

**In the National Company Law Tribunal  
Single Bench, Chennai**

**TP(HC)/54/CAA/2017  
TP(HC)/55/CAA/2017**

**In the matter of Scheme of Amalgamation of**

M/s. Bovian Health Care Private Limited  
(Transferor Company)

**With**

M/s. Globian India Private Limited  
(Transferee Company)

**And**

Their Respective Shareholders

Order delivered on: 15.09.2017

For the Petitioner Companies: Shri S.P. Muralikrishnan, Advocate

**Per: K. ANANTHA PADMANABHA SWAMY, MEMBER (J)**

**ORDER**

1. Under consideration are two Company Petitions filed before the Hon'ble Madras High Court under the provisions of the erstwhile Companies Act, 1956 which stood transferred to this tribunal pursuant to the Companies (Transfer of Proceeding Proceedings) Rules, 2016 and renumbered as TCP/54&55/CAA/2017. The purpose of the petitions is to obtain the sanction to the Scheme of Amalgamation (hereinafter referred to as '**Scheme**') by virtue of which M/s. Bovian Health Care Private Limited (hereinafter referred as '**Transferor Company**') is proposed to be amalgamated, merged and vested **with** M/s. Globian India Private Limited (hereinafter referred as '**Transferee Company**') and their respective shareholders as a going concern.

2. The details of Share Capitals, equity shareholders and secured & unsecured creditors of the Petitioner Companies are as under:

<b>Particulars</b>	<b>Authorized Capital</b>	<b>Issued &amp; paid-up Capital</b>	<b>Equity Shareholders</b>	<b>Secured Creditors</b>	<b>Unsecured Creditors</b>
Transferor Company	Rs. 46,00,00,000	Rs. 45,82,00,000	2	Nil	57
Transferee Company	Rs. 40,00,00,000	Rs. 34,00,00,000	2	1	156

3. Both the companies are Private Limited Companies having their registered office at 5<sup>th</sup> floor, Jaya Enclave, 1057, Avinashi Road, Coimbatore- 641018 and the Board of Directors of the Transferor Company and Transferee Company vide their resolutions dated 15<sup>th</sup> June 2016 respectively approved the said scheme of Amalgamation. The Transferor Company is engaged the business of manufacturing and trading of human medicines, aqua beings, poultry, probiotics and all kinds of clinical research connected thereto whereas the Transferee Company is engaged in the business of manufacturing, processing, buying, selling, exporting and importing all kinds of bio-logical products, fertility related products etc. and all kinds of clinical research connected thereto.
4. The Hon'ble Madras High Court vide its order dated 14.11.2016, in CA nos. 1036 to 1038 of 2016 dispensed with the convening and holding of the meeting of the equity shareholders, Preference shareholders and & unsecured creditors of the Transferor Company whereas in CA nos. 1042

to 1044 of 2016, dispensed with the convening and holding the meeting of equity shareholders, secured & unsecured creditors of the Transferee Company. There is one Preference shareholder in the Transferor Company.

5. Shri S.P. Muralikrishnan, the learned counsel appearing for the Companies submitted that the rational of the scheme is that the petitioner Companies would be benefited from the said scheme of Amalgamation by integration of operations, simplification of business and optimal utilization of resources and better administration and cost reduction. Further, the resources of both companies would enhance its capability to expand and improve its efficiency of operations. He further submits that no investigation proceedings are pending against the Companies under section 235 to 251 or any other provisions of the Companies Act, 1956 or corresponding provisions of the Companies Act, 2013.
6. The learned counsel further submitted that the equity shares of the petitioner companies are not listed with any stock exchange, thus the petitioner companies do not require any compliance with the requirements of the Listing Agreement or any SEBI Rules/regulations.
7. To dispose of this petition as per the provisions of the Companies Act, 2013, the notices were issued to the statutory authorities as per the procedure prescribed. However, there were no objection to the scheme under reference.

8. The Regional Director, Southern Region (In short, '**RD**') in its Report Affidavit (for brevity, '**Report**') dated 16.06.2017 submitted that as per records of ROC, Coimbatore, the Transferor Company is regular in filing its statutory returns and no investigation is pending against the company. It is further submitted that as per Clause 8 of Part B of the scheme, the employees of the transferor company will become the employee of the transferee company without any break. The RD decided not to make any objection to the Scheme and submitted that the petition may be disposed of on merits. However, in para 10 of the RD Report, it is submitted that clause 10.1 and 10.2 of the scheme provide for the consolidation of the authorized capital of the transferor company with that of the transferee company, therefore, the transferee company may be directed to file the amended MoA and AoA with RoC, Coimbatore for his records.
9. With regard to above observation made by the RD, the learned counsel for the petitioner company submitted that the transferee company undertakes to comply with the direction as desired by the RD.
10. The Official Liquidator (In short, '**OL**') in its report dated 10<sup>th</sup> July, 2017 submitted that Mr. R. Mugunthan, Chartered Accountants (**Auditor**) appointed on the order of this bench vide its order dated 26.04.2017 in TP(HC)/54/CAA/2017, have scrutinized the books and accounts of the Transferor Company. The Auditor observed that the Transferor Company has maintained and written up all the statutory

books in accordance with normally accepted accounting principle and policies in accordance with the requirements of the Companies Act, 2013 and also the affairs of the company have not been conducted in a manner prejudicial to the interest of its members, creditors or to public interest.

**11.** The OL further submits that under Clause 8.1 of Part B of the proposed scheme, the interest of all employees in the service of the Transferor Company is safeguarded. It is further submitted that the said Auditor has not made any observations as regards to the share exchange ratio of the transferor company and the transferee company. The OL submitted that the company petitions may be decided appropriately.

**12.** Further perusal of the scheme shows that the accounting treatment is in conformity with the established accounting standards. In short, there is no apprehension that any of the creditors would lose or be prejudiced if the proposed scheme is sanctioned. The said Scheme of Amalgamation will not cost any additional burden on the stakeholders and also will not prejudicially affect the interests of any class of the creditors in any manner. The Appointed date of the Scheme is 01.04.2016.

**13.** There does not require any modification and the said Scheme of Amalgamation appears to be fair and reasonable, not contrary to public policy and also not violative of any provisions of law. All the statutory compliances have been made under the Companies Act, 2013. Taking into consideration all the above, the Company Petition is allowed and the

Scheme of Amalgamation annexed with the petition is hereby sanctioned which shall be binding on all the members, creditors and shareholders.

14. While approving the scheme as above, we further clarify that this order will not be construed as an order granting exemption from payment of stamp duty or taxes or any other charges, if payable, as per the relevant provisions of law or from any applicable permissions that may have to be obtained or, even compliances that may have to be made as per the mandate of law.
15. The Transferee Company is directed to file the amended MoA and AoA with RoC, Coimbatore as desired by the RD.
16. The Transferor Company shall be dissolved without winding up from the date of the filing of the certified copy of this order with the registrar of companies.
17. Upon receiving the certified copy of this order, the RoC, Coimbatore is directed to place all documents relating to the Transferor Company with that of the Transferee Company and the files relating to the Transferor Company shall be consolidated with the files and records of the Transferee Company.
18. The Company to the said Scheme or other person interested, shall be at liberty to apply to this Bench for any direction that may be necessary with regard to the working of the said Scheme.

19. The Petitioner Company do file with the Registrar of Companies the certified copy of this Order within 30 days of the receipt of the order.
20. The Order of sanction to this Scheme shall be prepared by the Registry as per the format provided under the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 as has been notified on 14<sup>th</sup> December, 2016.
21. The scheme annexed with the petitions stands sanctioned and the Company Petition stands disposed of.

  
**K. ANANTHA PADMANABHA SWAMY, MEMBER (J)**

RLS