

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

COMPANY SCHEME APPLICATION NO.CSA-1077OF 2017

In the matter of the Companies Act, 2013 (18 of 2013);

And

In the matter of 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 between IndoCoins Capital Markets Private Limited ("Transferor Company") and ABJ Developers Private Limited ("Transferee Company")

And

their respective shareholders

IndoCoins Capital Markets Private Limited, }

a company incorporated under the provisions of }

Companies Act, 1956 having its Registered Office }

at A-6, Mittal Estate, Building No. 2, Andheri Kurla Rd. } Andheri (E) Mumbai,
Maharashtra – 400059 }

CIN: U51900MH2007PTC172972 }

.....First Applicant Company

ABJ Developers Private Limited, }

a company incorporated under the provisions of }

Companies Act, 1956 having its Registered Office }

A-6, Mittal Estate, Building No. 2, Andheri Kurla Rd. } Andheri (E) Mumbai,
Maharashtra – 400059 }

CIN: U45200MH2007PTC168229 }

.....Second Applicant Company

ShriSurjan Singh Rauthan, Practising Company Secretary (PCS) i/b S. S. Rauthan & Associates, Company Secretaries, for Applicant Companies above.

Coram: Hon'ble M. K. Shrawat Member (Judicial)

Hon'ble V. Nallasenapathy Member (Technical)

Date: 21st December, 2017

Per:- Hon'ble V. Nallasenapathy Member (Technical)

MINUTES OF THE ORDER

1. The Practising Company Secretary (PCS) for the Applicant Companies states that the present Scheme is a Scheme of Amalgamation between IndoCoins Capital Markets Private Limited ("Transferor Company" or "the First Applicant Company") and ABJ Developers Private Limited ("Transferee Company" or the "Second Applicant Company"). This Scheme of Amalgamation is proposed to amalgamate the Transferor Company with the Transferee Company without winding up of the Transferor Company pursuant to the relevant provisions of the Companies Act, 2013.
2. The PCS for the Applicant Companies further submit that the Transferor Company is primarily formed *inter alia* for the business of dealing in securities related activities.
3. The PCS for the applicant companies further state that the Transferee Company is primarily engaged *inter alia* in the business of builder, engineers and contractor in all branches of construction, the business of development, construction and maintenance of real estate and related to all activities of realty and infrastructure sector to acquire by purchase, lease, exchange or otherwise lands, building of any tenure or description any estate or interest therein any rights ever or connected therewith and turn to account the same.
4. The PCS for the Applicant Companies further submit that it is proposed to amalgamate the Transferor Company with the Transferee Company without winding up of the Transferor Company to ensure simplification of structure by elimination of multiple entity and to achieve greater administrative efficiency, elimination of administrative functions and multiple record keeping, thus

resulting in reduced expenditure, and significant reduction in the multiplicity of regulatory compliances. Therefore, with a view to effect such plan, the Board of Directors of the Applicant Companies proposes to merge the Transferor Company with the Transferee Company without winding up of the Transferor Company.

5. That the meeting of the Equity Shareholders of the First Applicant Company be convened and held at A-6, Mittal Estate, Building No. 2, Andheri Kurla Road, Andheri (E) Mumbai – 400059 Maharashtra on Friday, 9th day of February, 2018 at 3:00 p.m. for the purpose of considering and, if thought fit, approving with or without modification(s) the proposed merger embodied in the Scheme of Amalgamation between IndoCoins Capital Markets Private Limited (“Transferor Company” or “the First Applicant Company”) and ABJ Developers Private Limited (“Transferee Company” or the “Second Applicant Company”) and their respective shareholders.
6. That the meeting of the Equity Shareholders of the Second Applicant Company be convened and held at A-6, Mittal Estate, Building No. 2, Andheri Kurla Road, Andheri (E), Mumbai – 400059, Maharashtra on Friday, 9th day of February, 2018 at 4:00 p.m. for the purpose of considering and, if thought fit, approving with or without modification(s) the proposed merger embodied in the Scheme of Amalgamation between IndoCoins Capital Markets Private Limited (“Transferor Company” or “the First Applicant Company”) and ABJ Developers Private Limited (“Transferee Company” or the “Second Applicant Company”) and their respective shareholders.
7. The PCS for the Applicant Companies submits that there are no Preference Shareholders in any of the Applicant Companies, therefore the question of conveying or sending individual notices to the Preference Shareholders does not arise.
8. That at least 30 clear days before the said Meetings of the Equity Shareholders of the First and Second Applicant Company to be held as aforesaid, a notice convening the said Meeting at the place, date and time as aforesaid, together with a copy of the Scheme, a copy of statement disclosing all material facts as required under Section 230(3) of the Companies Act 2013 read with Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rule,

2016 notified on December 14, 2016 and the prescribed Form of Proxy, shall be sent by Courier / Registered Post / Hand Delivery / Speed Post or through Email (to those shareholders whose email addresses are duly registered with the First and Second Applicant Company for the purpose of receiving such notices by email), addressed to each of the Equity Shareholders of the First and Second Applicant Company, at their last known address or email addresses as per the records of the respective Applicant Companies.

9. That at least 30 clear days before the meetings of the Equity Shareholders of the First and Second Applicant Company to be held as aforesaid, a notice convening the said Meetings, indicating the place, date and time of meeting as aforesaid be published and stating that copies of the Scheme and the statement required to be furnished pursuant to Section 230(3) of the Companies Act 2013 read with Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rule, 2016 and the Form of Proxy can be obtained free of charge at the respective Registered Office of the First and Second Applicant Company as aforesaid and / or at the office of its PCS, M/s SS Rauthan & Associates, Company Secretaries, 703, Navjivan Commercial Premises Cooperative Society Ltd, Lamington Road, Mumbai-400008.
10. That the Notice of the Meetings shall be advertised in two local newspapers viz. "Free Press Journal" in English and "Navshakti" in Marathi, both circulated in Mumbai not less 30 days before the date fixed for the meeting.
11. That Shri Aneel B Jain, Director of the First Applicant Company, and failing him, Smt. Shashi A. Jain Director of the First Applicant Company shall be the Chairman of the aforesaid meeting of the Equity Shareholders of the First Applicant to be held at A-6, Mittal Estate, Building No. 2, Andheri Kurla Road, Andheri (E) Mumbai – 400059 Maharashtra on Friday, 9th day of February, 2018 at 3:00 p.m. or any adjournment or adjournments thereof.
12. That Mr. Aneel B. Jain, Director of the Second Applicant Company, and failing him, Mrs. Shashi A. Jain, Director of the Second Applicant Company shall be the Chairman of the aforesaid meeting of the Equity Shareholders of the Second Applicant Company to be held at A-6, Mittal Estate, Building No. 2, Andheri Kurla Road, Andheri (E) Mumbai – 400059

Maharashtra on Friday, 9th day of February, 2018 at 4:00 p.m. or any adjournment or adjournments thereof.

13. That 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 as per Articles of Association and also under the Companies Act, 2013 in relation to the conduct of the meetings, including for deciding procedural questions that may arise or at any adjournment thereof or resolution, if any, proposed at the meetings by any person(s).
14. That the quorum of the aforesaid meetings of the Equity Shareholders shall be as prescribed under Section 103 of the Companies Act, 2013.
15. 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 respective First and Second Applicant Company at their respective Registered Offices not later than 48 hours before the aforesaid meeting. Registered Office of First and Second Applicant Company is situated at A-6, Mittal Estate, Building No. 2, Andheri Kurla Road, Andheri (E) Mumbai – 400059, Maharashtra.
16. That the value and number of the shares of each Equity Shareholder shall be in accordance with the books / register of the respective First and Second 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.
17. That Mr Deepak Pratasingh, Practicing Company Secretary is hereby appointed as Scrutinizers of all the respective meetings of the Equity Shareholders of the First & Second Applicant Company proposed to be held on Friday, 9th day of February, 2018 at A-6, Mittal Estate, Building No. 2, Andheri Kurla Road, Andheri (E), Mumbai – 400059, Maharashtra in case of First, and Second

Applicant Company and his remuneration is fixed on a consolidated basis as Rs. 20,000/- excluding taxes.

18. 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.
19. That the Chairman of the meetings to report to this Tribunal, the results of the aforesaid meetings within thirty days of the conclusion of the meetings.
20. The First Applicant Company is directed to serve notices along with copy of scheme upon:- (i) concerned Income Tax Authority with in whose jurisdiction the First Applicant Company's assessments are made, (ii) the Central Government through the office of Regional Director, Western region, Mumbai, (iii) Registrar of Companies with a direction that they may submit their representations, if any, within a period of thirty days from the date of receipt of such notice to the Tribunal with copy of such representations shall simultaneously be served upon the First Applicant Company, failing which, it shall be presumed that the authorities have no representations to make on the proposals.
21. The Second Applicant Company is directed to serve notices along with copy of scheme upon:- (i) concerned Income Tax Authority with in whose jurisdiction the Second Applicant Company's assessments are made, (ii) the Central Government through the office of Regional Director, Western region, Mumbai, (iii) Registrar of Companies with a direction that they may submit their representations, if any, within a period of thirty days from the date of receipt of such notice to the Tribunal with copy of such representations shall simultaneously be served upon the Second Applicant Company, failing which, it shall be presumed that the authorities have no representations to make on the proposals.
22. The First Applicant Company are also directed to serve notice along with copy of scheme upon Official Liquidator, pursuant to Section 230(5) of the Companies Act, 2013. M/s. Bhupendra G. Fafadia & Co., Chartered Accountants is appointed with a remuneration of Rs.35,000/- (Rupees Thirty

Five Thousand Only) for the services. If no response is received by the Tribunal from Official Liquidator within thirty days of the date of receipt of 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.

23. The PCS for the Applicant Companies submits that there are no Secured Creditors in the First and Second Applicant Company, therefore the question of sending notices to the Secured Creditors does not arise. The PCS for the Applicant Companies further submits that since the Scheme is an amalgamation among the Applicant Companies 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.
24. The PCS for the Applicant Companies submits that there are no Un-secured Creditors in the First and Second Applicant Company, therefore the question of sending notices to the Un-secured Creditors does not arise
25. The First and Second Applicant Company to file affidavit of service in the Registry proving dispatch of notices to the creditors, where applicable, publication of notices in newspapers and to the regulatory authorities as stated in clause 20 and 21 above and do report to this Tribunal that the directions regarding the issue of notices have been duly complied with.

Sd/-

Sd/-

V. Nallasenapathy Member (T) M. K. Shrawat Hon'ble Member (J)

Date : 22/12/2017