

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,

BENCH, AT MUMBAI

COMPANY SCHEME APPLICATION NO. 630 OF 2017

In the matter of the Companies Act, 2013;

And

In the matter of Application under Sections
230 -232 of the Companies Act, 2013;

And

In the matter of Barclays Shared Services
Private Limited [CIN:
U72900MH2007PTC293350], a company
incorporated under the Companies Act, 1956
having its registered office at Block B-6,
Level – 15, Nirlon Knowledge Park, Nirlon
Complex, Nr. Western Express Highway,
Goregaon East, Mumbai - 400 063,
Maharashtra;

And

In the matter of Scheme of Amalgamation
between Barclays Shared Services Private
Limited and Barclays Technology Centre
India Private Limited.

Barclays Shared Services Private Limited)
[CIN: U72900MH2007PTC293350], a)
company incorporated under the Companies)
Act, 1956 having its registered office at)
Block B-6, Level – 15, Nirlon Knowledge)
Park, Nirlon Complex, Nr. Western Express)
Highway, Goregaon East, Mumbai - 400) ...Applicant Company
063, Maharashtra.

Called for Directions

Mr. Tapan Deshpande and Ms. Priya Patwa, Advocates of M/s. Cyril Amarchand Mangaldas, Advocates for the Applicant Company.

Coram: Ina Malhotra, Member (Judicial)

Date: 23rd June, 2017

MINUTES OF THE ORDER

1. Perused the Company Scheme Application, read the Affidavit dated 5th May, 2017 of Ms. Moksha Sachdev, an Authorized Signatory of the Applicant Company, in support of the Company Application, the further Affidavit dated 1st June, 2017 with Exhibits referred therein, being the consent Affidavits by some of the unsecured creditors of the Applicant Company, and heard Mr. Tapan Deshpande, Advocate for the Applicant Company.

2. The Scheme provides for the Amalgamation of the Applicant Company with Barclays Technology Centre India Private Limited, (the “**Transferee Company**”) (“**Scheme**”) pursuant to the provisions of Sections 230 to 232 of the Companies Act, 2013 and other relevant provisions of the Companies Act, 2013. The rationale and benefits of the Scheme are: The Applicant Company and the Transferee Company are both companies that are wholly owned within the Barclays group of companies the ultimate parent of which is Barclays PLC, which is incorporated and registered in England. Since the Applicant Company and the Transferee Company provide services only to companies within the Barclays group, the proposed Amalgamation will allow the Barclays group to streamline its holding in India, simplify shareholding structure by eliminating

cross-holdings and reduce shareholding tiers. Further, the Scheme shall enable both the Applicant Company and the Transferee Company to realise the substantial benefits of greater synergies between their businesses, simplification of management structure, leading to better service delivery and the ability to tap a larger, single employee base for seamless execution, stream-lined administration and a reduction in costs from more focused operational efforts, rationalization, standardisation and simplification of business processes, and the elimination of duplication, and rationalization of administrative expenses. The proposed Amalgamation will also result in reduction of multiplicity of legal and regulatory compliances required at present to be carried out by both the Applicant Company and the Transferee Company. The increased asset base of the Transferee Company would have better financial viability and clearer focus which would be in the interest of all creditors, including the creditors of the Applicant Company. The banks, creditors and financial institutions, if any, of both the Applicant Company and the Transferee Company are not adversely affected by the proposed Amalgamation as their position and security is maintained.

3. The net worth of the Transferee Company as on 31st March, 2017 is INR 8,41,84,57,000/- (Rupees Eight Hundred and Forty One Crores Eighty Four Lakhs and Fifty Seven Thousand Only). The Applicant Company has 1 (one) secured creditor with an outstanding secured liability of INR 15,27,59,505/- (Rupees Fifteen Crores Twenty Seven Lakhs Fifty Nine Thousand Five Hundred and Five only) and

23 (twenty three) unsecured creditors with an aggregate outstanding unsecured liability of INR 16,13,60,956 (Rupees Sixteen Crores Thirteen Lakhs Sixty Thousand Nine Hundred and Fifty Six only) as on 10th April, 2017. Alongwith the Company Petition, the Applicant Company has filed in the Tribunal, an Affidavit dated 18th April, 2017 (being Exhibit "K" to the Application) of the sole secured creditor giving its consent to the Scheme. The Applicant Company has also filed its further Affidavit dated 1st June, 2017, placing on record the consent Affidavits of certain unsecured creditors of the Applicant whose total unsecured liability is 96.04% of the total outstanding unsecured liability of the Applicant Company. In view of the foregoing, and in view the provisions of Section 230 of the Companies Act, 2013 the following directions are issued:

4. That the meeting of the equity shareholders of the Applicant Company be convened and held at the registered office of the Applicant Company at Block B-6, Level – 15, Nirlon Knowledge Park, Nirlon Complex NR Western Express Highway, Goregaon East, Mumbai, Maharashtra - 400 063, on Tuesday, the 8th August, 2017 at 3:00 p.m. (1500 hours), for the purpose of considering and, if thought fit, approving the Scheme.
5. That 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 together with a copy of the Scheme of Amalgamation, a copy of the statement disclosing all material facts as required under Section 230 (3) of the Companies Act, 2013 read with Rule 6 of the Companies (Compromises,

Arrangements and Amalgamations) Rules, 2016 and the prescribed Form of Proxy, shall be sent by Courier or Registered Post or Speed Post or Air Mail or hand delivery or through e-mail (to those shareholders whose email addresses are duly registered with the Applicant Company for the purpose of receiving such notices by email), addressed to each of the equity shareholders of the Applicant Company, at their last known address or email addresses as per the records available with the Applicant Company.

6. That at least 30 days before the meeting of the equity shareholders of the Applicant Company, to be held as aforesaid, a notice convening the said meeting, indicating the place, date and time of the meeting as aforesaid be published in the Indian Express (Mumbai Edition) in the English language and a Marathi translation thereof in Loksatta (in Mumbai Edition) both having circulation in Mumbai, stating that copies of the Scheme and the statements required to be furnished pursuant to Section 230 (3) of the Companies Act 2013 read with Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 and the Form of Proxy/ies shall be obtained free of charge at the registered office of the Applicant Company as aforesaid and/ or at the offices of its Advocates, Cyril Amarchand Mangaldas, Advocates & Solicitors, 5th Floor, Peninsula Chambers, Peninsula Corporate Park, Ganpatrao Kadam Marg, Lower Parel 400 013.
7. The Applicant Company undertakes to:
 - i. Issue Notices convening the meeting of the equity shareholders as per Form No. CAA 2 (Rule 6) of the

Companies (Compromises, Arrangements and Amalgamations) Rules, 2016;

- ii. Issue Statements containing all the particulars as per Section 230 of the Companies Act, 2013;
- iii. Issue Form of Proxy/ies as per Form No. MGT- 11 (Rule 19) of the Companies (Management and Administration) Rules, 2014; and
- iv. Advertise the Notice convening the meeting as per Form No. CAA 2 (Rule 7) the Companies (Compromises, Arrangements and Amalgamation) Rules, 2016.

The undertaking given by the Applicant Company is accepted.

8. That Mr. Ramanathan Gopalakrishnan, a Non-Executive Director of the Applicant Company and failing him, Mr. Subhajit Chowdhury, a Director of the Applicant Company and failing him, Ms. Kunda Jadhav, Head- Operations of the Applicant Company shall be the Chairman of the aforesaid meeting of the equity shareholders of the Applicant Company, to be held at the registered office of the Applicant Company at Block B-6, Level – 15, Nirlon Knowledge Park, Nirlon Complex NR Western Express Highway, Goregaon East, Mumbai, Maharashtra - 400 063, on Tuesday, the 8th August, 2017 at 3:00 p.m. (1500 hours) or on any adjourned date(s) thereof. The Scrutinizer for the aforesaid meeting shall be Mr Jay D'souza, practicing Company Secretary (Membership No. FCS 3058

(CP:6915) and failing him Mr Vijay Sonone (Membership No. FCS 7301 (CP:7991)).

9. That the Chairman appointed for the aforesaid meeting to issue the advertisement and send out the notices of the meeting referred to above. The said Chairman shall have all the powers as per the Articles of Association, also under the Companies Act, 2013 and the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 in relation to the conduct of the meeting, including for deciding procedural questions that may arise thereat or at any adjournment thereof or any other matter including an amendment to the Scheme or the resolution, if any proposed at the meeting by any person(s).
10. That the quorum of the aforesaid meeting of the equity shareholders shall be 2 (two) members personally present as prescribed under Section 103 (b) of the Companies Act, 2013.
11. That the voting by proxy or by authorized representative in the case of a 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 Applicant Company at its registered office at Block B-6, Level – 15, Nirlon Knowledge Park, Nirlon Complex NR Western Express Highway, Goregaon East, Mumbai, Maharashtra - 400 063, not later than 48 (forty eight) hours before the aforesaid meeting.
12. The number and value of the equity shares of the equity shareholders shall be in accordance with the records or registers of the Applicant

Company and where the entries in the records or registers are disputed, the Chairman of the meeting shall determine the number or value, as the case may be for the purposes of the meeting and his decision in that behalf would be final.

13. That the Chairman to file an Affidavit not less than 7 (Seven) days before the date fixed for the holding of the meeting and do report to this Tribunal that the direction regarding the issue of notice and the advertisement have been duly complied with.
14. That the Chairman of the meeting to report to this Tribunal, the result of the aforesaid meeting within 10 (Ten) days of the conclusion of the meeting and the said Report shall be verified by his Affidavit as per Rule 12 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
15. The convening and holding of the meeting of the secured creditors of the Applicant Company for the purpose of considering and if thought fit, approving the Scheme of is not required in view of the averments made in paragraph 18 of the Company Application, and in view of the said sole secured creditors giving its consent Affidavit dated 19th April, 2017 duly agreeing, confirming, approving and consenting to the Scheme. The Applicant Company is directed to issue the notice of meeting of the equity shareholders to the secured creditor as on 10th April, 2017 under Section 230(3) of the Companies Act, 2013, with a direction that it may submit its representation, if any.

16. That the convening and holding the meeting of the unsecured creditors of the Applicant Company for the purpose of considering and if thought fit, approving the Scheme is not required in view of the averments made in paragraph 19 of the Company Application and in view of the Consent Affidavits from 10 (ten) unsecured creditors of the Applicant Company, whose aggregate liability is INR 15,49,63,624 (Rupees Fifteen Crores Forty Nine Lakhs Sixty Three Thousand Six Hundred and Twenty Four Only/-) which comprises of 96.04 % in value of the total unsecured liability of INR 16,13,60,956 (Rupees Sixteen Crores Thirteen Lakhs Sixty Thousand Nine Hundred and Fifty Six only), duly agreeing, confirming, approving and consenting to the Scheme. The Applicant Company is directed to issue the notice of meeting of the equity shareholders to all its unsecured creditors as on 10th April, 2017 under Section 230(3) of the Companies Act, 2013, with a direction that they may submit their representations, if any.
17. The Applicant Company to serve the notice of the meeting of the equity shareholders upon the Central Government through the Regional Director, Western Region, Ministry of Corporate Affairs, Mumbai, Maharashtra, pursuant to Section 230 (5) of the Companies Act, 2013 and as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules 2016. If no response is received by the Tribunal from the Central Government through the Regional Director within 30 days of the date of receipt of the notice, it will be presumed that the Central Government through Regional Director has no objection to the proposed Scheme.

18. The Applicant Company to serve the notice of the meeting of the equity shareholders upon the Official Liquidator, High Court, Bombay, pursuant to Section 230 (5) of the Companies Act, 2013 and as per Rule 8 of Companies (Compromises, Arrangements and Amalgamations) Rules 2016. If no response is received by the Tribunal from the Official Liquidator, High Court, Bombay within 30 days of the date of receipt of the said notice, it will be presumed that the Official Liquidator, High Court, Bombay has no objection to the proposed Scheme. M/s. V. S. Gokhale, Chartered Accountant is appointed with remuneration of INR 2,00,000/- to assist the Official Liquidator to scrutinize the books of accounts of the Applicant Company. The remuneration of the Chartered Accountant shall be paid by the Applicant Company within period of two weeks from today.
19. The Applicant Company to serve the notice of the meeting of the equity shareholders upon the Registrar of Companies, pursuant to Section 230 (5) of the Companies Act, 2013 and as per Rule 8 of 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 said notice, it will be presumed that the Registrar of Companies has no objection to the proposed Scheme.
20. The Applicant Company to serve the notice upon 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 concerned Income Tax Authority within 30 days of the date of receipt of the notice, it will be presumed that the concerned Income Tax Authority has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules 2016.

21. In view of the averments made in paragraph 22 of the Affidavit in support of the Company Application, giving notice of the meeting of the equity shareholders issued under Section 230(3) of the Companies Act, 2013, upon (i) Stock Exchanges, (ii) Securities and Exchange Board of India, (iii) the Competition Commission of India, and (iv) the Reserve Bank of India, in terms of Section 230 (5) of the Companies Act, 2013, is not necessary.
22. The Applicant Company undertakes to file an Affidavit proving service of notice on the unsecured creditors, secured creditor, Central Government through the Regional Director, Registrar of Companies, Official Liquidator, High Court, Bombay, concerned Income Tax Authority, secured and unsecured creditors and publication of notice in newspapers, not less than 7 (Seven) days before the date fixed for the holding of the meeting.

Sd/-
Ina Malhotra,
Member(Judicial)