

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH**

CA(CAA) NO.414/KB/2017

In the matter of:

The Companies Act, 2013;

And

In the matter of :

Section 230 to 233 of the Companies Act
2013

And

In the matter of :

The Companies (Compromise, Arrangement
and Amalgamation) Rules 2016 and other
relevant Rules;

And

In the matter of:

1. BALVIEW INFRATRADE LIMITED, a company
incorporated under the Companies Act, 1956
and having its registered office at Flat 3B, 90A,
Bakul Bagan Road, Kolkata – 700 025, in the
State of West Bengal, within the aforesaid
jurisdiction.

And

In the matter of :

2. HIMSHIKHAR VANIJYA PRIVATE LIMITED, a
company incorporated under the

Sd/-

Ja

Companies Act, 1956 and having its registered office at 65, Burtolla Street, Ground Floor, Kolkata – 700 007, in the State of West Bengal, within the aforesaid jurisdiction.

And

In the matter of :

3. BLUESHINE INFRATRADE LIMITED, a company incorporated under the Companies Act, 1956 and having its registered office at Flat 3B, 90A, Bakul Bagan Road, Kolkata – 700 025, in the State of West Bengal, within the aforesaid jurisdiction.

And

In the matter of :

4. SHRESTHA VANIJYA PRIVATE LIMITED, a company incorporated under the Companies Act, 1956 and having its registered office at Flat 3B, 90A, Bakul Bagan Road, Kolkata – 700 025, in the State of West Bengal, within the aforesaid jurisdiction.

With

In the matter of :

5. AASTHVINAYAK VINCOM PRIVATE LIMITED, a company incorporated under the

Sd/-

9d

Companies Act, 1956 and having its registered office at Flat 3B, 90A, Bakul Bagan Road, Kolkata – 700 025, in the State of West Bengal, within the aforesaid jurisdiction.

And

In the matter of :

1. BALVIEW INFRATRADE LIMITED
2. HIMSHIKHAR VANIJYA PRIVATE LIMITED
3. BLUESHINE INFRATRADE LIMITED
4. SHRESTHA VANIJYA PRIVATE LIMITED
5. AASTHVINAYAK VINCOM PRIVATE LIMITED

..... APPLICANTS

JUDGMENT DELIVERED ON : 13th October, 2017

CORAM : Mr. Vijai Pratap Singh, Member(Judicial)
Mr. KR Jinan, Member(Judicial)

For the petitioners : Patita Paban Bishwal

Per : Mr. Jinan K R

Sd/-

gld

ORDER

This is a joint application filed by the applicants for sanctioning of the Scheme of Amalgamation of Balview , Infratrade Limited, Transferor Company No.1, Himshikhar Vanijya Private Limited, Transferor Company No.2, Blueshine Infratrade Limited, Transferor Company No.3 and Shrestha Vanijya Private Limited, Transferor Company No. 4 (hereinafter referred to as the "Transferor Companies") with Aasthvinayak Vincom Private Limited, Transferee Company, under Sections 230 to 232 of the Companies Act, 2013 read with The Companies(Compromises, Arrangements and Amalgamations) Rules, 2016 and other relevant Rules, whereby and where under all the assets, properties, rights and claims whatsoever of the Transferor Companies and their entire undertakings together with all rights and obligations relating thereto are proposed to be transferred to and vested in the Transferee Company on the terms and conditions fully stated in the Scheme of Amalgamation.

A copy of the Scheme of Amalgamation has been annexed with the Application being annexure "A-11"(Pages 340 to 361 of the Application).

The Transferor Companies and the Transferee Company are the Companies under the same management with certain common directors and shareholders. Recognising the strength of each other and with the intent of aligning the business operations of the transferor Company and the Transferee Company, the said Companies now propose by way of a Scheme to merge/amalgamate the transferor company into and with the Transferee Company in accordance with the terms as per the Scheme of Amalgamation.

It is stated in the application that under a liberalized, fast changing and highly competitive environment, it is necessary for the Transferee Company to strengthen its business by pooling up the resources for common purpose. The Scheme would enable the applicant Companies to realise the substantial benefits of greater synergies of their businesses. The amalgamation will enable the activities to be carried on more conveniently and advantageously with a

Sd.

9d

larger asset base besides achievement of management efficiency, reduction in administration cost, optimization of resources, enhanced flexibility in funding of expansion plans, improving profitability and stronger balance sheet of the merged company.

The Board of Directors of all applicant companies have, at their respective Board meetings by a resolution passed unanimously approved the said Scheme of Amalgamation.

It is further stated in the application that there are no proceedings pending under Sections 235 to 251 of the Companies Act, 1956 and under Sections 210 to 226 of the Companies Act, 2013 against any of the applicant Companies.

It appears from the records that all the equity shareholders of all the applicant Companies have unanimously agreed in writing and have given their consent in the form of Affidavit to the proposed scheme of amalgamation and for dispensation of the meeting of the equity shareholders, which is annexed as "Annexure A-13" of the application.

As on 16-08-2017, the Applicant Companies, namely, Balview , Infratrade Limited, Transferor Company No.1, Himshikhar Vanijya Private Limited, Transferor Company No.2, Blueshine Infratrade Limited, Transferor Company No.3 and Shrestha Vanijya Private Limited, Transferor Company No. 4 and Aasthvinayak Vincom Private Limited, Transferee Company, have no Creditor and the credit amount is Nil as per "Annexure- A-14" of the application.

A Certificate regarding Nil list of creditors of all the Applicant Companies, from a practicing Chartered Accountant, is also annexed with the application as "Annexure- A-15"

An affidavit verifying the list of creditors of all the Applicant Companies, as per the provisions of the Companies Act, 2013 as on 16-08-2017 has also been annexed with the application as "Annexure – A-16".

sd/-

sd

In view of the facts mentioned above, convening and holding of the meetings of the Shareholders/Members and the Creditors of the applicant Companies to consider and approve the proposed Scheme of Amalgamation is dispensed with.

Accordingly, the following orders are passed :

- a) Let the notice be served by the applicant companies, as per the requirements of sub-section (5) of Section 230 of the Companies Act, 2013, along with the copy of the petition and all other documents including the copy of the Scheme of Amalgamation and the statement disclosing necessary details on the Central Government, through the Regional Director, Eastern Region, Ministry of Corporate Affairs, Kolkata, Registrar of Companies, West Bengal and the Income-Tax Department as also on the Official Liquidator having jurisdiction over the transferor and the transferee companies 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 by Speed Post within seven days from the date of this order for filing their representation, if any, on the application within 30 days from the date of the notice ;
- b) The applicants shall file affidavit within 7 days of serving the notice regarding service of notice ;
- c) The applicants are further directed to send notice through e-mail also and file copies of the mails along with an affidavit. The notice shall specify that representation, if any, should be filed before this Tribunal within 30 days of the date of receipt of the notice with a copy of such representation being sent simultaneously to the petitioners and/or their Advocates, in advance ;


sd/-

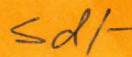
JA

- d) If no such representation is received by the Tribunal within the said period, it shall be presumed that such authorities have no representation to make on the Scheme of Amalgamation ;
- e) Let advertisement of the hearing of the application be published one in The Business Standard and one in local Vernacular Daily 10 days before the date fixed hearing pursuant to Form No. NCLT 3A of the National Company Law Tribunal Rules, 2016 ;
- f) Objections, if any, to the scheme contemplated by the authorities to whom notice has been given on or before the date of hearing fixed herein may be filed, failing which it will be considered by this Tribunal that there is no objection to the approval of the Scheme of Amalgamation on the part of the authorities, subject to other conditions being applicable under the Companies Act, 2013 and relevant rules made thereunder ;
- g) The applicant companies shall comply with the proviso to sub-section (3) of Section 232 or proviso to sub-section (7) of Section 230, as may be applicable under the circumstances on or before the date fixed for hearing by filing the certificate of Companies' Auditor.

The Company Application bearing No. CA(CAA) No. 414/KB/2017 is, accordingly, disposed of.

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


(Vijai Pratap Singh)
Member (Judicial)


(KR Jinan)
Member(Judicial)