

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH**

C.P(C.A.A)/2510/MB/ 2018

IN

CSA NO. 203 OF 2018

In the matter of Scheme of Merger (by Absorption) of India Circus Retail Private Limited ('the Transferor Company') with Godrej & Boyce Manufacturing Company Limited ('the Transferee Company') and their Respective Shareholders ('the Scheme' or 'this Scheme')

INDIA CIRCUS RETAIL PRIVATE LIMITED

..... (Transferor Company/Petitioner Company)

GODREJ & BOYCE MANUFACTURING COMPANY LIMITED

..... (Transferee Company/Petitioner Company)

Order Delivered on: 30th day of August, 2018

Coram:

Hon'ble SH. Bhaskara Pantula Mohan, Member (Judicial)

Hon'ble SH. V. Nallasenapathy Member (Technical)

For the Petitioners: Mr. Hemant Sethi i/b M/s Hemant Sethi & Co., Advocates for Petitioners

For the Regional Director: Mr. S Ramakantha, Joint Director, Office of the Regional Director.

Per: Bhaskara Pantula Mohan, Member (J)

ORDER

1. Heard the learned Counsel for the Petitioner Companies. None appeared before the National Company Law Tribunal, Mumbai Bench to oppose the Scheme or to contravene the averments made in the Petition.
2. The sanction of this Tribunal is sought under Sections 230 to 232 of the Companies Act, 2013, to a Scheme of Merger (by Absorption) of India Circus Retail Private Limited ('the Transferor Company') with Godrej & Boyce Manufacturing Company Limited ('the Transferee Company') and their Respective Shareholders.

3. The Petitioner Companies have approved the said Scheme by passing the Resolution of the Board of Directors dated 29th January, 2018, which are annexed to the Company Scheme Petition No. 2510 of 2018.
4. The Learned Counsel for the Petitioner Companies states that the Petition have been filed in consonance with the Order passed in the Company Scheme Application No. 203 of 2018 of the NCLT.
5. The Learned Counsel for the Petitioner Companies further states that the Petitioner Companies have complied with all the requirements as per directions of the NCLT. Moreover, the Petitioner Companies undertake to comply with all the statutory requirements if any, as required under the Companies Act, 2013 and the rules made thereunder. The said undertaking is accepted.
6. The Learned Counsel for the Petitioner Companies submits that the Transferor Company is engaged in the business of home décor products and supply of designs to third parties; whereas the Transferee Company is a diversified Company and is engaged in manufacturing of locks, furniture (including mattress), construction, appliances etc. It is also engaged in the business of offering innovative home and office interior solutions.
7. The Learned Counsel for the Petitioner Companies further states that the Merger of the Transferor Company with the Transferee Company would have the following benefits:
 - Operational synergies with the existing business of the Transferee Company;
 - Elimination of multiple entities;
 - Reducing the multiplicities of legal and regulatory compliances;
 - Reducing time and efforts for co-ordination of financials at group level;
 - Elimination of duplicative communication and coordination efforts; and
 - Rationalisation of administrative and compliance costs.
8. The Regional Director has filed his Report dated 2nd day of August, 2018 and has stated that save and except as stated in Clause (a) to (c) of paragraph IV of the said Report, it appears that the Scheme is not prejudicial to the interest of shareholders and public.

Paragraph IV, of the said Report reads as follows:

- a) *In addition to compliance of AS-14 (IND AS-103) the Transferee Company shall pass such accounting entries which are necessary in connection with the scheme to comply with other applicable Accounting Standards such as AS-5 (IND AS-8) etc;*

b) *The NCLT may kindly direct the petitioners to file an affidavit to the extent that the Scheme enclosed to Company Application & Petition, are one and the same and there is no discrepancy/ any change/ changes are made, for changes if any, liberty be given to Central Government to file further report if any is required.*

c) *As per **Part-I Definition Clause - 1.4 of the Scheme "Effective Date"** means, for the purpose of this Scheme, the last of the date on which all the conditions specified in Clause 15 are complied with and the Scheme shall become effective. References in this Scheme to the date of "coming into effect of this Scheme" or "effectiveness of this Scheme" shall mean the Effective Date. In this regard it is submitted that the **"Effective Date" shall be as per provisions of section 232(6) of the Companies Act, 2013 and not as specified in the above said clause of the scheme;***

9. In observation in paragraph IV (a) of the Report of the Regional Director, the Petitioner Companies through its Counsel undertake that they will comply with all the applicable Accounting Standards. Further, in addition to compliance with the applicable Accounting Standards, the Transferee Company shall pass such Accounting entries as may be necessary in connection with the Scheme to comply with other applicable Accounting Standards.
10. In so far as the observation made in paragraph IV (b) of the Report of Regional Director is concerned, the Petitioner Companies have filed an Affidavit dated August 10, 2018, stating that the Scheme enclosed to the Company Scheme Application and Company Scheme Petition are one and same and there is no discrepancy or deviation.
11. In so far as the observation made in paragraph IV (c) of the Report of Regional Director is concerned, the Petitioner Companies through their Counsel undertake that the Appointed Date has been fixed as April 1, 2017 as mentioned in Clause 1.4 of Definition Clause under Part I of the Scheme which is in compliance with Section 232(6) of the Companies Act, 2013 and the Scheme shall be effective from such Appointed Date.
12. The observations made by the Regional Director have been explained by the Petitioner Companies in Paragraph 9 to 11 above. The clarifications and undertakings given by the Petitioner Companies are accepted.
13. The Official Liquidator has filed his Report dated 24th day of July, 2018 stating therein that, the affairs of the Transferor Company have been conducted in a

proper manner and the said Scheme is not prejudicial to the interest of public and that the Transferor Company may be ordered to be dissolved without winding up by this Tribunal.

14. From the material on record, the Scheme appears to be fair and reasonable and is not in violation of any provisions of Law and is not contrary to public policy.
15. Since all the requisite statutory compliances have been fulfilled, Company Scheme Petition No. 203 of 2018 filed by the Transferor Company and Transferee Company are made absolute in terms of prayer clause (a) to (h) of the Company Scheme Petition.
16. The Petitioner Companies are directed to file a certified copy of this order and the Scheme with the concerned Superintendent of Stamps for the purpose of adjudication of stamp duty payable, if any, on the same within 60 working days from the date of the receipt of the certified copy of the Order.
17. The Petitioner Companies to file a certified copy of this Order along with the copy of Scheme of Merger (by absorption) with the concerned Registrar of Companies, electronically, along with e-form INC-28 in addition to the physical copy within 30 days from the date of issuance of the certified copy of the Order by Registry, duly certified by the Assistant Registrar of the National Company Law Tribunal, Mumbai Bench.
18. The Petitioner Companies to pay cost of Rs. 25,000/- each to the Regional Director, Western Region, Mumbai. The Transferor Company to pay costs of Rs. 25,000/- to the Official Liquidator, Mumbai. Cost to be paid within four weeks from the date of the receipt of the duly certified copy of this order.
19. All concerned regulatory authorities to act on a copy of this Order along with Scheme duly authenticated by the Assistant Registrar of National Company Law Tribunal, Mumbai Bench.

SD/-

V. NALLASENAPATHY
MEMBER (T)

SD/-

BHASKARA PANTULA MOHAN
MEMBER (J)