

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH**

CSA NO. 1013 OF 2017

Under Section 230 to 232 of
Companies Act, 2013

In the matter of Scheme of Amalgamation between Vishwajyot Investments and Finance Private Limited (First Transferor Company) and Viking Snack-Bar Private Limited (Second Transferor Company) and Star Formulation Private Limited (Third Transferor Company) with Mohini Drashti Developers Private Limited (Transferee Company) and their respective Shareholders.

Vishwajyot Investments and Finance Private Limited

..... First Applicant Company /First Transferor Company

Viking Snack-Bar Private Limited

.....Second Applicant Company/ Second Transferor Company

Star Formulation Private Limited

.....Third Applicant Company/ Third Transferor Company

Mohini Drashti Developers Private Limited

.....Fourth Applicant Company/ Transferee Company

Judgment / Order delivered on 6th day of December, 2017

Coram:

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

Hon'ble V. Nallasenapathy, Member (T)

For the Applicant(s): Mr. Ajit Singh Tawar and Mr. Rushil Aiya i/b Ajit Singh Tawar &

Co., Advocates for Applicants

Per: V. Nallasenapathy, Member (T)

ORDER

UPON the application of the Applicant Companies above named by a Company Notice of Admission **AND UPON HEARING** Mr. Ajit Singh Tawar and Mr. Rushil Aiya i/b Ajit Singh Tawar & Co, Advocates for the Applicant Companies. **AND UPON READING** the Application along with the Notice of Admission dated 17th day of November, 2017 of Mr. Sameer Shah, Director of the Applicant Companies, in support of Notice of Admission along with Application and Exhibits therein referred to, **IT IS ORDERED THAT:**

1. A meeting of the Equity Shareholders of the First Applicant Company, be convened and held at 902, Gulmohar Heights, Samarth Ramdas Road, Juhu Harshal Co. Op. Hsg. Soc. Ltd, Vile Parle, (W), Mumbai- 400 056 on Wednesday, 10th day of January, 2018 at 11:00 AM for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of Amalgamation between Vishwajyot Investments and Finance Private Limited (First Transferor Company) and Viking Snack-Bar Private Limited having (Second Transferor Company) and Star Formulation Private Limited (Third Transferor Company) with Mohini Drashti Developers Private Limited (Transferee Company) and their respective Shareholders.
2. A meeting of the Preference Shareholders of the First Applicant Company, be convened and held at 902, Gulmohar Heights, Samarth Ramdas Road, Juhu Harshal Co. Op. Hsg. Soc. Ltd, Vile Parle, (W), Mumbai- 400 056 on Wednesday, 10th day of January, 2018 at 11:30 AM for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of Amalgamation between Vishwajyot Investments and Finance Private Limited (First Transferor Company) and Viking Snack-Bar Private Limited having (Second Transferor Company) and Star Formulation Private Limited (Third Transferor Company) with Mohini Drashti Developers Private Limited (Transferee Company) and their respective Shareholders.

3. A meeting of the Equity Shareholders of the Second Applicant Company, be convened and held at 902, Gulmohar Heights, Samarth Ramdas Road, Juhu Harshal Co. Op. Hsg. Soc. Ltd, Vile Parle, (W), Mumbai- 400 056 on Wednesday, 10th day of January, 2018 at 12:00 PM for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of Amalgamation between Vishwajyot Investments and Finance Private Limited (First Transferor Company) and Viking Snack-Bar Private Limited having (Second Transferor Company) and Star Formulation Private Limited (Third Transferor Company) with Mohini Drashti Developers Private Limited (Transferee Company) and their respective Shareholders.
4. A meeting of the Equity Shareholders of the Third Applicant Company, be convened and held at 902, Gulmohar Heights, Samarth Ramdas Road, Juhu Harshal Co. Op. Hsg. Soc. Ltd, Vile Parle, (W), Mumbai- 400 056 on Wednesday, 10th day of January, 2018 at 12:30 PM for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of Amalgamation between Vishwajyot Investments and Finance Private Limited (First Transferor Company) and Viking-Snack Bar Private Limited (Second Transferor Company) and Star Formulation Private Limited (Third Transferor Company) with Mohini Drashti Developers Private Limited (Transferee Company) and their respective Shareholders.
5. A meeting of the Equity Shareholders of the Fourth Applicant Company, be convened and held at 902, Gulmohar Heights, Samarth Ramdas Road, Juhu Harshal Co. Op. Hsg. Soc. Ltd, Vile Parle, (W), Mumbai- 400 056 on Wednesday, 10th day of January, 2018 at 01:00 PM for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of Amalgamation between Vishwajyot Investments and Finance Private Limited (First Transferor Company) and Viking Snack-Bar Private Limited (Second Transferor Company) and Star Formulation Private Limited (Third Transferor Company) with Mohini Drashti Developers Private Limited (Transferee Company) and their respective Shareholders.
6. At least 30 clear days before the said meeting of the Equity and Preference Shareholders of the Applicant Companies 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 Equity and Preference Shareholders of the Applicant Companies at their respective registered or last known addresses or by e-mail to the registered e-mail address of the Equity and Preference Shareholders as per the records of the respective Applicant Companies.

7. At least 30 clear days before the Meeting of the Equity and Preference Shareholders of the Applicant Companies to be held as aforesaid, a notice convening the said meeting, 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 respective Applicant Companies as aforesaid, shall be published once each in 'Free Press Journal' in English and 'Navshakti' in Marathi, both circulated at Mumbai.

8. The Applicant Companies undertakes to:

- i. Issue Notice convening meeting of the Equity and Preference shareholders in Form No. CAA.2 as per 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 in Form No. MGT-11 as per Rule 19 of the Companies (Management and Administration) Rules, 2014; and
- iv. Advertise the Notice convening meeting in Form No. CAA.2 as per Rule 7 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

The undertaking is accepted.

9. Mr. Sameer Shah, Director of the Applicant Companies failing him, Mrs. Shital Shah, Director of the Applicant Companies failing her Ms. Hiral Shah, Authorised Representative

of the Applicant Companies failing her Ms. Moksha Shah, Authorised Representative of the Applicant Companies, is appointed as the chairperson for the meeting of the Equity and Preference Shareholders, who shall be paid an amount of Rs. 2000/- per Applicant Company for the services. The Scrutinizer for the meeting shall be Mrs. Aparna Paricharak, Practicing Company Secretary having Membership No: FCS 7172 and Certificate of Practice No. -6738, who shall be paid an amount of Rs. 3000/- per Applicant Company for the services.

10. The Chairperson appointed for the aforesaid Meetings to issue the advertisement and send out the notices of the Meetings referred to above. The said Chairperson shall have all powers under the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (or any re-enactment thereof upon effectiveness of Companies Act, 2013) in relation to the conduct of the meeting(s), including for deciding procedural questions that may arise at the meeting 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).
11. The quorum for the aforesaid meetings of the Equity Shareholders shall be as prescribed under Section 103 of the Companies Act, 2013.
12. The quorum of the aforesaid meeting of the Preference Shareholders of the First Applicant Company shall be one person duly authorized by the sole Preference Shareholder.
13. The voting by proxy or authorized representative in case of body corporate shall be permitted, provided that a proxy in the prescribed form/ authorization duly signed by the person entitled to attend and vote at the meetings, is filed with the respective Applicant Company at its Registered Office, not later than, 48 hours before the aforesaid meetings as required under Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
14. The value and number of the shares of each member shall be in accordance with the books/ register of the respective Applicant Company or depository records and where the entries in the books / register/depository records are disputed, the Chairperson for the respective

Meeting shall determine the value for the purpose of the aforesaid meetings and his decision in that behalf would be final.

15. The Chairperson for the respective meeting to file an affidavit not less than seven days before the date fixed for the holding of the respective meeting of equity and Preference shareholders 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 Amalgamation) Rules, 2016.
16. The Chairperson for the respective meeting to report to this Tribunal, the result of the aforesaid meetings of equity and Preference shareholder within thirty (30) days after the conclusion of the meeting.
17. That since there are no Secured Creditors of the First Applicant Company as stated in the averment made in paragraph 33 of the Application, therefore the question of sending notices to Secured Creditors does not arise.
18. That since there are no Secured Creditors of the Second Applicant Company as stated in the averment made in paragraph 33 of the Application, therefore the question of sending notices to Secured Creditors does not arise.
19. That since there are no Secured Creditors of the Third Applicant Company as stated in the averment made in paragraph 33 of the Application, therefore the question of sending notices to Secured Creditors does not arise.
20. That since there are no Secured Creditors of the Fourth Applicant Company as stated in the averment made in paragraph 33 of the Application, therefore the question of sending notices to Secured Creditors does not arise.
21. That Counsel for First Applicant Company submits that since the Scheme is an Arrangement between the First Applicant Company involved in the Scheme and its shareholders and only meetings of the Equity and Preference Shareholders of the First Applicant Company 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 First 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 representation, if any, to the Tribunal and a copy of such representations shall simultaneously be served upon the First Applicant Company.

22. That Counsel for Second Applicant Company submits that since the Scheme is an Arrangement between the Second Applicant Company involved in the Scheme and its shareholders and only meetings of the Equity Shareholders of the Second Applicant Company 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 Second 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 representation, if any, to the Tribunal and a copy of such representations shall simultaneously be served upon the Second Applicant Company.
23. That Counsel for Third Applicant Company submits that since the Scheme is an Arrangement between the Third Applicant Company involved in the Scheme and its shareholders and only meetings of the Equity Shareholders of the Third Applicant Company 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 Third 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 representation, if any, to the Tribunal and a copy of such representations shall simultaneously be served upon the Third Applicant Company.
24. That Counsel for Fourth Applicant Company submits that since the Scheme is an Arrangement between the Fourth Applicant Company involved in the Scheme and its shareholders and only meetings of the Equity Shareholders of the Fourth Applicant Company 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 Fourth 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 representation, if any, to the Tribunal

and a copy of such representations shall simultaneously be served upon the Fourth Applicant Company.

25. The Applicant Companies to serve the notice upon the concerned Regional Director, 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 concerned Tribunal from the Regional Director within 30 days of the date of receipt of the notice it will be presumed that Regional Director has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
26. The Applicant Companies 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 concerned 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.
27. The Applicant Companies 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 concerned 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.
28. The First, Second and Third Applicant Company to serve the notice upon the concerned office of the Official Liquidator, pursuant to Section 230(5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. The Tribunal is appointing Chartered Accountant, M/s. USM & Associates, with remuneration of Rs. 30,000/- (Rupees Thirty Thousand Only) for the services. If no

response is received by the concerned Office of the Official Liquidator within 30 days of the date of receipt of the notice it will be presumed that Official Liquidator has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

29. The Applicant Companies to file an Affidavit of Service of the directions given by the Tribunal not less than seven days before the date fixed for 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)