

FORM No. CAA.7

[Pursuant to section 232 and rule 20]

National Company Law Tribunal, Division Bench-2, Chennai

In the matter of the Companies Act, 2013

And

In the matter of Scheme of Merger by Absorption

Of

M/s. TRIL Infopark Limited

with

M/s. Infopark Properties Limited

And

Their Respective Shareholders and Creditors

Order under section 230 to 232

The above named Petitioner Companies filed the Company Application with this Tribunal which was numbered as CA(CAA)/72 (CHE)/2022. Based on the orders passed in the said application, the applicants filed a Company Petition which was numbered as CP (CAA)/9 (CHE)/2023. All the statutory requirements under law have been fulfilled. The Petition came up for hearing before this Tribunal on 31.05.2023 for the purpose of considering and approving without modification, the Scheme of Merger by Absorption of the Transferor Company viz., M/s. TRIL Infopark Limited by transferring and vesting operation with the Transferee company viz., M/s. Infopark Properties Limited.

Upon perusal and upon hearing Shri Pawan Jhabakh, Counsel for Petitioners on 31.05.2023,
THIS TRIBUNAL DO ORDER

- 1) That the Scheme of Merger by Absorption as annexed with the Petition alongwith Schedules is hereby sanctioned.
- 2) The appointed date of the scheme is 27.06.2022
- 3) That all the property, rights and powers of the transferor company specified in the schedule hereto and all other property, rights and powers of the Transferor company be transferred without further act or deed to the Transferee company and accordingly the same shall pursuant to section 232 of the Act, be transferred to and vested in the Transferee company as a going concern from the Appointed date.
- 4) That all the liabilities and duties of the Transferor company be transferred without further act or deed to the Transferee company and accordingly the same shall pursuant to section 232 of the Act, be transferred to and become the liabilities and duties of the Transferee company; and
- 5) The Transferor Company shall be dissolved without winding up from the date of filing the certified copy of the order with the Registrar of Companies.
- 6) The Petitioner Companies do file with the Registrar of Companies the certified copy of this Order within 30 days of the receipt of the order; and
- 7) This Tribunal do further order that the parties to the Scheme of Amalgamation or other persons interested shall be at liberty to apply to this Tribunal for any directions that may be necessary with regard to the working of the said Scheme.

SCHEDULE

The Scheme of Merger as sanctioned by the Tribunal contains the details of the properties, stocks, shares, debentures and other charges in action of the transferor company.

Dated this 30th day of June, 2023, NCLT, DB-2, Chennai.



Deputy Registrar

DEPUTY REGISTRAR
NATIONAL COMPANY LAW TRIBUNAL
CHENNAI BENCH
CORPORATE BHAVAN, 3rd FLOOR
29 RAJAGOPALAN SALAI



IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH - II, CHENNAI

CP(CAA)/9(CHE)2023

In

CA(CAA)/72(CHE)2022

(filed under Sections 230 to 232 of the Companies Act, 2013)

In the matter of Scheme of Merger by Absorption
of

TRIL INFOPARK LIMITED

CIN NO- U45200TN2008PLC066931

Reg Off:-

Ramanujan IT City, Rajiv Gandhi Salai (OMR),
Taramani, Chennai- 600 113

... 1st Petitioner/ Transferor Company

With

INFOPARK PROPERTIES LIMITED

CIN No- U70109TN2021PLC147646

Reg Off:-

4th Floor, Paras Plaza
No.30/1, Cathedral Garden Road,
Nungambakkam,
Chennai – 600 034

... 2nd Petitioner / Transferee Company

And

Their Respective Shareholders & Creditors

Order Pronounced on 21st June 2023

CORAM

SANJIV JAIN, MEMBER (JUDICIAL)
SAMEER KAKAR, MEMEBR (TECHNICAL)

Appearances:

For Petitioners

: Mr. Pawan Jhabakh, Advocate

For RD/BoC

: Mr. Avinash Krishnan Ravi, Advocate

For Official Liquidator

: Mr. Palani, Estate Assistant





ORDER

Per: SAMEER KAKAR, MEMBER (TECHNICAL)

The hearing of this Petition was conducted through video conferencing platform.

CP(CAA)/9(CHE)/2023 is a joint Company Petition filed by the Petitioner Companies viz., *TRIL Infopark Limited* (for brevity "Transferor Company") and *Infopark Properties Limited* (for brevity "Transferee Company") under section 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 Merger by Absorption (hereinafter referred to as the "SCHEME") proposed by the Petitioner Companies with its Shareholders. The said Scheme is appended as Annexure 'N' to the Petition.

2. The Scheme of Merger by Absorption as contemplated between the Petitioner Companies involves, "*Transfer and vesting of Transferor Company into Transferee Company*".

The Scheme is segregated into following parts:

Part A – This part deals with definitions;

Part B – This part deals with transfer & vesting of transferor company into transferee company.

Part C – This part deals with general terms & conditions of the Scheme.



(Handwritten signature)



3. RATIONALE OF THE SCHEME

It is stated that, this Scheme is expected to result inter alia in:

- The Transferor and the Transferee Company belong to Tata Group and cater to the real estate business vertical of Tata Group. As a part of the group restructuring exercise in relation to the real estate vertical, it was envisaged that the businesses of the Transferor Company be carried out by the Transferee Company and hence with the ultimate objective of acquiring the ongoing business carried on by the Transferor Company, the Transferee Company entered into a Share Purchase Agreement dated 08 April 2022 with the erstwhile shareholders of Transferor Company to acquire about 99.99% of the equity shares of the Transferor Company. This acquisition was completed on 27 June 2022 as a stepping-stone towards acquisition of the business undertaken by the Transferor Company.
- Pursuant to the above referred acquisition, the Transferor Company became a subsidiary of the Transferee Company with effect from 27 June 2022, wherein the paid-up share capital to the extent of 99.99% of the Transferor Company was held by the Transferee Company. Thus, with a view to achieve the main objective of consolidation of business carried on by the Transferor Company and in order to maintain a simple corporate structure and eliminate duplicate corporate procedures, it is desirable to amalgamate Transferor Company into the Transferee Company. The amalgamation of Transferor Company into the Transferee Company shall enable effective management and unified control of operations. Further,





the amalgamation would create economies in administrative and managerial costs by consolidating operations and would substantially reduce duplication of administrative responsibilities and multiplicity of records and legal and regulatory compliances.

- The amalgamation of the Transferor Company into the Transferee Company with effect from the Appointed Date (as hereinafter defined) is in the interest of the shareholders, creditors, Employees and other stakeholders of the Transferor Company and the Transferee Company. Further, there is no likelihood that any creditor of the Transferor Company or the Transferee Company will be prejudiced as a result of the Scheme. The Scheme will neither impose any additional burden on the shareholders of the Transferor Company, nor will it adversely affect the interests of any of the shareholders or creditors of the Transferor Company and Transferee Company. Further, the Scheme is only for merger by absorption of the Transferor Company with the Transferee Company and is not an arrangement with the creditors of any of the entities involved.

4. 1ST MOTION APPLICATION



The Petitioner Companies had filed a joint First Motion Application vide CA(CAA)/72/CHE/2022. Based on such application moved under Sections 230-232 of the Companies Act, 2013 directions, were issued by this Tribunal, vide order dated 09.12.2022, for holding/dispensation of meeting as follows;



	EQUITY SHAREHOLDERS	PREFERENCE SHAREHOLDERS	SECURED CREDITORS	UNSECURED CREDITORS
TRANSFEROR COMPANY	Dispensed with	NA*	Dispensed with	To Convene Meeting
TRANSFeree COMPANY	Dispensed with	Dispensed with	NA*	Dispensed with

(NA*- Not Applicable)

4.2 Subsequent to the said order dated 09.12.2022, meeting of Unsecured Creditors of the Transferor Company was conducted. The chairperson appointed has filed the report of the said meeting before the registry and the same was taken on record. Subsequent to the said report, the petitioner companies filed this joint Company Petition before this Tribunal. Thereafter, on 01.03.2023, this Tribunal passed an order directing issuance of notice to the Sectoral Regulators and Authorities concerned and for publication in 'Business Standard' (English- Tamil Nadu Edition) and 'Makkal Kural' (Tamil-Tamil Nadu Edition).

4.3 Pursuant to the said directions, notices were served on the Sectoral Regulators and other Authorities on 17.03.2023 by the Petitioner Companies and the publications as directed were made on 17.03.2023 in 'Business Standard' & on 18.03.2023 in 'Makkal Kural' by the Petitioner Companies. A joint Affidavit of service confirming the services and publications is placed on record.



[Handwritten signature]



5. STATUTORY AUTHORITIES

5.1. REGIONAL DIRECTOR

5.1.1 The Regional Director Southern Region, (*hereinafter referred to as 'RD'*) Chennai to whom the notice was issued, filed his Report on 07.03.2023 before the Tribunal stating that they have *decided not to make any objection to the Scheme except for the Observations at Para 10 of their report.* The extract of the observations as mentioned above is as hereunder,

"11) It is submitted that as per Clause 12 of Part C of the Scheme provides for clubbing of Authorized share capital of the Companies, as such the aggregate Authorized Share Capital of the Transferor Company amounting to Rs. 2000,00,00,000 shall stand altered and merged with the Authorized share capital of the Transferee Company. Clause V of the MOA and Clause 2 of the AOA of the Transferee Company to pay the difference in fee/stamp duty and also to file the amended MOA and AOA with Registrar of Companies in connection with the proposed increase of Authorized Share Capital."

5.1.2 It is seen from the report of RoC, Chennai that, the Transferor & Transferee Company have filed their statutory returns up to 31.03.2022 and have reported that no prosecution / Inspection or Investigation is pending against the Companies involved in the Scheme.

OFFICIAL LIQUIDATOR

5.2.1 The Official Liquidator, (*hereinafter referred to as 'OL'*) Chennai to whom the notice was issued, filed his Report on 10.05.2023 and has reported that having examined the books of accounts and records, other documents,





annual reports and statutory books and registers, M/s. Sundararajan & Co., Chartered Accountants have observed that, the affairs of the Transferor Company have not been conducted in a manner which is prejudicial to the interest of members or to public interest. The Chartered Accountants have further reported that they have not come across with any transactions involving act of misfeasance, which would attract the provisions of the Companies Act, 2013.

5.2.2. This Tribunal directs the Transferor Company to pay a sum of Rs. 50,000/- (Rupees fifty thousand only) + GST to the Official Liquidator for the payment of fees payable towards the Auditor who has investigated into the affairs of the Transferor Company.

5.3 INCOME TAX DEPARTMENT

5.3.1 The Commissioner of Income Tax, Corporate Circle 3(1), (hereinafter referred to as 'IT Department') Chennai to whom the notice was issued has sent his communication to the Petitioner Companies dated 22.03.2023 and observed as follows,

"It is submitted that all tax assessment proceedings and appeals of whatsoever nature, by or against the transferor company, pending or arising as at the effective date shall be permitted to be continued or enforced against the transferee company. The department reserves leave of Hon'ble NCLT to determine the tax implications of the transferor company contemplated under the scheme in accordance with the provisions of the IT Act, 1961 and to proceed





with appropriate remedial action available to the department as per the Income Tax Act, 1961, if the implementation of the scheme is found to be prejudicial to the Interest of the Revenue later at any point of time."

5.3.2 The Petitioner Companies vide a joint affidavit has submitted the following in response to the observation of the Income Tax department.

The same is as hereunder,

"I further submit that the letter received from the office of the Deputy Commissioner Income Tax is self-explanatory and I wish to confirm that vide clause number 7 [Seven] of the Scheme of Amalgamation, the interest of all the stakeholders is protected and all pending legal and other proceedings will be absorbed by the Transferee Company."

5.4 OTHER STATUTORY AUTHORITIES

In relation to the other statutory authorities namely, the Reserve Bank of India (RBI), The Development Commissioner, MEPZ (SEZ) & Bombay Stock Exchange to whom notices have been issued have neither filed any reply nor raised any objections to the Scheme. In the said circumstances, this Tribunal presumes that the authority concerned has no objection to the proposed scheme.

VALUATION & ACCOUNTING TREATMENT

From the valuation certificate issued by M/s. SSPA & Co. it is seen that the consideration for fair equity share exchange ratio for the proposed Merger is recommended as, "2 (two) equity shares of IPL of INR 10 each fully paid up for every 9 (nine) equity shares of TIL of INR 10 each fully paid up."





6.2 It is stated that the Statutory Auditor of the Petitioner companies have examined the Scheme and have individually certified that the Petitioner companies have complied with proviso to Section 230 – 232. The Accounting Treatment contained in the proposed Scheme of Amalgamation is in compliance with the Applicable Indian Accounting Standards notified under section 133 of the Companies Act, 2013 read with the rules made there under and other generally accepted accounting principles in India. The Certificates issued by the Statutory Auditor certifying the Accounting Treatment of the Petitioner Companies is placed as 'Annexure – P' in the typed set of papers filed along with the Petition.

7. OBSERVATIONS OF THIS TRIBUNAL

7.1. After analysing the Scheme in detail, this Tribunal is of the considered view that the scheme as contemplated amongst the Petitioner Companies *prima facie* would not be in any way detrimental to the interest of the shareholders of the Companies.

7.2 From the report of the RD we also understand that no investigation proceedings are pending against the Companies under the provisions of the Companies Act, 1956 or the Companies Act, 2013 and no proceedings against the petitioner companies for oppression or mismanagement have been filed before this Tribunal or erstwhile Company Law Board. In view of the absence of any other objections from regulatory authorities and statutory authorities and since all the requisite statutory compliances have been fulfilled, this Tribunal *sanctions the*





Scheme of Merger by Absorption appended with the Company Petition as well as the prayer made therein.

7.3 The Appointed date of the said Scheme is 27th June 2022. The said Scheme of Merger by Absorption will not cast any additional burden on the stakeholders and also will not prejudicially affect the interests of any class of the creditor/s in any manner.

7.4 The Scheme does not require any modification as it appears to be fair and reasonable, not contrary to public policy and also not violative of any provisions of law. All the statutory compliances have been made under section 230-232 of the Companies Act, 2013 r/w the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. The Scheme of Merger by Absorption between the Petitioner Companies was duly approved by the shareholders of the respective companies.

7.5 Taking into consideration all the above, the Company Petition is allowed and the Scheme of Merger by Absorption annexed with the petition is hereby sanctioned which shall be binding on all the members, creditors and shareholders.

7.6 While approving the scheme as above, we clarify that this order will not be construed as an order granting exemption from payment of stamp duty or taxes or any other charges, if payable, as per the relevant provisions of law or from any applicable permissions that may have to be obtained or, even compliances that may have to be made as per the mandate of law.

7.7 The Companies to the said Scheme or other persons interested, shall be at liberty to apply to this Bench for any direction that





may be necessary with regard to the working of the said Scheme. The Petitioner Company shall file with the Registrar of Companies, the certified copy of this Order, within 30 days of the receipt of the order.

7.8 The Order of sanction to this Scheme shall be prepared by the Registry as per the relevant format provided under the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 notified on 14th December, 2016.

8. THIS TRIBUNAL DO FURTHER ORDER

- (i) That all properties, rights and interests of the Transferor Company shall, pursuant to Section 232(3) of the Companies Act, 2013 without further act or deed be transferred to and vest in or be deemed to have been transferred and vested in the Transferee Company in terms of the Scheme; and
- (ii) That all the liabilities, powers, engagements, obligations and duties of the Transferor Company shall pursuant to Section 232(3) of the Companies Act, 2013 without further act or deed be transferred to and vest in or be deemed to have been transferred and vested in the Transferee Company in terms of the Scheme; and
- (iii) That all the employees/workmen of the Transferor Company in service on the date immediately preceding the date on which the Scheme finally takes effect shall become the employees of the Transferee Company without any break or interruption in their service with all the benefits, as existing on the date.
- (iv) That all proceedings now pending by or against the Transferor Company be continued by or against the Transferee Company.





- (v) The 'Effective date' shall have the meaning assigned to such term in Clause 1.4 of Part – A of the Scheme.
- (vi) That the Transferee Company do without further application allot to such members of the Transferor Company, as have not given such notice of dissent, as is required by Scheme of Merger by Absorption herein the shares in the Transferee Company to which they are entitled under the said Scheme of Merger in terms of Clause 2, Part B of the Scheme.
- (vii) That the Transferee Company shall file the revised Memorandum and Articles of Association with the Registrar of Companies, concerned and further make the requisite payments of the differential fee (if any) for the enhancement of authorized capital of the Transferee Company after setting off the fees paid by the Transferor Companies.
- (viii) That the Appointed date for the Scheme shall be 27.06.2022.
- (ix) That the Transferor Companies (1&2) and the Transferee Company, shall within thirty days of the date of receipt of this order cause a certified copy of this order to be delivered to the Registrar of Companies for registration and on such certified copy being so delivered, the Transferor Companies (1&2) shall be dissolved without winding up and the Registrar of Companies shall place all documents relating to the Transferor Companies (1&2) registered with him on the file kept by him in relation to all the Transferee Company and the files relating to all the said companies shall be consolidated accordingly.



h
g



- (x) That both the Petitioner Companies, shall within thirty days of the date of receipt of this order cause a certified copy of this order to be delivered to the Registrar of Companies for registration and on such certified copy being so delivered, the Transferor Company shall be dissolved without winding up and the Registrar of Companies shall place all documents relating to the Transferor Company registered with him on the file kept by him in relation to the Transferee Company and the files relating to both the companies shall be consolidated accordingly.
- (xi) That any person interested shall be at liberty to apply to the Tribunal in the above matter for any directions that may be necessary.

9. Accordingly, the Scheme annexed with the petition stand sanctioned and the Company Petition No. CP (CAA)/9(CHE)/2023 stands allowed.

- Sd -

SAMEER KAKAR
MEMBER (TECHNICAL)

- Sd -

SANJIV JAIN
MEMBER (JUDICIAL)



S. N. J.
30/6/23
DEPUTY REGISTRAR
NATIONAL COMPANY LAW TRIBUNAL
CHENNAI BENCH
CORPORATE BHAVAN, 3rd FLOOR,
29, RAJAJI SALAI, CHENNAI-600001

Certified to be True Copy