

FREE OF COST COPY

IN THE NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH III, AT NEW DELHI

UNDER SECTIONS 230-232 and other applicable provisions of Companies Act, 2013
read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016

CA (CAA)-99(ND)/2022

IN THE MATTER OF SCHEME OF AMALGAMATION OF
DEVYANI AIRPORT SERVICES (MUMBAI) PRIVATE LIMITED
(Transferor Company No. 1 / Applicant Company No.1)

AND

DEVYANI FOOD STREET PRIVATE LIMITED
(Transferor Company No. 2 / Applicant Company No.2)

WITH

DEVYANI INTERNATIONAL LIMITED
(Transferee Company / Applicant Company No.3)

Order pronounced on: 11.11.2022

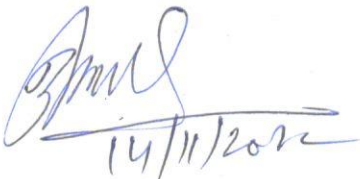
SHRI BACHU VENKAT BALARAM DAS
MEMBER (JUDICIAL)

DR. BINOD KUMAR SINHA
MEMBER (TECHNICAL)

PRESENT:

For the Applicant: Mr. Saurav Kalia

CA (CAA)-99(ND)/ 2022
Date of order: 11.11.2022


14/11/2022





ORDER

Per- Dr. Binod Kumar Sinha, Member (Technical)

1. This is a 1st Motion Petition filed by the applicant companies seeking approval of this Tribunal about the Scheme of Amalgamation under Sections 230 and 232 of the Companies Act, 2013 read with the Companies (Compromise, Arrangements and Amalgamations) Rules, 2016 in respect of above Transferor Companies and Transferee Company.
Heard Ld. Counsel appearing for the Applicant Companies.

It is represented that the registered office of all the Applicant Companies is situated in New Delhi and therefore the subject matter of the said Application falls within the jurisdiction of this Tribunal.

Ld. Counsel has given the brief description of the Transferor and Transferee Companies.

2. **Devyani Airport Services (Mumbai) Private Limited**
(Transferor Company No.1)

Transferor Company No.1, bearing CIN: U55101DL2013PTC250959 was incorporated on 18/04/2013 under the provisions of the Companies Act, 1956 as a Private Company Limited with the Registrar of Companies, NCT of Delhi and Haryana. The registered office of Transferor Company No. 1 is situated at F-2/7, Okhla Industrial Area, Phase-I, New Delhi-110020. The Authorized Share Capital of the Company is Rs. 54,00,00,000/- and the issued, subscribed and paid-up share capital of the company is Rs. 49,94,80,360/-.

As regards, Transferor Company No.1, as on 31.03.2022, the Company has 2 equity Shareholders and all the equity Shareholders have given their consent to the Scheme and these consent affidavits are on record as evident from pages 245-251 of the petition. As on 30.06.2022, there is one Secured Creditor and the sole secured creditor has given its consent to the Scheme and the consent affidavit is on record as evident from pages 252-272 of the petition. There are 77 Unsecured Creditors and unsecured creditors have given their consent (90.22% in value) and these consent affidavits are on record as evident from pages 273-301 of the petition.

CA (CAA)-99(ND)/2022
Date of order: 11.11.2022



(Signature)

3. Devyani Food Street Private Limited

(Transferor Company No.2)

Transferor Company No. 2 bearing CIN: U55101DL2009PTC193995 was incorporated on 07/09/2009 under the provisions of the Companies Act. 1956, as a Private Company Limited with the Registrar of Companies, NCT of Delhi and Haryana. The registered office of Transferor Company No. 2 is situated at F-2/7, Okhla Industrial Area, Phase-I, New Delhi-110020. The Authorized Share Capital of the Company is Rs.13,50,00,000/- and issued, subscribed and paid-up share capital of the company is Rs. 8,90,90,000/-.

As regards, Transferor Company No.2, as on 31.03.2022, this Company has 2 equity Shareholders and both have given their consent for the present Scheme which is on record as evident from pages 354-364 of the petition. There is 1 Secured Creditor who has given consent affidavit (as evident from page 365-370). There are 94 Unsecured Creditors and unsecured creditors have given their consent (90.82% in value) vide their No objection affidavit for the proposed Scheme as evident from pages 371-404 of the petition.

4. Devyani International Limited

(Transferee Company)

Transferee Company bearing CIN: L15135DL1991PLC046758 is a company originally incorporated on 13/12/1991 under the provisions of the Companies Act, 1956 as Private Limited Company under the name and style of "Universal Ice Creams Private Limited". Thereafter, name of the Applicant Company No. 3 was changed to "Devyani International Private Limited" and fresh certificate of incorporation was issued by the Registrar of Companies on 07/06/2000. Subsequently, the Applicant Company No. 3 was converted into Public Limited Company and its name was changed to "Devyani International Limited". A new certificate of incorporation was issued by Registrar of Companies, NCT of Delhi and Haryana on 09/05/2005. The registered office of Transferor Company No. 3 is situated at F-2/7, Okhla Industrial Area, Phase-I, New Delhi-110020. The Authorized Share Capital of the Company is Rs. 500,00,00,000/- and the issued, subscribed and paid-up share capital of the company is Rs. 120,47,36,378/-.

CA (CAA)-99(ND)/2022

Date of order: 11.11.2022



[Handwritten signature]

As regards, Transferee Company, as on 31.03.2022, there are 2,70,711 Equity Shareholders. There are 5 Secured Creditors and all the Secured Creditors have given their Consent Affidavit as evident from page 581-622. There are 2378 Unsecured Creditors. Meetings have to be convened for the Equity Shareholders and Unsecured Creditors as no consent affidavits has been given for the transferee company.

5. Ld. Counsel appearing for the Applicant Companies has prayed for dispensation of calling/convening/holding and conducting of meetings of the Shareholders, Secured Creditors and Unsecured Creditors of both the Transferor Companies and of the Secured Creditors of the Transferee Company.
6. Having heard the submissions made by Ld. Counsel and having perused the records as well as the documents placed on record, we allow the said prayer for the dispensation of the meetings of the Shareholders, Secured Creditors and Unsecured Creditors of both the Transferor Companies and of the Secured Creditors of the Transferee Company. Since consents affidavits have not been placed on record for the equity shareholders and unsecured creditors for the transferee company, therefore the meeting has to be convened.
7. In relation to the Transferee Company:
 - (i) With respect to Equity shareholders:
Meeting of the Equity Shareholders of the Transferee Company is directed to be held at 10:30 AM on 29th December, 2022 in accordance with the procedure laid down in Rules and MCA notifications.
 - (ii) With respect to Unsecured Creditors:
Meeting of the Unsecured Creditors of the Transferee Company is directed to be held at 12:30 PM on 29th December, 2022 in accordance with the procedure laid down in Rules and MCA notifications.
8. The quorum for the meeting of the Equity Shareholders shall be not less than 75% in value as provided in section – 230(6) of the Act. The quorum for the meeting of unsecured creditors will also be 75% (in value) of unsecured creditors.
9. Mr. Gaurav Joshi, CS (9899407663) shall act as the Chairperson, Mr. Atul Bhatia, Advocate (9582684409) shall act as the alternate chairperson appointed for the said meetings and. The fee of the chairperson for the aforesaid meetings shall be 1,25,000/- and

CA (CAA)-99(ND)/2022
Date of order: 11.11.2022



Adopt

the fee of the alternate chairperson shall be Rs 1,00,000/- in addition to meeting their incidental expenses.

10. Mr. Shivam Singh, CS (9910237761) is appointed as a Scrutinizer, who shall ensure that the registers are properly maintained and would be entitled to fee of Rs.75,000/- for services in addition to meeting incidental expenses. The Chairpersons will file their reports within 2 weeks from the date of holding of the above said meetings.
11. In case the quorum as noted above for the above meeting of the Applicant Company No. 3 is not present at the meetings, then the meetings shall be adjourned by half an hour, and thereafter the persons present and voting shall be deemed to constitute the quorum. The Chairperson and Alternate Chairperson appointed herein along with Scrutinizer shall ensure that the proxy registers are properly maintained. However, every endeavour should be made by the applicant company to attain at least the quorum fixed, if not more, in relation to approval of the scheme.
12. That individual notices of the above said meetings shall be sent by the Applicant Company through e-mail and through speed post, 30 days in advance before the scheduled date of the meeting, indicating the day, date, the place and the time as aforesaid, together with a copy of Scheme of Amalgamation, copy of explanatory statement, required to be sent under the Companies Act, 2013 and the prescribed form of proxy shall also be sent along and in addition to the above, any other documents as may be prescribed under the Act or rules may also be duly sent with the notice.
13. That the Applicant Company No. 3/ Transferee Company shall publish advertisement with a gap of at least 30 clear days before the aforesaid meetings, indicating the day, date and the place and time as aforesaid, to be published in the "Business Standard" English Edition – Delhi and "Jansatta" Hindi Edition - Delhi stating the copies of Scheme of Amalgamation, the Explanatory Statement required to be furnished pursuant to Section 230 of the Companies Act, 2013 and the form of proxy shall be provided free of charge at the registered office of the Applicant Company.
14. Voting shall be allowed on the proposed Scheme by voting in person or through proxy as per the guidelines issued by Ministry of Corporate Affairs.
15. The Applicant Company No. 3 shall individually send notice to concerned Regional Director (Northern Region), Registrar of Companies NCT Delhi & Haryana, Official

CA (CAA)-99(ND)/ 2022
Date of order: 11.11.2022



(Handwritten signature)

Liquidator (New Delhi), Jurisdictional Assessing Officer (Income Tax) of the Applicant Companies, BSE Limited, National Stock Exchange of India Limited and SEBI as well as other sectoral regulators who may have significant bearing on the operations of the applicant company or the Scheme per se along with copy of required documents and disclosures required under the provisions of Companies Act, 2013 read with Companies (Compromises, Arrangements, Amalgamations) Rules, 2016.

16. The Applicant Companies shall further furnish copy of the Scheme free of charge within 1 day of any requisition for the Scheme made by every creditor or member of the company entitled to attend the meetings as aforesaid.
17. The authorized representative of the Applicant Company No.3 shall furnish an affidavit of service of notice of meetings and publication of advertisement and compliance of all directions contained herein at least a week before the proposed meetings.
18. All the aforesaid directions are to be complied with strictly in accordance with the applicable law including forms and formats contained in the Companies (Compromises, Arrangements, Amalgamations) Rules, 2016 as well as the provisions of the Companies Act, 2013 by the Applicants.

With the above directions, the present petition is **disposed of**.

-Sd-

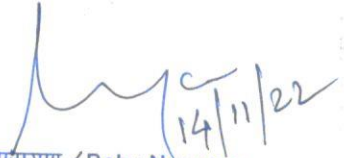
(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)

-Sd-

(DR. BINOD KUMAR SINHA)
MEMBER (TECHNICAL)



CA (CAA)-99(ND)/2022
Date of order: 11.11.2022


बॉबी नारायण / Bobby Narayan
सहायक रजिस्ट्रार / Assistant Registrar
राष्ट्रीय कम्पनी विधि अधिकरण
National Company Law Tribunal
भारत सरकार / Govt. of India

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
COURT-III

Item No.105

New IA(Com.A)- 310/2022

In

CA.CAA-99(ND)/2022

IN THE MATTER OF:

M/s. Devyani Airport Services (Mumbai) Pvt Ltd. AND Devyani Food Street Pvt Ltd.

.... APPLICANT/PETITIONER

SECTION

U/s 230-232

Order delivered on 18.11.2022

CORAM:

**DR. BINOD KUMAR SINHA
MEMBER (TECHNICAL)**

**SHRI BACHU VENKAT BALARAM DAS
MEMBER (JUDICIAL)**

PRESENT:

For the Applicant :

For the Respondent :

ORDER

New IA(Com.A)- 310/2022:-

This is an application which has been filed seeking modification of the order dated 11.11.2022 wherein in Para 12 of the order, which is stated as follows:-

"That individual notices of the above said meetings shall be sent by the Applicant Company through e-mail and through speed post, 30 days in advance before the schedule date of the meeting, indicating the day, date, the place and the time as aforesaid, together with a copy of the Scheme of Amalgamation, copy of explanatory statement required to be sent under the Companies Act, 2013 and the prescribed form of proxy shall also be sent along and in addition to the above, any other documents as may be prescribed under the Act or Rules may also be duly sent with the notice."

The Ld. Counsel submits that as per Rule 6 (2) of Companies (Compromises, Arrangements and Amalgamations) Rules 2016 notice of the

meeting can be sent through registered post or speed post or by courier or by e-mail or by hand delivery or any other mode as directed by the Tribunal.

We, therefore, modify the order dated 11.11.2022 direct that notice shall be sent by registered post or speed post or by courier or by e-mail or by hand delivery as provided under Rule 6(2) of the Companies (Compromises, Arrangements and Amalgamations) Rules 2016.

Therefore, the IA is **allowed**.

-Sd-

(DR. BINOD KUMAR SINHA)
MEMBER (TECHNICAL)

-Sd-

(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)

New IA(Com.A)- 310/2022

In

CA.CAA-99(ND)/2022