

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

C.A./(C.A.A.)/882/MB/2018

In the matter of Companies Act, 2013;

AND

In the matter of the Sections 230 to
232 of the Companies Act, 2013 and
other applicable provisions of the
Companies Act, 2013;

AND

In the matter of the Scheme of Merger
by Absorption of CEB India Private
Limited ("Transferor Company") with
Gartner India Research & Advisory
Services Private Limited ("Transferee
Company") and their respective
shareholders.

CEB India Private Limited)
CIN: U74140MH2004PTC312741, a company incorporated)
under the Companies Act, 1956 and having its registered)
office at Unit No 611, 6th Floor, Reliable Business Centre)
Commercial Premises Co-op Society, Anand Nagar,)
Jogeshwari West, Mumbai - 400102, Maharashtra.)

...First Applicant Company (Transferor Company)

Gartner India Research & Advisory Services Private Limited)
CIN: U74140MH1999PTC120535, a company incorporated)
under the Companies Act, 1956 and having its registered)
office at Raheja Towers, 2nd Floor, C-30, G-Block, Bandra)
Kurla Complex, Bandra - East, Mumbai 400 051, Maharashtra.)

...Second Applicant Company (Transferee Company)

CORAM: Hon'ble Bhaskara Pantula Mohan, Member (Judicial)

Hon'ble V Nallasenapathy, Member (Technical)

For the Applicants: Mr. Hemant Sethi a/w. Ms. Ongmu Tshering and Mr. Avinash Poojari i/b. J. Sagar Associates, Advocates & Solicitors for the First Applicant Company and the Second Applicant Company (hereinafter collectively referred to as 'Applicant Companies').

Per: V. Nallasenapathy, Member (Technical)

Order delivered on: 12 September 2018.

ORDER

1. The Counsel for the Applicant Companies states that the present Scheme is a Scheme of Merger by Absorption of CEB India Private Limited with Gartner India Research & Advisory Services Private Limited and their respective shareholders (**Scheme**).
2. The Counsel for the Applicant Companies further submit that Scheme would have the following benefits:
 - (a) consolidation of business activities into one single entity will lead to elimination of duplication in administrative costs and multiple record-keeping and increase operational and management efficiency and synergy resulting in cost savings and enable the Transferee Company to participate more profitably in an increasingly competitive market;
 - (b) more focus and concentrated efforts by management to grow the business with faster and effective decision making by eliminating unnecessary multiple and burdensome communication and

- coordination effort across different entities;
- (c) the merger will provide an opportunity to leverage combined assets, capabilities, experience and infrastructure of both entities and build a stronger sustainable business and enable optimal utilization of existing resources;
 - (d) integrate business functions and will enable the management to pool human resources with diverse skills, talent and experience of both the companies for common advantage and for further growth and diversification in the business;
 - (e) simplification of corporate structure and reduction of legal and regulatory compliances relating to Transferor Company;
 - (f) create enhanced value for all stakeholders of the respective Companies; and
 - (g) in summary, consolidation of business will result in expansion of operations, business synergies and cost reduction and would enable the Transferee Company to self-finance for the above-referred benefits it is likely to receive as part of the merger of Transferor Company with Transferee Company.
3. That a meeting of the equity shareholders of the First Applicant abovenamed be convened and held at Raheja Towers, 2nd Floor, C-30, G-Block, Bandra Kurla Complex, Bandra - East, Mumbai 400 051, Maharashtra on, Wednesday, 24 October 2018 at 10.00 a.m. for the purpose of considering and if thought fit, approving, with or without modifications, the proposed Scheme.
4. That a meeting of the equity shareholders of the Second Applicant abovenamed be convened and held at Raheja Towers, 2nd Floor, C-30, G-Block, Bandra Kurla Complex, Bandra - East, Mumbai 400 051, Maharashtra, on Wednesday, 24 October 2018 at 11.00 a.m. for the purpose of considering and if thought fit, approving, with or without modifications, the proposed Scheme.

5. That at least 30 (thirty) clear days before the meetings of the equity shareholders of the First Applicant and the Second Applicant, a notice convening the said meetings on the date, day, place and time as aforesaid together with a copy of the Scheme, a copy of the statement disclosing all material facts as required under Section 230(3) of the Companies Act 2013 read with Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 and the prescribed form of proxy, shall be sent through email (to those shareholders whose email addresses are registered with the First Applicant and the Second Applicant for the purpose of receiving such notices) or in absence of email address by hand delivery or courier or registered post /speed post to each of the equity shareholders of the First Applicant and Second Applicant at their last known address as per the records of the concerned Applicant Company.
6. That the notice of the aforesaid meetings of the Applicant Companies and the notice indicating that copies of the Scheme and the Statement required to be furnished pursuant to Section 230(3) of the Companies Act 2013 read with Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 and Form of Proxy can be obtained free of charge from the registered office of the Applicant Companies.
7. That the Notice of the Meetings shall be advertised in two local newspapers 'Free Press Journal' in English and Navshakti in Marathi (both having circulation in Mumbai) not less than one month before the date fixed for the aforesaid meeting.
8. That Mr. Sourish Mohan Mitra, director of the First Applicant, failing him, Ms. Shailaja Venkat Iyer, director of the First Applicant shall be the

Chairperson of the aforesaid meeting of the equity shareholders of the First Applicant or any adjournment or adjournments thereof.

9. That Mr. Ramawtar Sharma, director of the Second Applicant, failing him, Ms. Shailaja Venkat Iyer, director of the Second Applicant shall be the Chairperson of the aforesaid meeting of the equity shareholders of the Second Applicant or any adjournment or adjournments thereof.
10. That the concerned Chairperson appointed for the aforesaid meetings to issue the advertisement and send out the notices of the aforesaid meetings referred to above. The said Chairperson of the meetings shall have all the powers as per the Articles of Association of the Applicant Companies, under the Companies Act, 2013 in relation to the conduct of the meetings including for deciding procedural questions that may arise at the meetings or at an adjournment thereof or any other matter including an amendment to the proposed Scheme or resolution if any, proposed at the meetings by any person(s).
11. That the quorum of the aforesaid meetings of the equity shareholders shall be as prescribed under Section 103 of the Companies Act 2013.
12. That voting by proxy or authorized representative in case of a body corporate be permitted provided that the proxy in the prescribed form / authorization duly signed by the person entitled to attend and vote at the aforesaid meetings or by his authorized representative are filed with the First Applicant and the Second Applicant at their respective registered office, not later than 48 (forty-eight) hours before the date of the aforesaid meetings.
13. That the value or number of shares of each shareholder, shall be in accordance with the records and registers of the Applicant Companies and where the entries in the records or registers are disputed, the

Chairperson of the meetings shall determine the value or number for the purpose of the aforesaid meetings and his decision in that behalf would be final.

14. That Mr. Jignesh Makwana, a practicing Company Secretary is hereby appointed as scrutinizer of the meetings of the shareholders of the Applicant Companies to be held on Wednesday, 24 October 2018 or any adjournment or adjournments thereof and his remuneration is fixed as Rs. 10,000/- excluding taxes.
15. That the concerned Chairperson of the aforesaid meetings to file an Affidavit not less than 7 (seven) days before the date fixed for the holding of the aforesaid meetings and to report to this Tribunal that the directions regarding the issue of notices and the advertisement have been duly complied with.
16. That the concerned Chairperson of the aforesaid meetings is directed to report to this Tribunal the result of the aforesaid meetings within 30 (thirty) days of the conclusion of the meetings.
17. That the First Applicant is directed to serve notices along with the copy of the Scheme upon the (i) concerned income tax authority within whose jurisdiction the First Applicant's assessment is made (PAN AACCC3453C) - The Assessing Officer, Income Tax Department, Circle 1(1) Gurgaon, 5th Floor, HSIIDC Building, Vanijya Nikunj, Udyog Vihar, Phase-V, Gurgaon; (ii) Central Government through the Office of the Regional Director, Western Region, Mumbai; (iii) Registrar of Companies, Mumbai; and (iv) The Development Commissioner, MPEZ Special Economic Zone, Administrative Office Building, NH-45, Tambaram, Chennai - 600045, with a direction that they may submit their representations if any, within a period of 30 (thirty) days from the date of receipt of such notice to the Tribunal and copy of such representations

shall simultaneously be served upon the First Applicant, failing which it shall be presumed that the authorities have no representations to make on the Scheme.

18. The First Applicant Company is also directed to serve notice along with copy of Scheme upon Official Liquidator, Mumbai. M/s. DMKH & Co., Chartered Accountants, are appointed to assist the Official Liquidator to scrutinize books of accounts of the First Applicant. The First Applicant Company to pay fees of Rs. 2,00,000/- for their services.
19. The Second Applicant is directed to serve notices along with the copy of the Scheme upon the (1) concerned income tax authority within whose jurisdiction the Second Applicant's assessments is made (PAN AACCA0176C) - The Assessing Officer, Income Tax Department Room no- 475, Aykar Bhavan, M K Marg, Mumbai-400020; (ii) Central Government through the Office of the Regional Director, Western Region, Mumbai; (iii) Registrar of Companies Mumbai; and (iv) Reserve Bank of India, with a direction that they may submit their representations if any, within a period of 30 (thirty) days from the date of receipt of such notice to the Tribunal and copy of such representations shall simultaneously be served upon the Second Applicant, failing which it shall be presumed that the authorities have no representations to make on the Scheme.
20. The Counsel for the Applicant Companies states that the First Applicant and the Second Applicant do not have any secured or unsecured creditors to whom any amount is due and payable, therefore, the question of holding of the meeting of the creditors does not arise. The Counsel for the Applicant Companies has submitted a no objection letter dated 21 August 2018 from The Hongkong and Shanghai Banking Corporation Limited, Mumbai branch (**HSBC**) consenting to the Scheme and confirming that apart from the guarantee limit secured by Second

Applicant there is no amount due and payable by Second Applicant to HSBC and that HSBC has no objection to the proposed Scheme. The Counsel for the Applicant further submit that the Second Applicant has filed affidavit dated 11 September 2018 annexing therewith letter dated 21 August 2018 of HSBC, confirming that there is no amount due and payable by the Second Applicant to HSBC.

21. The First Applicant and the Second Applicant have to file an affidavit of service proving dispatch of notices to the equity shareholders and regulatory authorities and publication of notices in newspapers as aforesaid and to report to this Tribunal that the directions regarding issue of notices have been duly complied with.

SD/-

V. Nallasenapathy
Member (T)

SD/-

Bhaskara Pantula Mohan
Member (J)