

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

COMPANY SCHEME PETITION NO 382 OF 2017

IN

COMPANY SCHEME APPLICATION NO 269 OF 2017

Risk Technology International Limited

.....Transferor Company

AND

COMPANY SCHEME PETITION NO 383 OF 2017

IN

COMPANY SCHEME APPLICATION NO 269 OF 2017

Hexaware Technologies Limited

.....Transferee Company

In the matter of Sections 230 to 232 and other applicable provisions of the Companies Act, 2013 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

Called for Hearing

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

**Coram: SH. B.S.V. Prakash Kumar, Member (Judicial) and V. Nallasenapathy,
Member (Technical)**

Date: 6th July, 2017

MINUTES OF ORDER

1. Heard the learned Counsel for the Petitioner Companies. No objector has come before the Tribunal to oppose the Petitions and nor any party has controverted any averments made in the Petitions.
2. The sanction of the Tribunal is sought under Sections 230 to 232 of the Companies Act, 2013, to the Scheme of Amalgamation between Risk Technology International Limited with Hexaware Technologies Limited and their respective shareholders.

3. The Counsel for the Petitioners submit that Risk Technology International Limited is engaged in the business of rendering services relating to formulation, designing, marketing, providing technology consulting and information technology services in the field of Enterprise Risk and Risk Management Solutions and Hexaware Technologies Limited is engaged in information technology consulting, software development and business process management across industries.
4. The Counsel for the Petitioners submit that the rationale for the scheme are as under –
 - a. The Transferee Company is listed on BSE Limited and National Stock Exchange of India Limited. It is engaged in information technology consulting, software development and business process management. It provides multiple service offerings to its clients across various industries comprising travel, transportation, hospitality, logistics, banking, financial services, insurance, healthcare, manufacturing, consumers and others. The various service offerings comprise application development and management, enterprise package solutions, infrastructure management, business intelligence and analytics, business process, digital assurance and testing.
 - b. The Transferor Company is a wholly owned subsidiary of Hexaware Technologies Limited and was incorporated to engage in the business of rendering services relating to formulation, designing, marketing, providing technology consulting and information technology services in the field of Enterprise Risk and Risk Management Solutions and allied matters thereto and to provide assistance and services related to solving or aiding commercial industrial scientific and research problems and providing IT infrastructure facilities.
 - c. The Proposed Scheme of Amalgamation is with a view to :
 - a) Simplification of the group structure;
 - b) Optimal utilisation of resources and better administration and reduction of cost; and
 - c) Achieving operational and management efficiency.
5. The Counsel for the Petitioners state that the Board of Directors of the Petitioner Companies in their respective Board meetings have approved the said Scheme of Amalgamation which are annexed to the respective Company Scheme Petitions.
6. The Counsel appearing on behalf of the Petitioners further states that the Petitioner Companies have complied with all the directions passed in Company

Scheme Application and that the respective Company Scheme Petitions have been filed in consonance with the orders passed in Company Scheme Application.

7. The Counsel appearing on behalf of the Petitioners further states that the Petitioner Companies have complied with all requirements as per directions of this Tribunal and they have filed necessary affidavits of compliance in the Tribunal. Moreover, the Petitioner Companies through their 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 undertakings given by the Petitioner Companies are accepted.
8. The Official Liquidator has filed his report on 24th April, 2017 stating therein that the affairs of the Transferor Companies have been conducted in a proper manner, therefore, Official Liquidator has reported to National Company Law Tribunal that the Scheme of Amalgamation M/S Risk Technology International Limited with Hexaware Technologies Limited and their respective shareholder is in order.
9. The Regional Director has filed an Report dated 5th July, 2017 stating therein, save and except as stated in paragraph IV(1) to (3), it appears that the Scheme is not prejudicial to the interest of shareholders and public. In paragraph IV of the said Report it is stated that:
 - 1 *The tax implications 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 Tribunal 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 is submitted that the Petitioner Companies have submitted the proof of serving notice upon the Income Tax Authorities dated 24.03.2017 and dated 27.02.2017. This office has issued reminder dated 28.06.2017.*
 - 3 *Petitioner Transferee Company is a listed company and listed with BSE and NSE and notice has been served to upon NSE & BSE acknowledgement dated 23.03.2017 as required under section 230(5) of the companies Act, 2013, inter alia mentioned that representations if any, in connection with proposed scheme may be made to the Hon'ble Tribunal within 30 days from the date of receipt of notice.*

10. In so far as observations made in paragraph IV (1) of the Report of Regional Director are concerned, the Counsel for the Petitioners submit that ~~that~~ the Petitioner Companies undertake to comply with all applicable provisions of the Income-tax Act 1961 and all tax issue arising out of the Scheme will be met and answered in accordance of law.
11. In so far as observations made in paragraph IV(2)& (3) of the Report of Regional Director are concerned, the same are self-explanatory.
12. The observations made by the Regional Director have been explained by the Petitioners in paragraphs 10 and 11 above. The clarifications and undertakings given by the Petitioner Companies are hereby accepted.
13. From the material on record, the Scheme appears to be fair and reasonable and does not violate any of the provisions of law and is not contrary to public policy.
14. Since all the requisite statutory compliances have been fulfilled, Company Scheme Petition No.382 and 383 of 2017 has been made absolute in terms of prayer of the petitions mentioned therein.
15. The Petitioners are directed to file a copy of this order along with a copy of the Scheme of Amalgamation with the concerned Registrar of Companies, electronically, along with E-Form INC-28 within 30 days from the date of issuance of the order by the Registry.
16. The Petitioner Company to file 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, if any, on the same within 60 days from the date of receipt of the order.
17. The Petitioner Companies to pay costs of Rs.25,000/- each to the Regional Director, Western Region, Mumbai and the Transferor Company to pay cost of Rs. 25,000/- to the Official Liquidator, High Court Bombay within four weeks from the date of the receipt of the order.
18. 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.
19. Any person interested shall be at liberty to apply to the Tribunal in the above matter for any direction that may be necessary.

Sd/-

V. Nallasenapathy, Member(T)

Sd/-

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