



**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-II**

C.P.(C.A.A.)/47/MB/2023

AND

C.P.(C.A.A.)/49/MB/2023

AND

C.P.(C.A.A.)/51/MB/2023

Connected With

C.A. (C.A.A)/136/MB/2022

In the matter of the Companies Act, 2013

AND

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

(See Rule 3 of the Companies (Compromises, Arrangements and Amalgamation) Rules, 2016)

AND

In the matter of Scheme of Amalgamation of Megatech Digital Private Limited (“Transferor Company 1”) and Nieuwe Tech Serve Private Limited (“the Transferor Company 2”) with Brick Eagle Affordable Housing Finance Limited (“Transferee Company”) and their respective shareholders



Megatech Digital Private Limited) ... Petitioner No. 1/
Transferor Company 1

Nieuwe Tech Serve Private Limited) ... Petitioner No. 2/
Transferor Company 2

Brick Eagle Affordable Housing Finance Limited) ... Petitioner No. 3/
Transferee Company 3

Order delivered on: 15.12.2023

Coram:

Anil Raj Chellan
Member (Technical)

Kuldip Kumar Kareer
Member (Judicial)

Appearances:

For the Petitioner Company:

Adv. Shyam Kapadia, Counsel a/w Ms. Henna Daulat, Ms. Huzan Bhumgara and Ms. Aradhana More i/b Desai & Diwanji, Advocates for the Petitioner Companies

ORDER

Per: Coram

1. Counsel for the Petitioner companies are present.
2. Petition stands admitted. Fix the Petition for final hearing on 29.01.2024.



3. By an order dated 09 December 2022, CA (CAA)/ 136/MB/2022 was allowed and directions were issued with regard to convening the shareholders meeting for the respective Petitioner companies and whilst the creditors meeting for Petitioner Nos. 1 and 2 was entirely dispensed with since these companies did not have any creditors, Petitioner No. 3 company was directed to serve notice to two remaining unsecured creditors who had not given their consent affidavits with a direction to such unsecured creditors to submit their representations, if any, to the Tribunal and Petitioner No. 3 simultaneously.

4. Counsel on behalf of the Petitioners submits that pursuant to the order dated 09 December 2022 the meeting of the equity shareholders took place on 17 January 2023, 18 January 2023 and 19 January 2023, in relation to the Petitioner No. 1, Petitioner No. 2 and Petitioner No. 3 Company respectively in compliance with the order dated 09 December 2022. To that effect, the Chairperson nominated by this Tribunal namely Ld. Shri U.C. Nahta (“**Chairperson**”) has filed three separate Compliance Affidavits each dated 09 January 2023 (“**Compliance Affidavit**”) for each of the Petitioner Companies along with Chairperson Report dated 19 January 2023 (“**Chairperson’s Report**”) for each of the Petitioner Companies, certifying that the meetings of the equity shareholders of each of these companies was duly held in compliance with the order dated 09 December 2022.

5. Learned Counsel for the Petitioners has submitted by relying upon the Compliance Affidavits and the Chairperson’s Reports that the order dated 09 December 2022 has been complied with by the Petitioner Companies and that the Scheme has been approved at the respective



shareholders' meetings for each company as per the procedure set out in the order dated 09 December 2022.

6. With regard to the Compliance Affidavits, the Learned Counsel for the Petitioners would submit that pursuant to the order dated 09 December 2022, the Petitioner Companies have individually:

(a) Served Notice to all equity shareholders on 17 December 2022, 17 December 2022 and 19 December 2022 in relation to the Petitioner No. 1, Petitioner No. 2 and Petitioner No. 3 Company respectively, convening the Equity Shareholders Meeting, along with the explanatory statement required under Section 230 of the Companies Act, 2013, a proxy form, and a copy of the Scheme by registered post.

(b) Published advertisements in "Business Standard" in English language and in "Navshakti" Newspaper in Marathi Language on 17 December 2022, 18 December 2022 and 19 December 2022 in relation to the Petitioner No. 1, Petitioner No. 2 and Petitioner No. 3 Company respectively intimating the convening of its equity shareholders' meetings on 17 January 2023, 18 January 2023 and 19 January 2023, in relation to the Petitioner No. 1, Petitioner No. 2 and Petitioner No. 3 Company respectively.



(c) Served the notices upon the Regulatory Authorities specified in the order dated 09 December 2022 in the following manner:

- i. Notice dated 17 December 2022, 17 December 2022 and 19 December 2022 issued to the Central Government through the office of Regional Director, Western Region, Ministry of Corporate Affairs, Mumbai by the Petitioner No. 1, Petitioner No. 2 and Petitioner No. 3 Company respectively;
- ii. Notice dated 17 December 2022, 17 December 2022 and 19 December 2022 issued to the Registrar of Companies, Mumbai, Maharashtra by the Petitioner No. 1, Petitioner No. 2 and Petitioner No. 3 Company respectively;
- iii. Notice dated 17 December 2022, 17 December 2022 and 19 December 2022 issued to Income Tax Authority and G.S.T Authority by the Petitioner No. 1, Petitioner No. 2 and Petitioner No. 3 Company respectively;
- iv. Notice dated 17 December 2022, 17 December 2022 and 19 December 2022 to the Reserve Bank of India by the Petitioner No. 1, Petitioner No. 2 and Petitioner No. 3 Company respectively;
- v. Notice dated 17 December 2022, 17 December 2022 and 19 December 2022 to the Ministry of Corporate Affairs by the Petitioner No. 1,



- Petitioner No. 2 and Petitioner No. 3 Company respectively; and
- vi. Notice dated 17 December 2022, 17 December 2022 and 19 December 2022 the Official Liquidator, High Court, Bombay by the Petitioner No. 1, Petitioner No. 2 and Petitioner No. 3 Company respectively;
7. Separately, Petitioner No. 3 Company has served notice dated 19 December 2022 upon its unsecured creditors, by registered post.
8. Counsel for the Petitioner Companies also invited our attention to the Chairpersons Report to bring the following to our attention:
- (i) With regard to the Petitioner No. 1 Company:
- (a) A meeting of the Equity Shareholders' of Petitioner No. 1 Company was held on 17 January 2023 and attended either personally or by proxy by 03 Members of the Petitioner No. 1 Company entitled together to 1,11,514 equity shares having nominal value of Rs. 10, representing 94.24% of the total value of equity shares of the Petitioner No. 1 Company;
- (b) The Equity Shareholders approved the Scheme by a majority of 1,11,514 votes i.e. by 94.24% of the total paid up Equity Capital of the Petitioner No. 1 Company and 100% shareholders present and voting. This is also



recorded in the report dated 17 January 2023 issued by the Scrutinizer, namely Siddharth Doshi & Co. for such meeting.

(ii) With regard to the Petitioner No. 2 Company:

(a) A meeting of the Equity Shareholders' of Petitioner No. 2 Company was held on 18 January 2023 and attended either personally or by proxy by 02 Members of the Petitioner No. 2 Company entitled together to 1,000 equity shares having nominal value of Rs. 10, representing 100% of the total value of equity shares of the Petitioner No. 2 Company;

(b) The Equity Shareholders approved the Scheme by a majority of 1,000 votes i.e. by 100% of the total paid up Equity Capital of the Petitioner No. 2 Company and 100% shareholders present and voting. This is also recorded in the report dated 18 January 2023 issued by the Scrutinizer, namely Siddharth Doshi & Co. for such meeting.

(iii) With regard to the Petitioner No. 3 Company:

(a) A meeting of the Equity Shareholders' of Petitioner No. 2 Company was held on 19 January 2023 and attended either personally or by proxy by 08 Members of the Petitioner No. 3 Company entitled together to 2,30,07,718 equity shares having nominal value of Rs.



10, representing 80.52% of the total value of equity shares of the Petitioner No. 3 Company;

- (b) The Equity Shareholders approved the Scheme by a majority of 2,30,07,718 votes i.e. by 80.52% of the total paid up Equity Capital of the Petitioner No. 3 Company and 100% shareholders present and voting. This is also recorded in the report dated 19 January 2023 issued by the Scrutinizer, namely Siddharth Doshi & Co. for such meeting.

9. Learned Counsel for the Petitioner Companies informs us that pursuant to service of the aforesaid notices upon the various regulatory authorities and bodies, the Petitioner Companies have received the following responses:

(a) **Letters from the Office of the Regional Director dated 22 June 2023:**

- i. The office of the Regional Director addressed letters dated 22 June 2023 to each of the Petitioner Companies raising its objections.
- ii. In this regard, the Petitioner companies have complied with the objections and provided the necessary clarifications vide their respective Affidavits dated 02 August 2023.



(b) **Office of the Official Liquidator:**

- i. Request for information was received from the office of the Official Liquidator, Bombay High Court to the Petitioner No. 1 Company and Petitioner No. 2 Company vide a letter dated 25 January 2023 and the same was replied by the Petitioner No. 1 Company and Petitioner No. 2 Company vide its letters dated 06 February 2023 providing all the requested information; and
 - ii. No further requests or objection has been received from the office of the Official Liquidator, Bombay High Court.
10. The Ld. Counsel submits that that the objections have been duly complied with or necessary explanations have been provided by the Petitioner Companies and hence, no objections survive, and the Scheme may be proceeded with.
11. Having heard Ld. Counsel for the Petitioner Companies and perused the record, we order and direct as follows:

ORDER

12. The Petitioner Companies are directed to serve a fresh Notice of final hearing in the petition through Registered-Post AD / Speed Post and Hand Delivery indicating the date of final hearing upon:



- a. The Central Government through the office of Regional Director, Western Region, Mumbai, Maharashtra;
 - b. Registrar of Companies, Maharashtra, Mumbai;
 - c. Concerned Income Tax Authority within whose jurisdiction the Petitioner Company's assessments are made i.e., for the Petitioner Company No.3. having his address at Income Tax Office, Ward No. DCIT (6)(1) Aayakar Bhawan, Mumbai;
 - d. The Reserve Bank of India;
 - e. The Ministry of Corporate Affairs;
 - f. Jurisdictional Goods and Service Tax Authority (Proper Officer), with whom the Petitioner Companies are assessed to tax under GST law; and
 - g. Official Liquidator, Bombay High Court,
13. In addition to all other material particulars, the above said notices shall contain the statement that:
- “If no response is received by the Tribunal from the Authorities within a period of 30 (Thirty) days from the date of receipt of such notice, it will be presumed that they have no representation/objections to the scheme”.*
14. The Petitioner Companies shall publish the joint notice indicating the date of final hearing of the Petition in two local newspapers one in English and another one in vernacular language, both having circulation in the State of Maharashtra, and their respective online editions. This notice shall be published at least 10 days before the date fixed for



hearing as per Rule 16 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

15. Ld. Counsel for the Petitioner Companies submits there is no bank/ corporate guarantee availed/ given by the Petitioner Companies and that there are no pending litigations by the Petitioner Companies. Hence, no directions in this regard are necessary at this stage.
16. The Petitioner Companies shall publish the notice indicating the date of hearing along with the copy of the Scheme on their respective websites, if any.
17. The Petitioner Companies shall file a copy of report of registered valuer determining the payment of consideration under the scheme, if any.
18. The Petitioner Companies to file an Affidavit of Service and Compliance regarding the directions given by this Tribunal at least 3 (three) days before the date fixed for final hearing and report to this Tribunal that the directions regarding the service of notices upon Regulatory Authorities and publication of advertisement of the notice of hearing in the newspapers as well as on the websites of the company have been duly complied with.
19. Ordered accordingly.

Sd/-

ANIL RAJ CHELLAN
MEMBER (TECHNICAL)

Sd/-

KULDIP KUMAR KAREER
MEMBER (JUDICIAL)