

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD**

CP (CAA)No. 200/230/HDB/2017

U/s 230 to 232 of the Companies Act, 2013

In the matter of

1. **SYNIVERSE CLEARING HOUSE INDIA PRIVATE LIMITED**  
9th Floor, ILabs Centre, Plot No 18, Software Units Layout,  
Madhapur, Hyderabad - 500081, Telangana  
represented by its Director, Mr. Paresh Shah  
...Petitioner/Transferor Company No. 1
2. **SYNIVERSE TELEDATA SYSTEMS PRIVATE LIMITED**  
9th Floor, ILabs Centre, Plot No 18, Software Units Layout,  
Madhapur, Hyderabad - 500081, Telangana.  
represented by its Director, Mr. Paresh Shah  
...Petitioner/Transferor Company No. 2
3. **SYNIVERSE MOBILE SOLUTIONS PRIVATE LIMITED**  
9th Floor, ILabs Centre, Plot No 18, Software Units Layout,  
Madhapur, Hyderabad - 500081, Telangana  
represented by its Director, Mr. Paresh Shah  
...Petitioner/Transferor Company No. 3
4. **SYNIVERSE TECHNOLOGIES SERVICES (INDIA) PRIVATE LIMITED**  
9th Floor, ILabs Centre, Plot No 18,  
Software Units Layout, Madhapur,  
Hyderabad - 500081, Telangana  
represented by its Director, Mr. Himanshu Goel  
...Petitioner/Transferee Company

Date of Order: 24.11.2017.

CORAM:

Hon'ble Mr. Rajeswara Rao Vittanala, Member (Judical)

Hon'ble Mr. Ravikumar Duraisamy, Member (Technical)



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OF THE ORIGINAL**

**Parties present:**

Counsel for the Petitioners: Dr. S. V. Rama Krishna, Advocate  
along with Mr. S. V. Vanshi  
Krishna, Advocate

Per: Rajeswara Rao Vittanala, Member (Judicial)

**ORDER**

1. The Company Petition bearing CP(CAA) No. 200/230/HDB/2017 is filed by the Petitioner Companies under Sections 230 to 232 and other applicable provisions of the Companies Act 2013 by seeking the Tribunal the following reliefs:-

- a) Order to take out newspaper advertisement of the Company Petition in two newspapers i.e. English daily Newspaper (Business Standard) and in Andhra Bhoomi (Telugu daily) in all editions in the State of Telangana;
- b) Sanction the Scheme of Amalgamation with Appointed Date being the 1<sup>st</sup> April, 2016 as to be binding on all the Equity Shareholders/ Members and Creditors of the Transferor Companies and the Transferee Company;
- c) Direct that the Petitioners do within 30 days after the date of the orders, cause a certified copy thereof to be delivered to the Registrar of Companies at Hyderabad for the State of Telangana and the State of Andhra Pradesh, for registration and on such certified copy being delivered or such date as this Tribunal may deem fit, the Registrar of Companies, Andhra Pradesh and Telangana, Hyderabad shall take all necessary consequential action in respect of the Petitioner Company;
- d) Order that the three Transferor Companies be dissolved without going through the process of the winding up.

2. Brief facts, leading to the filing of present case, are as follows:



(A) Syniverse Clearing House India Private Limited  
(Transferor Company No. 1)

- (a) The Transferor Company-1 was incorporated under the provisions of Companies Act, 1956, on 17 July 1997 as Multinational Automated Clearing House India Private Limited, whose name was subsequently changed to Syniverse Clearing House India Private Limited on 25 February 2014. Its registered office is at 9<sup>th</sup> Floor, ILabs Centre, Plot No 18, Software Units Layout, Madhapur, Hyderabad - 500081, Telangana, India.
- (b) The authorised share capital and the issued, subscribed and paid-up share capital of the Company as on 31 March 2016:

PARTICULARS	AMOUNT (INR)
Authorised Share Capital:	
6,000,000 equity shares of INR 10 each	60,000,000
TOTAL	60,000,000
Issued, Subscribed and Paid-up Capital:	
2,807,062 equity shares of INR 10 each	28,070,620
TOTAL	28,070,620

- (c) The main objects of Company provided as provided in clause III in its Memorandum of Association, are to carry on in India or abroad the business of a clearing house for domestic network operators and international roaming partners and engage in activities such as providing data clearing services between cellular network operators; financial clearing services involving production of correct outgoing original invoices, reconciliation of incoming invoices, multiple payment terms and multiple payment methods; conversion and reconciliation between





different billing formats and transmission methods etc.

(B) Syniverse Teledata Systems Private Limited (Transferor - 2 Company)

- (a) The Transferor-2 Company is a company incorporated as Mach Teledata Systems Private Limited on 3rd July 2001 under the provisions of Companies Act, 1956, whose name was subsequently changed to Syniverse Teledata Systems Private Limited on 25 March 2014. Its registered office is at 9th Floor, ILabs Centre, Plot No 18, Software Units Layout, Madhapur Hyderabad - 500081, Telangana, India.
- (b) The authorised share capital and the issued, subscribed and paid-up share capital of the Company as on 31 March 2016:



PARTICULARS	AMOUNT (INR)
Authorised Share Capital:	
500,000 equity shares of INR 10 each	5,000,000
TOTAL	5,000,000
Issued, Subscribed and Paid-up Capital:	
24,207 equity shares of INR 10 each	242,070
TOTAL	242,070

- a) The main objects of the Company as provided in clause III in its Memorandum of Association, are to carry on in India or abroad the business of a clearing house for domestic' network operators and international roaming partners and engage in activities such as providing data clearing services between cellular network operators; conversion and reconciliation between different billing formats and transmission methods etc.

(C) Syniverse Mobile Solutions Private Limited (Transferor -2 Company)

- (a) The Transferor-3 Company is an existing company incorporated on 18 April 2001 as Mach Mobile Solutions Private Limited under the provisions of Companies Act, 1956, whose name was subsequently changed to Syniverse Mobile Solutions Private Limited on 17 January 2014. Its registered office is at 9th Floor, ILabs Centre, Plot No 18, Software Units Layout, Madhapur, Hyderabad - 500081, Telangana, India.
- (b) The authorised share capital and the issued, subscribed and paid-up share capital of the Company as on 31 March 2016:

PARTICULARS	AMOUNT (INR)
Authorised Share Capital:	
1,000,000 equity shares of INR 10 each	10,000,000
TOTAL	10,000,000
Issued, Subscribed and Paid-up Capital:	
70,750 equity shares of INR 10 each	707,500
TOTAL	707,500

- (c) The main objects of the Company as provided in clause III of its Memorandum of Association, are to provide in any part of the world the services of a clearing house for domestic network operators and international roaming partners and engage in activities such as providing data clearing services between cellular network operators; conversion and reconciliation between different billing formats and transmission methods etc.

(D) Syniverse Technologies Services (India) Private Limited (Transferee Company)

- (a) The Transferee Company was incorporated on 3 June 2009 under the provisions of Companies Act, 1956. Its registered office is at 9th Floor, ILabs Centre, Plot No



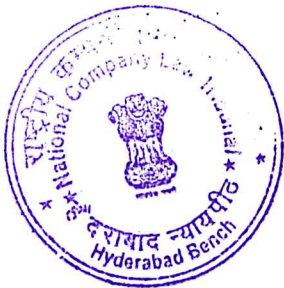
18, Software Units Layout, Madhapur, Hyderabad - 500081, Telangana, India.

- (b) The authorised share capital and the issued, subscribed and paid-up share capital of the Company as on 31 March 2016:

PARTICULARS	AMOUNT (INR)
Authorised Share Capital:	
100,000,000 equity shares of INR 10 each	1,000,000,000
TOTAL	1,000,000,000
Issued, Subscribed and Paid-up Capital:	
13,699,850 equity shares of INR 10 each	136,998,500
TOTAL	136,988,500

- (c) The main objects of Syniverse Technologies Services (India) Private Limited as set out in its Memorandum of Association are to provide telecommunication products and services to carriers/operators of telecommunication networks in India and abroad: to provide software and hardware products, solutions and services to telecom service providers for mobile roaming, validating and transmitting billing data between mobile operators, service bureau services near real time roaming data exchange services, call delivery and technical fraud detection and prevention regardless of switch type, billing format or signaling standard and other network related services etc.

- (d) The Transferor Company 1 and Transferor Company 2 are the wholly owned subsidiaries of the Transferee Company and post-Scheme, will be merged with the Transferee Company, with the Transferee Company as the surviving entity. Transferor Company 3 and the Transferee Company form part of the same group of companies and post- Scheme, Transferor Company 3 will be merged with the Transferee Company, with the Transferee Company as the surviving entity.





3. The Petitioner Companies under this Scheme of Amalgamation are part of Syniverse Group ("the Group"). The Group believes that the envisaged Scheme of Amalgamation would benefit the companies and their respective stakeholders on account of following reasons:

- a) To optimally utilise the resources of each entity & to bring about operational synergies in the business operations, to bring them under one entity and also to make available the below mentioned benefits to the amalgamated entity, the members and creditors of the Transferor Companies and the Transferee Company
- b) Emergence of a fully integrated single entity positioned to provide more extensive and integrated technology and business services in the telecommunications sector.
- c) The benefit of consolidation of financial resources, managerial, technical and marketing expertise of each of the Transferor Companies and the Transferee Company shall be available to the amalgamated entity.
- d) The amalgamation would result in enhanced potential for increase in revenues and profits over time for the amalgamated entity and its members. The amalgamation would provide synergistic linkages besides economies in costs and other benefits resulting from the economies of scale, by combining the businesses (including specific industry expertise thereto) and operations of the Transferor Companies and the Transferee Company and thus contribute to the profitability over time of the amalgamated entity by rationalization of management and administrative structure.



4. In order to achieve the above objectives, the Board of Directors of each of the Transferor Companies and the Transferee Company at their respective meetings held on 23.01.2017 and shareholders of the three Transferor Companies at their Extra Ordinary General Meetings held on 23.01.2017 have approved the Scheme of

Amalgamation and decided to make the requisite applications and petitions before the National Company Law Tribunal under Sections 230 to 232 of the Companies Act, 2013 and other applicable provisions for the sanction of this Scheme for Amalgamation of the Transferor Companies into the Transferee Company .

5. The following are brief terms of Scheme of Amalgamation:
- a) The Appointed Date for the purpose of this Scheme is 01.04.2016
  - b) Upon the scheme coming into effect, all the assets and properties, both movable and / or immovable (whether owned or under leasehold or similar rights), tangible and / or intangible, and amounts receivable or belonging to the Transferor Companies as on the Appointed Date;
  - c) Upon the scheme becoming effective, all the present employees engaged by the Transferor Companies, as on the Effective Date; and
  - d) Upon the scheme becoming effective, all debts, liabilities (including contingent liabilities, present and /or future), duties and obligations of the Transferor Companies as on the Appointed Date;
  - e) Amounts claimed by or due to the transferor companies from any government or taxing or statutory / Income tax /local / municipal authority in relation to refund of any tax, duty, cess or any excess payment including interest claims thereunder; and
  - f) Right to any claim not preferred or made by the Transferor Companies in respect of any refund of tax, duty, cess, set-off, carry forward of unabsorbed losses or any other tax benefits not availed by the Transferor Companies including interest claims thereto and includes all reserves, movable and immovable properties (real and personal, tangible or intangible, corporeal and in-corporeal, in possession, or in reversion, present and contingent of whatsoever nature, wherever situated) and assets, cash in hand, amounts held with the Banks to the credit of the Transferor Companies





and all other assets of the Transferor Companies, including all investments whether in shares, stocks, debentures or otherwise, deposits, earnest monies/ security deposits or entitlements in connection with or relating to this business undertaking etc as per records of the Transferor Companies, and other records in connection with or relating to the Transferor Companies, whether in physical or electronic form.

- g) Upon the scheme becoming effective, all existing charges on the assets against loans obtained, if any, by the Transferor Companies would be transferred pursuant to this Scheme, the Scheme shall not operate to enlarge the security for any loan, deposit or facility created by or available to the Transferor Companies which shall vest in the Transferee Company by virtue of the amalgamation and the Transferee Company shall not be obliged or required to create any further or additional security therefore after the amalgamation has become effective or otherwise.
- h) Upon the scheme becoming effective, no shares are required to be issued by the Transferee Company to Transferor Company 1 or Transferor Company 2, and the shares held by the Transferee Company and/or its nominee in Transferor Company 1 and Transferor Company 2 shall stand cancelled and be treated as null and void without any further application, act or deed. It is clarified that no new shares shall be issued or payment made in cash whatsoever to the Transferee Company in lieu of the shares held by it or its nominee in Transferor Company 1 and Transferor Company 2.
- i) Upon coming into effect of the Scheme and in consideration of the amalgamation of Undertaking of Transferor Company 3 into the Transferee Company in terms of this Scheme, the Transferee Company shall issue and allot equity shares at par or premium on a proportionate basis to each member of Transferor Company 3 whose name is recorded in the Register of Members of the Transferor Company 3 as holding equity shares on the Specified Date in the ratio of 306 : 1,



i.e., 306 equity shares of face value of INR 10 each, credited as fully paid in the capital of the Transferee Company, to be issued for every 1 equity share(s) of face value of INR 10 each of Transferor Company No. 3, held by the member.

j) Upon sanction of this scheme by the Tribunal, all the Transferor Companies shall without any further act of deed, stand dissolved without going through the process of winding up.

6. It is further stated that the Tribunal vide its Order dated 01.09.2017 passed in a Joint Company Application CA (CAA) 64/230/HYD/2017 filed by the three Transferor Companies and Transferee Company before this Tribunal at Hyderabad dispensed with the meetings of the equity shareholders and Secured/ Unsecured creditors of all the above four Applicant Companies for consideration of the Scheme of Amalgamation and directed to communicate the order to all statutory authorities within three weeks from the date of receipt of the order.



The learned Counsel further filed a Memo dated 08.11.2017 stating that as per the directions of this Tribunal, the Petitioner Companies got published the "Notice of Petition in Form No. CAA3" in English Daily Business Standard (English daily-Hyderabad) and in Andhra Bhoomi (Telugu daily - Hyderabad) on 17<sup>th</sup> October, 2017. It is also stated that notices were also issued to the Registrar of Companies, Regional Director (SER), Official Liquidator and Income Tax Authorities to their respective Assessing circles of the Petitioner Companies.

8. The Regional Director (SER), Hyderabad has filed an affidavit dated 09.11.2017, by inter-alia confirming the averments made by the Petitioners Companies, and further stated that the Petitioner Companies are regular in filing statutory returns and no complaints, no investigation and no inspection is pending against the Petitioners Company. It is further stated that a notice dated 13.10.2017 followed by reminder dated 31.10.2017 was sent to the income Tax Authorities requesting to submit their comments/ objections, if any in the present Petitions. The Asst.



Commissioner of Income Tax, Circle 4(1), Gurgaon, Haryana vide letter bearing F.NO.ACIT/CIRCLE-4/ GGN/2017-18 dated 03.11.2017 in respect of Transferee Company which falls within their jurisdiction, gave its report stating, inter alia, that :

1. The transferee entity shall undertake to be liable for dues, if any in respect of income tax matters of the transferor entities;
2. The transferee entity shall undertake to be liable for pending proceedings, in respect of income tax matters of the transferor entities;

It is also reported that the carry forward of brought forward losses would be governed by Section 79 of the Income Tax Act, 1961 and requested the Tribunal to kindly consider the same before approving the proposed amalgamation.

In pursuant to the above order of the Asst. Commissioner of Income Tax, Gurgaon, Haryana, the Learned Counsel also submitted an affidavit / undertaking stating that “with effect from the Effective Date, all legal or other proceedings (including before any statutory or quasi-judicial authority or Tribunal proceedings) by or against any of the Transferor Companies under any statute, whether pending on the Appointed Date, or which may be instituted any time in the future shall be continued and enforced by or against the Transferee Company on and after the Effective Date, to the extent legally permissible”. So far as the liability of the Tax is concerned, it is already covered by the terms and conditions mentioned at Clause 7.2 under the heading “Legal Proceedings” of the Scheme. Therefore, the interest of the Income Tax Department is taken care of.

9. The Official Liquidator also files his report dated 07.11.2017 vide its OLR NO. 89/2017, by inter- alia confirming the averments made by the Petitioner Companies, has further stated that the affairs of the Company appears to have not been conducted in a manner prejudicial to the interests of the members or to public interest and thus they have no objection for consideration application as per merits.





10. Heard Dr. S.V. Rama Krishna, Learned Advocate and have carefully perused all the pleadings, reports of the Regional Director, the Official Liquidator and also extent provisions of Companies Act, 2013. We are convinced that the Petitioner Companies have complied with all statutory requirements as required under Sections 230 to 232 and other relevant provisions of Companies Act, 2013, as detailed supra. The Board of Directors of the Petitioner Companies at its respective Board meetings held on 23.01.2017 have duly approved the Scheme of Amalgamation in question. As stated supra, in pursuant to the notice given to the Income Tax Department, the Asst. Commissioner of Income Tax, Circle 4(1), Gurgaon, Haryana vide letter No. F.No.ACIT/CIRCLE-4/GGN/2017-18 DATED 03.11.2017 has already given its consent for the Scheme subject to the conditions mentioned therein and the Petitioner has already given their undertaking. Moreover, the Scheme in question also contains the undertaking of all liabilities of the Transferor Companies including the IT. We are satisfied that the Scheme of Amalgamation in question is for bonafide reasons meant for the benefit of all concerned parties of the Petitioner Companies in question, and public in general. It is also on record that the Scheme is not opposed by any authorities and the Petitioner Companies are admittedly following all rules/regulations of Companies Act as stated by Regional Director. Hence, we are convinced that the Company Petition deserved to be allowed as prayed for.

11. In the result, the CP (CAA) No. 200/230/HDB/2017 is allowed with the following directions:

- a. Sanctioned the Scheme of Amalgamation as proposed (which is placed at Page No. 269 along with material papers enclosed with the Petition), and it is ordered that the same is binding on all the Equity Shareholders/ Members and Creditors (Secured & Unsecured) of the Petitioner Companies.
- b. That the Petitioners i.e. First, Second and Third Transferor Companies are hereby be dissolved without going through the process of winding up proceedings.





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OF THE ORIGINAL**

**प्रमाणित प्रति  
CERTIFIED TRUE COPY**

केस संख्या  
CASE NUMBER *RCAR/2017/2307*  
निर्णय का तारीख *24/11/2017*  
DATE OF JUDGEMENT...  
प्रति तैयार किया गया तारीख  
COPY MADE READY ON...*24/11/2017*

- c. The Petitioner Companies are directed to take appropriate steps to submit the said Scheme to Registrar of Companies within 30 days from the date of receipt of copy of this Order.
- d. The Petitioner Companies are directed to issue newspaper publication with respect to approval of Scheme of Amalgamation, in the same newspapers in which previous publications were issued in order to ensure transparency/ dissemination of complete information to all concerned parties about the approval granted by the Tribunal for the Scheme as proposed.
- e. The Petitioners Companies are further directed to take all consequential and statutory steps required in pursuance of the approved Scheme of Amalgamation under the provisions of the Act.
- f. Liberty is granted to any party/ parties, who are aggrieved by this order, to seek any direction(s) by way of filing miscellaneous application in the present Company Petition.
- g. The Petitioner Companies are directed to strictly adhere to above directions and all extant provisions of Companies Act, 2013.
- h. The Transferee Company is further directed to forward the copy of this order along with the undertaking dated 23.11.2017 to the Asst. Commissioner of Income Tax, Circle 4(1), Gurgaon, Haryana.

*lh*  
**Dy. Regr./Asst. Regr/Court Officer/  
tional Company Law Tribunal, Hyderabad Bench**

*Sd/-*  
**RAVIKUMAR DURAISAMY  
MEMBER (TECHNICAL)**

*Sd/-*  
**RAJESWARA RAO VITTANALA  
MEMBER (JUDICIAL)**