

C.P (CAA)/ 2000/MB/2018

IN

CSA NO.68 OF 2018

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

C.P (CAA)/ 2000/MB/2018

IN

CSA NO.68 OF 2018

Under Sections 230 to 232 of the  
Companies Act, 2013

In the matter of Scheme of Arrangement  
between Auditime Information Systems  
(India) Limited and Auditime Quality  
Management Private Limited and AQM  
Technologies Private Limited

Auditime Information Systems (India)  
Limited

... First Petitioner Company  
(Transferor Company)

Auditime Quality Management Private  
Limited

... Second Petitioner Company  
(Transferee Company/  
Demerger Company)

AQM Technologies Private Limited

... Third Petitioner Company  
(Resulting Company)

Order delivered on: 30<sup>th</sup> August, 2018

**CORAM:**

Hon'ble Bhaskara Pantula Mohan, Member (Judicial)

Hon'ble V. Nallasenapathy, Member (Technical)

For the Petitioners : Adv. Shruti Kelji-Pednekar, Adv. Ameya Lambhate and  
Adv. Sunila Chavan for the Petitioners.

For Regional Director: Mr. S. Ramakantha, Joint Director for the Office of the  
Regional Director.

For the Official Liquidator : Mr. Mangutkar, officer representing the office  
of the Official Liquidator.

*Per: V. Nallasenapathy, Member (Technical)*

**ORDER**

1. Heard Advocate for the parties. Neither any objector has come before the Hon'ble Tribunal to oppose the Scheme of Arrangement nor has any party controverted any averments made in the Petitions.
2. The sanction of the Hon'ble Tribunal is sought under Section 230 to 232 of the Companies Act, 2013 to the Scheme of Arrangement between Auditime Information Systems (India) Limited (Transferor Company) and Auditime Quality Management Private Limited (Transferee Company/Demerged Company) and AQM Technologies Private Limited (Resulting Company) and their respective shareholders.
3. The Learned Advocate for the Petitioner Companies state that the Transferor Company is engaged in business of Risk & Audit Consultancy Services, Data Analytics Services, Software Testing and Information Security and the Transferee Company/Demerged Company is engaged in the business of software testing, quality assurance, information security and software audit services and the Resulting Company has been newly incorporated and not yet commenced its business operations.
4. The Learned Advocate for the Petitioner Companies states that the Board of Directors of the respective Petitioner Companies have approved the Scheme of Arrangement by passing a resolution on 2<sup>nd</sup> October, 2017 which is annexed as Annexure H-1 to H-3 to the Company Petition.
5. The Learned Advocate for the Petitioner Companies states that the Appointed Date of the Scheme is 1<sup>st</sup> April, 2016.
6. The Learned Advocate for the Petitioner Companies state that the amalgamation will enable the Transferee Company to consolidate its business operation and provide significant impetus to the growth of the Transferee Company and the demerger of Software Testing, quality assurance,

Information Security and software audit services business from Demerged Company into Resulting Company will enable to create specific legal entity for specific business with a view to have focus and undivided attention and the arrangement would result in optimum utilization of management and other resources and would reduce the administrative costs and other overheads which are presently being multiplicities because of separate entities and integration of operations and enhancement of all the stake holders' value in the long run.

7. The Learned Advocate for the Petitioner Companies further states that the Petitioner Companies have complied with all the directions passed in the respective Company Scheme Application and that the Company Petition have been filed in consonance with the Orders passed in Company Scheme Application.
8. The Learned Advocate appearing on behalf of the Petitioner Companies have stated that the Petitioner Companies have complied with all requirements as per directions of the Tribunal and they have filed necessary affidavit of compliance in the Tribunal. Moreover, the Petitioner Companies undertake to comply with all statutory requirements, if any, as required under the Companies Act, 1956 and Companies Act, 2013 and the Rules made thereunder, whichever is applicable. The said undertakings given by the Petitioner Companies are accepted.
9. The Official Liquidator has filed his report dated 2<sup>nd</sup> July, 2018 stating therein that the affairs of the Transferor Company have been conducted in a proper manner and that the Transferor Company may be ordered to be dissolved.
10. The Regional Director has filed his report dated 10<sup>th</sup> August, 2018. In paragraph IV of the said Report, the Regional Director has stated that:-

*"IV. The observations of the Regional Director on the proposed Scheme to be considered by the Hon'ble NCLT are as under:-*

- a) The Petitioners under provisions of section 230(5) of the Companies Act, 2013 have to serve notices to concerned authorities which are likely to be affected by Compromise or Arrangement. Further, the approval of the scheme by this Hon'ble Tribunal may not deter such authorities to deal with any of the issues arising after giving effect to*

*the scheme. The decision of such Authorities is binding on the Petitioner Company(s).*

- b) It is observed that the Petitioner companies have not submitted admitted copy of the Petition, and Minutes of Order for admission of the Petition. In this regard, petitioner companies has to undertake to submit the same for the record of Regional Director and also to undertake that the scheme as admitted with the Hon'ble NCLT through company petition and the scheme which is served to the Regional Director through company application is one and the same, and in case of deviation, if any, shall be brought to the notice of the Regional Director.*
- c) In addition to compliance of AS-14 (IND AS-103), the Petitioner Companies shall pass such accounting entries which are necessary in connection with the scheme to comply with other applicable Accounting Standards such as AS-5 (IND AS-8) etc.*
- d) As regards Para No. 27 of the Scheme, the Transferee Company may be allowed in respect of fees payable by the Transferee Company on its Authorized Share Capital, subsequent to the Amalgamation for setting-off of fees paid by the Transferor Company on its Authorized Share Capital in accordance with the provisions of Section 232(3)(i) of the Companies Act, 2013.*
- e) Transferor Company is defaulting in filing of the Annual Returns and Financial Statements for the financial year 2016-2017. In this regard, the Deponent prays that no approval can be granted to a Defaulting companies till the filing is made read with proviso of rule 7 of the Companies (Registration Offices and Fees) Rules, 2014.*
- f) As per Clause 3.6 of the Scheme, Appointed Date means With respect to Amalgamation of AISIL with AQMPL means the Opening of business hours as at 1st April, 2016 or such other date as may be fixed by the Tribunal and With respect to Demerger of Demerged Undertaking from AQMPL into ATPL means the Closing of business hours as at 1st April, 2016 or such other date as may be fixed by the Tribunal. In this regard, the Deponent prays that the purpose of the appointed date is to identify the assets and liabilities of the Transferor Company and*

*Demerged Company that are to be transferred to the Transferee Company and Resulting Company respectively. Hence, in order to determine crystalize the assets and liabilities of the Transferor Company and Demerged Company, it is submitted that the Appointed Date should be 1st April, 2016 and further it is submitted that the Petitioner shall comply with the provisions of the Section 232(6) of the Companies Act, 2013.*

11. As far as the observations in paragraph IV (a) of the Report of the Regional Director is concerned, the Learned Advocate for the Petitioner Companies states that the Petitioner Companies have served the notices to the concerned authorities and filed the original acknowledgements vide its Affidavit of Service filed on 27<sup>th</sup> April, 2018. The Petitioner Companies undertakes that the approval of the Scheme by this Tribunal will not deter such Authorities to deal with any of the issues arising after giving effect to the scheme and the decision of such Authorities shall be binding on the Petitioner Companies.
12. As far as the observations in paragraph IV (b) of the Report of the Regional Director is concerned, the Learned Advocate for the Petitioner Companies state that the petitioner companies have submitted the admitted copy of petition and Minutes of Order dated 1<sup>st</sup> August, 2018 of admission of the petition on 17<sup>th</sup> August, 2018 and it is further stated that the Petitioner Companies undertakes that the Scheme as admitted with the this Bench through company petition and the scheme which is served to the Regional Director through company application is one and same and there is no discrepancy or deviation.
13. As far as the observations in paragraph IV (c) of the Report of the Regional Director is concerned, the Petitioner Companies undertakes that in addition to compliance of AS-14 (IND AS-103), the Petitioner Companies shall pass such accounting entries which are necessary in connection with the Scheme to comply with other applicable Accounting Standards such as AS-5 (IND AS-8) etc.
14. As far as the observations in paragraph IV (d) of the Report of the Regional Director is concerned, the Petitioner Companies undertakes to comply with the provisions of Section 232(3) (i) of the Companies Act, 2013.

15. As far as the observations in paragraph IV (e) of the Report of the Regional Director is concerned, the Learned Advocate for the Petitioner Companies states that the Transferor Company has filed its Annual Returns i.e. E-Form MGT-7 and Financial Statement i.e. E-form- AOC-4 for the financial year 2016-17 on 9<sup>th</sup> May, 2018 and 17<sup>th</sup> August 2018 respectively, in compliance of provisions of Rule 7 of the Companies (Registration Offices and Fees) Rules, 2014.
16. As far as the observations in paragraph IV (f) of the Report of the Regional Director is concerned, the Learned Advocate for the Petitioner Companies undertakes that the Appointed Date for the Scheme will be 1st April, 2016 in compliance with the provisions of the Section 232(6) of the Companies Act, 2013.
17. The observations made by the Regional Director have been explained by the Petitioner Companies in Para 11 to 16 above. The clarifications and undertakings given by the Petitioner Companies are accepted by the Tribunal.
18. From the material on record, the Scheme appears to be fair and reasonable.
19. Since all the requisite statutory compliances have been fulfilled, the Company Petition No.2000 of 2018 filed by the Petitioner Companies is made absolute in terms of prayer clauses (a) and (c).
20. The Petitioner Companies are directed to lodge a copy of this order and the Scheme duly certified by the Assistant Registrar of the National Company Law Tribunal, Mumbai Bench with the concerned Superintendent of Stamps, for the purpose of adjudication of stamp duty payable, if any, on the same within 60 days from the receipt of the order.
21. The Petitioner Companies are further directed to file a copy of this order along with a copy of the Scheme with the concerned Registrar of Companies, electronically, along with E-Form INC-28 in addition to physical copy, as per the relevant provisions of the Companies Act, 2013.
22. The Petitioner Companies to pay costs of Rs.25,000/-each to the Regional Director, Western Region, Mumbai and cost of Rs.25,000/- to the Official Liquidator, High Court, Bombay by First Petitioner Company/Transferor

Company. Costs to be paid within four weeks from the date of receipt of the Order.

23. All concerned regulatory authorities to act on a copy of this order along with the Scheme duly certified by the Assistant Registrar of the National Company Law Tribunal, Mumbai Bench, Mumbai.

SD/-

V. Nallasenapathy  
Member (T)

SD/-

Bhaskara Pantula Mohan  
Member (J)