(2021) 02 NCLT CK 0094

In the National Company Law Tribunal

Case No : Company Application (CAA) No. 1162/MB-V Of 2020

Evolve Technologies & Services Pvt. Ltd, And Anr. Vs

Date of Decision : 18-02-2021

Acts Referred:

Companies (Compromises, Arrangements And Amalgamations) Rules, 2016 — Rule 8
Companies Act, 2013 — Section 230, 230(5), 231, 232

Citation : (2021) 02 NCLT CK 0094

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

Bench : Division Bench

Advocate : Ahmed M Chunawala

Judgement

1. The Bench is convened by videoconference today.

2. Learned Counsel for the Transferor Company and Transferee Company (collectively referred to as 'Applicant Companies') states that the present Scheme is a Scheme of Amalgamation of EVOLVE TECHNOLOGIES & SERVICES PRIVATE LIMITED, the Transferor Company with TEAMLEASE DIGITAL PRIVATE LIMITED, the Transferee Company under sections 230 to 232 of the Companies Act, 2013 ('Scheme').

3. Learned Counsel for the Applicant Companies states that the Board of Directors of the Transferor Company and Transferee Company in their respective meetings conducted on 16.11.2020 for the Transferor Company and the Transferee Company have approved the Scheme. The Appointed Date fixed under the Scheme is April 1, 2020.

4. The rationale for the proposed Scheme is as under:

(a) Greater integration and financial strength for the amalgamated entity, which would result in maximizing overall shareholder value, and will improve the financial position of the amalgamated entity.

(b) The amalgamation would provide synergistic linkages besides economies in costs and other benefits resulting from the economies of scale, by combining the businesses and operations of the Transferor Company and the Transferee Company and thus contribute to the profitability of the amalgamated entity by rationalization of management and administrative structure.

(c) The amalgamation would lead to greater and efficient use of infrastructure facilities and optimum utilisation of the financial resources, managerial, technical and marketing expertise of the Transferor Company and the Transferee Company.

(d) Simplification of group structure by eliminating multiple companies having similar objectives in relation to manpower staffing solutions.

5. That the convening and holding the meeting of the Equity Shareholders of the Applicant Company No.1 for the purpose of considering and, if thought fit, approving, with or without modification(s) the proposed Scheme of Amalgamation of EVOLVE TECHNOLOGIES & SERVICES PRIVATE LIMITED, the Transferor Company with TEAMLEASE DIGITAL PRIVATE LIMITED, the Transferee Company is dispensed with in view of the consent affidavits given by the seven Equity Shareholders of the Applicant Company No.1, which are annexed as 'Exhibit H-1 to H-7' to the Company Scheme Application.

6. That the convening and holding the meeting of the Equity Shareholders of the Applicant Company No.2 for the purpose of considering and, if thought fit, approving, with or without modification(s) the proposed Scheme of Amalgamation of EVOLVE TECHNOLOGIES & SERVICES PRIVATE LIMITED, the Transferor Company with TEAMLEASE DIGITAL PRIVATE LIMITED, the Transferee Company is dispensed with in view of the consent affidavits given by the seven Equity Shareholders of the Applicant Company No.2, which are annexed as 'Exhibit I-1 to I-7' to the Company Scheme Application.

7. That the convening and holding the meeting of the Secured Creditor of the Applicant Company No.1 for the purpose of considering and, if thought fit, approving, with or without modification(s) the proposed Scheme of Amalgamation of EVOLVE TECHNOLOGIES & SERVICES PRIVATE LIMITED, the Transferor Company with TEAMLEASE DIGITAL PRIVATE LIMITED, the Transferee Company is dispensed with in view of the consent affidavit given by the Sole Secured Creditor of the Applicant Company No.1, which is annexed as 'Exhibit J-1 to the Company Scheme Application.

8. That the convening and holding the meeting of the Secured Creditor of the Applicant Company No.2 for the purpose of considering and, if thought fit, approving, with or without modification(s) the proposed Scheme of Amalgamation of EVOLVE TECHNOLOGIES & SERVICES PRIVATE LIMITED, the Transferor Company with TEAMLEASE DIGITAL PRIVATE LIMITED, the Transferee Company is dispensed with in view of the consent affidavit given by the Sole Secured Creditor of the Applicant Company No.2, which is annexed as 'Exhibit K-1 to the Company Scheme Application.

9. That the convening and holding the meeting of the Unsecured Creditors of the

Applicant Company No.1 for the purpose of considering and, if thought fit, approving, with or without modification(s) the proposed Scheme of Amalgamation of EVOLVE TECHNOLOGIES & SERVICES PRIVATE LIMITED, the Transferor Company with TEAMLEASE DIGITAL PRIVATE LIMITED, the Transferee Company is dispensed with in view of the consent affidavits given by the 90.41% in value of the total Unsecured Creditors in the Applicant Company No.1, which are annexed as 'Exhibit L-1' to the Company Scheme Application. The Scheme of Amalgamation does not envisage any compromise or arrangement with the Unsecured Creditors of the Applicant Company No. 1 and hence they will in no way be affected by the Scheme of Amalgamation. It is further submitted that the Applicant Company No.1 is meeting the amounts payable to its creditors from its activities and upon the Scheme becoming effective, the Applicant Company No. 2 shall continue with its existence and shall accordingly continue to meet the liabilities of its unsecured creditors as they arise in the normal course.

10. That the convening and holding the meeting of the Unsecured Creditors of the Applicant Company No.2 for the purpose of considering and, if thought fit, approving, with or without modification(s) the proposed Scheme of Amalgamation of EVOLVE TECHNOLOGIES & SERVICES PRIVATE LIMITED, the Transferor Company with TEAMLEASE DIGITAL PRIVATE LIMITED, the Transferee Company is dispensed with in view of the consent affidavits given by the 99.46% in value of the total Unsecured Creditors in the Applicant Company No.1, which are annexed as 'Exhibit M-1' to the Company Scheme Application. The Scheme of Amalgamation does not envisage any compromise or arrangement with the Unsecured Creditors of the Applicant Company No. 2 and hence they will in no way be affected by the Scheme of Amalgamation. It is further submitted that the Applicant Company No.2 is meeting the amounts payable to its creditors from its activities and upon the Scheme becoming effective, the Applicant Company No. 2 shall continue with its existence and shall accordingly continue to meet the liabilities of its unsecured creditors as they arise in the normal course.

11. The Applicant Companies to serve the notice 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 proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

12. The Applicant Companies to serve the notice 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 proposed Scheme as per

Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules. 2016.

13. The Applicant Companies to serve the notice on the concerned Income Tax Authority within whose jurisdiction, The Applicant Company No. 1 PAN:-AAACT6215B having his address at The Income Tax Officer, Circle 8, Pratyaksha Kar Bhavan, Akrudi, Pune - 411 044. The Applicant Company No. 2 PAN:-AAFCT8257N having his address at Income Tax Office, Circle 14(1)(2), Aayakar Bhawan, Churchgate, Mumbai - 400 020. The Applicant Company'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 proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

14. The Transferor Company is also directed to serve intimations of the Scheme upon Official Liquidator, pursuant to section 230(5) of the Companies Act, 2013 and as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. The Tribunal is appointing M/s. S. P. Sakhala & Co., Chartered Accountant, to assist the Official Liquidator to scrutinize the books of accounts of the said Transferor Company for the last 5 years and submit its representation / report to the Tribunal. The aforesaid Companies to pay fees of Rs. 1,00,000/- for this purpose. If no representation / response is received by the Tribunal from Official Liquidator, Bombay within a period of thirty days from the date of receipt of such notice, it will be presumed that Official Liquidator has no representation / objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

15. The Applicant Companies to file an affidavit of service within 10 working days after serving to notice to all the regulatory authorities as stated above and do report to this Tribunal that the directions regarding the issue of notices have been duly complied with.

16. The Appointed Date is 01.04.2020

