

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL BENCH,
AT MUMBAI

CSA NO. 880 OF 2017

Under Sections 230 to 232 of the
Companies Act, 2013;

In the matter of Scheme of
Amalgamation of Marathon IT
Infrastructure Private Limited
("*MITI*" or "*First Transferor
Company*") and Ithaca Informatics
Private Limited ("*Ithaca*" or "*Second
Transferor Company*") with
Marathon Realty Private Limited
("*MRPL*" or "*Transferee Company*")
and their respective shareholders and
creditors

Marathon IT Infrastructure Private Limited
....First Applicant Company /First Transferor Company

Ithaca Informatics Private Limited
....Second Applicant Company/ Second Transferor Company

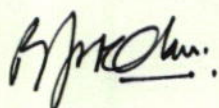
Marathon Realty Private Limited
....Third Applicant Company / Transferee Company

Order delivered on: 3rd November, 2017

CORAM: Hon'ble M.K. Shrawat, Member (J)
Hon'ble Bhaskara Pantula Mohan, Member (J)

For the Petitioners: Mr. Ashish Parwani, i/b Rajani Associates,
Advocate for the Petitioner Companies

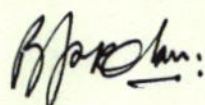
Per: Bhaskara Pantula Mohan, Member (J)



ORDER

Upon the Application of the Applicant Companies abovenamed by a Company Application and UPON HEARING Mr. Ashish Parwani instructed by Rajani Associates, Advocates for the Applicant Companies, AND UPON READING the Affidavit dated 4th September, 2017 of Mr. Sundaram Ramamurthi, the Authorised Signatory of the First Applicant Company, the Second Applicant Company and the Third Applicant Company in support of the Company Application and the Exhibits therein referred, IT IS ORDERED THAT:-

1. A meeting of the Equity Shareholders of the First Applicant Company be convened and held at Office Nos. 702 Marathon Max, Goregaon Mulund Link Road, Mulund West, Mumbai 400080, Maharashtra, India on Monday, December 11, 2017 at 10.30 a.m. for the purpose of considering and, if thought fit, approving, with or without modification(s) the proposed Scheme of Amalgamation of Marathon IT Infrastructure Private Limited and Ithaca Informatics Private Limited with Marathon Realty Private Limited.
2. A meeting of the Equity Shareholders of the Second Applicant Company be convened and held at Office Nos. 702 Marathon Max, Goregaon Mulund Link Road, Mulund West, Mumbai 400080, Maharashtra, India on Monday, December 11, 2017 at 11.30 a.m. for the purpose of considering and, if thought fit, approving, with or without modification(s) the proposed Scheme of Amalgamation of Marathon IT Infrastructure Private Limited and Ithaca Informatics Private Limited with Marathon Realty Private Limited.
3. A meeting of the Equity Shareholders of the Third Applicant Company be convened and held at Office Nos. 702 Marathon Max, Goregaon Mulund Link Road, Mulund West, Mumbai 400080, Maharashtra, India on Monday, December 11, 2017 at

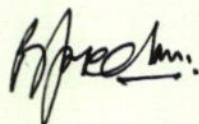


- 12.30 p.m. for the purpose of considering and, if thought fit, approving, with or without modification(s) the proposed Scheme of Amalgamation of Marathon IT Infrastructure Private Limited and Ithaca Informatics Private Limited with Marathon Realty Private Limited.
4. A meeting of the Preference Shareholders of the Third Applicant Company be convened and held at Office No. 702 Marathon Max, Goregaon Mulund Link Road, Mulund West, Mumbai 400 080, Maharashtra, India on Monday, December 11, 2017 at 1.30 p.m. for the purpose of considering and, if thought fit, approving, with or without modification(s) the proposed Scheme of Amalgamation of Marathon IT Infrastructure Private Limited and Ithaca Informatics Private Limited with Marathon Realty Private Limited.
 5. At least thirty (30) days before the said meeting of the Equity Shareholders and Preference Shareholders, as the case may be, of the Applicant Companies to be held as aforesaid, a notice convening the said meeting at the place, day, date and time aforesaid, together with a copy of the Scheme, a copy of the statement disclosing all material facts as required to be sent under Section 230 (3) of the Companies Act, 2013 read with Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rule, 2016 and the prescribed Form of Proxy, shall be sent by Courier / Registered Post / Speed Post / Hand Delivery or through Email (to those shareholders whose email addresses are duly registered with the Applicant Companies for the purpose of receiving such notices by email), addressed to each of the Equity Shareholders and Preference Shareholders, as the case may be, of the First Applicant Company, the Second Applicant Company and the Third Applicant Company, at their last known address or email addresses as per the records of the Applicant Companies.
 6. That at least thirty (30) days before the meeting of the Equity

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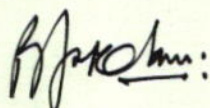
Shareholders and Preference Shareholders, as the case may be, of the Applicant Companies to be held as aforesaid, a notice convening the said Meetings, indicating the place, date and time of meetings as aforesaid be published in two local newspapers viz. 'Free Press Journal' in English language and translation thereof in 'Navshakti' in Marathi language, both circulated in Mumbai and thereby stating that copies of the Scheme and the statement required to be furnished pursuant to Section 230(3) of the Companies Act 2013 read with Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rule, 2016 and the Form or Proxy can be obtained free of charge at the Registered Offices of the Applicant Companies.

7. That Mr. Chetan R Shah, the Director of the First Applicant Company, and failing him, Mr. Sundaram Ramamurthi, the Authorized Signatory of the First Applicant Company be appointed as the Chairman of the Tribunal convened meetings of Equity Shareholders of the First Applicant Company to consider and approve the proposed Scheme.
8. That Mr. Nilesh Dand, the Director of the Second Applicant Company, and failing him, Mr. Sundaram Ramamurthi, the Authorized Signatory of the Second Applicant Company be appointed as the Chairman of the Tribunal convened meetings of Equity Shareholders of the Second Applicant Company to consider and approve the proposed Scheme.
9. That Mr. Chetan R Shah, the Director of the Third Applicant Company, and failing him, Mr. Sundaram Ramamurthi, the Authorized Signatory of the Third Applicant Company be appointed as the Chairman of the Tribunal convened meetings of Equity Shareholders of the Third Applicant Company to consider and approve the proposed Scheme.
10. That Mr. Chetan R Shah, the Director of the Third Applicant Company, and failing him, Mr. Sundaram Ramamurthi, the



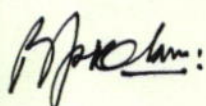
Authorized Signatory of the Third Applicant Company be appointed as the Chairman of the Tribunal convened meetings of Preference Shareholders of the Third Applicant Company to consider and approve the proposed Scheme.

11. That Mr. Nitin R. Joshi, Practicing Company Secretary are hereby appointed as the Scrutinizer of the meetings of the Equity Shareholders and Preference Shareholders, as the case may be, of the First Applicant Company, Second Applicant Company and the Third Applicant Company or any adjournment or adjournments thereof.
12. That the Chairman/Chairmen appointed for the aforesaid Meetings to issue the advertisement and send out the notices of the Meetings referred to above. The said Chairman/Chairmen shall have all powers as per Articles of Association and also under the Companies Act, 2013 in relation to the conduct of the meetings, including for deciding procedural questions that may arise or at any adjournment thereof or any other matter including an amendment to the Scheme or resolution, if any, proposed at the meeting by any person(s).
13. That the quorum of the aforesaid Meetings of the shareholders shall be as prescribed under Section 103 of the Companies Act, 2013.
14. Voting in the meeting either in person or by Proxy or authorised representative in case of body corporate be permitted, provided that a proxy in the prescribed form/authorization duly signed by the person entitled to attend and vote at the meeting, is filed with the Applicant Companies at their respective Registered Offices, not later than 48 hours before the aforesaid meeting.
15. That the value and number of the shares of each Equity Shareholders and the Preference Shareholders, as the case may be, shall be in accordance with the books/ register of the First

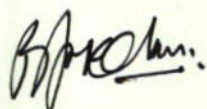
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Applicant Company, the Second Applicant Company and the Third Applicant Company where the entries in the books / register are disputed, the Chairman of the Meetings shall determine the value for the purpose of the aforesaid meeting and his decision in that behalf would be final.

16. That the Chairman to file an affidavit not less than seven (7) days before the date fixed for the holding of the meeting and do report to this Tribunal that the direction regarding the issue of notices and the advertisement have been duly complied with as per Rule 12 of the Companies (Compromises, Arrangements and Amalgamations) Rule, 2016.
17. That the respective Chairmen of the meetings to report to this Tribunal, the results of the aforesaid meetings within thirty (30) days of the conclusion of the meetings.
18. The Learned Counsel for the Applicant Companies submits that the proposed scheme is an arrangement between the Applicant Companies and their respective shareholders and rights of the creditors would not be adversely impacted by the scheme. The Learned Counsel further submits that this being the position, only meeting of the shareholders of the First Applicant Company, the Second Applicant Company and the Third Applicant Company is proposed to be held in accordance with the provisions of section 230 (1)(b) of the Companies Act, 2013.
19. The Learned Counsel submits that there are no Secured Creditors in the First Applicant Company. This Bench hereby directs the First Applicant Company to issue Notice of the Meeting of its Equity shareholders by registered Post or by speed post or by courier or by hand delivery to all its Debenture Holders as on August 31, 2017 and all its Unsecured Creditors, which are due and payable as on August 31, 2017, with a direction that they may submit their representations, if any, to the Tribunal and copy of such representations shall simultaneously be served upon the First Applicant Company.

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20. The Learned Counsel submits that there are no Secured Creditors in the Second Applicant Company. This Bench hereby directs the Second Applicant Company to issue Notice of the Meeting of its Equity shareholders by registered Post or by speed post or by courier or by hand delivery to all its Unsecured Creditors, which are due and payable as on August 31, 2017, with a direction that they may submit their representations, if any, to the Tribunal and copy of such representations shall simultaneously be served upon the Second Applicant Company.
21. This Bench hereby directs the Third Applicant Company to issue Notice of the Meeting of its Equity shareholders by registered Post or by speed post or by courier or by hand delivery to all its Secured Creditors as on August 31, 2017 and all its Unsecured Creditors, which are due and payable as on August 31, 2017, with a direction that they may submit their representations, if any, to the Tribunal and copy of such representations shall simultaneously be served upon the Third Applicant Company.
22. That the Applicant Companies are directed to serve notices along with copy of Scheme upon the:- concerned Income Tax Authority with in whose jurisdiction the relevant Applicant Company's assessments are made, having addresses as follows:
- a. For the First Applicant Company (having Permanent Account Number AAFCM3514P): Asst. Commissioner of Income Tax Circle 15(2)(2), Room No 357, 3rd floor, Aayakar Bhawan, M. K. Marg, Mumbai – 400020; and
 - b. For the Second Applicant Company (bearing Permanent Account Number AAACI1074K) and the Third Applicant Company (bearing Permanent Account Number AAACM3361R): Dy. Commissioner of Income Tax, Central Circle 6(3), Room No. 1926, 19th Floor, Air India Building, Nariman Point, Mumbai – 400021.



23. That the Applicant Companies are further directed to serve notices along with copy of Scheme upon the (i) Central Government through the office of Regional Director, Western Region, Mumbai; (ii) the Reserve Bank of India; (iii) Securities and Exchange Board of India; and (iv) Registrar of Companies, as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 with the direction that they may submit their representations, if any, within a period of thirty days from the date of the receipt of such notice to the Tribunal with copy of such representations shall simultaneously be served to the concerned Applicant Company, failing which, it shall be presumed that the authorities have no representations to make on the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
24. The First Applicant Company and the Second Applicant Company to serve notice upon the Official Liquidator. High Court, Bombay pursuant to Section 230(5) of the Companies Act, 2013. The Tribunal is appointing Chartered Accountant, M/s Akshay & Co. with consolidated remuneration of Rs.37,750 for the services. If no response is received by the Tribunal from Official Liquidator within thirty days of the date of receipt of the notice, it will be presumed that Official Liquidator has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
25. Applicant Companies to file affidavit of service in the Registry proving dispatch or notices upon shareholders and creditors publication of notices in newspapers and notices to regulatory authorities as stated in clauses 19 to 23 and above.

Sd/-

BHASKARA PANTULA MOHAN
MEMBER (JUDICIAL)

Sd/-

M. K. SHRAWAT
MEMBER (JUDICIAL)

Dated : 03.11.2017