

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

Item 32

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

And

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

(2nd Motion)

Under Section 230-232, CA 2013

R 11 NCLT

In the matter of:-

Nam Estates Pvt. Ltd.

...Transferor Companies

With

Indiabulls Real Estate Ltd.

...Transferee Companies

Present :

Mr. Vaibhav Sharma and Ms. Salina Chalana, Advocates for the petitioner companies.

Mr. Anand Chhibbar, Senior Advocate with Ms. Sukriti Rai, Advocates for non-applicant-transferor companies No. 1 and 2.

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

Mr. K.V. Girish Chowdhary, Advocate for intervenor/objector in CA No. 192/2022.

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

Heard. the learned counsels for the parties. The petitioner may file any further clarification within one week. List on 23.03.2023 at 02:00 p.m.

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

1. Response to the Income Tax Department has been filed by diary no. 00293/17 dated 07.03.2023 is taken on record. An affidavit in compliance with the order dated 01.03.2023 has also been filed by diary no. 00293/19 dated 10.03.2023 is also taken on record.
2. The following directions extracted from our order dated 01.03.2023 have not been complied with :

“Both the valuers, Mr. Niranjana Kumar and Mr. Mander Vikas Gadkari, are directed to specifically state on the affidavit whether the assets of the company were independently verified with reference to the relevant records, the valuation done by them on the basis of which the Fair Equity Swap Ratio has been decided. xxxx

The learned senior counsel for the Petitioner Companies informed that the appointed date and the effective date in the present case are the same. In this context, the learned senior counsel is directed to file a note along with a judicial decision, if any,

Whether a share swap ratio done on the basis of information furnished by the management, which has been questioned after a search and seizure operation by the Income Tax Department, be accepted as a basis for a credible amalgamation process.

Whether under the DCF method under the Income Approach, which is stated to have been adopted for the valuation of the present amalgamating companies, any factual inaccuracy in the assumptions for the purpose of valuation will affect the final valuation for deciding the share swap ratio for the amalgamating companies.”

3. The aforesaid compliance affidavit by diary No. 293/19 dated 10.03.2023 is filed by an authorized signatory of the petitioner companies and not by the valuers whose valuation reports are on the record. Similarly, this affidavit does not answer the specific queries raised in our order dated 01.03.2023 and mentioned in the second paragraph as above.

4. One last opportunity is granted to the petitioner companies to comply with the directions of our order dated 01.03.2023 within one week. List on 23.03.2023.

Sd/-
(Subrata Kumar Dash)
Member (Technical)

Sd/-
(Harnam Singh Thakur)
Member (Judicial)

March 13, 2023
DS