

**THE NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, CHANDIGARH**

Item 20

**CA Nos. 265/2022, 8/2023, 9/2023,
29/2023, 48/2023, 56/2023
And
CP(CAA) No. 14/Chd/Hry/2022
(2nd Motion)**

**Under Section 230-232, CA 2013
R 11 NCLT Rules, 2016**

In the matter of:-

Nam Estates Pvt. Ltd.

...Transferor Companies

With

Indiabulls Real Estate Ltd.

...Transferee Companies

Present : Ms. Munisha Gandhi, senior advocate with Mr. Vaibhav Sharma, Advocate for the petitioner companies.

Mr. Anand Chibbar, Senior Advocate with Mr. Vaibhav Sahni, Dr. Misha Kumar and Ms. Sukriti Rai, Advocates for the non-applicant companies- transferor companies No. 1 and 2.

Mr. Yogesh Kumar Putney, Senior Standing Counsel for Income Tax Department.

Mr. M.M. Pandey, proxy counsel for Mr. K.V. Girish, Advocate for the intervenor/objector.

CP(CAA) No. 14/Chd/Hry/2022

1. Affidavits of the appointed valuer in compliance of the order dated 13.03.2023 & 01.03.2023 filed Diary Nos. 00293/18 and 00293/20, both dated 14.03.2023, respectively, are taken on record. Note in compliance with the order dated 01.03.2023 filed by learned counsel for the petitioner companies vide Diary No. 00293/21 dated 14.03.2023 is taken on record. Similarly, the compliance affidavit of the applicant companies filed by Diary No. 00293/22 dated 20.03.2023 is also taken on record.

CA Nos. 265/2022, 8/2023, 9/2023,
29/2023, 48/2023, 56/2023
And
CP(CAA) No. 14/Chd/Hry/2022
(2nd Motion)

2. Considering the complicated issues of valuation involved, this Bench appoints Dr. Debashis Mitra, FCA, (email: smitra101@gmail.com) as Amicus Curiae to go through the replies filed by the valuers and the note in compliance with our order dated 01.03.2023 by diary Nos. 00293/20 dated 14.03.2023, 00293/18 dated 14.03.2023 and other relevant material to assist us on the following issues:

1. *Whether a fair Equity swap ratio determined solely on the basis of information furnished by the management without the valuer making independent verification of the same and subsequently questioned by the Income Tax Department after a search and seizure operation be accepted as a basis of a credible amalgamation process.*
2. *Whether under the DCF method under the Income Approach, which is stated to have been adopted for the valuation of the assets of the amalgamating companies by the valuers, any factual inaccuracy in the material assumptions regarding the assets for the purpose of valuation will affect the final values of these assets considered for deciding the fair equity swap ratio of the amalgamating companies.”*
3. For this purpose, the contents of Para 4 and 6 of the affidavit of the appointed valuer filed by diary No. 293/20 dated 14.03.2023 and Para nos. 6, 10.1 & 10.2 of the affidavit filed by Diary No. 293/18 dated 14.03.2023 and also the note filed by Diary No. 293/21 dted 14.03.2023 are specifically brought to the notice of the learned amicus curiae for consideration. The amicus may give

his observations on the issues of valuation mentioned in the reports/submissions shared with him backed by relevant rules and regulations in the matter.

4. For this purpose, the Registry will share the documents/submissions as decided by this Bench with the amicus immediately.

5. After discussion with the counsel for Resolution Professional, the total fees for the amicus curiae is fixed at Rs. 2 Lakhs plus GST, and the report is to be submitted within 15 days of the receipt of this order. The Registry is directed to share a copy of the report of the amicus with the learned counsels for the parties immediately after receipt of the same.

List the matter on 14.04.2023 at 2:00 pm.

CA No. 56/2023

This application has been filed for placing on record some additional documents on record in CA Nos. 8/2023 and 9/2023. The same are taken on record subject to just exceptions. Let this IA be listed along with main petition on 14.04.2023 at 2:00 pm.

CA Nos. 265/2022, 8/2023, 9/2023, 29/2023 and 48/2023

List the matter on 14.04.2023 at 2:00 pm.

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(Subrata Kumar Dash)
Member (Technical)

-sd-

(Harnam Singh Thakur)
Member (Judicial)

March 23, 2023
SM