

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
BENGALURU BENCH**

C.A. (CAA) No.51/BB/2020  
U/S 230 to 232 of Companies Act, 2013  
& Other Applicable Provisions of the Companies Act, 2013  
R/w Companies (CAA) Rules, 2016

**In the matter of:**

**M/s. Amber Road Software Private Limited**

"RMZ" Titanium, 5<sup>th</sup> Floor,  
No.135, Old Airport Road,  
Kodihalli Village, Varthur Hobli,  
Bengaluru -560017 -

Applicant/ Transferor Company

**Date of Order: 16<sup>th</sup> December, 2020**

**Coram:** 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)  
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

**Parties/Counsels Present (Through Video Conference):**

For the Applicant Companies : Shri. Srihar.A

**ORDER**

**Per:** Rajeswara Rao Vittanala, Member (J)

1. C.A.(CAA) No.51/BB/2020 is filed by M/s. Amber Road Software Private Limited under Sections 230 to 232 of the Companies Act, 2013 and other applicable provisions of the Companies Act, 2013 R/w Companies (Compromises, Arrangements and Arrangements) Rules, 2016, by inter by inter alia seeking to dispense with the convening and holding the meeting of the Equity Shareholders & Secured & Unsecured Creditors of the Applicant Company etc.
2. Brief facts of the case, as mentioned in the Application, which are relevant to the issue in question, are as follows:

(1) **M/s. Amber Road Software Private Limited** (hereinafter referred as the Applicant/Transferor Company No.3) is a

private limited Company was incorporated on 12.05.1999 under the name and style of "Nextlinx India Private Limited". Subsequently, the name was changed to "Amber Road Software Private Limited" with CIN: U64202KA1999PTC025185 and having its registered office situated at "RMZ" Titanium, 5<sup>th</sup> Floor, No. 135, Old Airport Road, Kodihalli village, VarthurHobli, Bengaluru - 560 017. Its Authorised Share Capital is Rs. 25,00,000/- (Rupees Twenty Five Lakh only) divided into 25,000 equity shares of Rs.100/- each, and the Paid-up Share Capital is Rs.25,00,000/- divided into 25,000 equity shares of Rs.100/- each. The main objects of the Transferor Company inter alia are to carry on the business of internet services providers, webhosting, networking, and electronic mailing services, engage in the activity of or related to, in any manner, E-commerce etc.

- (2) The Applicant Company had filed the list of Shareholders inter alia stating that there are 2 (two) Shareholders in the Applicant company as on 15<sup>th</sup> March 2020 viz., M/s Amber Road Inc., USA holding 24,980 Equity Shares of Rs.100/- each constituting 99.92%, and Amber Road UK Ltd holding 20 shares of Rs. 100/- each consisting 0.08%. Accordingly, Laura Lynn Fese, the Secretary and Authorized Signatory of Amber Road Inc., has filed an Affidavit dated 20.04.2020, by inter alia stating that the Company is holding 24,980 Equity Shares of Rs.100/- each aggregating 24,98,000/- and has accorded unconditional consent and no-objection to the Scheme. Similarly, another shareholder has filed his respective Affidavit with similar declaration, for approval of the proposed Scheme.



- (3) M/s. Manian & Rao Chartered Accountants have issued a Certificate dated 21.03.2020 by certifying that there are no Secured, Unsecured and Trade Creditors in the Applicant/Transferor Company as on 15<sup>th</sup> March 2020.
  - (4) The Board of Directors of the Applicant/Transferor Company have approved and adopted the Scheme of Amalgamation in the respective meeting held on 3<sup>rd</sup> March 2020.
  - (5) M/s. Manian & Rao, Chartered Accountants, the Statutory Auditors of the Applicant Company has issued a Certificate dated 05.01.2021, wherein it is inter alia certified that the Company shall stand dissolved without being wound up upon the scheme becoming effective and hence there is no accounting treatment prescribed under this scheme in the books of the Company.
  - (6) The rationale for the Scheme inter alia that the scheme would result in the Transferor Company having presence in the software development, consulting services and related activities in the fields of inventory, supply and demand and greater leverage in operations, planning and process optimization and enhanced flexibility in operations.
  - (7) It is further stated that no investigations, proceedings are pending against the Applicant Company u/s 210 to 227 of the Companies Act, 2013 and 241 or 242 of the Companies Act, 2013 against the Applicant/Transferor Company.
3. Heard Shri Shrikar.A, Learned Counsel for the Applicant/Transferor Company, **through Video Conference**. We have carefully perused the pleadings of the party and extant provisions of the Companies Act, 2013 and the Rules made thereunder, and the Law on the issue.
4. Shri Shrikar A, learned Counsel for the Applicant Company, while pointing out various averments made in the Company Application,

has further submitted that the Scheme in question is made in the best interests of the Companies. The Applicant Company have filed the list of Equity Shareholders on its Company letterhead constituting 100% shareholding. Further, all the Shareholders of the Applicant Company have given their consent to the Scheme in question and for dispensation of their meetings by the Tribunal. We have perused the list of shareholders provided by the Applicant Company, as mentioned above, and all the concerned affidavits wherein the parties have declared that they have 'no objection' for dispensation of their meetings by the Tribunal. The Companies have disclosed material information with regard to the Scheme in question, and in the normal circumstances, it is the prerogative of concerned Company to evolve a Scheme suitable to them and the Tribunal is only empowered to examine the Scheme broadly, whether the Scheme is prepared in accordance with law and the interest of all the stakeholders of Companies involved are taken care of by affording due notice of Scheme, etc. The Scheme in question, prima facie found to be in the larger interests of the Companies involved and their stakeholders.

5. The Tribunal is empowered, under Section 230(9) of the Companies Act, 2013, to dispense with calling of a meeting of creditors or class of creditors, where such creditors or class of creditors, having at least ninety per cent value, agree and confirm, by way of affidavit, to the Scheme of compromise or arrangement. Therefore, there is no necessity to convene the meetings for the same purpose and the Tribunal can allow the Application as prayed for, on the principle of ease of doing business. Dispensation does not arise when there are no Secured, Unsecured and Trade Creditors. The Applicant can be permitted to file necessary second stage Petition seeking to sanction the Scheme, subject to fulfilment of all statutory conditions, after notice to respective Statutory Authorities.



6. In the result, **C.A. (CAA) No.51/BB/2020** is disposed of with the following directions:

- (i) It is hereby dispensed with the convening and holding the meetings of the Equity Shareholders of the Applicant Company;
- (ii) The Applicant Company is directed to issue paper notification one in English language 'Hindu' and one in vernacular language 'Udayavani' about the dispensation of the meetings by this Tribunal, within a period of 10 (Ten) days from the date of receipt of copy of this Order;
- (iii) Any party, aggrieved by this Order, is entitled to file miscellaneous application, in the instant Company Application, by seeking appropriate direction(s).
- (iv) The Company is permitted to file necessary Company Petition for the sanction of Scheme of Arrangement in question, after following extant provisions of law.



**ASHUTOSH CHANDRA  
MEMBER, TECHNICAL**



**RAJESWARA RAO VITTANALA  
MEMBER, JUDICIAL**

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