

IN THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH, AT MUMBAI

COMPANY SCHEME APPLICATION NO. 975 OF 2017

In the matter of Companies Act, 2013;

and

In the matter of Sections 230-232 of the Companies Act, 2013, the rules framed thereunder and other relevant provisions;

and

In the matter of the Scheme of Amalgamation between AXIS FINANCE LIMITED, the Transferee Company, and AXIS PRIVATE EQUITY LIMITED, the Transferor Company, and their respective shareholders.

In the matter of:

1. **AXIS FINANCE LIMITED**, a company)
 incorporated under the provisions of the)
 Companies Act, 1956, bearing)
 CIN : U65921MH1995PLC212675, having)
 its registered office at Axis House, Ground)
 Floor, Wadia International Centre, Worli,)
 Mumbai – 400 025; also referred to in this)
 Application as the “**Transferee Company**”)

and

2. **AXIS PRIVATE EQUITY LIMITED**, a)
 company incorporated under the provisions)
 of the Companies Act, 1956, bearing)
 CIN : U66020MH2006PLC165039 having its)
 registered office at Axis House, Bombay)
 Dyeing Mills Compound, Pandurang Budhkar)
 Marg, Worli, Mumbai – 400 025; also referred)
 to in this Application as the “**Transferor**)
Company”)

...APPLICANTS

Order delivered on : 06.12.2017

Carom:

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

Hon'ble V. Nallasenapathy, Member (T)

For Applicants: Mr. Amir Arsiwala, Ms Niruti Pangotra, and Ms. Pooja Shah
i/b. Amir Arsiwala, Advocate for the Applicants

Per: V. Nallasenapathy, Member (T)

ORDER

1. The Counsel for the Applicant submits that the present Scheme is a Scheme for amalgamation of AXIS FINANCE LIMITED (the "Transferee Company"), and AXIS PRIVATE EQUITY LIMITED (the "Transferor Company") and their respective shareholders under sections 230 to 232 of the Companies Act, 2013. The scheme provides for amalgamation of the Transferor Company into the Transferee Company.
2. The counsel for the Applicants submits that the Transferee Company is a public limited company, which is a wholly owned subsidiary of Axis Bank Limited. The Transferee Company was incorporated on the 27th of April, 1995, and is a non-banking finance company ("NBFC") registered with Reserve Bank of India, by a certificate of registration bearing number N- 13.02001 carrying on the business of financing of loans. The Company is a non-deposit taking systemically important NBFC (NBFC-ND-SI).
3. It is submitted that the Transferor Company is a public limited company, which is also a wholly owned subsidiary of Axis Bank Limited. The Transferor Company was incorporated on the 3rd of October, 2006, and conducts the business of an asset management company. The Transferor Company is the investment manager of the Axis Infrastructure Fund 1, a private equity fund set up as a trust registered under the Indian Trust Act, 1882.
4. The Counsel for the Applicant submits that the proposed amalgamation is in the benefit of the companies for the reasons set out in paragraph No. 17 of the present Application. Principally, it is submitted that the Transferor Company has proposed to wind up the fund managed by it

and is not undertaking any further business activities. It is also submitted that the Transferor Company, however, requires to remain operational for the limited purpose of administrative formalities connected with the winding up of the fund managed by it and the resolution of certain litigations to which it is a party.

5. That as the Transferor Company and the Transferee Company are both wholly owned subsidiaries of AXIS Bank Limited, it is directed that a meeting of the Equity Shareholders of the Transferor Company be convened and held at AXIS House, Ground floor, Wadia International Centre, Worli, Mumbai – 400 025 on 19th January, 2018 at 11.00 a.m. for the purpose of considering and, if thought fit, approving with or without modification(s) the proposed amalgamation embodied in the scheme of amalgamation of AXIS Private Equity Limited into AXIS Finance Limited.
6. That at least one month before the said meeting of the Equity Shareholder of the Transferor Company to be held as aforesaid, a Notice convening the said meeting at the place, date and time as aforesaid, together with a copy of the Scheme, a copy of Statement disclosing all material facts as required under section 230(3) of the Companies Act, 2013 r/w Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rule, 2016 notified on 14th December, 2016 and the prescribed Form of Proxy, shall be sent by Hand Delivery / Courier / Registered Post / Speed Post or through Email (to those shareholders whose email addresses are duly registered with the Applicant Company for the purpose of receiving such notices by email), addressed to each of the Equity Shareholders of the Applicant Company, at their last known address or email addresses as per the records of the Applicant Company.
7. That upon the undertaking of the Applicants to send such Notice as aforesaid, and upon their representation that there is only one shareholder of the Transferor Company, it is directed that the Applicants need not advertise the Notice for the meeting of the Equity Shareholder of the Transferor Company.

8. That Shri Girish Koliyete, Company Secretary of AXIS Bank Limited, and failing him, Shri V. Srinivasan, Deputy Managing Director of AXIS Bank Limited, and failing him, Shri Rajesh Dahiya, Executor Director (Corporate Centre) of AXIS Bank Limited and failing him, Shri Cyril Anand, Chief Risk Officer of AXIS Bank Limited, shall be the Chairman of the aforesaid meeting of the Equity Shareholder of the Transferor Company to be held at AXIS House, Ground floor, Wadia International Centre, Worli, Mumbai – 400 025 on 19th January, 2018 at 11.00 a.m.
9. That the Chairman appointed for the aforesaid meeting of the Equity Shareholders to issue the advertisement and send out the notices of the meeting referred to above. The said Chairman shall have all powers as per Articles of Association and also under the Companies Act, 2013 in relation to the conduct of the meeting, 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).
10. That the quorum of the aforesaid meeting of the Equity Shareholders shall be as prescribed under section 103 of the Companies Act, 2013.
11. That in connection with the Applicant Company, the voting shall be allowed on the proposed Scheme by voting in person or by proxy. That voting by proxy or authorised representative in case of body corporate be permitted, provided that a proxy in the prescribed form / authorisation duly signed by the person entitled to attend and vote at the meeting, is filed with the Applicants at its Registered Office not later than 48 hours before the aforesaid.
12. That the value and number of the shares of each Equity Shareholder shall be in accordance with the books / register of the Applicants or depository records and where the entries in the books / register / depository records are disputed, the Chairman of the meeting shall determine the value for the purpose of the aforesaid meeting and his decision in that behalf would be final.
13. That the Counsel for the Applicants submits that since the Scheme is an arrangement between the Applicants and its Equity Shareholders and not between the Applicants and their Creditors, only a meeting of the

Equity Shareholders of the Transferor Company is proposed to be held in accordance with the provisions of Section 230(1)(b) of the Companies Act, 2013. This Bench hereby directs the Applicants to issue Notice to all its Secured and / or Unsecured Creditors and for debenture trustee as required under section 230(3) of the Companies Act, 2013 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 Applicants.

14. The Applicant Company to serve the notice of the meeting of the equity shareholders upon the Official Liquidator, High Court, Bombay, pursuant to Section 230 (5) of the Companies Act, 2013 read with the Companies (Compromises, Arrangements and Amalgamations) Rules 2016. If no response is received by this Tribunal from the Official Liquidator, High Court, Bombay within 30 days of the date of receipt of the said notice, it will be presumed that the Official Liquidator, High Court, Bombay has no objection to the proposed Scheme. M/s M.B Agarwal & Co. Chartered Accountant is appointed with remuneration of Rs. 50,000/- to assist the Official Liquidator to scrutinize the books of accounts of the Applicant Company. The remuneration of the said Chartered Accountant shall be paid by the Applicant Company within a period of two weeks from today.
15. That the Chairman to file an Affidavit not less than seven (7) days before the date fixed for the holding of the meetings of the Equity Shareholders and do report to this Tribunal that the direction regarding the issue of notices and the advertisement have been duly complied with.
16. That the Chairman of the meeting of Equity Shareholders to report to this Tribunal, the results of the aforesaid meetings within thirty days of the conclusion of the meeting.
17. That the Applicants are directed to serve notices alongwith copy of Scheme upon:- (i) concerned Income Tax Authority, within whose jurisdiction the Applicants assessments are made, (ii) to the Central Government through the office of Regional Director, Western Region, Mumbai and (iii) Registrar of Companies as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (iv)

Reserve Bank of India, (v) Official Liquidator 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 Applicants, failing which, it shall be presumed that the authorities have no representations to make on the proposed Modified Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

18. The Applicants to file Affidavit of service in the Registrar proving dispatch of notices to the shareholders, creditors, publication of notices in newspapers, to the regulatory authorities as stated in clause 16 above and do report to this Tribunal that the directions regarding the issue of notices have been duly complied with.

Sd/-

V. Nallasenapathy, Member (T)

Sd/-

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