

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,  
DIVISION BENCH, CHENNAI

Arguments heard on 21.04.2017  
Orders passed on 21.04.2017

**CA/48/CAA/2017**

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

and

In the matter of Scheme of Amalgamation

of

**M/s. NTC Logistics India Private Ltd** (1<sup>st</sup> Transferor)

And

**M/s. NTC Consultancy Services Private Ltd** (2<sup>nd</sup> Transferee-Transferor)

With

**M/s. NTC Logistic Private Ltd.** (Resulting company)

And

Their Respective Shareholders and Creditors.

Applicant companies represented by: Mr. K. Ramasamy and G. V. Mohan Kumar

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

**ORDER**

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

1. Under consideration is CA/48/CAA/2017 that relates to the proposed Scheme of Amalgamation. The 1<sup>st</sup> transferor company is M/s. NTC Logistics India Private Ltd., the 2<sup>nd</sup> transferee – transferor company is M/s. NTC Consultancy Services Private Ltd and the resulting company is M/s. NTC Logistic Private Ltd. The Registered Office of the 1<sup>st</sup> transferor company and the resulting company is at New No. 97 (old No. 47) Linghi Chetty Street, Chennai – 600 001.

The Registered Office of the 2<sup>nd</sup> transferee–transferor company is at No. 337, RA Shanmugam Complex Paramathi Road, Opp. NTLOA Bunk, Namakkal District, Tamilnadu. A joint prayer is made by the 1<sup>st</sup> transferor, the 2<sup>nd</sup> transferee-transferor and the resulting companies in relation to the Scheme of Amalgamation. Therefore, we proceed to dispose of the application by way of a common order as under:-

**1<sup>st</sup> Transferor company viz. M/s. NTC Logistics India Private Ltd.**

2. The prayer made by the 1<sup>st</sup> transferor company viz. M/s. NTC Logistics India Private Ltd. is to dispense with the convening, holding and conducting of the meeting of the equity shareholders, secured creditors and unsecured creditors in relation to the Scheme of Amalgamation. There are 34 equity shareholders in the 1<sup>st</sup> transferor company, who have given the consent affidavits which are placed at pages 241 to 274 of the application. The equity shareholders have deposed in their affidavits that they have perused, understood and agreed to the proposed Scheme of Amalgamation and dispense with convening, holding and conducting of the meeting of the equity shareholders. The requirement under law is fulfilled. We order to dispense with the meeting of equity shareholders of the 1<sup>st</sup> transferor company.

3. It has been submitted that there are 12 secured creditors and 535 unsecured creditors of the 1<sup>st</sup> transferor company, their lists are placed at pages 302 to 325 of the application. The counsel for the 1<sup>st</sup> transferor company has submitted that the Scheme is between the companies and the shareholders, so there is no requirement of

convening, holding and conduction of the meeting of the secured and unsecured creditors. Therefore, we direct the 1<sup>st</sup> transferor company to send individual notices to the creditors

4. We direct the Registry to issue notice to the Regional Director, Ministry of Corporate Affairs, ROC and Income Tax Authorities. Since the 1<sup>st</sup> transferor is a private company, there is no requirement for issuing notices to the Reserve Bank of India, SEBI, BSE, NSE and CCI. 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 period, it shall be presumed that the authorities have no representation to make on the proposed Scheme of Amalgamation.

5. We direct the 1<sup>st</sup> transferor company to issue private notice to the authorities and publish the notice in newspapers one in English “Business Standard” (All India edition) and another in vernacular language “Malai Malar” (Tamilnadu Edition) having wider circulation in the State of Tamilnadu, having not less than 30 days period before the presentation of the Petition. The 1<sup>st</sup> transferor company is directed to upload the notice on its website and display the notice on the notice board at its Registered Office. The Registry is also directed to display the notice on the notice board of this Bench.

6. We also direct the Registry to issue notice to the Official Liquidator in respect of the 1<sup>st</sup> 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.

**2<sup>nd</sup> transferee-transferor company viz. M/s .NTC Consultancy Services Private Ltd.**

7. The prayer made by the 2<sup>nd</sup> transferee-transferor company i.e. M/s. NTC Consultancy Services Private Ltd is to dispense with the convening, holding and conducting of the meeting of the equity shareholders, secured and unsecured creditors in relation to the Scheme of Amalgamation. There are 2 equity shareholders in the 2<sup>nd</sup> transferee-transferor company, who have given the consent affidavits which are placed at pages 276 to 279 of the application. The equity shareholders have deposed in their affidavits that they have perused, understood and agreed to the Scheme of Amalgamation and dispense with convening, holding and conducting of the meeting of the equity shareholders. The requirement under law is fulfilled. We order to dispense with the meeting of equity shareholders of the 2<sup>nd</sup> transferee-transferor company.

8. In relation to the secured and unsecured creditors of the 2<sup>nd</sup> transferee-transferor company, it is stated that there are no secured and unsecured creditors. The certificate of the Chartered Accountant is placed at page 326 of the application, which indicates

that there are no secured and unsecured creditors as on 31.12.2016 in the 2<sup>nd</sup> transferee-transferor company.

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9. We direct the Registry to issue notice to the Regional Director, Ministry of Corporate Affairs, ROC and Income Tax Authorities. Since the 2<sup>nd</sup> transferee-transferor is a private company, there is no requirement for issuing notices to the Reserve Bank of India, SEBI, BSE, NSE and CCI. The 2<sup>nd</sup> transferee-transferor company is also directed to issue notice to the authorities. 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 period, it shall be presumed that the authorities have no representation to make on the proposed Scheme of Amalgamation.

10. We direct the 2<sup>nd</sup> transferee-transferor company to publish the notice in newspapers one in English "Business Standard" (All India edition) and another in vernacular language "Malai Malar" (Tamilnadu edition) having wider circulation in the State of Tamilnadu, having not less than 30 days period before the presentation of the Petition. The 2<sup>nd</sup> transferee-transferor company is directed to display the notice on the notice board at its Registered Office and the Registry is also directed to display the notice on the board of this Tribunal.

11. We also direct the Registry to issue notice to the Official Liquidator in respect of 2<sup>nd</sup> transferee-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.

**Resulting Company viz. M/s. NTC Logistic Private Ltd**

12. The prayer made by the resulting company viz. M/s. NTC Logistic Private Ltd. is to dispense with the convening, holding and conducting of the meeting of the equity shareholders, secured and unsecured creditors. There are 18 equity shareholders in the transferee company, who have given the consent affidavits which are placed at pages 281 to 301 of the application. The equity shareholders have deposed in their affidavits that they have perused, understood and agreed to the Scheme of Amalgamation and dispense with convening, holding and conducting of the meeting of the equity shareholders. The requirement under law is fulfilled. We order to dispense with the meeting of equity shareholders of the resulting company.

13. It has been submitted that there are 2 secured creditors and 359 unsecured creditors of the resulting company, their lists is placed at pages 327 to 337 of the application. It has been submitted by the counsel for the resulting company that the Scheme of Amalgamation is between the company and its shareholders, so there is no requirement for convening, holding and conducting of the meeting of the creditors. Therefore, we direct the resulting company to send individual notices to the creditors.

14. We direct the Registry to issue notice to the Regional Director, Ministry of Corporate Affairs, ROC and Income Tax Authorities. Since the resulting company is a private one, there is no requirement for issuing notices to the Reserve Bank of India, SEBI, BSE, NSE and CCI. The resulting company is also directed to issue notice to the above authorities. 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 period, it shall be presumed that the authorities have no representation to make on the proposed Scheme of Amalgamation.

15. We direct the resulting company to publish the notice in newspapers one in English "Business Standard" (All India Edition) and another in vernacular language "Malai Malar" (Tamilnadu Edition) having wider circulation in the State of Tamilnadu, having not less than 30 days period before the presentation of the Petition. The applicant company is directed to display the notice on the notice board at its Registered Office and the Registry is also directed to display the notice on the board of this Tribunal.

16. We direct the applicant companies to present the Petition before this Bench on or before 19.06.2017. Accordingly, the application is disposed of.

  
K. ANANTHA PADMANABHA SWAMY  
MEMBER (JUDICIAL)

  
CH. MOHD SHARIEF TARIQ  
MEMBER (JUDICIAL)