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with

Under Sections 230 to 232 of the Companies Act,
2013

In the matter of Scheme of Amalgamation of Manan Finserve Private Limited (MFPL) with Lodha Finserv Private Limited (LFPL) and their respective shareholders and creditors

.....Petitioner Company
(Transferor Company)

WITH

.....Petitioner Company
(Transferee Company)

ORDER DELIVERED ON: 12TH OCTOBER, 2017

Hon'ble M. K. Shrawat, Member (Judicial)
Hon'ble V. Nallasenapathy, Member (Technical)

For Official Liquidator: Santosh Dalvi, representative
(in Company Scheme Petition No.866 of 2017)

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 Amalgamation 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 Amalgamation of Manan Finserv Private Limited (MFPL) with Lodha Finserv Private Limited (LFPL) and their respective shareholders and creditors.
3. The Learned Advocate for the Petitioner Companies state that both the Transferor Company and Transferee Companies are engaged in business of non-banking financial services (NBFC).
4. The Learned Advocate for the Petitioner Companies states that the Transferee Company will issue 1 Equity Share of Rs.10/- each for every 1,000 Equity Shares of the Transferor Company.
5. The Learned Advocate for the Petitioner Companies state that the Transferor and Transferee Companies are engaged in the same line of business and are being managed and owned by the same management and in order to reduce the cost of managing separate companies and to make the management of the business operations of the companies more effective, it is proposed to amalgamate the Transferor Company with the Transferee Company and the amalgamation would enable the management to bring the entire business of the two companies under one umbrella and consolidation of the business operations of the Transferor Company and Transferee Company by way of amalgamation would lead to a more efficient utilization of resources and create a stronger base for future growth of the amalgamated entity and greater efficiency in cash management of the amalgamated entity, and unfettered access to cash flow generated by the combined business which can be deployed more efficiently to fund growth opportunities and benefit of operational synergies to the combined entity and greater leverage in operations, planning and process optimization and cost savings are expected to flow from more focused operational efforts, rationalization and standardization of administrative expenses and in view of the reasons mentioned above,

the rights of the creditors and the debenture holders will remain unaffected by merger.

6. The Learned Advocate for the Petitioner Companies state that the Board of Directors of the Petitioner Companies have approved the said Scheme of Amalgamation by passing Board Resolutions which are annexed to the respective Company Scheme Petitions.
7. The Learned Advocate for the Petitioner Companies further state that the Petitioner Companies have complied with all the directions passed in the respective Company Scheme Applications and that the Company Scheme Petitions have been filed in consonance with the Orders passed in respective 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/ 2013 and the Rules made there under whichever is applicable. The said undertakings given by the Petitioner Companies are accepted.
9. The Official Liquidator has filed his report dated 20th September, 2017 in the Company Scheme Petition No.866 of 2017 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 10th October, 2017 wherein it is stated that save and except as stated in paragraph IV(a) to IV(f), it appears that the Scheme is not prejudicial to the interest of shareholders and public. 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) Regarding Para No.11.1.iii of the Scheme it is submitted that the Transferee Company may be directed to make adjustment towards surplus/deficit, if any arising out of the scheme only

against Reserves of the Transferee Company as per para No.35 of AS-14. The Company strictly follow the provisions contained in AS-14.

- (b) In addition to compliance of AS-14 (IND AS-103) the Transferee Company 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.;
- (c) it is submitted that Petitioner has to comply with proviso to Section 230(7) read with Rule 6(3)(ix)(e) of the Companies (Compromise, Arrangements and Amalgamations) Rules, 2016, the Auditor of the Company to issue Certificate to the effect that the Accounting Treatment, if any, proposed in the Scheme is in conformity with the Accounting Standard prescribed u/s. 133 of the Companies Act, 2013. The Hon'ble Tribunal may pass appropriate orders/orders as deem fit.
- (d) As per existing practice, the Petitioner Companies are required to serve Notice for Scheme of Arrangements to the Income Tax Department for their comments. The Petitioner companies served copy of this Scheme along with relevant orders etc. Further the Regional Director has also issued a reminder dt.12.09.2017.
- (e) The tax implication if any arising out of the scheme is subject to final decision of Income Tax Authorities. The approval of the scheme by this Hon'ble Court may not deter the Income Tax Authority to scrutinize the tax return filed by the transferee Company after giving effect to the scheme. The decision of the Income Tax Authority is binding on the petitioner Company.
- (f) As per Clause 1.5 Definitions of the Scheme. "The Appointed Date" means the 1st day of April, 2016 or such other date as may be fixed by the National Company Law Tribunal or other competent relevant authority may otherwise direct/fix. In this regard, it is submitted in terms of provisions of section 232(6) of the Companies Act, 2013, it should be 1st day of April, 2016.

11. As far as the observations in paragraph IV (a) and IV (b) of the Report of the Regional Director is concerned, the Learned Advocate for the Petitioner Companies submits that the Transferee Company undertakes to make adjustment towards surplus/deficit, if any arising out of the Scheme only against the Reserves of the Transferee Company as per Para No.35 of AS-14 and also undertakes to follow the provisions contained in AS-14. Further, the Transferee Company undertakes that in addition to compliance of AS-14 (IND AS-103) accounting treatment, the Transferee Company 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.
12. As far as the observations in paragraph IV (c) of the Report of the Regional Director is concerned, the Learned Advocate for the Petitioner Companies stated that Petitioner Companies have complied with proviso to Section 230(7) read with Rule 6(3)(ix)(e) of the Companies (Compromise, Arrangements and Amalgamations) Rules, 2016 wherein the Auditor i.e. M/s. Shanker & Kapani, of the Company has issued Certificate (Annexure K to both Petitions) to the effect that the Accounting Treatment, proposed in the Scheme is in conformity with the Accounting Standard prescribed u/s. 133 of the Companies Act, 2013.
13. As far as the observations in paragraph IV (d) and IV (e) of the Report of the Regional Director is concerned, the Learned Advocate for the Petitioner Companies states that the Petitioner Companies have served the concerned Income Tax Department respectively and filed the original acknowledgements with this Tribunal vide its Affidavit of Service. Further, the Learned Advocate for the Petitioner Companies undertakes to comply with all applicable provisions of the Income Tax Act and all tax issues arising out of the Scheme of Amalgamation will be met and answered in accordance with law.
14. 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 submits that the Appointed Date will be 1st day of April, 2016.
15. The observations made by the Regional Director have been explained by the Petitioner Companies in Para 11 to 14 above. The clarifications and

undertakings given by the Petitioner Companies are accepted by the Tribunal.

16. From the material on record, the Scheme appears to be fair and reasonable and is not violative of any provisions of law and is not contrary to public policy.
17. Since all the requisite statutory compliances have been fulfilled, the Company Scheme Petition No.866 of 2017 and Company Scheme Petition No.865 of 2017 filed by the Petitioner Companies are made absolute in terms of prayer clauses (c) and (d).
18. The Petitioner Companies are directed to lodge a copy of this order and the Scheme duly certified by the Deputy Director, National Company Law Tribunal, Mumbai Bench, Mumbai 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.
19. 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.
20. 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 in Company Scheme Petition No.866 of 2017. Costs to be paid within four weeks from the date of receipt of the Order.
21. All concerned regulatory authorities to act on a copy of this order along with the Scheme duly certified by the Deputy Director, National Company Law Tribunal, Mumbai Bench, Mumbai.
22. Any person interested shall be at liberty to apply to the Tribunal in the above matter for any direction that may be necessary.

Sd/-

V. Nallasenapathy, Member (T)

Sd/-

M. K. Shrawat, Member (J)