

**National Company Law Tribunal, Division Bench, Chennai**

**In the matter of the Companies Act, 2013**

**And**

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

**Atmel R&D India Private Limited**

**And**

**NMI India Private Limited**

**With**

**Microchip Technology (India) Private Limited**

**Order on petition**

The above named 1st Transferor Company i.e. **Atmel R&D India Private Limited** filed the Company Petition No. CP/107/CAA/2017 under section 230 of the Companies Act, 2013 r/w the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. The purpose of the Company Petition is to obtain sanction of the Scheme of Amalgamation. All the statutory requirements under law have been fulfilled. The Petitioner Companies complied with all the directions given by this Bench. The Petition came up for hearing before this Tribunal on 05.09.2017.

For the purpose of considering and approving without modification, the Scheme of Amalgamation by virtue of which Atmel R&D India Private Limited and NMI India Private Limited are proposed to be merged, amalgamated and vested with Microchip Technology (India) Private Limited as a going concern in terms of the said scheme of amalgamation,

Upon perusal and hearing Shri K. Ramasamy and Shri G.V. Mohankumar, learned counsel for the Petitioner Companies on 05.09.2017,

**THIS TRIBUNAL DO ORDER**

- 1) That the Scheme of Amalgamation as annexed with the Petition alongwith Schedules is hereby sanctioned.
- 2) That this order of the Scheme of Amalgamation shall be binding on the shareholders and the Secured & Unsecured Creditors of the Transferor Companies and the Transferee Company; and
- 3) That the Appointed Date of the said Scheme is 1<sup>st</sup> April, 2016; and
- 4) That Transferor Company 1 is directed to deposit Rs. 50,000/- within 15 days of receipt of this Order to the OL for making payment to the Auditor, who has investigated into the affairs of Transferor Company; and
- 5) This order shall be subject to the orders passed by the Hon'ble NCLT Bengaluru Bench, within whose jurisdiction the registered offices of the Transferor Company 2 and the Transferee Company are situated; and
- 6) The 1<sup>st</sup> 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; and
- 7) 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; and
- 8) This Tribunal do further order that the parties to the Scheme of Amalgamation or other persons interested shall be at liberty to apply to this Tribunal for any directions that may be necessary with regard to the working of the said Scheme.

**SCHEDULE**

The Scheme of Amalgamation as sanctioned by the Tribunal contains the details of the properties, stocks, shares, debentures and other charges in action of the transferor companies.

Dated this 5<sup>th</sup> day of October, 2017, NCLT, DB, Chennai.

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

**CP/107/CAA/2017  
[CA/53/CAA/2017]**

Under Sections 230 to 232 of the Companies Act, 2013

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

**Atmel R&D India Private Limited  
(Transferor Company 1)**

**And**

**NMI India Private Limited  
(Transferor Company 2)**

**With**

**Microchip Technology (India) Private Limited  
(Transferee Company)**

Order delivered on: 26.09.2017

**Coram:**

Ch. Mohd Sharief Tariq, Member (J)  
S. Vijayaraghavan, Member (T)

For the Petitioner: Shri K. Ramasamy, Advocate  
Shri G.V. Mohan Kumar, Advocate

**ORDER**

**Per: Ch. Mohd Sharief Tariq, Member (J)**

1. Under consideration is a Company Petition No. CP/107/CAA/2017 filed by above mentioned Transferor Company 1 under section 230 of the Companies Act, 2013 r/w the Companies (Compromises, Arrangements and Amalgamations) Rules 2016. The purpose of the Company Petition is to obtain sanction of the Scheme of Amalgamation (in short, 'Scheme') by virtue of which Atmel R&D India Private Limited (hereinafter referred to as 'Petitioner/Transferor Company 1') and NMI India Private Limited (hereinafter referred to as 'Transferor Company 2') are proposed to

be merged, amalgamated and vested with Microchip Technology (India) Private Limited (hereinafter referred to as ‘**Transferee Company**’) as a going concern.

2. Before proceeding with the matter, it is pertinent to mention herein that the transferor company 2 and the transferee company are within the jurisdiction of the NCLT, Bengaluru Bench as their registered offices are situated in Bengaluru. The Transferor Company 1 has filed the present petition before this bench.
3. The details of Share Capitals, shareholders, Secured & Unsecured creditors of the Companies are as under:

<b>Particulars</b>	<b>Authorised Capital</b>	<b>Issued, S&amp;P Capital</b>	<b>Share-holders</b>	<b>Secured Creditors</b>	<b>Unsecured Creditors</b>
Transferor Company 1	Rs. 5,00,000	Rs. 1,60,610	2	Nil	1

4. The Transferor Companies and the Transferee Company are Private Limited Companies. The Petitioner/Transferor Company 1 is engaged in sales and marketing support of the products of the company & to engage in research & development of products of the same and having its registered office at 5<sup>th</sup> floor, Tower A, Tek Meadows, Rajiv Gandhi Salai, Sholinganallur, Chennai- 600119. The Board of Directors of the Petitioner Company vide its resolution dated 20.02.2017 have approved the said scheme of Amalgamation.
5. This Bench vide its order dated 24.04.2017, in CA/53/CAA/2017 dispensed with the convening and holding of the meeting of the equity

shareholders and unsecured creditors of the petitioner company under the provisions of section 230(9) of the Companies Act, 2013. There are no secured creditors in the petitioner company. The petitioner company complied with all the orders passed by this Bench.

6. Shri K. Ramasamy, the learned counsel appearing for the Petitioner Company submitted that the rationale and circumstances that have necessitated the proposed scheme are that the amalgamation will enable consolidation of the business of the three entities into one entity which will facilitate in focused growth, operational efficiency, resulting in more productive utilization of said resources and cost & operational efficiency which would be beneficial to all stakeholders. The learned counsel further submits that no investigation proceedings are pending against the Company under the provisions of the Companies Act, 1956 or corresponding provisions of the Companies Act, 2013.
7. Learned counsel for the Companies has further submitted that the equity shares of the Petitioner company are not listed with the stock exchange, thus the Company does not require any compliance of Listing Agreement or any SEBI Rules/regulations.
8. The notices were issued to the statutory authorities viz. Official Liquidator, Regional Director, RoC, Income Tax Authority and RBI as per the procedure prescribed. However, there has been no objection to the proposed scheme under reference.

9. The Regional Director, Southern Region (In short, '**RD**') in the Report Affidavit (for brevity, '**Report**') dated 11.08.2017 submitted that as per records of ROC, Chennai, the Transferor Company 1 is regular in filing its statutory returns and no investigation is pending against the company. It is further submitted that clause 5 of the subject scheme provides for the protection of the interest of the employees of the Transferor Company. The RD has decided not to make any objection to the Scheme and submitted that the petition may be disposed of on merits.
10. The Official Liquidator (In short, '**OL**') in its report dated 1<sup>st</sup> September, 2017 submitted that M/s. Pores Fernando & Co., Chartered Accountants (**Auditors**) appointed by this Bench vide its common order dated 24.04.2017, have scrutinized the books and accounts of the Transferor. The said Auditor has broadly reviewed and observed that the Transferor Company 1 has maintained and written up all the statutory books in accordance with normally accepted accounting principles and fulfilled the requirements of the Companies Act, 2013 and also the affairs of the Transferor company 1 have not been conducted in a manner prejudicial to the interest of its members, creditors or the public. The OL further submits that under Clause 5.1 of Part- B of the proposed scheme, the interest of all the workmen and employees in the service of the Transferor Companies are

safeguarded. The OL submitted that the petition may be decided appropriately.

11. 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 cast 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 said Scheme is 1<sup>st</sup> April, 2016.


12. There is no additional requirement for any modification and the said Scheme of Amalgamation appears to be fair and reasonable and is not contrary to public policy and not violative of any provisions of law. All the statutory compliances have been made under section 230 to 232 of the Companies Act, 2013. Taking into consideration the above facts, the Company Petition is allowed and the scheme of Amalgamation annexed with the petition is hereby sanctioned which shall be binding on the members, creditors and shareholders.

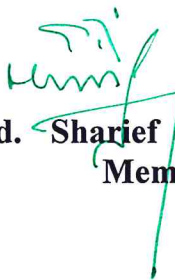
13. While approving the scheme as above, we further clarify that this order will not be construed as an order granting exemption from payment of stamp duty or taxes or any other charges, if payable, as per the relevant provisions of law or from any applicable permissions

that may have to be obtained or, even compliances that may have to be made as per the mandate of law.

14. This order shall be subject to the orders passed by the Hon'ble NCLT Bench, within whose jurisdiction the registered offices of the Transferor Company 2 and the Transferee Company are situated.
15. The Companies 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 implementation of the said Scheme.
16. The Petitioner Company shall file with the Registrar of Companies the certified copy of this Order within 30 days of the receipt of the order.
17. The Petitioner/Transferor Company 1 shall be dissolved without winding up from the date of the filing of the certified copy of this order with the Registrar of Companies, Chennai.
18. Upon receiving the certified copy of this order, the RoC, Chennai is directed to place all documents relating to the Transferor Company 1 with that of the Transferee Company and the files relating to the Transferor Company 1 shall be consolidated with the files and records of the Transferee Company.
19. 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 notified on 14<sup>th</sup> December, 2016.

20. Accordingly, the Scheme stands sanctioned and CP/107/CAA/2017 stands disposed of.

  
(S. Vijayaraghavan)  
Member (T)

  
(Ch. Mohd. Sharief Tariq)  
Member (J)

RLS