

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

C.A. (CAA)No.07/BB/2017

DATED: WEDNESDAY THE 31st DAY OF MAY 2017

***PRESENT: SHRI RATAKONDA MURALI, MEMBER JUDICIAL
SHRI ASHOK KUMAR MISHRA, MEMBER TECHNICAL***

IN THE MATTER OF COMPANIES ACT, 2013(18 OF 2013);

AND

IN THE MATTER OF SECTION 230-232 OF THE COMPANIES ACT, 2013

AND

OTHER RELEVANT PROVISIONS OF THE COMPANIES ACT, 2013

**ALONG WITH RULES OF THE COMPANIES (COMPROMISES,
ARRANGEMENTS AND AMALGAMATIONS) RULES 2016**

AND IN THE MATTER OF

DKR HEALTHCARE PRIVATE LIMITED

C.A.(CAA)No.07/BB/2017

**1. DKR Healthcare Private Limited,
#82, CMH Road, 2nd Stage, Indiranagar,
Bangalore- 560-038**

- APPLICANT/TRANSFEROR COMPANY

PARTIES PRESENT:

Mr. SAJI P.JOHN, SPJ LEGAL
UNIT NO.1002,10TH FLOOR,
#30, PRESTIGE MERIDIAN II
M G ROAD, BENGALURU 560001

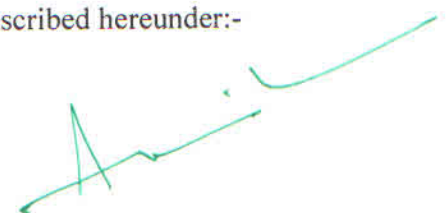
Heard on: 23.03.2017 & 11.04.2017

O R D E R

This Company Application is filed on behalf of the Applicant Company, praying to order to dispense with the convening of the meeting of the Equity Shareholders and Unsecured Creditors of the Applicant/Transferor Company for approving the Scheme of Amalgamation, where under the Transferor Company **DKR HEALTHCARE PRIVATE LIMITED** is proposed to be merged with Transferee Company **BACC HEALTHCARE PRIVATE LIMITED** for purposes of considering the composite scheme of amalgamation etc.

This Application is coming up for orders this day, the Tribunal made the following orders:-

The averments made in the Company Application are briefly described hereunder:-

The Applicant seeks an order to dispense with convening of meeting of Equity Shareholders and Unsecured Creditors of the Applicant Company for approving the scheme of amalgamation of DKR HEALTHCARE PRIVATE LIMITED which is proposed to be merged with Transferee Company BACC HEALTHCARE PRIVATE LIMITED in terms of Scheme of Amalgamation shown as **Annexure G**.

It is further averred in the Company Application that the Applicant Company was incorporated as a private company under the name and style of PARENTHOOD HEALTHCARE PRIVATE LIMITED on 14th May, 2012. Subsequently Company changed its name to **DKR HEALTHCARE PRIVATE LIMITED** on 16th September, 2014 and obtained fresh Certificate of Incorporation from the Registrar of Companies, Karnataka bearing CIN No. U85100KA2012PTC063975.

The registered office of the Applicant Company is situated at DKR Healthcare Private Limited, #82, CMH Road, 2nd Stage, Indiranagar, Bangalore - 560038.

The Applicant Company's objects as set out in its Memorandum of Association inter alia are set out hereunder:

- a) To carry on the business of offering services in progressive, high tech clinics offering successful programmes in Infertility and assisted Reproductive Technology and be a comprehensive solution provider for male and female fertility problem.
- b) To carry on the business of acting as consultants and advisers relating to technical, operational and to focus on the development and practice of newer methods in IVF and pre-pregnancy planning infertility Pre-implantation Genetic Diagnosis.

A copy Certificate of Incorporation and Memorandum and Articles of Association of the Transferor Company is shown as **Annexure A**. and the Audited Balance Sheet for the year ending 31.03.2016 of the Applicant Company is shown as **Annexure B**.

The Latest Audited Balance Sheet of the Transferor Company as on 31st March, 2016 is as follows:



Liabilities	Amount	Asset	Amount
Share Capital	20,00,000	Non- Current Assets	2,20,28,874
Reserve and Surplus	1,53,08,297	Current Assets	2,60,12,706
Non-Current Liabilities	16,26,690		
Current Liabilities	2,91,06,593		
Total	4,80,41,580	Total	4,80,41,580

The Board of Directors of the Applicant Company has approved and adopted a draft Scheme of Amalgamation at its meeting held on 15th December, 2016 by virtue of which the **DKR Healthcare Private Limited** which is Transferor Company is proposed to be merged with the Transferee Company **BACC Healthcare Private Limited**. A copy of the Board Resolution of the Applicant Company is shown as **Annexure E**.

It is further averred that, the Applicant Company is a wholly owned subsidiary of the Transferee Company. Therefore, the Transferee Company is not required to file any separate Application/proceedings for sanction of the scheme.

We have heard the counsel appearing for the Applicant Company, who has filed the application to dispense with for convening of meeting of the Shareholders and Meeting of Unsecured Creditors for considering the scheme of Amalgamation.

The Applicant Company is seeking an order to dispense with convening separate meeting(s) of Equity shareholders and Creditors on the following grounds:

That the Applicant Company has only Two Shareholders and they have given their consent to the scheme of Amalgamation. The Applicant Company has no Secured Creditor and only one Unsecured Creditor as certified by the Chartered Accountant who has given his consent to the scheme.

The Certificate of Chartered Accountant dated 15th December, 2016 certifying the two Equity Shareholders of the Applicant Company shown as **Annexure H**.

We have seen the consent affidavits of the two Equity Shareholders is shown at **Page Nos.1-6 in Memo Dated 10th February, 2017** i.e. (i) BACC Healthcare Private Limited holding 1,99,999 Equity shares, constituting 99.99% of the paid up capital and (ii) AS Arvind Rao holding 1 Equity share, constituting 0.01% of the paid up capital of the Applicant Company.

We have seen the Certificate issued by the Chartered Accountant of the Applicant Company stating that there are no Secured Creditors as certified by him and is shown as **Annexure-J**.

We have also seen the Chartered Accountant's Certificate which is shown as **Annexure-K** stating that, there is only one Unsecured Creditor of the Applicant Company. It is further stated that, the value of amounts in respect of the Unsecured Creditor of the Applicant Company is Rs.84,80,000/-. The Applicant Company is indebted to i) BACC Healthcare Private Limited to a tune of Rs. 84,80,000/-.

We have seen the consent Affidavit of the one Unsecured Creditor as certified by the Chartered Accountant. The consent of Unsecured Creditor is shown in **Page Nos.7-9 in Memo dated 10th February, 2017**.

The Applicant Company is proposed to be merged with the Transferee Company, as per the scheme of Amalgamation shown as **Annexure G** and Board of Directors of the Applicant Company have also passed a Resolution approving the scheme of amalgamation.

Hence the application is allowed and holding of meeting of the Equity Shareholders and Unsecured Creditor is dispensed with accordingly. In any eventuality when the Applicant Company approaches this Tribunal for seeking approval of the scheme it would be open for any person who are interested in the scheme of Amalgamation to put forth their contentions before the Tribunal.


(RATAKONDA MURALI)
MEMBER, JUDICIAL


(ASHOK KUMAR MISHRA)
MEMBER, TECHNICAL

DATED THIS THE 31st DAY OF MAY, 2017