

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
BENCH, AT MUMBAI
COMPANY APPLICATION NO.279 OF 2017**

In the matter of Companies Act, 2013,

AND

In the matter of Application under Section 230-232 of the Companies Act, 2013;

AND

In the matter of R & B Infra Project Private Limited [CIN: U45200MH2005PTC154006], a Company incorporated under the Companies Act, I of 1956 having its registered office at B-1 Neela Apartments S.V. Road, Opp. Mandpeshwar Industrial Estate, Borivali (West), Mumbai.

AND

In the matter of scheme of amalgamation Between Coral Ventures Private Limited, Aditya Financial Consultants Private Limited, Twin star Multi

Trade Private Limited,
Sraddah Vyapaar Private
limited And R&B Infra Project
Private Limited and their
respective shareholders.

- 1. R & B Infra Project Private Limited)
 [CIN: U45200MH2005PTC154006], a)
 Company incorporated under the)
 Companies Act, I of 1956 having its)
 Registered office at)
 B-1 Neela Apartments,)
 S.V Road, Opp. Mandpeshwar Industrial)
 Estate, Borivali - West. Mumbai)
 ...Applicant)
 CompanyNo.1/)
 Transferee)
 Company)

- 2. Coral Venture Private Limited)
 [CIN:U74900MH2007PTC176463], a)
 Company incorporated under the)
 Companies Act, I of 1956 having its)
 Registered office at B-406, Mayur Co-op.)
 Hsg. Soc. Ltd., Sodawala Cross Road,)
 Borivali (West), Mumbai – 400 092)
 ...Applicant)
 Company No.2)
 /Transferor)
 Company)

3. Aditya Financial Consultants Private Limited.)
 [CIN: U74140MH2007PTC262082], a)
 Company incorporated under the)
 Companies Act, I of 1956 having its)
 Registered office at Flat No.701, 7th Floor, Guru Vihar,)
 Eksar Road, Borivali (West), Mumbai – 400 092.)
 ...Applicant
 Company No.3
 /Transferor
 Company
4. Sraddha Vyapaar Private Limited)
 [CIN: U51909MH2007PTC262078],)
 a Company incorporated under the)
 Companies Act, I of 1956 having its)
 Registered office at 701, 7th Floor, Guru Vihar,)
 Eksar Road, Borivali (West), Mumbai – 400 092.)
 ... Applicant
 CompanyNo.4/
 Transferor
 Company
5. Twinstar Multi trade Private Limited)
 [CIN: U15549MH2007PTC167404])
 Company incorporated under the)
 Companies Act, I of 1956 having its)
 Registered Office at B-1, Neela Apt.,)
 S.V.P. Road, Borivali West, Mumbai – 400 092.)
 ... Applicant
 Company No.5/
 Transferor
 Companies

Dr. Pallavi Divekar, Advocates of M/s. Divekar and Company,
Advocates for the Applicant Company.

Coram: Hon'ble Shri. BSV Prakash Kumar, Hon'ble Member (Judicial)

Hon'ble Shri. V. Nallasenapathy, Hon'ble Member (Technical)

Date: 2nd November, 2017.

Per: Shri. V. Nallasenapathy, Member (Technical)

ORDER

1. Perused the Application of the Applicant Companies above named by the Company Scheme Application and read the Affidavit dated 10th March, 2017 of Mr. Ratansingh Rathore, a Director, of the Applicant Company No.1, in support of the Company Application and the Exhibits referred therein and heard Dr. Pallavi Divekar, Advocate for the Applicant Company.
2. The Scheme provides for the transfer of the disinvestment business of the Applicant Nos. 2 to 5 (Transferor Companies) as going concerns on a slump sale basis to the Applicant Company No.1 and in exchange for which, the lump sum Final Purchase Consideration shall be paid by the Applicant Company No.2 to the Applicant Nos. 2 to 5 (Transferor Companies), in accordance with the terms of the scheme and pursuant to the provisions of Section 230 to 232 of The Companies Act, 2013 and other relevant provisions of The Companies Act, 2013. The transfer of the divestment business pursuant to the Scheme would inter alia would result in the following benefits: (a) In case of Applicant

Nos.2 to 5 (Transferor Companies): (i) Unlocking value by sale of part of their assets: (ii) Strengthening the balance sheets and (iii) pursuing growth opportunities in line with their strategic directions. (b) In case of the Applicant Company No.1: (i) creation of value for shareholders by acquiring ready-to-use assets, including business undertakings and reducing times to market. (ii) Allowing the expansion of the range of the products offered by the Applicant No.1 and its Affiliates in India. The Applicant No.1 is a financially sound Company. The net worth of the Applicant No.1 as on 31st March, 2016 is INR 45, 38, 65,106.

In view of the above and keeping in view the provisions of section 230 of The Companies Act, 2013 the following directions are issued.

3. That the meeting of the equity shareholders of the Applicant No.1 be convened and held at the registered office of the Applicant No.1 at B-1 Neela Apartments, S.V road, Opp. Mandpeshwar Industrial Estate, Borivali West. Mumbai on Saturday 9th December, 2017, at 12 noon for the purpose of considering and, if thought fit, approving the scheme of amalgamation between the Applicant No.1 being the Transferee Company and the Applicant Nos. 2 to 5 and their respective shareholders and creditors.

4. That the meeting of the unsecured creditors of the Applicant No.1 be convened and held at the registered office of the Applicant No.1 at B-1 Neela Apartments, S.V Road, Opp. Mandpeshwar Industrial Estate, Borivali West. Mumbai on Saturday 9th December, 2017, at 12.30 p.m or soon thereafter, after the conclusion of the meeting of the equity shareholders for the purpose of considering and, if thought fit, approving the scheme of amalgamation between the Applicant No.1 being the Transferee Company and the Applicant Nos. 2 to 5 and their respective shareholders and creditors.
5. The meeting of the secured creditors of the Applicant No.1 be convened and held at the registered office of the Applicant Company at B-1 Neela Apartments, S.V Road, Opp. Mandpeshwar Industrial Estate, Borivali West, Mumbai on Saturday 9th December, 2017, at 1:00 p.m, or soon thereafter after the conclusion of the meeting of the unsecured creditors, for the purpose of considering and, if thought if fit approving the scheme Of amalgamation between the Applicant No.1 being the Transferee Company and the Applicant Nos. 2 to 5 and their respective shareholders and creditors.
6. That the meeting of the equity shareholders of the Applicant No.2(Transferor Company) be convened and held at the registered office at B-1 Neela Apartments, S.V road, Opp. Mandpeshwar Industrial Estate, Borivali West. Mumbai on

Saturday 9th December, 2017, at 1.30 pm or soon thereafter after the conclusion of the previous meeting, for the purpose of considering and, if thought fit, approving the scheme of amalgamation between the Applicant No.1 being the Transferee Company and the Applicant Nos. 2 to 5 and their respective shareholders and creditors.

7. That the meeting of the unsecured creditors of the Applicant No.2 (Transferor Company) be convened and held at the registered office at B-1 Neela Apartments, S.V road, Opp. Mandpeshwar Industrial Estate, Borivali West. Mumbai on Saturday 9th December, 2017, at 2.00 pm or soon thereafter after the conclusion of the previous meeting, for the purpose of considering and, if thought fit, approving the scheme of amalgamation between the Applicant No.1 being the Transferee Company and the Applicant Nos. 2 to 5 and their respective shareholders and creditors.
8. That the meeting of the equity shareholders of the Applicant No.3(Transferor Company) be convened and held at the registered office at B-1 Neela Apartments, S.V road, Opp. Mandpeshwar Industrial Estate, Borivali West. Mumbai on Saturday 9th December, 2017, at 2.30 pm or soon thereafter after the conclusion of the previous meeting, for the purpose of considering and, if thought fit, approving the scheme of

amalgamation between the Applicant No.1 being the Transferee Company and the Applicant Nos. 2 to 5 and their respective shareholders and creditors.

9. That the meeting of the unsecured creditors of the Applicant No.3 (Transferor Company) be convened and held at the registered office at B-1 Neela Apartments, S.V road, Opp. Mandpeshwar Industrial Estate, Borivali West. Mumbai on Saturday 9th December 2017, at 3.00 pm or soon thereafter after the conclusion of the previous meeting, for the purpose of considering and, if thought fit, approving the scheme of amalgamation between the Applicant No.1 being the Transferee Company and the Applicant Nos. 2 to 5 and their respective shareholders and creditors.
10. That the meeting of the equity shareholders of the Applicant No.4(Transferor Company) be convened and held at the registered office at B-1 Neela Apartments, S.V road, Opp. Mandpeshwar Industrial Estate, Borivali West. Mumbai on Saturday 9th December 2017, at 3.30 pm or soon thereafter after the conclusion of the previous meeting, for the purpose of considering and, if thought fit, approving the scheme of amalgamation between the Applicant No.1 being the Transferee Company and the Applicant Nos. 2 to 5 and their respective shareholders and creditors.

11. That the meeting of the unsecured creditors of the Applicant No.4 (Transferor Company) be convened and held at the registered office at B-1 Neela Apartments, S.V road, Opp. Mandpeshwar Industrial Estate, Borivali West. Mumbai on Saturday 9th December, 2017, at 4.00 pm or soon thereafter after the conclusion of the previous meeting, for the purpose of considering and, if thought fit, approving the scheme of amalgamation between the Applicant No.1 being the Transferee Company and the Applicant Nos. 2 to 5 and their respective shareholders and creditors.
12. That the meeting of the equity shareholders of the Applicant No.5 (Transferor Company) be convened and held at the registered office at B-1 Neela Apartments, S.V road, Opp. Mandpeshwar Industrial Estate, Borivali West. Mumbai on Saturday 9th December, 2017, at 4.30 pm or soon thereafter after the conclusion of the previous meeting, for the purpose of considering and, if thought fit, approving the scheme of amalgamation between the Applicant No.1 being the Transferee Company and the Applicant Nos. 2 to 5 and their respective shareholders and creditors.
13. That the meeting of the unsecured creditors of the Applicant No.5 (Transferor Company) be convened and held at the registered office at B-1 Neela Apartments, S.V road, Opp.

Mandpeshwar Industrial Estate, Borivali West. Mumbai on Saturday 9th December, 2017, at 5.00 pm or soon thereafter after the conclusion of the previous meeting, for the purpose of considering and, if thought fit, approving the scheme of amalgamation between the Applicant No.1 being the Transferee Company and the Applicant Nos. 2 to 5 and their respective shareholders and creditors.

14. That at least 30 clear days before the said meeting of the equity shareholders of the Applicants to be held as aforesaid, together with the copy of Scheme Of Amalgamation, a copy of the statement disclosing all material facts as required under Section 230 (3) of the Companies Act r/w Rule 6 of the Companies (Compromise, Arrangements and Amalgamation) Rules, 2016 and the Prescribed Form of Proxy, shall be sent by Courier/ R.P.A.D, Speed post or through e-mail (to those equity shareholders whose email addresses are duly registered with the Applicants for the purpose of receiving such notices by E-mail), addressed to each of the equity shareholders of the Applicants, at their last known addresses or email addresses as per the record available with the Applicant Company.
15. That at least 30 clear days before the said meeting of the unsecured creditors of the Applicants to be held as aforesaid, together with the copy of Scheme Of Amalgamation, a copy of

the statement disclosing all material facts as required under Section 230 (3) of the Companies Act r/w Rule 6 of the Companies (Compromise, Arrangements and Amalgamation) Rules, 2016 and the Prescribed Form of Proxy, shall be sent by Courier/ R.P.A.D, Speed post or through e-mail (to those unsecured creditors whose email addresses are duly registered with the Applicants for the purpose of receiving such notices by E-mail), address to each of the unsecured creditors of the Applicants, at their last known addresses or email addresses as per the record available with the Applicants.

16. That at least 30 clear days before the said meeting of the Secured Creditors of the Applicants to be held as aforesaid, together with the copy of the scheme of amalgamation, copy of statement disclosing all material facts as required under Section 230 (3) of the Companies Act r/w Rule 6 of the Companies (Compromise, arrangements and amalgamation) Rules, 2016 and the Prescribed Form of Proxy, shall be sent by Courier/ R.P.A.D, Speed post or through e-mail (to those secured Creditors whose email addresses are duly registered with the Applicants for the purpose of receiving such notices by E-mail), address to each of the secured Creditors of the Applicants , at their last known addresses or email addresses as per the record available with the Applicants.

17. That at least 30 days before the meetings of the equity shareholders, unsecured and secured Creditors of the Applicants respectively, to be held as aforesaid, a notice convening the said meetings, indicating the place, date and time of the meetings as aforesaid be published stating that copies of the Scheme of Amalgamation and the statement required to be furnished pursuant to the Section 230 (3) of the Companies Act r/w Rule 6 of the Companies (Compromise, Arrangements and Amalgamation) Rules, 2016 and the form of Proxy/ies shall be obtain free of charge at the registered office of the Applicants as aforesaid.
18. That notice under Section 230(5) of the Companies Act, 2013 is necessary to be given to the Official Liquidator attached to the Hon'ble High Court at Bombay.
19. That at least 30 days before the meetings of the equity shareholders, unsecured and secured Creditors of the Applicants respectively the notices of the meetings shall be advertised in Two local newspapers namely "Indian Express" in English and "Lok Satta " in Marathi both circulated in Mumbai, state of Maharashtra.

20. The Applicants undertake to :

- i. Issue Notice convening the meeting of the secured and unsecured creditors as per Form No. CAA 2 (Rule 6) of the Companies (Compromise, Arrangements and Amalgamation) Rules, 2016;
- ii. Issue Statements containing all the particulars as per Section 230 of The Companies Act, 2013 ;
- iii. Issue Form of Proxy/lies as per Form No. MGT-11 (Rule 19) of the Companies (Management and Administration) Rules, 2014; and
- iv. Advertise the Notice/s convening the meeting/s as per Form No. CAA 2 (Rule 7) the Companies (Compromise, Arrangements and Amalgamation) Rules, 2016.

The undertaking given by the Applicant Company is accepted.

21. That Mr. Aditya Kamath, practicing Chartered Accountant shall be the Chairman of the aforesaid meetings of the equity shareholders, unsecured and secured creditors of the Companies to be held at the registered office of the Applicant Company at B-1 Neela Apartments, S.V Road, Opp. Mandpeshwar Industrial Estate, Borivali West. Mumbai respectively, or any adjourned or adjournments thereof. The Scrutinizer for the aforesaid meetings shall be Mr. Sudhir Narhari Kamath, practicing Company Secretary (Membership Number FCS 2840).

22. That the Chairman appointed for the aforesaid meetings to issue the advertisement and send out the notices of the meetings referred to above. The said Chairman shall have all the powers as per the Articles of Association, also under The Companies Act, 2013 and Companies (Compromised, Arrangements and Amalgamation) Rules, 2016 in relation to the conduct of the meetings, including for deciding procedural questions that may arise or at any adjournment thereof or any other matter including an amendment to the Scheme or the resolution, if any proposed at meetings by any person(s).

23. That the quorum of the aforesaid meeting of the equity shareholders shall be as prescribed under Section 103 of The Companies Act, 2013.

24. That the quorum of the meeting of unsecured creditors of the Applicant Companies shall be two unsecured creditors present in person.

25. That the quorum of the meeting of secured creditors of the Applicant Company No.1 shall be five secured creditors present in person.

26. That voting by proxy or authorized representative in case of body corporate be permitted, provided that a proxy in the prescribed form/ authorisation duly signed by the person entitled to attend and vote at the meetings, is filed at its Registered office of the Applicant No.1 at B-1 Neela Apartments, S.V. Road, Opp. Mandpeshwar Industrial Estate, Borivali West. Mumbai, not later than 48 hours before the aforesaid meeting.
27. The value of the debts of the secured, unsecured creditors, as the case may be, shall be in accordance with the records or registers of the respective Companies and where the entries in the records or registers are disputed, the Chairman of the meetings shall determine the number or value, as the case may be for the purpose of the meetings and his decision in that behalf would be final.
28. That the Chairman to file an Affidavit not less that seven (7) days before the date fixed for the holding of the meetings and do report to this Tribunal that the direction regarding the issue of notices and the advertisements have been duly complied with.
29. That the Chairman of the meetings to report to this Tribunal, the results of the aforesaid meetings within three (3) days of the conclusion of the meetings and the said Affidavit shall be verified by his Affidavit as per rule 12 of the Companies(Compromises, Arrangements And Amalgamations) Rules, 2016.

30. The convening and holding the meeting of the secured creditors of the Applicant Nos.2 to 5 for the purpose of the considering and if thought fit, approving the Scheme of Amalgamation is not required with in view of the averments made in paragraph 40 to 44 of the Company Application that there are no secured creditors of the Transferor Companies.

31. The Applicants to serve the notice upon the Central Government through the Regional director, Western Region, Ministry of Corporate Affairs, Mumbai, Maharashtra, pursuant to section 230(5) of the Companies Act, 2013 as per Rule 8 of Companies(Compromises, Arrangements And Amalgamations) Rules, 2016.

If no response is received by the Tribunal from the Regional director within 30 days of the date of receipt of the notice, it will be presumed that the Regional director and/or the Central Government has no objection to the proposed Scheme as per Rule 8 of the Companies(Compromises, Arrangements And Amalgamations) Rules, 2016.

32. The Applicants to serve the notice upon the Registrar of Companies, pursuant to section 230(5) of the Companies Act, 2013 as per Rule 8 of Companies (Compromises, Arrangements And Amalgamations) Rules, 2016. If no response is received by the Tribunal from the Regional director within 30 days of the date of receipt of the notice, it will be presumed that the Registrar of Companies has no objection to the proposed Scheme as per Rule 8 of Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

33. The Applicants to serve the notice upon the concerned Income Tax Authority within whose jurisdiction the Applicant Companies assessment are made, pursuant to Section 230(5) of the Companies Act, 2013 as per Rule 8 of Companies(Compromises, Arrangements And Amalgamations) Rules, 2016.If no response is received by the Tribunal from the concerned Income Tax Authority within 30 days of the date of receipt of the notice, it will be presumed that the concerned Income Tax Authority has no objection to the proposed Scheme as per Rule 8 of Companies (Compromises, Arrangements And Arralgamations) Rules, 2016.
34. The Applicant Companies to serve the notice upon the Official Liquidator, High Court, Bombay. M/s. Deepak N. Shah & Company, Chartered Accountants are appointed with the total remuneration of Rs.60,000/- to assist the Official Liquidator to scrutinize books of accounts of the Applicant Companies. The remuneration of the Chartered Accountant shall be paid by the Applicant Companies within the period of 2 weeks from today. If no representation is received by Tribunal from Official Liquidator within 30 days, it may be presumed that Official Liquidator, High Court, Bombay has no representation to make on proposed scheme.

35. The Applicants undertakes to file an Affidavit proving service of notice on the shareholders, creditors, Central Government through the Regional director, Registrar of Companies, concerned Income Tax Authority and publication of notice in newspaper, not less than seven (7) days before the date fixed for the holding of the meetings.

Sd/-

Shri. V. Nallasenapathy
Member (Technical)

Sd/-

Shri. BSV Prakash Kumar
Member (Judicial)