

IN THE NATIONAL COMPANY LAW TRIBUNAL,
KOLKATA BENCH
KOLKATA

C.A. (CAA) No. 143/KB/2017

In the matter of:

Section 230(1) and Section 232 of the Companies Act, 2013 read with
Companies (Compromises, Arrangement and Amalgamations) Rules, 2016
;

-And-

In the matter of :

(1) Jayshree Nirman Limited, a Company incorporated under the
Companies Act, 1956 and having its Registered Office at 1, British India
Street, 5th Floor, Room No- 503, Kolkata-700069 within the aforesaid
jurisdiction.

-AND-

In the matter of:

(2) Asian Securities Exchange Private Limited , a Company incorporated
under the Companies Act, 1956 and having its Registered Office At 5,
Bawali Mondal Road, Kolkata- 700026 within the aforesaid jurisdiction.

.....Transferor Companies

-WITH-

In the matter of:

(3) BNK Securities Private Limited, a Company incorporated under the
Companies Act, 1956 and having its Registered Office at 2, Palm Avenue
Ground Floor Kolkata-700019 within the aforesaid jurisdiction.



.....Transferee Company

-AND-

In the matter of:

Jayshree Nirman Limited

Asian Securities Exchange Private Limited

BNK Securities Private Limited

.....Applicants

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

For the Applicants:

Mr Nirmalya Dasgupta, Advocate

Mr Dibanath Dey, Advocate

Mr J.Patnaik, Advocate

Date of pronouncement of order: 26-09-2018

ORDER

CORRIGENDUM TO ORDER DATED 14-12-2017

On December 14, 2017 this Tribunal had passed necessary order disposing off the Application being C.A. No. 143/KB/ 2017.

On perusal of the order dated December 14, 2017, the Applicants found certain errors in the said order. Hence, the Applicants filed an I.A. No. 456 of 2018 seeking rectification of errors in the order dated December 14, 2017.

Accordingly, the amended order dated 31-07-2018 was passed in place of the Order of this Tribunal dated 14-12-2017 .



Since the corrected order dated 31-07-2018 was not uploaded, correction of date of meeting of the equity shareholders of the Applicant Company No.1, i.e. Jayshree Nirman Limited is being made.


The date of meeting of the equity shareholders of the Applicant Company No.1, i.e. Jayshree Nirman Limited is corrected as 26th November, 2018 instead of 14th September, 2018.

Accordingly, the Amended order is passed in place of the Order of this Tribunal dated 14-12-2017.

The Amended order is to be uploaded.

Urgent copy of this order be supplied to the party.

Signed on 26th September, 2018


(Jinan K.R.)
Member(Judicial)

IN THE NATIONAL COMPANY LAW TRIBUNAL,
KOLKATA BENCH
KOLKATA

AMENDED ORDER
C.A. (CAA) No. 143/KB/2017

In the matter of:

Section 230(1) and Section 232 of the Companies Act, 2013 read with Companies (Compromises, Arrangement and Amalgamations) Rules, 2016 ;

-And-

In the matter of :

(1) Jayshree Nirman Limited, a Company incorporated under the Companies Act, 1956 and having its Registered Office at 1, British India Street, 5th Floor, Room No- 503, Kolkata-700069 within the aforesaid jurisdiction.

-AND-

In the matter of:

(2) Asian Securities Exchange Private Limited , a Company incorporated under the Companies Act, 1956 and having its Registered Office At 5, Bawali Mondal Road, Kolkata- 700026 within the aforesaid jurisdiction.

.....Transferor Companies

-WITH-

In the matter of:

(3) BNK Securities Private Limited, a Company incorporated under the Companies Act, 1956 and having its Registered Office at 2, Palm Avenue Ground Floor Kolkata-700019 within the aforesaid jurisdiction.

.....Transferee Company



-AND-

In the matter of:

Jayshree Nirman Limited

Asian Securities Exchange Private Limited

BNK Securities Private Limited

.....Applicants

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

For the Applicants:

Mr Nirmalya Dasgupta, Advocate

Mr Dibanath Dey, Advocate

Mr J.Patnaik, Advocate

Date of pronouncement of order:

ORDER

Per Mr. Jinan K.R. Member(Judicial)

1. The instant application has been filed by the Applicants namely, Jayshree Nirman Limited, Asian Securities Exchange Private Limited and BNK Securities Private Limited under Section 230(1) and Section 232 of the Companies Act, 2013 read with Companies (Compromises, Arrangement and Amalgamations) Rules, 2016 for obtaining sanction to the Scheme of Amalgamation.
2. The object of the application is to ultimately obtain sanction of the Tribunal to the proposed Scheme of Amalgamation of two Transferor Companies, namely, Jayshree Nirman Limited and Asian Securities Exchange Private Limited with the Transferee Company, namely, BNK Securities Private Limited whereby all the properties, assets, rights and claims whatsoever of the two



Transferor Companies and their entire undertakings together with all their rights and obligations relating thereto are proposed to be transferred to and vest in the BNK Securities Private Limited, the Transferee company on the terms and conditions fully stated in the said Scheme of Amalgamation, a copy of which has been annexed and marked as Annexure "J" to the Application.

3. On December 14, 2017 this Tribunal has passed necessary order disposing off the Application being C.A. No. 143/KB/ 2017. On perusal of the order dated December 14, 2017, the Applicants found certain errors in the said order. Hence, the Applicants filed an I.A. No. 456 of 2018 for seeking rectification of errors in the order dated December 14, 2017.

4. It is stated in the Application that the Scheme of Amalgamation has been proposed to specific group structure and provide for overall business efficiency to combine their managerial and marketing strength, to streamline administration, to build a wider capital and financial base and to promote and secure the overall interest growth and economies of all the Companies concerned.

5. It is also stated in the Application that the Amalgamation will result in usual economies of a centralised and a larger company including reduction in overheads, better and more productive utilisation of labour and other resources and reduction in procedural and administrative work.

6. The Corporate restructuring resulting from the Scheme of Amalgamation will integrate all the activities leading to increased opportunities in all the areas of business.

7. It is stated in the Application that the business of the Applicant Companies can be conveniently and advantageously combined together and in general the



business of all the Companies concerned will be carried on more economically and profitably if the Scheme is implemented.

8. The Scheme of Amalgamation will contribute in furthering and fulfilling the objects of all the Companies concerned and in the growth and development of their business.

9. The Scheme of Amalgamation will have beneficial results for all the Applicant Companies concerned, their shareholders, employees and concerned.

10. The Board of Directors of the Applicant Companies have, at their respective meetings, by resolutions passed unanimously, approved the Scheme of Amalgamation.

11. The copy of the Board Resolution passed by all the Applicant Companies is annexed with the Application and collectively marked as Annexure "M".

12. It is stated in the Application that the aggregate assets of all the three Applicant Companies are more than sufficient to meet all their liabilities and the Scheme of Amalgamation will not adversely affect the rights of any of the Creditors of the three Applicant Companies in any manner whatsoever and due provisions have been made for payment of all the liabilities as and when the same fall due in usual course.

13. There are no proceedings pending under the provisions of Sections 206 to 229 make applicable from April 1, 2014 of the Companies Act, 2013 nor any investigation is pending against any of the three Applicant Companies.

14. The Exchange ratio of shares of the three Applicant Companies has been fixed on a fair and reasonable basis and on the basis of the Valuation Report prepared by the Chartered Accountants.



15. A copy of the Valuation Report by independent Chartered Accountant is annexed with the Application and collectively marked "N".

16. It is stated that as listed on the Calcutta Stock Exchange, the Applicant No.1, Company has obtained fairness opinion from SEBI Registered Merchant Banker.

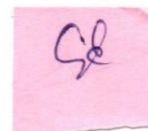
17. A copy of fairness opinion is annexed with the Application and collectively marked as Annexure "O".

18. There is no reduction of capital in the Scheme of Amalgamation.

19. The Applicant Company No. 1 is having 349 equity shareholders. The Applicant Company No. 2 is having 4 equity shareholders. The Applicant Company No. 3 is having 19 equity shareholders. A list of shareholders of the Applicant Companies have been annexed and collectively marked as Annexure-P to the Application. The shareholders of Applicant Company No. 2 and Applicant Company No. 3 have given their consent with affidavit for waiving of holding the meetings of the shareholders.

20. The Applicant Company No. 1 is having 2 creditors. The Applicant Company No. 2 has no creditors. The Applicant Company No. 3 has no creditors. The Creditors of the Applicant Company No. 1 have given separate consent with affidavit for waiving of holding the meeting of the creditors.

21. The Applicant Company No. 1 Jayshree Nirman Limited is listed on Calcutta Stock Exchange Limited and hence have made application before Calcutta Stock Exchange for obtaining observation Letter and Bombay Stock Exchange had been Appointed as Designated Stock Exchange Dissemination of information to Securities Exchange Board of India. Copy of receipt of Calcutta



Stock Exchange Limited and Postal Receipt from Bombay Stock Exchange along with email received from Bombay Stock Exchange has been filed and annexed as Annexure "Q" at pages 288 to 298 of the application.

22. The copies of Annual accounts of as on 31st March, 2016 and the Auditor's and Directors' Reports thereon and half yearly audited financial statement as on 30th September, 2016 of Transferor Companies and Transferee Company have been annexed hereto and marked as Annexure "D", "E", "F", "G", "H" and "I".

23. The copy of the Auditor's Certificate under Section 230(7)(e) stating that the accounting treatment in this scheme is in conformity with the accounting standards as prescribed under section 133 of the companies Act 2013 has been submitted and annexed with the application being Annexure-"K".

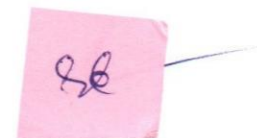
24. In view of the above submission of documents, the applicants have prayed for dispensation with meeting of the equity shareholders of the Applicant Companies Nos. 2 and 3 and also dispensation with meetings of the creditors of Applicant Company No. 1.

25. Heard the learned Advocate, perused the records and documents annexed to the application and affidavits filed in the instant proceedings and on perusal of the submission made on behalf of the applicants, the following orders are passed herein by this Tribunal:

- a) The meeting of the equity shareholders of the Applicant Company No. 1 i.e. Jayshree Nirman Limited will be held at 2, Palm Avenue, Ground Floor, Kolkata-700019 on Friday on 26th November, 2018 at 11.00 A.M. ;
- b) In view of the submission of consent with separate Affidavits by both the creditors of the Applicant Company No. 1, the convening and holding the meeting of the creditors of the Applicant Company No. 1 is dispensed with ;
- c) In view of the submission of consent with separate Affidavits by all the equity shareholders of the Applicant Company No. 2, the convening and holding



- the meeting of the shareholders of the Applicant Company No. 2 is dispensed with ;
- d) In view of the submission of consent with separate Affidavits by all the equity shareholders of the Applicant Company No. 3, the convening and holding the meeting of the shareholders of the Applicant Company No. 3 is dispensed with ;
- e) In view of the fact that there are no Creditors of the Applicant Company No. 2 and Applicant Company No. 3, the convening and holding of separate meetings of the Creditors of the Applicant Company No.2 and Applicant Company No. 3 does not arise
- f) The Applicant Companies are directed to serve the notice upon the Regional Director-Eastern Region (Ministry of Corporate Affairs), Registrar of Companies, West Bengal, Income Tax Authorities within whose jurisdiction the assessments of the Applicant Companies are made and the Official Liquidator, Reserve Bank of India pursuant to Section 230 (5) of the Companies Act, 2013 read with Companies (Compromises, Arrangement and Amalgamations) Rules, 2016 with suitable changes in the notice relating to waiver of meetings. Notice along with the copy of the Application and other related documents should be served upon the Chief Commissioner of Income Tax and the Assessing Officer of the Income Tax Department by Mail and Speed Post or by Messenger. Applicant Companies are also directed to mention their respective PAN nos. everywhere.
- g) If no response is received by the Tribunal from the above authorities within 30 days of receipt of the notice, it will be presumed that such authorities have no objection to the proposed scheme as per Rule 8 of the Companies (Compromises, Arrangement and Amalgamations) Rules, 2016.
- h) The notice to be served under Section 230(5) of the Companies Act, 2013 as aforesaid shall contain all disclosures as mentioned in Rule 6(3) of the Companies (Compromises, Arrangement and Amalgamations) Rules, 2016.



- i) The Applicant Companies are directed to file Affidavit of Service along with the postal receipts of the notice served to all the above mentioned Regulatory Authorities.
- j) That at least 30 (thirty) clear days before the meeting of the shareholders of the Applicant Company No. 1 an advertisement convening the same and stating that copies of the scheme of Amalgamation and the statement containing necessary details required to be furnished pursuant to section 230 of the Companies Act, 2013 read with Companies (Compromises, Arrangement and Amalgamations) Rules, 2016 and prescribed form of proxy can be obtained free of charge at the Registered Office of the Company, be inserted once in the English newspaper "Financial Express" and in Bengali newspaper in "Aajkal" as per requirements of section 230 of the Companies Act, 2013 read with Companies (Compromises, Arrangement and Amalgamations) Rules, 2016.
- k) That in addition, at least 30 (thirty) clear days before the meeting of the shareholders of the Applicant Company No. 1, notice convening the said meeting at the place and together with a copy of the said scheme, the statement disclosing necessary details and the prescribed form of proxy be sent by Registered Post or Speed Post or by hand through personal Messenger addressed to each of the equity shareholders at their respective or last known addresses.
- l) That Mr. Pramod Kumar Drolia, Advocate, (Mobile No. 9433144468) shall be the Chairperson for the said meeting of the shareholders of Applicant Company No. 1.
- m) The remuneration of the Chairperson conducting the said meeting of the shareholders of Applicant Company No. 1 is Rs. 50,000/- (Rupees Fifty thousand only)
- n) The quorum of the meeting of the shareholders of Applicant Company No. 1 be fixed in accordance with Section 103 of the Companies Act, 2013.
- o) That voting by proxy be permitted, provide that a proxy in the prescribed form duly signed by the person(s) entitled to attend and vote at the meeting,




is filed with the Applicant Company No. 1 at its Registered Office not later than forty hours before the meetings. The Chairperson shall have the power to adjourn the meeting, if necessary and to conduct the procedure for the adjourned meeting as deemed necessary.

- p) The Chairperson shall report to this Tribunal the result of the said meeting of the shareholders of Applicant Company No. 1 within four weeks from the date of the conclusion of the meeting and his report shall be in Form No. CAA4 pursuant to Rule 13(2) and 14 of the Companies (Compromises, Arrangement and Amalgamations) Rules, 2016 verified by his affidavit.
- q) That an affidavit of compliance of all the conditions laid down herein along with original proof of service to the authorities to be filed jointly by Transferee and Transferor Companies.

26. The Application being C.A. (CAA) No. 143/KB/2017 and Misc. A No. 456/KB/2018 are disposed of accordingly.

27. Urgent certified copies of this order, if applied for be supplied to the parties upon compliance of all requisite formalities.


26/9/18
(Jinan K.R.)
Member(Judicial)

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