(2021) 01 NCLT CK 0003

In the National Company Law Appellate Tribunal

Case No : Company Application (CAA) No. 114/(ND) Of 2020

Festivity Realtors Pvt. Ltd.	APPELLANT
Vs	
Nucleus Conbuild Pvt. Ltd.	RESPONDENT

Date of Decision : 08-01-2021

Acts Referred:
Companies Act, 2013 — Section 230, 231, 232

Citation : (2021) 01 NCLT CK 0003

Hon'ble Judges : Dr. Deepti Mukesh, J;Sumita Purkayastha, Member (Technical)

Bench : Division Bench

Advocate : Rajeev. K. Goel, Kartikeya Goel

Final Decision : Disposed Of

Judgement

1. This is a joint application filed by Festivity Realtors Private Limited hereinafter referred to as (Transferor Company) to be merged with Nucleus

Conbuild Private Limited hereinafter referred to as (Transferee Company)under the provisions of Sections 230-232 and other applicable provisions of

the Companies Act, 2013 read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 in relation to the Scheme of

Arrangement by way of Amalgamation (hereinafter referred to as the â?? SCHEMEâ??) proposed among the applicants.

2. Affidavits in support of the above application has been sworn by Mr. Mukesh Bansal being the Director of the Transferor Company and by Mr.

Vikas Kumar being the Director of the Transferee Company, who have been duly authorized by the Board of Directors of the applicant companies at

their respective board meetings vide separate Board Resolutions dated 5th September 2020.It is also represented that the registered office of both the

applicant companies is under the domain of Registrar of Companies, NCT of New

Delhi & Haryana and within the territorial jurisdiction of this

Tribunal.

3. The Transferor Company is a private limited company incorporated on 17th September, 2012 under the provisions of Companies Act, 1956, bearing

CIN U70109DL2012PTC242389 with the Registrar of Companies, NCT of Delhi &Haryana, having its registered office at 3rd Floor, 14, Rani Jhansi

Road, New Delhi-110055.The authorized share capital is INR1,00,000/- divided into 10,000 Equity shares of Rs.10/- each and issued, subscribed and

paid up share capital of INR 1,00,000 divided into 10,000 shares of INR 10/-each.

4. The Transferee Company is a private limited company incorporated on 28th May 2007 under the provisions of Companies Act, 1956, bearing CIN

U45400DL2007PTC164046with the Registrar of Companies, NCT of Delhi & Haryana and having its registered office at 304, Kanchan House,

Karampura Commercial Complex, New Delhi-110015. The authorized share capital is INR 8,00,00,000 divided into 80,00,000 Equity shares of Rs.10/-

each. The issued, subscribed and paid-up share capital of INR 8,00,00,000 divided into 80,00,000 Equity shares of INR 10/- each.

5. Both the Transferor Company as well as the Transferee Company have filed their respective Memoranda and Articles of Association inter alia

delineating their object clauses, as well as their last Audited Annual Accounts for the year ended 31.03.2020. The unaudited provisional balance sheet

as on 30th June 2020has been annexed herewith.

6. The Transferor Company and the Transferee Company vide meetings of Board of Directors held on 5th September 2020in the corresponding

companies have unanimously approved the proposed Scheme of Amalgamation as contemplated above. Copies of said resolutions passed in the said

board meetings have been placed on record.

7. With regards the Transferor Company it is stated as under:

a) The company has 2 shareholders, certificate from Chartered Accountant certifying list of shareholders is annexed and all of them have given their

respective consents by way of affidavits holding 100% of voting share.

b) The company has nil secured creditor, certificate from Chartered Accountant certifying list of secured creditor is annexed.

c) The company has 4 unsecured creditors, certificate from Chartered Accountant certifying list of unsecured creditors is annexed, who has given

consent by way of affidavits holding 100% of total value of debt.

In relation to the shareholders and unsecured creditors it seeks dispensing with holding/convening of the meetings as their consent affidavits are placed

on record. Since there is no secured creditor therefore the necessity of convening/holding a meeting does not arise.

8. With regards the Transferee Company it is stated as under:

a) The company has 2shareholders, certificate from Chartered Accountants certifying list of shareholders is annexed and all of them have given their

respective consents by way of affidavits holding 100% of voting share.

b) The company has nil secured creditor, certificate from Chartered Accountant certifying list of secured creditor is annexed.

c) The company has 4 unsecured creditors, certificate from Chartered Accountants certifying list of unsecured creditors is annexed, and all of them

have given consent by way of affidavits holding 100% of total value of debt.

In relation to shareholders and unsecured creditors it seeks dispensing with holding/convening of the meetings as their consent affidavits are placed on

record. Since there is no secured creditor therefore the necessity of convening/ holding a meeting does not arise.

9. The appointed date as specified in the Scheme is 1st April 2020.

10. Taking into consideration the submissions and the documents placed on record, we issue the following directions:

A. In relation to the Transferor Company/Applicant Company No.1:

a. With respect to Equity shareholders: In view of consent affidavits, from all the equity shareholders having 100% voting share, been filed

convening the meeting of shareholders/members is dispensed with.

b. With respect to Secured Creditors: There is no secured creditor; therefore, the necessity of convening a meeting does not arise.

c. With respect to Unsecured Creditors: In view of consent affidavit, from all unsecured creditors having 100% of total debt been filed, convening

the meeting of Unsecured Creditors is dispensed with.

B. In relation to the Transferee Company:

a. With respect to Equity shareholders: In view of consent affidavits, from all the equity shareholders having 100% voting share been filed, convening the meeting of shareholders/members is dispensed with.

d. With respect to Secured Creditors: There is no secured creditor; therefore, the necessity of convening a meeting does not arise.

b. With respect to Unsecured Creditors: In view of consent affidavit, from all unsecured creditors having 100% of total debt been filed,

convening the meeting of unsecured creditor is dispensed with.

11. Notice of this application shall also be served on the following Statutory Authorities:

(i) Regional Director, Ministry of Corporate Affairs, B-2 Wing, 2 Floor, Paryawaran Bhavan, CGO Complex, New Delhi-110003;

(ii) Registrar of Companies at 4 floor, IFCI Tower, 61, Nehru Place, New Delhi-110019;

(iii) Official liquidator, Lok Nayak Bhawan, 8 Floor, Khan Market, New Delhi-110001;

(iv) Income Tax Department, Income Tax Office, Additional Commissioner of Income Tax, Special Range 4, Central Revenue Building, IP Estate,

New Delhi-110002. The notices to Income Tax Authorities shall disclose sufficient details like PAN, ward numbers and assessing officers so that

timely and proper reply may be filed.

(v) And any other sectoral regulators required to be served.

The application stands allowed on the aforesaid terms and disposed off.