

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

CA (CAA) No.256/230/HDB/2017
U/s 230 & 232 of the Companies Act, 2013

In the matter of

M/s Invensys Development Centre India Private Limited
7th Floor, Block C, Plot No.18 Software Unit Layout
Madhapur, Hyderabad
Telangana - 500081

... Applicant /
Transferor Company

And

M/s Schneider Electric Software India Private Limited
Salarpuria Touchstone, Survey No.15A
Portion of Survey No.14, P&
Kadubeesanahalli, Varthurhobli
Bengaluru, Karnataka - 560 037

...Transferee
Company



Date of order:18.12.2017

Coram

Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
Hon'ble Shri Ravikumar Duraisamy, Member (Technical)

Parties / Counsels present

For the Applicant : Shri V.S. Raju & V.B. Raju
Advocates

Per: Rajeswara Rao Vittanala, Member (Judicial)

ORDER

1. The present Company Application bearing CA (CAA) No. 256/230/HDB/2017 is filed by M/s Invensys Development Centre India Private Limited (Applicant / Transferor Company) under Section 230 & 232 of the Companies Act, 2013, seeking directions to dispense

with the meeting of the Equity Shareholders and convening meeting of Unsecured Creditors of the Applicant/Transferor Company and Appointment of a Chairperson for convening the same, etc.

2. Brief facts, leading to filing of the present Company Application, are as follows:-

- (a) M/s Invensys Development Centre India Private Limited (Transferor Company) was incorporated on 19.06.2003 under the Companies Act, 1956, in the then State of Andhra Pradesh. Its registered office of the Applicant/ Transferor Company is situated at 7th Floor, Block C, Plot No.18, Software Unit layout, Madhapur, Hyderabad, Telangana - 500081.
- (b) The main objects of the Applicant / Transferor Company are to carry on the business of establishing, developing, designing and licensing softwares of all descriptions, import and export, modify and deal in computer software, to establish an Engineering Center to support the design and development of business in India and abroad. At present the Applicant / Transferor Company is engaged in the business of software solution and services.
- (c) The authorised, issued, subscribed and paid-up share capital of the Applicant / Transferor Company as on 30.09.2017 is as under:-

Share Capital	Amount in (Rs)
Authorised Share Capital	
2,50,000 Equity shares of Rs. 10/- each	25,00,000
Total	25,00,000
Issued, subscribed and paid up share capital	



2,74,000 Equity Shares of Rs. 10 each fully paid up	24,74,000
TOTAL	24,74,000

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

- (d) M/s Schneider Electric Software India Private Limited (Transferee Company) was incorporated as a Private Limited Company on 28.03.2000 in the State of Karnataka under the Companies Act, 1956. Its Registered office is situated at Salarpuria Touchstone, Survey No. 15A & Portion of Survey No.14, P7, Kadubeesanahalli, Varthur Hobli, Bengaluru, Karnataka - 560 037.
- (e) The main objects of the Transferee Company as set out in the Memorandum of Association are to carry to the business of web technologies, multimedia, internet and intranet applications, to design, develop, improve, engage in customer education and support activities etc. The Transferee Company is engaged in the business of software development and providing software related industrial solutions.
- (f) The authorized, issued, subscribed and paid-up share capital of the Transferee Company as on 20.09.2017 is as under:

Share Capital	Amount in (Rs)
Authorised Share Capital	
25,000 Equity shares of Rs. 10/- each	2,50,000
Total	2,50,000
Issued, subscribed and paid up share capital	



20,452 Equity Shares of Rs. 10 each fully paid up	2,04,520
TOTAL	2,04,520

3. **RATIONALE FOR THE PROPOSED SCHEME**

- (a) Greater integration and greater financial strength and flexibility for the combined entities.
- (b) Greater efficiency in the cash management of the combined entities and unfettered access to cash flow generated by the combined business
- (c) Benefit of operational synergies of the combined entities also.
- (d) The Transferee Company will be able to scale up its existing business operations by combining the business interests of both Companies into one corporate entity.
- (e) The amalgamation of Transferor Company and the Transferee Company will facilitate efficient administration and enable smoother implementation of policy changes at a higher level. It will also result in a substantial enhancement of shareholders' value of the Transferee Company, etc.

4. In view of the aforesaid advantages, the Board of Directors of the Transferor Company vide its meeting dated 11.10.2017 approved the Scheme of Amalgamation between M/s Invensys Development Centre India Private Limited (Transferor Company) and M/s Schneider Electric Software India Private Limited (Transferee Company) and their respective shareholders.
5. The following are the brief terms of the proposed scheme:-



- (a) The Appointed date for the purpose of this scheme is 01.04.2017.
- (b) Upon the Scheme becoming effective, all properties, assets and liabilities, etc of Transferor Company with effect from the appointed date, becomes the properties of the Transferee Company by virtue of Amalgamation.
- (c) After the appointed date, any proceedings taken against the Transferor Company, the same shall be defended by and at the cost of Transferee Company.
- (d) Upon the Scheme becoming effective, all staff, workmen and employees of the Transferor Company in service as at the end of the Transition period shall be deemed to have become staff, workmen and employees of the Transferee Company on such date, without any break or interruption in their service, and the terms and conditions of their employment with the Transferee Company not less favourable than those subsisting with reference to the Transferor Company as on the said date.
- (e) Upon the coming into effect of this Scheme all the shares of Transferor Company held by the Transferee Company and/ or its nominee shall be deemed to have been cancelled without any further act or deed, and no shares of the Transferee Company are required to be issued in lieu thereof. The share certificates, if any, representing the shares held by the Transferee Company and / or its nominee in the Transferor Company, shall be deemed to be cancelled without



any further act or deed for cancellation thereof by the Transferee Company.

- (f) Upon the scheme becoming effective, the Transferee Company shall follow the “pooling of Interest” method of accounting prescribed under Accounting Standard 14 issued by the Institute of Chartered Accountant of India and notified by the National Advisory Committee on Accounting Standards, MCA vide Notification No. G.S.R. 739€ dated 07.12.2006. In case of any differences in accounting policies between the Transferee Company and the Transferor Company, the accounting policies followed by the Transferee Company shall prevail to ensure that the financial statements reflect the financial position on the basis of consistent accounting policies. Any change in accounting policies shall be reported in accordance with Accounting Standard (AS) 5, Net profit or loss for the Period, Prior Period Items and Changes in Accounting Policies.



- (g) Upon the Scheme becoming effective, the amount of any inter-company balances and loans or advances between the Transferor Company and the Transferee Company, if any, investments in the shares of the Transferor Company appearing in the books of Transferee Company, shall stand cancelled without any further act or deed, upon the Scheme coming into effect, and the amounts so cancelled shall not be recorded in the books of account of the Transferee Company.
- (h) The surplus arising between (A) aggregate values of assets of the Transferor Companies acquired and recorded by the Transferee Company after making



necessary adjustments as per the Scheme, and (B) the aggregate of (a) the liabilities of the Transferor Companies acquired and recorded by the Transferee Company or investments held by Transferee Company cancelled or inter-company balances cancelled after making necessary adjustments as per the Scheme, and (b) reserves of the Transferor Companies recorded by the Transferee Company, shall be credited to the General Reserve Account of the Transferee Company. In case of a deficit, as computed above, such deficit shall be debited to General Reserve Account of the Transferee Company.

- (i) On the Scheme becoming effective, the Transferor Company shall stand dissolved, without going through the process of winding up.
6. No investigation or proceedings have been instituted or pending against the Applicant/Transferor Company and Transferee Company. The Resulting Company is an unlisted company. A similar application was filed by the Transferee Company at NCLT, Bengaluru Bench for dispensation of meetings of secured creditors
7. There are 2 (two) shareholders in the Applicant/Transferor Company as per details given below:-

S.No.	Name of Equity Shareholder	Total paid up value	% of share-holding
1	Schneider Electric software India Private Limited	2,47,399	99.99%
2	Schneider electric Software Holdings	1	0.01%

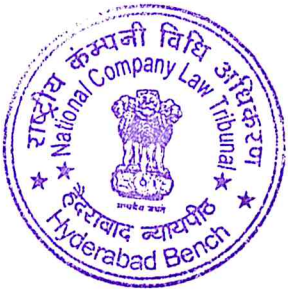
	Singapore Pte Limtied		
	Total Equity Shares	2,47,400	100%

It is further stated that Harish Vasanth & Associates, the Chartered Accountant after verification of the books of accounts and other records and documents of the Applicant Company certified the number of shareholders as on 30.09.2017. The same is marked as Annexure “H”. Shri Rajan Aaron Pragasam, Finance Manager of Schneider Electric Software India Private Limited, the shareholder holding 99.99% of the paid up capital of the Applicant Company vide their affidavit dated 23.11.2017 has given consent to the proposed scheme of amalgamation after filing the application.

It is further submitted that there are no secured creditors. However, there are 13 Unsecured/Trade creditors in the Applicant / Transferee Company to the value of Rs. 17,434,067.00.

8. Heard Shri V.B. Raju, Learned Counsel for the Applicant Company. The Applicant is seeking an order to direct meeting of Unsecured/trade creditors and dispensing with the meeting of Shareholders.
9. We have considered pleadings of the Learned Counsel for the Applicant Company which is a Transferor Company and all the material papers in support of the application and satisfied that the Company is stated to be following all provisions of Company Act, 2013, and rules made there under and the scheme in question prima facie satisfies fundamental requirements for its sanction, however subject to approval of its shareholders, unsecured creditors, all stake holders and finally NCLT.





10. In the result, the Company Application bearing CA (CAA) No.256/230/HDB/2017, is disposed of with the following directions.

- (a) Hereby dispensed with convening the meeting of the shareholders of the Applicant Company.
- (b) Hereby appointed Mr. Vimal Varma Vasireddy, Advocate #R/o 6-3-609/1/9/1, Anandnagar, Hyderabad (Telephone 9550281018) as Chairperson to convene and hold the meeting of the Unsecured/Trade Creditors of the Applicant Company for the purpose of considering the proposed Scheme.
- (c) Further directed to issue notice to the Unsecured / Trade Creditors of the Applicant Company in accordance with the provision of Section 230 (3) of the Companies Act, 2013 and also cause publication of the notice in newspapers calling the meetings of unsecured creditors of Applicant Company in Business Standard and Nava Telangana.
- (d) Further directed to issue notices to all statutory authorities including Income Tax Authorities under Section 230 (5) of the Companies Act. 2013.
- (e) Venue of the meeting to be conducted is at 7th Floor, Block C, Plot No.18,. Software Unit Layout, Madhapur, Hyderabad Telangana-500081 at 11.30 AM on 10.02.2018.
- (f) Further directed the Company to ensure substantial representation during the meeting so as to get minimum 75% of total unsecured creditors consent for the proposed scheme to be considered later by the Tribunal. The Quorum fixed is 2 (Two)

persons personally present, as proposed by the Applicant Company.



- (g) Fee fixed for Chairperson is Rs.75,000/- which is agreed to be paid by the Learned Counsel for the Company.
- (h) Direct the Chairperson to file his report within two weeks' of conducting of meeting.

Sd/-
RAVIKUMAR DURAISAMY
MEMBER (TECHNICAL)

Sd/-
RAJESWARA RAO VITTANALA
MEMBER (JUDICIAL)

binnu

for Dy. Regr./Asst. Regr./Court Officer/
National Company Law Tribunal, Hyderabad Bench

प्रमाणित प्रति
CERTIFIED TRUE COPY

केस संख्या
CASE NUMBER: CA(CAA) No. 256/230/HDB/2017
निर्णय का तारीख
DATE OF JUDGEMENT: 18.12.2017
प्रमाणित किया गया तारीख
CERTIFIED READY ON: 20.12.2017