

IN THE NATIONAL COMPANY LAW TRIBUNAL  
BENCH, AT MUMBAI

CSA No. 896 of 2017

UNDER SECTIONS 230 TO 232 OF THE COMPANIES  
ACT, 2013;

IN THE MATTER OF SCHEME OF  
AMALGAMATION BETWEEN ROHINI FOREX  
PRIVATE LIMITED, the Transferor Company  
WITH SHASHWAT REALTY DEVELOPERS PRIVATE  
LIMITED, the Transferee Company

ROHINI FOREX PRIVATE LIMITED

.....APPLICANT COMPAN

Order delivered on 6<sup>th</sup> December, 2017

**Coram:**

Hon'ble B.S.V. Prakash Kumar Hon'ble Member (J)  
Hon'ble V. Nallasenapathy Hon'ble Member (T)

For the Petitioner(s):

Ms. Niyati Jambaulikar i/b Pandya & Co, Advocates for Applicant

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

**MINUTES OF ORDER**

**UPON** the Application of the Applicant Company abovenamed, by a Company  
Notice of Admission **AND UPON HEARING** Ms. Niyati Jambaulikar instructed  
by PANDYA & Co., Advocate for Applicant Company,

**AND UPON READING** the Application alongwith the Notice of Admission  
dated 9<sup>th</sup> day of September, 2017 of Mr. Shailendra Sharma, Director of the  
Applicant Company, in support of the Notice of Admission alongwith the  
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 Applicant Company at D-205, Veena Nagar, Malad West, Mumbai 400 064 on Tuesday, 16<sup>th</sup> of January, 2018 at 10.00 a.m., for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of Amalgamation of ROHINI FOREX PRIVATE LIMITED, the Transferor Company with SHASHWAT REALTY DEVELOPERS PRIVATE LIMITED, the Transferee Company.

2. At least 30 clear days before the said meeting of the Equity 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 of Amalgamation, 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 RPAD or by air mail or by courier or by speed post or by hand delivery to each of the 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 as per the records of the Applicant Company.

3. At least 30 clear days before the meeting of the Equity Shareholders of the Applicant Company 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 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 in (1) 'Free Press Journal' in English Language, and translation thereof in (2) 'Navshakti' in Marathi language.

4. The Applicant Company undertakes to:-

i) issue Notice convening meeting of the Equity 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) of the Companies (Compromises, Arrangements and Amalgamations) Rules 2016.

The said undertaking is accepted.

5. Mr. Shailendra Shyam Lal Sharma (DIN: 03164998), Director, failing whom Mr. Kushal Gaikwad (DIN: 07210784), Director of the Applicant Company is appointed as the Chairperson for the meeting of Equity Shareholders. Mr. Dinesh Lata, Practising Company Secretary, (Membership No ACS-27084) is hereby appointed as the scrutinizer for the meeting of Equity Shareholders.

6. The Chairperson appointed for the aforesaid meeting to issue the notices of the meeting of Equity Shareholders referred to above. The said Chairperson shall have all the powers under the Companies (Compromises, Arrangements and Amalgamation) 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 of Amalgamation or Resolution, if any, proposed at the meeting by any person(s).

7. The quorum for the aforesaid meeting of Equity Shareholders shall be 2 (two) in number. In case of the quorum as noted for the above meeting of the Applicant Company are not present, then the meeting shall be adjourned for half an hour, and thereafter, the persons present and voting either in person or by proxy or through authorized representatives shall be deemed to constitute the quorum. For the purpose of computing the quorum the valid proxies shall also be considered, if the proxy in the prescribed form, duly signed by the person entitled to attend and vote at the meeting, is filed with the registered office of the Applicant Company at least 48 hours before the meeting.

8. The 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 meeting is filed with the Applicant Company at its registered office at D-205, Veena Nagar, Malad West, Mumbai 400 064, not later than 48 hours before the aforesaid meeting, as required under Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

9. The number and value of shares of each member shall be in accordance with the books / registers of the Applicant Company or depository records and where the entries in the books / registers / depository records are disputed, the Chairperson of the meeting shall determine the number or value for the purposes of the aforesaid meeting and his decision in that behalf would be final.

10. The Chairperson to file an affidavit not less than seven days before the date fixed for the holding of the meeting and do report this Tribunal that the direction regarding the issue of notices and advertisement have been duly complied with as per Rule 12 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

11. The Chairperson to report to this Tribunal, the result of the aforesaid meeting within 30 (thirty) working 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.

12. The Counsel for the Applicant submits that there are no Secured Creditors of the Applicant Company as mentioned in Paragraph No. 15 of the Application.

13. The Counsel for the Applicant Company submits that since the scheme is an arrangement between the Applicant Company and their respective shareholders,

only a meeting of Equity shareholders is proposed to be held in accordance with the provision of Section 230 (1) (b) of the Companies Act, 2013. This Bench hereby directs the Applicant Company to issue notice to 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.

14. 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 Companies (Compromises, Arrangements and Amalgamation) 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 of Amalgamation as per Rule 8 of Companies (Compromises, Arrangements and Amalgamation) Rules, 2016.

15. The Applicant to serve the notice of the meeting of Equity Shareholders upon the concerned Registrar of Companies, pursuant to Section 230(5) of the Companies Act, 2013 as per Rule 8 of Companies (Compromises, Arrangements and Amalgamation) 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 the Registrar of Companies has no objection to the proposed Scheme of Amalgamation as per Rule 8 of Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

16. The Applicant to serve the notice of the meeting upon the Official Liquidator, High Court, Bombay pursuant to Section 230(5) of the Companies Act, 2013. The Tribunal is appointing Chartered Accountant M/s. P. R. Agarwal & Awasthi, having remuneration of Rs. 30,000/- for the services. If no response is received by the Tribunal from the Official Liquidator within 30 days, it may be presumed that the Liquidator, High Court, Bombay has no objection to the proposed Scheme as

per Rule 8 of Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

17. The Applicant to serve the notice upon 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 the Income Tax Authority has no objection to the proposed Scheme of Amalgamation as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

18. 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 meeting and do report to this Tribunal that the direction regarding the issue of notices has been duly complied with.

Sd/-

V. Nallasenapathy, Member (T)

Sd/-

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