

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI BENCH

NEW DELHI

CA (CAA)-114 (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 ARRANGEMENT

OF

LANDMARK INFONET PRIVATE LIMITED

(DEMERGED/ APPLICANT NO.1 COMPANY)

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CA (CAA) 114 (ND)/2017

LANDMARK INFONET PRIVATE LIMITED



WITH

LANDMARK TECHNONET PRIVATE LIMITED
(RESULTING COMPANY-I/ APPLICANT NO.II COMPANY)

AND

INNOVATECH MEDIA NETWORK PRIVATE LIMITED
(RESULTING COMPANY-II/ APPLICANT NO.III COMPANY)

MEMO OF PARTIES

LANDMARK INFONET PRIVATE LIMITED

A Company incorporated under the Companies Act, 1956

Having its registered office at:

A-11 Basement, C R Park,

New Delhi-110019

.... Demerged/Applicant No. 1

LANDMARK TECHNONET PRIVATE LIMITED

A Company incorporated under the Companies Act, 2013

Having its registered office at:

A-11 Basement, C R Park,

New Delhi-110019

.... Resulting Company-I/Applicant No. II



INNOVATECH MEDIA NETWORK PRIVATE LIMITED

A Company incorporated under the Companies Act, 2013

Having its registered office at:

A-11 Basement, C R Park,

New Delhi-110019

.... Resulting Company-II/Applicant No. III

Counsel for the Applicants: Mr. N.P.S Chawla, Advocate

Mr. Abhijeet Das, Advocate



Order Delivered on: 6th October, 2017

ORDER

1. This is an application which is filed by the applicant companies herein, namely Landmark Infonet Private Limited (for brevity "Demerged/ Applicant No.I Company"), Landmark Technonet Private Limited (for brevity "Resulting Company-I/Applicant No. II Company") and Innovatech Media Network Private Limited (for brevity "Resulting Company-II/Applicant No. III Company") under sections 230-232 of Companies Act, 2013, and other applicable provisions of the Companies Act, 2013 read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 in relation to the Scheme of Arrangement by way of Demerger (hereinafter referred to as the "SCHEME") proposed between the applicants. The said Scheme is also annexed as Annexure "A" 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:-

- Dispense with the requirement of convening, holding and conducting meeting of the equity shareholders of the Applicant Companies in

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terms of the provisions of section 232(1) and 230 (1) of the Companies Act, 2013 read with Rule 11 of National Company Law Tribunal Rules, 2016.

- Dispense with the requirement of convening, holding and conducting meeting of the unsecured creditors of the Applicant Company-I on terms of the provisions of Section 230(9) of the Companies Act, 2013.
- Dispense with the requirement of convening, holding and conducting meeting of the secured creditors and unsecured creditors of the Applicant company II and III in terms of the provisions of section 232(1) and 230 (1) of the Companies Act, 2013 .
- Pass necessary directions for convening meeting of the secured creditors of the Applicant company-I on Friday, October 27, 2017 at 11:00 AM at 9th Floor Mohan Dev Building, 13 Tolstoy Marg, New Delhi-110001.
- Pass necessary directions for convening the meeting as aforesaid, this Hon'ble Tribunal may be pleased to pass appropriate directions for publication of the notices and the convening, holding and conducting of the above said meeting(s), specifically covering the following:

(i) Manner of publishing advertisements of notices convening the meetings in Business Standard (English, Delhi Edition) and Jansatta (Hindi, Delhi Edition) and in view of the advertisements proposed to be made in the aforesaid newspaper.

(ii) Manner of dispatch of notices convening the meeting;

(iii) Fixation of time and place, in respect of the meeting;

(iv) Appointment of the Chairman and Alternate Chairman for the meeting.

(v) Fixation of Quorum in respect of the meeting;



(vi) Manner of the poll at the meeting

- Pass necessary directions for issue of notices to the RD, ROC, MIB RERA and the IT Department in terms of provisions of section 230(5) of the Companies Act, 2013 read with rule 8 of the Companies (Compromise, Arrangement and Amalgamations) Rules, 2016.
- Pass necessary directions for filing of reports by RD, ROC, MIB, RERA and IT Department with this Hon'ble Tribunal within 30 days of the receipt of notice; AND/ OR
- Passing such other and further orders as are deemed necessary in the facts and circumstances of the case.

2. An Affidavit in support of the above application sworn for and on behalf of all the Applicant Companies has been filed by one Mr. Sandeep Chhillar, Director being the authorized signatory of all the Applicant Companies 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

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by the applicants are maintainable in view of Rule 3(2) of the Companies (Compromises, Arrangements and Amalgamations) Rules 2016.

3. In relation to Landmark Infonet Private Limited being the Demerged/ Applicant No.1 Company, in scheme marked as Annexure – "A", it is represented that it is having 10 Equity Shareholders and all 10 of them have given their consents by way of affidavit. It is further represented by the counsel for Applicants that Applicant No.1/ Demerged Company has 6 (Six) Secured Creditors and 55 Unsecured Creditors out of which 26 unsecured creditors have given their consents constituting 92.11% of the total debt. In relation to the shareholders and unsecured creditors of the Applicant No.1 / Demerged Company, it seeks dispensation from convening and holding of the meetings in view of consent affidavits having been obtained and which are placed on record. In respect to the secured creditors, the Demerged Company seeks directions for convening of the meeting.

4. In relation to Landmark Technonet Private Limited being Applicant No. II/ Resulting Company-I in the Scheme marked as Annexure-"A", Learned



Counsel represents that the company is having 3 Equity Shareholders and all 3 of them have given their consents. It is further represented by the counsel for Applicants that Applicant No. II/ Resulting Company-I has no secured and Unsecured Creditors. In relation to the Equity Shareholders of the Applicant No. II/Resulting Company-I, it seeks dispensation of the meeting for the purpose of obtaining their approval to the proposed Scheme of Arrangement in view of consent affidavits being obtained and which are placed on record.

5. In relation to Innovatech Media Network Private Limited being Applicant No. III/ Resulting Company-II in the Scheme marked as Annexure-"A", Learned Counsel represents that the company is having 3 Equity Shareholders and all 3 of them have given their consents. It is further represented by the counsel for Applicants that Applicant No. III/ Resulting Company-II has no secured and Unsecured Creditors. In relation to the Equity Shareholders of the Applicant No. III/Resulting Company-II, it seeks dispensation of the meeting for the purpose of obtaining their approval to the



proposed Scheme of Arrangement in view of consent affidavits being obtained and which are placed on record.

6. 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. Further, the registered office of all the applicant Companies are situated within New Delhi and subject to Registrar of Companies, NCT, New Delhi and hence are amenable to the territorial jurisdiction of this Tribunal.
7. We have perused the joint application and the connected documents / papers filed therewith including the Scheme of Amalgamation contemplated between the Applicant companies.
8. From the certificate of incorporation filed, it is evident that Applicant No.1/ Demerged Company was incorporated under the provisions of Companies Act, 1956 on 12th May, 2003 with the name of Landmark Infonet Private Limited.



9. The Authorized Share Capital is Rs.21,00,00,000/- divided into 2,10,00,000 equity shares of Rs.10/- each. The Issued, Subscribed and Paid-Up Share Capital of the Transferor Company is Rs. 21,00,00,000/- divided into 2,10,00,000 equity shares of Rs.10/- each.

10. From the certificate of incorporation filed, it is evident that the Applicant No. II/ Resulting Company-I is incorporated under the provisions of Companies Act, 2013 on 16th September, 2016 under the name and style of Landmark Technonet Private limited.

11. The Authorised Share Capital of the Applicant No.II/ Resulting Company-I is Rs. 1,00,000/- divided into 10,000 equity shares of Rs 10/- each. The Issued, Subscribed and Paid-up Share Capital is Rs.1,00,000 divided into 10,000 equity shares of Rs.10/-each.

12. From the certificate of incorporation filed, it is evident that the Applicant No. III/ Resulting Company-II is incorporated under the provisions of Companies



Act, 2013 on 1st December, 2016 under the name and style of Innovatech Media Network Private limited.

13. The Authorised Share Capital of the Applicant No. III/ Resulting Company-II is Rs. 1,00,000/- divided into 10,000 equity shares of Rs 10/- each. The Issued, Subscribed and Paid-up Share Capital is Rs.1,00,000 divided into 10,000 equity shares of Rs.10/-each.

14. The applicant companies have filed their respective Memorandum and Articles of Association interalia delineating their object clauses.

15. The applicant II and III have filed their last available audited financial statements for the year ended 31.03.2017 whereas Applicant No.1 has filed for the period ended 31st March, 2016 along with the provisional statements for the period ended 31st March, 2017.

16. The appointed date as specified in the Scheme is 01.04.2017 subject to the directions of this Tribunal.



17. The Board of Directors of the Applicant companies vide separate meetings held on 15th May, 2017 have unanimously approved the proposed Scheme of Arrangement as contemplated above and copies of resolutions passed thereat have been placed on record by the companies.

18. 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.

19. Taking into consideration the application filed jointly by the Applicant companies and the documents filed therewith, we 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 No.1/ Demerged Company:

(i) With respect to Equity shareholders:

Since it is represented by the Transferor Company that there are 10 Equity shareholders in the Demerged Company whose consents by way of affidavits have been obtained and placed on record, therefore the necessity of convening and holding a meeting to consider and if thought fit for the approval of the scheme is dispensed with.

(ii) With respect to Secured Creditors:

Meeting of the Secured Creditors of the Applicant-1 /Demerged Company is directed to be held at 11:00 AM at 9th Floor Mohan Dev Building, 13 Tolstoy Marg, New Delhi-110001 on 24th November, 2017 subject to the notice of meeting being issued. The quorum for the meeting of the Secured Creditors of Applicant-1 /Demerged Company shall be 6 in number or 100% in value.

(iii) With respect to Unsecured Creditors:

Since it is represented by the Demerged Company that there are 55 Unsecured Creditors in the Company out of which 26 unsecured creditors constituting



92.11% of the total debt have given their consents, therefore the necessity of convening and holding a meeting to consider and if thought fit for the approval of the scheme is dispensed with.

B. In relation to Applicant No. II and III/ Resulting Companies II and III:

(i) With respect to Equity shareholders:

Since it is represented by the Resulting Companies II and III that there are only 3 Equity shareholders in the each of the Companies whose consents by way of affidavits have been obtained and placed on record, therefore the necessity of convening and holding a meeting to consider and if thought fit for the approval of the scheme is dispensed with.

(ii) With respect to Secured Creditors:

Since it is represented by the Resulting Companies II and III that there is no Secured Creditor in any of the Companies, therefore the necessity of convening a meeting does not arise.



(iii) With respect to Unsecured Creditors:

Since it is represented by the Resulting Companies II and III that there is no Unsecured Creditor in any of the Companies, therefore the necessity of convening a meeting does not arise.

C. Mr. Rajeev Kumar, Advocate (23354330) is appointed as the Chairperson and Mr. Mansuymmer Singh, Advocate (9873331132) is appointed as the Alternate Chairperson and Scrutinizer for the meeting of Secured Creditors as may have been directed to be convened by this Tribunal as above of the Applicant Company-I/ Demerged Company.

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. The fee of the Chairperson for the aforesaid meetings shall be Rs. 75000/- and the fee of the Alternate Chairperson and Scrutinizer shall be Rs. 50000/- in addition to meeting their incidental expenses. The Chairpersons will file their reports within a week from the date of holding of the above said meetings.
- F. That individual notices of the said meetings shall be sent by the Applicant Company/ Demerged Company 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 Arrangement, 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.



G. That the Applicant Company/ Demerged Company 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 Business Standard in English (Delhi Edition), and Jansatta in Hindi (Delhi Edition) stating the copies of Scheme of Arrangement, 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 Company-I/ Demerged Company.

H. 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.

I. The companies shall individually send notice to Central Government, the Income Tax Authorities, Regional Director, Registrar of Companies NCT Delhi &




Haryana, Ministry of Information and Technology, Real Estate Regulatory Authority (RERA) as well as other sectoral regulators 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.

- J. The applicant company-I/ Demerged Company 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.
- K. The authorized representative of the Applicant Company-I/ Demerged Company 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.



L. 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.

 6.10.17
(R.VARADHARAJAN)
MEMBER (JUDICIAL)