

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, CHENNAI**

**CP/182,183 & 184/CAA/2017
[TCA/56, 57 & 58/CAA/2017]**

Under Section 230 to 232 of the Companies Act, 2013

In the matter of Scheme of Amalgamation between

**M/s. Century Investments Private Limited
(Transferor Company-1)**

And

**M/s. Deal Investments Private Limited
(Transferor Company-2)**

With

**M/s. Tamarai Credit and Investments Private Limited
(Transferee Company)**

Order delivered on: 21.11.2017

Coram:

CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

S.VIJAYARAGHAVAN, MEMBER (TECHNICAL)

For the Petitioner(s) : Mr. Rajkumar Jhabakh, Advocate

Ms. Preeti Mohan, Advocate

Mr. Pawan Jhabakh, Advocate

Ms. Pavitra Venkateswaran

ORDER

Per: CH. MOHD SHARIEF TARIQ, MEMBER (J)

1. Under consideration are Three Company Petitions no: CP/182, 183, & 184/CAA/2017. The Petitions have been filed under section 230 of the companies Act, 2013 r/w the companies (Compromises, Arrangements and

Amalgamations) Rules, 2016. The purpose of the company petitions is to obtain sanction of the scheme of Amalgamation (in Short, '**Scheme**') by virtue of which M/s. Century Investments Private Limited (hereafter referred to as '**Transferor Company-1**') and M/s. Deal Investments Private Limited (hereafter referred to as '**Transferor Company-2**') are proposed to be merged, amalgamated and vested in M/s. M/s. Tamarai Credit and Investments Private Limited (hereafter referred to as '**Transferee Company**') as a going concern.

2. The Details of Share Capital, Shareholders, Secured & Unsecured Creditors of the Companies are as under:


Particulars	Authorised Capital	Issued, S&P Capital	No. of Equity Share-holders	No. of Secured Creditors	No. of Un-secured Creditors
Transferor Company-1	1,00,00,000	17,19,520	7	Nil	1
Transferor Company-2	5,00,000	1,08,060	4	Nil	3
Transferee Company	1,00,00,000	35,01,020	7	Nil	Nil

3. The Transferor Companies No.1, 2 and Transferee Company are Private Limited Companies having registered office at 383, Kamaraj Road, Uppilipalayam, and Couibatore-641015. The Transferor Companies No. 1, 2 and Transferee Company are engaged in business of Finance and Investments. The Board of directors of petitioner companies vide its resolution dated 31.01.2017 approved the said scheme of Amalgamation.

4. This Bench vide its order dated 27th April, 2017, in CA No. 56 of 2017 dispensed with the convening and holding of the meeting of the Equity Shareholders and Unsecured Creditors of the Transferor Company-1. In CA No. 57 of 2017 dispensed with the convening and holding of the meeting of the equity shareholders and unsecured creditors of the Transferor Company-2. In CA/58/CAA/2017 dispensed with the convening and holding of the meeting of the equity shareholders. In short the petitioner companies complied with all the orders passed by this bench.
5. Mr. Pawan Jhabakh, learned counsel appearing for the Petitioner Companies submitted that the rationale and circumstances that have necessitated the proposed scheme are that the amalgamation will enable consolidation of the business of the group into one entity which will facilitate in focussed growth, operational efficiencies, business synergies and better supervision of the business of the group and pooling of resources of aforesaid companies with the resources of the Transferee Company to their advantage, resulting in more productive utilisation of resources the business activities of Transferor Companies and Transferee Company complement each other and the combined efforts and resources would lead to a more concentrated approach towards development of the business which would be beneficial to all stakeholders. The learned counsel further submitted affidavits that the Companies namely Century Investments Private Limited and Tamarai Credit and Investments Private Limited are

not NBFCs and also not registered with the RBI. Since, the Companies are not NBFC there is no requirements of notice being served on the RBI in terms of Section 230(5) nor is any permission of the RBI required. Further it was submitted that the no investigation proceedings are pending against the Companies under sections 235 to 251 of the companies Act, 1956 or corresponding provisions of the Companies Act, 2013.


6. The Regional Director, Southern Region (In short, '**RD**') in the Report Affidavit (for brevity, '**Report**') dated 14.09.2017 submitted that Clause 6 of the scheme provides for the protection of the interest of the employees of the Transferor Companies. It's further submitted that the Transferor Companies and Transferee Company are regular in filing their statutory returns and no complaint is pending and no inspection or investigation is pending against Petitioner Companies. Further, the RD submitted that under Clause 9.1 the scheme proposes to enhance the authorised capital of the Transferee Company, therefore, the Transferee Company may be directed to file the amended MoA and AoA with the ROC, Coimbatore for records. It is further stated that as per Clause 10.6 of the scheme, the Transferee Company for the purpose of issue of shares to the shareholders of the Transferor Companies, will, if necessary, obtain permission of the RBI, and the other concerned regulators. However, the RD has not raised any other objection. ✓

7. With regard to the issue of enhancing of the authorised capital, the counsel for the petitioner companies submitted that the Transferee Company undertakes to file the amended MoA and AoA with the ROC, Coimbatore.
8. The Official Liquidator (In short, 'OL') in his report dated 13.10.2017, submitted that the Transferor Companies have maintained and written up all the statutory books in accordance with normally accepted accounting principles and fulfilled the requirements in terms of sections 391 and 394 of the Companies Act, 1956 and other applicable provisions of Companies Act, 2013 and also the affairs of the companies have not been conducted in with intent to defraud its creditors or any other persons as stated under section 542 of the companies Act, 1956 and there are transactions which are covered by the provisions of section 543 of the Companies Act, 1956. Further, it has been stated that the Transferor Company-1 had advanced of a loan of Rs. 2,14,53,158/- to Transferor Company-2 as interest free loan, which was treated as bad and doubtful. Therefore, provisions for doubtful asset has been made till the financial year ended 31.03.2015, no interest income has been recognize by the lender. Therefore, in their opinion the transaction between the transferors is not arm's length and prejudicial to the interest of the Transferor Company ^{v/z,} M/s. Century Investments Private Limited. 

9. The Tribunal has taken note of this objection in the OL's Report. This is a scheme of amalgamation and all assets and liabilities of the Transferor Companies no. 1 & 2 will be merged with that of Transferee Company. Hence in the books of accounts of the Transferee Company the effect of this Inter Corporate Deposit will be nil.

10. 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 1st April, 2016.

11. 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 Petitions are allowed and the scheme of Amalgamation annexed with the petitions is hereby sanctioned which shall be binding on the members, unsecured creditors and shareholders.

12. 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. The Transferee Company is directed to file the amended MoA and AoA with the ROC, Chennai for records.
13. 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 working of the said Scheme.
14. A certified copy of this Order shall be filed with Registrar of Companies within 30 days of the receipt of the order.
15. The Transferor Companies shall be dissolved without winding up from the date of the filing of the certified copy of this order with the Registrar of Companies.
16. Upon receiving the certified copy of this order, the ROC, Chennai is directed to place all documents relating to the Transferor Companies with that of the Transferee Company and the files relating to the Transferor Companies shall be consolidated with the files and records of the Transferee Company. 

17. 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 14th December, 2016.

18. Accordingly, the Scheme stands sanctioned and CP/182, 183 & 184/CAA/2017 stand disposed of.



(S. VIJAYARAGHVAN)
MEMBER (T)

TJS



(CH. MOHD SHARIEF TARIQ)
MEMBER (J)