

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

C.A. (CAA)No.78/BB/2017
u/s 230-232 OF THE COMPANIES ACT, 2013

**IN THE MATTER OF SCHEME OF AMALGAMTION OF
SHRIRAM CHITS PRIVATE LIMITED**

AND

SHRIRAM CHITS (MAHARASHTRA) LIMITED

AND

SHRIRAM CHITS TAMIL NADU PRIVATE LIMITED

WITH

SHRIRAM CHITS (KARNATAKA) PRIVATE LIMITED

AND

THEIR RESPECTIVE SHAREHOLDERS AND CREDITORS

Order Delivered on: 15th January 2018

Coram: Hon'ble Shri Ratakonda Murali, Member (Judicial)
Hon'ble Shri Ashok Kumar Mishra, Member (Technical)

Shriram Chits (Karnataka) Private Limited

Akshodaya, 259/31, 1st Floor,

10th Cross, Wilson Garden,

Bangalore 560 027 -

APPLICANT/TRANSFEEE COMPANY

For the Petitioner: Mr. Udayarakar Rangarajan, K.A. Alakiri, Praveen Kumar,
Ms. Pavitra Venkateswaran, Khaitan & Co LLP –
Advocates, Simal II Floor, 7/1, Ulsoor Road, Bangalore-42

Per: **Hon'ble Shri Ashok Kumar Mishra, Member (Technical) - Author**

Heard on : 16/11/2017, 29/11/2017, 11/12/2017, 18/12/2017 & 05/01/2018

O R D E R

This Company Application is filed on behalf of the Applicant Company under Sec. 230 to 232 of the Companies Act, 2013 read with Companies (Compromises, Arrangement and Amalgamation) Rules 2016, praying to order to dispense with the convening of the meeting of the Equity Shareholders of the Applicant / Transferee Company for purposes of considering the Scheme of Amalgamation etc.

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

The Applicant Company seeks an order to dispense with convening of meeting of Equity Shareholders, Secured Creditors, Unsecured Creditors and Unsecured Trade Creditors of the Applicant / Transferee Company for approving the Scheme of Amalgamation of **Shriram Chits Private Limited-(Transferor Company -1)**, **Shriram Chits (Maharashtra) Limited-(Transferor Company -2)** & **Shriram Chits Tamil Nadu Private Limited-(Transferor Company -3)**, which are proposed to be merged with Applicant /Transferee Company **Shriram Chits (Karnataka) Private Limited** in terms of Scheme of Amalgamation shown as **Annexure-4**.

It is further averred in the Company Application that the Applicant / Transferee Company was originally incorporated as a private company under the name and style of **Shriram Chits (Bangalore) Private Limited** on 9th January 1990. Subsequently, the company has changed its name to **Shriram Chits (Karnataka) Private Limited** on 24th February 2003 bearing CIN No. **U65992KA1990PTC010662**.

The Registered office of the Applicant / Transferee Company is situated at # Akshodaya, 259/31, 1st Floor, 10th Cross, Wilson Garden, Bangalore-560027.

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

- a) To conduct in accordance with the Law for the time being in force, chit Funds or Kuries and a similar kinds of schemes which encourage the habit of savings by affording all facilities for the purpose and more especially by Opening Chit savings, thrift savings, and other deposit schemes in relation to trade or public, commercial and regular needs whether in the form of time, demand or call deposits and to allow interests in all such deposits at such rates as may be decided upon by the company from time to time subject to the Rules and Regulations under the Banking Regulations Act, 1949,etc.,

The copies of Certificate of Incorporation and Memorandum and Articles of Association of the Applicant/Transferee Company are produced as **Annexure-A1 collectively**.

The authorized share capital of the Applicant/Transferee Company is Rs 5,00,00,000/- divided into 5,00,000 Equity Shares of Rs 100/- each. The issued, subscribed and paid up share capital is Rs. 4,00,00,000/- divided into 4,00,000 Equity Shares of Rs 100/- each fully paid up.

The Copy of Audited Balance sheet of the Applicant / Transferee Company as on 31st March, 2017 is produced as **Annexure-A2**.

The Board of Directors of the Applicant / Transferee Company have approved and adopted the Scheme of Amalgamation at its meeting held on 16th August 2017 by virtue of which the **Shriram Chits Private Limited-(Transferor Company -1)**, **Shriram Chits (Maharashtra) Limited-(Transferor Company - 2)** & **Shriram Chits Tamil Nadu Private Limited-(Transferor Company -3)** which are proposed to be merged with the Applicant/Transferee Company **Shriram Chits (Karnataka) Private Limited**.

A copy of the Board Resolutions of the Applicant / Transferee Company is shown as **Annexure-3**.

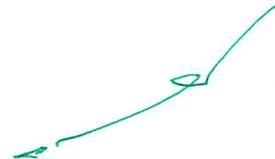
We have heard the Counsel for the Applicant / Transferor Company, who has filed the application to dispense with for convening of meetings of the Equity Shareholders of the Applicant / Transferee Company for considering the Scheme of Amalgamation. The Counsel for the Applicant / Transferee Company further contended that, the Board of Directors of the Transferee Company is of the opinion that the merger will lead synergies of operations and more particularly the following benefits:

- a) Both the Transferor Companies and Transferee Company have common objects, and carry on the same line of business namely conduct of the business of Chit Funds, Kuries and similar kinds of chits.
- b) Both the Transferor Companies and Transferee Company were group companies and have common shareholders. The amalgamation would enable consolidation and lead to a more efficient utilization of capital and create a consolidated base for the future growth of the amalgamated entity, and the merger of these entities would only strengthen and reinforce the management of these Companies.
- c) As a consequence of this amalgamation, the consolidation of the activities of the Transferor Companies and the Transferee Company with pooling and more efficient utilization of their resources, greater economies of scale, reduction in overheads and other expenses and improvement in various operating parameters, in addition to enabling the carrying on of the business in a more efficient, streamlined and organized fashion.

- d) As a consequence of this amalgamation, the subscribers to the chits floated by the Transferor Companies and the Transferee Company would have the benefit of dealing with much larger and stronger entity, with a significantly increased capital and asset base.
- e) As a consequence of this amalgamation will result in administrative and operational rationalization, organisational efficiencies, reduction in overheads and other expenses and optimal utilization of various resources. It will prevent cost duplication that can improve financial efficiencies and the resultant operations would be substantially cost-efficient.
- f) The Shriram Group has its headquarters in Chennai. Therefore, in addition to utilizing talents and maximizing effective use of group resources, the shifting of the Registered Office of the Transferee Company, to the State of Tamilnadu, will also enable the amalgamated entity to operate the combined business out of one centre, which is also the Headquarters of the entire group, while expanding its presence across the country. Such shifting will ensure administrative ease and convenience, greater control and reduced costs.
- g) In order to change in the name of the Transferee Company from Shriram Chits (Karnataka) Private Ltd., to Shriram Chits (India) Private Ltd., would be appropriate considering the shifting of the Registered Office of the Transferee from the State of Karnataka, as also the fact that the merged entity will carry on the combined operations of the Transferor Companies as also its own operations post-merger, across the country.

The Counsel for the Applicant / Transferee Company has filed Memo dated 16th November 2017 and seeking an order to dispense with convening of the meeting of Equity Shareholders of the Applicant / Transferee Company on the following ground:

- a) The Applicant / Transferee Company have no Secured Creditors as on 8th August 2017. A certificate issued by the Chartered Accountant certifying that there are no Secured Creditors of the Applicant / Transferee Company as on 8th August 2017 is shown as **Annexure-7**.
- b) The Applicant / Transferee Company have no unsecured liabilities of the company other than only bonus payable to employees amounting to Rs 12,80,436/- as certified by the Chartered Accountant is shown as **Annexure-8** and the said liability of Rs 12,80,436/- payable towards bonus has been cleared as on date as certified by the Chartered Accountant is shown as **Annexure-12**.
- c) The Applicant / Transferee Company have given the list of shareholders as certified by the Chartered Accountant is shown as **Annexure-11**.
- d) It is further submitted that, the Scheme will not adversely affect the interest of any of the Applicant/Transferee Company's Creditors as the combined entity upon the Scheme becoming effect, will have sufficient assets to discharge these debts as and when they become payable.

The learned Counsel further contended that, no investigation proceedings initiated or pending against it under the provisions of the companies Act, 1956 or the Companies Act, 2013 against the Applicant / Transferee Company.

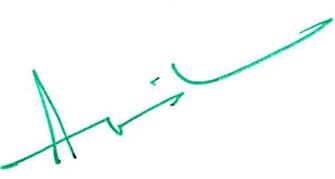
The learned Counsel further contended that, the Equity Shares of the Applicant / Transferee Company are not listed on any Stock Exchange and none of the Directors of the Applicant / Transferee Company are interested in the Scheme save and except to the extent of their shareholding in the Applicant / Transferee Company.

It is further averred that, the Applicant / Transferee Company does not have any debenture holders. Therefore, the question of the Scheme affecting the interests of the debenture holders and its effect on the material interests of the trustees of the debenture trust deed does not arise.

Further, the Counsel for the Applicant / Transferee Company has relied on the following decisions for not treating "Chit Subscription" as creditors.

- 1) 1993 Supp (4) Supreme Court Cases 226 – Shriram Chits and Investment (P) Ltd., Vs Union of India and others.
- 2) C.A No. 774/2010 – Hon'ble High Court of Karnataka - JNR Surabhi Chits Limited.
- 3) Civil Revision Petition No.273 of 1979 – Hon'ble High Court of Andhra Pradesh – Margdarsi Chit Fund Private Ltd., Vs. Jogi Krishna Murthy.
- 4) C.P No. 60 of 1975 – Hon'ble High Court of Gujarat – Registrar of Companies, Gujarat Vs. Kavita Benefit Pvt. Ltd.,

The Bench sought specific clarification from the counsel for the petitioner whether the chit money received as subscriptions are creditors or not? The learned Senior Counsel clarified that the chit members are not creditors as the company holds the money in trust for them. The Chit Agreement being a contract between the company and subscribers to the chit and the company earns commission on services rendered as a foreman, hence the relationship of creditor-debtor does not exist between the company and the chit subscribers. He further clarifies that subscribers to each chit have subscribed owing to the trust placed in person who own, control and run the company and the foreman acts only as a trustee. Hence the debtor-creditor relationship is not there and has emphatically mentioned that even in the case of Margadarshi Chit Fund Private Ltd. Vs Jogi



Krishna Murthy, the Hon'ble High Court of Andhra Pradesh in CRP No. 273 of 1979 disposed of on 19.09.1980 has held that, relationship between chit fund company and subscriber is not of creditor and debtor as stake holder merely organizes transaction. The Learned Counsel also confirmed that Sections 5 and 6 of the Competition Act, 2002 are not applicable to the Applicant/Transferee Company as also none of the Directors are interested in the scheme save and except to the extent of their shareholding in the Applicant/Transferee Company. They also confirmed that the Applicant /Transferee Company does not have any debenture holders.

We have seen the Consent Affidavits of the Equity Shareholders dated 27th November 2017. We have also seen the List of Equity Shareholders shown as **Annexure-9**.

The Transferor Companies are proposed to be merged with the Transferee Company, as per the Scheme of Amalgamation shown as **Annexure-4** and the Board of Directors of the Applicant / Transferee Company have also passed the Resolution approving the Scheme of Amalgamation and consent with Affidavit of all shareholders has also been provided for the Scheme of Amalgamation.

Hence the application is allowed and holding of meeting of the Equity Shareholders, Secured Creditors and Unsecured Creditors of the Applicant / Transferee Company **Shriram Chits (Karnataka) Private Limited** is dispensed with accordingly.

In any eventuality when any Applicant / Transferee Company approaches this Tribunal for seeking approval of the scheme it would be open for any person who is interested in the scheme of Amalgamation to put forth his contentions before the Tribunal.


(ASHOK KUMAR MISHRA)
MEMBER, TECHNICAL


(RATAKONDA MURALI)
MEMBER, JUDICIAL