

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

COMPANY PETITION Nos. 361 of 2016

CP (TCAA) Nos.34/HDB/2017

DATE OF ORDER: 20.03.2017

In the Matter of Companies Act, 1956 (1 of 1956)

AND

In the Matter of Scheme of Amalgamation

AND

In the Matter of UnitedHealth Group Information Services Private Limited  
(Transferor Company)

WITH

In the Matter of Optum Global Solutions (India) Private Limited (Transferee  
Company)

AND

Their Respective Shareholders and Creditors

Counsel for Petitioners:

Sh. VB Raju

Counsel for Regional Director:

Sh. B. Appa Rao, CGSC

**CORAM:**

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

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

**ORDER**

(As per Ravikumar Duraisamy, Member (T))

1. This Petition was filed under Sections 391 & 394 of the Companies Act, 1956 before the Hon'ble High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh seeking the sanction of the Scheme of Amalgamation of M/s. UnitedHealth Group



CERTIFIED TO BE TRUE COPY  
OF THE ORIGINAL



Information Services Private Limited (Hereinafter referred to as Transferor Company) with M/s.Optum Global Solutions (India) Private Limited (Hereinafter referred as Transferee Company) and their respective Shareholders and Creditors. The Petitioner/Transferor Company prays for following in the present Petition:

- a. That the Scheme of Amalgamation as consented by the shareholders and Unsecured creditors of the Petitioner/Transferor Company, be sanctioned and confirmed by this Hon'ble High Court so as to be binding on all the members, creditors and employees of the Petitioner Company and all concerned;
- b. For an Order that the Petitioner/Transferor Company be dissolved without going through the process of winding up;
- c. For an order under Section 394 of the Companies Act, 1956 that the Petitioner Company do within 30 days after the date of order, cause a certified copy to be delivered to the Registrar of Companies, Hyderabad (RoC) for Registration and on such certified copy being delivered or such date as this Hon'ble High Court may deem fit, the RoC shall take all necessary consequential action in respect of the Petitioner Company and also dissolution of the Transferor company without going through the process of winding up;
- d. That the parties of the Scheme or other persons interested shall be at liberty to apply to this Hon'ble High Court for any direction that may be necessary regard to the carrying out of the Scheme of Amalgamation; and
- e. That such order or orders as the Hon'ble High Court may deem fit and proper in the circumstances of the case.

Subsequent to the transfer of the case from the Hon'ble High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh, the case was posted for hearing on 01.02.2017, 17.02.2017 and on 15.03.2017 and the matter was reserved for Orders.





2. UnitedHealth Group Information Services Private Limited (hereinafter referred to as UHGISPL/The Transferor Company) was incorporated on 22<sup>nd</sup> July, 2002. The authorised share capital of the Transferor Company is Rs. 1,37,87,50,000/- (One Hundred and Thirty Seven Crores Eighty Seven Lakhs Fifty Thousand only) divided into 1,00,00,000/- equity shares of Rs. 10/- each 12,78,75,000 optionally convertible cumulative redeemable participatory preference shares of Rs.10/- each and the issued subscribed and paid up share capital of the Transferor Company is Rs. 10,00,00,000/- (Ten crores only) divided into 1,00,00,000 equity shares of Rs. 10/- each and the entire share capital is held by the Transferee Company and its nominee.

The objects of the Transferor Company is to carry on the business of Data entry processing, Billing adjudication, Coding and any other functions relating to the claims, gathering etc.

3. Optum Global Solutions (India) Private Limited (herein after referred as OGS IPL/"Transferee Company") was originally incorporated under the name and style of QSSI Technologies India Private Limited on 15<sup>th</sup> April, 2010 in the then State of Andhra Pradesh. Later on the Transferee Company had changed its name to its present name i.e., Optum Global Solutions (India) Private Limited and a fresh certificate of incorporation consequent on change of name was issued by Registrar of Companies, Hyderabad on 12<sup>th</sup> July, 2016.

The present Authorised Share Capital of the OGS IPL / Transferee Company is Rs.20,31,25,000/- divided into 2,03,12,500 equity shares of Rs.10/- each and the Issued, Subscribed and Paid-up Share Capital of the Transferee Company is Rs.2,33,09,750/- divided into 23,30,975 equity shares of Rs.10/- each fully paid up.

The main objects of the OGS IPL/Transferee Company is to design, develop, create & distribute software solutions, business process in various domains, data warehousing, IT infrastructure solutions and devices, business intelligence, ERP, project management. Trailing





consulting and support for above services. IT security services such as identity & biometrics, etc.

4. Both OGS IPL and UHG ISPL are indirectly wholly held by UnitedHealth Group Incorporated, a publicly traded corporation in the United States of America ("UHG") and belong to the UHG's group of the Companies ("UHG Group"). The entire equity share capital of UHG ISPL is presently held by OGS IPL along with OGS IPL nominee. UHG Group has two distinct, but strategically aligned businesses – "UnitedHealthcare" which represents the 'health benefit' business and "Optum" which represents the 'health services' business. Given that the service offerings of OGS IPL and UHG ISPL are similar, and related to the Optum segment, a consolidation of the operations of the said companies is proposed by the management.

5. Considering the fact that the meetings of the shareholders and unsecured creditors of the Transferor Company were convened as per the Orders of the Hon'ble High Court of Judicature at Hyderabad in CA No.1274 of 2016 dated 1<sup>st</sup> September, 2016, wherein the Chairpersons appointed by the Hon'ble High Court duly convened the respective meetings. The meeting was held at the Registered Office of the Company in Hyderabad on Saturday 8<sup>th</sup> October, 2016 at 10.30 AM conducted the Shareholders meeting and at 11.30 AM conducted meeting of the Unsecured Creditors. The said Chairpersons appointed had filed their respective reports with the Hon'ble High Court on 18-10-2016 stating that the meeting of the Shareholders (Company has only two shareholders) was passed unanimously and meeting of the unsecured creditors was passed with requisite majority (97.16%) of the Creditors attended in person/proxy.

6. Subsequently the Company Petition was filed before the Hon'ble High Court of Judicature at Hyderabad for sanction of the Scheme of Amalgamation which was admitted on 31<sup>st</sup> October, 2016 by the Hon'ble





High Court of Judicature, at Hyderabad in Company Petition No. 361 of 2016. The Hon'ble High Court while admitting the Company Petition ordered a notice to the Regional Director, South East Region, Ministry of Corporate Affairs, Corporate Bhawan, 3<sup>rd</sup> Floor, Bandlaguda, Nagole, Thattiannaram Village, Hayathnagar Mandal, Ranga Reddy District, Pin: 500 068 and also directed to issue a notice to the Official Liquidator as the Petitioner Company is being dissolved without going through the process of winding up consequent upon the sanction of Scheme of Amalgamation. The petitioner was also directed publication of notice of the admission for sanction the Scheme of Amalgamation in "Business Standard" English daily and "Andhra Bhoomi" Telugu daily published from Hyderabad.



7. The petitioner submits that the notice on the Statutory Authorities were served and advertisements were also published in the news papers on 16.11.2016 & 11.11.2016 respectively. The necessary proof of service was also filed and the matter was taken up for consideration.
8. Further, it is submitted that Scheme of Amalgamation also does not affect the rights and interest of the creditors of the Transferor Company. The Scheme of Amalgamation is a contract between the two companies which will not affect the creditors of the Transferee Company as the Transferee Company has sufficient assets in excess of its liabilities.
9. The Central Government (RD) had filed a Report in the said petition wherein pursuant to the General Circular No.1/2014 dated 15.01.2014 issued by the Ministry of Corporate Affairs, New Delhi, comments of Income Tax Department is required to be sought under Section 391 or 394 of the Companies Act, 1956. A letter dated 22.11.2016 was issued to the Income Tax Department for submitting their comments/objections, if any, within 15 days. However, no comments/objections of the Income Tax Department were received by Central Government to the said notice till date. It is further submitted all costs, charges and expenses may be borne by the transferee company since clause 13.1 of the Scheme



provides for dissolution of the transferor company upon the scheme coming into effect. It is also submitted that RoC, Hyderabad has reported that the transferor Company and transferee company involved in the scheme of amalgamation are regular in filing the statutory returns and no complaints, no investigations and no inspections are pending against the Petitioner companies.

10. The Official Liquidator has filed his report dated 17.01.2017, stating that the affairs of the company have not been conducted in a manner prejudicial to the interest of its members or to public interest.

The Counsel for the petitioner stated that no objections were received from any quarter / public and affidavit dated 17.2.2017 was also filed by the Counsel to this effect.

As the compliance of the convening of the shareholders meeting and unsecured creditors meeting and all other interested parties and there is no objection received from any quarter and the petitioner has satisfied the parameters as laid down by the courts. Further the Transferor Company has not availed any secured loans.

11. When the matter was taken up for hearing the learned counsel for the petitioners has reiterated the contents in the petition.

When the Bench questioned as to why the Transferee Company has not filed separate Application for the scheme of amalgamation, the counsel submitted the following judgements:

- a. The Hon'ble High Court of Andhra Pradesh in the case of Andhra Bank Housing Finance Ltd Vs Andhra Bank, decided on 27.03.2003.
- b. In the case of Nebula Motors Ltd decided on 23.04.2003 by the Hon'ble High Court of Andhra Pradesh.
- c. The judgement of Hon'ble High Court of Bombay, dated 31.01.2001 i.e. Mahaamba Investments Ltd Vs IDI Ltd.

In all these 3 judgements Hon'ble High Courts held that Transferor Company was the subsidiary company and the Transferee Company was





the holding company, therefore separate Application need not be filed by the Transferee Company when the Scheme of Amalgamation is between Subsidiary and Holding Company. Since the Amalgamation Scheme does not involve the reorganisation or restructuring of shares of members of Transferee Company, no new shares are sought to be issued to members of Transferor Company by the Transferee Company. We have also taken into consideration the above judgements.

12. Upon perusal of documents, it is observed that as per Audited Balance Sheet as on 31.03.2015, the revenue of the transferor company is Rs.1505 crores approximately whereas the transferee company's revenue for the same period is Rs.8.65 crores approximately. Further, the profit after tax of Transferee Company is Rs.66.42 lakhs whereas that of Transferor Company is Rs.158.70 crores.

13. The Petitioner has submitted an Affidavit dated 16<sup>th</sup> March, 2017 confirming the list of unsecured creditors of the Transferor Company as on 31.07.2016 was 172 Creditors amounting to Rs.26.80 Crores approximately.

They have also further confirmed that unsecured creditors as on 31.03.2015 was Rs.145.61 Crores and they had regularly repaid their creditors promptly and the total outstanding amount due as on 01.07.2016 was Rs.26.81 Crores.

14. Further, in the meeting of unsecured creditors held on 08.10.2016, 19 unsecured creditors have voted in favour the proposed scheme which is amounting to Rs.20.19 Crores approximately which is 75.30% of the value of creditors which satisfies section 391(2) i.e., 3/4<sup>th</sup> in value of the creditors. Only 2 unsecured creditors voted against this scheme and the creditors value is Rs.59.08 lakhs.

15. The Bench has considered the entire material available on record with regard to the proposed Scheme of Amalgamation (Annexure A-5) and considered the Terms and Conditions with regard to legal





proceedings, staff and employees, dissolution of the Transferor Company, the issue of Shares, Accounting treatment, no change to be effected in Capital structure, cost, charges and expenses.

16. Having regard to the above material / reports / judgments, this Tribunal is of the opinion that the proposed Scheme of Amalgamation is in conformity with the provisions of the Act and the scheme does not affect the interest of the stake holders and the public interest and is intended to further develop the business interests of Transferor and Transferee Companies for the maximum utilisation of available resources. Therefore the Scheme of Amalgamation approved by Board of Directors of the Transferor and Transferee Companies held on 12.08.2016 and 10.08.2016 is hereby sanctioned with effect from the appointed date i.e. 1.4.2016.

17. The Transferor Company is directed to file the certified copy of this order with the Registrar of Companies for the State of Telangana and the State of Andhra Pradesh within 30 days from the date of receipt of a copy of this order.

18. The Petitioners are directed to issue newspaper publication with respect to approval of scheme of amalgamation, in the same newspaper in which previous publications were issued. The same is to ensure transparency/dissemination of information to all stake holders about the approval granted by Tribunal for the Scheme as proposed. The petitioners 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.

The Company Petition is allowed accordingly as prayed for.

Sd/-

**RAVIKUMAR DURASAMY**

**MEMBER (T)**

Sd/-

**RAJESWARA RAO VITTANALA**

**MEMBER (J)**

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

