

**BEFORE THE HON'BLE NATIONAL COMPANY LAW
TRIBUNAL
HYDERABAD BENCH
AT HYDERABAD**

CA(CAA)No.35/230/HDB/2017

Date of order: 08.05.2017

M/s Virtusa Software Services Private Limited
Having registered office at
Survey No.115/Part, Plot No.10,
Nanakramguda Village, Serilingampally,
Hyderabad – 500008, Telangana
Rep. by its Director,
Vasu Pendyala.

....1st Applicant/Transferor Company-1

AND

M/s Virtusa Technologies India Private Limited
Having registered office at
Survey No. 115/Part, Plot No. 10,
Nanakramguda Village, Serilingampally,
Hyderabad – 500008, Telangana
Represented by its Director,
Mr. Vasu Pendyala

**CERTIFIED TO BE TRUE COPY
OF THE ORIGINAL**

....2nd Applicant/Transferor Company-2

AND

M/s Virtusa Consulting Services Private Limited
Having Registered office at
Survey No. 115/Part, Plot No. 10,
Nanakramguda Village, Serilingampally,
Hyderabad – 500008, Telangana
Rep. by its Director,
Vasu Pendyala.

....3rd Applicant/Transferee Company

Parties Present:

Counsel for the Petitioner : Mr. P.AnilMukherji



CORAM

Mr. Rajeswara Rao Vittanala, Member (Judicial)

ORDER

(As per Rajeswara Rao Vittanala, Member (Judicial))

1. The present Company Application bearing CA(CAA)No.35/230/HDB/2017 is filed by M/s Virtusa Software Services Private Limited and two others, under Section 232 read with Section 230 of the Companies Act, 2013 and other applicable provisions of the Companies Act, 2013 by seeking the following reliefs:

i. In case of the 1st Applicant/Transferor Company 1:

to dispense with the meetings of the Equity Shareholders and Secured Creditors of the 1st Applicant / Transferor Company 1.

ii. In case of the 2nd Applicant/Transferor Company 2:

to dispense with the meetings of the Equity Shareholders and Secured Creditors of the 2nd Applicant / Transferor Company 2.

iii. In case of the 3rd Applicant/Transferee Company:

to dispense with the meetings of the Equity Shareholders, Secured Creditors and Unsecured Creditors of the 3rd Applicant/Transferee Company.

2. Brief facts, which are relevant to issue in question, are as follows:

- a) M/s Virtusa Software Services Private Limited (hereafter referred to as "1st Applicant/Transferor Company-1") was incorporated as a private limited company on 25th March, 2008



in the then State of Andhra Pradesh under the Companies Act, 1956. The Registered office of the 1st Applicant/Transferor Company-1 is situated at Survey No. 115/Part, Plot No. 10, Nanakramguda Village, Serilingampally, Hyderabad – 500008, Telangana, India.

- b) The main objects of the 1st Applicant/Transferor Company-1 are set out in the Memorandum of Association which are briefly as under:-
- i. “To undertake development and/or trade in sale, import, Export of Computer Software and all varieties of Information Technology services like Internet services, Intranet Services, Net Working like Wide Area Network, Local Area Network and its related protocols, E-Commerce, GIC/GPS mapping, data entries, Data Conversion, forex operation relating to Software, Hardware, Platform changing, Peripherals and related services either on direct contract or sub-contract basis and running and maintaining institute/school providing computer education, training, information technologies and training covering, inter-alia, relating to Software and Hardware and general management in relating to all aspects thereof.
 - ii. To carry on the business of Research and development, designing, manufacturing and trading in all types of computer Software and Hardware in all areas including Management information systems, Database services, Data warehousing, Industrial applications, Office systems, Automation systems, artificial intelligence cybernetics,



Simulations, Desktop publishing communications, including telecommunications and satellite and all other developments Computer Aided Design/Computer Aided Manufacture, Animations, Operating systems, Utilities and all other developments, in the field of Computers and Information Technology.

iii. To render consultancy services and services in the field of software development, turnkey projects and solutions, software export, Information and data processing computer systems, communication, operations research and technical services including commercial, exploitations, export, import, and to act as distributors, dealers, authorized representatives installers and commissioning agents of the same. To depute personnel to design and develop solutions software in India and abroad and to establish technology parks and offices in India and abroad and to broadly undertake all activities encompassing the field of information technology as may be permitted by law.



iv. To carry on the business of research and development, designing, manufacturing and training in computers, computer related products, Peripherals, sub-Systems, presentation devices, PBX and Telecom equipment, Communication products and any other electrical and electronic items relating to the field of computers of information technology.”

c) The 1st Applicant/Transferor Company-1 is engaged in the business relating to Information Technology and Software sector. The authorised, issued, subscribed and paid-up share

capital of the 1st Applicant/Transferor Company-1 as on 31st March, 2016 was as under:

Authorised Share Capital	Amount (Rs.)
1,00,000 Equity Shares of Rs. 10 each	10,00,000
Total	10,00,000
Issued, Subscribed and Paid-up Capital	Amount (Rs.)
10,000 Equity Shares of Rs. 10 each fully paid-up	1,00,000
Total	1,00,000

Subsequent to the above date and till the date of filing the Scheme, there has been no change in the issued, subscribed and paid up capital of the 1st Applicant/Transferor Company-1.

- d) M/s Virtusa Technologies India Private Limited (2nd Applicant/Transferor Company-2) having CIN No. U72200TG2014PTC095951, was incorporated under the Companies Act, 2013 on 9th October, 2014. The Registered office of the 2nd Applicant/Transferor Company-2 is situated at Survey No. 115/Part, Plot No. 10, Nanakramguda Village, Serilingampally, Hyderabad – 500008, Telangana, India.

- e) The main objects of the 2nd Applicant/ Transferor Company-2 are set out in the Memorandum of Association which are briefly as under:-

- I. To undertake development and/or trade in sale, import, Export of Computer Software and all varieties of Information Technology services like Internet services, Intranet Services, Net Working like Wide Area Network, Local Area Network and its related protocols, E-Commerce, GIC/GPS mapping, data entries, Data Conversion, forex operation relating to Software, Hardware, Platform changing, Peripherals and related



services either on direct contract or sub-contract basis and running and maintaining institute/school providing computer education, training, information technologies and training covering, inter-alia, relating to Software and Hardware and general management in relating to all aspects thereof.

- II. To carry on the business of Research and development, designing, manufacturing and trading in all types of computer Software and Hardware in all areas including Management information systems, Database services, Data warehousing, Industrial applications, Office systems, Automation systems, artificial intelligence cybernetics, Simulations, Desktop publishing communications, including telecommunications and satellite and all other developments Computer Aided Design/Computer Aided Manufacture, Animations, Operating systems, Utilities and all other developments, in the field of Computers and Information Technology.



- III. To render consultancy services and services in the field of software development, turnkey projects and solutions, software export, Information and data processing computer systems, communication, operations research and technical services including commercial, exploitations, export, import, and to act as distributors, dealers, authorized representatives installers and commissioning agents of the same. To depute personnel to design and develop solutions software in India and abroad and to establish technology parks and offices in India and abroad and to broadly undertake all activities encompassing the field of information technology as may be permitted by law.

IV. To carry on the business of research and development, designing, manufacturing and training in computers, computer related products, Peripherals, sub-Systems, presentation devices, PBX and Telecom equipment, Communication products and any other electrical and electronic items relating to the field of computers of information technology.”

f) The 2nd Applicant/Transferor Company-2 is also engaged in the business relating to Information Technology and Software sector. The authorised, issued, subscribed and paid-up share capital of the 2nd Applicant/Transferor Company-2 as on 31st March, 2016 was as under:

Authorised Share Capital	Amount (Rs.)
1,00,000 Equity Shares of Rs. 10 each	10,00,000
Total	10,00,000
Issued, Subscribed and Paid-up Capital	Amount (Rs.)
10,000 Equity Shares of Rs. 10 each fully paid-up	1,00,000
Total	1,00,000

g) Subsequent to the above date and till the date of filing the Scheme, there has been no change in the issued, subscribed and paid up capital of the 2nd Applicant/ Transferor Company 2.

4. M/s Virtusa Consulting Services Private Limited (3rd Applicant/ Transferee Company) having CIN No.U93000TG2008FTC057988, was incorporated under the Companies Act, 1956 on 5th March, 2008. The Registered office of the 3rd Applicant/Transferee Company is situated at Survey No. 115/Part, Plot No.10,

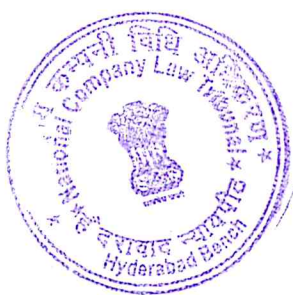


Nanakramguda Village, Serilingampally, Hyderabad – 500008,
Telangana, India.

a) The main objects of the 3rd Applicant/Transferee Company are set out in the Memorandum of Association which are briefly as under:-

i. To undertake development and/or trade in sale, import, Export of Computer Software and all varieties of Information Technology services like Internet services, Intranet Services, Net Working like Wide Area Network, Local Area Network and its related protocols, E-Commerce, GIC/GPS mapping, data entries, Data Conversion, forex operation relating to Software, Hardware, Platform changing, Peripherals and related services either on direct contract or sub-contract basis and running and maintaining institute/school providing computer education, training, information technologies and training covering, inter-alia, relating to Software and Hardware and general management in relating to all aspects thereof.

ii. To carry on the business of Research and development, designing, manufacturing and trading in all types of computer Software and Hardware in all areas including Management information systems, Database services, Data warehousing, Industrial applications, Office systems, Automation systems, artificial intelligence cybernetics, Simulations, Desktop publishing communications, including telecommunications and satellite and all other developments Computer Aided Design/Computer Aided



Manufacture, Animations, Operating systems, Utilities and all other developments, in the field of Computers and Information Technology.

- iii. To render consultancy services and services in the field of software development, turnkey projects and solutions, software export, Information and data processing computer systems, communication, operations research and technical services including commercial, exploitations, export, import, and to act as distributors, dealers, authorized representatives installers and commissioning agents of the same. To depute personnel to design and develop solutions software in India and abroad and to establish technology parks and offices in India and abroad and to broadly undertake all activities encompassing the field of information technology as may be permitted by law.



- iv. To carry on the business of research and development, designing, manufacturing and training in computers, computer related products, Peripherals, sub-Systems, presentation devices, PBX and Telecom equipment, Communication products and any other electrical and electronic items relating to the field of computers of information technology.

- b) The 3rdApplicant/Transferee Company is also engaged in the business relating to Information Technology and Software sector. The authorised, issued, subscribed and paid-up share capital of the 3rdApplicant/Transferee Company as on 31st March, 2016 was as under:

Authorised Share Capital	Amount (Rs.)
51,00,000 Equity Shares of Rs. 10 each	5,10,00,000
Total	5,10,00,000
Issued, Subscribed and Paid-up Capital	Amount (Rs.)
10,100 Equity Shares of Rs. 10 each fully paid-up	1,01,000
Total	1,01,000

The authorised, issued, subscribed and paid up share capital of the 3rd Applicant/Transferee Company as on 21st October, 2016 is as follows:

Authorised Share Capital	Amount (Rs.)
51,00,000 Equity Shares of Rs. 10 each	5,10,00,000
Total	5,10,00,000
Issued, Subscribed and Paid-up Capital	Amount (Rs.)
10,800 Equity Shares of Rs. 10 each fully paid-up	1,08,000
Total	1,08,000

Subsequent to 21st October, 2016, there has been no change in the share capital of the 3rd Applicant/ Transferee Company.



5. The Transferee Company and the Transferor Company-1 are subsidiaries of Virtusa Netherlands B.V and the Transferor Company-2 is a subsidiary of Transferor Company-1. All the Companies are engaged in the business relating to IT and software sector. Thus, the parent company would like to integrate and consolidate its subsidiaries in India. The integration, consolidation and amalgamation of the Transferor Company 1 and Transferor Company 2 with the Transferee Company would inter-alia be expected to have the following benefits:

- i) To achieve greater integration and greater financial strength and flexibility, to maximize overall shareholder value and improve the competitive position of the combined entity.

- ii) To achieve cost savings from more focused operational efforts, rationalization, standardization and simplification of business processes, productivity improvements and rationalization of administrative expenses.
- iii) The amalgamation will increase competitiveness of the Transferee Company since the Transferor Companies and the Transferee Company are operating in IT and software sector. The consolidation of the activities of the Transferor Companies and the Transferee Company by way of an amalgamation will lead to operational synergies, greater productivity and economical operations for future growth of the Transferee Company.
- iv) The amalgamation will provide for pooling of the managerial, technical and financial resources of the Transferor Companies and the Transferee Company, which will help in increasing the competitiveness of the Transferee Company.
- v) The amalgamation will result in reduction in overheads including administrative, managerial and other expenditure, operational rationalization, organizational efficiency, and optimal utilization of resources.
- vi) The amalgamation will result in a significant reduction in the multiplicity of legal and regulatory compliances required at present to be carried out by the Transferor Companies and the Transferee Company.
- vii) The increased asset base of the Transferee Company would have better financial viability and clearer focus, which would be in the interests of all creditors, including the creditors of the Transferor Companies, if any.



6. In view of the aforesaid advantages, the Board of Directors of the 1st Applicant/Transferor Company-1 vide its resolution dated 10th March, 2017 approved the Scheme. The Board of Directors of the 2nd Applicant/Transferor Company-2 has also approved the Scheme at their meeting held on 10th March, 2017. The Board of Directors of the 3rd Applicant/Transferee Company has also approved the Scheme at their meeting held on 10th March, 2017.
7. No investigation or proceedings have been instituted or are pending against the 1st Applicant/Transferor Company-1, the 2nd Applicant/Transferor Company-2 and 3rd Applicant/Transferee Company.
8. There are 2 (Two) Equity Shareholders in the 1st Applicant/Transferor Company-1 and all of them have given their consent to the proposed Scheme by means of affidavits.
9. There are 2 (Two) Equity Shareholders in the 2nd Applicant/Transferor Company-2 and all the shareholders have given their consent to the proposed Scheme by means of affidavits.
10. There are 4 (Four) Equity Shareholders in the 3rd Applicant/Transferee Company and all the shareholders have given their consent to the proposed Scheme by means of affidavits.
11. At present there is only 1 (One) Secured Creditor of the 1st Applicant/Transferor Company-1 and the sole Secured Creditor has given their consent to the proposed Scheme by means of affidavit. Further, there are no Unsecured Creditors in the 1st Applicant/Transferor Company-1 except in the nature of Trade Creditors. The rights of Trade Creditors will not be effected by the proposed Scheme of Amalgamation since



post scheme, the assets of the 1stApplicant/Transferor Company-1 will be sufficient to discharge its liabilities further and further it does not involve any compromise or arrangement with any creditors of the Third Applicant Company and requested the Hon'ble Tribunal to dispense with the meeting of the Unsecured Creditors/ Trade Creditors as the same is not required.

12. At present there is only 1 (One) Secured Creditor of the 2ndApplicant/Transferor Company-2 and the sole Secured Creditor have given their consent to the proposed Scheme by means of affidavit. Further, there are no Unsecured Creditors in the 2ndApplicant/Transferor Company-2 except in the nature of Trade Creditors. The rights of Trade Creditors will not be effected by the proposed Scheme of Amalgamation since post scheme, the assets of the 2ndApplicant/Transferor Company-2 will be sufficient to discharge its liabilities further and further it does not involve any compromise or arrangement with any creditors of the 2ndApplicant/Transferor Company-2 and requested the Hon'ble Tribunal to dispense with the meeting of the Unsecured Creditors/Trade Creditors as the same is not required.

13. At present there is only 1 (One) Secured Creditor of the 3rdApplicant/Transferee Company and the sole Secured Creditor has given its consent to the proposed Scheme by means of affidavit. Further, there is only 1 (One) Unsecured Creditor of the 3rdApplicant/Transferee Company and the sole Unsecured Creditor has given its consent to the proposed Scheme by means of affidavit. Further, there are no other Unsecured Creditors in the 3rdApplicant/Transferee Company except in the nature of Trade Creditors. The rights of Trade Creditors will not be effected by the proposed Scheme of Amalgamation since post scheme, the assets of the 3rdApplicant/Transferee Company will be sufficient to discharge its liabilities further and further it does not involve any compromise or



arrangement with any creditors of the 3rd Applicant/Transferee Company and requested the Hon'ble Tribunal to dispense with the meeting of the Unsecured Creditors/Trade Creditors as the same is not required.

14. Therefore, the applicants have sought the reliefs as mentioned supra.
15. I have heard Mr. P. Anil Mukherji, Learned Counsel for the applicants and I have carefully perused all documents filed along with relevant provisions of Companies Act, 2013. All of the above three applicant Companies have fulfilled requirements to grant dispensation as sought for. There would be no purpose served to order to conduct any meetings of those stake holders as they have all submitted their voluntary declarations by accepting the scheme of Amalgamation in question. Hence, all the applicants are entitled to grant dispensation for meetings of Equity Shareholders and Secured Creditors of all three companies.
16. In the result, the Company Application bearing No.35/230/HDB/2017 is allowed by to dispensing with the meetings of the Equity Shareholders and Secured Creditors of the 1st Applicant/Transferor Company-1, 2nd Applicant/Transferor Company-2 and the 3rd Applicant/Transferee Company.



CERTIFIED TO BE TRUE COPY
OF THE ORIGINAL

Sd/-
Rajeswara Rao Vittanala
Member(Judicial)

V. Annapoorna
V. ANNA POORNA
Asst. DIRECTOR
NCLT, HYDERABAD - 68