

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, CHENNAI

Arguments heard on 20.04.2017

Orders passed on 20.04.2017

CA /29/CAA/2017

with

CA/30/CAA/2017

(Under Sections 230 to 232 of the Companies Act, 2013)

And

In the matter of Scheme of Amalgamation

Of

M/s. Integra Infotech Private Limited (Transferor)

With

M/s. Integra Software Services Private Limited (Transferee)

And

Their Respective Shareholders and creditors.

Applicant companies represented by : Counsel Mr. M. Sricharan
Rangarajan

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ANANTHA PADMANABHA SWAMY & CH MOHD SHARIEF TARIQ,
MEMBERS (JUDICIAL)

ORDER

CH MOHD SHARIEF TARIQ, MEMBER(JUDICIAL) :- (ORAL)

1. Under consideration are application Nos. CA/29/CAA/2017 and CA/30/CAA/2017 pertaining to the proposed Scheme of Amalgamation. The transferor company is M/s. Integra Infotech Private Limited and the transferee company is M/s. Integra Software

Services Private Limited. The registered office of transferor company is at No.6, Second Cross, Brindavan, Pondicherry – 605013 and the registered office of the transferee company is at Floor 2, Module 8, SEZ Unit, Chennai One IT Park, 200 Feet Road, Thoraipakkam, Chennai – 600097. The prayer made in both the applications pertains to one Scheme of Amalgamation. Therefore, we take both the applications together for disposal by way of a common order.

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2. The prayer made in the application of the transferor company (M/s. Integra Infotech Private Limited) is for dispensing with convening, holding and conducting of the meeting of the equity shareholders, unsecured creditors and to order notices to the statutory authorities under the provisions of Section 230(5) of the Companies Act, 2013 and Rule 8 of the Companies (Compromise, Arrangements and Amalgamations) Rules, 2016. There are 2 equity shareholders in the transferor company. The consent affidavits are placed at pages 109 to 113 of the application. In the consent affidavits, it has been deposed that they have perused the proposed Scheme of Amalgamation and have no objection to the proposed Scheme of Amalgamation between the companies and also for dispensing with convening, holding and conduction of the meeting of the equity shareholders of the transferor company. Therefore, the requirement under law is fulfilled. Hence, we order to dispense with the meeting of the equity shareholders of the transferor company.

3. In relation to the secured/unsecured creditors, it has been stated that there is no secured creditor and there is only unsecured creditor, whose consent affidavit is placed at page 101 of the application, wherein consent has been given for the proposed Scheme of Amalgamation and also to dispense with the meeting of the unsecured creditor of the transferor company. Therefore, the requirement under law is fulfilled. Hence, we order to dispense with convening, holding and conducting of the meeting of the unsecured creditor the transferor company under Sub-section (9) of Section 230 of the Companies Act, 2013.

4. In the light of the Scheme of Amalgamation, we are inclined to direct the Registry to issue notice to the Regional Director, Ministry of Corporate Affairs, ROC and Income Tax Authorities. Since the applicant is a private company, there is no requirement to issue notices to Reserve Bank of India, SEBI, BSE, NSE and CCI and other stock exchanges. The authorities shall within the period of 30 days from the date of the receipt of the notice, may make representation to this Bench. The copy of such representation shall simultaneously be sent to the applicant company and in case no representation is received within the stipulated time it shall be presumed that the authorities have no representation to make on the proposed Schemed of Amalgamation.

5. We direct the transferor company to make newspaper publication one in English (All India edition) and another in vernacular language (Tamilnadu edition) having wider circulation in Union Territory of Pondicherry, having not less than 30 days

period before the Petition is presented. The transferor company is also directed to cause private notice to the authorities concerned and file the proof of sending and effecting the notices and the newspaper publication along with affidavit before filing of the Petition. The transferor company is also directed to display the notices on the notice board at its registered office besides uploading of the same in its website. The Registry is also directed to display the notice on the board of this Tribunal.

6. We also direct the Registry to issue notice to the Official Liquidator in respect of transferor company. The Official Liquidator shall appoint Chartered Accountant on his own for the purpose of preparation of the report which shall be submitted to this Bench within four weeks from the date the copy of this order is received.

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7. In relation to the transferee company M/s. Integra Software Services Private Limited, the prayer made in the application is for dispensing with convening, holding and conducting of the meeting of the equity shareholders, unsecured creditors and to order notices to the statutory authorities under the provisions of section 230(5) of the Companies Act, 2013 and Rule 8 of the Companies (Compromise, Arrangements and Amalgamations) Rules, 2016. There are 3 equity shareholders in the transferee company. The consent affidavits are placed at pages 133 to 141 of the application. In the consent affidavits, it has been deposed that they have perused the proposed Scheme of Amalgamation and have no objection to the proposed Scheme of Amalgamation between the companies and

consented to dispense with convening, holding and conduction of the meeting of the equity shareholders of the transferee company. Therefore, the requirement under law is fulfilled. Hence, we order to dispense with the meeting of the equity shareholders of the transferee company.


8. In relation to the secured/unsecured creditors of the transferee company, it has been stated that there is no secured creditor and there is only unsecured creditor, whose consent affidavit is placed at page 124 of the application, wherein, it has been deposed that the consent is being given for the proposed Scheme of Amalgamation between the transferor company and the transferee company and also consented to dispense with the meeting of the unsecured creditor of the transferee company. Therefore, the requirement under law is fulfilled. Hence, we order to dispense with convening, holding and conducting of the meeting of the unsecured creditor of the transferee company under Sub-section (9) of Section 230 of the Companies Act, 2013.

9. We are inclined to direct the Registry to issue notice to the Regional Director, Ministry of Corporate Affairs, ROC and Income Tax Authorities. Since the applicant is a private company, there is no requirement to issue notices to Reserve Bank of India, SEBI, BSE, NSE and CCI and other stock exchanges. The authorities shall within the period of 30 days from the date of the receipt of the notice, may make representation to this Bench. The copy of such representation shall simultaneously be sent to the applicant company and in case no representation is received within the stipulated time,

it shall be presumed that the authorities have no representation to make on the proposed Schemed of Amalgamation.

10. We also direct the transferee company to make newspaper publication one in English (All India Edition) and another in vernacular language (Tamilnadu edition) having wider circulation in Union Territory of Pondicherry, having not less than 30 days period before the Petition is presented. The transferee company is also directed to cause private notice to the authorities concerned and file the proof of sending and effecting the notices and the newspaper publication along with affidavit before filing of the Petition. The transferee company is also directed to display the notices on the notice board at its registered office besides uploading of the same in its website. The Registry is also directed to display the notice on the board of this Tribunal.

11. The applicant companies are directed to present the Petition for approval/sanction of the Scheme of Amalgamation before this Bench on or before 14.06.2017. Accordingly, the applications are disposed of.


ANANTHA PADMANABHA SWAMY
MEMBER (JUDICIAL)


CH. MOHD SHARIEF TARIQ
MEMBER (JUDICIAL)