

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH

CSP NO. 566 OF 2017  
AND  
CSP NO. 565 OF 2017  
AND  
CSP NO. 567 OF 2017

**Balji Telefilms Limited**

.....**Petitioner/Transferee Company**  
AND

**Balaji Motion Pictures Limited**

.....**Petitioner/Demerged Company**  
AND

**Bolt Media Limited**

.....**Petitioner/Transferor Company**

In the matter of Sections 230 - 232 and any other applicable provisions of the Companies Act, 2013 read with Companies (Compromise, Arrangements and Amalgamations) Rules, 2016;

AND

In the matter of Scheme of Amalgamation between Balaji Motion Pictures Limited having CIN U22300MH2007PLC168515 ("Demerged Company"), and Bolt Media Limited having CIN U74900MH2012PLC237999 ("Transferor Company"), and Balaji Telefilms Limited having CIN L99999MH1994PLC082802 ("Transferee Company") and their respective Shareholders. ('Scheme')

Order delivered on 2 November 2017.

Coram:

Hon'ble **B.S.V. Prakash Kumar**, Member (J)

Hon'ble **V. Nallasenapathy**, Member (T)

For the Petitioner(s): Mr. Hemant Sethi i/b Hemant Sethi & Co; Ameya Gokhale a/w Meghna Rajadhyaksha and Pulkitesh Dutt Tiwari i/b Shardul Amarchand Mangaldas, Advocates

Per: **V. Nallasenapathy, Member (T)**

**Order**

1. Heard the learned counsel for the Petitioner Companies. No objector has come before the Tribunal to oppose the Petitions and nor any party has controverted any averments made in the Petitions.

2. The sanction of the Tribunal is sought under Sections 230 to 232 of the Companies Act, 2013, to the Scheme of Arrangement and Amalgamation between Balaji Motion Pictures Limited (“Demerged Company”) and Bolt Media Limited (“Transferor Company”), and Balaji Telefilms Limited (“Transferee Company”) and their respective Shareholders.
3. The Counsel for the Petitioner Companies submit that the Transferee Company is engaged in the business of production of non-fiction, fiction, reality, factual television shows, event management, branded entertainment, digital content, consultancy and creative services related to it and also in the production and distribution of motion pictures; the Demerged Company is engaged in the business of production and distribution of motion pictures and films; and the Transferor Company is engaged in the business of production of non-fiction, fiction, reality, factual television shows, event management, branded entertainment, digital content, consultancy and creative services related to it. The Transferor Company and the Demerged Company are wholly-owned subsidiaries of the Transferee Company. Presently 100% of the shares of the Transferor Company and the Demerged Company are held by the Transferee Company.
4. The Counsel for the Petitioner Companies submits that below is the rationale for the proposed Scheme of Arrangement and Amalgamation:
  - a. Streamlining of group structure: The Demerged Company and the Transferor Company are wholly owned subsidiaries of the Transferee Company. Further, the Demerged Company, the Transferor Company and the Transferee Company are engaged in similar business. The demerger of the Film Production Undertaking of the Demerged Company and vesting of the same in the Transferee Company and the amalgamation of the Demerged Company with the Transferee Company will enhance efficiencies and combine similar business interest into one corporate entity,

resulting in operational synergies, simplification, focused management, streamlining and optimization of the group structure and efficient administration.

- b. Consolidation of business operations: Pursuant to the transfer of the Film Production Undertaking by the Demerged Company and the amalgamation of the Transferor Company with the Transferee Company, the Transferee Company will have enhanced shareholder's value accruing from consolidation of the business operations resulting in economies of scale, improving allocation of capital, operational efficiency, integration of processes and optimizing cash flows, thus contributing to the overall growth prospects of the Transferee Company. The Scheme will enable the consolidation of the film production business in the Transferee Company, which is well established and has requisite expertise in the film production business. Further, the transfer of the Film Production Undertaking by the Demerged Company and vesting the same in the Transferee Company, will enable the Demerged Company to concentrate on its core business of film distribution.
- c. Reduction in Costs: The Scheme is expected to enable pooling of resources of the Transferor Company, the Demerged Company and the Transferee Company resulting in more productive utilization of the said resources and cost and operational efficiencies which would be beneficial for all stakeholders.
5. The Counsel for the Petitioner Companies submits that the Board of Directors of the Transferor Companies and the Transferee Company have approved the said Scheme of Arrangement and Amalgamation by passing Board Resolutions which are annexed to the Company Scheme Petition.
6. The Counsel appearing on behalf of the Petitioner Companies further states that the Petitioner Companies have complied with all the directions passed in

Company Scheme Application No. 433 of 2017, Company Scheme Application No. 402 of 2017 and Company Scheme Application No. 366 of 2017, by the National Company Law Tribunal (NCLT/Tribunal), Mumbai bench and that the Company Scheme Petition No. 566 of 2017, Company Scheme Petition No. 565 of 2017 and Company Scheme Petition No. 567 of 2017 have been filed in consonance with the orders passed in abovementioned Company Scheme Applications.

7. The Counsel appearing on behalf of the Petitioner Companies further states that the Petitioner Companies have complied with all requirements as per directions of the Tribunal and they have filed necessary affidavits of compliance in the Tribunal. Moreover, the Petitioner Companies through their Counsel undertakes to comply with all statutory requirements if any, as required under the Companies Act, 2013 and the Rules made there under whichever is applicable. The said undertakings given by the Petitioner Companies are accepted.
8. The Regional Director has filed a Report dated 6 October 2017 stating therein, save and except as stated in paragraph IV (1) to (5), it appears that the Scheme is not prejudicial to the interest of shareholders and public. In paragraph IV, of the said Report it is stated that:
  - a. *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 Tribunal 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.*
  - b. *It is submitted that the Petitioner Companies have not submitted the proof of serving notice upon the Income Tax Authorities dated 27.04.2017 for comments. This directorate has issued reminder dated 28.08.2017.*
  - c. *Petitioner in clause 18 (vii) of the scheme has inter alia mentioned that Board of directors of the transferee company in consultation with the statutory auditors, is authorized to account for the any of the balances in*

*any other manner, if such accounting treatment is considered to be more appropriate.*

*In this regard, it is submitted that Petitioner Transferee Company has to undertake to comply with section 133 of Companies Act, 2013 read with accounting standards prescribed by ICAI while authorizing accounts of Transferor Company by board of directors of the Transferee Company in consultation with their statutory auditors.*

- d. Petitioner's in clause 22 has proposed for amendment of the main object of the transferee company by inserting Clause 1C, 1D and 1E mentioned in the scheme. In this regard, the petitioners have to undertake to file requisite forms with the Registrar of Companies complying provisions of Companies Act read and rules.*
- e. Petitioner in clause 26 has inter alia mentioned that the transferee company has undertaken to comply with the provisions of the SEBI Circular and that pre-filing and post sanction approval of the stock exchange and SEBI in terms of SEBI circular being obtained if applicable and the company is required Produce the compliances.*

*Under these circumstances the Regional Director, Incharge prays this Hon'ble Tribunal may kindly be pleased to:*

- 1. Take this report on record;*
- 2. Consider the observations made at Sr. No. IV (1) to (5) mentioned above  
And*
- 3. Pass such other order or orders as deemed fit and proper in facts and circumstances of the case.*

The Registrar of Companies, Mumbai has filed his report stating that no complaint, no prosecution, no scrutiny pending against the companies under reference.

9. As far as the observation made in paragraph IV (1) and paragraph IV (2) of the Report of Regional Director is concerned, Petitioner Companies through its Counsel undertake to comply with all applicable provision of the Income Tax Act, 1961 and all tax issues arising out of the Scheme will be met and answered in accordance with law. The Counsel for the Petitioners further state

that the Petitioner Companies have served a notice in relation to the Scheme of Arrangement and Amalgamation on 27 April 2017 to the Deputy Commissioner of Income Tax. Further the copy of acknowledgement of notices served upon concerned Income Tax Department is annexed to the respective affidavit of service filed by the Petitioner Companies, a copy whereof has already been served in the office of Regional Director. The Petitioner Companies further state that they have not received any observation from the Income Tax Authorities in regard to the Scheme of Arrangement and Amalgamation within the statutory period.

10. As far as the observations made in paragraph IV (3) of the Report of Regional Director is concerned, the Petitioner Companies undertake to comply with section 133 of Companies Act, 2013 read with accounting standards prescribed by ICAI while authorizing accounts of Transferor Company by board of directors of the Transferee Company in consultation with their statutory auditors.
11. As far as the observations made in paragraph IV (4) of the Report of Regional Director is concerned, the Transferee Company undertakes to file requisite forms with the Registrar of Companies in accordance with provisions of the Companies Act, 2013 read with the rules prescribed thereunder, at the time of amending the main objects prescribed in the memorandum of association of the Transferee Company as set out in the Scheme of Arrangement and Amalgamation.
12. In so far as observations made in paragraph IV (5) of the Report of Regional Director are concerned, the Petitioner Companies undertakes to comply with the provisions of the SEBI Circular and produce the proof of compliance with the pre-filing and post sanction approval of the stock exchange and SEBI in terms of SEBI Circular, if applicable.

13. The observations made by the Regional Director have been explained by the Petitioner Companies in paragraph 10 to 13 above. The clarifications and undertakings given by the Petitioner Companies are hereby accepted.
14. The Official Liquidator has filed his report on 3 August 2017 in the Company Scheme Petition No. 566 of 2017, Company Scheme Petition No. 565 of 2017 and Company Scheme Petition No. 567 of 2017 inter alia, stating therein that the affairs of the Transferor Company have been conducted in a proper manner and that the Transferor Company may be dissolved without winding up by the Hon'ble Tribunal.
15. 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.
16. Since all the requisite statutory compliances have been fulfilled, Company Scheme Petition No. 566 of 2017, Company Scheme Petition No. 565 of 2017 and Company Scheme Petition No. 567 of 2017, filed by the Petitioner Companies have made absolute in terms of prayer clause (a) to (c) of the Petitions.
17. Petitioner Companies are directed to file a copy of this order along with a copy of the Scheme of Amalgamation with the concerned Registrar of Companies, electronically, along with E-Form INC-28, in addition to the physical copy within 30 days from the date of issuance of the order by the Registry.
18. The Petitioner Companies to lodge a copy of this order and the Scheme duly certified by the Deputy Director, National Company Law Tribunal, Mumbai Bench, 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 date of receipt of the order.
19. The Petitioner Companies to pay costs of Rs. 25,000/- each to the Regional Director, Western Region, Mumbai and to Official Liquidator. Costs to be paid within four weeks from the date of receipt of the order.

20. All authorities concerned to act on a certified copy of this order along with Scheme duly certified by the Deputy Director, National Company Law Tribunal, Mumbai Bench.

Sd/-

**V. Nallasenapathy, Member (T)**

Sd/-

**B.S.V. Prakash Kumar, Member (J)**

**2.11.2017**