
(2024) 04 NCLT CK 0042
In the National Company Law Appellate Tribunal
Case No : C.A.(CAA)-19/ND/2024
Alliance Connect Ad Pvt. Ltd Vs

Date of Decision : 15-04-2024

Acts Referred:

Companies Act, 2013 — Section 133, 230, 230(2)(c), 232

Citation : (2024) 04 NCLT CK 0042

Hon'ble Judges : Ashok Kumar Bhardwaj, Member (J); Subrata Kumar Dash, Member (T)

Bench : Division Bench

Advocate : Dhritiman Bhattacharyya

Final Decision : Disposed Of

Judgement

1. The captioned application has been preferred under Section 230 to 232 of the Companies Act, 2013 (hereinafter referred as "the Act") read with Rule 3 of the Companies (Compromise, Arrangements and Amalgamations) Rules, 2016 and other applicable provisions, jointly by Alliance Connect Ad Private Limited ("Applicant Company No. 1/ Transferor Company") and Alliance Advertising And Marketing Private Limited ("Applicant Company No. 2/ Transferee Company") in connection with the proposed Scheme of Arrangement (hereinafter referred as "Scheme") with the prayer:

- a. "Dispense with the meetings of the equity shareholders of both the Applicant Companies in view of the written consent given by all the equity shareholders of the Applicant Companies by way of affidavits;
- b. Dispense with the meetings of the unsecured creditors of the First Applicant Company and Second Applicant Company in view of the written consent given by requisite majority of the unsecured creditors of the First Applicant Company;
- c. Dispense with the meeting of the secured creditors of the First Applicant Company in view of the written consent given by the sole secured creditor of the First Applicant Company;
- d. Dispense with the meeting of secured creditors of the Second Applicant

Company as there are none;

e. Should the Hon'ble Tribunal not be inclined to dispense with the meeting of the equity shareholders and unsecured creditors of the Applicant Companies and of secured creditor of First Applicant Company, pass necessary directions in relation to such meetings;

f. Passing such other and further orders as are deemed necessary in the facts and circumstances of the case."

2. Alliance Connect Ad Private Limited ("Transferor Company") having CIN: U74120DL2010PTC203436 is a private limited company, incorporated on 01.06.2010 under the Companies Act, 1956. The registered office of the Company is situated at D8/1, 1st Floor, Okhla Industrial Area Phase-2, Delhi 110020. The Authorised Share Capital of the Company is Rs.1,00,000/- and its Paid-up share Capital is Rs. 1,00,000/-.

3. Alliance Advertising And Marketing Private Limited ("Transferee Company") having CIN: U74899DL2000PTC105017 is a private limited company incorporated on 05.04.2000 under the Companies Act, 1956. The registered office of the Company is situated at D-8/I, Okhla Industrial Area Phase II, Delhi - 110020. The Authorised Share Capital of the Company is Rs. 10,00,000/- and its Paid-up share Capital is Rs.10,00,000/-.

4. The Registered office of the Applicant Companies being in Delhi, it is amenable to the territorial jurisdiction of this Bench.

5. As far as the present application is concerned, it can be seen from the record that the Board of Directors of the Applicant Companies vide separate meetings held on 20.12.2023 have unanimously approved the proposed 'Scheme of Amalgamation' for the amalgamation of 'Transferor Company' viz. Applicant Company No. 1 with 'Transferee Company' i.e., Applicant Company No. 2. The excerpts from the Minutes of Board Meetings have been Annexed along the Application and are on record.

6. The rationale and benefits of the proposed Scheme of Amalgamation between the Transferor Company and the Transferee Company as submitted by the Applicant Companies is as follows:

a. "Better administrative and managerial control for the management from the synergy in operation and management;

b. Improved organizational capability and leadership, arising from pooling of financial and human capital in a single consolidated entity for effective treasury function and centralized management of funds to supplement future growth opportunities;

c. Reduction of operating/ administrative costs and improvement in profitability;

d. Management of businesses more efficiently and effectively and for better co-

ordination of business activities;

e. Synergies arising out of operational and financial consolidation of respective businesses;

f. Consolidation and simplification of existing structure.”

It is also stated that the Applicant Companies that there is no adverse effect of the proposed Scheme on any Directors, Promoters, Members, Creditors and Employees, etc. of either of the Applicant Companies.

7. The applicant companies have furnished the following documents: - Proposed Scheme of Amalgamation:-

i. Master Data along with Memorandum and Articles of Association of Transferor Company and Transferee Company (Annexures C, D, O & P respectively of the application).

ii. List of Equity Shareholders of Transferor Company as on 30.01.2024, along with Consent Affidavits (Annexure I & J of the application).

iii. List of Equity Shareholders of Transferee Company as on 30.01.2024, along with Consent Affidavits (Annexure U & V of the application).

iv. List of 'NIL' Secured Creditors for the Transferee Company, as on 30.11.2023 (Annexures Y of the application)

v. List of Secured Creditors for the Transferor Company with their Consent Affidavits (Annexure M & N)

vi. List of Unsecured Creditors as on 30.11.2023 of Transferee Company duly certified by the Statutory Auditors (Annexure W & X).

vii. List of Unsecured Creditors as on 30.11.2023 of Transferor Company duly certified by the Statutory Auditors (Annexure K & L).

viii. Certificates of Statutory Auditors to the effect that Accounting treatment proposed in the Scheme conforms with Section 133 of the Companies Act, 2013 are attached as Annexure Z of the application.

ix. The copy of the Valuation Report issued by Mr. Siddhartha Sinha, Registered Valuer dated 12.12.2023, attached as Annexure B of the application.

x. Audited financial statements as of 31.03.2023, of the Transferor Company and Transferee Company have been annexed and marked as Annexure E & Q respectively.

8. As per the audited financial statement the authorized, issued, subscribed and paid-up capital of Transferor Company as on 31.03.2023 is 10,000 equity shares of Rs. 10/- each authorized, issued, subscribed and paid-up capital of Transferee Company is 1,00,000 equity share of Rs.10/-each. On the Scheme, becoming effective the authorized share capital of Transferee Company would

increase and shall be reclassified as under:-

Particulars

Amount in INR

Authorized Capital

1,10,000 Equity Share of INR 10/-each

11,00,000

Total

11,00,000

9. Though, the valuation report is prepared by the Registered Valuer viz. Tattvam Valuer LLP, Registered Valuer, IBBI Registration No. IBBI/RV- E/02/2021/156 under the signature of Mr. Munish Agrawal, the index of the application mentioned that the same has been prepared by Mr. Siddharth Sinha. Thus, the Applicants shall file an affidavit clarifying the position in this regard, at the time of filing the 2nd Motion Application. The Copy of the valuation report has been annexed to the application at Annexure -B.

10. The position of Shareholders and Creditors as also their Consent through Affidavits qua the Applicant Companies can be summarised as below:

COMPANY

EQUITY SHAREHOLDERS

SECURED CREDITORS

UNSECURED CREDITORS

CONSENT

CONSENT

CONSENT

Transferor

Company

2

1

23

ALL

ALL

ALL

Transferee Company

2

0

33

ALL

ALL

ALL

11. In the wake of the pleadings and documents put forth by the Applicant Companies and the prayer made in the Company Application, it is ordered:

I. In the wake of No Objection/Consent accorded by all the equity shareholders qua the Applicant Company No.1 and Applicant Company No.2, the requirement of convening the meeting of the Equity Shareholders qua the Applicant Companies is dispensed with.

II. In view of No Objection/Consent given by all of them, the requirement of convening the meeting of the Unsecured Creditors of Applicant Companies is dispensed with.

III. In view of the written consent given by the sole secured creditor qua the Transferor/Applicant Company No.1, the requirement of convening the meeting of the Secured Creditors qua the First Applicant Company is dispensed with.

IV. As there is no secured creditor qua Applicant Company No.2 (as per the CA Certificate annexed with application as Annexure Y), there is no question of calling there meeting.

V. The present order shall be notified to:

i. the Central Government through the office of the Regional Director, Northern Region, Ministry of Corporate Affairs, New Delhi;

ii. the Registrar of Companies, Delhi and Haryana, New Delhi;

iii. the Income Tax Department.

VI. On completion of the exercise as above, the Applicant Company shall be entitled to move an application for approval of the proposed Scheme, before this Tribunal. With 2nd Motion application the Applicant Company shall specifically enclose an affidavit in terms of the provisions of Section 230(2)(c) of Companies Act, 2013.

12. The Court Officer/Registry is directed to send a copy of this order to the Applicant Company for necessary steps to be taken at their end.

13. The Application is disposed of in the aforesaid terms.