

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,

MUMBAI BENCH

COMPANY SCHEME APPLICATION NO 396 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 of EXCELLON SOFTWARE PRIVATE LIMITED, Transferor Company, with EXCELLON BUSINESS SOLUTIONS PRIVATE LIMITED, the Transferee Company and their respective Shareholders and Creditors.

EXCELLON SOFTWARE PRIVATE)
LIMITED, a company incorporated under the)
Companies Act, 1956 having its registered)
office at 14/4 & 17/4, IT Park, Parsodi, South)
Ambazari Road, Nagpur – 440 022)
Maharashtra, India.) ... Applicant Company/Transferor
Company

Called for Notice of Admission:

Omkar V Deosthale Authorised Representative of the Applicant Company.

Coram: Ms Ina Malhotra, Hon'ble Member (Judicial)

Date: 23rd June, 2017

MINUTES OF THE ORDER

UPON the application of the Applicant Company above named by a Company Notice of Admission **AND UPON HEARING** Mr. Omkar Deosthale, Authorised Representative for the Applicant Company. **AND UPON READING** the Application along with the Notice of Admission dated 22 March 2017 of Mr. Vinodkumar Tambi, Whole Time Director of the Applicant Company, in support of Notice of Admission along with Applications and Exhibits therein referred to, **IT IS ORDERED THAT:**

1. A meeting of the Equity Shareholders of the Applicant Company, be convened and held at the Registered office of the Company at 14/4 & 17/4, IT Park, Parsodi, South Ambazari Road, Nagpur – 440 022, Maharashtra on Monday, 7 August 2017 at 10:00 am for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of Arrangement between Excellon Software Private Limited, Transferor Company, with Excellon Business Solutions Private Limited, the Transferee Company and their respective Shareholders and Creditors.
2. At least 30 clear days before the said meeting of the Equity Shareholders of the 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 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 Applicant Company.
3. At least 30 clear days before the Meeting of the Equity Shareholders of the Applicant Company to be held as aforesaid, a notice convening the said meeting, at the place, date and time aforesaid and stating that copies of the Scheme of Arrangement 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 Applicant

Company as aforesaid, shall be published newspapers once each in 'Indian Express' in English and 'Lokmat' in Marathi, both circulated at Nagpur.

4. The Applicant Company undertakes to:
 - i. Issue Notice convening meeting of the Equity shareholders in Form No. CAA.2 as per 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 in Form No. MGT-11 as per Rule 19 of the Companies (Management and Administration) Rules, 2014; and
 - iv. Advertise the Notice convening meeting in Form No. CAA.2 as per Rule 7 the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

The undertaking is accepted.

5. Mr. Vishnu Tambi, Whole Time Director of the Applicant Company failing him Mr. Vinodkumar Tambi, Whole Time Director of the Applicant Company, is appointed as the Chairperson for the meeting of the Equity Shareholders. The Chairperson shall be paid Rs. 1000/-, lump sum for his services as the Chairperson. The Scrutinizer for the meeting shall be Mr. Srikanth Srinivasan, Chartered Accountant in Practice and failing him Mr. Omkar V Deosthale, Practicing Company Secretary, who shall be paid an amount of Rs. 10,000/- for the services.
6. The Chairperson appointed for the aforesaid Meeting to issue the advertisement and send out the notices of the Meeting referred to above. The said Chairperson shall have all powers under the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (or any re-enactment thereof upon effectiveness of Companies Act, 2013) in relation to the conduct of the meeting(s), including for deciding procedural questions that may arise at the meeting 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 shall be as prescribed under Section 103 of the Companies Act, 2013.

8. The voting by proxy or authorised representative in case of body corporate shall 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 Applicant Company at its Registered Office at 14/4 & 17/4, IT Park, Parsodi, South Ambazari Road, Nagpur - 440 022 Maharashtra, India. 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 Applicant Company and where the entries in the books / register 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 and do report this Tribunal that the direction regarding the issue of notices and the 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 seven days after the conclusion of the meeting, and the said report shall be verified by his Affidavit.
12. That Authorised Representative for the Applicant submits that the convening and holding of the meeting of the Secured and Unsecured Creditors of the Applicant Company for the purpose of considering and, if thought fit, approving, with or without modification(s) the proposed Scheme of Arrangement is not required to be convened in view of averments made in paragraph 8(e), III(2) and III(3) of the Application. This bench hereby directs the Applicant Company to issue notice to its Secured and Unsecured Creditors as required under Section 230 (3) of the Companies Act, 2013 with a direction that may submit their representation, if any, to the Tribunal and a copy of such representations shall simultaneously be served upon the Applicant Company.
13. The Applicant 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 concerned 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.

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

Sd/-

Ms Ina Malhotra, Hon'ble Member (Judicial)