

IN THE NATIONAL COMPANY LAW TRIBUNAL

KOLKATA BENCH

CP(CAA) 76 / KB / 2021

connected with

CA(CAA) 1160 / 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:

NANDANI BUSINESS PRIVATE LIMITED, a company incorporated under the provisions of the Companies Act, 1956 and having Corporate Identification No (CIN:U74110JK1987 PTC000928) and having its Registered Office at HOUSE NO.17/7, TRIKUTA NAGAR, JAMMU-180012 in the Union Territory of Jammu and Kashmir and Corporate Office at 4, BBD BAG EAST, STEPHEN HOUSE, 5TH FLOOR, ROOM NO.87A, KOLKATA-700001 in the state of West Bengal within the aforesaid jurisdiction;

***** TRANSFEREE COMPANY / NON PETITIONER

And

In the Matter of:

KNIGHT COMMOTRADE PRIVATE LIMITED, a company incorporated under the provisions of the Companies Act, 1956 and having Corporate Identification No (CIN: U51909WB2010PTC146779) and having its Registered Office at 35, JADUNATH DEY ROAD, 2ND FLOOR, ROOM NO- 2, KOLKATA - 700012 in the State of West Bengal within the aforesaid jurisdiction;

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

And

In the Matter of:

ONWARD SALES PRIVATE LIMITED, a company incorporated under the provisions of the Companies Act, 1956 and having Corporate Identification No (CIN:U51909WB2010 PTC148520) and having its Registered Office at 35, JADUNATH DEY ROAD, 2ND FLOOR, ROOM NO.2, KOLKATA-700012 in the State of West Bengal within the aforesaid jurisdiction;

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

And

In the matter of:

1. NANDANI BUSINESS PRIVATE LIMITED;
2. KNIGHT COMMOTRADE PRIVATE LIMITED;

And

3. ONWARD SALES 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 : Harish Chander Suri, Member (Technical)

1. The Court convened by video conference today.
2. In this Petition, the Transferee Company is not within the jurisdiction of this Tribunal, since its registered Office is situated within the Union Territory of Jammu & Kashmir. Therefore, the reference throughout the Petition to the Transferee Company/Petitioner No.1, **shall be read as Transferee Company/non-Petitioner**. The reference to the Transferor Company No. 1/ Petitioner No. 2, **shall be read as Transferor Company No. 1/Petitioner No. 1** and the reference to Transferor Company No. 2/Petitioner No. 3, **shall be read as Transferor Company No. 2/Petitioner No. 2**.
3. 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 KNIGHT COMMOTRADE PRIVATE LIMITED, the Petitioner No 1 above named (“Transferor Company No 1” or “ Petitioner No 1”) and ONWARD SALES PRIVATE LIMITED, the Petitioner No 2 above named (“Transferor Company No 2” or “ Petitioner No 2”), with NANDANI BUSINESS PRIVATE LIMITED, the Petitioner No 1 above named (“Transferee Company” or “ Non Petitioner “), Transfer Date or Appointed Date being 01st January, 2020, 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”).
4. By an order dated 04th January, 2021, in Company Application No. C.A (CAA) No.1160/(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 Equity Shareholders of Petitioner No 1 and Petitioner No 2 for considering the Scheme were dispensed with, in view of consent by way of affidavits by all shareholders of Petitioner No 1 and Petitioner No 2.

Meetings of Unsecured Creditors of Petitioner No 1 and Petitioner No 2 for considering the Scheme were dispensed with, in view of consent by way of affidavits by 100% in value of such creditors of Petitioner No 1 and Petitioner No 2.

(b) Meetings directed to be held:

No meeting were directed to be held .

(c) No Meetings required :

Secured Creditors of Petitioner No 1 and Petitioner No 2 - NIL creditors verified by auditors certificate.

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 04th January, 2021, in Company Application No. C.A (CAA) No.1160/(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 05th February, 2021 and 20th February,2021, upon Regional Director , Eastern Region, Ministry of Corporate Affairs and Registrar of Companies, West Bengal on 03rd February,2021, Upon Official Liquidator, High Court Calcutta on 03rd February,2021 and Competition Commission of India on 05th February,2021. An affidavit proving service, as aforesaid duly affirmed on 04th March,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 8th **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 no 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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