

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

CP. No. 29/14(1)/2016

Under section 14(1) of the Companies
Act, 2013

In the matter of

Gansons Limited

.... Petitioner

Order delivered on : 29.09.2017

Coram:

Hon'ble Mr. B.S.V. Prakash Kumar, Member (J)

Hon'ble Mr. V. Nallasenapathy, Member (T)

For the Petitioner :Mr. Rahul Oak, a/w Siddhesh S. Shetye, Advocate

For the Objector:Mr. Megan Shibil, i/b S. D. Israni Law Chambers

Per V. Nallasenapathy, Member (Technical)

ORDER

This Applicant company has filed this Company Petition for converting Public Limited Company into Private Limited Company on the ground that there is a liberalized legal environment for private companies which will help the company to focus more on operational part. Shareholders in this company are 9 members only henceforth the Applicant Company sought for approval of its Special Resolution passed by the company for such conversion as prescribed under Rules of NCLT.

2. On perusal of the Application, it appears that Board meeting was held on 19.3.2016, in pursuance thereof, Extra Ordinary General Meeting was held on 31.5.2016 for approval of Special Resolution for conversion of the applicant Company into Private Limited Company. In the Extra Ordinary General Meeting 7 members representing 92.41% of the shareholding of the company voted in

favour of the resolution and 2 members representing 7.59% of the total shareholding voted against the resolution.

3. The Applicant Company has attached the list of Creditors drawn up on 15.5.2017, providing the names and addresses of every Creditor mentioning the respective amounts due to them, apart from this, two directors filed an Affidavit declaring that there is no other debt in the company to their knowledge save and except the names of the creditors and details given thereof.

4. The Applicant Company advertised the Application in accordance with Rule 35 of NCLT Rules by serving individual notices upon the Creditors, Central Government and Registrar of Companies.

5. One of the shareholder Mr. Mahendra Wadhwani holding 4.35% of shares of the company is an objector to this petition and his apprehension was that when the company is converted into a private company he may not be in a position to sell his shares freely to outsiders. The Ld. Counsel appearing for the Petitioner states that no promoter is interested in purchasing his shares, however he has produced a resolution dated 27.7.2017 passed by the Board of Directors of the Company which reads as below:

"RESOLVED THAT, consent of the Board be and is hereby accorded to allow free transferability of 60,300 Equity shares held by Mr. Mahendra Wadhwani under Folio No.277 ("hereinafter referred to as the "Intervener's shareholder") on and from the date of conversion of Company into Private Limited Company, subject to the following conditions:

- 1) Due procedure for transfer of shares as provided by law at the time of transfer is followed by the Parties transacting the shares;*
- 2) Intervener's shareholding is transferred by himself (Mr. Mahendra Wadhwani, the shareholder) or through his Legal Heirs, to any of the person or persons, including Body Corporate(s) who are not in direct competition with the Company as on the date of registration of transfer."*

6. In view of the above Resolution, which satisfies the sole objector and there being no objection from any of the Creditors or Members of the company for

conversion of this Public Limited Company into Private Limited Company and this Bench having not found any of the circumstances of this case ultra-virus to the provisions of the Act and in violations of the Rules prescribed to disallow the conversion of this Company, this Application is hereby allowed.

Sd/-

V. NALLASENAPATHY
Member (Technical)

Sd/-

B. S. V. PRAKASH KUMAR
Member (Judicial)