

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH
COMPANY SCHEME PETITION NO. 55 OF 2017
(HIGH COURT TRANSFERRED PETITION)
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO. 1002 OF 2016**

In the matter of the Companies Act, 2013;

AND

In the matter of Sections 230 to 232 of the
Companies Act, 2013 read with Section 66 of
the Companies Act, 2013 and Section 52 of the
Companies Act, 2013 and other relevant
provisions of the Companies Act, 2013

AND

In the matter of Sections 391 to 394 of the
Companies Act, 1956 read with Sections 100
to 103 of the Companies Act, 1956 and Section
52 of the Companies Act, 2013 other relevant
provisions of the Companies Act
1956/Companies Act, 2013;

AND

In the matter of Scheme of Arrangement
between GEOSANSAR ADVISORS
PRIVATE LIMITED ('the Demerged
Company') and ATYATI TECHNOLOGIES
PRIVATE LIMITED ('the Resulting
Company')

CALLED FOR HEARING

Mr. Rajesh Shah with Mr. Ahmed M Chunawala i/b M/s. Rajesh Shah &
Co., Advocate for the Petitioner.

Mr. Pola Raghunath, Deputy Registrar of Companies

Mr. Ramesh Golap, Assistant Director in the office of Regional Director.

Coram: SH. M.K Shrawat Hon'ble Member (J) and SH. V. Nallasenapathy
Hon'ble Member (T)

Date: 13th April, 2017

MINUTES OF THE ORDER

1. Heard learned counsel for parties. No objector has come before this Tribunal to oppose the Scheme and nor has any party controverted any averments made in the Petition to the Scheme of Arrangement between Geosansar Advisors Private Limited and Atyati Technologies Private Limited and their respective shareholders and creditors.
2. The sanction of the Tribunal is sought under Sections 230 and 232 of the Companies Act, 2013, to the Scheme of Arrangement between Geosansar Advisors Private Limited ("Transferor Company" / "Demerged Company" / "GAPL") and Atyati Technologies Private Limited ("Transferee Company" / "Resulting Company" / "ATPL") and their respective shareholders and creditors.
3. Learned Counsel for the Petitioner Company states that the Transferor Company / Demerged Company is primarily engaged in the business of Banking Correspondent Services and Financial Inclusion Training Services. Whereas, the Transferee Company / Resulting Company is engaged in the business of providing Banking Correspondent Services primarily in rural areas through its mobility based multi-application platform called GANASEVA.
4. The rationale for the scheme is that GAPL has presence in urban areas whereas ATPL has presence in rural areas. Further, ATPL has technological capability and it is also engaged in Banking Correspondents Services to provide composite services to various banks. Accordingly, housing the Banking Correspondent Services of GAPL into ATPL would facilitate to achieve business synergies and provide comprehensive rural and urban Banking Correspondent Services to various banks since ATPL has successful technological structures, appropriate geographical positioning and its man power resource.
5. The Demerged Company and the Resulting Company have approved the said Scheme of Arrangement by passing the Board Resolution which are annexed to the Company Scheme Petition filed by the Petitioner Company.
6. Counsel appearing on behalf of the Petitioner Company further states that the Petitioner Company have complied with all requirements as per directions of the Hon'ble National Company Law Tribunal Mumbai bench and has filed

necessary affidavits of compliance with the National Company Law Tribunal Mumbai bench. Moreover, the Petitioner Company through its Counsel undertakes to comply with all statutory requirements if any, as required under the Companies Act, 1956 / 2013 and the Rules made there under whichever is applicable. The said undertaking given by the Petitioner Company is accepted.

7. The Regional Director has filed a Report dated 27th day of March, 2017 stating therein, that Save and except as stated in para IV (1) to (5) it appears that the Scheme is not prejudicial to the interest of shareholders and public the Tribunal may take this report on record and pass such other order or orders as deemed fit and proper in the facts and circumstances of the case post considering the observations made at Sr. No. IV (1) to (5) mentioned in his report. In paragraphs IV (a) to (d), of the said Report it is stated that:-

“..

- 1) *The tax implication if any arising out of the scheme is subject to final decision of Income Tax Authorities. The approval of the scheme by this Hon'ble Court may not deter the Income Tax Authority to scrutinize the tax return filed by the transferee Company after giving effect to the scheme. The decision of the Income Tax Authority is binding on the petitioner Company.*
- 2) *It may be submitted that the Demerged Company has submitted the proof of serving notice upon the Income Tax Authorities for comments. This Directorate also issued reminder letter to Income Tax Authorities vide letter dated 27.03.2017.*
- 3) *According to the Shareholders List provided by the Demerged Company, there is foreign/non-resident shareholder (M/s Geosansar Mauritius Limited holding 2,26,91,426 shares) in the Demerged Company. No notice has been served to RBI. In this regard, the Petitioner has to furnish the proof of compliances with provisions of RBI Act for receiving money from the Shareholder Company and for allotting shares.*
- 4) *The difference, being the excess of book value of assets over the book value of liabilities of the Banking Correspondent Services Undertaking of the Demerged Company, transferred to the Resulting Company shall be adjusted against the Securities Premium Account of the Demerged Company. In this regard the Petitioner company has to confirm whether prescribed accounting standard have complied with.*
- 5) *ROC in the Report has inter alia mentioned that as per MCA master data the Authorized and paid up share capital of the Demerged Company is Rs. 25,00,00,000/- and Rs. 22,70,14,260/- respectively, however the paid up capital of the company is not tally with Scheme/Petition.”*

8. As far as the observations made in paragraph IV (1) of the RD Report is concerned, Petitioner Company through its Counsel undertakes Petitioner Company undertakes to comply with all applicable provisions of the Income-tax Act and all tax issues arising out of the Scheme of Arrangement will be met and answered in accordance with law.
9. As far as the observations made in paragraph IV (2) of the RD Report is concerned, Petitioner Company through its Counsel submits the Petitioner Company has noted the same.
10. With reference to the observation set out in paragraphs IV (3) of the RD Report, Petitioner Company through its Counsel submits that:
 - a) the Petitioner Company is neither a NBFC nor any entity registered with the RBI. Further, the scheme of arrangement does not require any RBI approval. However, with respect to the consideration in the form of allotment of shares by the Demerged Company pursuant to clause 14 of the scheme of arrangement, the Petitioner Company undertakes that it will comply with the necessary applicable provisions under FEMA including filing necessary forms with the RBI as may be applicable under the automatic route.
 - b) As regards existing compliances in respect of the shares allotted to Geosansar Mauritius Limited, the relevant applicable provisions of the Foreign Exchange Management Act has been complied with by the Petitioner Company under the automatic route including filing of necessary forms with the RBI.
11. With reference to the observation set out in paragraph IV (4) of the RD Report, the Petitioner Company through its Counsel submits that as regards the accounting treatment specified in the scheme in respect of the Petitioner Company/ Demerged Company, the Petitioner Company has complied with the relevant accounting standards as applicable as confirmed by the certificate from on accounting treatment obtained from the Statutory Auditors of the Petitioner Company.
12. With reference to the observation set out in paragraph IV (5) of the RD Report, the Petitioner Company through its Counsel submits the Authorized and paid up share capital of the Demerged Company is Rs.25,00,00,000/- and

Rs.22,70,14,260/- respectively, as reflected in the MCA master data tallies with clause 3.1 of the Scheme and as stated in the Petition.

13. The observations made by the Regional Director have been explained by the Petitioner in paragraphs 8 to 12 above. The clarifications and undertakings given by the Petitioner Company are hereby accepted.
14. From the material on record, the Scheme appears to be fair and reasonable and is not violative of any provisions of law and is not contrary to public policy.
15. Since all the requisite statutory compliances have been fulfilled, Company Scheme Petition No.55 (High Court Transferred Petition) filed by the Petitioner Company are made absolute in terms of prayer clause (a) of the respective Petition.
16. The Registered Office of the Transferee Company/Resulting Company is situated in the State of Karnataka and Transferee Company/Resulting Company had already filed similar petition before the National Company Law Tribunal of Bengaluru Bench for approving the said scheme and the same is pending. The Learned Counsel for the Petitioner Company further submits that this Scheme of Arrangement be approved subject to sanctioning of the said Scheme by National Company Law Tribunal of Bengaluru Bench.
17. Petitioner Company is directed to file a copy of this order along with a copy of the Scheme of Arrangement with the concerned Registrar of Companies, electronically, along with E-Form INC-28, in addition to the physical copy within 30 days from the date of issuance of the order by the Registry.
18. The Resulting Company to lodge certified copy of this order and the Scheme duly certified by the Deputy Director, National Company Law Tribunal, Mumbai Bench, with the concerned Superintendent of Stamps for the purpose of adjudication of stamp duty payable, if any, on the same within 60 days from the date of receipt of the order.
19. The Petitioner Company to pay cost of Rs.25,000/- to the Regional Director, Western Region, Mumbai. Costs to be paid within four weeks from the date of receipt of order.

20. All authorities concerned to act on a certified copy of this order along with Scheme duly certified by the Deputy Director, National Company Law Tribunal, Mumbai Bench.

Sd/-
V. Nallasenapathy, Member (T)

Sd/- 13/01/17
M. K Shrawat, Member (J)