

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**BENGALURU BENCH, BENGALURU**  
*(Through Physical Hearing/VC Mode (Hybrid))*

**C.A. (CAA) No.35/BB/2023**  
U/s. 230 to 232 of the Companies Act, 2013  
R/w Rule Companies (Compromises, Arrangements  
and Amalgamations) Rules, 2016

**IN THE MATTER OF SCHEME:**

**M/s. Motorola Mobility Chennai Pvt. Ltd.**

Unit No.2, Fourth Floor, Roach Icon,  
Survey No.28 & 36/5, Doddanakundi,  
Next to Akme Ballet, K.R. Puram Hobli,  
Outer Ring Road,  
Bangalore-560 037. ... Applicant Company No.1 / Transferor Company

**And**

**M/s. Motorola Mobility India Pvt. Ltd.**

Bagmane Tech Park, No.66/1, Plot No.5,  
5<sup>th</sup> Floor, CV Raman Nagar,  
Bangalore – 560 093. ... Applicant Company No.2 / Transferee Company

**Order delivered on: 31.01.2024**

**CORAM:** 1. Hon'ble Shri K. Biswal, Member (Judicial)  
2. Hon'ble Shri Manoj Kumar Dubey, Member (Technical)

**PRESENT:**

For the Applicant Companies : Shri Naman G. Joshi

**ORDER**

**Per: K. Biswal, Member (Judicial)**

1. The present first motion for amalgamation has been filed on 29.08.2023 by the Applicant Companies viz. **M/s. Motorola Mobility Chennai Pvt. Ltd.** (for brevity, the Applicant Company No.1/Transferor Company) and **M/s. Motorola Mobility India Pvt. Ltd.** (for brevity, the Applicant Company No.2/Transferee Company) under Sections 230 to 232 of the

Companies Act, 2013 R/w Rule 3(2) of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 *inter alia*, seeking for dispensation of the meeting of the Shareholders, Unsecured & Secured Creditors of the Applicant Companies. The Scheme of Amalgamation is placed on record at Annexure-K of the Application.

2. The Transferor Company, namely, **M/s. Motorola Mobility Chennai Pvt. Ltd.**, is incorporated on 20.07.2009 under the provisions of Companies Act, 1956 having its registered office at Unit No.2, Fourth Floor, Roach Icon, Survey No.28 and 36/5, Doddanakundi Village, Next to Akme Ballet, K.R. Puram Hobli, Outer Ring Road, Bangalore-560037. The Authorized capital of the Company is Rs.15,00,000/- divided into 1,50,000 Equity Shares of Rs.10/- each and its Issued, Subscribed and Paid-up Capital is Rs.7,51,770/- divided into 75,177 Equity shares of Rs.10/- each.
3. The Transferee Company, namely, **M/s. Motorola Mobility India Pvt. Ltd.** is incorporated on 20.07.2009 under the provisions of Companies Act, 1956 having its registered office at Bagmane Tech Park, No.66/1, Plot No.5, 5<sup>th</sup> Floor, CV Raman Nagar, Bangalore-560093. The Authorized capital of the Company is Rs.5,00,000/- divided into 50,000 Equity Shares of Rs.10/- each. The Issued, Subscribed and Paid-up Capital of the Transferee Company is Rs.1,00,000/- divided into 10,000 Equity shares of Rs.10/- each.
4. It is submitted that the Rationale for Scheme of Amalgamation of the Transferor Company with the Transferee Company is, *inter alia*, as follows:
  - (i) The Transferor Company and the Transferee Company are held by common shareholders i.e. Motorola Mobility Netherlands Two B.V. (majority shareholder) and Motorola Mobility International Capital LLC, USA (minority shareholder) as on the date of filing this Scheme of Merger.
  - (ii) The Parties wish to consolidate and operate minimal entities with an intent to accelerate the business, and to streamline the operating structure and accordingly the Transferor Company is

proposes to be amalgamated with the Transferee Company through this Scheme.

- (iii) This amalgamation would benefit the Shareholders by engaging and dealing with a 'single' entity i.e. Transferee Company, leading to commitment and better functioning of business etc.
- 5.** The Board of Directors of the Transferor Company and Transferee Company at their meetings held on 14.07.2023 approved the Scheme. Copy of certified true copy of resolution passed in the board meeting of the Transferor Company and Transferee Company is annexed to the Application and marked as Annexure – G & H.
  - 6.** The instant Application has been filed seeking for the following reliefs :
    - a) Dispense with the meeting of the Shareholders, Secured & Unsecured Creditors of the Transferor Company;
    - b) Dispense with the meeting of the Shareholders, Secured & Unsecured Creditors of the Transferee Company etc.
  - 7.** The Ld. Counsel for the Transferor Company has submitted that as per the Certificate dated 29.07.2023 of Shetty & Bhat, Chartered Accountants, there are 02 (Two) Equity Shareholders in the Transferor Company as on 28.07.2023. Both the Equity Shareholders holding an aggregate of 100% shareholding in the Transferor Company have given their consents by way of affidavits to the Scheme.
  - 8.** The Transferor Company has submitted that as per the Certificate dated 29.07.2023 of Shetty & Bhat, Chartered Accountants, there was 01 (One) Unsecured Creditor in the Transferor Company as on 28.07.2023. The Unsecured Creditor has given his consent by way of affidavit to the Scheme.
  - 9.** It is stated that as per the Certificate dated 29.07.2023 of Shetty & Bhat, Chartered Accountants, there was "Nil" Secured Creditor in the Transferor Company as on 28.07.2023.
  - 10.** The Ld. Counsel for the Transferee Company has submitted that as per the Certificate dated 29.07.2023 of Shetty & Bhat, Chartered Accountants, there are 02 (Two) Equity Shareholders in the Transferee Company as on 28.07.2023. Both the Equity Shareholders holding an

aggregate of 100% shareholding in the Transferee Company have given their consents by way of affidavits to the Scheme.

- 11.** The Transferee Company has submitted that as per the Certificate dated 29.07.2023 of Shetty & Bhat, Chartered Accountants, there were 63 (Sixty-Three) Unsecured Creditors in the Transferee Company as on 28.07.2023. The Unsecured Creditors holding an aggregate of 91.93% in value in the Transferee Company have given their consents by way of affidavits to the Scheme.
- 12.** It is stated that as per the Certificate dated 29.07.2023 of Shetty & Bhat, Chartered Accountants, there was “Nil” Secured Creditor in the Transferee Company as on 28.07.2023.
- 13.** It is also stated that the Affidavits dated 23.08.2023 of the Authorized Signatories of the Applicant Companies have been filed stating that no pending investigations or proceedings of any manner whatsoever before any authority in accordance with laws prevailing in India, except the proceedings as mentioned at Annexure – L of the Application.
- 14.** It is submitted that the Affidavit dated 23.08.2023 of the Authorised Signatory of the Transferee Company has been filed stating that the Transferee Company is not regulated by any sectoral regulator.
- 15.** It is also submitted that the Affidavits dated 23.08.2023 of the Authorised Signatories of the Applicant Companies have been filed stating that there is no proposal for Corporate Debt Restructuring under the Scheme; Scheme does not involve any compromise with creditors of Applicant Companies and the Scheme does not provide for any kind of arrangement with the outside creditors of Transferor and Transferee Company and thereby Corporate Debt Restructuring with regard to outside creditors is not applicable to the Scheme.
- 16.** The certificate of the statutory auditors has been filed certifying that the accounting treatment contained in clause 11 of the Draft Scheme is in compliance with the applicable accounting standards specified under Section 133 of the Act, and other generally accepted accounting principles.

- 17.** The Ld. Counsel for the Applicant Companies further submitted that the Transferor Company and Transferee Company have filed audited Balance Sheet for the year ending on 31.03.2022. The same is on record as Annexures-C and F of the Application respectively. The unaudited Balance Sheet of the Transferor Company and Transferee Company have filed for the year ending on 31.03.2023 as Annexures-C and F of the Application respectively.
- 18.** Clause 6.2.4(a) of the Scheme states that on the Scheme becoming effective, all staff, workmen, employees engaged with the Transferor Company shall become the staff, workmen and employees of the Transferee Company, and, subject to the provisions hereof, on terms and conditions not less favourable than those on which they are engaged by the Transferor Company, subject to the terms and conditions or People Policies of the employees of the Transferee Company, without any interruption or break of service as a result of the amalgamation of Transferor Company into the Transferee Company. The Transferee Company further agrees that for the purpose of payment of any retrenchment compensation, compensated absences, etc., if any, such past services with the Transferor Company shall also be taken into account. Transferee Company undertakes to continue to abide by agreement/settlement, if any, entered into by Transferor Company with any union/employee thereof.
- 19.** We have heard the Ld. Counsel for the Applicant Company and have perused the records. In view of the aforesaid discussion, the following directions are issued:
- a) Since Equity Shareholders of the Transferor Company constituting 100% of the total value as on 28.07.2023 have given consents to the “Scheme” and also for dispensing their meetings, the meeting of the Equity Shareholders of the Transferor Company are hereby dispensed with;
  - b) Since there is Nil Secured Creditor in the Transferor Company, there is nothing to convene their meeting;

- c) Since the Unsecured Creditor of the Transferor Company constituting 100% of the total value as on 28.07.2023 has given consent to the 'Scheme' and also for dispensing their meetings, the meeting of the Unsecured Creditor of the Transferor Company is hereby dispensed with.
- d) Since Equity Shareholders of the Transferee Company constituting 100% of the total value as on 28.07.2023 have given consents to the "Scheme" and also for dispensing their meetings, the meeting of the Equity Shareholders of the Transferee Company are hereby dispensed with;
- e) Since there is Nil Secured Creditor in the Transferee Company, there is nothing to convene their meeting;
- f) Since the Unsecured Creditors of the Transferee Company constituting 91.93% of the total value as on 28.07.2023 have given consents to the 'Scheme' and also for dispensing their meetings, the meeting of the Unsecured Creditors of the Transferee Company is hereby dispensed with.
- g) Further the Applicant Companies are directed to issue paper notification in "*The New Indian Express*" and "*Kannada Prabha*" about the dispensation of the meetings by this Tribunal, within the period of 10 (Ten) days from the date of receipt of copy of this Order;
- h) All the aforesaid directions are to be compiled with strictly in accordance with the applicable laws including forms and formats contained in the "Rules" as well as the provisions of the Companies Act, 2013, by the Applicant Company.

**20.** With the aforesaid directions, this First Motion Application bearing **C.A. (CAA)No.35/BB/2023 stands allowed**, giving liberty to the Applicant Companies to file Second Motion Petition with the direction that the Applicant Companies shall make specific prayer for sending notice to the

(i) the Central Government through the office of the Regional Director (South East Region); (ii) Concerned Registrar of Companies; (iii) Official Liquidator; (iv) Principal Chief Commissioner of Income Tax, Karnataka & Goa, being the Nodal Officer and (4) the Jurisdictional Deputy/Assistant Commissioner/Assessing Authority by disclosing the PAN numbers of the Applicant Company in the title of the Second Motion Petition.

**Sd/-**  
**(MANOJ KUMAR DUBEY)**  
**MEMBER (TECHNICAL)**

**Sd/-**  
**(K. BISWAL)**  
**MEMBER (JUDICIAL)**