

BSE Limited
Dept. of Corporate Services - CRD
Phiroze Jeejeebhoy Towers, Dalal Street,
Mumbai-400 001

September 6, 2017

National Stock Exchange of India Limited
Exchange Plaza, C-1, Block - G,
Bandra Kurla Complex, Bandra (E)
Mumbai-400 051

By Web Upload

Dear Sir / Madam,

Sub: Information under Regulation 30 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015
Ref: Scrip Code 532663/ SASKEN

Pursuant to Regulation 30 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, we wish to inform you that the National Company Law Tribunal (NCLT) at its hearing held on August 31, 2017 have approved the Scheme of Amalgamation of Sasken Network Engineering Limited ('Transferor Company') with its holding Company, Sasken Technologies Limited ('Transferee Company') vide its order dated August 31, 2017 received by us on September 5, 2017 as enclosed.

A copy of the aforesaid NCLT Order will be filed with Ministry of Corporate Affairs within the stipulated timeframe.

Kindly take the same on record and disseminate the information to public.

Thanking you,

Yours faithfully
For Sasken Technologies Limited

S. Prasad
Associate Vice President & Company Secretary

Encl. as above

Sasken Technologies Limited

(Formerly known as Sasken Communication Technologies Limited)
139/25, Ring Road, Domlur, Bengaluru - 560 071, India.
CIN - L72100KA1989PLC014226, E-mail - info@sasken.com
T-91 80 6694 3000, F-91 80 2535 1133
www.sasken.com

IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH

T.P.No.-299/2017
IN
CoP.No.-106/2016

IN THE MATTER OF SECTIONS 391 to 394 OF THE COMPANIES ACT, 1956 AND
OTHER RELEVANT PROVISIONS OF THE COMPANIES ACT, 2013 ALONG
WITH THE COMPANIES ACT, 1956

AND

IN THE MATTER OF SECTION 230 TO 232 OF THE COMPANIES ACT, 2013 AND
OTHER RELEVANT PROVISIONS OF THE COMPANIES ACT, 2013
ALONG WITH THE COMPANIES ACT, 1956

AND IN THE MATTER OF
SCHEME OF AMALGAMATION OF
SASKEN NETWORK ENGINEERING LIMITED
WITH

SASKEN COMMUNICATION TECHNOLOGIES LIMITED

Order Delivered on: 31st August, 2017

Coram: Hon'ble Shri RatakondaMurali, Member (Judicial)
Hon'ble Shri Ashok Kumar Mishra, Member (Technical)

For the Petitioner: Mr. Saji.P.John
SPJ Legal, Advocate
Unit No.1002, 10th Floor,
#30, Prestige Meridian, M.G.Road
Bangalore 560001
Advocates for the Petitioner Company
Sh. K.S. Bheemaiah, Standing Counsel for Central Government
Advocate for the Regional Director
Mr. Vasant Kumar, Assistant
Representative for Official Liquidator

Per: Hon'ble Shri RatakondaMurali, Member (Judicial)

Heard on: 15.06.2017, 1.08.2017 & 7.08.2017

ORDER

Originally this Company Petition was filed before the Hon'ble High Court of Karnataka at Bengaluru and it was numbered as Co.P.No.106/2016. Subsequently as per Notification No. GSR.1119 (E) dated 7th December 2016 issued by the Ministry of Corporate Affairs, New Delhi, the said case is transferred to this Tribunal and renumbered as T.P.No.

This Company Petition was filed on behalf of the Petitioner Company under Section 391-394 of the Companies Act, 1956 read with Rule 9 of the Companies (Court) Rules, 1959, praying to order for sanctioning the Scheme of Amalgamation of the Transferor Company (Petitioner Company) with the Transferee Company and shall be binding upon all the Shareholders and Creditors of the Petitioner Company.

The averments made in the Company Petition are briefly described hereunder:-

The Petitioner Company seeks an order for sanctioning the Scheme of Amalgamation of **SASKEN NETWORK ENGINEERING LIMITED (Petitioner/Transferor Company)** with **SASKEN COMMUNICATION TECHNOLOGIES LIMITED (Transferee Company)**. The Scheme of Amalgamation is shown as **Annexure A**.

The Petitioner Company was incorporated on 29th September 2004 under the name and style of **SASKEN NETWORK ENGINEERING LIMITED** with Registrar of Companies, Karnataka and obtained Certificate of Incorporation vide bearing CIN No.- U64202KA2004PLC034773. The Registered Office of the Petitioner Company is situated at 139/25, Domlur Layout Ring Road, Domlur Post, Bengaluru-560071.

The Petitioner Company's objects as set out in its Memorandum of Association inter alia are, as follows:

- i.) To provide networking & engineering services in the field of Telecom that would include engineering design, installation and commissioning, network and system integration of network equipments & software systems, etc.
- ii.) To provide maintenance, training & RF engineering services for mobile operators, internet service providers, satellite services, radio paging and other telecommunication services.
- iii.) To provide complete turnkey telecom solutions, switching systems, digital, PCS, microwave, GSM & other wireless systems.

The Copy of the Certificate of Incorporation, Memorandum and Articles of Association of the Petitioner Company is shown as **Annexure B**.

The Latest Audited Balance Sheet of the Petitioner Company as on 31st March, 2015, Assets and Liabilities of the Petitioner Company are as under:



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Liabilities	Amount Rs. (in Lakhs)	Asset	Amount Rs. (in Lakhs)
Equity Share Capital- Paid Up	305.00	Net-Fixed Assets	24.38
Reserve and Surplus	1193.08	Deferred Tax Assets	97.33
Long term borrowings, long term liabilities and long term provisions	7.89	Long Term loans and advances	466.02
Net Current Liabilities	1111.96	Net Current Assets	2030.20
Total	2617.93	Total	2617.93

The Copies of the Latest Audited Financial Statement as on 31st March, 2015 & as on 30th September, 2015 are shown as **Annexure C & D** respectively.

The Transferee Company was incorporated on 13th February 1989 under the name and style, ASIC TECHNOLOGIES PRIVATE LIMITED in the State of Gujarat. Subsequently the name of the Company was changed to SILICON AUTOMATION SYSTEMS (INDIA) PRIVATE LIMITED on 13th October, 1992. Further, the Transferee Company changed its Registered Office in the State of Karnataka on 20th April, 1993. Thereafter, the Transferee Company which was initially a Private Limited Company became a Deemed Public Limited Company, under the provisions of Section 43-A (2) with effect from 30th June, 1998. The Transferee Company further changed its name on 30th December, 1998 and finally to **SASKEN COMMUNICATION TECHNOLOGIES LIMITED** on 17th October, 2000 and obtained Fresh Certificate of Incorporation Consequent on Change of Name vide CIN No.L72100KA1989PLC014226. The Registered Office of the Transferee Company is situated at 139/25, Domlur Layout Ring Road, Domlur Post, Bengaluru-560071.

The Transferee Company's objects as set out in its Memorandum of Association inter alia, as follows:

- i.) To establish, acquire, run, operate, provide services and design, development and implementation of turnkey solutions both in hardware and software for infocom markets.
- ii.) To manufacture, produce, work, distribute, buy and sell, import and export or otherwise to deal in all kind of electronic hard-ware and soft-ware for computer systems and allied products.

The Copy of the Certificate of Incorporation, Memorandum and Articles of Association of the Transferee Company is shown as **Annexure F**.



The Latest Audited Balance Sheet of the Transferee Company as on 31st March, 2015, the Assets and Liabilities of the Transferee Company are as under:

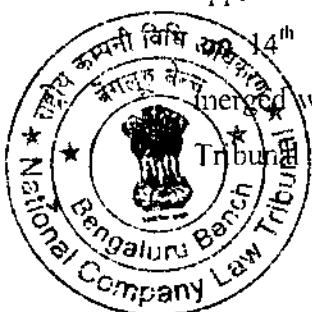
Liabilities	Amount Rs. (in Lakhs)	Asset	Amount Rs. (in Lakhs)
Equity Share Capital- Paid Up	2,134.49	Net-Fixed Assets	4,124.35
Reserve and Surplus	42,544.66	Deferred Tax Assets	1,178.32
Long term borrowings, long term liabilities and long term provisions	671.75	Non-Current Investments	11,092.99
Other Non-Current Liabilities	-	Long Term loans and advances	6,247.50
Net Current Liabilities	9,114.85	Other Non-Current Assets	250.00
		Net Current Assets	31,572.59
Total	54,465.75	Total	54,465.75

The Copies of the Latest Audited Financial Statement as on 31st March, 2015 & as on 30th September, 2015 of the Transferee Company are shown as **Annexure G & H** respectively.

The Petitioner/Transferor Company is a wholly owned subsidiary of the Transferee Company. It is proposed to merge the Petitioner Company with the Transferee Company for the following amongst other reasons:

- i.) The Transferor Company is a wholly owned subsidiary of the Transferee Company. The entities are engaged in similar and related businesses and therefore it is proposed to consolidate its operations by the merger of the Transferor Company with the Transferee Company.
- ii.) Consolidation of the Transferee Company's existing services with the services of the Transferor Company will also be more attractive to customers if they are delivered by one entity as it simplifies contracting and vendor management for the customers.

The Board of Directors of the Petitioner Company and the Transferee Company had approved the Scheme of Amalgamation at their respective meeting(s) held on 14th September, 2015 by virtue of which the Petitioner Company is proposed to be merged with its parent company i.e the Transferee Company subject to confirmation of this Tribunal within whose jurisdiction the registered office of the Petitioner is situated. The



Copy of Board Resolution dated 14th September, 2015 of the Petitioner Company is shown as **ANNEXURE E** and the Copy of Board Resolution dated 14th September, 2015 of the Transferee Company is filed along with **Memo dated 24th August, 2017**.

It is further averred that there is no likelihood that interests of any shareholder or creditor of the Petitioner Company or the Transferee Company would be prejudiced as a result of the proposed Scheme of Amalgamation.

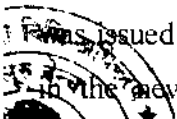
The Shares of the Transferee Company are listed in BSE Limited and National Stock Exchange of India. In terms of Clause 24 (f) of the Listing Agreement, a copy of the Scheme was filed on 28th September, 2015, with both the Stock Exchanges where the Shares of the Transferee Company are listed. The No-Objection letters to the Scheme, issued by the BSE and NSE both dated 8th December, 2015 are shown as **Annexure J & K** respectively.

The Petitioner Company had filed C.A.No.141/16 before the Hon'ble High Court of Karnataka to dispense with the convening of meeting(s) of Shareholders and Unsecured Creditors of the Petitioner Company. The Hon'ble High Court of Karnataka vide Order dated 1st April, 2016 allowed the Application and dispensed with convening of the meeting(s) of the Shareholders & Unsecured Creditors of the Petitioner Company. The Copy of the Order of Hon'ble High Court in C.A.No.141/16 is shown as **Annexure L**.

That the Transferor Company had filed the Petition bearing Co.P No.106/2016 before the Hon'ble High Court for approving the scheme of Amalgamation.

The Hon'ble High Court of Karnataka vide Order dated 28th April, 2016 in Co.P.No.106/16 directed to issue notice to the Regional Director, Official Liquidator and to have an advertisement of Notice of Petition be carried out in the 'The Hindu', an English Daily and 'Udayavani', an Kannada daily on or before 16th May, 2016 and also stating the next date of hearing of the Company Petition was on 10th June, 2016. The Hon'ble High Court accepted the **Memo dated 30th May, 2016** for having taken out advertisement on 10th May, 2016.

The Counsel for the Petitioner Company had file **Memo dated 9th December, 2016** stating that the Transferee company had proposed to buy-back approximately 30,00,000 Equity Shares.. Accordingly, a notice to shareholders seeking their approval for the buy-back was issued on 23rd November, 2016. The Public Announcement is proposed to be published in the newspapers on 24th December, 2016. Regulation 19(2) of SEBI (Buy back of



Securities) Regulations, 1998 provides that at the time when the Public Announcement is published, there shall not be any scheme pending before the Court. Thus the Petitioner sought for withdrawal of the Petition. It is further submitted that the price of the Equity Share of the Transferee Company has increased by about Rs.100/- per share during the intervening period, as a result of which the buy-back has to be done at a higher price by the Transferee Company. This has resulted in a Financial Loss of approx Rs.30,00,00,000/- to the Transferee Company. This Hon'ble Court vide its order dated 9th December 2016 permitted the Petitioner to withdraw the Petition with a liberty to file fresh Petition at appropriate stage.

The Counsel for the Petitioner Company had filed the Company Application No.30/2017 under Rule 6 & 9 of the Companies (Court) Rules, 1959 praying to revive the Company Petition No.106/2016 and Transfer the matter to the National Company Law Tribunal, Bengaluru Bench, Bengaluru in accordance with Ministry of Corporate Affairs Notification No. G.S.R. 1119(E) dated 7th December, 2016 stating that the Transferee Company commenced the process of buy-back of shares by making Public Announcement in the Newspapers on 26th December, 2016 and is expected to conclude the same in the first week of March, 2017.

It is further averred that the buy-back having commenced as per the Public Announcement in terms of Securities and Exchange Board of India (Buy-back of Securities) Regulations, 1998, there are no impediments in reviving the Petition. Further, there is no change in the capital structure of the Transferor Company and the present Application is filed within the time frame indicated in the Memo at Para No.13. It is also averred that the all other compliances were already completed in respect of the Scheme as the Registrar of Companies and Official Liquidator had filed their respective reports.

The Counsel for the Petitioner Company submitted before the Hon'ble High Court that he wishes to withdraw C.A. No.30/2017. Therefore vide Order dated 6th April, 2017, the Hon'ble High Court dismissed the Company Application as withdrawn.

The Counsel for the Petitioner Company had filed the Company Application No.87/2017 under Rule 6 & 9 of the Companies (Court) Rules, 1959 praying to recall the Company Petition No.106/2016 and Transfer the matter to the National Company Law Tribunal, Bengaluru Bench, Bengaluru in accordance with Ministry of Corporate Affairs ~~Notification~~ Notification No. G.S.R. 1119(E) dated 7th December, 2016.

The Hon'ble High Court vide Order dated 20th April, 2017 allowed the Company Application No.87/2017 and Order dated 9th December, 2016 is recalled. File is restored and directed the Registry to restore the Company Petition to its Original Number. Since the Petition is for Amalgamation, the Registry was directed to transfer the Petition to the NCLT, Bengaluru.

After this Petition was transferred from the Hon'ble High Court of Karnataka then the Tribunal directed the Counsel for the Petitioner Company to inform whether Notice(s) to be issued to the authorities other than those to whom Notice(s) were already issued in pursuant to section 230(5) of the Companies Act, 2013 read with Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules 2016.

Then the Tribunal directed the Registry to issue notice(s) to the Regional Director, Registrar of Companies, Official Liquidator and the Income Tax Department and the matter was listed for further hearing on 6th July,2017.

The Regional Director, Ministry of Corporate Affairs, South East Region, Hyderabad represented by Registrar of Companies has filed **Affidavit dated 21st October, 2016** along with **Annexures R1-R11** making some observations and in furnishing response to the same, the Counsel for the Petitioner Company has filed Statement of Reply by way of Affidavit **dated 26th October, 2016** which is as follows:

A.) The Office of Regional Director issued notice dated 12th May 2016 to the Income-Tax Department as required by Ministry of Corporate Affairs General Circular No.1/2014 dated 15th January 2014 giving 15 days time to offer comments/objections., if any. The said notice was delivered to the CCIT (Chief Commissioner of Income Tax), CRB on 16th May, 2016 as per the details tracked from the India Post Website. A copy of the above said notice issued to the Income Tax Authorities, Bengaluru is attached with copy of the details evidencing the service of notice sent on the Income Tax Authority down loaded from India Post Website and the same are enclosed herewith.

ii.) The Office of Regional Director vide letter dated 12th May, 2016 has requested the Petitioner Company to serve a copy of the Petition along with Scheme on the concerned Assessing officer, Income Tax Department along with PAN number where the Petitioner Company is / are assessed with a request that observations/comments of the Income Tax Department on the Petition be sent directly to the Regional Director, Ministry of Corporate Affairs. The Petitioner Company submitted that



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copy of petition along with scheme has been sent to the Income Tax Department by their Advocates, Ms.J. Sagar Associates on 19th May, 2016. However, the Petitioner Company has not submitted any copy of the said letter sent to the Income Tax Department.

But no comments /objections have been received by the office of the Regional Director, Ministry of Corporate Affairs from the Income Tax Department by his office till 29th August, 2016.

B.) The Office of Regional Director issued notice dated 12th May, 2016 to the Securities and Exchange Board of India, Mumbai with copy to The Securities and Exchange Board of India, Bengaluru Local Office, Bengaluru, National Stock Exchange of India Limited, Mumbai and BSE Limited, Mumbai as required by Ministry of Corporate Affairs General Circular No. 1/2014 dated 15.1.2014 giving 15 days time to offer comments/objections if any. The said notice was delivered on 16.05.2016 as per the details tracked from India Post website. The Copies of the said letters are enclosed herewith.

(ii) The Office of Regional Director vide letter dated 12th May, 2016 has requested the Petitioner/Transferor Company and to serve a copy of the Petition/Scheme to SEBI. The Petitioner/Transferor Company submitted that the same is not applicable.

(iii) The National Stock Exchange of India Limited vide letter dated 20th May, 2016 has stated that the Exchange vide letter dated 8th December, 2015 has issued a letter conveying "No objection" to the draft scheme with limited reference to those matters having a bearing on listing/delisting/continuous listing requirement within provision of listing agreement and enclosed a copy of the said letter dated 8th December, 2015 addressed to M/s. Sasken Communication Technologies Limited, Transferee Company. The Copy of the said letter of the National Stock Exchange of India Limited dated 20th May, 2016 along with copy of the letter dated 8th December, 2015 addressed to the M/s.Sasken Communication Technologies Limited by National Stock Exchange of India Limited is attached.

In the letter of National Stock Exchange of India Limited, Mumbai dated 20th May, 2016 it is stated that:

The Equity Shares of M/s. Sasken Communication Technologies Limited are listed on the Exchange w.e.f. 9th September, 2005. The Company vide its letter dated 28th September, 2015 has submitted a draft Scheme of Amalgamation of M/s. Sasken Network Engineering Limited with M/s. Sasken Communication Technologies Limited in order to obtain the no objection in term of Clause 24(f) of Listing Agreement.



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The Exchange vide letter dated December 8, 2015 has issued a letter conveying "No objection" to the draft scheme with limited reference to those matters having a bearing on listing/delisting/continuous listing requirement within provision of Listing Agreement. Copy of the letter is enclosed for your reference."

In the letter of the National Stock Exchange of India Limited dated 8th December, 2015 it is stated that:

"This has reference to draft Scheme of Amalgamation between Sasken Network Engineering Limited and Sasken Communication Technologies Limited submitted to National Stock Exchange of India Limited vide your letter dated September 28, 2015.

Based on our letter reference no Ref: NSE/LIST/50509 submitted to SEBI and pursuant to SEBI Circular No. CIR/CFD//DIL/5/2013 dated February 04,2013 and SEBI Circular No. CIR/CFD//DIL/8/2013 dated May 21, 2013 SEBI has vide letter dated December 04,2015, has given following comments on the draft Scheme of Amalgamation.

"The Company shall duly comply with various provisions of the Circulars"

We hereby convey our "No-objection" with limited reference to those matters having a bearing on listing/delisting/continuous listing requirements within the provisions of the List Agreement, so as to enable the Companies to file the Scheme with Hon'ble High Court.

However, the Exchange reserves its rights to raise objections at any stage if the information submitted to the Exchange is found to be incomplete/incorrect/misleading/false or for any contravention of Rules. Bye-laws and Regulations of the Exchange, Listing Agreement, Guidelines/Regulations issued by statutory authorities.

The validity of this "Observation Letter" shall be six months from December 08, 2015, within which the Scheme shall be submitted to the Hon'ble High Court. Further pursuant to the above cited SEBI circulars upon sanction of the Scheme by the Hon'ble High Court, the Company shall submit to NSE the following:

- a. Copy of Scheme as approved by the High Court.
- b. Result of voting by shareholders for approving the scheme
- c. Statement explaining changes, if any and reasons for such changes carried out in the Approved Scheme vis-à-vis the Draft Scheme.

- d. Status of compliance with the Observation letter/s of the stock exchanges.
- e. The application seeking exemption from Rule 19(2)(b) of SCRR, 1957, wherever applicable
- f. Complaints Report as per Annexure II of SEBI Circular No.CIR/CFD/DIL/5/2013 dated February 4, 2013.

(iv) The Securities and Exchange Board of India vide letter dated 26.05.2016 has stated that vide letter dated 04.12.2015 furnished the comments on the scheme of arrangement and enclosed a copy of the letter of The Securities and Exchange Board of India dated 04.12.2015 addressed to Bombay Stock Exchange Limited.

In the letter dated 26.05.2016 of SEBI in it is stated that:

“1. Please refer to your letter Ref:3/B/Amal/623/RD(SER)/2016/596 dated May 11, 2016 requesting SEBI to furnish comments /objections on the captioned Scheme within 15 days .

2. It is submitted that the instant scheme of arrangement along with various other submission in accordance with SEBI Circular No.CIR/CFD/DIL/5/2013 dated February 04,2013 read with SEBI Circular No.CIR/CFD/dil/8/2013 DATED May 21,2013 was submitted with SEBI on August 14,2015.

3. Accordingly, SEBI vide letter dated December 04,2015 furnished the comments on the instant scheme of arrangement. Copy of the said letter is enclosed for your reference”.

In the letter dated 04.12.2015 of SEBI it is stated that:

“1.This is reference to your letter No. LIST/LO/SEBI/AM/059/2015-16 dated 20th October, 2015 whereby you have forwarded the application of Draft Scheme of Amalgamation between Sasken Communication Technologies Ltd and Sasken Network Engineering Limited filed in accordance with SEBI Circular No.CIR/CFD/DIL/5/2013 dated February 4, 2013 read with SEBI Circular No.CIR/CFD/DIL/8/2013 dated May21,2013 (hereinafter referred to as ‘draft Scheme’)

2. The matter has been examined by SEBI in the light of the provisions under Part A. Annexure I of the aforesaid Circular. Accordingly, SEBI’s comments on the draft Scheme are as under:



a. Stock exchanges to ensure compliance with the said Circular.

b. The company shall duly comply with various provisions of the Circulars.

3. Please note that the submission of document/information in accordance with the Circulars, to SEBI should not in any way be deemed or construed that the same has been cleared or approved by SEBI, SEBI does not taken responsibility either for the financial soundness of any scheme or for the correctness of the statements made or opinions expressed in the documents submitted”.

- C.) The Office of Regional Director vide letter dated 12th May, 2016 has requested the Transferor company and to serve a copy of the Petition /Application along with enclosures on the Registrar of Companies, Karnataka. The Petitioner Company submitted that the copy of petition along with scheme has been sent to the Registrar of Companies, Karnataka, by their Advocates, Ms J. Sagar Associates on 24.05.2016. However the Petitioner Company has not submitted any Copy of the said letter sent to the Registrar of Companies, Karnataka by their Advocates Ms. J Sagar Associates on 24th May, 2016.
- D.) The Office of Regional Director vide letter dated 12th May, 2016 has requested the Petitioner Companies to confirm whether the Petitioner Company is governed or administered by any Government Regulatory Body, if so, to intimate the full details & address of the same and also to state as to whether notice of proposed Merger/Demerger/Reconstruction etc. has been served to them. The Petitioner Transferor Company submitted that the same is not applicable.
- E.) The Regional Director has directed this Office to incorporate the following issues in the Affidavit being filed before the Hon'ble High Court.

(i) The Company Petition No.106/2016 was filed by M/s. Sasken Network Engineering Limited, Transferor Company. Para No.11 of the Petition provides that there is no likelihood that interests of any Shareholder or Creditor of the Petitioner Company or the Transferor Company would be prejudiced as a result of the proposed scheme of Amalgamation. The same may be clarified by the Petitioner Company before the Hon'ble High Court, since the Petitioner Company is the Transferor Company in C.P.No.106 of 2016.



The Petitioner Company has averred that the proposed scheme of Merger of the Petitioner Company, a wholly owned subsidiary with its holding Company, i.e. the Transferee Company. It is submitted that under the Scheme no shares are being allotted as all the shares of the Transferor Company are held by the Transferee Company and will be cancelled under the Scheme. Further all the Creditors, if any will become the creditors of the Transferee Company in terms of clauses 4.2(ii) of the Scheme. In this background, it is submitted that there is no likelihood that the interests of any shareholder or creditor of the Petitioner Company or the Transferee Company would be prejudiced as a result of this proposed scheme of Amalgamation.

(ii) An amount of Rs.5.36 Lakhs was shown towards share application money pending allotment in the Balance Sheet of M/s.Sasken Communication Technologies Limited as at 30th September, 2015 enclosed to the Company petition No.106/2016. This may be clarified by the Petitioner Company before the Hon'ble High Court.

The Petitioner Company submits that an employee of the Transferee Company had been granted stock options and exercised 4,500 stock options at the rate of Rs.119/- per share, aggregating to Rs.5,35,500/- on 11th August, 2015. It is submitted that the shares were allotted to the employee on 9th October, 2015 and the e-Form PAS-3 in respect of the said allotment was filed with the Ministry of Corporate Affairs on 14th November, 2015 vide SRN No. S429902627. A copy of e-Form PAS-3 filed by the Transferee Company along with the payment receipt is shown as **Annexure A** along with this Affidavit.

F.) The Registrar of Companies has observed that the Transferee Company has not filed MGT- 7 (Annual Return) for the financial year ended 31.03.2015. The Transferee Company may file the MGT 7 (Annual Return) for the financial year ended 31.03.2015 before the scheme is implemented.

The Petitioner Company submits that the Transferee Company has already filed e-Form MGT-7(Annual Return) for the Financial year ended 31st March, 2015 with the ministry of Corporate Affairs on 27th November, 2015 vide SRN No. Q67455683. It is further submitted that the list of shareholders in a digital format was also submitted to the Office of the Registrar of Companies, Karnataka on 1st December, 2015. The Copy of the e-Form MGT-7 filed by the Transferee Company, the payment receipt issued and the letter issued to the Registrar of Companies is shown as **Annexure B**.

Hence, it is respectfully prayed that this Hon'ble Court may be pleased to take into consideration the above submission and to pass such order as deemed fit and proper, in the circumstances of the case.

the prayer made by the Official Liquidator in OLR No.71/2016 in T.P.No.-299/17 No.P.No.106/16, vide Order dated 28th July, 2016 M/s. Murugendrappa & Co., Chartered



Accountants were appointed by the Hon'ble High Court of Karnataka to scrutinize the Books of Accounts and records of the Petitioner Company.

The said Chartered Accountant filed his Report before the Hon'ble High Court of Karnataka and Pursuant to the same, the Official Liquidator has filed a report in OLR.No.142/16 in Co.P.No.106/16 stating that M/s. Murugendrappa & Co., Chartered Accountants have submitted report dated 29th August, 2016 and has concluded in his Report as under:

- a) In our opinion proper books of accounts, papers, statutory registers, minutes and other related records as required by the law have been kept by company so far as appears from our examination.
- b) On scrutiny of books of accounts, papers, statutory registers, minutes and other related records we are of the opinion that the affairs of the company have not been conducted in a manner prejudicial to the interests of the members or to public interest as per the second proviso to sub section (1) of Section 394 of the Companies Act, 1956.

Thus, relying on the Scrutiny Report dated 26th August, 2016 submitted by M/s. Murugendrappa & Co, Chartered Accountants, the Official Liquidator submitted that the Transferor Company may kindly be dissolved without winding up by this Hon'ble Court, and/or any further order/orders as may be deemed fit and proper in the facts and circumstances of the case.

The Counsel for the Petitioner Company has contended that since the Petitioner Company being the wholly owned subsidiary of the Transferee Company i.e. Sasken Technologies Communication Limited and the scheme is not detrimental in any manner to the interests of members or creditors of the Transferee Company. Therefore, there is no requirement for the Transferee Company to approach this Tribunal separately for sanction of the scheme. The Counsel for the Petitioner Company in support of his contention has relied on decisions cited below:

- a.) *Mahaamba Investments Ltd. V. IDI Ltd, 2001 SCC Online Bom 1174;*
- b.) *Andhra Bank Housing Finance Ltd v. M/s Andhra Bank, 2009 SCC Online KAR17*
- c.) *Nokia Siemens Network India Private Limited, Bangalore v. NIL, 2009 SCC Online KAR17;*



The Counsel for the Petitioner Company submits that in view of the Judgement of the Hon'ble High Court of Karnataka in **Nokia Siemens Network India Private Limited v. Nil, (2009) 150 Comp cas728** wherein Hon'ble High Court has held as follows:

“..... that if the proposed scheme reorganisation of share capital is absent and when the 100 %subsidiary company is seeking to amalgamate with its holding company and where the scheme is not detrimental in any manner to the interests of the members or creditors of the transferee company, there is no need to examine the scheme by the court within its territorial jurisdiction the transferee company is situate. In such a case, the sanctioning court which has been approached by the Transferor Company can examine the scheme and see whether it does affect the rights of the members or creditors of the transferee company either because it involves reorganisation of its share capital or otherwise and if the rights of the members of the transferor company has not been touched upon, then there is no need for the transferee company to approach the court separately for necessary sanction of the scheme.”

We have gone through the decision relied upon by the Learned Counsel for the Petitioner Company. There is no impediment that the decision has been rendered under the provisions of the Companies Act, 1956. Here what is essential for the Tribunal to consider is the principle laid down in the decisions cited supra. The Principle laid down in the decision where Transferor Company is a wholly owned subsidiary of the Transferee Company and the Transferor Company which is going to be merged or amalgamated with its holding company then there is no requirement for the Tribunal to direct the holding company i.e. Transferee Company to file the separate petition and to again examine the very same scheme separately subject to if the scheme is not detrimental to the interests of members or creditors of the Transferee Company.

The contention of the Learned Counsel for Petitioner Company that even though the decisions were rendered under the Companies Act, 1956 but the proposition of law laid down is applicable to the facts of this case, as this petition was originally filed before the Hon'ble High Court of Karnataka and it was filed under the provisions of Companies Act, 1956 and it was subsequently transferred to this Tribunal. The Counsel would contend that the practice followed by the various High Courts under the Companies Act, 1956 exempting Transferee Company in filing separate petition for approval of the scheme where the Transferor Company is its 100% subsidiary. The Counsel would contend the proposition of law laid down in the decisions rendered under Companies Act, 1956 is applicable by virtue of



provisions of Section 465 Clause (2) Sub clause (c) of Companies Act, 2013 which reads as follows:-

(2) Notwithstanding the repeal under sub-section (1) of the repealed enactments:-

(c) Any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure or existing usage, custom, privilege, restriction or exemption shall not be affected, notwithstanding that the same respectively may be in any manner affirmed or recognised or derived by, in or from, the repealed enactments.

We have seen the decisions cited, where a 100 percent subsidiary is going to be merged with its holding company by virtue of the scheme of Amalgamation and if there is no restructuring of share capital of the holding company or issuing of any fresh shares pursuant to the scheme then there is no need for the Transferee Company to file separate application for the sanction of the scheme. As rightly contended by the Learned Counsel that the Petitioner / Transferor Company is a wholly owned subsidiary of Sasken Communication Technologies Limited (Transferee Company) then there is no need for the Transferee Company to file a separate application for sanction of the scheme.

Relying on the proposition laid down in the decisions cited and relying on section 465 (2) (c) of Companies Act, 2013, the scheme can be approved basing on the information supplied by the Petitioner Company even though the Transferee Company has not filed any separate petition for sanction of the scheme.

The Auditors of the Petitioner Company have verified the Accounting Treatment stated in the scheme and have given certificate stating that the Accounting Treatment, as provided in the scheme is in conformity with the accounting standards prescribed under Section 133 of the Companies Act, 2013. The Certificate of the Chartered Accountant is filed along with Memo dated 15th June, 2017.

After hearing the Counsel for the Petitioner Company and considering the material on record,

THIS TRIBUNAL DO FURTHER ORDER

While Approving the Scheme, we make clear 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, and payment in accordance with law or in respect to any permission/compliances as observed by NSE & BSE or with any other requirement which may be specially required under any law.



The Whole of the property, rights and powers of the Petitioner Company be transferred without further act or deed to the Transferee Company and accordingly the same shall pursuant to section 232 of the Companies Act, 2013, be transferred to and vest in the Transferee Company for all the state and interest of the Petitioner Company therein but subject nevertheless to all the charges now affecting the same; and

All the liabilities including taxes and charges, if any, and duties of the Petitioner Company be transferred without further act or deed to the Transferee Company and accordingly the same shall pursuant to section 232 of the Companies Act, 2013, be transferred to and become the liabilities and duties of the Transferee Company; and

The tax implications, if any, arising out of the scheme is subject to final decision of Concerned Tax Authorities and the decision of the Concerned Tax Authorities shall be binding.

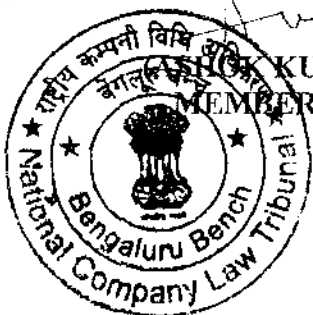
All the proceedings now pending by or against the Petitioner Company be continued by or against the Transferee Company, if any; and

The Petitioner Company shall within thirty days of the date of the receipt of this order cause a certified copy of this order along with a copy of scheme of Amalgamation to be delivered to the Registrar of Companies for registration in accordance with Rule 25 (7) of Companies (Compromises, Arrangements & Amalgamations) Rules, 2016.

The Scheme shall be effective from the appointed date as mentioned in the Scheme of Amalgamation i.e. 1st April, 2015.

The Petitioner Company or its authorised signatory is directed that after the completion of the process of Amalgamation to handover the possession of the Books of Accounts and other relevant documents of the Transferor Company to the Transferee Company for the purpose of section 239 of the Companies Act, 2013.

Any person shall be at the liberty to apply the tribunal in the above matter for any directions that may be necessary.



SHANKAR KUMAR MISHRA)
MEMBER, TECHNICAL

CERTIFIED TO BE TRUE COPY (RATAKONDA MURALI)
OF THE ORIGINAL MEMBER, JUDICIAL

Deputy Registrar
National Company Law Tribunal
Bengaluru Bench