

# J JUPITER

To,

15th November, 2018

BSE Limited  
Phiroze Jeejeebhoy Towers  
Dalal Street  
Mumbai – 400001  
email ID: [corp.relations@bseindia.com](mailto:corp.relations@bseindia.com)  
BSE Scrip Code: 532395

National Stock Exchange of India Limited  
Exchange Plaza, C-1 Block G  
Bandra Kurla Complex, Bandra (E)  
Mumbai – 400051  
email ID: [takeover@nse.co.in](mailto:takeover@nse.co.in)  
NSE Scrip Code: AXISCADES

Sub: Disclosure under Regulation 10(7) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011

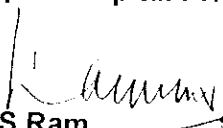
Dear Sir/Madam,

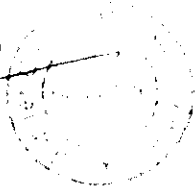
Please find enclosed herewith the disclosure under Regulation 10(7) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 with respect to merger of Tayana Digital Private Limited (TDPL) (holding 1,21,42,100 equity shares of AXISCADES Engineering Technologies Limited) with Jupiter Capital Private Limited (JCPL) (holding 68,72,218 equity shares of AXISCADES Engineering Technologies Limited).

Kindly take the above information on record.

Yours faithfully,  
Very truly yours

**Jupiter Capital Private Limited**

  
**M S Ram**  
Director  
DIN: 01163624  
Encl : As above



**JUPITER CAPITAL PRIVATE LIMITED**

CIN - U67120KA2004PTC 033653

Regd. Office : Jupiter Innovision Centre,

No. 54, Richmond Road, Bangalore - 560 025, India

**Regulation 10(7) – Report to SEBI in respect of any acquisition made in reliance up on exemption provided for in Regulation 10(1)(d)(iii) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011**

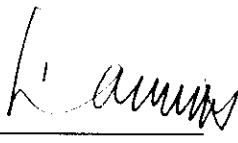

<b>1</b>	<b>General Details</b>	
	a.	Name, address, telephone no., e-mail of Acquirer(s) {In case there are multiple acquirers, provide full contact details of any one acquirer (the correspondent acquirer) with whom SEBI shall correspond.} Name: Jupiter Capital Private Limited, CIN: U67120KA2004PTC033653 Address: No.54 Richmond Road, Jupiter Innovation Centre, Bangalore. Contact: Meet K Email ID: meet.k@jupitercapital.in
	b.	Whether sender is the acquirer (Y/N) Y
	c.	If not, whether the sender is duly authorized by the acquirer to act on his behalf in this regard (enclose copy of such authorization) Not applicable
	d.	Name, address, Tel no. and e-mail of sender, if sender is not the acquirer Not applicable
<b>2</b>	<b>Compliance of Regulation 10(7)</b>	
	a.	Date of report 15th November, 2018
	b.	Whether report has been submitted to SEBI within 21 business days from the date of the acquisition Yes
	c.	Whether the report is accompanied with fees as required under Regulation 10(7) Yes, Demand draft No. 203146 dated 13th November 2018 in favour of SEBI for Rs. 1,50,000/-
<b>3</b>	<b>Compliance of Regulation 10(6)</b>	
	a.	Whether the report has been filed with the Stock Exchanges where the shares of the Company are listed within 4 business days of the acquisition Yes
	b.	Date of Report 25th October, 2018
<b>4</b>	<b>Details of the Target Company (TC)</b>	
	a.	Name & address of TC AXISCADES Engineering Technologies Limited Block C, Second Floor, Kiroskar Business Park, Bengaluru - 560024
	b.	Name of the Stock Exchange(s) where the shares of the TC are listed Bombay Stock Exchange and National Stock Exchange
<b>5</b>	<b>Details of the acquisition</b>	
	a.	Date of acquisition 17 October, 2018
	b.	Acquisition price per share (in Rs.) Not applicable (Acquisition pursuant to merger)

	c.	Regulation which would have been triggered off, had the report not been filed under Regulation 10(7). (whether Regulation 3(1), 3(2), 4 or 5)	Regulation 5			
	d.	Shareholding of acquirer/s and PACs individually in TC ( in terms of no: & as a percentage of the total share capital of the TC)	Before the acquisition		After the acquisition	
			No. of Shares	% w.r.t total share capital / voting rights of TC	No. of Shares	% w.r.t total share capital / voting rights of TC
		Name(s) of the acquirer(s) and PAC(**)	2,69,07,717	71.27%	2,69,07,717	71.27%
	1	Tayana Digital Private Limited	1,21,42,100	32.16%	-	-
	2	Jupiter Capital Private Limited	68,72,218	18.20%	1,90,14,318	50.36%
	3	Indian Aero Ventures Private Limited	61,54,219	16.30%	61,54,219	16.30%
	4	Sudhakar Gande	17,39,180	4.61%	17,39,180	4.61%
6	<b>Information specific to the exemption category to which the instant acquisition belongs - Regulation 10(1)(d)(iii)</b>					
	a.	Confirm that the scheme is approved by the order of a court or any other competent authority	Yes, the Scheme has been approved by the Hon'ble NCLT of Bangalore and Mumbai bench			
	b.	Attached copy of the order mentioned above.	Attached as Annexure A.			
	c.	Total consideration paid under the scheme.	Not Applicable (Acquisition pursuant to merger)			
	d.	Component of cash and cash equivalents in the total consideration paid under the scheme.  Whether the same is less than twenty-five percent of the total consideration paid under the scheme? (Y/N)	Not Applicable (Acquisition pursuant to merger)			
	e.	After the implementation of the scheme, whether the persons who are directly or indirectly holding at least thirty-three per cent of the voting rights in the combined entity are the same as the persons who held the entire voting rights before the implementation of the scheme? (Y/N). Please furnish relevant details including the name of such persons as well as their stake in the combined entity.	Yes. Tayana Digital Private Limited (Transferor Company) was a wholly owned subsidiary of Jupiter Capital Private Limited (Transferee Company).			

	f. Whether the acquirers as well as sellers have complied with the provisions of Chapter V of Takeover Regulations (corresponding provisions of the repealed Takeover Regulations 1997) (Y/N). If yes, specify applicable regulation/s as well as date on which the requisite disclosures were made along with the copies of the same.	Yes. Transferee company (Jupiter Capital Private Limited) and transferor company (Tayana Digital Private Limited) have made relevant disclosures under regulations 29(2) to the stock exchange (NSE, BSE) on 22 <sup>nd</sup> October 2018.
	g. Declaration by the acquirer that all the conditions specified under regulation 10(1) (d)(iii) with respect to exemptions has been duly complied with.	Yes

I/We hereby declare that the information provided in the instant report is true and nothing has been concealed there from.

Name: Mathevan Pillai Sivaram

Signature  

Date: 15th November, 2018

Place: Bengaluru

**Note:** (\*) In case, percentage of shareholding to the total capital is different from percentage of voting rights, indicate percentage of shareholding and voting rights separately.

(\*\*) Shareholding of each entity shall be shown separately as well as collectively.



FREE OF COST COPY

CP (CAA) No.1/BB/2018

IN THE NATIONAL COMPANY LAW TRIBUNAL  
BENGALURU BENCH

C.P. (CAA) No. 01/BB/2018

Under Section 230 to 232 of the Companies Act, 2013

Order delivered on: 9<sup>th</sup> April, 2018

Coram: Hon'ble Shri Ratakonda Murali, Member (Judicial)

Hon'ble Shri Ashok Kumar Mishra, Member (Technical)

IN THE MATTER OF SECTIONS 230 AND 232 OF COMPANIES ACT, 2013

AND

IN THE MATTER OF AMALGAMATION OF  
TAYANA DIGITAL PRIVATE LIMITED

WITH

JUPITER CAPITAL PRIVATE LIMITED

**Jupiter Capital Private Limited**

**Jupiter Innovision Centre**

**#54, Richmond Road**

**Bengaluru-560025**

- **Petitioner / Transferee Company**

Parties Present : 1. Mr. Saji P. John, Sr. Advocate, M/s. SPJ Legal  
Unit No.1002, 10<sup>th</sup> Floor, #30, Prestige Meridian II,  
M.G Road, Bangalore 560001  
2. Smt. M.R Sinchana, Standing Counsel for ROC,  
Karnataka and R.D

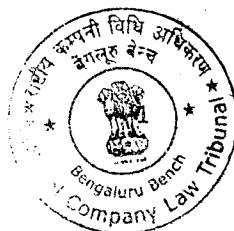
Per: **Hon'ble Shri Ashok Kumar Mishra, Member (Technical) – Author**

Heard on: 11.01.2018, 26.02.2018, 21.03.2018 and 26.03.2018

**ORDER**

The Petitioner Company has sought sanction of Scheme of Amalgamation of Tayana Digital Private Limited, falling under the jurisdiction of NCLT, Mumbai Bench with Jupiter Capital Private Limited. **Tayana Digital Private Limited** is the **Transferor Company** while the Petitioner **Jupiter Capital Private Limited** is the **Transferee Company**. The Scheme of Amalgamation provides for the amalgamation of Tayana Digital Private Limited (TDPL) with Jupiter Capital Private Limited (JC) and their respective shareholders and creditors, pursuant to the provisions of Sections 230 and 232 of the Companies Act, 2013.

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



The Petitioner Company was originally incorporated on 29<sup>th</sup> March 2004 under the name and style "Jupiter Capital Advisors Private Limited" with the Registrar of Companies, Karnataka, Bangalore under the provisions of Companies Act, 1956. The name of the Petitioner Company was subsequently changed to **Jupiter Capital Private Limited** with effect from 12<sup>th</sup> June, 2006 having CIN No. **U67120KA2004PTC033653**, having its Registered Office at No. 54, Richmond Road, Bangalore 560025, Karnataka.

The petition is filed by the Petitioner Company to obtain sanction of this Hon'ble Tribunal to the Scheme of Amalgamation of Tayana Digital Private Limited (Transferor Company) with Jupiter Capital Private Limited (Transferee Company). The Scheme of Amalgamation is produced herewith and marked as **Annexure-A**.

The Petitioner Company/Transferee Company is a systemically important Non-Deposit Accepting Non-Banking Finance Company which is primarily an investment and loan Company. Besides this, the Petitioner Company is also in the business of Air Charter. An up to date copy of Memorandum and Articles of Association of the Transferee Company is enclosed and marked as **Annexure-B**.

The Authorised, Issued, Subscribed and Paid-up share capital of the Petitioner Company (Transferee Company) as on 31<sup>st</sup> March, 2017, was as follows:

<b>Authorised Capital</b>	<b>Amount Rs.</b>
4,60,00,000 Equity Shares of Rs. 10/- each	46,00,00,000
<b>Issued, Subscribed and Paid-up Capital</b>	<b>Amount Rs.</b>
50,19,720 Equity Shares of Rs. 10/- each fully paid-up	5,01,97,200

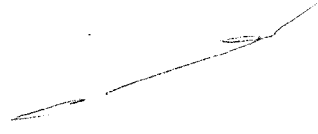
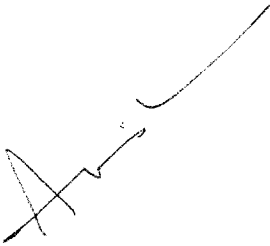
There is no change in the authorised, issued, subscribed and paid-up share capital of the Petitioner Company from 31<sup>st</sup> March, 2017 to the date of filing of this petition.

The Main Objects of the Applicant/Transferee Company as set out in its Memorandum of Association inter alia includes, as follows:



- i) To carry on the business as a Finance and Investment Company and to engage in promotion of Companies by participating in or to provide finance and to make investments in any form whatsoever including financing for industrial undertakings housing and making investments in shares, stocks, securities, bonds or other securities.
- ii) To acquire and provide on lease or hire-purchase basis or on deferred payment basis or any other basis all types of plant equipment machinery vehicles consumer durables and real estates and any other movable and immovable properties whether in India or abroad for industrial services, commercial or other uses.
- iii) To establish and carry on the business of merchant banking, financial services including underwriting managing public issues of shares, debentures and other securities of limited companies, custodial and registry services, bill discounting, factorizing of debt, financial advisory services, credit and foreign exchange management, forex dealings and advisory services, arrangement and procurement of loans from banks and financial institutions in India and abroad, arrange inter-corporate deposits, loan syndication and to promote establish finance or in any other manner support or encourage establishment of industrial enterprises or companies engaged in industrial, financial and trading activities.
- iv) To manage funds of Investors by investment in various avenues like income Fund, Risk Fund, Tax Exempt Funds, Pensions/Superannuation Funds and to pass on the benefits of portfolio investments to the investors as dividends, bonus, interest, etc. and to provide a complete range of personal financial services like investment planning, estate planning, tax planning, tax planning, portfolio management, consultancy/counseling services.

As per the audited balance sheet made up to 31<sup>st</sup> March, 2017, the summarized position of the assets and liabilities of the Petitioner/Transferee Company was as follows:

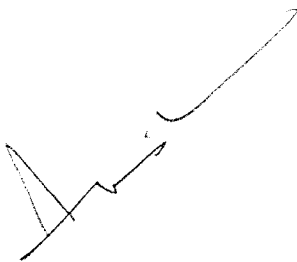




Liabilities	Amount Rs.	Asset	Amount Rs.
Share Capital	5,01,97,200	Fixed Assets	155,53,65,468
Reserves and Surplus	1341,32,54,885	Non-Current Investments	1030,82,95,581
Non-Current Liabilities & Provisions	119,82,77,261	Long-term Loans & Advances	146,12,46,391
		Other Non-Current Assets	21,41,03,784
Current Liabilities & Provisions	279,02,28,557	Current Assets	391,29,46,679
Total	1745,19,57,903	Total	1745,19,57,903

A copy of the said Audited Balance Sheet is enclosed herewith and marked as **Annexure-C**. The provisional Balance Sheet dated 30.11.2017 is enclosed and marked as **Annexure-C1**.

**Tayana Digital Private Limited (Transferor Company)** was originally incorporated on 13<sup>th</sup> March, 2008 under the name and style "Tayana Digital Private Limited" (TDPL) with the Registrar of Companies, Karnataka at Bangalore. TDPL is a subsidiary of JC in which JC holds 67.64%. The balance 32.36% of TDPL is held by Hindustan Infrastructure Global Investments, Mauritius (HIGI Mauritius). HIGI Mauritius is a wholly owned subsidiary of Hindustan Infrastructure Projects & Engineering Private Limited (HIPE) which in turn is a wholly owned subsidiary of JC. TDPL was incorporated on 13<sup>th</sup> March, 2008 and is engaged in the business of software development and its related services. The Registered Office of the Transferor Company was subsequently changed to 1-B Ground Floor, Gold Coin Premises, Opposite Sobo Central, 35/23A, Tardeo Road, Tardeo, Mumbai 400 034 with the Registrar of Companies, Maharashtra, Mumbai vide fresh certificate of incorporation dated 9<sup>th</sup> October, 2017. The Transferor Company is engaged in the business of software development and its related services. An up-to-date copy of the Memorandum and Articles of Association of the Transferor Company is enclosed and marked as **Annexure-D**.





The authorised, issued, subscribed and paid-up share capital of the Transferor Company as on 31<sup>st</sup> March, 2017 was as follows:

<b>Authorised Capital</b>	<b>Amount Rs.</b>
10,00,000 equity shares of Rs. 10/- each	1,00,00,000
<b>Issued, Subscribed and Paid-up Capital</b>	<b>Amount Rs.</b>
10,00,000 equity shares of Rs. 10/- each fully paid up	1,00,00,000

The main objects of the Transferor Company as set out in its Memorandum of Association are, inter alia, as follows:

- To carry on the business of Engineering Design Services through development of, Designs to specifications, Design Automation, Drafting & 3D modeling, Engineering Analysis and Plant Design Engineering and to act as Engineering Design Consultants both in India and abroad. To undertake the designing and development of systems and application software either for its own use or for sale in India or for export outside India and to design and develop such systems and application software for or on behalf of manufacturers, owners and users of computer systems, and all applications in aircrafts, aviation, avionics etc.
- To carry on the business of providing an array of consultancy & advisory solutions and services to offer design, market, import, export, promote, operate, develop and delivery software solutions, development and services to each and every type of organization in India and abroad, in all its forms including operation of technical services, networking services, system integration services, on-site and off-shore consultancy services and allied services like programming, design, development, hosting, licensing, installation, servicing, maintenance, research and development, integration, solutions, sale, export, import, distribution, marketing or to work upon or to generally deal in software, etc.

As per the audited balance sheet made up to 31<sup>st</sup> March, 2017, the summarized position of the assets and liabilities of the Transferor Company was as follows:

<b>Liabilities</b>	<b>Amount Rs.</b>	<b>Asset</b>	<b>Amount Rs.</b>
Share Capital	1,00,00,000	Non-current Assets	67,80,39,409
Reserves and Surplus	15,95,53,804	Current Assets	5,52,245
Non-Current Liabilities	75,00,000		
Current Liabilities & Provisions	50,15,37,850		
<b>Total</b>	<b>67,85,91,654</b>	<b>Total</b>	<b>67,85,91,654</b>

*A*



*—*

A copy of the Audited Balance Sheet is enclosed and marked as **Annexure-E**. The Provisional Balance Sheet as at 30.11.2017 is enclosed and marked as **Annexure-E1**.

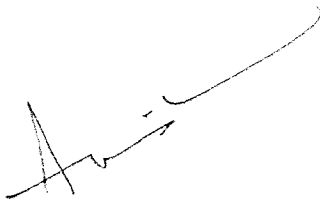
The Board of Directors of the Petitioner/Transferee Company has approved and adopted the Scheme of Amalgamation of Tayana Digital Private Limited with Jupiter Capital Private Limited at its meeting held on 26<sup>th</sup> September, 2017. The extract of the Board Resolution is produced herewith as **Annexure-F**.

It is submitted that no investigation proceedings are pending against the Petitioner Company under sections 235 to 251 or any other provisions of the Companies Act, 1956 or sections 206 to 229 of the Companies Act, 2013.

The entire equity share capital of the Transferor Company is held by the Petitioner/Transferee Company and Hindustan Infrastructure Global Investments, Mauritius (HIGI Mauritius). HIGI Mauritius is a wholly owned subsidiary of Hindustan Infrastructure Projects & Engineering Private Limited (HIPE) which in turn is a wholly owned subsidiary of the Transferee Company. Accordingly, pursuant to the amalgamation of Transferor Company with the Petitioner/Transferee Company, no shares to the Transferee Company shall be allotted in respect of its holding in the Transferor Company. Further, HIGI Mauritius being an indirect wholly owned subsidiary of the Petitioner/Transferee Company, no shares to be issued by the Transferee Company to HIGI Mauritius as consideration for merger.

The benefits sought to be achieved by the Amalgamation are as follows:

- a. Greater integration, financial strength and flexibility for the amalgamated entity, which would result in maximizing overall shareholder value and will improve the competitive position of the combined entity.
- b. Improved organizational capability and leadership, arising from the pooling of resources to compete successfully in an increasingly competitive industry.
- c. Greater leverage in operations, planning and process, efficiency in cash management and unfettered access to cash flow generated by the combined business.



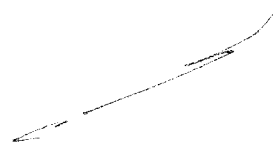
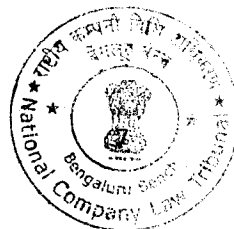
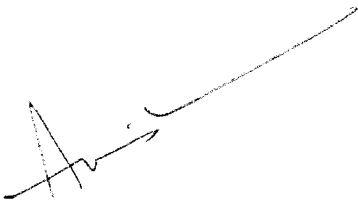
- d. Cost savings are expected to flow from synergies achieved through joint operational efforts rationalization, standardization and simplification of business process, administration, finance, accounts, legal and other related functions, leading to elimination of duplication and rationalization of administrative expenses.
- e. Simplification of group structure.
- f. The sanctioning of Amalgamation will be for the benefit of both the Companies.

It is submitted that, the Petitioner/Transferee Company filed Company Application No. CAA 84/BB/2017 before this Hon'ble Tribunal seeking for the dispensing with convening of the Equity Shareholders, Secured Creditors and Unsecured Trade Creditors meeting for approving the Scheme of Amalgamation/ This Hon'ble Tribunal, by its order dated 14<sup>th</sup> December, 2017 allowed the Company Application based on the written consents given by the Shareholders and Creditors of the Petitioner/Transferee Company was pleased to dispense with the requirement of convening meetings of the Equity Shareholders, Secured Creditors and Unsecured Trade Creditors of Petitioner/Transferee Company. Copy of the order is produced herewith and marked as **Annexure-G**.

It is further averred that, the Petitioner/Transferee Company have filed the Petition bearing C.P (CAA) No. 01/BB/2018 before this Tribunal for sanctioning the Scheme of Amalgamation on 3<sup>rd</sup> January 2018.

This Hon'ble Tribunal vide Order dated 11<sup>th</sup> January 2018 has directed to issue Notice to the Regional Director, South-East Region, Ministry of Corporate Affairs, Hyderabad, Registrar of Companies, Karnataka, Bangalore and to the concerned Income Tax Authority and also to have an advertisement of Notice of Petition be carried out in the '**The Hindu**', an English daily Newspaper and '**Udayavani**', a Kannada daily Newspaper and both Bengaluru Editions within 10 Days before date of hearing and also stating the next date of hearing of the present petition was on **26<sup>th</sup> February 2018**.

In pursuant to this, the Counsel for Petitioner/Transferee Company has filed an Affidavit dated 30<sup>th</sup> January, 2018 of the authorised signatory of the Petitioner/Transferee Company, stating that the notices have been issued on the above authorities and also filed copy of paper publication of '**The Hindu**', an English daily Newspaper and '**Udayavani**', a Kannada daily Newspaper on dated 24<sup>th</sup> January, 2018. The same is shown as Annexure-A1 and A2 respectively, to the affidavit.



The Registrar of Companies, Karnataka has filed an affidavit dated 19.03.2018 on behalf of RD, Ministry of Corporate Affairs, South East Region, Hyderabad, and made the following observations:

1. The Transferee Company is M/s. Jupiter Capital Private Limited, is registered in the State of Karnataka. The Transferor Company M/s. Tayana Digital Private Limited is registered in the State of Maharashtra and hence the scheme may also be subject to the orders of Hon'ble NCLT, Mumbai Bench.
2. The Transferee Company is holding 67.64% equity share capital of the Transferor Company and hence it is a subsidiary Company. Balance 32.36% equity share capital of Transferor Company is held by M/s. Hindustan Infrastructure Global Investments, Mauritius, which is said to be wholly owned subsidiary of HIPE which in turn is a wholly owned subsidiary of Transferee Company; as can be seen from Clause 5 of Part "B" of the Scheme. Hence, no new shares are proposed to be issued.
3. The Transferee Company is a non-deposit accepting NBFC and is registered with RBI. This Directorate by its letter dated 31.01.2018 sought comments of RBI, Hyderabad for which reply dated 14.02.2018 was received mentioning that Transferee Company is registered with RBI, Bangalore and that the Directorate's letter dated 31.01.2018 was forwarded to RBI, Bangalore. Comments from RBI, Bangalore are not received as yet.
4. In Clause 12 of the scheme, the Petitioner Transferee Company has sought complete waiver of the fee and stamp duty payable on account of consolidation of the authorized share capital of the Transferor and Transferee Company which is not acceptable in view of the provisions of Sec. 232(3)(i) of the Companies Act, 2013. The Transferee Company has to pay the differential fee and stamp duty on the increase of authorized capital after setting off the fee if any paid by the Transferor Company.
5. That the ROC, Bangalore reported that Clause 23 of Part B of MOA of the Transferor Company provide for amalgamation with other Company having similar objects viz., Software Development and other related services whereas the Transferee is in the Financial Services business. However, Transferor Company's financial statements for the year ended 30.11.2017 show that it predominantly holds financial assets only and does not appear to be carrying on software development. Hence, no further consideration of this observation may be required.



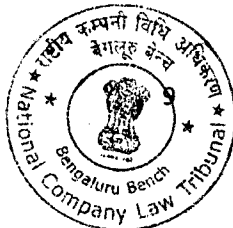
In response to the observations made by the Regional Director, the Petitioner/Transferee Company has filed Affidavit dated 22.03.2018, giving the following reply to the observations made by the RD, MCA, Hyderabad:

1. The Scheme may be sanctioned subject to the orders of the Hon'ble NCLT, Mumbai Bench.
2. The entire equity share capital of the Transferor Company is held by the Transferee Company and Hindustan Infrastructure Global Investments, Mauritius (HIGI, Mauritius). HIGI Mauritius is a wholly owned subsidiary of Hindustan Infrastructure Projects & Engineering Private Limited (HIPE) which in turn is a wholly owned subsidiary of the Transferee Company. Accordingly, pursuant to the amalgamation of Transferor Company with the Transferee Company, no shares to the Transferee Company shall be allotted in respect of its holding in the Transferor Company. Further, HIGI Mauritius being an indirect wholly owned subsidiary of the Transferee Company, no shares to be issued by the Transferee Company to HIGI Mauritius as consideration for merger. Upon the Scheme becoming effective, the entire share capital of the Transferor Company shall be cancelled and extinguished as per Clause 5 of the Scheme. Except this, no other consideration is payable under the Scheme.
3. The Petitioner/Transferee Company have already sent the notice to RBI, Bangalore. However, the Petitioner has not received any reply in this regard.
4. The Petitioner/Transferee Company undertakes to file the differential stamp duty and differential fee (if any) over the above the stamp duty and ROC fee already paid by the Transferor Company on the authorized share capital.
5. With regard to the ROC's observation, in view of the RD's consideration, there is no need to change the object clause of the Petitioner Company.

The Reserve Bank of India vide their letter No. DNBS BG No.

811/08.04.015/2017-18 dated 15.02.2018 has stated that as follows:

*"In this connection, we advise that M/s. Jupiter Capital Pvt. Ltd., is an NBFC registered with RBI, Bengaluru. M/s. Tayana Digital Pvt. Ltd., (Transferor Company) is not an NBFC. Since the Transferee Company has admitted that the said amalgamation would not result in any change of Management and operations of Jupiter Capital Pvt. Ltd., it is stated that we have no objection to the proposed amalgamation."*



It is further averred that Counsel for Petitioner has filed Accounting Treatment Certificate certified by the Chartered Accountant pursuant to Clause 10 of the Scheme are in accordance with Section 133 of the Companies Act, 2013. The Certificate of Chartered Accountant M/s. Delloitte Haskins & Sells LLP, Bangalore. A copy of the same is enclosed and marked as **Annexure-H** and has certified as follows:

*“Based on our examination and according to the information and explanations given to us, we are of the opinion that the accounting treatment contained in Clause 10 of the Scheme, is in compliance with the applicable Accounting Standards notified under Section 133 of the Companies Act, 2013, read with the rules made thereunder, and other Generally Accepted Accounting Principles, as applicable”.*

The Petitioner Company respectfully submit that it is an unlisted company and that there are no investigation proceedings pending against the Transferor Company and Transferee Company under the Companies Act, 1956 and Companies Act, 1953.

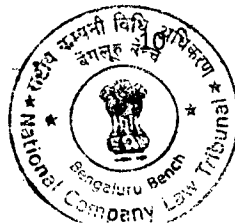
We have heard the Counsel for the Petitioner, Standing Counsel for ROC and RD and after considering the material on record, the Scheme appears to be reasonable and the same deserves to be approved subject to the compliance of ROC and RD directions.

#### **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/compliance with any other requirement which may be specially required under any law.

The whole of the property, rights and powers of the Transferor Company be transferred without further act or deed to the Petitioner/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 Transferor Companies be transferred without further act or deed to the



Petitioner/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 Petitioner/Transferee company; and

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

In line with Registrar of Companies observation dated 19.03.2018, the Transferee Company has to pay the differential fee and stamp duty on the increase of Authorised Capital after striking off the fee, if any, paid by Transferor Company as also Transferee Company object clause be amended to cover the software development business also.

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.

To ensure implementation of compliances made in the Affidavit dated 13/03/2018 and 22/03/2018.

The Petitioner/Transferee 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 (Comproinises, Arrangements & Amalgamations) Rules, 2016.

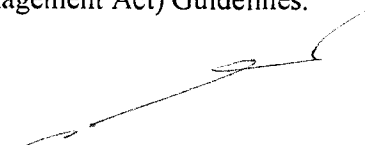
The Scheme shall be effective from the appointed date as mentioned in the Scheme of Amalgamation i.e. 1<sup>st</sup> April, 2017.

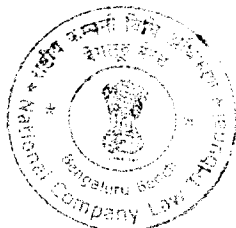
The Transferor Company or its authorised signatory is directed that after the completion of the process of Amalgamation to handover the possession of the books of accounts and other relevant documents of the Transferor Company to the Petitioner/Transferee Company for the purpose of Section 239 of the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

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

This order is subject to the outcome of NCLT, Mumbai Bench, order and compliance of FEMA (Foreign Exchange Management Act) Guidelines.

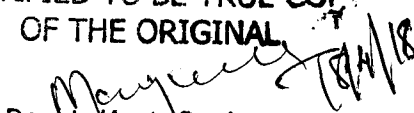
  
(ASHOK KUMAR MISHRA)  
MEMBER, TECHNICAL

  
(RATAKONDA MURALI)  
MEMBER (JUDICIAL)



11

CERTIFIED TO BE TRUE COPY  
OF THE ORIGINAL

  
Deputy Asst. Registrar  
National Company Law Tribunal  
Bengaluru Bench



**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH**

CP (CAA) 86/230-232/NCLT/MB/MAH/2018

Under section 230-232 of the Company Act, 2013

In the matter of

M/s. Tayana Digital Private Limited  
..... Petitioner / Transferor Company

Order Pronounced on : 08.10.2018

**Coram :**

Hon'ble M. K. Shrawat, Member (J)

**For the Petitioners :**

Mr. Hemant Sethi, Advocate i/b. Hemant Sethi & Co. – Advocates for the Petitioner.

**For the Regional Director :**

Mr. R. S. Meena – Jt. Director (WR).

**For the RoC :**

Mr. Neemlambuj – CP RoC.

**For the Official Liquidator :**

Mr. Santosh Dalavi – Representative of OL.

*Per : M. K. Shrawat, Member (J)*

**COMMON ORDER**

1. The sanction of this Tribunal is sought under Sections 230 to 232 of the Company Act, 2013, to a Scheme of Merger by Absorption of M/s. Tayana Digital Private Limited (Transferor Company) with M/s. Jupiter Capital Private Limited (Transferee Company) and their respective shareholders.
2. It is stated that the Transferee Company i.e. M/s. Jupiter Capital Private Limited is situated within the Jurisdiction of the NCLT, Bengaluru Bench. And the NCLT, Bengaluru has sanctioned the Scheme vide an Order dated 09.04.2018.
3. The Petitioner Companies have approved the said Scheme of Merger by Absorption by passing the Board Resolutions and thereafter they have approached the Tribunal for sanction of the Scheme.



4. The Transferor Company is engaged in the business of software development and its related services. And the entire Issued, Subscribed and Paid-up Share Capital of the Transferor Company is held by the Transferee Company and one another Company namely, HIGI Mauritius. The HIGI Mauritius is also a wholly owned subsidiary of the Transferee Company hence, the Transferee Company directly and in-directly holds the entire Share Capital of the Transferor Company.
5. The Transferee Company is a systemically important Non Deposit Accepting Non-Banking Finance Company ("NBFC – ND SI") which is primarily an investment and loan company. Besides this, Jupiter Capital Private Limited is also in the business of Air Charter, holding an NSOP license.
6. The proposed Scheme will inter alia have following benefits :
  - a) Greater integration, financial strength and flexibility for the amalgamated entity, which would result in maximizing overall shareholder value and will improve the competitive position of the combined entity;
  - b) Improved organizational capability and leadership, arising from the pooling of resources to compete successfully in an increasingly competitive industry;
  - c) Greater leverage in operations, planning and process, efficiency in cash management and unfettered access to cash flow generated by the combined business;
  - d) Cost savings are expected to flow from synergies achieved through joint operational efforts, rationalization, standardization and simplification of business processes, administration, finance, accounts, legal and other related functions, leading to elimination of duplication and rationalization of administrative expenses; and
  - e) Simplification of group structure.
7. The averments made in the Petition and the submissions made by the Learned Representative for the Petitioners are:
  - a) The Petitioner Companies have complied with all requirements as per directions of the Tribunal and they have filed necessary Affidavits of compliance in this Tribunal. Moreover, the Petitioner Company undertake to comply with all the



statutory requirements if any, as required under the Company Act, 2013 and the Rules made there under whichever is applicable.

- b) The Regional Director has filed his Report dated 06.09.2018 stating therein that, save and except as stated in paragraph IV (a) to (h), it appears that the Scheme is not prejudicial to the interest of shareholders and public. In paragraph IV of the said Affidavit, the Regional Director has stated that:

*IV. The observation of the Regional Director on the proposed Scheme to be considered by the Hon'ble NCLT are as under:*

- a. *The Petitioners under provisions of Section 230(5) of the Companies Act, 2013 have to serve notices to concerned authorities which are likely to be affected by Compromise or Amalgamation. Further, the approval of the Scheme by this Hon'ble Tribunal may not deter such authorities to deal with any of the issues arising after giving effect to the Scheme. The decision of such Authorities is binding on the Petitioner Company(s).*
- b. *In addition to compliance of AS-14 (IND AS-103), the Petitioner Companies shall pass such accounting entries which are necessary in connection with the Scheme to comply with other applicable Accounting Standards such as AS-5(IND AS-8) etc.*
- c. *The Hon'ble NCLT may kindly direct to the Petitioners to file an undertaking to the extent that the Scheme enclosed to the Company Application and the Scheme enclosed to the Company Petition are one & same and there is no discrepancy or deviation.*
- d. *It is observed that the Petitioner companies have not submitted a copy of the admitted Petition along with Minutes of Order for admission of the Petition. In this regard petitioner companies has to undertake to submit the same for the record of Registrar Director.*
- e. *As per Clause 1.2 of the Scheme, Appointed Date means the date 1, 2017 or such other date as may be fixed or approved by the*



*National Company Law Tribunal. In this regard, it is submitted that Section 232(6) of the Companies Act, 2013 states that the Scheme under this section shall clearly indicate an appointed date from which it shall be effective and the scheme shall be deemed to be effective from such date and not at a date subsequent to the appointed date.*

*f. Petitioner in the Clause 10.1.d of the Scheme has inter alia mentioned that the difference, being the excess of the value of the assets over liabilities, of the Transferor Company and Transferee Company, transferred to and vested in the Transferee Company pursuant to the Scheme, shall be credited to General Reserve / Capital Reserve Account. In case of there being a deficit, the same shall be debited to Goodwill Account. The Deponent prays that the above mentioned excess shall be credited to Capital Reserve only and not in General Reserve.*

*g. It is observed that the Transferor Company has foreign / non-resident shareholders. The Transferee Company must observe the FEMA guidelines for allotment of shares to the shareholder of the Transferor Company in Transferee Company.*

*h. As regards Para 12 of the Scheme, the Transferee Company may be allowed in respect of fees payable by the Transferee Company on its Authorized Share Capital, subsequent to the Amalgamation for setting-off of fees paid by the Transferor Company on its Authorized Share Capital in accordance with the provisions of Section 232(3)(i) of the Companies Act, 2013.*

c) Apropos the observation made in Para IV(a) of the report of Regional Director is concerned, the counsel for the Petitioner submits that notices as required under the provisions of section 230(5) of the Companies Act, 2013 have been served upon all the concerned authorities as directed by this Tribunal in pursuance of order dated 21st November, 2017. The counsel for the Petitioner further submits that issues of the said concerned authorities, if any, arising after giving effect to the scheme shall be subject to the decisions of the concerned authorities in accordance with law and the decisions of such authorities, as per law, shall be binding on the Petitioner Company.



- d) Apropos the observations made in paragraph IV(b) of the Report of the Regional Director is concerned, the Petitioner Company undertakes that in addition to compliance of AS-14 (IND AS-103), the Transferee Company shall pass such accounting entries which are necessary in connection with the scheme to comply with other Accounting Standards such as AS-5 (IND AS-8).
- e) Apropos the observations made in paragraph IV(c) of the Report of the Regional Director is concerned, the Petitioner Company clarifies that the Scheme enclosed to the Company Scheme Application and the Scheme enclosed to the Company Scheme Petition are one and the same and there is no discrepancy or deviation.
- f) Apropos the observations made in paragraph IV(d) of the Report of the Regional Director is concerned, the Petitioner Company, the counsel for the Petitioner Company submits that the copy of the Petition along with the Chairman's report as annexed to the petition has been submitted to the office of the Regional Director on 25th July, 2018. Further once the order is uploaded on the NCLT website, the same will be filed with the office of Regional Director.
- g) Apropos the observations made in paragraph IV(e) of the Report of the Regional Director is concerned, the Petitioner clarifies that the amalgamation as embodied in the Scheme shall take effect from the Appointed Date i.e. 1st April 2017.
- h) Apropos the observations made in paragraph IV(f) of the Report of the Regional Director is concerned, the Petitioners through their Counsel undertakes that the difference being the excess of the value of the assets over liabilities of the Transferor Company and the Transferee Company will be credited to Capital Reserve.
- i) Apropos the observations made in paragraph IV(g) of the Report of the Regional Director is concerned, the Petitioners through their Counsel undertakes that the Transferee Company will comply with the provisions of FEMA Guide lines and Companies Act, 2013, to the extent applicable.
- j) Apropos the observations made in paragraph IV(h) of the Report of the Regional Director is concerned, the Petitioner clarifies that the Authorized Share Capital of Transferor Company shall be merged with that of the Transferee Company in accordance with the provision of Section 232(3)(i) of the Companies Act, 2013.



k) The Official Liquidator, High Court Bombay has filed his report dated 14.05.2018 stating therein that the affairs of the Transferor Company have been conducted in a proper manner and that Transferor Company may ordered to be dissolved without winding-up.

l) It is also stated that no objector has approached neither to the Petitioners nor before this Tribunal to oppose the Scheme.

8. From the material on record, the Scheme of Merger by Absorption appears to be fair and reasonable and is not violative of any provisions of law and is not contrary to public policy. And hereby this bench, to the Petitioner Company, **do Order that:**

a) All the assets and liabilities including taxes and charges, if any, and duties of the Transferor Company, shall, pursuant to S. 232 of the Company Act, 2013, be transferred to and become the liabilities and duties of the Transferee Company.

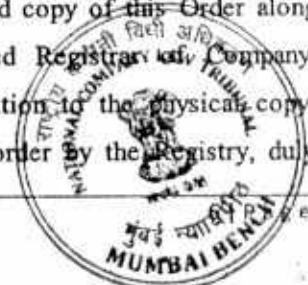
b) The clarifications and undertakings given by the Learned Counsel for the Petitioners to the observations made in the Report of the Regional Director are considered by this Bench and those are hereby accepted. Subsequently, this bench hereby directs petitioners to comply with the provisions/statements which the Petitioners undertakes herein.

c) Since the entire Issued, Subscribed and Paid-up Share Capital of the Transferor Company is held by the Transferee Company the Shares held by the Transferee Company in the Transferor Company shall stand cancelled, after this Scheme becomes effective and no new Shares shall be issued and allotted to the Shareholders of the Transferor Company.

d) The Transferor Company shall be dissolved without winding-up after this Scheme becomes effective.

e) Petitioner Companies are directed to lodge a certified copy of this Order along with a copy of the Scheme with the concerned Superintendent of Stamps for the purpose of adjudication of stamp duty payable, if any, within 60 days from the date of receipt of the order.

f) Petitioner Companies are directed to file a certified copy of this Order along with a copy of the Scheme with the concerned Registrar of Companies, electronically, along with E-form INC 28 in addition to the physical copy, within 30 days from the date of issuance of the order by the Registry, duly





certified by the Assistant Registrar, National Company Law Tribunal, Mumbai Bench.

- g) The Petitioner Companies shall pay costs of ₹ 25,000/- to the Regional Director, Western Region, Mumbai. The cost is to be paid within four weeks from the date of the receipt of Order.
- h) The Petitioner / Transferor Company shall pay costs of ₹ 25,000/- to the Official Liquidator, High Court Bombay. The cost is to be paid within four weeks from the date of the receipt of Order.
- i) All authorities concerned to act on a certified copy of this order along with Scheme duly certified by the Deputy Director or the Assistant Registrar, as the case may be, National Company Law Tribunal, Mumbai Bench.
- j) Any person interested shall be at liberty to apply to the Tribunal in the above matter for any direction that may be necessary.
- k) Any concerned Authority (i.e. RD, RoC, OL, Income Tax Authority etc.) is at liberty to approach this Bench for any clarification/directions under this Scheme.
- l) The sanctioning of this Scheme shall not deter any concerned Authority (i.e. RD, RoC, OL, Income Tax Authority etc.) from assessing transactions arising out of this Scheme, if need be.
- m) The Scheme is sanctioned hereby, and the appointed date of the Scheme is fixed as 1<sup>st</sup> April, 2017.

9. Ordered Accordingly. To be consigned to Records.


SD/-

M. K. SHRAWAT  
MEMBER (JUDICIAL)

Dated : 08.10.2018

Certified True Copy  
Date of Application 10.10.2018  
Number of Pages 7  
Fee Paid Rs 35  
Applicant called for collection copy on 16.10.2018  
Copy prepared on 16.10.2018  
Copy Issued on 16.10.2018

Avnash

  
Assistant Registrar  
National Company Law Tribunal, Mumbai Bench



Scheme of Amalgamation  
of  
Tayana Digital Private  
Limited  
with  
Jupiter Capital Private  
Limited





**SCHEME OF AMALGAMATION**  
**OF**  
**TAYANA DIGITAL PRIVATE LIMITED**  
**WITH**  
**JUPITER CAPITAL PRIVATE LIMITED**  
**AND**  
**THEIR RESPECTIVE SHAREHOLDERS AND CREDITORS**  
**(Under Sections 230 and 232 of the Companies Act, 2013)**

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**GENERAL**

**I. Purpose of Scheme**

This Scheme of Amalgamation (hereinafter referred to as "the Scheme" or "this Scheme") provides for the amalgamation of Tayana Digital Private Limited (hereinafter referred to as "the Transferor Company" or "TDPL") with Jupiter Capital Private Limited (hereinafter referred to as "the Transferee Company" or "JC") and their respective shareholders and creditors, pursuant to the provisions of Sections 230 and 232 of the Companies Act, 2013.

**II. Rationale for the Scheme**

TDPL is a subsidiary of JC in which JC holds 67.64%. The balance 32.36% of TDPL is held by Hindusthan Infrastructure Global Investments, Mauritius ("HIGI Mauritius"). HIGI Mauritius is a wholly owned subsidiary of Hindusthan Infrastructure Projects & Engineering Private Limited ("HIPE") which in turn is a wholly owned subsidiary of JC. TDPL was incorporated on March 13, 2008 and is engaged in the business of software development and its related services. The registered office of TDPL is situated at Mumbai. JC is a company registered in Bengaluru, having been incorporated on March 29, 2004. JC is a systemically important Non Deposit Accepting Non-Banking Finance Company ("NBFC - ND SI") which is primarily an investment and loan company. Besides this, the Transferee Company is also in the business of Air Charter, holding an NSOP license.



The integration, consolidation and amalgamation of TDPL with JC would *inter alia* have the following benefits:

1. Greater integration, financial strength and flexibility for the amalgamated entity, which would result in maximising overall shareholder value and will improve the competitive position of the combined entity.
2. Improved organizational capability and leadership, arising from the pooling of resources to compete successfully in an increasingly competitive industry.
3. Greater leverage in operations, planning and process, efficiency in cash management and unfettered access to cash flow generated by the combined business.
4. Cost savings are expected to flow from synergies achieved through joint operational efforts, rationalization, standardisation and simplification of business processes, administration, finance, accounts, legal and other related functions, leading to elimination of duplication and rationalization of administrative expenses.
5. Simplification of group structure.

In view of the aforesaid, the Board of Directors of the Transferor Company as well as the Board of Directors of the Transferee Company have considered and proposed the amalgamation of the entire business and undertaking of the Transferor Company with the Transferee Company in order to benefit the stakeholders of the Transferor Company and the Transferee Company.

Accordingly, the Board of Directors of the Transferor Company and the Transferee Company have formulated this Scheme for the transfer and vesting of the entire business and undertaking of the Transferor Company with the Transferee Company pursuant to the provisions of Sections 230 and 232 and other relevant provisions of the Companies Act, 2013.



III. **Parts of the Scheme**

The Scheme is divided into the following parts:

- (i) **Part A** - dealing with definitions of the terms used in this Scheme and the share capital of the Transferor Company and Transferee Company;
- (ii) **Part B** - dealing with the amalgamation of the Transferor Company with the Transferee Company;
- (iii) **Part C** - dealing with the accounting treatment for the amalgamation in the books of the Transferee Company; and
- (iv) **Part D** - dealing with the dissolution of the Transferor Company without winding up and the general terms and conditions applicable to this Scheme and other matters consequential and integrally connected thereto.



**PART A**

**DEFINITIONS AND SHARE CAPITAL**

**1 DEFINITIONS**

In this Scheme, unless repugnant or contrary to the context, the following expressions shall have the following meaning:

- 1.1 "Act" or "the Act" means the Companies Act, 2013, ordinances, rules and regulations made thereunder and shall include any statutory modifications, re-enactment or amendment thereof.
- 1.2 "Appointed Date" means April 1, 2017 or such other date as the NCLT may direct/ fix.
- 1.3 "Board of Directors" or "Board" means the Board of Directors of the Transferor Company or the Transferee Company, as the case may be, and shall include a duly constituted committee thereof.
- 1.4 "Business Information" means all information embodying know-how and other information relating to the business (whether or not confidential and no matter in what form held) including, without limitation, all designs, specifications, data, manual and instructions and all lists of customers, suppliers, agents and distributors, business plans and forecasts and all notices, correspondences, orders and enquiries and other documents, in connection with its business.
- 1.5 "Effective Date" means the last of the dates on which the certified copy of the order of the NCLT sanctioning the Scheme are filed with the Registrar of Companies, Maharashtra and Registrar of Companies, Karnataka by the Transferor Company and the Transferee Company respectively.
- 1.6 "Government Authority" means any applicable Central, State or local Government, legislative body, regulatory or administrative authority, agency or commission or any Court, Tribunal, board, bureau or instrumentality thereof or arbitration or arbitral body having jurisdiction.



- 1.7 **"JC" or "the Transferee Company"** means Jupiter Capital Private Limited, a company incorporated under the Companies Act, 1956, and having its registered office at No. 54, Richmond Road, Bengaluru, Karnataka - 560025.
- 1.8 **"NCLT"** means the National Company Law Tribunal, Bengaluru Bench and National Company Law Tribunal, Mumbai Bench having jurisdiction in relation to the Transferee Company and Transferor Company respectively.
- 1.9 **"Scheme" or "the Scheme" or "this Scheme"** means the Scheme of Amalgamation in its present form or with/without any modification(s) made under Clause 16 of this Scheme, as approved or directed by the NCLT.
- 1.10 **"TDPL" or "the Transferor Company"** means Tayana Digital Private Limited, a company incorporated under the Companies Act, 1956, and having its registered office at 1-B Ground Floor, Gold Coin Premises, Opposite Sobo Central, 35/23A Tardeo Road, Tardeo, Mumbai-400034.
- 1.11 **"Undertaking"** shall mean and include the whole of the undertaking of the Transferor Company, as a going concern, including its business, all secured and unsecured debts, liabilities, losses, duties and obligations and all the assets, properties, rights, titles and benefits, whether movable or immovable, real or personal, in possession or reversion, corporeal or incorporeal, tangible or intangible, present or contingent and including but without being limited to land and building (whether owned, leased, licensed), all fixed and movable plant and machinery, vehicles, fixed assets, work in progress, current assets, investments, reserves, provisions, funds, licenses, registrations, copyrights, patents, trade names, trademarks, marketing rights and other rights and licenses in respect thereof, applications for copyrights, patents, trade names, trademarks, leases, licenses, tenancy rights, premises, hire purchase and lease arrangements, lending arrangements, benefits of security arrangements, computers, office equipment, telephones, telexes, facsimile connections, internet connections, communication facilities, equipment and installations and utilities, electricity, water and other service connections, benefits of agreements, contracts and arrangements including but not limited to contracts entered into with vendors, customers and service



providers, powers, authorities, permits, allotments, approvals, consents, privileges, liberties, advantages, easements and all the right, title, interest, goodwill, benefit and advantage, deposits, reserves, provisions, advances, receivables, deposits, funds, cash, bank balances, accounts and all other rights, benefits of all agreements, subsidies, grants, tax credits (including but not limited to credits in respect of income tax, sales tax, value added tax, turnover tax, service tax, etc), tax refunds, MAT credit entitlement, if any, software license, domain/ websites etc., in connection/ relating to the Transferor Company and other claims and powers, of whatsoever nature and wheresoever situated belonging to or in the possession of or granted in favour of or enjoyed by the Transferor Company, as on the Appointed Date.

- 1.12 All terms and words not defined in this Scheme shall, unless repugnant or contrary to the context or meaning thereof, have the same meaning ascribed to them under the Act, and other applicable laws, rules, regulations, bye-laws, as the case may be or any statutory modification or re-enactment thereof from time to time.

## 2 CAPITAL STRUCTURE

- 2.1 The share capital of the Transferor Company as on March 31, 2017, was as under:

Authorised Capital	Amount Rs.
10,00,000 Equity shares of Rs.10/- each	1,00,00,000/-
Issued, Subscribed and Paid-Up Capital	Amount Rs.
10,00,000 Equity shares of Rs.10/- each fully paid-up	1,00,00,000/-

Subsequent to March 31, 2017 there has been no change in the authorised and issued share capital of the Transferor Company.

- 2.2 The share capital of the Transferee Company as on March 31, 2017, was as under:

Authorised Capital	Amount Rs.
4,60,00,000 Equity shares of Rs. 10/- each	46,00,00,000/-
Issued, Subscribed and Paid-Up Capital	Amount Rs.
50,19,720 Equity shares of Rs. 10/- each fully paid-up	5,01,97,200/-

Subsequent to March 31, 2017 there has been no change in the authorised and issued share capital of the Transferee Company.



**3 DATE OF TAKING EFFECT AND EFFECTIVE DATE**

The Scheme set out herein in its present form or with/without any modification(s) approved or imposed or directed by the NCLT or any other appropriate authority shall be effective from the Appointed Date but shall be operative from the Effective Date.



**PART B**

**AMALGAMATION OF THE TRANSFEROR COMPANY WITH THE TRANSFEREE COMPANY**

- 4 **TRANSFER AND VESTING OF THE ENTIRE UNDERTAKING OF THE TRANSFEROR COMPANY WITH THE TRANSFEREE COMPANY.**
- 4.1 Subject to the provisions of this Scheme as specified hereinafter and with effect from the Appointed Date, the entire business and undertaking of the Transferor Company including all the debts, liabilities, duties and obligations, including those arising on account of taxation laws and other allied laws, of the Transferor Company of every description and also including, without limitation, all the movable and immovable properties and assets (whether tangible or intangible) of the Transferor Company comprising, amongst others, all furniture and fixtures, computers/ data processing, office equipment, electrical installations, telephones, telex, facsimile and other communication facilities and business licenses, permits, authorisations, approvals, lease, tenancy rights, permissions, incentives, if any, and all other rights, patents, know-how, trademark, service mark, trade secret or other intellectual property rights, proprietary right, title, interest, contracts, consent, bank accounts, approvals and rights and powers of every kind, nature and description whatsoever, privileges, liberties, easements, advantages, benefits and approvals, shall, under the provisions of Sections 230-232 of the Act, and pursuant to the orders of the NCLT sanctioning this Scheme and without further act, instrument or deed, but subject to the charges affecting the same as on the Effective Date, be transferred and/or deemed to be transferred to and vested in the Transferee Company so as to become the debts, liabilities, duties, obligations, properties, assets, rights, business and undertaking of the Transferee Company.
- 4.2 With effect from the Appointed Date all debts, liabilities, duties and obligations of the Transferor Company as on the Appointed Date whether provided for or not in the books of account of the Transferor Company and all other liabilities which may accrue or arise after the Appointed Date but which relate to the period on or up to the day of the Appointed Date shall be the debts, liabilities, duties and obligations





of the Transferee Company including any encumbrance on the assets of the Transferor Company or on any income earned from those assets.

- 4.3 With effect from the Appointed Date all movable, immovable properties and assets (whether tangible or intangible) of the Transferor Company as on the Appointed Date whether provided for or not in the books of account of the Transferor Company and all other assets which may accrue or arise after the Appointed Date but which relate to the period on or up to the day of the Appointed Date shall be the assets of the Transferee Company.
- 4.4 With effect from the Appointed Date, balances of accounts arising from inter party transactions between the Transferor Company and the Transferee Company whether due and payable or receivable shall stand cancelled.
- 4.5 With effect from the Appointed Date, all the loans, advances and other obligations (including any guarantees, letters of credit, letters of comfort or any other instrument or arrangement which may give rise to a contingent liability in whatever form), if any, due or which may at any time in future become due between the Transferor Company and the Transferee Company shall, *ipso facto*, stand discharged and come to an end and there shall be no liability in that behalf on any party and appropriate effect shall be given in the books of accounts and records of the Transferee Company. It is hereby clarified that there will be no accrual of interest or other charges in respect of any inter-company loans, advances and other obligations between the Transferor Company and the Transferee Company with effect from the Appointed Date.
- 4.6 All the existing securities, mortgages, charges, encumbrances or liens, if any, as on the Appointed Date and created by the Transferor Company after the Appointed Date, over the assets comprised in the undertaking or any part thereof transferred to the Transferee Company by virtue of this Scheme and in so far as such securities, mortgages, charges, encumbrances or liens secure or relate to liabilities of the Transferor Company, the same shall, after the Effective Date, continue to relate and attach to such assets or any part thereof to which they are related or attached prior to the Effective Date and as are transferred to the Transferee Company, and such securities, mortgages, charges, encumbrances or liens shall not relate or



attach to any of the other assets of the Transferee Company, provided however that no encumbrances shall have been created by the Transferor Company over its assets after the date of filing of the Scheme without the prior written consent of the Board of Directors of the Transferee Company.

- 4.7 All the existing encumbrances over the assets and properties of the Transferee Company or any part thereof which relate to the liabilities and obligations of the Transferee Company prior to the Effective Date shall continue to relate only to such assets and properties and shall not extend or attach to any of the assets and properties of the Transferor Company transferred to and vested in the Transferee Company by virtue of this Scheme.
- 4.8 It is expressly provided that, save as herein provided, no other term or condition of the liabilities transferred to the Transferee Company is modified by virtue of this Scheme except to the extent that such amendment is required statutorily or by necessary implication.
- 4.9 With effect from the Appointed Date, all statutory licences, registrations, permissions, incentives, tax deferrals and benefits, carry-forward of tax losses, tax credits, tax refunds, subsidies, concessions, grants, rights, claims, leases, tenancy rights, liberties, permissions, approvals or consents to carry on the operations of the Transferor Company, special status and other benefits or privileges enjoyed or conferred upon or held or availed of by any of the Transferor Company and all rights and benefits that have accrued or which may accrue to any of the Transferor Company, whether before or after the Appointed Date shall stand vested in or transferred to the Transferee Company, pursuant to the Scheme, without any further act or deed and shall remain valid, effective and enforceable on the same terms and conditions and shall be appropriately mutated by the statutory authorities concerned in favour of the Transferee Company upon the vesting and transfer of the entire business and undertaking of the Transferor Company pursuant to this Scheme. The benefit of all statutory and regulatory permissions and approvals, factory licences, environmental approvals and consents, if any, sales tax registrations or other licences and consents shall vest in and become available to the Transferee Company pursuant to this Scheme.



4.10 The amalgamation of the Transferor Company with the Transferee Company, pursuant to and in accordance with this Scheme, shall take place with effect from the Appointed Date and shall be in accordance with Section 2(1B) of the Income - tax Act, 1961.

## 5 CONSIDERATION

5.1 The entire equity share capital of TDPL is held by JC and HIGI Mauritius. HIGI Mauritius is a wholly owned subsidiary of HIPE which in turn is a wholly owned subsidiary of JC. Accordingly, pursuant to the amalgamation of TDPL into JC, no new shares to JC shall be allotted. Further, HIGI Mauritius being an indirect wholly owned subsidiary of JC, no shares to be issued by JC to HIGI Mauritius as consideration for merger.

5.2 The investments in the shares of TDPL, appearing in the books of account of JC and HIGI Mauritius shall, without any further act or deed, stand cancelled.

5.3 The shares or the share certificates of TDPL, in relation to the shares held by its members and its nominees, shall without any further application, act, instrument or deed be deemed to have been automatically cancelled and be of no effect on and from the Effective Date.

## 6 LEGAL PROCEEDINGS

6.1 Any suit, appeal or other proceedings of whatever nature by or against the Transferor Company if pending as on the Appointed Date, the same shall not abate or be discontinued or in any way be prejudicially affected by reason of or by anything contained in this Scheme, but the said suit, appeal or other legal proceedings may be continued, prosecuted and enforced by or against the Transferee Company, as the case may be, in the same manner and to the same extent as it would or might have been continued, prosecuted and enforced by or against the Transferor Company as if this Scheme had not been made.

6.2 In case of any litigation, suits, recovery proceedings which are to be initiated or may be initiated against the Transferor Company after the Appointed Date, the



Transferee Company shall be made party thereto and any payment and expenses made thereto shall be the liability of the Transferee Company.

- 6.3 On and from the Effective Date, the Transferee company may, if required, initiate or defend any legal proceedings in relation to the rights, title, interest, obligations or liabilities of any nature whatsoever, whether under contract or law or otherwise, of the Transferor Company and to the same extent as would or might have been initiated by or defended by the Transferor Company.
- 6.4 All cheques and other negotiable instruments and payment orders received in the name of the Transferor Company after the Effective Date shall be accepted by the bankers of the Transferee Company and credited to the account of the Transferee Company. Similarly, the banker of the Transferee Company shall honour cheques issued by the Transferor Company for payment on or after the Appointed Date and presented after the Effective Date.

#### 7. **CONTRACTS, DEEDS AND OTHER INSTRUMENTS**

- 7.1 Subject to the other provisions of this Scheme, all contracts, deeds, bonds, insurance, letters of intent, arrangements, policies, agreements and other instruments, if any, of whatsoever nature pertaining to the Transferor Company and to which the Transferor Company is a party and subsisting or having effect on the Effective Date, including all rights, duties, interests and obligations thereunder, shall be in full force and effect against or in favour of the Transferee Company, as the case may be, and may be enforced by or against the Transferee Company as fully and effectually as if, instead of the Transferor Company, the Transferee Company had been a party thereto.
- 7.2 The Transferee Company shall enter into and/or issue and/or execute deeds, writings or confirmations or enter into any tripartite arrangements, confirmations or novation, to which the Transferor Company will, if necessary, also be party in order to give formal effect to the provisions of this Scheme, if so required or becomes necessary. The Transferee Company shall be deemed to be authorised to execute any such deeds, writings or confirmations on behalf of the Transferor Company and to implement or carry out all formalities required on the part of the Transferor Company to give effect to the provisions of this Scheme.



8. **STAFF AND EMPLOYEES OF THE TRANSFEROR COMPANY**

- 8.1 On the Scheme becoming effective, all staff and employees of the Transferor Company in service on the Effective Date shall be deemed to have become staff, workmen and employees of the Transferee Company with effect from the Appointed Date or date of joining of the respective staff, workmen and employees, whichever is later, without any break or interruption in their service and on the basis of continuity of service, and the terms and conditions of their employment with the Transferee Company shall not be less favourable than those applicable to them with reference to their employment with the Transferor Company on the Effective Date.
- 8.2 It is expressly provided that, on the Scheme becoming effective, the provident fund, gratuity fund, superannuation fund or any other special fund or trusts, if any, created or existing for the benefit of the staff, workmen and employees of the Transferor Company shall become trusts/ funds of the Transferee Company for all purposes whatsoever in relation to the administration or operation of such fund or funds or in relation to the obligation to make contributions to the said fund or funds in accordance with the provisions thereof as per the terms provided in the respective trust deeds, if any, to the end and intent that all rights, duties, powers and obligations of the Transferor Company in relation to such fund or funds shall become those of the Transferee Company. It is clarified that, for the purpose of the said fund or funds, the services of the staff, workmen and employees of the Transferor Company will be treated as having been continuous with the Transferee Company from the date of employment as reflected in the records of the Transferor Company.

9. **TAXATION MATTERS**

- 9.1 All taxes paid or payable by the Transferor Company in respect of the operations and/or the profits before the Effective Date under Applicable Law, shall be on account of the Transferor Company and, in so far it relates to the tax payment (whether by way of deduction at source, advance tax or otherwise howsoever) by the Transferor Company in respect of the profits made from and after the



Appointed Date, the same shall be deemed to be the tax paid by the Transferee Company, and shall, in all proceedings, be dealt with accordingly.

- 9.2. All taxes of any nature, duties, cesses or any other like payments or deductions made by the Transferor Company or any of its agents to any statutory authorities such as Income tax, sales tax, and service tax, or any tax deduction/ collection at source, tax credits under Tax Laws, relating to the period after the Appointed Date shall be deemed to have been on account of or paid by the Transferee Company, and the relevant authorities shall be bound to transfer to the account of and give credit for the same to the Transferee Company upon the Effective Date and upon relevant proof and documents being provided to the said authorities.
- 9.3. The Transferee Company shall be allowed to carry-forward unexpired tax holiday benefits, incentives, etc. of the Transferor Company for the remaining period, subject to fulfilment of conditions provided under the relevant tax laws.





**PART C**

**ACCOUNTING TREATMENT FOR THE AMALGAMATION IN THE BOOKS OF  
THE TRANSFEREE COMPANY**

**10. ACCOUNTING TREATMENT**

- 10.1 On the Scheme becoming effective, the accounting for the amalgamation would be done in accordance with the "*Purchase Method*" referred in Accounting Standard 14 - Accounting for Amalgamation (AS 14) issued by the Institute of Chartered Accountants of India and notified by the National Advisory Committee on Accounting Standards, Ministry of Corporate Affairs as amended from time to time. Accordingly, the Transferee Company shall account for the Scheme in its books of account with effect from the Appointed Date as under:
- a. The Transferee Company shall, record all the assets and liabilities of the Transferor Company transferred and vested in the Transferee Company pursuant to this Scheme at their fair values.
  - b. The investments in the books of the Transferee Company pertaining to the Transferor Company shall stand cancelled pursuant to the Scheme.
  - c. Any inter-company balances between the Transferor Company and the Transferee Company shall stand cancelled.
  - d. The difference, being the excess of the value of the assets over liabilities, of the Transferor company and Transferee company, after taking into account (a), (b) and (c) above, transferred to and vested in the Transferee Company pursuant to the Scheme, shall be credited to General Reserve/Capital Reserve Account. In case of there being a deficit, the same shall be debited to Goodwill Account.
  - e. In case of any differences in accounting policies between the Transferee Company and the Transferor Company, the accounting policies followed by the Transferee Company shall prevail to ensure that the Financial Statements reflect the financial position on the basis of consistent accounting policies.
  - f. On or before the Effective Date, if the Transferor Company is required to follow the Companies (Indian Accounting Standards) Rules, 2015 for preparation and presentation of its financial statements, due to any of the requirements prescribed under the rules, the Transferor Company shall continue to be governed by the Companies (Accounting Standards) Rules, 2006 and shall continue to apply the same for the preparation and presentation of its financial statements till the Effective Date.



**11. TRANSACTIONS BETWEEN APPOINTED DATE AND EFFECTIVE DATE**

With effect from the Appointed Date and up to the Effective Date:

- 11.1 The Transferor Company shall carry on and be deemed to have carried on their business and activities and shall be deemed to have held and stood possessed of and shall hold and stand possessed of their entire business and undertaking for and on account of and in trust for the Transferee Company;
- 11.2 The Transferor Company shall not do or cause to do any act or deed whatsoever which may be detrimental or adversely affect the business interests of the Transferee Company pre and post amalgamation;
- 11.3 The Transferor Company shall carry on its business and activities in the ordinary course of business with reasonable diligence and business prudence;
- 11.4 All the profits or income accruing or arising to the Transferor Company or expenditure or losses arising or incurred by the Transferor Company shall for all intent and purposes be treated and deemed to be and accrue as the profits or income or expenditure or losses (as the case may be) of the Transferee Company; and
- 11.5 The Transferee Company shall be entitled, pending the sanction of the Scheme, to apply to the Central Government and all other agencies, departments and authorities concerned as are necessary under any law for the time being in force such consents, approvals and sanctions which the Transferee Company may require to carry on the business of the Transferor Company.

**12. INCREASE IN AUTHORIZED SHARE CAPITAL OF THE TRANSFEE COMPANY**

- 12.1 Upon the Scheme becoming effective, the authorized share capital of the Transferor Company shall stand combined with the authorized share capital of the Transferee Company. Filing fees and stamp duty, if any, paid by the Transferor Company on its authorized share capital, shall be deemed to have been so paid by the Transferee Company on the combined authorized share capital and accordingly, the Transferee Company shall not be required to pay any fee/ stamp





duty for its increased authorized share capital. However, the Transferee Company shall file the requisite forms and fresh Memorandum and Articles of Association with the Registrar of Companies.

12.2 The authorized capital of the Transferee Company shall stand increased to Rs.47,00,00,000/- (Rupees Forty Seven Crores only) divided into 4,70,00,000 (Four Crore Seventy Lakhs) Equity Shares of Rs.10/- each, being the aggregate of the authorized capital of the Transferee Company and the Transferor Company.

12.3 Accordingly, Clause V of the Memorandum of Association of the Transferee Company will read as follows:

*"V. The authorised share capital of the Company is Rs.47,00,00,000/- (Rupees Forty Seven Crores only) divided into 4,70,00,000 (Four Crore Seventy Lakhs) equity shares of Rs.10/- (Rupees Ten) each with the power to increase, reduce, alter, modify and/or divide the share capital of the Company for the time being into several classes and to attach thereto respectively, such preferential qualities or special rights, privileges or conditions as may be determined by or in accordance with the Articles of the Company for the time being and to modify or abrogate any such rights, privileges or conditions in such manner as may be permitted by the Act or provided by the Articles of Association of the Company."*

12.4 The approval of this Scheme by the shareholders of the Transferee Company, whether at a meeting or otherwise, shall be deemed to have the approval under relevant provisions of the Act and any other consents and approvals required in this regard.

### 13. SAVING OF CONCLUDED TRANSACTIONS

The transfer of properties and liabilities under Clause 4 above and the continuance of proceedings by or against the Transferor Company under Clause 6 above shall not affect any transaction or proceedings already concluded by the Transferor Company on or after the Appointed Date till the Effective Date, to the end and intent that the Transferee Company accepts and adopts all acts, deeds and things done and executed by the Transferor Company in respect thereto as done and executed on behalf of the Transferee Company.



**PART D**

**DISSOLUTION OF THE TRANSFEROR COMPANY WITHOUT WINDING UP  
AND THE GENERAL TERMS AND CONDITIONS APPLICABLE TO THIS  
SCHEME**

**14. DISSOLUTION OF THE TRANSFEROR COMPANY WITHOUT WINDING UP**

On the Scheme becoming Effective, the Transferor Company shall without any further act or deed, stand dissolved without being wound up.

**15. APPLICATION TO NCLT**

The Transferee Company and the Transferor Company shall, with all reasonable dispatch, make applications to the respective NCLT, within whose jurisdiction the registered offices of the Transferor Company and the Transferee Company are situated, for sanctioning the Scheme with or without modifications under Sections 230-232 and other provisions of the Act, and for dissolution of the Transferor Company without being wound up.

**16. MODIFICATION OR AMENDMENTS TO THE SCHEME**

The Transferee Company and the Transferor Company by their respective Board of Directors, or any person(s) or committee authorised/ appointed by them, may carry out or assent to any modifications/ amendments to the Scheme or to any conditions or limitations that the NCLT and/ or any other authority may deem fit to direct or impose or which may otherwise be considered necessary, desirable or appropriate by them (i.e., the Board of Directors or the person(s)/ committee). The Transferee Company and the Transferor Company by their respective Board of Directors, or any person(s) or committee authorised shall be authorised to take all such steps as may be necessary, desirable or proper to resolve any doubts, difficulties or questions whatsoever for carrying on the Scheme into effect, whether by reason of any directive or orders of any other authorities or otherwise howsoever arising out of or under or by virtue of the Scheme and/ or any matter concerned or connected therewith.



**17. CONDITIONALITY OF THE SCHEME**

This Scheme is and shall be conditional upon and subject to:

- 17.1 The Scheme being approved by the requisite majorities in number and value of such classes of persons including the respective members and/or creditors of the Transferor Company and the Transferee Company as may be directed by the NCLT.
- 17.2 Sanctions and Orders under the provisions of Sections 230-232 of the Act, being obtained by the Transferor Company and the Transferee Company from the NCLT.
- 17.3 All other sanctions and approvals as may be required by law in respect of this Scheme being obtained.
- 17.4 This Scheme although to come into effect from the Appointed Date, shall not become operative till the date on which necessary certified / authenticated copies of order under Sections 230-232 of the Act, shall be duly filed with the Registrar of Companies, Maharashtra by the Transferor Company and the Registrar of Companies, Karnataka by the Transferee Company.

**18. EFFECT OF NON-RECEIPT OF APPROVALS**

- 18.1 In the event any of the approvals or conditions enumerated in the Scheme not being obtained or complied with, or for any other reason, the Scheme cannot be implemented, the Board of Directors of the Transferee Company and the Transferor Company shall mutually waive such conditions as they consider appropriate to give effect, as far as possible, to this Scheme and failing such mutual agreement, or in case the Scheme is not sanctioned by the NCLT, the Scheme shall become null and void and each party shall bear and pay their respective costs, charges and expenses in connection with the Scheme.
- 18.2 Further, in case of the non- receipt of approvals to the Scheme, no rights and liabilities whatsoever shall accrue to or be incurred inter se by the Transferor Company or the Transferee Company or their shareholders or creditors or employees or any other person.



19. **COSTS, CHARGES AND EXPENSES**

All costs, charges, taxes including duties, levies and all other expenses, (including stamp duty if any) (save as expressly otherwise agreed) of the Transferor Company and the Transferee Company arising out of or incurred in carrying out and implementing this Scheme and matters incidental thereto shall be borne by the Transferee Company.

Certified True Copy

Date of Application 10.10.2018

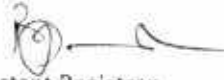
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Applicant called for collection copy on 16.10.2018

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Copy Issued on 16.10.2018



Assistant Registrar

National Company Law Tribunal, Mumbai Bench



BEFORE THE NATIONAL COMPANY LAW TRIBUNAL

BENCH, AT MUMBAI

C.P(C.A.A.)/86/MB/2018

IN

CSA NO 966 OF 2017

In the matter of the Companies Act,  
2013

AND

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

AND

In the matter of Scheme of  
Amalgamation of Tayana Digital Private  
Limited ('the Transferor Company' or  
'TDPL') with Jupiter Capital Private  
Limited ('the Transferee Company' or  
'JC') and their respective shareholders

**TAYANA DIGITAL PRIVATE LIMITED.....Petitioner Company**

**(Transferor Company)**

CERTIFIED COPY OF ORDER DATED 8<sup>TH</sup> DAY OF  
OCTOBER 2018 AND THE SCHEME ANNEXED TO THE  
PETITION



HEMANT SETHI & CO

ADVOCATES FOR PETITIONER

9820244453