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Consolidating Indian Aviation: Analyzing the Merger of Vistara and Air India under Tata Group

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The merger of Talace Private Limited, Tata SLA Airlines Limited (Vistara), and Air India Limited represents a strategic consolidation of the Tata Group's aviation assets, approved by the National Company Law Tribunal under the Composite Scheme of Arrangement. This research paper analyses the composition scheme of the arrangement between Vistara and Air India Under Section 230 to Section 232 of the Company Act, 2013. The analysis is completely based on the official order passed by the NCLT of Chandigarh bench and the official websites of Tata Group and SLA Airlines, including a few newspaper articles. This merger between two aviation companies aims to combine operations under the Air India brand and Vistara's focus on premium service with Air India's extensive domestic and international network. The merger is expected to redefine the brands, enhance customer experiences, and position the Tata Group as a key player in the competitive Indian aviation market while strengthening Air India's international standing. The arrangement between Air India and Vistara is intended to simplify operations and better use the fleet, improving efficiency and reducing costs while increasing market presence. Observing whether this merger will be successful and who will benefit and lose will be interesting.

Keywords: *vistara, air India limited, merger, talace private limited, indian aviation.*

INTRODUCTION

Air India is a cornerstone of India's aviation history, which was founded by J.R.D Tata in 1932. Tata Airlines evolved from a private entity to a national carrier after independence and returned to Tata Group ownership in 2022. It connects India to the world with a wide range of domestic and international routes, showcasing the country's cultural heritage through its well-known branding and great service. Tata SIA Airlines Limited operates under the name Vistara and is a joint venture where Tata Sons holds 51% and Singapore Airlines holds 49%. In 2015, Vistara quickly established itself as a premium airline in India. It is known for its excellent customer service and reliable performance, and it primarily focuses on domestic routes while expanding internationally, whereas Talace Private Limited, a subsidiary of Tata Sons, was established to acquire Air India as part of the government's disinvestment. In October 2021, Talace Private Limited successfully won the bid for Air India, thus facilitating its return to the Tata Group after nearly 70 years. The acquisition was officially finalised in January 2022. In November 2022, Tata Group announced the merger of Vistara with Air India following the full acquisition of Air India. This strategic merger received approval from the National Company Law Tribunal (NCLT) on June 6, 2024, with the newly formed entity commencing operations on November 12, 2024.¹

OBJECTIVES OF THE MERGER

One of the crucial objectives of the merger of Air India and Vistara is to create a single, strong airline that boosts Air India's position in global aviation. Air India is known for its internationally connected flights at low rates, whereas Vistara is known for its high-quality service to its customers.² By using these qualities, the merger between Air India and Vistara aims to improve Air India's reputation and compete more effectively with the top international airlines. It will also look for cost savings by combining purchasing and administrative tasks while working to increase revenue through better passenger and cargo services. The merger

¹ 'Tata Group to Consolidate Air India and Vistara' (*Tata*, 29 November 2022)

<https://www.tata.com/newsroom/business/air-india-vistara-consolidation>> accessed 14 November 2024

² 'Air India officially completes merger with Vistara unifying under one brand' *The Economic Times* (12 November 2024) <<https://economictimes.indiatimes.com/industry/transportation/airlines/-aviation/air-india-officially-completes-merger-with-vistara-unifying-under-one-brand/articleshow/115221850.cms?from=mdr>> accessed 14 November 2024

aims to form a stronger airline that can compete with domestic rivals like IndiGo and improve international routes. Ultimately, the goal is to offer a smooth travel experience through a single loyalty program and services that meet the needs of all types of travellers.³

COMPOSITION OF THE MERGER

Talace Private Limited (Petitioner Company 1/Transferor Company 1) is the holding company of Air India Limited. It holds 100% of the shares in Air India Express Limited, 100% of the shares in AIX Connect Private Limited, formerly known as AirAsia (India) Private Limited, and 50% of the shares in Air India SATS Airport Services Private Limited. Talace Private Limited was fully merged into Air India Limited, resulting in its dissolution without winding up.⁴

Tata SIA Airlines Limited (Petitioner Company 2/Transferor Company 2) is a full-service airline operating under the brand 'Vistara'. It is a joint venture between Tata Sons Private Limited and Singapore Airlines Limited, where Singapore Airlines Limited holds 49% of the shareholding in Tata SIA Airlines. Air India Limited (Petitioner Company 3/Transferee Company 3) is a subsidiary company of Talace Private Limited.⁵

This Composite Scheme of Arrangement was filed under Section 230⁶ to Section 232⁷ of the Companies Act 2013. The restructuring plan includes a reduction in the Share Capital of Air India Limited, whereas Talace Private Limited will be dissolved by completely merging into Air India Limited without undergoing the process of winding up and Tata SIA Airlines Limited (Vistara) will merge with Air India Limited and will completely dissolve without undergoing the process of winding up, whereas, Air India Limited will issue equity shares to Singapore Airlines Limited acknowledging its status as a shareholder in the company.⁸

³ Peden Doma Bhutia, 'Air India-Vistara Merger: Strategic Win or Tata's Gamble?' *Skift* (17 September 2024) <<https://skift.com/2024/09/17/air-india-vistara-merger-strategic-win-or-tatas-gamble/>> accessed 14 November 2024

⁴ 'Tata Group to acquire 100% stake in Air India' (*Tata*, 08 October 2021) <<https://www.tata.com/newsroom/business/air-india>> accessed 14 November 2024

⁵ Tata Group to Consolidate Air India and Vistara (n 1)

⁶ Companies Act 2013, s 230

⁷ Companies Act 2013, s 232

⁸ *Talace Private Limited & Ors* Case CP (CAA) No 41/Chd/Hry/2023

DECISION BY NCLT

The merger of Air India and Vistara was approved by NCLT on June 6, 2024, with no significant objections. The merger will create one of the largest airline groups globally, combining Talace Private Limited, the parent company of Air India, with Tata SIA Airlines, which will hold a 25.1% stake in the newly formed entity. The NCLT has also emphasised the necessity of complying with statutory requirements, including obtaining approvals from regulatory bodies such as the Competition Commission of India (CCI) and the Directorate General of Civil Aviation (DGCA). The absence of stakeholder objections has strengthened the merger's viability.

The Tribunal has directed that the merger process be completed within nine months, ensuring all the necessary foreign direct investments (FDI) approval and security clearances are obtained. Vistara will be dissolved as part of this merger without any formal winding-up proceedings according to the Companies Act, 2013. This integration is expected to enhance operational efficiencies and competitiveness in the aviation sector, resulting in improved service for customers.

ANALYSIS OF THE MERGER

When companies seek to merge, they are required to submit a proposal for the scheme and the process for it is given under Sections 230 to Section 232⁹, which establishes a legal framework for corporate restructuring, allowing for mergers, demergers, and arrangements with creditors and Shareholders, whereas, Section 230¹⁰ talks about the Power to compromise or make arrangements with creditors and members.

As per the details given in the official order by NCLT, the first motion application was filed by the transferor and transferee company to seek approval for several key actions. The application requests to convene meetings for the secured creditors of Tata SIA Airlines Limited, as well as for the unsecured creditors of Tata SIA Airlines and Air India Limited. Further, it seeks to waive the requirement to hold meetings for the equity shareholders of both companies, that is, Tata SIA Airlines and Air India Limited. Finally, the application requested the organisation of the

⁹ Company Act 2013, ss 230-232

¹⁰ Company Act 2013, s 230

meeting for the Preference Shareholders of Talace Private Limited and Air India Limited. The Tribunal granted permission for it on July 21, 2023 and the Second Motion was filed by the Petitioner Companies on September 26, 2023, and the affidavits, along with reports, were duly filed as per the orders of NCLT.

The companies further sent notice as per the directions of NCLT to all concerned authorities such as Regional Director, Northern Region, Registrar of Companies of N.C.T. of Delhi & Haryana, Official Liquidator attached to the High Court Punjab & Haryana, Income Tax Department through its nodal office and the Jurisdictional Assessment Office of each of the Petitioner Companies, Competition Commission of India, Reserve Bank of India; Ministry of Civil Aviation, and Directorate General of Civil Aviation. Additionally, the Scheme Notice was published in the 'Business Standard' Newspaper in English and Hindi (All India Edition) on 10/11/2023 as per the directions of NCLT.¹¹

According to the report submitted by the Chairperson, a meeting was held with all the stakeholders of the companies, and the Scheme of Arrangement was approved and passed by 100% of the Secured Creditors and 99% of the Unsecured Creditors of Tata SIA Airlines Limited, and 99.99% of the Secured Creditors of Air India Limited.¹²

In reply to the notice sent, the RD/ ROC sent a report that mentioned the share exchange ratio of Talace Private Limited was 6.2709 fully paid-up equity shares of Air India Limited at the rate of Rs. 4 per share, and for every 1 Equity Share of Talace Private Limited at the rate of Rs. 10 per share, and for 1 Preference Share of Talace Private Limited at the rate of Rs. 10 per share. Tata SIA Airlines Limited's share exchange ratio was 2.5487 fully paid-up Equity Shares of Air India Limited at the rate of Rs. 4 per share and for every 1 share of Tata SIA Airlines Limited at the rate of Rs. 10 per *share*.¹³

The ROC, in its report, stated that Preference Share Holders of Talace Private Limited would receive equity shares in Air India Limited instead of preference shares thus, Section 230(7)(c)¹⁴ will be applicable and a clarification will be required, and Air India Limited allocated INR

¹¹ *Talace Private Limited & Ors* Case CP (CAA) No 41/Chd/Hry/2023 pg 7

¹² *Ibid* 6

¹³ *Ibid* 8

¹⁴ Companies Act 2013, s 230(7)(c)

2,058.50 Crores to Singapore Airlines as a part of the scheme which was an existing shareholder in Tata SIA Airlines Limited and no clarification regarding the valuation of shares and the number of shares allotted was given. Additionally, Air India Limited issued 3,702,338,129 fully paid-up equity shares at INR 5.56 each to Singapore Airlines Limited, and Singapore Airlines will hold 25.1% of the total issued and paid-up equity share capital of the Air India Limited Company.¹⁵ At the same time, the authorised share capital of Air India Limited is Rs. 79000 Crores into 13287.50 Crores Equity shares of Rs. 4 each and 2585 Crore Preferential Shares at Rs. 10 each.

Further, a joint reply was filed by the companies in response to the report submitted by ROC/RD in which the companies submitted that the Scheme was passed unanimously, there were no dissenting shareholders, and thus, the companies have complied with all the requirements mentioned under Section 230(7)(C) of the Companies Act, 2013. Further, they submitted that the price per share at which preferential equity shares are proposed had been approved by Air India Limited. As far as the authorised share capital of Air India Limited is concerned, the companies have jointly replied that Air India Limited agrees to pay the necessary fees based on its authorised share capital increase resulting from the merger. This will be done after making the adjustments allowed under Section 232(3)(i)¹⁶ and 233(11)¹⁷ of the Companies Act 2013.¹⁸

Hence, the RD/ROC had no objection to the Scheme. The official liquidator approved the scheme and did not object vide his report dated November 30, 2023. The Competition Commission of India also approved the Scheme on September 11, 2023, stating that the Scheme does not have any appreciable adverse effect on the competition. The Ministry of Civil Aviation (MOCA) gave a no-objection certificate on February 22, 2024, with a letter issued by the Directorate General of Civil Aviation (DGCA) to Tata SIA Airlines Limited. Further, the Income Tax Department submitted a report dated 05 April 2024 stating they had no objection to the scheme.

¹⁵ Tata Group to Consolidate Air India and Vistara (n 1)

¹⁶ Companies Act 2013, s 232(3)(i)

¹⁷ Companies Act 2013, s 233(11)

¹⁸ *Talace Private Limited & Ors* Case CP (CAA) No 41/Chd/Hry/2023 pgs 10-15

A Copy of the No Objection Certificate (NOC) was sent to Tata SIA Airlines Limited by MOCA and the said NOC indicated that the scheme is approved subject to FDI approval from Singapore Airlines, which is a shareholder in Vistrara. The MOCA provided conditional approval, setting a deadline of nine months from the NCLT's written order to finalise the merger-related procedures and adhere to FDI and security clearance standards. From the above observations, it can be concluded that all regulatory bodies have endorsed the proposed scheme, and there were no major objections raised by any of them.¹⁹ The proposed Scheme of Arrangement followed all the necessary procedures that are mentioned under Section 230, read with Section 232 of the Companies Act, 2013.

There was no concept of Dissenting Shareholders in the given merger as this scheme was approved by a 100% majority of the transferor and transferee company. The notice of the scheme was also duly sent to all concerned regulatory authorities, and the scheme was also published in the newspaper as per the requirements mentioned in Section 232 of the Companies Act 2013. Every concerned regulatory authority approved the scheme subject to certain conditions, and no objections were raised by any of the stakeholders. The NCLT sanctioned the Scheme of Arrangement on 06 June 2024, and the Merger between Talance Private Limited, Tats SIA Airlines Limited, and Air India Limited took place as per the scheme.²⁰

POSSIBLE IMPACT OF THIS MERGER ON MARKET

The merger of Air India and Vistara is going to change the Indian Aviation market, especially for full-service airlines. By coming together under the Tata Group, Vistara will no longer compete directly with Air India. This reduces competition for premium air travel, which could mean higher ticket prices for passengers because the new airline might have more power to set prices, with fewer competitors, there might also be less motivation for improvements in services.²¹

However, there are still many low-cost airlines like IndiGo, SpiceJet, and Go First that are very popular in India. These airlines hold a large share of the market and offer cheaper options for travellers. So, even with the merger, passengers will still have affordable choices. This merger

¹⁹ *Ibid* pgs 16, 20 and 22

²⁰ *Ibid* pgs 27-31

²¹ Bhutia (n 3)

helps the Tata Group compete better against IndiGo, which has more than 50% of the domestic market. By combining Air Indi's international flights and Vistara's good reputation for services, the new airline can provide more options for travellers. This could lead to better services and more choices for everyone. While there are some concerns that the merger could hurt competition, the Competition Commission of India (CCI) approved it. They looked at the overall state of the aviation market and decided that even though the merger reduces competition for full-service airlines, it doesn't create a monopoly. This shows that there are still many airlines available, which should help keep prices reasonable.²²

The new Air India entity now has a fleet of over 250 aircraft and a wide range of routes, which helps it serve different types of customers. By combining Air India's long history and large network with Vistara's focus on luxury and great service, passengers can look forward to a better travel experience. They can expect upgraded in-flight offerings like better entertainment systems, nicer cabins, and more reliable service. Whether someone is flying in economy or first class, they should have a more enjoyable journey.²³

In short, while this merger will reduce the number of full-service airlines, it is unlikely to create a monopoly because there are still plenty of low-cost options out there. It is important to watch how this merger affects prices and service quality to protect traveller's interests. This change could shape the future of flying in India, so it's something both regulators and passengers should pay close attention to.

CONCLUSION

The merger was officially concluded on 11 November 2023. After the merger, Tata Sons Private Limited held 73.38% of the shares, and Singapore Airlines Limited held 25.1% of Air India Limited. The remaining 1.52% of the shares were held by SBICAP Trustee Company Limited. Even though this merger intends to expand market reach, improve passenger experience, and

²² Shipra Parashar, 'Year Ender 2024: Air India-Vistara Merger-the Biggest aviation event that changes the way India flies' *Financial Express* (16 December 2024) <<https://www.financialexpress.com/business/airlines-aviation-year-ender-2024-air-india-vistara-merger-the-biggest-aviation-event-that-changed-the-way-india-flies-3692855/>> accessed 16 December 2024

²³ 'Year Ender 2024: Air India- Vistara Merger Brings Major Changes to Indian Aviation' *Biz Buzz* (16 December 2024) <<https://www.bizzbuzz.news/national/year-ender-2024-air-india-vistara-merger-brings-major-changes-to-indian-aviation-1345709>> accessed 16 December 2024

increase profits and consumer base. There are certain challenges that this merger could face, as we all know, Air India is always the talk of the town due to its quality and operational efficiency, simply merging Air India with Singapore Airlines, which is known for its premium services and highest customer satisfaction is not the solution to improve the image and base of Air India. The underlying issues and concerns should be taken into consideration and addressed. Even though Air India is internationally connected, it lacks quality services, and sometimes, the flights are delayed to the extent that it becomes difficult to choose it for the second time. Secondly, IndiGo is one of the biggest competitors, holding 60% of the aviation market. Hence, the merged company has to compete vigorously to stand shoulder-to-shoulder with IndiGo. The merger of Air India and Vistara is a key development in India's aviation industry, aiming to create a stronger competitor. While it offers the potential for better efficiency and service, the success of the new airline will hinge on its ability to overcome challenges. Stakeholders will closely watch how this transition impacts the aviation market in India.