# IN THE NATIONAL COMPANY LAW TRIBUNAL NEW DELHI BENCH COURT-IV

# COMPANY APPLICATION (CAA) NO. 16 (ND)/2023

## **IN THE MATTER OF:**

Section 230-232 of the Companies Act, 2013 read along with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016

#### IN THE MATTER OF:

#### HANS SECURITIES BROKING PRIVATE LIMITED

...APPLICANT COMPANY NO. 1/TRANSFEROR COMPANY NO. 1

#### **AND**

#### JALDHARA MERCHANT EXPORTERS PRIVATE LIMITED

...APPLICANT COMPANY NO. 2/TRANSFEROR COMPANY NO. 2

#### WITH

## SAROJINI FINANCE AND INVESTMENTS PRIVATE LIMITED

...APPLICANT COMPANY NO. 3/TRANSFEREE COMPANY

Order Delivered on: 07.01.2025

## CORAM:

SHRI MANNI SANKARIAH SHANMUGA SUNDARAM, HON'BLE MEMBER (JUDICIAL)

DR. SANJEEV RANJAN, HON'BLE MEMBER (TECHNICAL)

#### PRESENT:

For the Applicant: Mr. Nikhil Verma, Adv.

#### **ORDER**

## PER: DR. SANJEEV RANJAN, MEMBER (TECHNICAL)

1. This is a first motion application jointly filed by the applicant companies herein namely M/s Hans Securities Broking Private Limited (hereinafter referred as Transferor Company No. 1/Applicant Company No. 1), M/s

Jaldhara Merchant Exporters Private Limited (hereinafter referred as Transferor Company No. 2/Applicant Company No. 2), with M/s Sarojini Finance And Investments Private Limited (hereinafter referred as Transferee Company/Applicant Company No. 3) under sections 230-232 of Companies Act, 2013, and other applicable provisions of the Companies Act, 2013 read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 in relation to the Scheme of Amalgamation (hereinafter referred to as the "SCHEME") is placed on record.

- 2. Affidavit in support of the above application sworn by Mr. Subhash Chander Khaneja and Mr. Kunal Khaneja on behalf of Applicant Company No. 1, 2 and 3 Director/Authorized Signatory, and duly authorized by the Board of Directors of the Applicant Company No. 1, 2 and 3 vide their respective board resolution dated 21.01.2023 and 01.12.2022, is filed. It is also represented that the registered office of all 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 Applicant Company No. 1 i.e., M/s Hans Securities Broking Private Limited was incorporated on 24/01/1995, under the provisions of the Companies Act, 1956 bearing CIN: U74899DL1995PTC064714, having its registered office at 304, New Delhi House 27, Barakhamba Road, New Delhi-110001. The Authorized Share Capital of the Transferor Company No. 1/Applicant Company No. 1 is Rs. 4,000,000/- divided into 4,00,000 equity shares of Rs. 10/- each. The Issued, Subscribed

- and Paid-up Share Capital of Transferor Company No. 1 is Rs. 3,000,000 divided into 3,00,000 equity shares of Rs. 10/- each.
- 4. The Applicant Company No. 2 i.e., M/s Jaldhara Merchant Exporters Private Limited was incorporated on 22/06/1995, under the provisions of the Companies Act, 1956 bearing CIN: U74899DL1995PTC070069, having its registered office at 304, New Delhi House 27, Barakhamba Road, New Delhi-110001. The Authorized Share Capital of the Transferor Company No. 2/Applicant Company No. 2 is Rs. 2,500,000/- divided into 2,50,000 equity shares of Rs. 10/- each. The Issued, Subscribed and Paid-up Share Capital of Transferor Company No. 2 is Rs. 2,477,000/- divided into 2,47,700 equity shares of Rs. 10/- each.
- 5. The Applicant Company No. 3 i.e., M/s Sarojini Finance and Investments Private Limited was incorporated on 21/01/1994, under the provisions of the Companies Act, 1956 bearing CIN: U74899DL1994PTC057029, having its registered office at 304, New Delhi House 27, Barakhamba Road, New Delhi-110001. The Authorized Share Capital of the Transferee Company/Applicant Company No. 4 is Rs. 10,000,000/- divided into 10,00,000 Equity Shares of Rs. 10/each. The Issued, Subscribed and Paid-up share capital of Transferee Company is Rs. 8,262,000/- divided into 8,26,200 equity shares of Rs. 10/- each.
- 6. The Applicant Companies have filed their respective Memorandum and Articles of Association inter alia delineating their object clauses, as well

- as their audited financial statements as on 31.03.2021 and 31.03.2022 along with Provisional Financial Statements as on 16.11.2022.
- 7. The Board of Directors of the Applicant Company No. 1, 2, and 3 have unanimously approved the proposed Scheme of Amalgamation as contemplated above. Copies of respective board resolutions dated 21.01.2023 and 01.12.2022 passed in the said board meetings have been placed on record.
- 8. The Applicant Companies submit that the proposed scheme of Amalgamation of the Transferor Companies with the Transferee Company would have the following benefits:
  - i. This Scheme of Amalgamation provides for Amalgamation of Hans Securities Broking Private Limited (Transferor company1) And Jaldhara Merchant Exporters Private Limited (Transferor Company-2) engaged in business of Investment and Finance with Sarojini Finance and Investments Private Limited (Transferee Company), engaged in business activity of Investment and Finance.
  - ii. That the Transferer Companies and the Transferee Company belong to the same group. There are synergies in the business operations of the Transferer Companies and the Transferee Company. In order to provide better operational and financial efficiency in the businesses of Transferer Companies and the Transferee Company, it is intended to amalgamate Transferer Companies into the Transferee Company. The Scheme of

amalgamation would benefit the respective businesses on account of the following reasons:

- a. Amalgamating Transferer Companies and the Transferee Company will give the consolidated company better finances, facilitate adequate resource mobilization to sustain growth;
- b. The synergy of the amalgamation will improve operational efficiency, integrated management functioning and will enhance the share value for the benefit of shareholders of the existing entities;
- c. The amalgamation of Transferer Companies into Transferee Company will result in reduction of overheads, and other expenditure, and bring about operational rationalization, organizational efficiency, and optimal utilization of various resources;
- d. The amalgamation will result in significant reduction in the multiplicity of legal and regulatory compliances required at present to be carried out each by Transferor Companies and the Transferee Company and also avoid duplication of administrative functions and eliminate multiple recordkeeping;
- e. The said scheme of amalgamation is beneficial to the Company, their shareholders, employees, creditors, and all concerned and will enable these Companies to achieve and fulfil! their objectives more efficiently and economically;

- f. The value of the shares of the combined entity shall enhance the shareholders' value by becoming a part of a stronger operating entity, rationalization of inter-company transactions etc;
- g. That the Transferor Companies and Transferee Company are closely held companies and all the stakeholders and the Directors of the Transferor and the Transferee are closely related with each other; and
- h. None of the directors of Transferor Companies and the Transferee Company have any material interest in the scheme except as shareholders in general.
- The Appointed Date as specified in the Scheme of Amalgamation is 1<sup>st</sup>
   April, 2022 or such other date as may be approved by the National
   Company Law Tribunal (NCLT).
- 10. With respect to the Applicant Company No. 1/Transferor Company No.1, it is stated:
  - a) It is having 5 (Five) Equity Shareholders. The list of equity shareholders is annexed at Page No. 509 and all of them have given their consent by way of affidavit which is annexed to the application at Page No. 510-519.
  - b) The Company has nil secured creditors as on 05.09.2024. The list of secured creditors duly certified by Chartered Accountant as on 16.11.2022 is annexed to the application at Page No. 529.
  - c) The Company has nil Unsecured Creditors as on 16.11.2022.

    The list of unsecured creditors duly certified by Chartered

- Accountant as on 16.11.2022 is annexed to the application at Page No. 529.
- d) The Company has nil Sundry Creditors as on 16.11.2022. The list of Sundry Creditors duly certified by Chartered Accountant as on 16.11.2022 is annexed to the application at Page No. 529.
- e) In relation to the Shareholders, it seeks dispensing with convening/holding the meetings as consent of all the equity shareholders are placed on record. Since there are no secured creditors, unsecured creditors and sundry creditors, therefore the necessity of convening and holding a meeting does not arise.
- 11. With respect to Applicant Company No. 2/Transferor Company No. 2, it is stated that:
  - a) It is having 4 (Four) Equity Shareholders. The list of shareholders is annexed at Page No. 520 and all of them have given their consent by way of affidavit which is annexed to the application at Page No. 521-528.
  - b) The Company has nil secured creditors as on 05.09.2024. The list of secured creditors duly certified by Chartered Accountant as on 16.11.2022 is annexed to the application at Page No. 530.
  - c) The Company has nil Unsecured Creditors as on 16.11.2022.

    The list of unsecured creditors duly certified by Chartered Accountant as on 16.11.2022 is annexed to the application at Page No. 530.

- d) The Company has nil Sundry Creditors as on 16.11.2022. The list of Sundry Creditors duly certified by Chartered Accountant as on 16.11.2022 is annexed to the application at Page No. 530.
- e) In relation to the Shareholders, it seeks dispensing with convening/holding the meetings as consent of all the equity shareholders are placed on record. Since there are no secured creditors, unsecured creditors and sundry creditors, therefore the necessity of convening and holding a meeting does not arise.
- 12. With respect to Applicant Company No. 3/Transferee Company, it is stated that:
  - a) It is having 8 (Eight) Equity Shareholders. The list of Equity Shareholders is annexed at Page No. 531-531A and all of them have given their consent by way of affidavit which is annexed at Page No. 532-547 to the application.
  - b) The Company has nil secured creditors as on 05.09.2024. The list of secured creditors duly certified by Chartered Accountant as on 16.11.2022 is annexed to the application at Page No. 548.
  - c) The Company has nil Unsecured Creditors as on 16.11.2022.

    The list of unsecured creditors duly certified by Chartered Accountant as on 16.11.2022 is annexed to the application at Page No. 548.
  - d) The Company has nil Sundry Creditors as on 16.11.2022. The list of Sundry Creditors duly certified by Chartered Accountant as on 16.11.2022 is annexed to the application at Page No. 548.

- e) In relation to the Shareholders, it seeks dispensing with convening/holding the meetings as consent of all the equity shareholders are placed on record. Since there are no secured creditors, unsecured creditors and sundry creditors, therefore the necessity of convening and holding a meeting does not arise
- 13. The Applicant Companies have annexed the certificate issued by the respective statutory auditors confirming that the accounting treatment in the Scheme is in conformity with the Companies (Accounting Standards) Rules, 2021 and generally accepted accounting principles in India (India GAAP), and is in conformity with Section 133 of the Companies Act, 2013 by the respective companies.
- 14. The Applicant Companies have annexed an affidavit dated 25.07.2024 in terms of Section 230(2)(a) of the Companies Act, 2013 which is placed on record.
- 15. Taking into consideration the submissions and the documents filed therewith, the following directions are issued forthwith in respect of convening/holding or dispensing with the meetings of the Equity Shareholders, Secured and Unsecured Creditors as well as issue of notices including by way of paper publication as follows:

# A. In relation to the Applicant Company No. 1:

a) With respect to Equity Shareholders: In view of consent affidavits, from 5 Equity Shareholders, convening/holding the meeting of shareholders is dispensed with.

- b) With respect to Secured Creditors: Since there are no Secured Creditors, therefore the necessity of convening/holding a meeting does not arise.
- c) With respect to Unsecured Creditors: Since there are no Unsecured Creditors, therefore the necessity of convening/holding a meeting does not arise.

## B. In relation to the Applicant Company No. 2:

- a) With respect to the Equity Shareholders: In view of consent affidavits, from 4 Equity Shareholders, convening/holding the meeting of shareholders is dispensed with.
- b) With respect to Secured Creditors: Since there are nil Secured Creditors, therefore the necessity of convening/holding a meeting does not arise.
- c) With respect to Unsecured Creditors: Since there are no Unsecured Creditors, therefore the necessity of convening/holding a meeting does not arise.

## C. In relation to the Applicant Company No. 3:

- a) With respect to the Equity Shareholders: In view of consent affidavits, from 8 equity shareholders, convening/holding the meeting of shareholders is dispensed with.
- b) With respect to Secured Creditors: Since there are no Secured Creditors, therefore the necessity of convening/holding a meeting does not arise.

- c) With respect to Unsecured Creditors: Since there are no Unsecured Creditors, therefore the necessity of convening/holding a meeting does not arise.
- 16. Notice of this application shall also be served on the following:
  - i. Regional Director, Ministry of Corporate Affairs, B-2 Wing, 2 Floor, Paryawaran Bhavan, CGO Complex, New Delhi-110003;
  - ii. Registrar of Companies at 4th floor, IFCI Tower, 61, Nehru Place,New Delhi-110019;
  - iii. Official liquidator, Lok Nayak Bhavan, 8th 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. Any other sectoral regulators required to be served.
- 17. The application i.e., **CA (CAA) NO. 16 OF 2023 stands allowed** on the aforesaid terms.

Sd/-DR. SANJEEV RANJAN MEMBER (TECHNICAL) Sd/-MANNI SANKARIAH SHANMUGA SUNDARAM MEMBER (JUDICIAL)