

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH

COMPANY SCHEME APPLICATION NO. 292 OF 2017

In the matter of the Companies Act, 2013

And

In the matter of Sections 230 to 232 of the
Companies Act, 2013

In the matter of Scheme of Amalgamation and
Arrangement between

Jaykay Finholding (India) Private Limited
(‘the Transferor Company 1/ Applicant
Company 1’)

AND

SMMS Investments Private Limited (‘the
Transferor Company 2/ Applicant Company
2’)

AND

Nadal Trading Company Private Limited (‘the
Transferor Company 3/ Applicant Company
3’)

AND

Plustech Mercantile Company Private Limited
(‘the Transferor Company 4/ Applicant
Company 4’)

AND

ND Callus Info Services Private Limited (‘the
Transferor Company 5/ Applicant Company
5’)

AND

MV Healthcare Services Private Limited (‘the
Transferor Company 6 / Applicant Company
6’)

AND

AG Mercantile Company Private Limited
(‘the Transferor Company 7/ Applicant
Company 7’)

AND

Scorpios Beverages Private Limited (‘the
Transferor Company 8 / Applicant Company
8’)

AND

Telecom Investments India Private Limited
(‘the Transferor Company 9 / Applicant
Company 9’)

AND

UMT Investments Limited (‘the Transferor
Company 10/ Applicant Company 10’)

AND

Omega Telecom Holdings Private Limited
(‘the Transferee Company/ Applicant
Company 11’)

Called for Notice of Admission

Counsel Ms. Fereshte Sethna alongwith Mr. Pawan Sharma, Ms. Shreema Doshi, Mr. Adhiraj Malhotra, Ms. Kameela Diler and Mr. Sagar Sarin, Advocates instructed by DMD Advocates, Advocates for the Applicant Companies

Coram: Shri M. K. Shrawat, Hon’ble Member (J)

Shri V. Nallasenapathy, Hon’ble Member (T)

Date: 13 April, 2017

MINUTES OF THE ORDER

UPON the Application of the Applicant Companies abovenamed **AND**
UPON HEARING Counsel Ms. Fereshte Sethna instructed by DMD

Advocates, Advocates for the Applicant Companies, **AND UPON READING** the Company Scheme Application No.292 of 2017 dated 7 March 2017 of the Applicant Companies and the Exhibits therein referred to, **IT IS ORDERED THAT:-**

1. A meeting of the Equity Shareholders of the Applicant Company 1, be convened and held at the registered office of the Company at 127, Maker Chambers III, Nariman Point, Mumbai 400 021, Maharashtra on Friday, 26 May 2017 at 9:00 a.m., for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of amalgamation and arrangement.
2. A meeting of the Preference Shareholders of the Applicant Company 1, be convened and held at the registered office of the Company at 127, Maker Chambers III, Nariman Point, Mumbai 400 021, Maharashtra, on Friday, 26 May 2017 at 10:00 a.m., for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of amalgamation and arrangement.
3. A meeting of the Equity Shareholders of the Applicant Company 2, be convened and held at the registered office of the Company at 127, Maker Chambers III, Nariman Point, Mumbai 400 021, Maharashtra, on Friday, 26 May 2017 at 9:30 a.m., for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of amalgamation and arrangement.
4. A meeting of the Preference Shareholders of the Applicant Company 2, be convened and held at the registered office of the Company at 127, Maker Chambers III, Nariman Point, Mumbai 400 021, Maharashtra, on Friday, 26 May 2017 at 12:00 noon, for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of amalgamation and arrangement.

5. A meeting of the Equity Shareholders of the Applicant Company 3, be convened and held at the registered office of the Company at 127, Maker Chambers III, Nariman Point, Mumbai 400 021, Maharashtra, on Friday, 26 May 2017 at 12:30 p.m., for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of amalgamation and arrangement.
6. A meeting of the Equity Shareholders of the Applicant Company 4, be convened and held at the registered office of the Company at 127, Maker Chambers III, Nariman Point, Mumbai 400 021, Maharashtra, on Friday, 26 May 2017 at 10:30 a.m., for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of amalgamation and arrangement.
7. A meeting of the Preference Shareholders of the Applicant Company 4, be convened and held at the registered office of the Company at 127, Maker Chambers III, Nariman Point, Mumbai 400 021, Maharashtra, on Friday, 26 May 2017 at 11:30 a.m., for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of amalgamation and arrangement.
8. A meeting of the Equity Shareholders of the Applicant Company 5, be convened and held at the registered office of the Company at 127, Maker Chambers III, Nariman Point, Mumbai 400 021, Maharashtra, on Friday, 26 May 2017 at 11:00 a.m., for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of amalgamation and arrangement.
9. A meeting of the Equity Shareholders of the Applicant Company 6, be convened and held at the registered office of the Company at 127, Maker Chambers III, Nariman Point, Mumbai 400 021, Maharashtra, on Friday, 26 May 2017 at 11:30 a.m., for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of amalgamation and arrangement.

10. A meeting of the Preference Shareholders of the Applicant Company 6, be convened and held at the registered office of the Company at 127, Maker Chambers III, Nariman Point, Mumbai 400 021, Maharashtra, on Friday, 26 May 2017 at 12:30 p.m., for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of amalgamation and arrangement.
11. A meeting of the Equity Shareholders of the Applicant Company 7, be convened and held at the registered office of the Company at 127, Maker Chambers III, Nariman Point, Mumbai 400 021, Maharashtra, on Friday, 26 May 2017 at 12:00 noon, for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of amalgamation and arrangement.
12. A meeting of the Equity Shareholders of the Applicant Company 8, be convened and held at the registered office of the Company at 127, Maker Chambers III, Nariman Point, Mumbai 400 021, Maharashtra, on Friday, 26 May 2017 at 10:30 a.m., for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of amalgamation and arrangement.
13. A meeting of the Equity Shareholders of the Applicant Company 9, be convened and held at the registered office of the Company at 127, Maker Chambers III, Nariman Point, Mumbai 400 021, Maharashtra, on Friday, 26 May 2017 at 9:00 a.m., for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of amalgamation and arrangement.
14. A meeting of the Preference Shareholders of the Applicant Company 9, be convened and held at the registered office of the Company at 127, Maker Chambers III, Nariman Point, Mumbai 400 021, Maharashtra, on Friday, 26 May 2017 at 11:00 a.m., for the purpose of considering and, if thought fit, approving, with or without

modification(s), the proposed Scheme of amalgamation and arrangement.

15. A meeting of the Equity Shareholders of the Applicant Company 10, be convened and held at the registered office of the Company at 127, Maker Chambers III, Nariman Point, Mumbai 400 021, Maharashtra, on Friday, 26 May 2017 at 10:00 a.m., for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of amalgamation and arrangement.
16. A meeting of the Equity Shareholders of the Applicant Company 11, be convened and held at the registered office of the Company at 127, Maker Chambers III, Nariman Point, Mumbai 400 021, Maharashtra, on Friday, 26 May 2017 at 9:30 a.m., for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of amalgamation and arrangement.
17. At least thirty clear days before the said Meetings of the Equity Shareholders of the Applicant Companies and Meetings of the Preference Shareholders of the Applicant Company 1, the Applicant Company 2, the Applicant Company 4, the Applicant Company 6 and the Applicant Company 9, a notice convening the said Meetings at the place, date and time aforesaid, together with a copy of the Scheme of amalgamation and arrangement, a copy of the Statement required to be sent under Section 230 of the Companies Act, 2013 read with Rule 6 of the Companies (Compromises, Arrangements & Amalgamations) Rules, 2016 and the prescribed Form of Proxy, shall be sent by Registered Post or by Courier or by Speed Post or by hand-delivery to each of the Equity Shareholders of the Applicant Companies and the Preference Shareholders of the Applicant Company 1, the Applicant Company 2, the Applicant Company 4, the Applicant Company 6 and the Applicant Company 9 at their respective registered offices or last known addresses or by e-mail to the registered e-mail address of the Equity Shareholders and Preference Shareholders, as per the records of the Applicant Companies.

18. The composite Notice of the Meetings of the Equity Shareholders and Preference Shareholders to be held, as aforesaid, at the place, date and time aforesaid, and stating that copies of the Scheme of amalgamation and arrangement and the Statement required to be furnished pursuant to Section 230 of the Companies Act, 2013 and Form of Proxy can be obtained free of charge at the Registered Office of the Applicant Companies as aforesaid, shall also be advertised, in two local newspapers, 'Free Press Journal' in English and 'Navshakti' in Marathi, both having circulation in Mumbai, at least thirty days before the date fixed for the Meetings.

19. The Applicant Companies undertake to:

- i. issue Notice convening respective Meetings to the Equity Shareholders and the Preference Shareholders as aforesaid, as per Form No. CAA.2 (Rule 6) of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016;
- ii. issue a Statement containing all the particulars as per Section 230 of the Companies Act, 2013;
- iii. issue a Form of Proxy as per Form No. MGT-11 (Rule 19) of the Companies (Management and Administration) Rules, 2014; and
- iv. advertise the Notice convening Meetings as per Form No. CAA 2 (Rule 7) of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

The undertakings are accepted.

20. Mr. Bhuvanesh Pratap Singh, Director of the Applicant Company 1, failing whom Mr. Pankaj Vasani, Director of the Applicant Company 1 is appointed as the Chairperson for the abovementioned Meeting of Equity Shareholders of the Applicant Company 1.

21. Mr. Bhuvanesh Pratap Singh, Director of the Applicant Company 1, failing whom Mr. Pankaj Vasani, Director of the Applicant Company 1 is appointed as the Chairperson for the abovementioned Meeting of Preference Shareholders of the Applicant Company 1.

22. Mr. Bhuvanesh Pratap Singh, Director of the Applicant Company 2, failing whom Mr. Pankaj Vasani, Director of the Applicant Company 2 is appointed as the Chairperson for the abovementioned Meeting of Equity Shareholders of the Applicant Company 2.
23. Mr. Bhuvanesh Pratap Singh, Director of the Applicant Company 2, failing whom Mr. Pankaj Vasani, Director of the Applicant Company 2 is appointed as the Chairperson for the abovementioned Meeting of Preference Shareholders of the Applicant Company 2.
24. Mr. Bhuvanesh Pratap Singh, Director of the Applicant Company 3, failing whom Mr. Pankaj Vasani, Director of the Applicant Company 3 is appointed as the Chairperson for the abovementioned Meeting of Equity Shareholders of the Applicant Company 3.
25. Mr. Bhuvanesh Pratap Singh, Director of the Applicant Company 4, failing whom Mr. Pankaj Vasani, Director of the Applicant Company 4 is appointed as the Chairperson for the abovementioned Meeting of Equity Shareholders of the Applicant Company 4.
26. Mr. Bhuvanesh Pratap Singh, Director of the Applicant Company 4, failing whom Mr. Pankaj Vasani, Director of the Applicant Company 4, is appointed as the Chairperson for the abovementioned Meeting of Preference Shareholders of the Applicant Company 4.
27. Mr. Bhuvanesh Pratap Singh, Director of the Applicant Company 5, failing whom Mr. Pankaj Vasani, Director of the Applicant Company 5 is appointed as the Chairperson for the abovementioned Meeting of Equity Shareholders of the Applicant Company 5.
28. Mr. Pankaj Vasani, Director of the Applicant Company 6, failing whom Mr. Bhuvanesh Pratap Singh, Director of the Applicant Company 6 is appointed as the Chairperson for the abovementioned Meeting of Equity Shareholders of the Applicant Company 6.

29. Mr. Pankaj Vasani, Director of the Applicant Company 6, failing whom Mr. Bhuvanesh Pratap Singh, Director of the Applicant Company 6 is appointed as the Chairperson for the abovementioned Meeting of Preference Shareholders of the Applicant Company 6.
30. Mr. Pankaj Vasani, Director of the Applicant Company 7, failing whom Mr. Bhuvanesh Pratap Singh, Director of the Applicant Company 7 is appointed as the Chairperson for the abovementioned Meeting of Equity Shareholders of the Applicant Company 7.
31. Mr. Pankaj Vasani, Director of the Applicant Company 8, failing whom Mr. Surender Mehta, Director of the Applicant Company 8 is appointed as the Chairperson for the abovementioned Meeting of Equity Shareholders of the Applicant Company 8.
32. Mr. Pankaj Vasani, Director of the Applicant Company 9, failing whom Mr. Surender Mehta, Director of the Applicant Company 9 is appointed as the Chairperson for the abovementioned Meeting of Equity Shareholders of the Applicant Company 9.
33. Mr. Pankaj Vasani, Director of the Applicant Company 9, failing whom Mr. Surender Mehta, Director of the Applicant Company 9 is appointed as the Chairperson for the abovementioned Meeting of Preference Shareholders of the Applicant Company 9.
34. Mr. Pankaj Vasani, Director of the Applicant Company 10, failing whom Mr. Bhuvanesh Pratap Singh, Director of the Applicant Company 10 is appointed as the Chairperson for the abovementioned Meeting of Equity Shareholders of the Applicant Company 10.
35. Mr. Pankaj Vasani, Director of the Applicant Company 11, failing whom Mr. Bhuvanesh Pratap Singh, Director of the Applicant Company 11 is appointed as the Chairperson for the abovementioned Meeting of Equity Shareholders of the Applicant Company 11.

36. The Scrutinizer for the Meetings, as aforesaid, shall be Ms. Payal Gada, Practicing Chartered Accountant (Membership No.110424), Proprietor, Suresh Shah & Co., failing whom Mr. Abbas Kanchwalla, Practicing Chartered Accountant, (Membership No.038099), Proprietor, M/s. A. S. Kanchwalla & Associates, at a remuneration of ₹ 5,000/- (Rupees Five Thousand) per meeting.
37. The Chairpersons appointed for the respective Meetings shall issue instructions for the advertisements to be published, and also issue notices of the Meetings referred to above, and be vested with all powers conferred under the Articles of Association and as per the provisions of the Companies Act, 2013 and also under the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 in relation to the conduct of the meetings, including for deciding any procedural questions that may arise at the Meetings or at any adjournment/s thereof, or any other matter, including an amendment to the proposed Scheme or resolution, if any, proposed at the meeting by any person(s) and to ascertain the decision of the meeting by a poll.
38. The quorum for the aforesaid Meetings of Equity Shareholders shall be as prescribed under Section 103 of the Companies Act, 2013.
39. The quorum for the aforesaid Meetings of Preference Shareholders shall be one member in all companies.
40. The voting by proxy or authorised representative(s) in case of body corporate is permitted, provided that a proxy in the prescribed form/ authorisation duly signed by the person entitled to attend and vote at the Meetings, is filed with the Applicant Companies at their respective Registered Offices, not later than 48 hours before the aforesaid Meetings, as required under Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
41. The value and number of the shares of each member shall be in accordance with the books/ register of the Applicant Companies or

depository records, and where the entries in the books/ register/ depository records are disputed, the Chairperson of the Meetings shall determine the value for the purpose of the respective meetings and his decision in that behalf shall be final.

42. The Chairperson to file an affidavit not less than seven days before the date fixed for the holding of the Meetings, and to report to this Tribunal that the direction regarding the issue of notices and the publication of composite advertisement have been duly complied with as per Rule 12 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
43. The Chairpersons appointed for the said Meetings to report to this Tribunal the result of the aforesaid Meetings within three days of the conclusion of the Meetings, and the reports for the Meetings shall be verified by an Affidavit as per Rule 14 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
44. As on date, there are no Secured Creditors in the Applicant Companies, as mentioned in para 78 of the Joint Application. Hence, the question of issuing notice to Secured Creditors does not arise.
45. As on date, there are no Unsecured Creditors in the Applicant Company 1, Applicant Company 2, Applicant Company 3, Applicant Company 4, Applicant Company 7, Applicant Company 9 and Applicant Company 11 as mentioned in para 79 of the Joint Application. As on the date of filing of the Company Scheme Application, there was one unsecured creditor each in Applicant Company 5, Applicant Company 6, Applicant Company 8 and Applicant Company 10. However, as mentioned in the respective Additional Affidavits of the Applicant Company 5, Applicant Company 6, Applicant Company 8 and Applicant Company 10, the sole unsecured creditor has been paid off during the pendency of this Application. As such there are no unsecured creditors in any of the

Applicant Companies. Hence, the question of issuing Notice to any Unsecured Creditors does not arise.

46. The Applicant Companies to serve the notice upon (i) the Central Government, through the office of the Regional Director, Western Region, Ministry of Corporate Affairs, Mumbai, Maharashtra, (ii) the Registrar of Companies, Mumbai, (iii) the concerned Income Tax Authority within whose jurisdiction the Applicant Company's assessment is made, pursuant to Section 230(5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, with an intimation that representations, if any, may be submitted to the Tribunal, within a period of 30 days from the date of receipt of the Notice with a copy of such representations to be simultaneously served upon the respective Applicant Company, failing which, it shall be presumed that the aforementioned authorities have no representations to make on the proposed Scheme of amalgamation and arrangement.
47. The Applicant Companies 1 to 10 to also serve the notice upon the Official Liquidator with an intimation that representations, if any, may be submitted to the Tribunal, within a period of 30 days from the date of receipt of the Notice with a copy of such representations to be simultaneously served upon the respective Applicant Company, failing which, it shall be presumed that the Official Liquidator has no representations to make on the proposed Scheme of amalgamation and arrangement. M/s. Jitendra Chablani, Chartered Accountants, is appointed with a remuneration of ₹ 10,000/- (Rupees Ten thousand) per Applicant Company, to assist the Official Liquidator in scrutinizing books of accounts for the last 5 years.
48. The Applicant Company 1, the Applicant Company 9 and the Applicant Company 10 to also serve Notice on the Reserve Bank of India, Department of Non-Banking Supervision, Mumbai Regional Office, pursuant to Section 230(5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and

Amalgamations) Rules, 2016, with an intimation that representations, if any, may be submitted to the Tribunal, within a period of 30 days from the date of receipt of the Notice with a copy of such representations to be simultaneously served upon the respective Applicant Company(ies), failing which, it shall be presumed that the Reserve Bank of India has no representations to make on the proposed Scheme of amalgamation and arrangement.

49. The Applicant Companies to file an Affidavit of Service proving dispatch of the Notices upon the Regulatory authorities referred to in paragraphs 45 to 47, and public advertisement in newspapers within seven days of issuance of Notices.

Sd/-

V. Nallasenapathy, Member (T)

Sd/-

13/m/17
M. K. Shrawat, Member (J)