



**NATIONAL COMPANY LAW TRIBUNAL,
COURT 5, MUMBAI BENCH**

C.P.(CAA)/245(MB-V)/2022

Connected with

C.A.(CAA)/255(MB-V)/2022

In the matter of
Companies Act, 2013

AND

In the matter of

Companies Act, 2013 (18 of 2013) and
Section 230-232 of the Companies Act,
2013 along with other applicable
provisions of the Companies Act, 2013
read with the Companies
(Compromises, Arrangements and
Amalgamations) Rules, 2016;

In the matter of

Scheme of Amalgamation of
TELESMART SCS LIMITED, the
Transferor Company and DIGISOL
SYSTEMS LIMITED, the Transferee
Company and their respective
shareholders and creditors

TELESMART SCS LIMITED

U31900GA2016PLC013046

... Petitioner Company No. 1/Transferor Company

DIGISOL SYSTEMS LIMITED

U31909GA2016PLC012970

... Petitioner Company No. 2/ Transferee Company





Order delivered on **3rd March, 2023**

Coram:

Hon'ble Shri. Kuldip Kumar Kareer, Member (Judicial)

Hon'ble Smt. Anuradha Sanjay Bhatia, Member (Technical)

Appearances (via videoconferencing):

For the Petitioners : Mr Ahmed M Chunawala, i/b
Rajesh Shah & Co, Advocates

For the Regional Director (WR) : Ms. Rupa Sutar, Authorized
Representative of Regional
Director, MCA (WR), Mumbai

ORDER

Per: Anuradha Sanjay Bhatia, Member (Technical)

1. The Bench is convened by videoconference today. (03.03.2023).
2. Heard the Learned Counsel for the Petitioner Companies. No objector has come before this Tribunal to oppose the Scheme of Amalgamation and nor has any party controverted any averments made in the Petitions to the said Scheme.
3. The sanction of the Tribunal is sought under Sections 230 to 232 of the Companies Act, 2013 and other relevant provisions of the Companies Act, 2013 and the rules framed there under for the Scheme of Amalgamation between **TELESMART SCS LIMITED**, the Transferor Company and **DIGISOL SYSTEMS LIMITED**, the Transferee Company and their respective shareholders and creditors.
4. The Petitioner Companies have approved the said Scheme of Amalgamation by passing the Board Resolutions dated 17th August 2022 which are annexed to the Company Scheme Petition.





5. The Learned Advocate appearing on behalf of the Petitioner Companies states that the Company Scheme Petition have been filed in consonance with the Order passed in the Company Scheme Application No. 255 of 2022 of the Hon'ble Tribunal.
6. The Learned Advocate appearing on behalf of the Petitioner Companies further states that the Petitioner Companies have complied with all requirements as per directions of the National Company Law Tribunal, Mumbai Bench and they have filed necessary affidavits of compliance in the National Company Law Tribunal, Mumbai Bench.
7. The Learned Counsel for the Petitioner Companies states that the First Petitioner Company/ Transferor Company presently is engaged is business of manufacturing wide range of passive networking (SCS) products and is in the business of developing and manufacturing of copper and fiber range of cabling products and that the Second Petitioner Company/ Transferee Company presently is a brand product company that caters to sales, marketing, service and support of the 'Digisol' brand of active and passive (structured cabling) products and solutions.
8. The rationale and benefits for the Scheme of Amalgamation of the Petitioner Companies is:

Smartlink Holdings Limited holds 80% of Transferor Company and Mr. Ray Chang and Telebox Industries Corp hold 10% each. The Transferee Company is wholly owned subsidiary company of Smartlink Holdings Limited. With a view to consolidate group entities, the management of Transferor and Transferee Company are proposing to merge, which would derive the following benefits for the stakeholders

- a) *The amalgamation will enable consolidation of the business and operations of the Transferor and the Transferee Company which*





will provide significant impetus to growth by permitting pooling of resources, enable synergies, reduce operational costs, achieve economies of scale, increase operational efficiencies and greater focus and provide expansion opportunities in a consolidated and compliant manner.

b) The amalgamation will enable optimum utilisation of various resources to the amalgamated company.

c) The proposed amalgamation will lead to a significant reduction in the multiplicity of legal and regulatory compliances required at present to be carried out by Transferor and Transferee Company and also avoid duplication of administrative functions and eliminate multiple record-keeping.

9. The Regional Director has filed his Report dated 21st February 2023 *inter-alia* making the following observations in Paragraphs 2 (a) to (h) which are reproduced hereunder:

Para	Observation by the Regional Director	Undertaking of the Petitioner Company/ Rejoinder
2 (a)	That on examination of the report of the Registrar of Companies, Goa dated 11.01.2023 for Petitioner Companies (Annexed as Annexure A-1) that the Petitioner Companies falls within the jurisdiction of ROC, Goa. It is submitted that no complaint and /or representation regarding the proposed scheme of Amalgamation has been received against the Petitioner	So far as the observation in paragraph 2 (a) of the Report of the Regional Director is concerned, the Learned Counsel for the Petitioner Companies submits that the Transferee Company have created the charge to take limits from HDFC Bank for working capital. The said charge will be continued by the Transferee Company post amalgamation. Further, all the compliance as per Companies Act, 2013 have





<p>Companies. Further, the Transferor Company (Telesmart SCS Limited) has filed Annual Return and Financial Statements as on 31.03.2022, Transferee Company (Digisol Systems Limited) has filed Annual Return and Financial Statements as on 31.03.2022. The ROC has further submitted that in his report dated 11.01.2023, which are as under: -</p> <p>i) That the ROC Pune in his report dated 11.01.2023 has also stated that no Inquiry, inspection, investigation, technical scrutiny & prosecution is pending against the subject applicant company.</p> <p>ii) Further ROC has mentioned as follows: As per MCA records Transferee company shows Active charges as as mentioned below:</p> <table border="1" style="width: 100%;"><thead><tr><th>Date Of Creation</th><th>Date Of last Modification</th><th>Date Of satisfaction</th><th>Amount Secured</th></tr></thead><tbody><tr><td> </td><td> </td><td> </td><td> </td></tr></tbody></table>	Date Of Creation	Date Of last Modification	Date Of satisfaction	Amount Secured					<p>been complied by the Transferee Company.</p>
Date Of Creation	Date Of last Modification	Date Of satisfaction	Amount Secured						





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May be decided on merits.
Hence, the Petitioner Company shall undertake to submit detail reply against observations mentioned above.

2 (b) Transferee company should undertake to comply with the provisions of section 232(3)(i) of the Companies Act, 2013 through appropriate affirmation in respect of fees payable by Transferee Company for increase of share capital on account of merger of transfer of companies.

2 (c) In compliance of Accounting Standard-14 or IND-AS 103, as may be applicable, the transferee company shall pass such accounting entries which are necessary in connection with the scheme to comply with other applicable Accounting Standards

So far as the observation in paragraph 2 (b) of the Report of the Regional Director is concerned, the Learned Counsel for the Petitioner Companies undertakes that Transferee company shall pay applicable fees, if any, for increase in authorised share capital on account of merger of the Transferor Company in accordance with provisions of section 232(3)(i) of the Companies Act, 2013.

So far as the observation in paragraph 2 (c) of the Report of the Regional Director is concerned, the Learned Counsel for the Petitioner Companies submits that the Transferee Company undertakes that in addition to compliance of AS-14 for accounting treatment, the





	including AS-5 or IND AS-8 etc	Transferee Company shall pass such accounting entries as may be necessary in connection with the Scheme to comply with other applicable Accounting Standards including AS-5 or IND AS-8, etc. as may be applicable.
2 (d)	The Hon'ble Tribunal may kindly direct the Petitioner Companies to file an affidavit to the extent that the Scheme enclosed to the Company Application and Company Petition are one and same and there is no discrepancy, or no change is made.	So far as the observation in paragraph 2 (d) of the Report of the Regional Director is concerned, the Learned Counsel for the Petitioner Companies undertakes that the Scheme enclosed to the Company Application and Company Petition are one and same and there is no discrepancy, or no change is made.
2 (e)	The Petitioner Companies 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 the Amalgamation or arrangement. Further, the approval of the scheme by the Hon'ble Tribunal may not deter such authorities to deal with any of the issues arising after giving	So far as the observation in paragraph 2 (e) of the Report of the Regional Director is concerned, the Learned Counsel for the Petitioner Companies submits that the Petitioner companies have complied with the provisions of section 230(5) of the Companies Act 2013 and notice to all the concerned authorities was served as per the order of Hon'ble National





	<p>effect to the scheme. The decision of such authorities shall be binding on the petitioner companies concerned.</p>	<p>Company Law Tribunal, Mumbai Bench. Affidavit of service for serving notice to all the concerned authorities was also filed with the Hon'ble National Company Law Tribunal, Mumbai Bench. The Counsel for the Petitioner Companies further submits that the approval of the scheme by the 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 shall be binding on the Petitioner Companies concerned.</p>
2 (f)	<p>As per the Definition of the Scheme.</p> <p>"Appointed Date "means 1st April, 2022 or such other date directed by or stipulated by the Tribunal, as may be applicable.</p> <p>"Effective Date" means the last dates on which the sanctions/approvals or orders as mentioned in Clause 18 of the Scheme is obtained and /or filed by TSL and DSL with the ROC and other</p>	<p>So far as the observation in paragraph 2 (f) of the Report of the Regional Director is concerned, the Petitioner Companies through their Counsel submits that the Appointed Date is 1st April, 2022 or such other date directed by or stipulated by the Tribunal, as may be applicable. The Counsel for the Petitioner further submits that the Petitioner will comply with the requirements as clarified vide</p>





	<p>Governmental Authorities, as may be required. Any references in this Scheme to the "date of coming into effect of this Scheme" or "effectiveness of the Scheme" or "Scheme taking effect" shall mean the Effective Date.</p> <p>It is submitted that the Petitioners may be asked to comply with the requirements as canted vide circular no F. No. 7/12/2019/CL-I dard 21.08.2019 issued by the Ministry of Corporate Affair</p>	<p>circular no. F. No.7/12/2019/CL-1 dated 21.08.2019 issued by the Ministry of Corporate Affairs.</p>
2(g)	<p>Petitioner Companies shall undertake to comply with the directions of Income tax department, if any</p>	<p>So far as the observation in paragraph 2 (g) of the Report of the Regional Director is concerned, the Learned Counsel for the Petitioner Companies submits that the Petitioner Company shall ensure compliance with the directions of Income Tax Department, if any.</p>
2(h)	<p>Petitioner Companies shall undertake to comply with the directions of the concerned sectoral Regulatory, at so required.</p>	<p>So far as the observation in paragraph 2 (h) of the Report of the Regional Director is concerned, the Learned Counsel for the Petitioner Companies submits that the Petitioner</p>





		Company shall ensure compliance with the directions of the concerned sectoral Regulatory, if so required.
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10. The observations made by the Regional Director have been explained by the Petitioner Companies in Para 9 above.
11. Ms. Rupa Sutar, Authorised representative of the Regional Director, MCA (WR), Mumbai who is present at the time of Final hearing has submitted that the clarifications, submissions and undertakings given by the Petitioner Companies are hereby accepted and that they have no objection for approving the scheme by the Tribunal.
12. The Official Liquidator has filed his report on 22nd February, 2023 in the Company Scheme Petition No. 245 of 2022, inter alia, stating therein that the affairs of the Transferor Company have been conducted in a proper manner not prejudicial to the interest of the shareholders of the Transferor Company and that the Transferor Company may be ordered to be dissolved by this Tribunal.
13. From the material on record, the Scheme of Amalgamation appears to be fair and reasonable and is not violative of any provisions of law and is not contrary to public policy.
14. Since all the requisite statutory compliances have been fulfilled, Company Scheme Petition No. 245 of 2022 is made absolute in terms of Point 26 clauses (a) to (f) of the said Company Scheme Petition.
15. The First Company be dissolved without winding up.
16. Petitioner Companies are directed to file a copy of this Order along with a copy of the Scheme of Amalgamation and Arrangement with the concerned Registrar of Companies, electronically along with E-





Form INC-28, in addition to physical copy within 30 days from the date of receipt of the Order from the Registry.

17. The Petitioner Companies to lodge a copy of this Order and the Scheme duly authenticated by the Deputy Registrar or Assistant Registrar, National Company Law Tribunal, Mumbai Bench, with the concerned Superintendent of Stamps, for the purpose of adjudication of stamp duty payable within 60 days from the date of receipt of the Order, if any.
18. All authorities concerned to act on a copy of this Order along with the Scheme of Amalgamation duly authenticated by the Deputy Director or Assistant Registrar, National Company Law Tribunal, Mumbai.
19. The Appointed Date is 1st April 2022.
20. Ordered Accordingly. C.P.(CAA)/245(MB-V)/2022 Connected with C.A.(CAA)/255(MB-V)/2022 is **allowed** and disposed of.


SD/-

Anuradha Sanjay Bhatia
Member (Technical)

SD/-

Kuldip Kumar Kareer
Member (Judicial)

Certified True Copy _____
Date of Application 03/03/2023
Number of Pages 11
Fee Paid Rs. 55/-
Applicant called for collection copy on 21/04/2023
Copy prepared on 21-4-2023
Copy Issued on 21/04/2023


Deputy Registrar 21-4-2023
National Company Law Tribunal, Mumbai Bench



**SCHEME OF AMALGAMATION
OF
TELESMART SCS LIMITED
WITH
DIGISOL SYSTEMS LIMITED
AND
THEIR RESPECTIVE SHAREHOLDERS AND CREDITORS**

**UNDER SECTIONS 230 TO 232 READ AND OTHER APPLICABLE PROVISIONS OF THE
COMPANIES ACT, 2013**



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A. PREAMBLE

This Scheme of Amalgamation ("the Scheme") is presented pursuant to the provisions of Sections 230 to 232 and other applicable provisions of the Companies Act, 2013 as may be applicable, for the amalgamation of Telesmart SCS Limited with Digisol Systems Limited.

B. BACKGROUND & DESCRIPTION OF THE COMPANIES

1. Telesmart SCS Limited (the "Transferor Company" or "TSL"), a public limited company, having CIN U31900GA2016PLC013046, incorporated under the provisions of the Companies Act, 2013 on 17 November 2016, has its registered office at L-5, V.I.E, Verna Industrial Estate, Verna Salcette, South Goa, Goa - 403722. TSL is engaged in the business of manufacturing wide range of passive networking (SCS) products and manufacturing of copper and fiber range of cabling products.
2. Digisol Systems Limited (the "Transferee Company" or "DSL"), an unlisted public company, having CIN U31909GA2016PLC012970, incorporated under the provisions of the Companies Act, 2013 on 17 August 2016, has its registered office at Plot no. L-7 Verna Industrial Estate, Verna Salcette, Goa - 403722. DSL is a brand product company that caters to sales, marketing, service and support of the 'Digisol' brand of active and passive (structured cabling) products and solutions.

C. RATIONALE AND PURPOSE OF THE SCHEME

Smartlink Holdings Limited holds 80% of TSL and Mr. Ray Chang and Telebox Industries Corp hold 10% each. DSL is a wholly owned subsidiary company of Smartlink Holdings Limited. With a view to consolidate group entities, the management of TSL and DSL are proposing to merge TSL and DSL, which would derive the following benefits for the stakeholders:

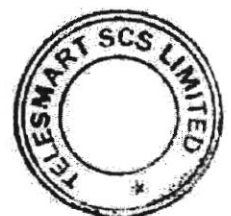
Benefits of amalgamation:

- a) The amalgamation will enable consolidation of the business and operations of TSL and DSL which will provide significant impetus to growth by permitting pooling of resources, enable synergies, reduce operational costs, achieve economies of scale, increase operational efficiencies and greater focus and provide expansion opportunities in a consolidated and compliant manner.
- b) The amalgamation will enable optimum utilisation of various resources to the amalgamated company (i.e. DSL).
- c) The proposed amalgamation will lead to a reduction in the multiplicity of legal and regulatory

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compliances required at present to be carried out by TSL and DSL and also avoid duplication of administrative functions and eliminate multiple record-keeping.

Accordingly, the Board of Directors of TSL and DSL have decided to make requisite applications and/or petitions before the Tribunal (hereinafter defined), as applicable under Sections 230 to 232 and other applicable provisions of the Act, for sanction of this Scheme, and the rules enacted thereunder.

D. PARTS OF THE SCHEME

The Scheme is divided into following parts

PART I deals with definitions and share capital

PART II deals with the amalgamation of TSL with DSL and matters incidental thereto

PART III deals with general terms and conditions that would be applicable to the Scheme

E. TREATMENT OF THE SCHEME FOR THE PURPOSES OF INCOME TAX ACT, 1961

The provisions of this Scheme have been drawn up to comply with the conditions relating to "Amalgamation" as defined under Section 2(1B) of the Income Tax Act, 1961. If, at a later date, any of the terms or provisions of the Scheme are found or interpreted to be inconsistent with the provisions of Section 2(1B) of the Income Tax Act, 1961, including as a result of an amendment of law or enactment of new legislation or any other reason whatsoever, the provisions of Section 2(1B) of the Income Tax Act, 1961, or a corresponding provision of any amended or newly enacted law, shall prevail and the Scheme shall stand modified to the extent determined necessary to comply with Section 2(1B) of the Income Tax Act, 1961.

PART I- DEFINITIONS AND SHARE CAPITAL

1. DEFINITIONS

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

- 1.1. "Act" or "the Act" means the Companies Act, 2013 and any rules, regulations, circulars or guidelines issued thereunder and shall, if the context so requires and as may be applicable, mean the Companies



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Act, 1956 and any rules, regulations, circulars or guidelines issued thereunder, as amended from time to time and shall include any statutory replacement or re-enactment thereof.

- 1.2. "Applicable Laws" means any statute, notification, bye-laws, rules, regulations, guidelines, policy, code, directives, ordinance, orders or instructions having the force of law enacted or issued by the Appropriate Authority including any statutory modification or re-enactment thereof for the time being in force.
- 1.3. "Appointed Date" means 1 April, 2022 or such other date directed by or stipulated by the Tribunal, as may be applicable.
- 1.4. "Board" or "Board of Directors" in relation to TSL and DSL, as the case may be, means the board of directors of such company, and shall include a Committee of Directors or any person authorized by the Board of Directors or any person authorized by such Committee of Directors for the purposes of matters pertaining to the amalgamation, under this Scheme or any other matter relating thereto.
- 1.5. "DSL" or "Transferee Company" means Digisol Systems Limited, an unlisted public limited company, having CIN U31909GA2016PLC012970, incorporated under the provisions of the Companies Act, 2013 on 17 August 2016, with its registered office at Plot no. L-7 Verna Industrial Estate, Verna Salcette, South Goa, Goa - 403722.
- 1.6. "Effective Date" means the last of the dates on which the sanctions /approvals or orders as mentioned in Clause 18 of the Scheme is obtained and / or filed by TSL and DSL with the ROC and other Governmental Authorities, as may be required. Any references in this Scheme to the "date of coming into effect of this Scheme" or "effectiveness of the Scheme" or "Scheme taking effect" shall mean the Effective Date.
- 1.7. "Governmental 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 over the territory of India and shall include any other authority which supersedes the existing authority.
- 1.8. "IT Act" means the Income-tax Act, 1961 including any statutory modifications, re-enactments or amendments thereto.
- 1.9. "National Company Law Tribunal" or "NCLT" or "Tribunal" means the National Company Law Tribunal, Mumbai Bench as constituted under the provisions of the Act.
- 1.10. "ROC" means the Registrar of Companies, Goa.



1.11. "Scheme" or "the Scheme" or "this Scheme" means this Scheme of Amalgamation in its present form or with any modification(s) approved or directed under Clause 17 of this Scheme or any modifications approved or directed by National Company Law Tribunal pursuant to the provisions of Sections 230 to 232 and other applicable provisions of the Act.

1.12. "SHL" means Smartlink Holdings Limited, a public limited company, having CIN L67100GA1993PLC001341, incorporated under the provisions of the Companies Act, 1956 on 31 March 1993, has its registered office at L-7, Verna Industrial Estate, Verna Salcette, South Goa, Goa - 403722,.

1.13. "TSL" or "Transferor Company" means Telesmart SCS Limited, a public limited company, having CIN U31900GA2016PLC013046, incorporated under the provisions of the Companies Act, 2013 on 17 November 2016, with its registered office at L-5, V.I.E, Verna Industrial Estate, Verna Salcette, South Goa, Goa 403722.

2. DATE OF TAKING EFFECT AND OPERATIVE DATE

The Scheme set out herein in its present form or with any modification(s) approved or imposed or directed by the Tribunal, unless otherwise specified in the Scheme, shall be operative from the Appointed Date but shall be effective from the Effective Date.

3. CAPITAL STRUCTURE

3.1. The authorised, issued, subscribed and paid-up share capital of TSL as per the audited financial statements for the year ended 31 March 2022 is as under:

Particulars	Amount (INR)
<u>AUTHORISED SHARE CAPITAL</u>	
36,00,000 Equity Shares of INR 10/- each	3,60,00,000
Total	3,60,00,000
<u>ISSUED, SUBSCRIBED AND PAID UP SHARE CAPITAL</u>	
36,00,000 Equity Shares of INR 10/- each	3,60,00,000
Total	3,60,00,000

Subsequent to 31 March 2022, there has been no change in authorised, issued, subscribed and paid-up share capital of TSL till the date of approval of this Scheme by the Board of TSL.

