

**IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

CA(CAA)NO.34/BB/17

Under Section 230 to 232 of Companies Act, 2013

**IN THE MATTER OF
MANIPAL HOSPITALS (WHITEFIELD) PRIVATE LIMITED**

Order delivered on: 13th July, 2017

Coram: Hon'ble Shri Ratakonda Murali, Member (Judicial)

For the Petitioner (s) 1. Shri.Saji.P.John, Sr.Advocate

Per: Hon'ble Shri Ratakonda Murali, Member (Judicial)

Heard on: 28.04.2017, 14.06.2017, 27.06.2017, 11.07.2017

ORDER

This Application is filed on behalf of the Applicant Company under Section 230 and 232 of the Companies Act, 2013 read with Rule 3 of the Companies (Compromises, Arrangement and Amalgamation) Rules, 2016, praying to order for dispensing with the convening of Meeting of Equity Shareholders, Secured Creditors and Unsecured Creditors of the Applicant Company for considering the Composite Scheme of Arrangement of Manipal Hospitals (Jaipur) Private Limited, Manipal Hospitals (Whitefield) Private Limited and Manipal Health Enterprises Private Limited. The Scheme of Arrangement shown as **Annexure-H**.

The averments made in the Company Application are briefly described hereunder:-

The Applicant seeks an order for dispensing with the convening of the Meeting of Equity Shareholders, Secured Creditors and Unsecured Creditors of the Applicant Company for approving the Composite Scheme of Arrangement of Manipal Hospitals (Jaipur) Private Limited, Manipal Hospitals (Whitefield) Private Limited and Manipal Health Enterprises Private Limited in terms of Composite Scheme of Arrangement shown as **Annexure-H**.

Application filed by the Applicant Company alleging that the Applicant Company was incorporated on 13th January, 2014 under the name and style of Manipal Hospitals (Whitefield) Private Limited with Registrar of Companies, Karnataka. The Registered office


of the Applicant Company is situated at The Annexe, No.98/2, Rustom bagh, HAL Airport Road, Bengaluru-560017.

The main objects of the Applicant Company is to carry on the business of health care services, establishing, promoting and maintaining hospitals, multi- speciality health hospitals, ICCUs, healthcare centres, nature care centres, poly clinics, surgical centres, laboratories and research centres, diagnostic centres, fitness centres, health care township with pathology, radiology, micro-biology, bio-chemistry, CT scan, ultra sonography and to conduct, research, investigation, studies and surveys in medicine, biology, anatomy, bio-chemistry, bio-engineering, medico-engineering, dentistry, pharmacy, pharmacology and to impart education in the above facilities by operating schools, colleges, clinics, workshops, research centres, etc., The copy of Memorandum and Articles of Association of the Applicant Company is shown as **Annexure-A**.

The latest authorized share capital of Applicant Company is Rs.1,00,000/- divided into 10,000 Equity Shares of Rs.10/- each. The issued, subscribed and paid-up share capital is Rs.1,00,000/- divided into 10,000 Equity Shares of Rs.10/-each fully paid up. The Audited balance sheet as on 31st March, 2016 is shown as **Annexure -B**.

It is further stated that, the Board of Directors of the Applicant Company has approved and adopted a Composite Scheme of Arrangement at its meeting held on 20th January, 2017 of Manipal Hospitals (Jaipur) Private Limited, Manipal Hospitals (Whitefield) Private Limited and Manipal Health Enterprises Private Limited subject to confirmation. A copy of the Board Resolution of Applicant Company dated 20th January, 2017 approving and adopting the Composite Scheme of Arrangement is shown as **Annexure-G**.

It is further stated in the scheme that, the integration, consolidation and amalgamation would inter alia have the following benefits:

1. The amalgamation would facilitate consolidation of core hospital business under one single entity so as to enhance the value of shareholders, creditors and other stake holders of Manipal Hospitals (Jaipur) Private Limited, Manipal Hospitals (Whitefield) Private Limited and Manipal Health Enterprises Private Limited.
 2. The proposed consolidation would also create greater visibility and enhance the overall performance of combined business/ entity.
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It is further stated that the Chartered Accountant after verification of the books of accounts, other records and documents of the Applicant Company has certified the number of shareholders of the Applicant Company as on February 28, 2017. Certificate issued by the Chartered Accountant is marked as **Annexure-J**.

It is further stated that there are no Secured Creditors in the Applicant Company as on 28th February, 2017 certified by the Chartered Accountant shown as **Annexure-K**.

It is further stated that the Chartered Accountant certified the number of Unsecured Creditors in the Applicant Company as on February 28, 2017. Certificate issued by the Chartered Accountant shown as **Annexure-L series**.


I have seen the consent affidavits filed by the Three Equity shareholders shown as **Annexure- J** i.e., (i) Manipal Health Enterprises Private Limited holding 9,990 equity shares, constituting 99.99% of the paid-up capital, (ii) Mr. Sameer Agarwal (Nominee shareholder of Manipal Health Enterprises Private Limited) holding 10 equity share, constituting 0.01% of the paid-up capital.

The Applicant is seeking an order to dispense with convening of the meeting of Secured Creditors on the ground that there are no Secured Creditors in the Applicant Company. The Chartered Accountant certified that there are no Secured Creditors shown as **Annexure-K**.

There are 243 Unsecured Creditors as certified by the Chartered Accountant. The Certificate of Chartered Accountant is shown as **Annexure-L**. It is stated that, the value of amounts due to unsecured creditors of the Applicant Company is Rs.2,56,64,39,864/- and 92.60% of the unsecured creditor representing value of Rs.2,37,76,71,957.16/- has given their consent to the Scheme by way of affidavit. I have seen the consent affidavit given by the Unsecured Creditor shown as **Annexure-L**.

Among 243 Unsecured Creditors, Manipal Health Enterprises Private Limited is the major creditor whose debt out of Rs.2,56,64,39,864/- is Rs.2,37,76,71,957.16/-. The value of the debt comes to 92.60% of the total debt. The Company Secretary of this Company gave consent affidavit for the scheme.

The Applicant Company is seeking an order to dispense with convening of meetings of Equity Shareholders and Unsecured Creditors of the Applicant Company on the ground that, there are only two equity shareholders and 243 Unsecured Creditors. Two Equity



Shareholders and 92.60% of value of Unsecured Creditor have given their consent by way of affidavits for the proposed scheme of arrangement.

I have heard the Counsel appearing for the Applicant Company. The Application filed by the Applicant Company which is a Transferee Company for dispensing with the convening of meeting of Equity Shareholders, Secured Creditors and Unsecured Creditors of the Applicant Company for approving the Composite Scheme of Arrangement of Manipal Hospitals (Jaipur) Private Limited, Manipal Hospitals (Whitefield) Private Limited and Manipal Health Enterprises Private Limited in terms of Composite Scheme of Arrangement shown as **Annexure-H**.

In the result, the application is allowed and holding of meeting of the Equity Shareholders and Unsecured Creditors is dispensed with. In any eventuality when the Applicant Company approaches this Tribunal for seeking approval of the scheme it would be open for any person who is interested in the Composite Scheme of Arrangement to put forth their contentions before the Tribunal.

13/2/17
(RATAKONDA MURALI)
MEMBER, JUDICIAL