

IN THE NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH

CSP NO. 782 OF 2017

Under Section 230-232 of the Companies  
Act, 2013

In the matter of Scheme of Amalgamation of  
ASAP INFO SYSTEMS PRIVATE LIMITED, the  
First Transferor Company and NICHEPRO  
TECHNOLOGIES PRIVATE LIMITED, the  
Second Transferor Company with  
TEAMLEASE STAFFING SERVICES PRIVATE  
LIMITED, the Transferee Company.

TEAMLEASE STAFFING SERVICES PRIVATE LIMITED

....Petitioner/ the Transferee Company

Judgement/ order delivered on 16th November, 2017

Coram:

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

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

For the Petitioner(s): Mr. Rajesh Shah with Mr. Ahmed M Chunawala

i/b M/s. Rajesh Shah & Co., Advocate for the Petitioner.

Per : B.S.V. Prakash Kumar Hon'ble Member (J)

**ORDER:**

1. Heard learned counsel for parties. No objector has come before this Tribunal to oppose the Scheme and nor has any party controverted any averments made in the Petitions to the Scheme of Amalgamation of ASAP INFO SYSTEMS PRIVATE LIMITED, the First Transferor Company and NICHEPRO TECHNOLOGIES PRIVATE LIMITED, the

Second Transferor Company with TEAMLEASE STAFFING SERVICES PRIVATE LIMITED, the Transferee Company.

2. The sanction of the Tribunal is sought under Sections 230 to 232 and other applicable provisions of the Companies Act, 2013 to a Scheme of Amalgamation of ASAP INFO SYSTEMS PRIVATE LIMITED, the First Transferor Company and NICHEPRO TECHNOLOGIES PRIVATE LIMITED, the Second Transferor Company with TEAMLEASE STAFFING SERVICES PRIVATE LIMITED, the Transferee Company.
3. The Petitioner Company has approved the said Scheme of Amalgamation by passing the Board Resolution which is annexed to the Company Scheme Petition.
4. The Learned Advocate appearing on behalf of the Petitioner states that the Petition has been filed in consonance with the Order passed in their Company Scheme Application Nos. 645 of 2017 of the National Company Law Tribunal.
5. The Learned Advocate appearing on behalf of the Petitioner further states that the Petitioner Company has complied with all requirements as per directions of the National Company Law Tribunal, Mumbai Bench and has filed necessary affidavits of compliance in the National Company Law Tribunal, Mumbai Bench. Moreover, Petitioner Company undertakes to comply with all the statutory requirements if any, as required under the Companies Act, 2013 and the Rules made there under whichever is applicable. The said undertaking is accepted.
6. The Learned Counsel for the Petitioner states that the First Transferor Company has been carrying on the business of operating in the staffing industry and provides temporary staffing solutions to



marquee software technology clients and other customers and the Second Transferor Company has been carrying on the business of operating in the staffing industry and provides temporary staffing solutions to marquee software technology clients/ other customers and also e-commerce and related software development operations business and the Transferee Company undertake the business of hiring technical, legal, financial and management consultants, advisers, innovators, software, designer, marketers, administrators, agents, recruitment and placement consultancy service providers, impart training in various fields, areas. As per the opinion of the management the Transferor Companies and the Petitioner Company are under the same management and that the management is of the opinion that the merger will lead to synergies of operations and more particularly the following benefits with greater integration and financial strength for the amalgamated entity, which would result in maximizing overall shareholder value, and will improve the financial position of the amalgamated entity and that the amalgamation would provide synergistic linkages besides economies in costs and other benefits resulting from the economies of scale, by combining the businesses and operations of the Transferor Companies and the Petitioner Company and thus contribute to the profitability of the amalgamated entity by rationalization of management and administrative structure and that the amalgamation would lead to greater and efficient use of infrastructure facilities and optimum utilization of the financial resources, managerial, technical and marketing expertise of the Transferor Companies and the Petitioner Company and it will help in simplification of group structure by eliminating multiple companies having similar objectives in relation to manpower staffing solutions.



7. The Regional Director has filed a Report on 12<sup>th</sup> day of October, 2017 stating therein, save and except as stated in paragraph IV, it appears that the Scheme of Amalgamation 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) 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 submitted the proof of serving notice upon the Income Tax Authorities dated 27.06.2017. Also this Directorate has issued reminder dated 04.10.2017.*
- c) Certificate by Company's Auditors stating that the Accounting Treatment if any proposed in the Scheme of compromise or arrangement is in conformity with the Accounting Standards prescribed under Section 133 of the Companies Act, 2013 read with Rules not provided.*

*In this regard petitioner to undertake to submit the same.*

- d) Petitioner companies have submitted copy of the admitted petition and it is observed that clause 15 to 21 is missing in the Petition.*

8. So far as the observation in paragraph IV (a) and (b) of the Report of the Regional Director is concerned, the Learned Counsel for the Petitioner Company submits that the Petitioner Company /Transferee Company undertakes to comply with all applicable provisions of the Income-tax Act, 1961 and all tax issues arising out of the Scheme of Amalgamation will be met and answered in accordance with law.



9. So far as the observation in paragraph IV (c) of the Report of the Regional Director is concerned, the Learned Counsel for the Petitioner Company submits that the Company has filed the same along with the Addendum to the Certificate issued by M/s Manian & Rao, Chartered Accountants, Statutory Auditors of the Company, confirming that the accounting treatment proposed in the Scheme of Amalgamation is in conformity with the Accounting Standards as prescribed under Section 133 of the Companies Act, 2013 has been filed with the Hon'ble Tribunal along with an Affidavit on November 1, 2017.
10. So far as the observation in paragraph IV (d) of the Report of the Regional Director is concerned, the Learned Counsel for the Petitioner Company submits that the Company had filed a copy of admitted Petition with the Regional Director's office. The copy of the admitted Petition contains Clauses 1 to 35. Clause 20 of the admitted Petition contains material extracts of Scheme of Amalgamation (i.e. Clause 5 to Clause 14 of the Scheme). Therefore it is to be observed that there is no omission of Clause 15 to 21 of the Petition submitted to Regional Director as observed by the Regional Director in his report. The company has again re-submitted an entire set of Company Petition with the Regional Director on October 31, 2017.
11. The observations made by the Regional Director have been explained by the Petitioner Company in Para 8 to 10 above. The clarifications and undertakings given by the Petitioner Company are accepted by the Tribunal.
12. From the material on record, the Scheme appears to be fair and reasonable and is not violative of any provisions of law including but not limited to Companies Act, 2013; Income Tax Act, 1961; Accounting



Standards and various other applicable statutory acts and is not contrary to public policy.

13. Since all the requisite statutory compliances have been fulfilled, Company Petition No. 782 is made absolute in terms of prayer clauses (a) to (c) thereof. Accordingly, the Scheme stands sanctioned with an Appointed Date as 1<sup>st</sup> January, 2017 and CSP NO. 782 OF 2017 stands disposed off.
14. Petitioners are directed to lodge 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 physical copy, as per the relevant provisions of the Companies Act 2013.
15. The Petitioner Company to lodge a copy of this Order and the Scheme duly certified by the Deputy Director or Assistant Registrar, National Company Law Tribunal, Mumbai Bench, with the concerned Superintendent of Stamps, for the purpose of adjudication of stamp duty payable within 60 days from the date of receipt of the order, if any.
16. The Petitioner Company to pay costs of Rs.25,000/- to the Regional Director, Western Region, Mumbai. Cost to be paid within four weeks from the date of receipt of the Order.
17. The Registered Office of the Transferor Companies are situated in the State of Chennai and Transferor Companies had already filed similar petition before the National Company Law Tribunal of Chennai Bench for approving the said scheme and the same is pending. The Learned Counsel for the Petitioner Company further submits that this Scheme

of Amalgamation be approved subject to sanctioning of the said Scheme by National Company Law Tribunal of Chennai Bench.

18. All concerned regulatory authorities to act on a copy of this Order along with Scheme duly authenticated by the Deputy Director or Assistant Registrar, National Company Law Tribunal, Mumbai.

**Sd/-**

V. Nallasenapathy, Member (T)

**Sd/-**

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