

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

CORAM : Shri Vijai Pratap Singh
Hon'ble Member (J)
&
Shri Jinan K.R.
Hon'ble Member (J)

C.P. (CAA) No. 585/KB/2017 connected with CA (CAA) No. 260/KB/2017

In the matter of:

The Companies Act, 2013;

-And-

In the matter of:

An Application under Sections 232 (3) of the Companies Act, 2013
read with Rule 15 of the Companies (Compromises, Arrangements
and Amalgamations) Rules, 2016;

-And-

In the matter of:

1. ALERT CONSULTANTS & CREDIT PRIVATE LIMITED, a company
incorporated under the Companies Act, 1956 and having its registered
office at 22, R.N. Mukherjee Road, 3rd Floor, Kolkata-700001,
West Bengal within the aforesaid jurisdiction;

-And-

In the matter of:

2. STANDARD COMMUNICATION PRIVATE LIMITED, a company

incorporated under the Companies Act, 1956 and having its registered office at 22, R.N. Mukherjee Road, 3rd Floor, Kolkata-700001, West Bengal within the aforesaid jurisdiction;

-And-

In the matter of:

3. VISHVESHWAR COMMERCIAL PRIVATE LIMITED, a company incorporated under the Companies Act, 1956 and having its registered office at 22, R.N. Mukherjee Road, 3rd floor, Kolkata-700001, West Bengal within the aforesaid jurisdiction;

-And-

In the matter of:

4. CENTURY BARTER PRIVATE LIMITED, a company incorporated under the Companies Act, 1956 and having its registered office at 24A, Rabindra Sarani, GR Floor, Kolkata-700073, West Bengal within the aforesaid jurisdiction;

-And-

In the matter of:

5. KUNDAN VYAPAAR PRIVATE LIMITED, a company incorporated under the Companies Act, 1956 and having its registered office at 2, R.N. Mukherjee Road, 3rd Floor, Kolkata-700001, West Bengal within the aforesaid jurisdiction;

-And-

In the matter of:

6. MANOHAR DEALERS PRIVATE LIMITED, a company incorporated under the Companies Act, 1956 and having its registered office at 7B, Palm Avenue, Flat No. - 1B 1st Floor, Ballygunge, Kolkata-700019, West Bengal within the aforesaid jurisdiction;

-And-

In the matter of:

7. GAJRAJ NIKETAN LIMITED, a company incorporated under the Companies Act, 1956 and having its registered office at 22, R.N. Mukherjee Road, 3rd Floor, Kolkata-700001, West Bengal

within the aforesaid jurisdiction;

-And-

In the matter of:

8. TRIBHUWAN FINANCIAL ADVISORY PRIVATE LIMITED, a company incorporated under the Companies Act, 1956 and having its registered office at 22 R.N. Mukherjee Road, 3rd Floor, Kolkata-700001, West Bengal within the aforesaid jurisdiction;

-And-

In the matter of:

1. ALERT CONSULTANTS & CREDIT PRIVATE LIMITED
2. STANDARD COMMUNICATION PRIVATE LIMITED
3. VISHVESHWAR COMMERCIAL PRIVATE LIMITED
4. CENTURY BARTER PRIVATE LIMITED
5. KUNDAN VYAPAAR PRIVATE LIMITED
6. MANOHAR DEALERS PRIVATE LIMITED
7. GAJRAJ NIKETAN LIMITED
8. TRIBHUWAN FINANCIAL ADVISORY PRIVATE LIMITED

.... **Petitioners**

Counsels on Record:

1. Ms. Pritha Bose, PCS] For the Petitioners

Date of pronouncing the order: 22.11.2017

ORDER

Per Shri Jinan K.R., Member (J)

This is a petition filed jointly by the Petitioners namely, Standard Communication Private Limited, Vishveshwar Commercial Private Limited, Century Barter Private Limited, Kundan Vyapaar Private Limited, Manohar

Dealers Private Limited, Gajraj Niketan Limited and Tribhuwan Financial Advisory Private Limited (herein the "Transferor Companies") and Alert Consultants & Credit Private Limited (herein "Transferee Company") under Section 232 (3) of the Companies Act, 2013 read with Rule 15 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 in relation to the Scheme of amalgamation proposed between the Transferor Companies with the Transferee Company and their respective shareholders. A copy of the Scheme has been annexed as **Annexure 'A'** to the petition.

The object to this petition is to obtain sanction of this Hon'ble Tribunal to the Scheme of amalgamation (hereinafter referred to as the "said Scheme" or "scheme") proposed to be made between the Transferee Company, Alert Consultants & Credit Private Limited and the Transferor Companies, (i) Standard Communication Private Limited, (ii) Vishveshwar Commercial Private Limited, (iii) Century Barter Private Limited, (iv) Kundan Vyapaar Private Limited, (v) Manohar Dealers Private Limited, (vi) Gajraj Niketan Limited and (vii) Tribhuwan Financial Advisory Private Limited and their respective shareholders whereby and whereunder the entire undertaking of the Transferor Companies as a going concern together with all its assets and liabilities will stand transferred to and vested in the transferee Company with effect from 1st April, 2016 in a manner provided in the Scheme of amalgamation.

From the records, it is seen that the First Motion seeking directions for dispensing the meeting of the Equity shareholders and creditors were filed before the Tribunal in CA (CAA) No. 260 (KB) 2017 and CA (CAA) No. 261 (KB) of 2017 and based on such Application moved jointly under Sections 230-232 of the Companies Act, 2013, directions were issued by the Tribunal on 2nd of August, 2017, wherein the meetings of the Equity Shareholders and creditors were dispensed with, as the consent with affidavits from them had been obtained by the petitioner Companies for the approval of the scheme.

In compliance with the order dated 2nd of August, 2017, passed by the Hon'ble Tribunal in CA (CAA) No. 260 (KB) 2017 and CA (CAA) No. 261 (KB) of 2017, the petitioners served notices in Form CAA.3 and an explanatory statement disclosing necessary details along with the relevant documents in terms of the Companies Act, 2013 read with Rule 6(3) of Companies (Compromises, Arrangements & Amalgamations) Rules along with the copy of the Scheme of Amalgamation upon the Central Government through Regional Director, Eastern Region, Ministry of Corporate Affairs), Registrar of Companies, West Bengal, Income Tax Authority within whose jurisdiction the assessments of the Applicant Companies are made, the Official Liquidator by way of registered post and the Reserve Bank of India.

Further, pursuant to the order of the Tribunal dated 02.08.2017, a notice in Form No.CAA.2 was duly published once in the Bengali newspaper "Aajkal" and once in English Newspaper "Business Standard" on 18th August,

2017. Copies of the same have been annexed and marked as Annexure "D" to the Affidavit of Service.

In terms of the order of the Tribunal dated 2nd August, 2017, a Notice in prescribed form has been sent to the unsecured creditor of the Applicant no.8 for their representations. Copies of the Postal Receipts have been annexed and marked with the letter 'B' to the Affidavit of Compliance filed on 23rd August, 2017. As per directions of the Tribunal, certified copies of PAN Card of all the petitioner companies have been submitted before the Tribunal on 16th November, 2017.

Subsequent to the above compliance as per the Order of the Tribunal, this Second motion has been filed before this Hon'ble Tribunal and after having heard the Ld. Counsel for the Petitioners and perusing the documents submitted by the petitioners, the following orders are passed.

- a) The date of hearing of the Petition filed jointly by the Petitioner for the sanction of the Scheme is fixed on 10th of January, 2018.
- b) Notice of the hearing of this petition in form NCLT 3A shall be advertised once in English daily, "Business Standard" and in Bengali daily, "Aajkal" newspaper same as was made earlier in 1st motion not less than 10 days before the aforesaid date fixed for hearing.
- c) In addition to the above public notice, the petitioner companies shall serve notice of the petition on the following authorities namely
 - (a) Central Government through Regional Director, Eastern Region,

Ministry of Corporate Affairs, (b) Registrar of Companies, West Bengal (c) The Income Tax Department of the office having jurisdiction over the respective petitioner companies, (d) the Official Liquidator, (e) Reserve Bank of India and such other relevant sectoral regulators/authorities, if applicable, which are likely to be affected by the proposed scheme by sending the same by hand delivery through Special Messenger or by registered post or speed post within 7 days from the date of this order for filing their representations, if any on the petition. Notice along with the copy of the application and other related documents should be served upon the Chief Commissioner of Income Tax and the Assessing Officer of the Income Tax Department by Mail and Speed Post or by Messenger. Applicant Companies are also directed to mention their respective PAN Nos. everywhere.

d) The notice shall specify that representations, if any should be filed before this Tribunal within 30 days of date of receipt of the notice with a copy of such representations being sent simultaneously to the petitioners and/or their Authorized Representatives. If no such representation is received by the Tribunal within the said period, it shall be presumed that such authorities have no representations to make on the Scheme of Amalgamation.

e) All the petitioner companies shall at least 7 days before the date of hearing of the petition file an affidavit of service in relation to the

Paper Publication as well as service of notices on the Authorities specified above including the Sectoral Regulators.

f) The next date of hearing of the Petition is fixed on 10th January, 2018.

Certified copy of the order may be issued, if applied for, upon compliance of all requisite formalities.

Sd/

(V. P. Singh)
Member (J)

Sd/-

(Jinan K.R)
Member (J)

Signed on this, the 22nd day of November, 2017