

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

**T.P.No.259/17**

**IN**

**C.A.732/16**

**DATED: WEDNESDAY THE 12<sup>TH</sup> DAY OF APRIL 2017**

***PRESENT: SRI RATAKONDA MURALI, MEMBER JUDICIAL  
SRI ASHOK KUMAR MISHRA, MEMBER TECHNICAL***

**IN THE MATTER OF COMPANIES ACT, 1956  
SECTIONS 391-394 OF THE COMPANIES ACT, 1956**

**AND**

**IN THE MATTER OF COMPANIES ACT, 2013  
SECTIONS 230 and 232 OF THE COMPANIES ACT, 2013**

**AND**

**IN THE MATTER OF GO GO INTERNATIONAL PRIVATE LIMITED**

**T.P.No.259/17 IN C.A.No.732/16**

**1. Go Go International Private Limited**

**No.5/6, 2<sup>nd</sup> Cross, KHB Industrial Area,  
Yelahanka, Bangalore-560064**

**- APPLICANT/TRANSFEREE COMPANY**

**PARTIES PRESENT:**

**Mr. K.V.SATISH, Advocate  
Unit No.S-2, 2<sup>nd</sup> Floor, Harshita Arcade,  
No.138, 1<sup>st</sup> Main, Seshadripuram  
Bangalore 560020**

**Heard on: 23.01.2017, 15.02.2017 and 17.03.2017**

**ORDER**

Originally this Company Application was filed before the Hon'ble High Court of Karnataka by the Applicant Company under Section 391 of the Companies Act, 1956, being numbered as C.A. No.732/16. Subsequently as per Notification No.GSR.1119(E) dated 7<sup>th</sup> December, 2016 issued by Ministry of Corporate Affairs, New Delhi, the said case is transferred to this Tribunal and renumbered as T.P.No.259/17.

This Company Application is filed on behalf of the Applicant Company under Section 391 of the Companies Act, 1956, praying to order for dispensing with for convening of the Meeting of Equity Shareholders, Preference Shareholders, Secured Creditors and Unsecured Creditors for considering the Scheme of Amalgamation, where under the Bliss Rentals Private Limited, Transcendental Rentals Private Limited, Cosmic Rentals Private Limited, Creative Rentals Private Limited, Go Go Textiles Bangalore Private Limited, Go Go Export Private Limited and Yati Developers Private Limited (Transferor Companies) to be merged with the Applicant Company **Go Go International Private Limited** (Transferee Company). The Scheme of Amalgamation is shown as **Annexure-Z**.

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

The Applicant seeks an order for dispensing with convening of the Meeting of Equity Shareholders, Preference Shareholders, Secured Creditors and Unsecured Creditors for considering the Scheme of Amalgamation of Bliss Rentals Private Limited, Transcendental Rentals Private Limited, Cosmic Rentals Private Limited, Creative Rentals Private Limited, Go Go Textiles Bangalore Private Limited, Go Go Export Private Limited and Yati Developers Private Limited with the Applicant Company Go Go International Private Limited in terms of Scheme of Amalgamation shown as **Annexure-Z**.

It is further averred in the Application that the Applicant/Transferee Company was incorporated on 4<sup>th</sup> April, 2008 under the name and style of **Go Go International Private Limited** with the Registrar of Companies, Maharashtra. On 31<sup>st</sup> July, 2015 the registered office of the company was shifted from Maharashtra to Karnataka vide CIN bearing No. U17120KA2008PTC082836. The Registered office of the Applicant Company is situated at No.5/6, 2<sup>nd</sup> Cross, KHB Industrial Area, Yelahanka, Bangalore-560064. The main objects of the Applicant Company is to carry on the business in India and elsewhere the business to manufacture, producers, processors, importers, exporters, agents, brokers, wholesalers, showroom owners, retailers, distributors, exchangers, traders, buyers, sellers, job workers, stockist and to promote market, promote organize, design, develop, cut, sort and dgrade or otherwise to deal in all shapes, sizes, varieties, specifications, kind of textiles including garments for men, women and children including sportswear, kids wear, fabrics, active wears, daily wears, fashion wears, party wears, wearing apparels etc.. The copy of Memorandum and Articles of Association of the Applicant Company is shown as **Annexure-A**.

The latest authorized, issued and subscribed share capital of Applicant Company is Rs.30,00,00,000/- divided into 2,00,00,000 Equity Shares of Rs.10/- each and 10,00,000 0% Convertible Preference Shares of Rs.100/- each. The Audited balance sheet as on 31<sup>st</sup> March, 2016 is marked as **Annexure -B**.

It is further stated that, the Board of Directors of the Applicant Company has approved and adopted a Scheme of Amalgamation at its meeting held on 30<sup>th</sup> August, 2016 by virtue of which Bliss Rentals Private Limited, Transcendental Rentals Private Limited, Cosmic Rentals Private Limited, Creative Rentals Private Limited, Go Go Textiles Bangalore Private Limited, Go Go Export Private Limited and Yati Developers Private Limited (Transferor Companies) are proposed to be merged with Applicant Company Go Go International Private Limited



(Transferee Company) subject to confirmation. A copy of the Board Resolution of Applicant Company dated 30<sup>th</sup> August, 2016 in approving and adopting the Scheme of Amalgamation is shown as **Annexure-C**.

It is stated in the scheme that, the Board of Directors of Transferee as well as Transferor Companies were of the view that the transfer and vesting of all the Business undertaking including but not limited to assets, liabilities, contracts, rights and obligations is in the interest of all concerned including the shareholders, creditors, employees and general public as it would provide:

1. Focussed management orientation to each of the businesses with specialization and leadership vision;
2. Greater transparency and visibility on the operational and financial performance of each business;
3. High degree of independence as well as accountability with autonomy for each of the business segments etc.,

We have heard the Counsel appearing for the Applicant/Transferee Company, who has filed the application for dispensing with the convening of meeting of Equity Shareholders, Preference Shareholders, Secured Creditors and Unsecured Creditors for considering the scheme of Amalgamation by which Bliss Rentals Private Limited, Transcendental Rentals Private Limited, Cosmic Rentals Private Limited, Creative Rentals Private Limited, Go Go Textiles Bangalore Private Limited, Go Go Export Private Limited and Yati Developers Private Limited are proposed to be merged with Go Go International Private Limited as per the scheme of Amalgamation shown as **Annexure-Z**.

The Applicant is seeking an order to dispense with convening of meeting of Equity Shareholders, Preference Shareholders, Secured Creditors and Unsecured Creditors on the ground that the Applicant Company has only Seven Equity Shareholders and Seven Preference Shareholders. They have given their consent to the Scheme of Amalgamation. The Certificate of Chartered Accountant certifying the number of Equity shareholders and Preference Shareholders as on 30<sup>th</sup> June, 2016 is shown as **Annexure-AA**.

We have seen the consent letters of the Seven Equity shareholders shown as Annexure-AB series i.e., (i) Shyamsunder Gopiram Goenka holding 60,00,000 equity shares, constituting 30% of the paid-up capital, (ii) Rajeev Shyamsunder Goenka holding 20,00,000 equity shares, constituting 10% of the paid-up capital, (iii) Achal Shyamsunder Goenka holding 30,00,000 equity shares, constituting 15% of the paid-up capital, (iv) Nirmala Rajeev Goenka holding 20,00,000 equity shares, constituting 10% of the paid-up capital and (v) Lalitha Achal Goenka


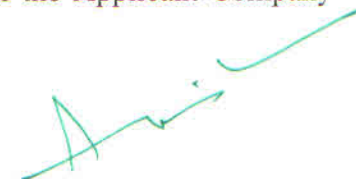


holding 30,00,000 equity shares, constituting 15% of the paid-up capital,(vi)Rajeev Goenka jointly with Nirmala Goenka holding 20,00,000 equity shares, constituting 10% of the paid-up capital,(vii)Go Go Export holding 20,00,000 equity shares, constituting 10% of the paid-up capital. Applicant Company further filed affidavits of the Equity Shareholders of the Applicant Company dated 17.03.2017 in addition to consent letters, conveying their no objection for approval of the Scheme of Amalgamation.

We have seen the consent letters of the Seven Preference shareholders shown as Annexure-AB series i.e., (i) Shyamsunder Gopiram Goenka holding 3,00,000 preference shares, constituting 30% of the paid-up capital,(ii) Rajeev Shyamsunder Goenka holding 1,00,000 preference shares, constituting 10% of the paid-up capital,(iii)Achal Shyamsunder Goenka holding 1,50,000 preference shares, constituting 15% of the paid-up capital, (iv)Nirmala Rajeev Goenka holding 100000 preference shares, constituting 10% of the paid-up capital and (v) Lalitha Achal Goenka holding 1,50,000 preference shares, constituting 15% of the paid-up capital,(vi)Rajeev Goenka jointly with Nirmala Goenka holding 1,00,000 preference shares, constituting 10% of the paid-up capital,(vii)Go Go Export holding 1,00,000 preference shares, constituting 10% of the paid-up capital. Applicant Company further filed affidavits of the Preference Shareholders of the Applicant Company dated 17.03.2017 in addition to consent letters, conveying their no objection for approval of the Scheme of Amalgamation.

We have seen the Certificate issued by the Chartered Accountant containing details that there are 10 Secured Creditors. The Certificate of the Chartered Accountant is shown as **Annexure-AC**. The value of amounts due to the secured creditors of the Applicant Company is Rs.10,318 lakhs and 100 % of the secured creditors representing value of Rs.10,318 lakhs have given their consent to the Scheme. We have seen the consent letter issued by the Secured Creditors of the Applicant Company giving their consent to the scheme shown as **Annexure-AD series**.

There are 14 Unsecured Creditors as certified by the Chartered Accountant. The Certificate of Chartered Accountant is shown as Annexure-AE. The value of amounts due to unsecured creditors of the Applicant Company is Rs.376.17 Lakhs and 100 % of the unsecured creditors representing value of Rs.376.17 Lakhs have given their consent to the Scheme. We have seen the consent letters issued by the Unsecured Creditors of the Applicant Company giving their consent to the scheme shown as **Annexure-AF series**.



There are 7 Related Party Transactions as certified by the Chartered Accountant. The Certificate of Chartered Accountant is shown as Annexure-P1. The value of amounts in respects of the related party transactions of the Applicant Company is 1,862 Lakhs and 100% of the related parties representing value of Rs.1,862 Lakhs have given their consent to the Scheme. We have seen the consent letters issued by related parties of the Applicant Company giving their consent to the scheme shown as **Annexure-P1**.


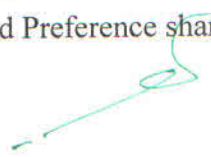
We have seen the Certificate of the Chartered Accountant certifying the list of Trade Advances as on 30<sup>th</sup> June 2016. We have seen the No Objection letter filed by M/s Go Go International Private Limited shown as **Annexure-P2**.

We have seen the Certificate of the Chartered Accountant certifying the list of provisions as on 31<sup>st</sup> March 2016 shown as **ANNEXURE-P3**

We have seen the Certificate of the Chartered Accountant certifying that the Company has received a Grants-in aid of Rs.2,84,88,000/- as 1<sup>st</sup> instalment for recurring expenditure for implementation of its Project under Component-II of Integrated Skill Development Scheme given under 12<sup>th</sup> Plan by Ministry of Textiles, Government of India. The Certificate of the Chartered Accountant shown as **Annexure-P4**.

Thus the Applicant Company has obtained consent of the Seven Equity Shareholders, Seven Preference Shareholders, 100% of Secured Creditors in value and 100% of Unsecured Creditors in value and Board of Directors have passed the resolution approving the scheme of amalgamation.

The Applicant Company has obtained consent of shareholders, which is 100%. The Applicant Company is praying to dispense with convening of meeting of Equity shareholders and Preference shareholders as all the Equity shareholders and Preference shareholders have given their consent to the scheme. It is the contention of the counsel that no useful purpose would be served if meeting of Equity shareholders and Preference shareholders is ordered as they have already given consent to the scheme. When there is consent of all the Equity shareholders and Preference shareholders, convening of meeting of Equity shareholders and Preference shareholders would be futile exercise. It is true when all the Equity shareholders and Preference shareholders have given consent for the scheme then no useful purpose would be served by convening meeting of Equity shareholders and Preference shareholders. Therefore Applicant Company is permitted to dispense with convening of meeting of Equity shareholders and Preference shareholders.



Section 230(9) of the Companies Act, 2013 provides if creditors having atleast 90% value agree and confirm by way of affidavit to the scheme of arrangement, the Tribunal may dispense with calling of meeting of creditors or class of creditors. Before transfer to the tribunal the Applicant Company has filed consent letters obtained from the Secured and Unsecured Creditors as per procedure followed in the Hon'ble High Court of Karnataka. Thus relying on the same procedure and related provisions of the Companies Act, 2013, the meeting of Secured Creditors and Unsecured Creditors can be dispensed with.

In the result, the application is allowed and holding of meeting of the Equity Shareholders, Preference Shareholders, Secured Creditors 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 are interested in the Scheme of Amalgamation to put forth their contentions before the Tribunal.

  
(RATAKONDA MURALI)  
MEMBER, JUDICIAL

  
(ASHOK KUMAR MISHRA)  
MEMBER, TECHNICAL

DATED THIS THE 12<sup>th</sup> DAY OF APRIL, 2017