

IN THE NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH

CSA NO.955 OF 2017

Under the Sections 230 to 232 of the Companies Act, 2013.

And

In the matter of Scheme of Amalgamation of Transwarranty Consultants Private Limited ('TCPL' or 'the Transferor Company') with Transwarranty Finance Limited ('TFL' or 'the Transferee Company' or 'the Applicant Company') And their respective shareholders

**TRANSWARRANTY FINANCE LIMITED .... Applicant/ Transferee Company**

Order delivered on 8th November, 2017

Coram:

Hon'ble SH. B.S.V. Prakash Kumar, Member (J)

Hon'ble SH. V. Nallasenapathy, Member (T)

For the Petitioner(s): Mr. Rajesh Shah with Mr. Ahmed M Chunawala i/b M/s. Rajesh Shah & Co., Advocate for the Petitioner.

Per: V. Nallasenapathy, Member (T)

**ORDER:**

**UPON** the application of the Applicant Company above named by a Company **AND UPON HEARING** Mr. Rajesh Shah along with Mr. Ahmed M Chunawala i/b M/s. Rajesh Shah & Co, Advocates for the Applicant Company, **AND UPON READING** the Affidavit dated 13<sup>th</sup> day of October, 2017 of Mr. Ramachandran Unnikishnan, Director & CFO of the Applicant Company, in support of the Application and the Exhibits therein referred to, **IT IS ORDERED THAT:**

1. That the meeting of the Equity Shareholders of the Applicant Company be convened and held at M. C. Ghia Hall, Bhogilal Hargovindas Building, 4th floor, 18/20, Kaikhushru Dubash Marg, Mumbai – 400 001 on Thursday, December 21,

2017 at 09.30 a.m. for the purpose of considering and, if thought fit, approving with or without modification(s) the proposed Scheme of Amalgamation of Transwarranty Consultants Private Limited ('TCPL' or 'the Transferor Company') with Transwarranty Finance Limited ('TFL' or 'the Transferee Company') and their respective shareholders.

2. At least 30 clear days before the said meeting of the Shareholders of the Applicant Company to be held as aforesaid, a notice convening the said Meeting at the place, day, date and time aforesaid, together with a copy of the Scheme, a copy of the Explanatory Statement required to be sent under Section 230 of the Companies Act, 2013 and the prescribed Form of Proxy, shall be sent by Registered Post or by Air Mail or by courier or by speed post or by hand delivery to each of the Shareholders of the Applicant Company at their respective registered or last known addresses or by e-mail to the registered e-mail address of the Shareholders as per the records of the Applicant Company or can be obtained free of charge at the Registered Office of the Applicant Company as aforesaid and shall also be published once each in 'Free Press Journal' in English and 'Navshakti' in Marathi.
3. The Applicant Company undertakes to:
  - i. issue Notice convening meeting of the shareholders as per Form No. CAA.2 (Rule 6) of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016;
  - ii. issue Statement containing all the particulars as per Section 230 of the Companies Act, 2013;
  - iii. issue Form of Proxy as per Form No. MGT-11 (Rule 19) of the Companies (Management and Administration) Rules, 2014; and
  - iv. advertise the Notice convening meeting as per Form No. CAA.2 (Rule 7) the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

The undertaking is accepted.

4. That Mr. Kumar Nair, Chairman & Managing Director of the Applicant Company, and failing him, Mr. Ramachandran Unnikrishnan, Director & CFO of the Applicant Company and failing him, Mr. Sudharsanan Nair, Director of the

Applicant Company shall be the Chairman of the aforesaid meeting of the Equity Shareholders of the Applicant Company to be held at M. C. Ghia Hall, Bhogilal Hargovindas Building, 4th floor, 18/20, Kaikhushru Dubash Marg, Mumbai – 400 001 on Thursday, December 21, 2017 at 09.30 a.m. or any adjournment or adjournments thereof. The Scrutinizer for the meeting shall be Mr. Yogesh M. Sharma, Practicing Company Secretary and the fees shall be Rs. 10,000/-.

5. 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 powers under the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 in relation to the conduct of the meeting(s), including for deciding procedural questions that may arise or at any adjournment thereof or any other matter including an amendment to the Scheme or resolution, if any, proposed at the meeting by any person(s).
6. That the quorum of the aforesaid meetings of the Shareholders shall be as prescribed under Section 103 of the Companies Act, 2013.
7. That voting by proxy or authorized representative in case of body corporate be permitted, provided that a proxy in the prescribed form/ authorization duly signed by the person entitled to attend and vote at the meetings, are filed with the Applicant Company at their respective Registered Offices not later than 48 hours before the aforesaid meeting. Registered Office of Applicant Company is situated at 403, Regent Chambers, Nariman Point, Mumbai- 400021.
8. That the value and number of the shares of each member shall be in accordance with the books / register of the Applicant Company or depository records and where the entries in the books / register / depository records are disputed, the Chairman of the Meetings shall determine the value for the purpose of the aforesaid meetings and his decision in that behalf would be final.
9. That the Chairman to file an affidavit not less than seven (7) days before the date fixed for the holding of the meetings and do report this Tribunal that the direction regarding the issue of notices and the advertisement have been duly complied with as per Rule 12 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

10. The Chairman to report to this Tribunal, the result of the aforesaid meeting within thirty days of the conclusion of the meeting, and the said report shall be verified by his Affidavit as per Rule 14 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
11. The Learned Counsel for the Applicant Company further submits that since the Scheme is an amalgamation between the Applicant Company and their respective shareholders only a meeting of the Equity Shareholders is proposed to be held in accordance with the provisions of Section 230(1)(b) of the Companies Act 2013. This bench hereby directs the Applicant Company to issue notice to all its Secured Creditors and Unsecured Creditors under Section 230(3) of the Companies Act, 2013 with a direction that they may submit their representations, if any, to the Tribunal and copy of such representations shall simultaneously be served upon the Applicant Company.
12. The Applicant Company to serve the notice upon 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 the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from Regional Director within 30 days of the date of receipt of the notice it will be presumed that Regional Director and/ or Central Government has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
13. The Applicant Company to serve the notice upon the Reserve Bank of India ('RBI'), pursuant to Section 230(5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from RBI within 30 days of the date of receipt of the notice it will be presumed that RBI has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
14. The Applicant Company to serve the notice upon Securities and Exchange Board of India (SEBI) pursuant to Section 230(5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from SEBI within 30 days of the date of receipt of the notice it will be presumed that SEBI has no objection to the

- proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
15. The Applicant Company to serve the notice upon BSE Limited and National Stock Exchange of India Limited, pursuant to Section 230(5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from the Stock Exchanges within 30 days of the date of receipt of the notice it will be presumed that the Stock Exchanges has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
  16. The Applicant Company to serve the notice upon the concerned Registrar of Companies, pursuant to Section 230(5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from the Registrar of Companies within 30 days of the date of receipt of the notice it will be presumed that Registrar of Companies has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
  17. The Applicant Company to serve the notice on the concerned Income Tax Authority within whose jurisdiction the Applicant Company's assessment are made, pursuant to Section 230(5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from the Income Tax Authority within 30 days of the date of receipt of the notice it will be presumed that Income Tax Authority has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
  18. The Applicant Company to file an affidavit of service of the directions given by the Tribunal not less than seven 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 have been duly complied with.

Sd/-

**V. Nallasenapathy, Member (T)**

Sd/-

**B.S.V. Prakash Kumar, Member (J)**

Date: 08.11.2017