



**IN THE NATIONAL COMPANY LAW TRIBUNAL,
SPECIAL BENCH - II, CHENNAI**

**CP (CAA) 57/CHE/2022
In
CA (CAA)/100(CHE)/2021**

(filed under Section 230 to 232 of The Companies Act, 2013)

In the Matter of ***Scheme of Amalgamation***
Between

MADURA MICRO FINANCE LIMITED

CIN: U65929TN2005PLC057390

Reg. Off:-

No.36,II Main Road, Kasturba Nagar,
Adyar, Chennai - 600020

...Applicant/Transferor Company
With

CREDITACCESS GRAMEEN LIMITED

CIN: L51216KA1991PLC053425

Reg. Off:-

New No. 49 (Old No.725), 46th Cross
8th Block, Jayanagar (Next to Rajalakshmi
Kalyana Mantap), Bangalore,
Karnataka - 560071

...Transferee Company

And

Their Respective Shareholders and Creditors

Order Pronounced on 12th October 2022

CORAM:

**BACHU VENKAT BALARAMA DAS, MEMBER (JUDICIAL)
SAMEER KAKAR, MEMBER (TECHNICAL)**

For Petitioner(s)	: Edward James, Advocate
For Regional Director	: None Appeared
For Official Liquidator	: B. Palani, Authorized Representative
For Income Tax	: None Appeared



ORDER

Per: BACHU VENKAT BALARAMA DAS, MEMBER (JUDICIAL)

The hearing of this Petition has been conducted through
video conferencing platform.



CP(CAA)/57(CHE)/2022 is a Company Petition filed by the Petitioner Company above named for the purpose of the approval of the Scheme of Amalgamation (hereinafter referred to as the 'SCHEME') as contemplated between **MADURA MICRO FINANCE LIMITED** (for brevity "*Applicant/Transferor Company*"), and **CREDITACCESS GRAMEEN LIMITED** (for brevity "*Transferee Company*"). The registered office of the Transferee Company is situated at Bangalore, Karnataka and falls within the jurisdiction of NCLT Bangalore Bench. The Transferor Company has filed a company petition before the NCLT, Bangalore Bench and the same is pending for final order. The Transferor Company in their Board of Directors meeting held on 27th November 2019 has accorded their approval for Scheme of Amalgamation (*hereinafter referred to as "Scheme"*) and on 30.11.2020 has also accorded for the *Modified Scheme* as contemplated between the Transferor and Transferee companies. The Scheme is annexed as Exhibit 'A' to the typed set filed along with the Petition.

2. The Composite Scheme of Amalgamation as contemplated between the Companies involves Amalgamation of the Transferor Company with the Transferee Company in accordance with the clauses of the proposed scheme.



3. 1ST MOTION APPLICATION – IN BRIEF

3.1 The Petitioner Company has filed the First Motion Application vide CA(CAA)/100(CHE)/2021 seeking directions as follows;



	Equity Shareholders	Secured Creditor	Unsecured Creditors
Transferor Company	<i>To order for meeting</i>	To dispense with	To dispense with

3.2 Based on such applications moved under Sections 230-232 of the Companies Act, 2013; directions were issued by this Tribunal, vide order dated 29.03.2022 to conduct meeting for the equity shareholders and dispensation of the meetings of the Secured and Unsecured Creditors of the Petitioner Company. Subsequent to the said order, the Transferor Company has filed the present Petition before this Tribunal on 13.05.2022 by way of e-filing and physically on 01.06.2022 for sanction of the Scheme of Amalgamation by this Tribunal.

4. **RATIONALE OF THE SCHEME**

4.1. The Rationale and benefits of the Scheme as submitted by the Learned Authorized Representative for the Petitioner Company would *inter alia* result in the following benefit;



- i. *The Amalgamation will provide the Transferee Company access to a large and unique client base of the Transferor Company, specifically in Tamil Nadu.*
- ii. *The Amalgamation would result in the geographical diversification of the portfolio of the Transferee Company and strengthens its leadership position in the microfinance market. The combined portfolio would approximately be Rs.*




10,000 crores, with approximately 37 lakh borrowers and more than 1,300 branches spread across 13 states and 1 union territory in India (as of September 30, 2019).

- iii. *The Amalgamation would create value to various stakeholders including shareholders, creditors, customers, and employees as the combined business would benefit from increased scale, wider product diversification, focused growth, stronger balance sheet and the ability to drive synergies across revenue opportunities, operating efficiencies and cost savings through economies of scale amongst others.*
- iv. *The Transferor Company is at the forefront of technology integration in business and data analytics and the Amalgamation would result in the Transferee Company benefiting from the business and data analytics strengths of the Transferor Company.*
- v. *The Amalgamation would provide greater strength and efficiency in management and access to greater cash flow which can be deployed to efficiently fund growth.*
- vi. *The Transferee Company can leverage the Transferor Company's loan book, and the Transferee Company's low cost of borrowing can potentially enable repricing of liabilities of the Transferor Company, generating higher spreads for the combined organization.*

5. In the second motion application filed by the Petitioner Companies, this Tribunal vide order dated 20.07.2022 has directed the Petitioner Companies to issue notice to the Statutory / Regulatory Authorities viz. (i) Regional Director (Southern Region), (ii) RoC, Chennai, (iii) the Income Tax Department, (iv) Official Liquidator (and other sectoral regulators, who may govern the working of the Transferor Company, as well





as for paper publication to be made in "Business Standard", English (All India Edition) and "Dinnamani" Tamil (Tamil Nadu Edition).

6. In compliance with the said directions issued by this Tribunal, the Petitioner Companies have filed an affidavit of service dated 30.08.2022 in relation to the compliance of the order passed by the Tribunal as noted above and a perusal of the same discloses that the Petitioner Company have effected paper publication as directed by the Tribunal in one issue of "Business Standard" (All India Edition) in English and "Dinamani" (Tamil Nadu Edition) in Tamil on 09.08.2022. It is also seen that notices have been also served to the authorities as hereunder,

- 1) The Regional Director, Chennai, on 02.08.2022,
- 2) Registrar of Companies, Chennai on 02.08.2022,
- 3) Income Tax Department, Chennai on 02.08.2022
- 4) The Official Liquidator, Chennai on 02.08.2022
- 5) The Reserve Bank of India, Chennai on 02.08.2022
- 6) SEBI, Mumbai on 02.08.2022
- 7) CCI, New Delhi on 02.08.2022
- 8) BSE, Mumbai on 02.08.2022

and the proof of the same by way of affidavit has been filed.

Pursuant to the service of notice of the petition the following statutory authorities have responded as follows;



7. **STATUTORY AUTHORITIES**

7.1. REGIONAL DIRECTOR

The Regional Director, (*hereinafter referred to as 'RD'*) Chennai to whom the notice was issued, has filed his



Report on 04.08.2022 before this Tribunal and has stated that Clause 4 of Part II of the Scheme provides for the protection of the interest of the employees of the Transferor Company. It is further observed that as per the report of RoC, Chennai, the Transferor Company has filed its statutory returns up to 31.03.2021 and has reported that there is no prosecution / Inspection or Investigation is pending against the Companies. The Regional Director had made following observations at paragraph 9 of his report stating that;

"9) It is submitted that clause 13 of part III of the Scheme provides for clubbing of Authorized Share Capital of the Transferor Company shall stand be altered and merged with the Authorized share capital of the Transferee Company. It is prayed that the Hon'ble NCLT, Chennai may direct the Transferee Company to remit the difference in filling fee/stamp duty, if any and also to file the amended MOA and AOA on the ABOVE WITH THE Registrar of Companies."



Thus, after examining the Scheme, the Regional Director in para 13 of its Report has stated that they have decided not to make any objection to the Scheme, except to the observations made in para 9 of its report.

7.1.2 With regard to the above-mentioned observation in para 9 of the report made by the RD, the petitioner



company has submitted a reply by way of an affidavit dated 07.09.2022 that the Petitioner Company, taking into account the provisions of Section 232 (3)(i) of the Act, the Petitioner Company undertakes to have the differential fees paid, if any, with respect to the increase in authorized share capital of the Transferee Company.

7.2 OFFICIAL LIQUIDATOR

The Official Liquidator, (*hereinafter referred to as 'OL'*) Chennai to whom the notice was issued, has filed his Report on 07.09.2022 has reported that having examined the books of accounts and records, other documents, annual reports and statutory books and registers, the Chartered Accountants Ms. Manian & Narayanan had reported in their opinion, the affairs of MMFL have not been conducted in a manner which is prejudicial to the interest of members or to public interest. The Chartered Accountants further reported that they did not come across any transactions involving act of misfeasance, which in their opinion would attract the provisions of the Companies Act, 2013. In this regard, this Tribunal hereby directs the Transferor Company to pay a sum of *Rs.50,000 (Rupees Fifty Thousand Only)* to the Official Liquidator for the payment of fees payable towards the Auditor who has investigated into the affairs of the Transferor Company.





7.3 COMPETITION COMMISSION OF INDIA

The Competition Commission of India, (*hereinafter referred to as 'CCI*) New Delhi to whom the notice was issued, has filed their reply on 29.08.2022 stating that before passing an appropriate order, the NCLT may seek an undertaking from the Companies involved that approval of the Commission is not required for the said matter. The petitioner company in response to the same has filed an undertaking to that effect on 23.09.2022 before the Registry of this Tribunal.

7.4 INCOME TAX DEPARTMENT

7.4.1 In spite of notice having been served to the Income Tax department by the Companies on 02.08.2022, there was neither any representation nor any report filed by the said authorities. In the said circumstances as per section 230(5) of the Companies Act, 2013, this Tribunal presumes that the said Department does not have any objection to the sanction of the Scheme.

7.4.2 However, in Company Petition CAA-284/ND/2018 vide Order dated 12.11.2018, the NCLT New Delhi with a view to protect the interest of the revenue, has made the following observations with regard to the right of the IT Department in the Scheme of Amalgamation,

"taking into consideration the clauses contained in the Scheme in relation to liability to tax and also as insisted





upon by the Income Tax and in terms of the decision in RE: Vodafone Essar Gujarat Limited v. Department of Income Tax (2013)353 ITR 222 (Guj) and the same being also affirmed by the Hon'ble Supreme Court and as reported in (2016) 66 taxmann.com.374(SC) from which it is seen that at the time of declining the SLPs filed by the revenue, however stating to the following effect vide its order dated April 15,2015 that the Department is entitled to take out appropriate proceedings for recovery of any statutorily dues from the transferor or transferee or any other person who is liable for payment of such tax dues the said protection be afforded is granted. With the above observations, the petition stands allowed and the scheme of amalgamation is sanctioned."

7.5. OTHER STATUTORY AUTHORITIES

In relation to the other statutory authorities to whom notices have been issued, neither they have filed any reply nor raised any objections to the Scheme and in the circumstances, this Tribunal presumes that other statutory Departments do not have any objection to the sanction of the Scheme.

8.

VALUATION REPORT

8.1 The Learned Authorized Representative for the Petitioner company invited the attention of this Tribunal to the Valuation Report obtained from B S R & Associates LLP, Chartered Accountants dated 27.11.2019, wherein it has been mentioned that *"in view of the above, and on*





consideration of the relevant factors and circumstances as discussed and outlined hereinabove, we recommend the Equity share Exchange Ratio for amalgamation of MMFL into CAGL- at 157 (one fifty seven only) equity shares of CAGL of INR 10 each fully paid up for 100 (one hundred only) equity shares of MMFL of INR 10 each fully paid up."

8.2 The Debentures issued by the Transferor Company are listed on the BSE for which, No Objection Certificate dated 10.05.2022 is obtained and placed on record at page no. 218 of the typed set of papers.

9. ACCOUNTING TREATMENT

The Learned Authorized Representative for the Petitioner company has stated that the Statutory Auditor of the Petitioner company has examined the Scheme and has certified that the Petitioner company has complied with proviso to Section 230 - 232 and 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 Company is placed in Pg.no. 270 as 'Exhibit - R' of the typed set of papers filed along with the application.

10. OBSERVATIONS OF THIS TRIBUNAL

10.1. After analyzing the Scheme in detail, this Tribunal is of the considered view that the scheme as contemplated amongst the Transferor and Transferee companies seems to be *prima facie* beneficial to the Companies and will not be in any way detrimental to the interest of the shareholders of the Companies. In view of the absence of any other objections having been placed on record before this Tribunal and since all the requisite statutory compliances having been fulfilled, this Tribunal sanctions the Scheme of Arrangement appended as Exhibit "A" with the Company Petition as well as the prayer made therein. The Scheme stands approved, subject to the approval by the NCLT, Bangalore Bench in respect of the Transferee Company.



10.2. The Learned Authorized Representative for the Petitioner Company submitted that no investigation proceedings are pending against the Transferor Company under the provisions of the Companies Act, 1956 or the Companies Act, 2013 and no proceedings against the



pétitioner company for oppression or mismanagement have been filed before this Tribunal or erstwhile Company Law Board.

10.3. Notwithstanding the above, if there is any deficiency found or, violation committed qua any enactment, statutory rule or regulation, the sanction granted by this Tribunal will not come in the way of action being taken, albeit, in accordance with law, against the concerned persons, directors and officials of the petitioner.

10.4. While approving the Scheme as above, it is clarified that this order should not be construed as an order in any way granting exemption from payment of stamp duty, taxes or any other charges, if any, payment is due or required in accordance with law or in respect to any permission/compliance with any other requirement which may be specifically required under any law.

11. THIS TRIBUNAL DO FURTHER ORDER:



- (i) That all properties, right and interest of the Transferor Company shall, pursuant to section 232(3) of the Companies Act, 2013 without further act or deed be transferred to and vested in or be deemed to have been transferred and vested in the Transferee Company.



- (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 the Transferee Company and accordingly the same become the liabilities and duties of the Transferee Company.
- (iii) That the Appointed date for the Scheme shall be **01st April 2020** as specified in the Scheme. The effective date shall be as specified in clause 18.1 of the Scheme.
- (iv) That all proceedings now pending by or against the Transferor Company be continued by or against the Transferee Company.
- (v) That all the employees of the Transferor Companies in service on date immediately preceding the date on which the Scheme finally take effect shall become the employees of the Transferee Company without any break or interruption in their service.
- (vi) That the shares for the members of the Transferor Company, as have not given such notice of dissent, as is required by Clause 11.2 of Part III of the 'SCHEME' herein be allotted in the Transferee Company to which they are entitled under the said SCHEME.
- (vii) That the differential fee (if any) be paid for the enhancement of authorized capital of the Transferee





Company after setting off the fees paid by the Transferor Company.

(viii) That the Transferor Company shall be dissolved 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 all the Transferee Company and the files relating to both the said companies shall be consolidated accordingly.

(ix) That any person interested shall be at liberty to apply to the Tribunal in the above matter for any directions that may be necessary.

12. Accordingly, the Company Petition stands **Allowed**.

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SAMEER KAKAR
MEMBER (TECHNICAL)

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BACHU VENKAT BALARAMA DAS
MEMBER (JUDICIAL)

Certified to be True Copy

K. Madhavi Fig/1/2022

DEPUTY REGISTRAR
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