

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

T.P.NO. 270/2017

IN

C.A. NO. 751/2016

DATED: TUESDAY THE 14TH DAY OF MARCH 2017

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

IN THE MATTER OF COMPANIES ACT, 2013(18 OF 2013);

AND

**IN THE MATTER OF SECTION 230 TO 232 OF THE COMPANIES ACT,
2013 AND OTHER RELEVANT PROVISIONS OF THE COMPANIES
ACT, 2013 ALONGWITH THE COMPANIES ACT, 1956**

AND IN THE MATTER OF

PUMA SPORTS INDIA PRIVATE LIMITED

T.P.NO. 270/2017 IN C.A.NO. 751/2016

**1. Puma Sports India Private Limited,
No.509, CMH Road,
Indiranagar,
Bengaluru-560038**

- APPLICANT/TRANSFeree COMPANY

PARTIES PRESENT: Mr. Anind Thomas and Mr. Arjun Rao, AZB & Partners,
Advocates & Solicitors, 7th Floor, Embassy Icon, Infantry
Road, Bengaluru-560001 Advocate and Authorised
representatives for the Applicant.

Heard on: 25/01/2017, 14/02/2017, 17/02/2017 and 8/03/2017.

ORDER

Originally this Application was filed before the Hon'ble High Court of Karnataka and it was numbered as C.A No. 751/2016. Subsequently as per Notification No. GSR.1119 (E) dated 7th December 2016 issued by the Ministry of Corporate Affairs, New Delhi, the said case is transferred to this Tribunal and renumbered as T.P No. 270/2017.

This Company Application is filed on behalf of the Applicant Company under Section 391 of the Companies Act, 1956 read with Rule 9 of the Companies (Court) Rules, 1959, praying to order for Dispensing with for convening of the meetings of the Equity Shareholders and creditors of the Applicant Company for approving the Scheme of Amalgamation, where under the **PUMA INDIA CORPORATE SERVICES PRIVATE LIMITED (Transferor Company)** to be merged with the Applicant Company **PUMA SPORTS INDIA PRIVATE LIMITED (Transferee Company)** for purposes of considering the Scheme of Amalgamation etc.,

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

The Applicant Company seeks an order dispensing with convening of separate meeting of equity shareholders and creditors of the Applicant Company for approving the Scheme of Amalgamation of PUMA INDIA CORPORATE SERVICES PRIVATE LIMITED(Transferor Company) with Applicant Company PUMA SPORTS INDIA PRIVATE LIMITED, in terms of Scheme of Amalgamation shown as **Annexure-J**.

An Affidavit of Authorised Signatory is filed stating that, the Applicant Company was incorporated on 23rd September 2005 under the name and style “**Puma Sports India Private Limited**” with Registrar of Companies, Karnataka vide CIN **U51909KA2005PTC037319**.


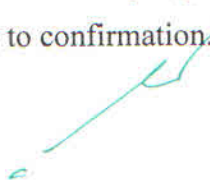
The Registered office of the Applicant Company is situated at No. 509, CMH Road, Indiranagar, Bengaluru-560038.

The main object of the Applicant Company is to carry on the business of importers, exporters, traders, buyers, sellers, manufacturers, producers and deal in all kinds of sports goods and equipment, sports shoes, leather and non-leather footwear, sportswear, caps, bags and other sports apparel and leisure material etc., copy of the Memorandum and Articles of Association of the Applicant Company is shown as **Annexure-G**.

The latest authorized share capital of the Applicant Company is Rs 115,00,00,000/- divided into 11,50,00,000 Equity Shares of Rs 10/- each. The issued, subscribed and paid up share capital is Rs. 110,37,60,000/- divided into 11,03,76,000 Equity Shares of Rs 10/- each fully paid up.

The Audited balance sheet for the year ending 31.12.2015 is marked as **Annexure-H**.

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 20th September 2016 by virtue of which Puma India Corporate Services Private Limited (Transferor Company) is proposed to be merged with the Applicant Company subject to confirmation.



It is further averred that, Directors of both the companies are of the opinion that, if the Transferor Company and the Applicant Company are amalgamated as one single unit it would be beneficial and to consolidate the business activities of the two companies in one company to create a larger unified entity enabling optimal utilization of resources and synergy of operations and more profitable in the long run and stated that:

- i) A single and larger unified entity resulting in better profitability, increased fund mobilization capacity, enlarged technical resources and enhanced capacity; and
- ii) Achievement of better administration, operations and management by consolidation, synchronization, synergies and restructuring and economize administrative and compliance costs of running two companies.

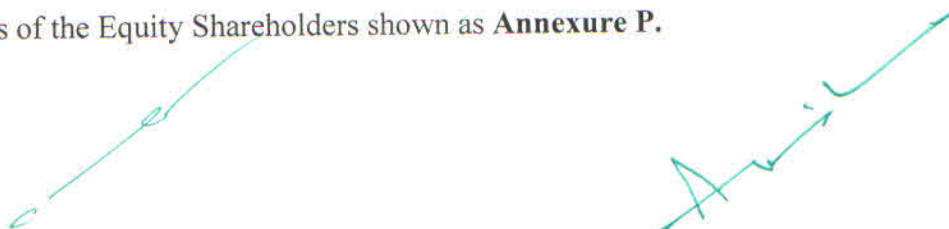
A copy of the Board Resolution of Applicant Company dated 20th September 2016 in approving and adopting the Scheme of Amalgamation is shown as **Annexure-L**.

We have heard the counsel appearing for the Applicant Company, who has filed the Application for dispensing with convening of meeting of the shareholders and creditors for considering the scheme of Amalgamation. The Puma India Corporate Services Private limited is proposed to be merged with the Applicant Company as per the scheme of Amalgamation shown as **Annexure J**.

The Applicant Company is seeking an order to dispense with convening of meeting of Equity shareholders and Creditors on the following ground:

That the Applicant Company has only Two Shareholders and they have given their consent to the scheme of Amalgamation. The Certificate of the Company Secretary dated 30th September 2016 certified that there are two shareholders for the Applicant Company shown as **Annexure N**.

We have seen the consent letters of the Two Shareholders i.e. (i) Austria Puma Dassler Gesmbh holding 11,03,75,999 equity shares , constituting 99.99% of the paid up capital, (ii) Puma Middle East FZ LLC, holding 1 Equity Share, constituting 0.01% of the paid up capital of the Applicant Company. The Consent letters of the Equity Shareholders shown as **Annexure P**.



It is stated that, there are no Secured Creditors in the Applicant Company as certified by the Chartered Accountant shown as **Annexure-Q**.



It is further stated that, there are One hundred and Forty one Unsecured Creditors of the Applicant Company as certified by the Chartered Accountant shown as **Annexure-R**. It is stated that, the value of amounts in respect of the unsecured creditors of the Applicant Company is Rs 159,79,08,000/- and 95.4 % approx. of the Unsecured Creditors representing a value of Rs 153,16,55,000/- have given their consent to the Scheme. A memo letter dt.14th February 2017 has also been filed by the Applicant Company's counsel stating that the Chartered accountant has certified the list of Unsecured Creditors of the applicant company shown as **Annexure-II** and the Applicant Company got the consent of more than 90% unsecured creditors.

We have seen the consent letter issued by the Unsecured Creditors of the Applicant Company giving their consent to the scheme and waiving their right to receive notice(s) of any meetings of unsecured creditors shown as **Annexure-S**.

The Applicant Company has disclosed all relevant materials in the Application and there is no impediment in law to grant the prayer sought for in the Application. The Tribunal is of the considered view that the prayers sought for deserves to be granted.

In the Interest, the application is allowed and holding of meeting of the Equity Shareholders and unsecured Creditors is dispensed with, and the Applicant Company is hereby directed to issue notice(s) under section 230 (3) of the Companies Act, 2013 read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 to the remaining Non Consenting Creditors with a direction that they may submit their representations, if any, to the Tribunal and copy of such representation shall simultaneously be served upon the Applicant Company.

The Applicant Company or its authorized signatory is directed to serve notice(s) along with documents to the Southern Regional Director; Concerned Registrar of Companies; Income Tax Department within whose jurisdiction assessment is made; Reserve Bank of India; Competition commission of India and to other sectoral regulators and authorities if any, pursuant to Section 230(5) of the Companies Act as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.



The Applicant Company or its authorized signatory is also directed to furnish copy of the scheme free of charge as and when requisition is made before the Applicant Company by the members or creditors and to furnish an affidavit of service of notice(s) on the concerned as directed.


(RATAKONDA MURALI)
MEMBER, JUDICIAL


(ASHOK KUMAR MISHRA)
MEMBER, TECHNICAL

DATED THIS THE 14th DAY OF MARCH 2017