

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH**

NEW DELHI

CA (CAA)-85(ND)/2017

Present: SHRI R.VARADHARAJAN, MEMBER (JUDICIAL)

IN THE MATTER OF SECTIONS 230-232 OF THE COMPANIES ACT, 2013

In the matter of:

Sections 230-232 and other applicable provisions of the Companies Act, 2013 read with
Companies (Compromises, Arrangements, and Amalgamations) Rules, 2016.

AND

IN THE MATTER OF SCHEME OF AMALGAMATION

OF

**PIPL MANAGEMENT CONSULTANCY AND INVESTMENT PRIVATE LIMITED
(APPLICANT/AMALGAMATING COMPANY-1)**

AND

**GLOBAL CONSULTANCY AND INVESTMENTS PRIVATE LIMITED
(APPLICANT/ AMALGAMATING COMPANY-2)**



WITH

NIIT LIMITED

(APPLICANT/ AMALGAMATED COMPANY)

WITH

Their respective Shareholders and Creditors

MEMO OF PARTIES

PIPL MANAGEMENT CONSULTANCY AND INVESTMENT PRIVATE LIMITED

Company registered under the Companies Act, 2013

Having Registered Office at:

8, Balaji Estate, First Floor, Guru Ravi Das

Kalkaji, New Delhi

CIN: U74999DL2016PTC291905

.....Applicant/Amalgamating Company-1

GLOBAL CONSULTANCY AND INVESTMENTS PRIVATE LIMITED

Company registered under the Companies Act, 2013

Having Registered Office at:

8, Balaji Estate, First Floor, Guru Ravi Das

Kalkaji, New Delhi

CIN: U74900DL2016PTC291957

.....Applicant/Amalgamating Company-2



NIIT LIMITED

Company registered under the Companies Act, 1956

Having Registered Office at:

8, Balaji Estate, First Floor, Guru Ravi Das

Kalkaji, New Delhi

CIN: L74899DL1981PLC15865

.....Applicant/Amalgamated Company

For the Applicants: Mr. Anirudh Das, Advocate



ORDER

Order Delivered on: 28.07.2017 .

1. This is an application which is filed by the applicant companies herein, namely PIPL Management Consultancy and Investment Private Limited (for brevity "Applicant/ Amalgamating Company-1"), Global Consultancy and Investments Private Limited (for brevity "Applicant/ Amalgamating Company-2"), and NIIT Limited (for brevity "Applicant/Amalgamated Company") under sections 230-232 of Companies Act, 2013,(hereinafter called to brevity The "Act") and other applicable provisions of the Companies Act, 2013 read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (hereinafter for brevity called the "Rules" in relation to the Scheme of Arrangement by way of Amalgamation (hereinafter referred to as the "SCHEME") proposed between the applicants. The said Scheme is also annexed as Annexure "1" to the application. The applicants above named have preferred the instant application in effect for the following purpose as evident from the reliefs sought for in the Application, namely:-

- Dispensing with the requirements of convening the meeting of the shareholders of the Applicant/Amalgamating Company-1 and Applicant/ Amalgamating Company-2 , to consider the scheme.



- Directing convening of the meetings of the Equity shareholders and unsecured creditors of the Applicant/ Amalgamated Company.
- Dispensing with the requirement of convening the meeting of the secured creditor of the Applicant/ Amalgamated Company.
- Direct service of notice of the application on the Regional Director, Ministry of Corporate affairs, B-2 Wing, 2nd Floor, Paryawaran Bhawan, CGO Complex, New Delhi-110003.
- Direct service of notice of the application on the Registrar of Companies at 4th Floor, IFCI Tower, 61, Nehru Place, New Delhi-110019.
- Direct service of notice of the application on the office of the official liquidator, Lok Nayak Bhawan, 8th Floor, Khan Market, New Delhi-110001.
- Direct service of notice of the application with respect to the Applicant/ Amalgamating Company 1 on the office of the Income Tax Department, Circle 19 (2), C R Building, New Delhi.
- Direct service of notice of the application with respect to the Applicant/ Amalgamating Company 2 on the office of the Income Tax Department, ward 5 (4) C R Building, New Delhi.
- Direct service of notice of the application with respect to the Applicant/ Amalgamated Company on the office of the Income Tax Department, Central Circle 20, Jhandewalan extension, New Delhi.
- Pass such other and further order (s) as may be deemed fit and proper in the facts and circumstances of this case.

2. An Affidavit in support of the above application sworn for and on behalf of the Applicant/ Amalgamating Company 1 and 2 has been filed by the one Mr. Kawaljit Singh, being the Director of the Amalgamating Companies and for the Applicant/ Amalgamated Company, it has been filed by the one Mr. Deepak Bansal, being the



Director of the Amalgamated Company along with the application. Counsel for the joint applicants took us through the averments made in the application as well as the typed set of documents annexed there with. Learned Counsel represents that the Scheme does not contemplate any corporate debt restructuring exercise as contemplated under Section 230(2) of the Act. It is further represented that a joint application filed by the applicants are maintainable in view of Rule 3(2) of the Companies (Compromises, Arrangements and Amalgamations) Rules 2016 and it is also represented that the registered office of all the applicant companies are situated within the territorial jurisdiction of this Tribunal and falling within Registrar of Companies, NCT, New Delhi.

3. In relation to PIPL Management Consultancy and Investment Private Limited being the Applicant/ Amalgamating Company-1, in the Scheme marked as Annexure – “A-1”, it represented that it is having 2 (Two) Equity Shareholders .It is further represented by the counsel for Applicants that the Applicant/ Amalgamating Company-1 as on 28th June, 2017 has no Secured and Unsecured Creditor. In relation to the shareholders of the Applicant/ Amalgamating Company-1, the Applicant / Amalgamating Company-1 seeks dispensation from convening and holding of the meetings in view of consent affidavit being obtained and are placed on record.



4. In relation to Global Consultancy and Investments Private Limited being the Applicant/ Amalgamating Company-2 in the Scheme marked as Annexure-"A-1", Learned Counsel represents that company is having 2 (Two) Equity Shareholders. It is further represented by the counsel for Applicants that the Applicant Amalgamating Company-2 as on 28th June, 2017 has no secured and Unsecured Creditor. In relation to the Equity Shareholders, Secured and Unsecured creditors of the Applicant/ Amalgamating Company-2, Applicant/ Amalgamating Company-2 seeks dispensation of the meeting for the purpose of obtaining their approval to the proposed Scheme of Amalgamation in view of consent being obtained and are placed on record or there being none which obviates the necessity of convening a meeting.
5. In relation to NIIT Limited being the Applicant/ Amalgamated Company in the Scheme marked as Annexure-"A-1", Learned Counsel represents that company is having 71923 Equity Shareholders. It is further represented by the counsel for Applicants that the Applicant/ Amalgamated Company as on 31st May, 2017 has 1 (one) secured and 692 Unsecured Creditors. In relation to the Equity Shareholders and unsecured Creditors, the Applicant/ Amalgamated Company prays for convening of the meeting and seeks dispensation in respect to secured creditors in lieu of consent being obtained and are placed on record. The shares of the Applicant



/ Amalgamated Company are listed on National stock exchange (NSE) and Bombay stock exchange (BSE).

6. The Scheme as per the averments made in the application has been proposed to achieve the following objectives, namely:

(a) The amalgamation would lead to simplification of the shareholding structure and reduction of shareholding tiers and also provides transparency to the promoter's direct engagement with the Amalgamated Company.

(b) The amalgamation is being undertaken pursuant to a succession planning of the promoters intended to streamline the promoter's shareholding in the Applicant/ Amalgamated Company, inter alia held through Applicant / Amalgamated Company 1 and Applicant / Amalgamated Company 2.

(c) The amalgamation would not change the aggregated promoter's shareholding in the Applicant/ Amalgamated Company.

7. Learned Counsel for the Applicants also represents that the provisions of Section 233 of 2013 Act will not apply as the Scheme is a composite Scheme. The above joint application has been filed on 30.06.2017 and this Tribunal hence proceeds to entertain the above joint application filed under the 2013 Act. Further, the registered office of all the applicant Companies are situated within New Delhi and are subject to the jurisdiction Registrar of Companies, NCT, New Delhi and hence are amenable to the territorial jurisdiction of this Tribunal.



8. We have perused the joint application and the connected documents / papers filed therewith including the Scheme of Amalgamation contemplated between the Applicant companies.
9. From the certificate of incorporation filed, it is evident that Applicant/ Amalgamating Company-1 was incorporated in the name of PIPL Management Consultancy and Investment Private Limited on 1st March, 2016 under the Companies Act, 2013 in the NCT of Delhi.
10. The Authorized Share Capital of the Applicant/ Amalgamating Company-1 is Rs.1,80,00,000 divided into 18,00,000 Equity Shares of Rs.10/- each and the Issued, Subscribed and Paid-up Share Capital of the Applicant/ Amalgamating Company-1 is Rs.9,10,000 divided into 91,000 Equity Shares of Rs.10/- each.
11. The main objects of the Applicant/ Amalgamating Company-1 are as follows:
- (i) to act as business consultant, management consultant and provide advisory services, training, consultancy in the field of information technology, administrative, commercial, industrial, public relations, scientific, technical and other levies, statistical, accountancy or quality control and data processing whether in India or abroad.



(ii) To acquire and hold share, stocks, debentures, debenture stock, bonds, obligations and securities issued or guaranteed by any company constituted or carrying on business in India or elsewhere or securities issued or guaranteed by any government, municipality, public body or other local authority.

(iii) To act as principal, agents, sub-agents, consultants or otherwise deal in to attain above objects stated in paras (1) & (2).

12. From the certificate of incorporation filed, it is evident that the Applicant/ Amalgamating Company-2 was incorporated on 1st March, 2016 under the Companies Act, 2013 as Global Consultancy and Investment Private Limited in the NCT of Delhi.

13. The Authorized Share Capital of the Applicant/ Amalgamating Company-1 is Rs.1,80,00,000 divided into 18,00,000 Equity Shares of Rs.10/- each and the Issued, Subscribed and Paid-up Share Capital of the Applicant/ Amalgamating Company-1 is Rs.9,10,000 divided into 91,000 Equity Shares of Rs.10/- each.

14. The main objects of the Applicant/ Amalgamated Company-2 :

(i) "To act as business consultant, management consultant, and provide advisory services, training, consultancy in the field of information technology, administrative, commercial, industrial, public relations, scientific, technical, and other levies,



statistical, accountancy, quality control and data processing, whether in India or abroad.

(ii) To acquire and hold share, stocks, debentures, debenture stock, bonds, obligations and securities issued or guaranteed by any company constituted or carrying on business in India or elsewhere or securities issued or guaranteed by any Government, Municipality, public body or other local authority.

(iii) To act as principal, agents, sub-agents, consultants, or otherwise deal in to attain above objects stated in paras (1) & (2) above."

15. From the certificate of incorporation filed, it is evident that the Applicant / Amalgamated Company was originally incorporated on 2nd December, 1981 under the Companies Act, 1956 as a private limited company under the name of Pace Education Private Limited in Punjab. In the year 1983 the amalgamated company had shifted its Registered office to Delhi on 4th June, 1983 as confirmed by the company law Board vide order dated 28.08.82. The name of the company has been changed to its present name on 16th November, 1990.

16. The present capital structure of the Amalgamated Company as detailed in Joint Application is as follows:

Share capital	Amount in Rupees
39,30,00,000 Equity Shares of Rs.2/- each	78,60,00,000



25,00,000 Redeemable Preference Shares of Rs. 100 each	25,00,00,000
35,00,00,000, 8.5% Cumulative Redeemable Preference Shares of Rs.1 each	35,00,00,000
Total	1,38,60,00,000
Issued	
16,58,95,851 Equity Shares of Rs.2 each	33,171,91,702
Subscribed and fully paid up	
16,58,89,851 equity shares of Rs. 2 each	33,171,91,702
Add: Forfeited equity shares (amount originally paid-up)	6000
Total	33,17,85,702

17. The main objects of the Applicant/ Amalgamated Company is:

- 1) To carry on the business of rendering management services like staff and management recruitment, skill development, training and placements, technical analysis of data, electronic data processing and to establish and render all consultancy and other professional services of professional and technical nature.
- 2) To run and conduct bureau for computer services and in particular to develop, design, programme, conduct feasibility studies and also to acquire and agency for computers, their repair, maintenance and installation.



- 3) To print, publish, distribute, import, export, sell, buy or otherwise deal in research reports, newsletters, books, pamphlets and other related publications relating to computers and electronics in general.
- 4) To carry on the business of providing and supply of end-to-end Information Technology Solutions, including turnkey solutions, including systems integration of software, computers, peripherals, networking and communication components, cabling, power supply equipment, appropriate fixtures, metering and monitoring devices, conventional and broad-band wireless, wireline and optical communications equipment and to undertake all other related activities.
- 5) To carry on the business of providing solutions and services related to Web-technologies, the internet and e-Commerce, including but not limited to hosting and application services.”

18. All the applicants have filed their respective Memorandum and Articles of Association as well as their last available audited financial statements for the year ended 31.03.2017 for Amalgamating Companies and 31.03.2016 for the Amalgamated Company. In addition the Amalgamated company has provided the provisional financial statements for the period ending 31.03.2017

19. The appointed date as specified in the Scheme is 31.03.2017 subject to the directions of this Tribunal.



20. The Board of Directors of the Applicant companies vide separate meetings held on 24th March, 2017, have unanimously approved the proposed Scheme of Amalgamation as contemplated above and copies of resolutions passed thereat have been placed on record by the companies.

21. All the companies have submitted that no investigation proceedings are pending against them under Sections 210 or any other applicable provisions of the Companies Act, 2013.

22. Taking into consideration the application filed jointly by the Applicant Companies and the documents filed therewith, this Tribunal propose to issue the following directions with respect to calling, convening and holding of the meetings of the shareholders, secured and Unsecured Creditors, or dispensing with the same as well as issue of notices including by way of paper publication as follows:-

A) In relation to the Applicant/ Amalgamating Company-1:

(i) With respect to Equity shareholders:

Since it is represented by the Applicant Amalgamating Company-1 that there are only 2 (Two) Equity shareholders in the Company whose consents by way of affidavit have been obtained and are placed on record, the necessity of convening and holding a meeting to consider and it thought fit, the approval of the scheme is dispensed with.



(ii) With respect to Secured Creditors:

Since it is represented by the Applicant Amalgamating Company-1 that there is no Secured Creditor in the Company, the necessity of convening a meeting does not arise.

(iii) With respect to Unsecured Creditors:

Since it is represented by the Applicant Amalgamating Company-1 that there is no Unsecured Creditor in the Company, the necessity of convening a meeting does not arise.

B) In relation to Applicant Amalgamating Company-2:

(i) With respect to Equity shareholders:

Since it is represented by the Applicant Amalgamating Company-2 that there are only 2 (Two) Equity shareholders in the Company whose consents by way of affidavit have been obtained and are placed on record, therefore the necessity of convening and holding a meeting to consider and it thought fit, the approval of the scheme is dispensed with.

(ii) With respect to Secured Creditors:

Since it is represented by the Applicant Amalgamating Company-2 that there is no Secured Creditor in the Company, the necessity of convening a meeting does not arise.



(iii) With respect to Unsecured Creditors:

Since it is represented by the Applicant Amalgamating Company-2 that there is no Unsecured Creditor in the Company, the necessity of convening a meeting does not arise.

C) In relation to Applicant/Amalgamated Company:

(i) With respect to Equity shareholders:

Meeting of the Equity shareholders of the Applicant /Amalgamated Company is directed to be held at 11:30 AM at Ocean Pearl Retreat, Chattarpur, New Delhi on 16th September, 2017 subject to the notice of meeting being issued. The quorum for the meeting of the Equity shareholders of Applicant /Amalgamated Company shall be 15000 in number or 20% in value in terms of the total equity share capital for the equity shareholdings meeting.

(ii) With respect to Secured Creditors:

Since it is represented by the Applicant Amalgamated Company that there is 1 (One) Secured Creditor in the Company whose consent have been obtained and are placed on record, therefore the necessity of convening and holding a meeting to consider and if thought fit, the approval of the scheme is dispensed with.

(iii) With respect to Unsecured Creditors:



Meeting of the Unsecured Creditors of the Applicant /Amalgamated Company is directed to be held at 02:30 PM at Ocean Pearl Retreat, Chattarpur, New Delhi on 16th September, 2017 subject to the notice of meeting being issued. The quorum for the meeting of the Unsecured Creditors of Applicant /Amalgamated Company shall be 150 in number or 20% in value in terms.

D) In case the quorum as noted above for the above meetings of the Applicant Companies are not present at the meetings, then the meetings shall be adjourned by half an hour, and thereafter the persons present and voting shall be deemed to constitute the quorum. For the purpose of computing the quorum the valid proxies shall also be considered, if the proxy in the prescribed form, duly signed by the person entitled to attend and vote at the meeting, is filed with the registered office of the applicant companies at least 48 hours before the meetings. The Chairperson and Alternate Chairperson appointed herein along with Scrutinizer shall ensure that the proxy registers are properly maintained.

E) Ms. Manisha Gandhi, Senior Advocate (0172-274040) is appointed as the Chairperson and Mr. Siddharth Mittal, Advocate (09717230563) is appointed as the Alternate Chairperson for the meeting of Equity Shareholders and unsecured Creditors as may have been directed to be convened by this Tribunal as above of the Applicant Companies.



F) The fee of the Chairperson for the aforesaid meetings shall be Rs. 1,00,000 and the fee of the Alternate Chairperson shall be Rs. 50,000, in addition to meeting their incidental expenses. Mr. Pankaj Jain, Chartered Accountant (9810286606) is appointed as a Scrutinizer and would be entitled to fee of Rs.50,000 for his services in addition to meeting his incidental expenses. The Chairpersons will file their reports within two weeks from the date of holding of the above said meetings.

G) That individual notices of the said meetings shall be sent by the Applicant Companies through registered post or speed post or through courier or through e-mail , 30 days in advance before the scheduled date of the meeting, indicating the day, date, the place and the time as aforesaid, together with a copy of Scheme of Amalgamation , copy of explanatory statement, required to be sent under the Companies Act, 2013 and the prescribed form of proxy shall also be sent along and in addition to the above any other documents as may be prescribed under the Act or rules may also be duly sent with the notice.

H) That the Applicant Companies shall publish advertisement with a gap of atleast 30 clear days before the aforesaid meetings, indicating the day, date and the place and time as aforesaid, to be published in the English Daily 'Financial Express' in English, and 'Jansatta' in Hindi Daily stating the copies of Scheme of Amalgamation, the Explanatory Statement required to be furnished pursuant to Section 230 of the Companies Act, 2013



and the form of proxy shall be provided free of charge at the registered office of the Applicant Companies.

I) Voting shall be allowed on the proposed Scheme by voting in person, by proxy, through postal ballot or through electronic means as may be applicable to the respective companies under the Act and rules framed there under. The Chairperson shall as aforesaid be responsible to report the result of the meeting within two weeks of the conclusion of the meeting with details of voting on the proposed scheme.

J) The companies shall individually send notice to Central Government, the Income Tax Authorities, Registrar of Companies NCT Delhi & Haryana, National Stock Exchange, Bombay Stock Exchange as well as other sectoral regulators including Ministry of Information & Technology who may have significant bearing on the operation of the applicant companies or the Scheme per se along with copy of required documents and disclosures required under the provisions of Companies Act, 2013 read with Companies (Compromises, Arrangements, Amalgamations) Rules, 2016.

K) The applicant companies shall further furnish copy of the Scheme free of charge within 1 day of any requisition for the Scheme made by every creditor or member of all the companies entitled to attend the meetings as aforesaid.



L) The authorized representative of the Applicant Companies shall furnish an affidavit of service of notice of meetings and publication of advertisement and compliance of all directions contained herein at least a week before the proposed meetings.

M) All the aforesaid directions are to be complied with strictly in accordance with the applicable law including forms and formats contained in the Companies (Compromises, Arrangements, Amalgamations) Rules, 2016 as well as the provisions of the Companies Act, 2013 by the Applicants.

The application stands allowed on the aforesaid terms.

-Sd/-

(R.VARADHARAJAN)
MEMBER (JUDICIAL)

U.D Mehta