

IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH

CSP NO. 831 OF 2017

AND

CSP NO. 832 OF 2017

GODREJ VIKHROLI PROPERTIES INDIA LIMITED

...Petitioner/ Transferor Company

AND

GODREJ PROPERTIES LIMITED

... Petitioner / Transferee Company

Under Sections 230 to 232 of the Companies Act, 2013 and other relevant provisions of the Companies Act, 2013.

And

In the matter of Scheme of Amalgamation of GODREJ VIKHROLI PROPERTIES INDIA LIMITED("Transferor Company") with GODREJ PROPERTIES LIMITED("Transferee Company") And their respective shareholders

Order delivered on 30th November, 2017

Coram:

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

MINUTES OF THE ORDER

1. Heard learned counsel for parties. No objector has come before this Hon'ble Tribunal to oppose the Scheme nor has any party controverted any averments made in the Petition.

2. The sanction of the Tribunal is sought under Sections 230 to 232 of the Companies Act, 2013 to the Scheme of Amalgamation of Godrej Vikhroli Properties India Limited with Godrej Properties Limited and their respective shareholders.
3. Learned counsel for the Petitioner Companies states that the Transferor Company is engaged in the business of Real Estate Construction, Development and other allied activities and the Transferee Company is engaged in the business of real estate development.
4. Learned counsel for the Petitioner Companies further states that the proposed Scheme of Amalgamation would have the following benefits:
 - Integration of operations resulting in rationalisation of administrative and operating costs; and
 - Elimination of multiple entities.
5. The Petitioner Companies have approved the said Scheme of Amalgamation by passing the board resolutions which are annexed to their respective Company Scheme Petitions.
6. The Learned Advocate appearing on behalf of the Petitioner Companies states that the Petitions have been filed in consonance with the order passed in Company Scheme Application Nos. 385 and 391 of 2017 of the Hon'ble Tribunal.
7. The Learned Advocate appearing on behalf of the Petitioner Companies states that the Petitioner Companies have complied with all requirements as per directions of the Hon'ble Tribunal and they have filed necessary affidavits of compliance with Hon'ble Tribunal. Moreover, Petitioner Companies undertake to comply with all statutory requirements, if any, as required under the Companies Act, 2013 and the Rules made there under. The said undertaking is accepted.
8. The Regional Director has filed his report dated 14th November, 2017, inter alia, stating therein that save and except as stated in paragraph IV of the said report, it appears that the Scheme is not

prejudicial to the interest of shareholders and public. In paragraph IV of the said report, the Regional Director has stated that:-

- 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 Tax Implication if any arising out of the scheme is subject to final decision of the Income Tax Authorities. The approval of the scheme by this Hon'ble Court may not deter the Income Tax Authority to scrutinize the tax return filed by the Transferee Company, after giving effect to the Scheme. The decision of the Income Tax Authority is binding on the Petitioner Company.*
 - c. *As regards Para No. 10 of the Scheme, the Transferee Company may be allowed in respect of fees payable by the Transferee Company on its Authorized Share Capital, subsequent to the Amalgamation for setting-off of fees paid by the Transferor Company on its Authorized Share Capital in accordance to the provisions of Section 232(3)(i) of the Companies Act, 2013.*
 - d. *In accordance to proviso to Section 232(3) of the Companies Act, 2013 the Company may be directed to file a Certificate from the Company's Auditors to the effect that the Accounting Standards as prescribed under Section 133 of the Companies Act, 2013.*
9. As far as the observation of the Regional Director, Western Region, Mumbai, as stated in paragraph IV (a) of his report is concerned, the Transferee Company undertakes that it will comply with the IND AS-103. Further, the Transferee Company shall pass such accounting entries as may be necessary in connection with the Scheme of Amalgamation to comply with other Accounting Standards such as IND AS-8, as may be applicable.
 10. As far as the observation of the Regional Director, Western Region, Mumbai, as stated in paragraph IV (b) of the report is concerned, the Petitioner Companies undertakes to comply with all applicable provisions of the Income Tax Act, 1961 and all tax issues arising

out of the Scheme will be met and answered in accordance with law.

11. As far as the observation of the Regional Director, Western Region, Mumbai, as stated in paragraph IV (c) of the report is concerned, the Transferee Company through their Counsel undertakes that the Authorized Share Capital of Transferor Company shall be merged with that of the Transferee Company in terms of Clause 10 of the Scheme in compliance of Section 232(3)(i) of the Companies Act, 2013.
12. As far as the observation of the Regional Director, Western Region, Mumbai, as stated in paragraph IV (d) of the report is concerned, the Transferee Company hereby clarifies that the Transferee Company has filed Accounting Treatment Certificate as required under Section 232(3) of the Companies Act, 2013 with the Company Scheme Application and Company Scheme Petition as Annexure -'F' and 'E' respectively, stating that the proposed Scheme is in conformity with the Accounting Standards as prescribed under Section 133 of the Companies Act, 2013.
13. The observations made by the Regional Director have been explained by the Petitioner Companies in paragraphs 9 to 12 above. The clarifications and undertakings given by the Petitioner Companies are hereby accepted.
14. The Official Liquidator has filed his report dated 23rd day of August, 2017 in Company Scheme Application No. 391 of 2017 inter alia, stating therein that the affairs of the Transferor Company have been conducted in a proper manner and that the Transferor Company may be ordered to be dissolved without winding up by the Hon'ble Tribunal.
15. From the material on record, the Scheme appears to be fair, reasonable and is not violative to any provisions of law nor is contrary to public interest.
16. Since all the requisite statutory compliances have been fulfilled, the Company Scheme Petition No. 831 and 832 of 2017 are made absolute in terms of prayer clauses (a) and (b).

17. The Petitioner Companies are directed to file a copy of this order along with a copy of the Scheme of Amalgamation with the concerned Registrar of Companies, electronically, along with e-Form INC-28, in addition to physical copy, within 30 days from the date of receipt of the Order duly certified by the Deputy Director or Assistant Registrar, of the National Company Law Tribunal, Mumbai Bench.
18. The Petitioner Companies to lodge a copy of this order and the Scheme duly certified by the Deputy Director or the Assistant Registrar, of the National Company Law Tribunal, Mumbai Bench, with the concerned Superintendent of Stamps, for the purpose of adjudication of stamp duty payable, if any, on the same within a period of 60 days from the date of receipt of the Order.
19. The Petitioner Companies to pay costs 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. Costs to be paid within four weeks from the date of the receipt of the duly certified copy of this order.
20. All authorities concerned to act on a copy of this order along with the Scheme duly certified by the Deputy Director or the Assistant Registrar, of the National Company Law Tribunal, Mumbai Bench.

Sd/-

V. Nallasenapathy, Member (T)

Sd/-

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

Date:30.11.2017