (Compromises, Arrangements and Amalgamation) Rules, 2016.

And

In the Matter of:

DEY COMMERCIAL (HOLDINGS) PRIVATE LIMITED, a company incorporated under the provisions of the Companies Act, 1956 and having Corporate Identification No (CIN: U70101 WB1987PTC042302) and having its Registered Office at 239 A J C Bose Road, P S Bhowanipore, Kolkata – 700020, in the State of West Bengal

******* TRANSFEREE COMPANY / PETITIONER NO 1**

And

In the Matter of:

HAPPY HIGHRISES PRIVATE LIMITED, a company incorporated under the provisions of the Companies Act, 1956 and having Corporate Identification No (CIN: U70109WB1989 PTC 046988) and having its Registered Office at 239 , A J C Bose Road, P S Bhowanipore, Kolkata- 700020 in the State of West Bengal

******* TRANSFEROR COMPANY NO 1 / PETITIONER NO 2**

And

In the matter of:

INSAT FINANCE PRIVATE LIMITED, a company incorporated under the provisions of the Companies Act, 1956 and having Corporate Identification No (CIN:U65993WB1988PTC 044750) and having its Registered Office at 239 A J C Bose Road, P S Bhowanipore, Kolkata- 700020 in the State of West Bengal

******* TRANSFEROR COMPANY NO 2 / PETITIONER NO 3**

And

In the matter of:

INSAT PROMOTERS PRIVATE LIMITED, a company incorporated under the provisions of the Companies Act, 1956 and having Corporate Identification No (CIN: U45209WB1989PTC046987) and having its Registered Office at 239 A J C Bose Road, P S Bhowanipore, Kolkata - 700020, in the State of West Bengal

******* TRANSFEROR COMPANY NO 3 / PETITIONER NO 4**

And

In the matter of:

JAI TARA CONSTRUCTION & FINANCE PRIVATE LIMITED, a company incorporated under the provisions of the Companies Act, 1956 and having Corporate Identification No (CIN: U65922WB1988PTC045677) and having its Registered Office at 239 A J C Bose Road, Kolkata - 700020, in the State of West Bengal

******* TRANSFEROR COMPANY NO 4 / PETITIONER NO 5**

And

In the matter of:

MULTY DRUGS PRIVATE LIMITED, a company incorporated under the provisions of the Companies Act, 1956 and having Corporate Identification No (CIN:U24239WB1986PTC 041015) and having its registered office at 239 A J C Bose Road, Kolkata - 700020, in the State of West Bengal

******* TRANSFEROR COMPANY NO 5 / PETITIONER NO 6**

And

In the matter of:

NEELIMA ESTATES PRIVATE LIMITED, a company incorporated under the provisions of the Companies Act, 1956 and having Corporate Identification No

(CIN:U71110WB1989PTC 046191) and having its registered office at 239 A J C Bose Road, Kolkata – 700020 in the State of West Bengal

******* TRANSFEROR COMPANY NO 6 / PETITIONER NO 7**

And

In the matter of:

PODDAR PROMOTERS PRIVATE LIMITED, a company incorporated under the provisions of the Companies Act, 1956 and having Corporate Identification No (CIN:U70101WB1989PTC 046989) and having its registered office at 239 A J C Bose Road, P S Bhowanipore, Kolkata – 700020, in the State of West Bengal

******* TRANSFEROR COMPANY NO 7 / PETITIONER NO 8**

And

In the matter of:

UPGRAH INVESTMENTS PRIVATE LIMITED, a company incorporated under the provisions of the Companies Act, 1956 and having Corporate Identification No (CIN: U65922WB1988 PTC045685) and having its registered office at 239 A J C Bose Road, Kolkata – 700020, in the State of West Bengal

******* TRANSFEROR COMPANY NO 8 / PETITIONER NO 9**

And

In the matter of:

UTKAL MERCHANDISE PRIVATE LIMITED, a company incorporated under the provisions of the Companies Act, 1956 and having Corporate Identification No (CIN: U51909WB1995 PTC073325) and having its registered office at 239 A J C Bose Road, P S Bhowanipore, Kolkata – 700020, in the State of West Bengal

******* TRANSFEROR COMPANY NO 9 / PETITIONER NO 10**

And

In the matter of:

1. DEY COMMERCIAL (HOLDINGS) PRIVATE LIMITED;
2. HAPPY HIGHRISES PRIVATE LIMITED;
3. INSAT FINANCE PRIVATE LIMITED;
4. INSAT PROMOTERS PRIVATE LIMITED;

5. JAI TARA CONSTRUCTION & FINANCE PRIVATE LIMITED;
6. MULTY DRUGS PRIVATE LIMITED;
7. NEELIMA ESTATES PRIVATE LIMITED;
8. PODDAR PROMOTERS PRIVATE LIMITED;
9. UPGRAH INVESTMENTS PRIVATE LIMITED;

And

10. UTKAL MERCHANDISE PRIVATE LIMITED

..... **Petitioner Companies**

Date of Hearing : 09 / 07 / 2021

Date of Pronouncement of the Order : 9th July, 2021

Coram:

Shri Rajasekhar V.K. : Member (Judicial)

Shri .Harish Chander Suri : Member (Technical)

Appearances (via video conferencing):

For the Petitioners :
1. Ms. Manju Bhuteria, Advocate
2. Mr. N. Gurumurthy, FCA
3. Mr. Madan Kumar Maroti, FCA
4. Ms. Aisha Amin, Advocate

ORDER

Per : Rajasekhar V.K., Member (Judicial)

1. The Court convened by video conference today.
2. The instant petition has been filed under Section 230(6), read with Section 232(3) of the Companies Act, 2013 (“Act”), for sanction of the Scheme of Amalgamation of HAPPY HIGHRISES PRIVATE LIMITED, the Petitioner No 2 above named (“Transferor Company No 1” or “ Petitioner No 2”) and INSAT FINANCE PRIVATE LIMITED, the Petitioner No 3 above named

(“Transferor Company No 2” or “ Petitioner No 3”) and INSAT PROMOTERS PRIVATE LIMITED, the Petitioner No 4 above named (“Transferor Company No 3 ” or “ Petitioner No 4 ”) and JAI TARA CONSTRUCTION & FINANCE PRIVATE LIMITED, the Petitioner No 5 above named (“Transferor Company No 4” or “ Petitioner No 5 ”) and MULTY DRUGS PRIVATE LIMITED, the Petitioner No 6 above named (“Transferor Company No 5 ” or “ Petitioner No 6 “) and NEELIMA ESTATES PRIVATE LIMITED, the Petitioner No 7 above named (“Transferor Company No 6 ” or “ Petitioner No 7 ”) and PODDAR PROMOTERS PRIVATE LIMITED, the Petitioner No 8 above named (“Transferor Company No 7 ” or “ Petitioner No 8 ”) and UPGRAH INVESTMENTS PRIVATE LIMITED, the Petitioner No 9 above named (“Transferor Company No 8 ” or “ Petitioner No 9 ”) and UTKAL MERCHANDISE PRIVATE LIMITED, the Petitioner No 10 above named (“ Transferor Company No 9 ” or “ Petitioner No 10 ”), with DEY COMMERCIAL (HOLDINGS) PRIVATE LIMITED, the Petitioner No 1 above named (“Transferee Company” or “ Petitioner No 1”), Transfer Date or Appointed Date being 1st April, 2019, pursuant to Section 230 to 232 of the Companies Act, 2013 and Rules made there under in the manner and on the terms and conditions stated in the said Scheme of Amalgamation (“Scheme”).

3. By an order dated 7th December, 2020 in Company Application No C.A (CAA) NO.864/KB/2020, this Tribunal made the following directions with regard to meetings of shareholders and creditors under Section 230(1) of the Act :

a. Meetings dispensed:

Meetings of Unsecured Creditors of the Petitioner Companies, were dispensed with in view of consent by 100% in value of such creditors of Petitioner Companies having respectively given their consent to the Scheme by way of affidavits.

b. Meetings directed to be held:

Equity Shareholders of the Petitioner Companies.

c. No Meetings required :

Secured Creditors of Petitioner Companies - NIL creditors verified by auditors certificate .

4. The Ld. Counsel appearing for the Petitioner(s) submits that in the said meeting of the Equity Shareholders of the Petitioner Companies the Scheme was duly approved by 100% of

the equity shareholders of the Petitioner Companies, who attended and voted at the said meeting. The Ld. Counsel appearing for the Petitioner(s) further submits that the meeting of Unsecured Creditors of the Petitioner Companies were dispensed with and there was no requirement of meeting of Secured Creditors of the Petitioner Companies, in view of Nil Creditors. The Ld. Counsel appearing for the Petitioner(s) further submits that the Petitioner(s) now seek admission of the instant petition presented by them for sanction of the Scheme.

5. The Ld. Counsel for the Petitioner(s) further submits that in compliance with Section 230(5) of the Companies Act, 2013 and the said order dated 7th December, 2020, made in Company Application No C.A(CAA)NO.864/KB/2020, notice along with all accompanying documents has already been served on the Statutory / Sectoral Authorities, as directed by the said order viz upon Income Tax Authorities on 18TH December,2020, upon Regional Director , Eastern Region, Ministry of Corporate Affairs and Registrar Of Companies, West Bengal on 16th December,2020, Upon Official Liquidator, High Court, Calcutta on 18th December, 2020 and Competition Commission of India on 18th December,2020. An affidavit, proving service, as aforesaid duly affirmed on 13th January,2021 has been filed by the Petitioner(s).

The Authorities, as aforesaid, have not filed their representation so far.

6. Upon perusing the records and documents in the instant proceedings and considering the submissions made on behalf of the Petitioner(s), we admit the instant petition and fix the next date of hearing on **08th September, 2021**.

7. At least 10 (ten) clear days before the said date fixed for hearing, the Petitioner(s) shall cause notice of hearing to be advertised in the FINANCIAL EXPRESS, in English and Bengali translation thereof in DAINIK STATESMAN, as per Rule 16(1) of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (“CAA Rules”).

8. Another notice pursuant to Section 230(5) of the Companies Act, 2013, along with accompanying documents, including the copies of the aforesaid Scheme and statement under the provisions of the Companies Act, 2013, as sent earlier, shall be served again on the aforesaid Statutory Authorities by sending the same to them by hand delivery through special messenger or by post or by email, within one week from the date of receiving this Order. The notice shall specify the next date of hearing of the petition, as aforesaid, and state that representation, if any, and if not already filed, should be filed before this Tribunal not later than 7 (seven) days before the next date of hearing of the petition and a copy of such representation should be simultaneously sent to the Authorised Representative of the said Petitioner(s). If no such representation is received by the Tribunal within such period, it shall be presumed that such Authorities have no representation to make on the said Scheme. Such notice shall be sent in Form No. CAA3 of the CAA Rules with necessary variations, incorporating the directions herein.

9. The Petitioner(s) to file an affidavit confirming compliance of the abovementioned directions of this Tribunal, 3 (Three) days before the next date of hearing.

10. The Petitioner(s) may also file their rejoinder affidavit(s) dealing with the objections/ observations, if any, of the Authorities, 2 (Two) days before the next date of hearing.

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

Harish Chander Suri
Member(Technical)

Rajasekhar V.K.
Member(Judicial)

Signed on this, the 9th day of July, 2021

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