

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH

TRANSFERRED COMPANY SCHEME PETITION NO. 281 OF 2017

Alliance Holdings Private Limited

.... Petitioner / Transferor Company

TRANSFERRED COMPANY SCHEME PETITION NO. 282 OF 2017

Quadrillion Capital Private Limited

... Petitioner / Transferee Company

In the matter of the Companies Act, 1956 and other  
relevant provisions of the Companies Act, 2013;

AND

In the matter of Sections 391 to 394 of the  
Companies Act, 1956 and Sections 230 to 232 of  
the Companies Act, 2013;

AND

In the matter of Scheme of Amalgamation of  
Alliance Holdings Private Limited with Quadrillion  
Capital Private Limited and their respective  
shareholders

**CALLED FOR HEARING**

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

**CORAM: Shri B.S.V. Prakash Kumar, Member (Judicial)**

**Shri V. Nallasenapathy, Member (Technical)**

**DATE: 19<sup>TH</sup> April, 2017**

**MINUTES OF ORDER**

1. Heard the learned counsel for the Petitioner Companies. No objector has come before the court to oppose the Petition and nor any party has controverted any averments made in the Petition.

2. The sanction of the Court is sought under Sections 230 to 232 of the Companies Act, 2013, to a Scheme of Amalgamation of Alliance Holdings Private Limited ('Transferor Company') with Quadrillion Capital Private Limited ('Transferee Company') and their respective shareholders.
3. Learned Counsel for the Petitioners states that the Transferor Company operates as an investment company and is engaged in making investment in shares, debentures, units, securities and other similar activities as per the Memorandum of Association of the Transferor Company and the Transferee Company is engaged in the business of providing advisory services.
4. The rationale for the scheme is that amalgamation of the Transferor Company with the Transferee Company would lead to integrations of operations resulting in rationalization of administrative and operating costs and elimination of multiple entities.
5. The Learned Counsel appearing on behalf of the Petitioner Companies states that the Transferor Company and the Transferee Company have approved the said Scheme of Amalgamation by passing the Board Resolutions which are annexed to the Company Scheme Petitions of the respective companies.
6. The Learned Counsel appearing on behalf of the Petitioner Companies states that the Petition have been filed in consonance with the orders passed in their respective Company Summons for Directions Nos. 807 and 808 of 2016 of the Bombay High Court.
7. The learned Counsel appearing on behalf of the Petitioner Companies has stated that the Petitioner Companies have complied with all requirements as per directions of the Hon'ble High Court of Judicature at Bombay and Hon'ble Tribunal and they have filed necessary affidavits of compliance of the High Court and Hon'ble Tribunal. Moreover, the Petitioner Companies undertake 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 undertaking is accepted.

8. The Official Liquidator has filed his report on 4<sup>th</sup> April, 2017 *inter alia*, stating therein that the affairs of the Transferor Company has been conducted in a proper manner and that the Transferor Company may be ordered to be dissolved.
9. The Regional Director has filed his report on 24<sup>th</sup> March, 2017, *inter alia*, 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. In paragraph IV of the said report, the Regional Director has stated that:-

“

- a) *In Addition to compliance of AS-14, the Transferee Company shall pass such accounting entries which are necessary in connection with the scheme to comply with other applicable Accounting Standards such as AS-5 etc.,*
- b) *As per clause 1.2 of the Scheme, “The Appointed Date” means 1<sup>st</sup> December, 2016 or such other date as may be approved by the High Court judicature at Bombay or any other appropriate authority. In this regard, it is submitted in terms of provisions of section 232(6) of the Companies Act, 2013 it should be 1<sup>st</sup> December, 2016; In this regard, it is submitted that the Transferor Company is seeking approval which will have prospective effect. The gap between the date of audited balance sheet and the appointed date should be reasonable and nearer to the time of final hearing of the petition and this requirement is statutory” it is pertinent to mention that all the Companies to the Scheme the audited balance-sheet is available as at 31.03.2016. As the Appointed Date is 1<sup>st</sup> December, 2016 this Hon’ble Tribunal may kindly direct the companies to the scheme to file provisional balance sheet as at 30.11.2016*
- c) *As per existing practice, the Petitioner companies are required to serve notice for Scheme of Arrangements to the Income Tax Department for their comments. It appears that the company vide*

*letter dated 5<sup>th</sup> December, 2016 has served a copy of company petition No. 802/2016 and 803/2016 along with relevant orders etc., Further this Directorate has also issued a reminder letter dated 22.03.2017 to the concerned Income Tax authorities.*

- d) The tax implication 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 Court 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.*

10. As far as the observation of the Regional Director, Western Region, Mumbai, as stated in paragraph IV(a) of his report is concerned, the Transferee Company undertakes that it will comply with all applicable Accounting Standards. Further, in addition to compliance with the applicable Accounting Standards, the Transferee Company shall pass such accounting entries as may be necessary in connection with the Scheme of Amalgamation to comply with any other applicable Accounting Standard.

11. As far as the observation of the Regional Director, Western Region, Mumbai, as stated in paragraph IV(b) of his report is concerned, the Petitioner Companies submits that the Appointed Date shall be 1<sup>st</sup> December, 2016. Further, the Petitioner Companies have already submitted at the office of Regional Director their Provisional Balance Sheet as on November 30, 2016.

12. As far as the observation of the Regional Director, Western Region, Mumbai, as stated in paragraph IV (c) and (d) of his report is concerned, the Petitioner Companies submits that the Petitioner Companies are bound to comply with all applicable provisions of the Income-tax Act and all tax issues arising out of the Scheme of Amalgamation will be met and answered in accordance with law.



13. 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 10 to 12 above. The clarifications and undertakings given by the Petitioner Companies are accepted.
14. From the material on record, the Scheme appears to be fair and reasonable and is not violative of any provisions of law and is not contrary to public policy.
15. Since all the requisite statutory compliances have been fulfilled, the Transferred Company Scheme Petition No. 281 of 2017 is made absolute in terms of prayer clause (a) to (c) and the Transferred Company Scheme Petition No. 282 of 2017 is made absolute in terms of prayer clause (a) to (b) of the Petition respectively.
16. Petitioner Companies 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, in addition to physical copy, within 30 days from the date of issuance of the order by the Registry.
17. The Transferee Company 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, as applicable.
18. The Petitioner Companies to pay costs of Rs. 25,000/- each to the Regional Director, Western Region, Mumbai and the Petitioner in Transferred Company Scheme Petition No. 802 of 2016 to pay cost of Rs. 25,000/- to the Official Liquidator, High Court, Bombay. Costs to be paid within four weeks from the date of the receipt of the order.

19. 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)