(2020) 12 NCLT CK 0125

In the National Company Law Tribunal

Case No : Company Application No. (CAA)/1141 Of 2020

Equifax Software Systems Private Limited Vs

Date of Decision : 17-12-2020

Acts Referred:

Companies (Compromises, Arrangements And Amalgamations) Rules, 2016 — Rule 8
Companies Act, 2013 — Section 230, 230(5), 232

Citation : (2020) 12 NCLT CK 0125

Hon'ble Judges : Suchitra Kanuparthi, J;Chandra Bhan Singh, Member (Technical)

Bench : Division Bench

Advocate : Ahmed M Chunawala, Rajesh Shah

Judgement

1. The Bench is convened by videoconference today (16.12.2020).

2. Learned Counsel appearing for the Applicant Company states that the present Scheme is a Scheme of Amalgamation of Equifax Software Systems

Private Limited, Transferor Company /Applicant Company with Equifax Analytics Private Limited, Transferee Company and their respective

shareholders (â??Schemeâ??) under sections 230 and 232 of the Companies Act, 2013.

3. Learned Counsel for the Applicant Company states that the Applicant company is primarily engaged in business of providing support functions

related to sales, information technology services, legal service, accounting and finance service and human resources/administration to group companies

and the Transferee Company is engaged in the business of software development and providing business analytical services mainly to banking and

financial institutions.

4. Learned Counsel for the Applicant Company states that the Scheme has been approved by the Board of Directors of the Applicant Company and

Transferee Company vide board resolutions dated October 21, 2020 which are annexed as Exhibit â??Fâ? and Exhibit â??Gâ? to the Company

Application.

5. Learned Counsel for the Applicant Company states that the Appointed Date of the Scheme is April 1, 2020.

6. The rationale for the Scheme is as under:

a. The Scheme will result in the consolidation of the business of ESSPL with EAPL, leading to synergy in operations, greater financial strength, and

improve the position of the merged entity.

b. Providing better flexibility in accessing capital, focused strategy and specialization for sustained growth;

c. Rationalization of subsidiaries in the group to ensure optimized legal entity structure more aligned with the business by reducing number of legal

entities in the group structure;

d. Reduction in the multiplicity of legal and regulatory compliances required at present to be carried out by the Transferor Company and the

Transferee Company;

e. Optimal utilization of resources and better administration and reduction of cost; and

f. Achieving operational and management efficiency.

7. The Applicant Company has 2 (Two) Equity Shareholders, all of them have given consent to the Scheme by way of an Affidavits annexed as

Exhibit â??J-1â? and â??J-2â? to the Company Scheme Application. In view thereof, the meeting of the Equity Shareholders of the Applicant

Company is hereby dispensed with.

8. Learned Counsel for the Applicant Company submits that there are no Secured creditors in the Applicant Company, therefore, the question of

convening and holding meeting of Secured Creditors does not arise.

9. The Learned Counsel for the Applicant Company submits that the Applicant Company has 14 (Fourteen) unsecured creditors having an outstanding

balance of approx. Rs. 11,57,87,934 (Eleven crores fifty seven lakhs eighty seven thousand nine hundred and thirty four only) as on September 30,

2020, out of which 5 (Five) unsecured creditors (constituting approximately 94.31% of value of total unsecured creditors of the Applicant Company) have given consent and approval for the Scheme. The Applicant Company has filed further affidavit with the National Company Law Tribunal,

Mumbai Bench on 8th day of December 2020 submitting consent affidavits of such unsecured creditors having an outstanding amount aggregating to

94.31% of the total outstanding (in value) as on September 30, 2020. Hence the meeting of unsecured creditors of the Applicant Company is

dispensed with.

10. The Transferee Company is having the Registered Office in Bengaluru, so the Transferee Company has filed the application with the National

Company Law Tribunal, Bengaluru.

11. The Consideration for the Scheme is â??4 (four) equity shares of Re.1 each fully paid up of the Transferee Company for every 1 (one) equity

share of Rs.10 each fully paid up held in Transferor Company.â??

12. The Applicant Company to serve the notice along with a copy of the Scheme upon the Regional Director, Western Region, Ministry of Corporate

Affairs, Mumbai Maharashtra, pursuant to Section 230(5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements

and Amalgamations) Rules, 2016. If no response is received by the Tribunal from Regional Director within 30 days of the date of receipt of the notice,

it will be presumed that Regional Director and/ or Central Government has no objection to the Scheme as per Rule 8 of the Companies (Compromises,

Arrangements and Amalgamations) Rules, 2016.

13. The Applicant Company to serve the notice along with a copy of the Scheme upon the Registrar of Companies, Mumbai, pursuant to Section

230(5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. If no response is

received by the Tribunal from the Registrar of Companies within 30 days of the date of receipt of the notice, it will be presumed that Registrar of

Companies has no objection to the Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

14. The Applicant Company to serve the notice along with a copy of the Scheme upon the Official Liquidator, High Court, Bombay pursuant to

Section 230(5) of the Companies Act, 2013. The Tribunal is appointing N. B. Shah & Associates, Chartered Accountant, with remuneration of Rs.

1,40,000/- for the services. If no response is received by the concerned Tribunal from Official Liquidator within 30 days, it may be presumed that

Official Liquidator, High Court, Bombay has no objection to the Scheme as per Rule 8 of the Companies (Compromises, Arrangements and

Amalgamations) Rules, 2016.

15. The Applicant Company having PAN AACCE0281G having IT office at Circle 6(2)(2), Aaykar Bhavan, Mumbai to serve the notice along with a

copy of the Scheme on the concerned Income Tax Authority whose jurisdiction the Applicant Companyâ??s assessments are made, pursuant to

Section 230(5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. If no

response is received by the Tribunal from the Income Tax Authority within 30 days of the date of receipt of the notice, it will be presumed that

Income Tax Authority has no objection to the Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules,

2016.

16. The Applicant Company to file an affidavit of service of the directions given by the Tribunal within 10 days from the date of serving notice to this

Tribunal that the direction regarding the issue of notices to the Regulatory authorities have been duly complied with.

