

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

Argument heard on 20.04.2017  
Order passed on 25.04.2017

**TP (HC)/CAA/29/2017**

**[Connected with CP No. 355 of 2016 and CA Nos. 759 & 760 of 2016]**

**Under Sections 391 to 394 of the Companies Act, 1956 and the Corresponding  
Sections 230 to 232 of the Companies Act, 2013**

**In the matter of Scheme of Amalgamation of  
M/s Hitachi Solutions India Pvt. Limited  
(Transferor Company)**

**With**

**M/s Ignify Software Pvt. Limited  
(Transferee Company)**

**Represented by: Counsel T.K. Bhaskar**

**CORAM**

**ANANTHA PADMANABHA SWAMY AND CH. MOHD SHARIEF TARIQ  
MEMBERS (JUDICIAL)**

**ORDER**

**CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL): ORAL**


1. Under consideration is a Company Petition which has been transferred from the Hon'ble High Court of Madras to this Bench and renumbered as TP(HC)/CAA/29/2017. The Petitioner/Transferor Company has prayed for the sanction to the Scheme of Amalgamation (hereinafter referred to as '**Scheme**') by virtue of which M/s Hitachi Solutions India Pvt. Limited (hereinafter referred as '**Petitioner/Transferor Company**') having registered office at Block 5, 19<sup>th</sup> Floor, DLF IT PARK, 1/124, Shivaji Gardens, Mt.Poonamallee Road, Ramapuram, Chennai-600089 proposed to be amalgamated with M/s Ignify Software Private Limited (hereinafter referred as '**Transferee Company**') as a going concern.


2. At the outset, it is necessary to know the details of the scheme which needs determination. Both the Transferor Company and the Transferee Company are Private Companies and the Board of Directors of the Transferor Company and the Transferee Company have approved the said Scheme of Amalgamation in their board resolutions dated 13<sup>th</sup> May, 2016 respectively. The Hon'ble Madras High Court vide its order dated 29.08.2016, in CA No. 759/2016 & CA No. 760/2016 dispensed with convening and holding the meeting of the equity shareholders and Unsecured Creditors respectively. All the orders were complied with by the Transferor Company.
3. Learned Counsel for the Petitioner Company submitted that the Transferor Company is engaged in the business of consultancy in Information Technology and assisting in providing consulting solutions connected with IT whereas the Transferee Company is engaged in the business of domestic sale or export of buying, selling, importing, exporting, developing, producing and marketing services, products, technology and software for industrial, commercial, educational information including e-commerce services for computerized system.
4. The main objects of both the companies are common and the rational of the said Scheme, inter alia, is that the amalgamation would provide a digital convergence platform for both companies to deliver integrated solutions to its customers. Greater integration and greater facilities strength and flexibility for the merged entity, which would result in maximising overall shareholders' value and will improve the competitive position of the combined entity. The learned counsel further submits that no investigation proceedings are pending against the Petitioner Companies under section 235 to 251 or any other provisions of the Companies Act, 1956 or corresponding provisions of the Companies Act, 2013.
5. 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.

6. The Regional Director, Southern Region (In short, 'RD') in its report affidavit dated 9.12.2016 submitted that the Transferor Company is regular in filing its statutory returns, has no secured creditor and no investigation is pending against the company, therefore, RD decided not to make any objection to the Scheme and submitted that the petition may be disposed of on merits.
7. The Official Liquidator (In short, 'OL') in its report dated 16<sup>th</sup> December, 2016 submitted that M/s N. R. Krishnamoorthy & Company, Chartered Accountants appointed by the Hon'ble Madras High Court, 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, has no creditors and also the affairs of the company have not been conducted in a manner prejudicial to the interest of its members or to public interest and submitted that the petition may be decided appropriately.
8. The OL further submits that M/s. Pravesh Kumar & Associates, the valuers appointed by the management of both the companies to carry out the relative valuation of equity shares has opined in their report dated 14.04.2016 that the fair exchange ratio should be 0.22 share of Rs.10/- each fully paid-up in the Transferee company for every 1 equity share of Rs.10/- each fully paid up held in the Transferor company.
9. 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 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 said Scheme is 1<sup>st</sup> April, 2016.
10. We do not feel that any modification is required in the said Scheme of amalgamation as the same 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. 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 the Transferor Company, the Transferee Company and all creditors. However, this order shall be subject to the order that may have been passed on the petition of the Transferee Company by the Hon'ble NCLT, Mumbai Bench having jurisdiction to sanction the said scheme.

11. 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.
12. 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.
13. The Companies do file with the Registrar of Companies the certified copy of this Order within 30 days of the receipt of the order.
14. 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. Accordingly, the Company Petition stands disposed of.

  
(ANANTHA PADMANABHA SWAMY)  
MEMBER (JUDICIAL)

  
(CH. MOHD. SHARIEF TARIQ)  
MEMBER (JUDICIAL)