

**BEFORE THE NATIONAL COMPANY LAW TRI BUNAL,
MUMBAI BENCH**

CSP NO. 486 OF 2017

CSP NO. 485 OF 2017

IN THE MATTER OF:
The Companies Act, 2013 (18 of 2013)
AND
IN THE MATTER OF:

Sections 230 to 232 of the Companies Act, 2013 and
other relevant provisions of the Companies Act,
2013 along with the Companies Act, 1956;

AND

IN THE MATTER OF: Scheme of Arrangement
between:
IIFL Holdings Limited ('IHL' or 'the Demerged
Company') and 5Paisa Capital Limited ('5PCL' or 'the
Resulting Company') and their respective Shareholders

IIFL HOLDINGS LIMITEDPetitioner/Demerged Company
5PAISA CAPITAL LIMITEDPetitioner/Resulting Company

Order delivered on 6th September, 2017

Coram:

Hon'ble SH. B.S.V. Prakash Kumar, Member (J) and Hon'ble SH. V. Nallasenapathy,
Member (T)

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

Per : SH. B.S.V. Prakash Kumar, Member (J)

MINUTES OF THE ORDER

1. Heard learned counsel for parties. No objector has come before this Hon'ble Tribunal to oppose the Scheme nor has any party controverted any averments made in the Petition.

2. The sanction of the tribunal is sought under Sections 230 to 232 of the Companies Act, 2013 to a Scheme of Arrangement between IIFL Holdings Limited, ('the Demerged Company') and 5Paisa Capital Limited ('the Resulting Company') and their respective shareholders.

3. Learned counsel for the Petitioner Companies states that it is engaged in Merchant Banking, Investment Advisory including holding investments in subsidiaries while the Resulting Company is engaged in the business of providing an online technology platform for trading of securities and providing a wider basket of financial services including mutual fund distribution, bonds and debentures and the learned counsel for the Petitioners further states that the demerger of '5Paisa Digital Undertaking' from IHL into SPCL would help to enhance operational, managerial, financial and technological efficiencies, Efficient utilization of capital and creation of stronger platform for the separate businesses; facilitating a focused strategy, direction and business planning to optimize operational, managerial, financial, technological and marketing capabilities of similar business; and access to varied sources of funds for rapid growth of both the business

4. The Petitioner Companies have approved the said Scheme of Arrangement by passing the Board Resolutions which are annexed to the respective Company Scheme Petitions.

5. The Learned Advocate appearing on behalf of the Petitioner Companies states that the Petitions have been filed in consonance with the order passed in Company Scheme Application Nos. 258 and No. 259 of 2017 of the National Company Law Tribunal dated 23rd March, 2017 which is annexed as Exhibit E to the respective Company Scheme Petitions.

6. The Learned Advocate appearing on behalf of the Petitioners states that the Petitioner Companies have complied with all requirements as per directions of the Hon'ble Tribunal and they have filed necessary Affidavits of compliance with Hon'ble Tribunal. Moreover, Petitioner Companies undertake to comply with all statutory requirements, if any, as required under the Companies Act, 2013 and the Rules made there under. The said undertaking is accepted.

7. The Regional Director, Western Region, Mumbai has filed his Report on 28th August, 2017 stating therein that save and except as stated in paragraph IV of the said Report, it appears that the Scheme is not prejudicial to the interest of shareholders and public.

Paragraph IV, of the said Report reads as follows:

1. The tax implication if arising out of the scheme is subject to the final decision of Income Tax Authorities. The approval of the scheme by this Hon'ble Tribunal may not deter the Income Tax Authority to scrutinize the tax return filed by the transferee Company after giving effect of the scheme. The decision of the Income tax authority is binding on the petitioner Company.

2. *It is submitted that the Petitioner Companies have submitted the proof of serving notice upon the Income tax authorities dated 06.04.2017 for comments. The office of the Directorate has also issued reminder dated 17.08.2017.*
3. *In addition to compliance with AS-14 (IND AS 103) the Transferee Company shall pass such accounting entries which are necessary in connection with the scheme to comply with the accounting standards such as AS-5 (IND AS-8) etc.*
8. As far as the observation of the Regional Director, Western Region, Mumbai, as stated in paragraph IV (1) and (2) of his report are concerned, the Petitioner Companies submits that the Petitioner Companies undertakes to comply with all applicable provisions of the Income-tax Act and all tax implications arising out of the Scheme of Arrangement will be met and answered in accordance with applicable law.
9. As far as the observation of the Regional Director, Western Region, Mumbai, as stated in paragraph IV (3) of his report are concerned, the Petitioner Companies submits that the Petitioner Company undertakes to pass such accounting entries to comply with AS-5 in addition to AS-14 wherever applicable.
10. The observations made by the Regional Director, Western Region, Mumbai, in the office of Regional Director, Ministry of Corporate Affairs, Western Region Mumbai have been explained by the Petitioner Companies in Para 8 and 9 above. The clarifications and undertakings given by the Petitioner Companies are accepted by the NCLT, Mumbai Bench.
11. From the material on record, the Scheme appears to be fair, reasonable and is not violative to any provisions of law nor is contrary to public interest.
12. Since all the requisite statutory compliances have been fulfilled, the Company Scheme Petition Nos. 485 and 486 of 2017 are made absolute in terms of prayer clauses (a) and (b).
13. The Petitioner Companies are 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 physical copy, within 30 days from the date of receipt of the order by the Registry.
14. The Petitioner Companies to lodge a 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, within a period of 60 days from the date of receipt of the order.
15. The Petitioner Companies to pay costs of Rs. 25,000/- each to the Regional Director, Western Region, Mumbai. Costs to be paid within four weeks from the date of the receipt of the order.

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

Sd/-

V. Nallasenapathy, Member (T)

Sd/-

B.S.V. Prakash Kumar, Member (J),

Date : 06.09.2017