

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH**

COMPANY SCHEME APPLICATION 269 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 Rules framed thereunder as in force from time to time.

And

In the matter of Scheme of Amalgamation of Risk Technology International Limited (“the Transferor Company”) with Hexaware Technologies Limited (“the Transferee Company”) and their respective shareholders.

HEXAWARE TECHNOLOGIES)
LIMITED, a company incorporated)
under the provisions of the Companies)
Act, 1956 with Corporate Identity)
No.L72900MH1992PLC069662 and)
having its registered office at 152,)
Millennium Business Park, Sector III , A)
Block, TTC Industrial Area, Mahape,)
Navi Mumbai - 400710.)..... the First Applicant Company

RISK TECHNOLOGY)
INTERNATIONAL LIMITED, a)
company incorporated under the)
provisions of the Companies Act, 1956)
with Corporate Identity No.)
U72900MH2007PLC172645 and having)
its registered office at Building No. 1,)
Millennium Business Park, Sector III, A)

Block, TTC Industrial Area, Mahape,)..... the Second Applicant
Navi Mumbai, 400710. Company

Called for Notice of Admission:

Rajesh Shah, Advocate with Ahmed M. Chunawala, Advocate; i/b Rajesh Shah & Co., Advocates for the Applicants.

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

Date: 16th March, 2017

MINUTES OF THE ORDER

UPON the application of the Applicant Companies above named by a Company Notice of Admission **AND UPON HEARING** Mr. Rajesh Shah instructed by Rajesh Shah & Co., Advocate for the Applicant Companies, **AND UPON READING** the Applications along with the Notice of Admission dated 8th day of March, 2017 of Gunjan Methi, Authorised Signatory of the Applicant Companies, in support of Notice of Admission along with Application and the Exhibits therein referred to, **IT IS ORDERED THAT:**

1. A meeting of the Equity Shareholders of the First Applicant Company be convened and held at M. C. Ghia Hall, Bhogilal Hargovinddas Building, 18/20, K. Dubhash Marg, Behind Prince of Wales Museum / Kala Ghoda, Mumbai - 400 001, on Monday, 24th April, 2017 at 3.00 PM, for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of Amalgamation of Risk Technology International Limited ("the Transferor Company") with Hexaware Technologies Limited ("the Transferee Company") and their respective shareholders ("Scheme").
2. At least 30 clear days before the said meeting of the Equity Shareholders of the First Applicant Company to be held as aforesaid,

a notice convening the said Meeting at the place, day, date and time aforesaid, together with a copy of the Scheme, a copy of the Explanatory Statement required to be sent under Section 230 of the Companies Act, 2013 and the prescribed Form of Proxy, shall be sent by Registered Post or by Air Mail or by courier or by speed post or by hand delivery to each of the Equity Shareholders of the First Applicant Company at their respective registered or last known addresses or by e-mail to the registered e-mail address of the Equity Shareholders as per the records of the First Applicant Company.

3. At least 30 clear days before the Meeting of the Equity Shareholders of the First Applicant Company to be held as aforesaid, a notice convening the said meeting indicating the place, date and time aforesaid and stating that copies of the Scheme and the statement required to be furnished pursuant to Section 230 of the Companies Act, 2013 and that the form of Proxy can be obtained free of charge at the Registered Office of the First Applicant Company as aforesaid, be published once each in 'Free Press Journal' in English and 'Navshakti' in Marathi, both circulated in Mumbai.
4. The First Applicant Company undertakes to:
 - i. issue Notice convening meeting of the equity shareholders as per Form No. CAA.2 (Rule 6) of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016
 - ii. issue Statement containing all the particulars as per Section 230 of the Companies Act, 2013;
 - iii. issue Form of Proxy as per Form No. MGT-11 (Rule 19) of the Companies (Management and Administration) Rules, 2014; and
 - iv. advertise the Notice convening meeting as per Form No. CAA.2 (Rule 7) the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

The undertaking is accepted.

5. Mr Atul Nishar, failing whom Mr. R Srikrishna, is appointed as the Chairperson for the meeting of Equity Shareholders of the First

Applicant Company. The Scrutinizer for the meeting shall be M/s. S N Ananthasubramanian & Co.

6. The Chairperson appointed for the aforesaid Meeting of the First Applicant Company to issue the notices of the Meeting referred to above. The said Chairperson shall have all powers under the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 in relation to the conduct of the meeting(s), including for deciding procedural questions that may arise or at any adjournment thereof or any other matter including an amendment to the Scheme or resolution, if any, proposed at the meeting by any person(s).
7. The quorum for the aforesaid meeting of the Equity Shareholders of the First Applicant Company shall be as prescribed under Section 103 of the Companies Act, 2013.
8. The voting shall be allowed on the proposed scheme by voting in person, by proxy or through postal ballot or through electronic means. The voting by proxy or authorised representative in case of body corporate be permitted, provided that a proxy in the prescribed form/ authorisation duly signed by the person entitled to attend and vote at the meeting, is filed with the First Applicant Company at its Registered Office at 152, Millennium Business Park, Sector III, A Block, TTC Industrial Area, Mahape, Navi Mumbai, 400710, not later than, 48 hours before the aforesaid meeting as required under Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
9. The value and number of the shares of each member shall be in accordance with the books/ register of the First Applicant Company or depository records and where the entries in the books / register / depository records are disputed, the Chairperson of the Meeting shall determine the value for the purpose of the aforesaid meeting and his decision in that behalf would be final.

10. The Chairperson to file an affidavit not less than seven days before the date fixed for the holding of the meeting of the First Applicant Company and do report this Tribunal that the direction regarding the issue of notices and advertisement have been duly complied with as per Rule 12 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
11. The Chairperson to report to this Tribunal, the result of the aforesaid meeting within thirty days of the conclusion of the meeting of the First Applicant Company, and the said report shall be verified by his Affidavit as per Rule 14 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016
12. A meeting of the Equity Shareholders of the Second Applicant Company be convened and held at Building No. 1, Millennium Business Park, Sector III, A Block, TTC Industrial Area, Mahape, Navi Mumbai, 400710, on Monday, 24th April, 2017 at 10.00 AM, for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of Amalgamation of Risk Technology International Limited (“the Transferor Company”) with Hexaware Technologies Limited (“the Transferee Company”) and their respective shareholders (“Scheme”).
13. At least 30 clear days before the said meeting of the Equity Shareholders of the Second Applicant Company to be held as aforesaid, a notice convening the said Meeting at the place, day, date and time aforesaid, together with a copy of the Scheme, a copy of the Explanatory Statement required to be sent under Section 230 of the Companies Act, 2013 and the prescribed Form of Proxy, shall be sent by Registered Post or by Air Mail or by courier or by speed post or by hand delivery to each of the Equity Shareholders of the Second Applicant Company at their respective registered or last known addresses or by e-mail to the registered e-mail address of the Equity Shareholders as per the records of the Second Applicant Company.

14. At least 30 clear days before the Meeting of the Equity Shareholders of the Second Applicant Company to be held as aforesaid, a notice convening the said meeting indicating the place, date and time aforesaid and stating that copies of the Scheme and the statement required to be furnished pursuant to Section 230 of the Companies Act, 2013 and that the form of Proxy can be obtained free of charge at the Registered Office of the Second Applicant Company as aforesaid, be published once each in 'Free Press Journal' in English and 'Navshakti' in Marathi, both circulated in Mumbai.
15. The Second Applicant Company undertakes to:
- i. issue Notice convening meeting of the equity shareholders as per Form No. CAA.2 (Rule 6) of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016
 - ii. issue Statement containing all the particulars as per Section 230 of the Companies Act, 2013;
 - iii. issue Form of Proxy as per Form No. MGT-11 (Rule 19) of the Companies (Management and Administration) Rules, 2014; and
 - iv. advertise the Notice convening meeting as per Form No. CAA.2 (Rule 7) the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

The undertaking is accepted.

16. Mrs. Amberin Memon, failing whom Mr. Nilay Jhala is appointed as the Chairperson for the meeting of Equity Shareholders of the Second Applicant Company. The Scrutinizer for the meeting shall be M/s. S N Ananthasubramanian & Co.
17. The Chairperson appointed for the aforesaid Meeting of the Second Applicant Company to issue the notices of the Meeting referred to above. The said Chairperson shall have all powers under the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 in relation to the conduct of the meeting(s), including for deciding procedural questions that may arise or at any adjournment thereof or any other matter including an amendment to the Scheme or resolution, if any, proposed at the meeting by any person(s).

18. The quorum for the aforesaid meeting of the Equity Shareholders shall be as prescribed under Section 103 of the Companies Act, 2013.
19. The voting by proxy or authorised representative in case of body corporate be permitted, provided that a proxy in the prescribed form/ authorisation duly signed by the person entitled to attend and vote at the meeting, is filed with the Second Applicant Company at its Registered Office at Building No. 1, Millennium Business Park, Sector III , A Block, TTC Industrial Area, Mahape, Navi Mumbai - 400710, not later than, 48 hours before the aforesaid meeting as required under Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
20. The value and number of the shares of each member shall be in accordance with the books/ register of the Second Applicant Company or depository records and where the entries in the books / register / depository records are disputed, the Chairperson of the Meeting shall determine the value for the purpose of the aforesaid meeting and his decision in that behalf would be final.
21. The Chairperson to file an affidavit not less than seven days before the date fixed for the holding of the meeting of the Second Applicant Company and do report this Tribunal that the direction regarding the issue of notices and advertisement have been duly complied with as per Rule 12 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
22. The Chairperson to report to this Tribunal, the result of the aforesaid meeting within thirty days of the conclusion of the meeting of the Second Applicant Company, and the said report shall be verified by his Affidavit as per Rule 14 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

23. That Counsel for the First Applicant Company submits that there are no Secured Creditors as mentioned in paragraph 25 of the Application.
24. That Counsel for the Second Applicant Company submits that there are no Secured Creditors as mentioned in paragraph 27 of the Application.
25. That Counsel for the Applicant submits that since the scheme is an arrangement between the First Applicant Company and their respective shareholders and therefore only a meeting of the Equity Shareholders is proposed to be held in accordance with the provisions of Section 230(1)(b) of the Companies Act, 2013. This bench hereby directs the First Applicant Company to issue notice of the Equity Shareholder's meeting by Post/ courier/ email/ hand-delivery to its Unsecured Creditors having outstanding balance above Rs. 200,000/- and above as on 31st December, 2016 representing 98.88% in value as required under section 230(3) of the Companies Act, 2013 with a direction that they may submit their representations, if any, to the Tribunal and copy of such representations shall simultaneously be served upon the First Applicant Company.
26. That Counsel for the Applicant submits that since the scheme is an arrangement between the Second Applicant Company and their respective shareholders and therefore, only a meeting of the Equity Shareholders is proposed to be held in accordance with the provisions of Section 230(1)(b) of the Companies Act, 2013. This bench hereby directs the Second Applicant Company to issue notice of Equity Shareholders' meeting by Post/ courier/ email/ hand-delivery to all its Unsecured Creditors as on 31st December, 2016 as required under section 230(3) of the Companies Act, 2013 with a direction that they may submit their representations, if any, to the Tribunal and copy of such representations shall simultaneously be served upon the Second Applicant Company

27. The Applicant Companies to serve the notice upon the Regional Director, Western Region, Ministry of Corporate Affairs, Mumbai Maharashtra, pursuant to Section 230(5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from Regional Director within 30 days of the date of receipt of the notice it will be presumed that Regional Director and/ or Central Government has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
28. The Applicant Companies to serve the notice upon the concerned Registrar of Companies, pursuant to Section 230(5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from the Registrar of Companies within 30 days of the date of receipt of the notice it will be presumed that Registrar of Companies has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
29. At least 30 clear days before the date fixed for hearing, Second Applicant Company to serve the notice of Meeting of the Second Applicant Company upon the Official Liquidator, High Court, Bombay pursuant to Section 230(5) of the Companies Act, 2013. The Tribunal is appointing Chartered Account, M/s R.B Pandya & Co., with remuneration of Rs. 40,000/- to assist the Official Liquidator to scrutinize books of Accounts of the Second Applicant Company for the last 3 years. If no response is received by the concerned Tribunal from Official Liquidator within 30 days it may be presumed that Official Liquidator, High Court, Bombay has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
30. The Applicant Companies to serve the notice on the concerned Income Tax Authority within whose jurisdiction the Applicant

Company's assessment are made, pursuant to Section 230(5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from the Income Tax Authority within 30 days of the date of receipt of the notice it will be presumed that Income Tax Authority has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

31. The Applicant Companies to file an affidavit of service of the directions given by the Tribunal not less than seven days before the date fixed for the holding of the meetings and do report to this Tribunal that the direction regarding the issue of notices have been duly complied with.

Sd/-

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

Sd/-

V. Nallasenapathy Member (T)