

IN THE NATIONAL COMPANY LAW TRIBUNAL,

KOLKATA BENCH

KOLKATA

C.A.(CAA) No.767 /KB/2018

In the matter of:

An application under sections 230 to 232 of the Companies Act, 2013

AND

In the Matter of:

ALLIED COMMODITIES PRIVATE LIMITED, a company incorporated under the Companies Act, 1956 ; and having its Registered Office at 232, Chittaranjan Avenue, 7th Floor, Kolkata – 700 006, within the aforesaid jurisdiction ;

- AND -

In the matter of:

INTELLECT MONEY PRIVATE LIMITED, a company incorporated under the Companies Act, 1956 ; and having its Registered Office at 232, Chittaranjan Avenue, 7th Floor, Kolkata – 700 006, within the aforesaid jurisdiction ;

- AND -

In the matter of:

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INTELLECT HOUSING PRIVATE LIMITED, a company incorporated under the Companies Act, 1956 ; and having its Registered Office at 7/1A, Grant Lane, Kolkata – 700 012, within the aforesaid jurisdiction ;

- AND -

INTELLECT PLAZA PRIVATE LIMITED, a company incorporated under the Companies Act, 1956 ; and having its Registered Office at 232, Chittaranjan Avenue, 5th Floor, Room No. 5A, Kolkata – 700 006, within the aforesaid jurisdiction

AND -

INTELLECT RETAILS PRIVATE LIMITED, a company incorporated under the Companies Act, 1956 ; and having its Registered Office at 7, Grant Lane, Kolkata – 700 012, within the aforesaid jurisdiction ;

In the Matter of:

- 1. ALLIED COMMODITIES PRIVATE LIMITED**
- 2. INTELLECT MONEY PRIVATE LIMITED**
- 3. INTELLECT HOUSING PRIVATE LIMITED**
- 4. INTELLECT PLAZA PRIVATE LIMITED**
- 5. INTELLECT PLAZA PRIVATE LIMITED**
- 6. INTELLECT RETAILS PRIVATE LIMITED**

..... **APPLICANTS.**

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

FOR THE PETITIONERS :

1. Ms. Swapna Choubey, Advocate
2. Mrs. Priyanka Tibrewal, Advocate,
3. Ms. Diprani Thakur, PCS

Date of pronouncement of order: 27 /09 /2018

ORDER

Per Shri Jinan K.R., Member(Judicial)

1. The object of this application is to ultimately obtain sanction of this Tribunal to the Scheme of Amalgamation whereby M/s. Intellect Money Private Limited, the 1st Transferor Company, Intellect Housing Private Limited, the 2nd Transferor Company, Intellect Plaza Private Limited, the 3rd Transferor Company and Intellect Retails Private Limited, the 4th Transferor Company is going to merge into Allied Commodities Private Limited, the Transferee Company with effect from 01-04-2017, being the appointed date.
2. It is stated in the application that in order to integrate the fields of activities of the Companies and for improving overall business efficiency, to streamline administration of the companies and in the overall interest of future growth and diversification of the business of the Companies, the Scheme is proposed to amalgamate the Transferor Companies with the Transferee Company. The Scheme of

amalgamation will be complimentary to the companies for their mutual benefit and interest.

3. The proposed Scheme of amalgamation will result in economies of scale, reduction in overheads and other expenses, and reduction in administrative procedural work, elimination of duplication of work, better and more productive and effective utilisation of the combined resources of all the companies and will enable the amalgamated companies to effect internal economies and optimize productivity.
4. The Scheme of Amalgamation will have beneficial results for the companies, their shareholders, employees and all concerned.
5. The Board of Directors of the Applicant companies has, at their respective Board meetings, by a resolution passed unanimously approved the Scheme of Amalgamation.
6. A copy of the said Scheme of Amalgamation, valuation of report of shares and auditors' certificate regarding compliance of Section 133 of the Companies Act, 2013 is annexed with the Petition and collectively marked with letter "A-11".
7. It is stated in the Application that the shareholders of the Applicant Companies have agreed in writing to the proposed Scheme of Amalgamation and have also consented to waive the holding and convening of the meetings of the shareholders of the Applicant companies.

8. The Applicant Companies have stated that holding of the meetings of the shareholders of the Applicant Companies be dispensed with.
9. The copy of the list of shareholders in Auditor's certificate and affidavit of consents provided by the equity shareholders of the respective Applicant companies are annexed with the Application and collectively marked with letter "A-12".
10. It is further stated that the assets of the Applicants Companies are sufficient to meet all their liabilities and the Scheme of Amalgamation will not adversely affect the rights of any of the Creditors of any of the Applicant companies in any manner whatsoever.
11. The copy of the Auditor's certificate regarding the Creditors of the Applicant Companies are annexed with the Application and marked with letter "A-13".
12. There are no proceedings pending under Sections 235 to 251 of the Companies Act, 1956 and/or Sections 206 to 229 of the Companies Act, 2013 against any of the Applicant Companies
13. Heard the counsels for the applicants, perused the records, documents annexed to the application and affidavits filed in the instant proceedings and after hearing the submissions made on behalf of the applicants the following orders are passed :

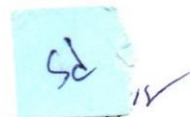
- a) In view of the consents given in affidavit form by all the shareholders of the TRANSFEREE COMPANY AND TRANSFEROR COMPANIES, convening and holding of separate meetings of the shareholders of the Transferee Company and Transferor Companies are dispensed with.
- b) In view of the fact that the TRANSFEREE COMPANY and TRANSFEROR COMPANIES have NIL Secured Creditors and Unsecured Creditors, verified by Auditors Certificate, the question of holding separate meeting of Secured Creditors and the Unsecured Creditors of the TRANSFEREE COMPANY and TRANSFEROR COMPANIES does not arise .
- c) The Applicant Companies to serve the notice upon the Regional Director – Eastern Region (Ministry Of Corporate Affairs) , Registrar Of Companies – West Bengal , and the Assessing Officer of the Income Tax and the Chief Commissioner of Income Tax Department having jurisdiction over the Transferor Companies and Transferee Company within whose jurisdiction the assessments of the Applicant Companies are made, the Official Liquidator ,Reserve Bank of India pursuant to Section 230(5) of the Companies Act , 2013 read with Rule 8 of the Companies (Compromises , Arrangements and Amalgamations) Rules, 2016 with suitable changes in the notice relating to Waiver of meetings.
- d) If no response is received by the tribunal from the above authorities within 30 days of date 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 , Arrangements and Amalgamations) Rules, 2016 .

- e) Liberty is given to file joint application by Transferee and Transferor Company in accordance with Rule 15 of the Companies (Compromises , Arrangements and Amalgamations) Rules, 2016 within 15 days after the expiry of the period of 30 days as mentioned in Section 230(5) of the Companies Act , 2013.
- f) That an affidavit of Compliance of all the conditions laid down herein along with original proof of service to all authorities to be filed jointly by Transferee Company and Transferor Company.
- g) If consent affidavits / letters of the members annexed with the application are found to be false / dubious at any stage then necessary action for committing fraud under Section 447 and 448 of the Companies Act , 2013 shall be initiated against the Transferee and Transferor Companies and all its directors for punishment under Section 449 of the Companies Act , 2013.

14. The Company Application being C.A. (CAA) No. 767/KB/2018 is disposed of accordingly.

15. Urgent certified copy of this order, if applied for be issued upon compliance with all requisite formalities.



(Jinan K.R.)
Member(Judicial)

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