

IN THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH, COURT- II

C.A.(CAA)/155/2022

In the matter of Companies Act,
2013 And

In the matter of Sections 230 to 232 of the
Companies Act, 2013 and other relevant
provisions of the Companies Act, 2013

And

In the matter of the Scheme of Arrangement
between NXTDIGITAL Limited (“Demerged
Company or Applicant Company-1”) and
Hinduja Global Solutions Limited
(“Resulting Company or Applicant Company
-2”) and their respective Shareholders

NXTDIGITAL Limited, a company)
incorporated under the provisions of the)
Companies Act, 1956 and an existing)
company under the Companies Act, 2013,)
having its registered office at In Centre,)
49/50, MIDC, 12th Road, Andheri (East),) **Applicant Company-1 /**
Mumbai – 400093.) **Demerged Company**

And

Hinduja Global Solutions Limited, a)
company incorporated under the)
provisions of the Companies Act, 1956)
and an existing company under the)

Companies Act, 2013, having its) **Applicant Company-2/**
registered office at Hinduja House, 171,) **Resulting Company**
Dr. Annie Besant Road Worli, Mumbai
400018.

[The Applicant Company -1 and Applicant Company -2 are together referred as
“Applicant Companies”]

Order Delivered on :- 29.07.2022

Coram:

Hon’ble Member (Judicial) : Justice P. N. Deshmukh (Retd.)
Hon’ble Member (Technical) : Shyam Babu Gautam

Appearance :-

For the Applicants: Ms. Prerana Wagh i/b Shailendra Kanetkar.

ORDER

Per: Shyam Babu Gautam, Member Technical

1. The Court is convened through Videoconferencing.
2. The Demerged Company and the Resulting Company states that the present Scheme is a Scheme of Arrangement between NXTDIGITAL Limited (“Demerged Company” or “Applicant Company - 1”) and Hinduja Global Solutions Limited (“Resulting Company” or “Applicant Company - 2”) and their respective shareholders under the provisions of Sections 230 to 232 of the Companies Act, 2013.
3. The Demerged Company submits that, the Demerged Company is engaged in the business of Media and Communications consisting of Cable TV, Headend-In- The-Sky (HITS) platform, Real Estate, Dark Fiber Leasing business and has close to 4,000 Kilometres of underground and overhead Dark Fiber network across the country.

4. The Resulting Company submits that, the Resulting Company is engaged in the business of Information Technology and Information Technology Enabled Services, business process outsourcing, knowledge process outsourcing, call centers and for that purpose to set out all facilities and infrastructure etc. in India and abroad.
5. The Applicant Companies submits that the respective Board of Directors had approved the Scheme of Arrangement with Appointed Date as February 01, 2022 vide Board Resolution dated February 17, 2022. The Board Resolutions approving the Scheme for the Demerged Company and Resulting Company are annexed as **Exhibit L** and **Exhibit M** to the Company Scheme Application.
6. This Scheme inter-alia provides for the Demerger of Digital, Media and Communications undertaking of the Demerged Company to the Resulting Company.
7. The Advocate for the Applicant Companies submits that the Rationale for the Scheme is as under:

1. *Demerged Company and Resulting Company are part of the Hinduja Group.*

Demerged Company has grown into one of India's largest integrated digital, media and communications companies. Accordingly, in 2020 as a step towards consolidation of digital, media and communications business, the digital, media and communications business was transferred by Indusind Media and Communications Limited (a Hinduja Group Company), to Demerged Company pursuant to scheme of arrangement approved by National Company Law Tribunal, Mumbai Bench vide its Order dated August 21, 2020.

2. *Recognizing the growth potential of the 'Digital, Media and Communications*

Business Undertaking' of the Demerged Company (more particularly defined hereinafter) in the backdrop of the fact that Demerged Company's 'Digital, Media and Communications Business Undertaking' has matured and the associated risks have reduced significantly as well as the recent regulatory reforms (New Tariff Order) providing additional stimuli, Resulting Company is proposing to consolidate this vertical as it feels that this will create a new platform for it go to the next level of performance.

3. *The shareholders of the Demerged Company, pursuant to the demerger, will get Equity Shares of the Resulting Company for the values of Business transferred in the manner set out under this Scheme.*
4. *The demerger will also result in Demerged Company and Resulting Company achieving operational efficiencies by streamlining of the relevant businesses.*
5. *By demerger of the Demerged Undertaking into Resulting Company, the financial resources will be conveniently raised in accordance with the requirement of the business.*
6. *The demerger will enable the Resulting Company to diversify and expand its presence in the fast moving digital, media and communication business in India.*
7. *Apart from the various benefits/advantages stated and illustrated above, the management of the Resulting Company and Demerged Company are of the opinion that the following benefits shall also be enjoyed and realized by all the stakeholders:*
 - i. ***Consolidation and growth of the Demerged Undertaking in the Resulting Company:*** *The demerger will enable Resulting Company to consolidate similar businesses into a single company. This will enable Resulting Company with an opportunity to provide services in a seamless manner to its customers. Further, this will also help Resulting Company to*

demonstrate its capability and provide competitive advantages vis-à-vis its competitors. This will immensely benefit the Demerged Undertaking to focus on growth in the digital space.

- ii. **Focused Management, Organization Efficiency and Operational Synergies:** Consolidation of the business into a single consolidated entity shall enable focused strategies, management, investment and leadership for the consolidated entity and further result into organization efficiency and operational synergies;*
- iii. **Unlock shareholders value:** The proposed consolidation will create long term value for the shareholders by unlocking value since the business and profits will accrue to a single entity i.e. Resulting Company;*
- iv. **Efficiency in Fund raising for harnessing future growth:** Housing of Demerged Undertaking in Resulting Company directly shall facilitate and provide adequate opportunities to mobilize the business and commercial resources of Resulting Company for the growth of the digital business.*

8. The Advocate for the Applicant Companies further submits that upon vesting of the demerged undertaking of Demerged Company in Resulting Company, the following consideration shall be discharged by the Resulting Company for the demerger to the Demerged Company under the Scheme:

“20 (Twenty) fully paid up Equity Shares of Rs. 10 each of Resulting Company shall be issued and allotted for every 63 (Sixty-Three) Equity Shares of Rs. 10 each held in Demerged Company”

9. The Advocate for the Demerged Company submits that meeting of Equity Shareholders of the Demerged Company be convened and held at Hall of Harmony, Nehru Centre, Dr. Annie Besant Road, Worli, Mumbai 400 018 on September 02, 2022 at 11:30 a.m. for the purpose of considering and if

thought fit, approving, with or without modification(s) the proposed Scheme of Arrangement between NXTDIGITAL Limited and Hinduja Global Solutions Limited and their respective shareholders in terms of provisions of Companies Act, 2013 and the SEBI (Listing Obligations Disclosure Requirement) Regulations, 2015, as amended.

10. The Advocate for the Resulting Company submits that meeting of Equity Shareholders of the Applicant Company – 2 be convened and held at Hall of Harmony, Nehru Centre, Dr. Annie Besant Road, Worli, Mumbai 400 018 on September 02, 2022 at 1:00 p.m. for the purpose of considering and if thought fit, approving, with or without modification(s) the proposed Scheme of Arrangement between NXTDIGITAL Limited and Hinduja Global Solutions Limited and their respective shareholders in terms of provisions of Companies Act, 2013 and the SEBI (Listing Obligations Disclosure Requirement) Regulations, 2015, as amended.

11. That at least 30 days before the said meetings of the Equity Shareholders of the Applicant Companies to be held as aforesaid, a notice convening the said Meeting at the place, date and time as aforesaid, together with a copy of the Scheme of Arrangement, a copy of the Explanatory statement required to be sent under Section 230(3) of the Companies Act, 2013 read with Rule 6 of the Companies (Compromises, Arrangements and Amalgamation) Rules, 2016 shall be sent by courier/ registered post/ speed post or through E-mail or by hand delivery to each of the Equity Shareholders of both the Applicant Companies at their respective registered or last known addresses or, by email to the registered email addresses of the Equity Shareholders as per the records of the Applicant Companies.

12. That at least 30 days before the meetings of the Equity Shareholders of the Applicant Companies to be held as aforesaid, a notice convening the said Meetings, indicating the place, date and time of meetings as aforesaid, be published as per para (13) below stating that the copies of the Scheme of

Arrangement and the statement required to be furnished pursuant to Section 230(3) of the Companies Act, 2013 read with Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 can be obtained free of charge at the Registered offices of the Applicant Companies as aforesaid.

13. That the Notice of the Meetings of the Applicant Companies shall be advertised in two local newspapers viz. “ Business Standard” in English and “Sakal” in Marathi, both circulated in Mumbai not less than 30 days before the date fixed for the meeting.

14. The Applicant Companies undertakes to:

- i. Issue Notices convening the meetings of the equity shareholders as per Form No. CAA.2 (Rule 6 of the Companies (Compromises, Arrangements & Amalgamations) Rules, 2016;
- ii. Issue Statements containing all particulars as per Section 230 of the Companies Act, 2013;
- iii. Issue Forms of Proxy as per Form No. MGT-11 (Rule 19 of the Companies (Management and Administration) Rules, 2014; and
- iv. Advertise the Notices convening the meeting as per Form No. CAA.2 (Rule 7 of the Companies (Compromises, Arrangements & Amalgamations) Rules, 2016

The undertaking is accepted.

15. That Mr. Prashant Asher, Director authorized by the Demerged Company and failing him Mr. Sudhanshu Tripathi, Director of the Demerged Company shall be the Chairperson of the above mentioned meeting of the Equity Shareholders of the Demerged Company to be held at Hall of Harmony, Nehru

Centre, Dr. Annie Besant Road, Worli, Mumbai 400 018 on September 02, 2022 at 11:30 a.m. or any adjournment or adjournments thereof.

16. That Ms. Bhumika Batra, Director authorized by the Resulting Company and failing her Mr. Sudhanshu Tripathi, Director of the Resulting Company shall be the Chairperson of the above mentioned meeting of the Equity Shareholders of the Resulting Company to be held at Hall of Harmony, Nehru Centre, Dr. Annie Besant Road, Worli, Mumbai 400 018 on September 02, 2022 at 1:00 p.m. or any adjournment or adjournments thereof.

17. That Ms. Amrita Nautiyal, Practicing Company Secretary, Membership No.: FCS5079; C. P. No. 7989, is hereby appointed as Scrutinizer of the meeting of the Equity Shareholders of the Demerged Company to be held at Hall of Harmony, Nehru Centre, Dr. Annie Besant Road, Worli, Mumbai 400 018 on September 02, 2022 at 11:30 a.m. and Resulting Company to be held at Hall of Harmony, Nehru Centre, Dr. Annie Besant Road, Worli, Mumbai 400 018 on September 02, 2022 at 1:00 p.m.

18. That the quorum for the aforesaid meetings of the Equity Shareholders of the above-mentioned Applicant Companies shall be as prescribed under Section 103 of Companies Act, 2013.

19. That the voting by proxy/ authorized representative in case of body corporate is permitted, provided that a proxy in the prescribed form/ authorization duly signed by the person entitled to attend and vote at the meeting, is filed with the Demerged Company at its registered office at In Centre, 49/50, MIDC, 12th Road, Andheri (East) Mumbai-400093 not later than 48 hours before the meeting, as provided in Rule 10 of Companies (Compromise, Arrangements & Amalgamations) Rules, 2016.

20. That the voting by proxy/ authorized representative in case of body corporate is permitted, provided that a proxy in the prescribed form/ authorization duly

signed by the person entitled to attend and vote at the meeting, is filed with the Applicant Company – 2 at its registered office at Hinduja House, 171, Dr. Annie Besant Road, Worli, Mumbai – 400018 not later than 48 hours before the meeting, as provided in Rule 10 of Companies (Compromise, Arrangements & Amalgamations) Rules, 2016.

21. The Advocate for the Applicant Companies submits that there is one Secured Creditor in the Demerged Company. The Demerged Company has obtained consent for the Scheme of Arrangement from its Secured Creditor. The consent of the Secured Creditor is annexed as **“Exhibit – V”**.
22. The Advocate for the Applicant Companies submits that there are no Secured Creditors in the Resulting Company. Therefore, the question of convening and holding of the meeting of the Secured Creditors of the Resulting Company does not arise.
23. The Advocate for the Demerged Company submits that present Scheme of Arrangement is only between the Demerged Company and the Resulting Company and their respective shareholders under Section 230(1)(b) of the Companies Act, 2013. There is no compromise or arrangement with any creditors and no sacrifice of any amounts due to creditors is called for. Further, the rights and interests of the creditors of the Demerged Company will not be prejudicially affected by the Scheme of Arrangement and therefore meeting of Unsecured Creditors is not required to be convened. This bench hereby directs the Demerged Company to issue notice to its 792 (Seven Hundred and Ninety-Two) Unsecured Creditors of the total value amounting to Rs. 7,02,53,12,924/- (Indian Rupees Seven Hundred and Two Crores, Fifty-Three Lakhs Twelve Thousand Nine Hundred and Twenty-Four only) by Courier / Registered Post / Speed Post / Hand Delivery or through Email with a direction that they may submit their representations, if any, to the Tribunal and copy of such representations shall simultaneously be served upon the Demerged

Company.

24. The Advocate for the Resulting Company submits that present Scheme of Arrangement is only between the Demerged Company and the Resulting Company and their respective shareholders under Section 230(1)(b) of the Companies Act, 2013. There is no compromise or arrangement with any creditors and no sacrifice of any amounts due to creditors is called for. Further, the rights and interests of the creditors of the Resulting Company will not be prejudicially affected by the Scheme of Arrangement and therefore meeting of Unsecured Creditors is not required to be convened. This bench hereby directs the Resulting Company to issue notice to its 319 (Three Hundred and Nineteen) Unsecured Creditors of the total value amounting to Rs. 44,98,01,316/- (Indian Rupees Forty-Four Crores Ninety-Eight Lakhs One Thousand Three Hundred and Sixteen only) by Courier / Registered Post / Speed Post / Hand Delivery or through Email with a direction that they may submit their representations, if any, to the Tribunal and copy of such representations shall simultaneously be served upon the Resulting Company.
25. The Demerged Company is directed to serve notices along with copy of scheme upon:- (i) concerned Income Tax Authority for the Demerged Company having PAN No. AAACH2058N within whose jurisdiction, the Demerged Company's assessments are made (ii) the Central Government through the office of Regional Director, Western Region, Mumbai (iii) Registrar of Companies pursuant to Section 230(5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (iv) BSE Limited (v) National Stock Exchange of India Limited (vi) Securities Exchange Board of India (vii) Reserve Bank of India (viii) Ministry of Information and Broadcasting, (ix) Ministry of Information and Communication Technology, (x) Department of Space and applicable Sectoral Regulators or Authorities with a direction that they may submit their representations, if any, within a period of thirty days from the date of receipt of such notice to the Tribunal and copy of such representations shall

simultaneously be served upon the Demerged Company failing which, it shall be presumed that the authorities have no representations to make on the proposals.

26. The Resulting Company is directed to serve notices along with copy of scheme upon:- (i) concerned Income Tax Authority for the Resulting Company having PAN No. AAAC1763A within whose jurisdiction, the Resulting Company's assessments are made (ii) the Central Government through the office of Regional Director, Western region, Mumbai (iii) Registrar of Companies pursuant to Section 230(5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (iv) BSE Limited (v) National Stock Exchange of India Limited (vi) Securities Exchange Board of India (vii) Reserve Bank of India and other applicable Sectoral Regulators or Authorities with a direction that they may submit their representations, if any, within a period of thirty days from the date of receipt of such notice to the Tribunal and copy of such representations shall simultaneously be served upon the Resulting Company failing which, it shall be presumed that the authorities have no representations to make on the proposals.

27. The Applicant Companies to file an affidavit of service in the Registry proving dispatch of notices to the Equity Shareholders, advertisements and service of notice to the regulatory authorities as stated above and do report to this Tribunal that the directions regarding the issue of notices have been duly complied with.

28. Present Company Application is allowed and stands disposed.

Sd/-

**SHYAM BABU GAUTAM
MEMBER TECHNICAL**

Sd/-

**JUSTICE P.N. DESHMUKH
MEMBER JUDICIAL**