

KEY CONCEPTS

- Small Company ■ Fast Track Merger ■ Appointed Date ■ Start up

Learning Objectives

To understand:

- Fast Track Mergers
- Basic Concepts around Fast Track Mergers
- Provisions of Companies Act, 2013 for Merger & Amalgamation
- Procedural Aspect of fast track mergers
- Post-Merger Effect

Lesson Outline

- Introduction
- Legal regime behind fast track mergers
- Small company
- Procedural aspects of fast track mergers
- Steps involved in fast track mergers
- Post-merger effect
- Lesson Round-Up
- Glossary
- Test Yourself
- List of Further Readings

REGULATORY FRAMEWORK

- The Companies Act, 2013
- The Companies (Compromises, Arrangements and Amalgamations) Rules 2016
- The National Company Law Tribunal Rules, 2016

INTRODUCTION

Mergers and Amalgamations (M&As) have become the buzz words in corporate echelons these days. It is the process of amalgamation of two or more entities / companies through inorganic means.

There may be different means and modes to affect this process. As a result of this process, a new entity may be formed or one entity may be subsumed by another. All the assets and liabilities of the amalgamating or the merging entity will transfer to the resultant entity.

Companies Act, 1956 did not provide a simple procedure for mergers and amalgamations of certain type of companies. It prescribed a cumbersome and time-consuming process for all companies irrespective of their size, net worth and turnover. The legal provisions pertaining to merger process were stipulated in sections 391-394 of the Companies Act, 1956. This procedure was perceived to be very confusing, complex and time-taking by all stakeholders involved in the process. The process involved, *inter alia*, drafting a merger scheme, taking judicial approval for the scheme, getting Board and shareholders authorisation, etc. It defeated the very purpose for which mergers were entered into and proved to be a deterrent for companies looking for collaborations, rather than a facilitator.

Small companies with fewer resources were also subject to same complex procedure. This was proving to be an obstacle in the way of their growth and expansion. Having the same procedure for merger for all companies was proving to be counter-productive. The complexities of the earlier regime gave rise to the need for a simplified procedure and a more efficient legal regime for merger process. This need was embedded in the following benefits which a fast track merger offered under Section 233 of the Companies Act, 2013:

- Simplified procedure for merger
- No judicial approval required
- Separate procedures for certain type of companies would enable them to expand without any roadblocks
- Form filings required also significantly reduced.

The Companies Act, 2013 replaced the earlier tedious process with a new concept called the 'fast track mergers'. Fast track mergers have dispensed with Tribunal approval for mergers. Regional Directors, Registrar of Companies (RoC) and Official Liquidator are the authorities whose approval is required. The process has been simplified to a great extent.

However, it is to be noted that this process is applicable only to merger between small companies and holding and subsidiary companies.

A provision allowing the government to notify any other company in this regard has also been made. Before we set out to analyse and understand fast track mergers, it is pertinent to understand the legal framework behind fast track mergers and what is meant by small companies.

Legal Regime behind Fast Track Mergers

Section 233 of the Companies Act, 2013 has introduced the concept of fast track mergers. It carved out an exception from the regular merger procedure. It exempted small companies and holding and subsidiary

companies entering into merger arrangements from the regular merger procedure as stipulated under sections 230-232 of the Companies Act, 2013. Section 233 of the Companies Act, 2013 along with Rule 25 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 lay down the entire legal framework of fast track mergers.

MERGER OR AMALGAMATION OF CERTAIN COMPANIES – SECTION 233

1. Notwithstanding the provisions of section 230 and section 232, a scheme of merger or amalgamation may be entered into between two or more small companies or between a holding company and its wholly-owned subsidiary company or such other class or classes of companies as may be prescribed, subject to the following, namely: —
 - (a) a notice of the proposed scheme inviting objections or suggestions, if any, from the Registrar and Official Liquidators where registered office of the respective companies are situated or persons affected by the scheme within thirty days is issued by the transferor company or companies and the transferee company;
 - (b) the objections and suggestions received are considered by the companies in their respective general meetings and the scheme is approved by the respective members or class of members at a general meeting holding at least ninety per cent. of the total number of shares;
 - (c) each of the companies involved in the merger files a declaration of solvency, in the prescribed form, with the Registrar of the place where the registered office of the company is situated; and
 - (d) the scheme is approved by majority representing nine-tenth sin value of the creditors or class of creditors of respective companies indicated in a meeting convened by the company by giving a notice of twenty- one days along with the scheme to its creditors for the purpose or otherwise approved in writing.
2. The transferee company shall file a copy of the scheme so approved in the manner as may be prescribed, with the Central Government, Registrar and the Official Liquidator where the registered office of the company is situated.
3. On the receipt of the scheme, if the Registrar or the Official Liquidator has no objections or suggestions to the scheme, the Central Government shall register the same and issue a confirmation thereof to the companies.
4. If the Registrar or Official Liquidator has any objections or suggestions, he may communicate the same in writing to the Central Government within a period of thirty days:

Provided that if no such communication is made, it shall be presumed that he has no objection to the scheme.
5. If the Central Government after receiving the objections or suggestions or for any reason is of the opinion that such a scheme is not in public interest or in the interest of the creditors, it may file an application before the Tribunal within a period of sixty days of the receipt of the scheme under subsection (2) stating its objections and requesting that the Tribunal may consider the scheme under section 232.
6. On receipt of an application from the Central Government or from any person, if the Tribunal, for reasons to be recorded in writing, is of the opinion that the scheme should be considered as per the procedure laid down in section 232, the Tribunal may direct accordingly or it may confirm the scheme by passing such order as it deems fit: Provided that if the Central Government does not have any objection to the scheme or it does not file any application under this section before the Tribunal, it shall be deemed that it has no objection to the scheme.
7. A copy of the order under sub-section (6) confirming the scheme shall be communicated to the Registrar having jurisdiction over the transferee company and the persons concerned and the Registrar shall register the scheme and issue a confirmation thereof to the companies and such confirmation shall be communicated to the Registrars where transferor company or companies were situated.

8. The registration of the scheme under sub-section (3) or sub-section (7) shall be deemed to have the effect of dissolution of the transferor company without process of winding-up.
9. The registration of the scheme shall have the following effects, namely: —
 - (a) transfer of property or liabilities of the transferor company to the transferee company so that the property becomes the property of the transferee company and the liabilities become the liabilities of the transferee company
 - (b) the charges, if any, on the property of the transferor company shall be applicable and enforceable as if the charges were on the property of the transferee company;
 - (c) legal proceedings by or against the transferor company pending before any court of law shall be continued by or against the transferee company; and (d) where the scheme provides for purchase of shares held by the dissenting shareholders or settlement of debt due to dissenting creditors, such amount, to the extent it is unpaid, shall become the liability of the transferee company.
10. A transferee company shall not on merger or amalgamation, hold any shares in its own name or in the name of any trust either on its behalf or on behalf of any of its subsidiary or associate company and all such shares shall be cancelled or extinguished on the merger or amalgamation.
11. The transferee company shall file an application with the Registrar along with the scheme registered, indicating the revised authorised capital and pay the prescribed fees due on revised capital: Provided that the fee, if any, paid by the transferor company on its authorised capital prior to its merger or amalgamation with the transferee company shall be set-off against the fees payable by the transferee company on its authorised capital enhanced by the merger or amalgamation.
12. The provisions of this section shall mutatis mutandis apply to a company or companies specified in sub-section (1) in respect of a scheme of compromise or arrangement referred to in section 230 or division or transfer of a company referred to clause (b) of subsection (1) of section 232.
13. The Central Government may provide for the merger or amalgamation of companies in such manner as may be prescribed.
14. A company covered under this section may use the provisions of section 232 for the approval of any scheme for merger or amalgamation.

Therefore, as it can be seen, section 233 outlines a list of conditions which companies proposing to enter into fast track mergers are required to follow:

- A notice of the proposed scheme soliciting objections or suggestions from the Registrar and the official liquidators to be issued by the transferor or the transferee companies within thirty (30) days.
- If any objections or suggestions are received, then the same are considered in their respective general meetings and approved/disapproved by their respective members.
- A declaration of solvency is required to be filed by both the companies involved in the merger.
- The scheme has to be approved by majority of creditors representing nine-tenths in value of the creditors or class of creditors of the respective companies.
- The transferee company is required to file a copy of the approval in the prescribed manner, with the Central Government, Registrar and the Official Liquidator where the registered office of the company is situated.
- On receiving the said scheme, if the Registrar or the Official Liquidator does not have any objections or suggestions to the scheme, the Central Government shall register the said scheme and issue a confirmation thereof to the companies.
- If the Registrar or Official Liquidator has any objections or suggestions, the same may be communicated to the Central government within a period of thirty days. In the absence of any such communication, it would be presumed that no objections were raised.

- If the Central Government after receiving the objections or suggestions or for any other reason forms the opinion that the said scheme is not in public interest or in the interest of the creditors, it can file an application before the Tribunal within a period of sixty days.
- After filing of such application, the Tribunal has to render its judgment. If it is of the opinion (with reasons recorded in writing) that the scheme should be considered as per the procedure laid down in section 232, it may give directions accordingly.

RELEVANT PROVISIONS FOR MERGER & AMALGAMATION

Under Companies Act, 2013, the provisions of section 230 provide the additional disclosure if the proposed scheme involves; Reduction of Share Capital or the scheme is of Corporate Debt restructuring; consented by not less than 75% in value of secured creditors, every notice of meeting about scheme to disclose valuation report explaining effect on various shareholders.

Further, no compromise or arrangement shall be sanctioned by the Tribunal unless a certificate by the company's auditor has been filed with the Tribunal to the effect that the accounting treatment, if any, proposed in the scheme of compromise or arrangement is in conformity with the Accounting Standards prescribed under section 133 of the Companies Act, 2013. Apart from this, dealing with the Arrangements; notice of meeting to consider compromise or arrangement to be given to Central Government, Income Tax Authorities, Reserve Bank of India, Securities Exchange Board of India, Registrar of Companies, respective Stock Exchange, Official Liquidator, Competition Commission of India and other Authorities likely to be affected by the same. So, these Authorities can voice their concern within 30 days of receipt of notice, failing which it will be presumed that they have no objection to the scheme.

Following are the benefits of section 233 or fast track mergers:

- No requirement to apply to the National Company Law Tribunal
- No requirement to get a special audit conducted for the transferor company
- No requirement to issue public advertisements announcing the merger
- Less cost intensive and less time consuming.

Rule 25 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 reads as under:

1. The notice of the proposed scheme, under clause (a) of sub-section (1) of section 233 of the Act, to invite objections or suggestions from the Registrar and Official Liquidator or persons affected by the scheme shall be in Form No. CAA.9.
2. For the purposes of clause (c) of sub-section (1) of section 233 of the Act the declaration of solvency shall be filed by each of the companies involved in the scheme of merger or amalgamation in Form No. CAA.10 along with the fee as provided in the Companies (Registration Offices and Fees) Rules, 2014, before convening the meeting of members and creditors for approval of the scheme.
3. For the purposes of clause (b) and (d) of sub-section (1) of section 233 of the Act, the notice of the meeting to the members and creditors shall be accompanied by –
 - (a) a statement, as far as applicable, referred to in sub-section (3) of section 230 of the Act read with sub- rule (3) of rule 6 thereof;
 - (b) the declaration of solvency made in pursuance of clause (c) of sub-section (1) of section 233 of the Act in Form No. CAA.10;
 - (c) a copy of the scheme.
4. (a) For the purposes of sub-section (2) of section 233 of the Act, the transferee company shall, within seven days after the conclusion of the meeting of members or class of members or creditors or class of creditors, file a copy of the scheme as agreed to by the members and creditors, along with a report of the result of each of the meetings in Form No. CAA.11 with

the Central Government, along with the fees as provided under the Companies (Registration Offices and Fees) Rules, 2014.

- (b) Copy of the scheme shall also be filed, along with Form No. CAA. 11 with –
- (i) the Registrar of Companies in Form No. GNL-1 along with fees provided under the Companies (Registration Offices and Fees) Rules, 2014; and
 - (ii) the Official Liquidator through hand delivery or by registered post or speed post.

5. Where no objection or suggestion is received within a period of thirty days of receipt of copy of scheme under sub-section (2) of section 233, from the Registrar of Companies and Official Liquidator by the Central Government and the Central Government is of the opinion that the scheme is in the public interest or in the interest of creditors, it may, within a period of fifteen days after the expiry of said thirty days, issue a confirmation order of such scheme of merger or amalgamation in **Form No. CAA.12**:

Provided that if the Central Government does not issue the confirmation order within a period of sixty days of the receipt of the scheme under sub-section (2) of section 233, it shall be deemed that it has no objection to the scheme and a confirmation order shall be issued accordingly.

6. Where objections or suggestions are received within a period of thirty days of receipt of copy of scheme under sub-section (2) of section 233 from the Registrar of Companies or Official Liquidator or both by the Central Government and –

(a) such objections or suggestions of Registrar of Companies or Official Liquidator, are not sustainable and the Central Government is of the opinion that the scheme is in the public interest or in the interest of creditors, it may within a period of thirty days after expiry of thirty days referred to above, issue a confirmation order of such scheme of merger or amalgamation in **Form No. CAA.12**.

(b) the Central Government is of the opinion, whether on the basis of such objections or otherwise, that the scheme is not in the public interest or in the interest of creditors, it may within sixty days of the receipt of the scheme file an application before the Tribunal in **Form No. CAA.13** stating the objections or opinion and requesting that Tribunal may consider the scheme under section 232 of the Act:

Provided that if the Central Government does not issue a confirmation order under clause (a) or does not file any application under clause (b) within a period of sixty days of the receipt of the scheme under subsection (2) of section 233 of the Act, it shall be deemed that it has no objection to the scheme and a confirmation order shall be issued accordingly.

7. The confirmation order of the scheme issued by the Central Government or Tribunal under sub-section (7) of section 233 of the Act, shall be filed, within thirty days of the receipt of the order of confirmation, in Form INC-28 along with the fees as provided under Companies (Registration Offices and Fees) Rules, 2014 with the Registrar of Companies having jurisdiction over the transferee and transferor companies respectively.
8. For the purpose of this rule, it is clarified that with respect to schemes of arrangement or compromise falling within the purview of section 233 of the Act, the concerned companies may, at their discretion, opt to undertake such schemes under sections 230 to 232 of the Act, including where the condition prescribed in clause (d) of sub-section (1) of section 233 of the Act has not been met.
9. As per Rule 25(1)(1A) of the Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2021 :

A scheme of merger or amalgamation under section 233 of the Act may be entered into between any of the following class of companies, namely:-

- (i) two or more start-up companies; or
- (ii) one or more start-up company with one or more small company.

Explanation.- For the purposes of this sub-rule, “start-up company” means a private company incorporated under the Companies Act, 2013 or Companies Act, 1956 and recognized as such in accordance with notification number G.S.R. 127 (E), dated the 19th February, 2019 issued by the Department for Promotion of Industry and Internal Trade.

Small Company

The Companies Act, 2013 introduced the concept of small company. This new category of company was introduced in order to provide certain advantages to businesses operating with a small capital and scale.

In the wake of the rising start-up culture in India, it was imperative that certain benefits be given to small enterprises and businesses allowing them to grow organically or inorganically. Such small companies form the backbone of an economy and encourage entrepreneurship and, therefore, lesser stringent legal procedures pertaining to mergers and acquisitions would act as an incentive encouraging more people to start such businesses.

“Small Company” under section 2(85) of the Companies Act, 2013 is defined as:

“Small company” means a company, other than a public company, -

- (i) paid-up share capital of which does not exceed fifty lakh rupees or such higher amount as may be prescribed which shall not be more than ten crore rupees; and
- (ii) turnover of which as per profit and loss account for the immediately preceding financial year does not exceed two crore rupees or such higher amount as may be prescribed which shall not be more than one hundred crore rupees:

Provided that nothing in this clause shall apply to,

- (a) a holding company or a subsidiary company;
- (b) a company registered under section 8; or
- (c) a company or body corporate governed by any special Act; There are various advantages of being a small company. Some of these are:

- **Filing Annual Return**

The procedure of filing annual returns of a small company is comparatively easier than that of other private limited companies. The annual return of a small company can be signed by either its company secretary or its director, whereas an annual return of a private limited company other than a small company has to be necessarily signed by both the company secretary and the director.

- **Board Meeting**

Small companies are required to conduct only 2 board meetings in a year whereas private limited companies not classified as small companies have to conduct four board meetings in a year.

- **Cash Flow Statement**

A small company is not required to prepare a cash flow statement as a part of its financial statement unlike other private limited companies.

- **Rotation of Auditors**

A small company is not required to rotate its auditors unlike other private limited companies who are required to rotate their auditors every 5 or 10 years.

Procedural Aspects of Fast Track Mergers

Section 233 of the Companies Act, 2013 along with the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 lay down the procedure for fast track mergers. The table given below explain the process, forms required and the stipulated timelines involved in a fast track merger:

Procedure	Timeline	Forms required	Who shall be required to comply
<p>Convene a Board Meeting:</p> <p>The board meeting shall approve the scheme and pass resolutions for holding and fixing date and time for a shareholder and a creditors meeting.</p>	NA	NA	Both the transferor and the transferee companies are required to comply.
<p>Notice of the Proposed Scheme:</p> <p>The notice of the proposed scheme is to be sent to the Registrar where registered offices of both the companies are situated. The notice shall invite objections/ suggestions, if any, from the respective registrars.</p>	To be done after the Board meeting.	Form CAA 9	Both the transferor and the transferee companies are required to comply.
<p>Declaration of solvency:</p> <p>Both the companies are required to file a declaration solvency with the ROC of the place where their registered offices are situated.</p>	This is to be done before the meeting of shareholders or the meeting of creditors is convened.	Form CAA 10	Both the transferor and the transferee companies are required to comply.
<p>Convening a Meeting of Members:</p> <p>A notice convening a meeting of the members or shareholders of the company should be sent to all the members. This notice should contain, the details of the merger, copy of the scheme and a copy of the declaration of solvency. The objections/ suggestions received by the company from the registrar would be discussed and voted upon in this meeting.</p>	Notice should be sent 21 days prior to the meeting.	NA	Both the transferor and the transferee companies are required to comply.
<p>Filing of the Scheme:</p> <p>A copy of the scheme along with the results of all the meetings shall be filed with the regional director. A copy of the scheme along with Form CAA 11 is also required to be formed with the ROC and the Official Liquidator. The former shall be filed in Form GNL1 and the latter shall be hand-delivered or sent through speed post or registered post.</p>	Within 7 days of the meeting.	Form CAA 11. Form GNL 1	Only transferee of company is required to comply.

<p>Approval of the Scheme by Regional Director:</p> <p>If the ROC or the Official Liquidator approves the scheme then the regional director shall register the same and issue a confirmation.</p> <p>If the ROC or Official Liquidator have objections then they may communicate the same to the Regional Director.</p> <p>The Regional Director, if is of the opinion that the scheme is not in public interest then it may file an application in Form CAA 12 before the Tribunal, to consider the scheme under section 232 (regular merger process).</p>	NA	NA	NA
<p>Filing the confirmation order with the ROC:</p> <p>A copy of the confirmation of the scheme approved by the Official Liquidator should be sent to the Registrar where the transferee's registered office is situated. The registrar shall register the scheme and issue a confirmation which shall then be filed with ROC of the place where the transferor's registered office is situated.</p>	Within 30 days of Form the receipt of the 28 confirmation of the ROC or Scheme.	NA	Both the transferor and the transferee companies are required to comply.

Steps involved in Fast Track Mergers

The following steps need to be followed in a fast track merger:

1. First of all, both the companies need to check their Articles of Association (AoA) and assess if they have the requisite authority under them to enter into a merger. If no, then the AoA need to be amended before such merger can take place.
2. Convene the Board Meeting and prepare a draft scheme of merger or amalgamation.
3. Prepare a financial statement of assets and liabilities and get an auditor's report prepared.
4. Get the draft scheme approved in the Board Meeting.
5. Both the companies need to send a notice to the Registrar of Companies (RoC) and Official Liquidator (OL) of their respective regions inviting suggestions/objections to the scheme, if any within 30 days of issuing the notice.
6. Such notice to the RoC should be in Form CAA 9 and have the following attachments:
 - Copy of the scheme
 - Shareholding pattern of the transferee pre and post-merger

- Last 3 years audited financial statements
 - Memorandum and Articles of Association
 - Board Resolution
 - Valuation Report.
7. Both the companies are required to file a declaration of solvency with their respective ROCs. This declaration of solvency shall be accompanied by the following:
 - Board Resolution
 - Statement of Assets and Liabilities
 - Auditors Report.
 8. Sending notice of shareholders' meeting and creditors' meeting.
 9. Conducting the shareholders' meeting and getting the scheme approved.
 10. Conducting creditors' meeting and getting the scheme approved.
 11. Filing of the results of each meeting with the Regional Director and the Official Liquidator by the transferee company.
 12. Objections/Suggestions to be sent to the Regional Director by the RoC / Official Liquidator.
 13. Regional director may file an application with the Tribunal if he is of the opinion that the scheme is against public interest.
 14. The Tribunal can approve or disapprove the scheme.
 15. If approved it shall be filed with the RoC of the transferee company and the transferor company respectively.

So far, we have discussed the procedure as mandated by law and the steps required to enter into a fast track merger. However, from a practical standpoint, it is also imperative to know what are the ingredients / contents one should include in a scheme of merger. These ingredients are:

- Preamble
- Definitions of the terms used in the scheme
- A detailing of the pre-merger and the post-merger capital
- The way the assets and liabilities shall be transferred
- Appointed and effective date of the scheme
- Tax treatment of the scheme
- Benefits to be given to the staff
- Consolidation of the authorised share capital
- Dissolution without resorting to winding-up
- Notice of approval of the scheme
- Any amendments or modifications to the scheme.

Post-Merger Effect

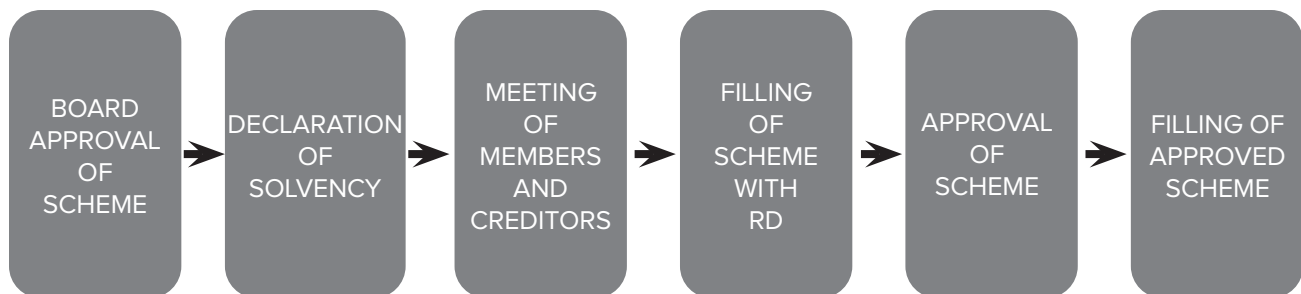
The following consequences shall result out of the merger:

- The transferor company shall stand dissolved on the registration of the scheme. No winding-up shall be required for the same.
- All the assets and liabilities of the transferor company shall be transferred to the transferee company.
- Any charge on the transferor's property shall stand transferred to the transferee.
- Payment of social security benefits of employees will now be the responsibility of the transferee company.

Despite, fast track mergers being an innovative and convenient concept it poses certain practical difficulties. These practical difficulties are:

- Merging the authorised capital of all companies in the transferee company may not be practically viable.
- Form INC 28 which finally registers the scheme does not provide for the following:
 - A separate drop-down menu for Section 233;
 - Change in the status of the transferor company.
- There is doubt regarding whether the Regional Director can suggest changes to the scheme. It appears that if the ROC, Official Liquidator does not have objections to the scheme, the Regional Director has to confirm without any suggestions of his own.

The following flowchart would help understand the procedure of fast track merger better:



Practical Insights

Knowing and learning the basic theoretic concepts around fast track mergers is important. However, one also must know how to use this theory in practice. Whenever asked to render a legal opinion on fast track mergers or if your firm is entering into one, keep in mind the following practical steps:

- (a) Assess whether the merger is beneficial before entering into one.
- (b) Conduct due diligence on the firm sought to be merged with.
- (c) Remember both the companies need to be small companies for FTM to apply.
- (d) Have a prescribed timeline and a strategy in place in order to avoid undue delay.
- (e) Think of all the possible objections you may receive from ROC and already keep solutions ready so as to save time.

LESSON ROUND-UP

- Fast track mergers have been introduced in order to encourage small companies to grow and expand. Small companies should not be dissuaded from entering into mergers just because the process is long, tedious and complicated.
- Section 233 of the Companies Act, 2013 provides for a simplistic procedure without the requirement of Tribunal approval for mergers.
- Section 233 of the Companies Act, 2013 lays down the legal framework for fast track mergers.
- Fast track mergers are applicable only to small companies, holding and subsidiary companies and any other company as may be prescribed by the government.
- A small company is defined as a private limited company with paid-up capital less than INR 2 lakh or turnover less than INR 2 crore.

The following is the procedure for a fast track merger:

- Convening a board meeting for approval of the draft scheme of merger.
- Sending a notice of the proposed scheme inviting objections or suggestions from the Registrar and the Official Liquidator.
- Declaration of solvency by each party to the merger.
- Approving/disapproving/modifying the scheme in the general meeting of shareholders and the meeting of creditors.
- Filing of the result of each meeting with the ROC and regional directors.
- If the ROC/Official Liquidator has any objections the same may be sent to the regional director.
- If the regional director thinks that the scheme is opposed to public interest, he may file an application before the Tribunal.
- The Tribunal may approve or disapprove the scheme. If the former happens, the scheme shall be registered, if the latter happens the scheme will have to seek approval through the procedure mentioned in section 232 of the Companies Act, 2013.

GLOSSARY

Turnover: Section 2(91) of the Companies Act, 2013 describes turnover as: “the aggregate value of the realisation of amount made from the sale, supply or distribution of goods or on account of services rendered, or both, by the company during a financial

Private company: Section 2(68) of the Companies Act 2013 defines a private company as a company having a minimum paid-up share capital as may be prescribed, and which by its articles, —

- (i) restricts the right to transfer its shares;
- (ii) except in case of One Person Company, limits the number of its members to two hundred:

Provided that where two or more persons hold one or more shares in a company jointly, they shall, for the purposes of this clause, be treated as a single member.

Holding Company: Section 2(46) of the Companies Act, 2013 describes holding company as: “holding company in relation to one or more other companies, means a company of which such companies are subsidiary companies.” Explanation: For the purpose of this clause, the expression ‘company’ includes any body corporate.

Wholly owned subsidiaries (WOS): This is a company whose 100% shares are owned by its holding company.

Appointed Date: This is the date when the scheme comes into effect.

Effective Date: This is the date when the merger gets completed in all respects.

