

IN THE NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH

CSA NO. 921 OF 2017

Under Section 230-232 of the Companies  
Act, 2013

In the matter of Scheme of Amalgamation  
between FLAGSHIP DEVELOPERS PRIVATE  
LIMITED, the Transferor Company and VITP  
PRIVATE LIMITED, the Transferee Company  
and their respective shareholders.

FLAGSHIP DEVELOPERS PRIVATE LIMITED

....Applicant Company/ Transferor Company

Order delivered on 12th October, 2017

Coram:

Hon'ble M. K. Shrawat Hon'ble Member (J)

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

ORDER

**UPON** the application of the Applicant Company above named by a  
Company Notice of Admission **AND UPON HEARING** Mr. Rajesh Shah  
instructed by Rajesh Shah & Co., Advocate for the Applicant Company,  
**AND UPON READING** the Application along with the Notice of  
Admission dated 26<sup>th</sup> day of September, 2017 of Mr. Abhijit Kamalakar  
Kukade, Authorised Signatory of the Applicant Company, in support  
of Company Summons for Directions along with Application and the  
Exhibits therein referred to, **IT IS ORDERED THAT:**



1. A meeting of the Equity Shareholders of the Applicant Company be convened and held at the registered office of the Company at Blue Ridge, Near Cognizant, Rajiv Gandhi Infotech Park-Phase 1, Hinjewadi, Pune 411057 Maharashtra or Unit No. 607 & 608, 6th Floor, Amar Business Park, Survey No. 105 (3), Baner, Pune 411045, Maharashtra (at the option of the Applicant Company) , on Monday, 27<sup>th</sup> November, 2017 at 1.00 p.m., for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of Amalgamation between FLAGSHIP DEVELOPERS PRIVATE LIMITED, the Transferor Company and VITP PRIVATE LIMITED, the Transferee Company.
2. A meeting of the Class B Equity Shareholders of the Applicant Company be convened and held at the registered office of the Company at Blue Ridge, Near Cognizant, Rajiv Gandhi Infotech Park-Phase 1, Hinjewadi, Pune 411057 Maharashtra or Unit No. 607 & 608, 6th Floor, Amar Business Park, Survey No. 105 (3), Baner, Pune 411045, Maharashtra (at the option of the Applicant Company) , on Monday, 27<sup>th</sup> November, 2017 at 2.30 p.m., for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of Amalgamation between FLAGSHIP DEVELOPERS PRIVATE LIMITED, the Transferor Company and VITP PRIVATE LIMITED, the Transferee Company.
3. At least 30 clear days before the said meetings of the Equity Shareholders and Class B Equity Shareholders of the Applicant Company to be held as aforesaid, a notice convening the said Meetings 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 courier or by speed post or by hand delivery to each of the Equity Shareholders and Class B Equity 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 Equity Shareholders and Class B Equity Shareholders as per the records of the Applicant Company.



4. At least 30 clear days before the Meetings of the Equity Shareholders and Class B Equity Shareholders of the Applicant Company to be held as aforesaid, a notice convening the said meetings, at the place, date and time aforesaid and stating that copies of the Scheme of Amalgamation and the statement required to be furnished pursuant to Section 230 of the Companies Act, 2013 and that the form of Proxy can be obtained free of charge at the Registered Office of the Applicant Company as aforesaid and shall also be published once each in 'Economic Times' in English and 'Maharashtra Times' in Marathi.
5. The Applicant Company undertakes to:
  - i. issue Notice convening meetings of the Equity Shareholders and Class B Equity Shareholders as per Form No. CAA.2 (Rule 6) of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016;
  - ii. issue Statements containing all the particulars as per Section 230 of the Companies Act, 2013;
  - iii. issue Forms of Proxy as per Form No. MGT.11 (Rule 19) of the Companies (Management and Administration) Rules, 2014; and
  - iv. advertise the Notices convening meeting as per Form No. CAA.2 (Rule 7) of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

The undertaking is accepted.

6. Mr. Abhijit Kukade, Authorised Signatory, failing whom Mr. Bhavesh Madeka, Director, failing whom Mr. V.V. Balaji, Director of the Applicant Company is appointed as the Chairperson for the meetings of Equity Shareholders and Class B Equity Shareholders. The Scrutinizer for the meetings shall be CS Mukesh Siroya, Practicing Company Secretary (Membership Number FCS 5682).
7. The Chairperson appointed for the aforesaid Meetings to issue the notices of the Meetings referred to above. The said Chairperson 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 meetings by any person(s).

8. The quorum for the aforesaid meeting of the Equity Shareholders shall be two members and Class B Equity Shareholders shall be one member.
9. The voting by proxy or authorised 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 with the Applicant Company at its Registered Office at Blue Ridge, Near Cognizant, Rajiv Gandhi Infotech Park- Phase 1, Hinjewadi, Pune 411057 Maharashtra , not later than, 48 hours before the aforesaid meeting as required under Rule 10 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
10. 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 Chairperson of the Meetings shall determine the value for the purpose of the aforesaid meeting and his decision in that behalf would be final.
11. The Chairperson to file an affidavit not less than seven days before the date fixed for the holding of the meetings and do report this to the Tribunal that the direction regarding the issue of notices and advertisements have been duly complied with as per Rule 12 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
12. The Chairperson to report to this Tribunal, the result of the aforesaid meetings within thirty working days of the conclusion of the meeting, and the said reports shall be verified by his Affidavit as per Rule 14 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
13. That Counsel for the Applicant submits that since the scheme is an amalgamation between the Applicant Company and their respective



shareholders only a meeting of the Equity Shareholders and Class B 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 as required 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.

14. That Counsel for the Applicant submits that since the scheme is an amalgamation between the Applicant Company and their respective shareholders only a meeting of the Equity Shareholders and Class B 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 Unsecured creditors as required 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
15. The Applicant 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.
16. The Applicant 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 to serve the notice to the Official Liquidator, High Court, Bombay pursuant to Section 230(5) of the Companies Act, 2013. The Tribunal has appointed Chartered Accountant, M/s S. J. Agarwal & Associates., with a Remuneration of Rs. 2,00,000/-. If no response is received by the concerned Tribunal from Official Liquidator within 30 days it may be presumed that Official Liquidator, High Court, Bombay has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
18. The Applicant 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.
19. The Applicant to serve the notice upon Bombay Stock Exchange, 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 Bombay Stock Exchange within 30 days of the date of receipt of the notice it will be presumed that Bombay Stock Exchange has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
20. The Applicant to serve the notice upon the Securities and Exchange Board of India, 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 Securities and Exchange Board of India within 30 days of the date of receipt of the notice it will be presumed that the Securities and Exchange Board of India has no objection to the



proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

21. The Applicant to serve the notice upon the Board of Approval for SEZ, 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 Board of Approval for SEZ within 30 days of the date of receipt of the notice it will be presumed that the Board of Approval for SEZ has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
22. The Applicant to serve the notice upon the Development Commissioner, SEEPZ Special Economic Zone, 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 Development Commissioner, SEEPZ Special Economic Zone within 30 days of the date of receipt of the notice it will be presumed that the Development Commissioner, SEEPZ Special Economic Zone has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
23. The Applicant 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/-

21/11/17  
M. K. Shrawat Member (J)