

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL  
BENCH, AT MUMBAI  
COMPANY SCHEME APPLICATION NO. 35 OF 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 Sections 391 to 394 of the Companies Act, 1956 and other relevant provisions of the Companies Act, 2013;

AND

In the matter of the Scheme of Amalgamation of Dhruva Holdings Private Limited and DKM Investment and Trading Private Limited with Dhamm Steel Services Private Limited and their respective shareholders.

Dhamm Steel Services Private Limited, a private )  
limited company incorporated under the )  
Companies Act, 1956 having its Registered Office )  
at Onlooker Building, 1st Floor, Room No. 7 & 8, )  
Sir P. M. Road, Fort, Mumbai – 400 001, )  
Maharashtra, India. )...Applicant Company

**Called for Notice of Admission:**

Mr. Rahul R. Mahajan a/w Mr. Ajit Singh Tawar a/w Mr. Vishal Shah, i/b M/s. Fortitude Law Associates, Advocates for the Petitioner Company.

Coram: Coram: SH. B.S.V. Prakash Kumar Hon'ble Member (J)

Date: 1<sup>st</sup> March, 2017

**MINUTES OF THE ORDER**

**UPON** the application of the Applicant Company above named by a Company Notice of Admission **AND UPON HEARING** Mr. Ajit Singh Tawar instructed by Fortitude Law Associates, Advocate for the Applicant Company, **AND UPON READING** the Application along with the Summons for Direction/Notice of Admission dated 13<sup>th</sup> day of December, 2016 of Mr. Vijay Thaker, Authorised Signatory of the Applicant Company, in support of

Company Summons for Directions along with Application and the Exhibits therein referred to, **IT IS ORDERED THAT:**

1. The Applicant Company is engaged in the business of distribution and trading of Steel as mentioned in paragraph 23 of the Application.
2. The amalgamation of the Transferor Companies with the Applicant Company would have benefits of strengthening and consolidating the financial position of the Transferor Companies and the Applicant Company to develop and concentrate on the core competency, strong financial and operational structure capable of resource mobilization and financial consolidation necessary to withstand the new competitive environment, benefit of stability of operations and economies of scale through efficient utilization of financial resources as the companies concerned would be able to combine their resources, expand their activities, rationalize and streamline their management, business and finances as well as eliminate duplication of work in areas like accounts, company law and tax assessments, common administrative services, reduction in regulatory/procedural compliances and accordingly lead to synchronization of efforts to achieve uniform corporate policy and ease in decision making at the group level to enhance the share value for the benefit of the shareholders and will be beneficial to the companies concerned, their shareholders and all other concerned as mentioned in paragraph 17 of the Application.
3. The proposed Scheme of Amalgamation of the Transferor Companies and the Transferee Company is between the companies having common business objectives and whose shareholding is closely held. Hence, the proposed Scheme of Amalgamation shall not prejudicially or adversely affect the interest of any person or the public at large.
4. A meeting of the Equity Shareholders of the Applicant Company be convened and held at Onlooker Building, 1<sup>st</sup> Floor, Room No. 7 & 8, Sir P. M. Road, Fort, Mumbai – 400 001, on Monday, April 10, 2017 at 12.00 p.m., for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of Amalgamation of Dhruva Holdings Private Limited and DKM Investment and Trading Private Limited with Dhamm Steel Services Private Limited and their respective shareholders.
5. At least 30 (thirty) 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, 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 registered post 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.

6. 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.
7. At least 30 (thirty) 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 that the form of Proxy can be obtained free of charge at the Registered Office of the Applicant Company as aforesaid.
8. 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;
  - iv. advertise the Notice convening meeting as per Form No. CAA. 2 (Rule 7) of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.The undertaking is accepted.
9. Mr. Sriratan Moondhra, Director of the Applicant Company failing whom Mrs. Kusum Moondhra, Director of the Applicant Company failing whom Mr. Vijay Thaker, Authorised Signatory of the Applicant Company is appointed as the Chairperson for the meeting of Equity Shareholders. The Scrutinizer for the meeting shall be Mr. Lalit K. Jain, Practicing Company Secretary, (Membership No. 1903 and CP No. 876).
10. The Chairperson appointed for the aforesaid Meeting to issue the notices of the Meeting referred to above. The said Chairperson shall have all powers under the Companies (Compromises, Arrangements and Amalgamations) 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 or resolution, if any, proposed at the meeting by any person(s).
11. The quorum for the aforesaid meeting of the Equity Shareholders shall be as prescribed under Section 103 of the Companies Act, 2013.
12. The voting by proxy or authorised representative in case of body corporate be permitted, provided that a proxy in the prescribed form/ authorisation duly signed by the person entitled to attend and vote at the meeting, is filed with the Applicant Company at its Registered Office

at Onlooker Building, 1<sup>st</sup> Floor, Room No. 7 & 8, Sir P. M. Road, Fort, Mumbai – 400 001, not later than, 48 hours before the aforesaid meeting as required under Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

13. The value and number of the shares of each member shall be in accordance with the books/ register of the Applicant Company and where the entries in the books / register are disputed, the Chairperson of the Meeting shall determine the value for the purpose of the aforesaid meeting and his decision in that behalf would be final.
14. The Chairperson to file an affidavit not less than 7 (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 have been duly complied with as per Rule 12 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
15. The Chairperson to report to this Tribunal, the result of the aforesaid meeting within three 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.
16. That Counsel for the Applicant Company submits that there are no Secured Creditors as mentioned in paragraph 23 of the Application. Hence, the question of issuing notices of the meeting to the Secured Creditors does not arise.
17. That the meeting of the Unsecured Creditors of the Applicant Company for the purpose of considering and, if thought fit, approving, with or without modification(s) the proposed Scheme of Amalgamation of Dhruva Holdings Private Limited and DKM Investment and Trading Private Limited with Dhamm Steel Services Private Limited is not required to be convened in view of the averments made in paragraph 24 of the Application. However, the Applicant Company is directed to issue notice to all its Unsecured Creditors under Section 230 (3) of the Companies Act, 2013 with a direction that they may submit their representation, if any.
18. The Applicant Company 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 the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from Regional Director within 30 (thirty) days of the date of receipt of the notice it will be presumed that Regional Director and/ or Central Government has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

19. The Applicant Company to serve the notice upon the concerned Registrar of Companies, 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 Registrar of Companies within 30 (thirty) days of the date of receipt of the notice it will be presumed that Registrar of Companies has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
20. The Applicant Company to serve the notice on 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 (thirty) days of the date of receipt of the notice it will be presumed that Income Tax Authority has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
21. The Applicant Company to file an affidavit of service of notices issued to Unsecured Creditors 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 have been duly complied with.

Sd/-  
B.S.V. Prakash Kumar Member (J)