

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,

MUMBAI BENCH

MA NO 343 OF 2017

IN

CSA NO 398 OF 2017

In the matter of the Companies Act, 2013;

AND

In the matter of Sections 230 to 232 and other applicable provisions of the Companies Act, 2013 ;

AND

In the matter of Scheme of Arrangement and Aamalgamation between Arshiya Industrial & Distribution Hub Limited ("The First Transferor Company") and Arshiya Transport and Handling Limited ("The Second Transferor Company") with Arshiya Rail Infrastructure Limited ("Transferee Company") and their respective Shareholders

Arshiya Industrial & Distribution Hub Limited, a Company }

Incorporated under the provisions of Companies }

Act 1956 having its registered office at 302, Level 3, }

Ceejay House, F- Block, Shiv Sagar Estate, Dr. Annie Besant Road, }

Worli, Mumbai- 400018, India }

.....First Applicant Company

Arshiya Transport And Handling Limited, a Company }

Incorporated under the provisions of Companies }

Act 1956 having its registered office at 302, Level 3, }

Ceejay House, F- Block, Shiv Sagar Estate, Dr. Annie Besant Road, }

Worli, Mumbai- 400018, India }

.....Second Applicant Company

AND

Arshiya Rail Infrastructure Limited, a Company }
Incorporated under the provisions of Companies }
Act 1956 having its registered office at 302, Level 3, }
Ceejay House, F- Block, Shiv Sagar Estate, Dr. Annie Besant Road, }
Worli, Mumbai- 400018, India }

.....Third Applicant Company

Mr. Hemant Sethi i/b. Hemant Sethi & Co., Advocates for the Applicant Company
Order delivered on 27th September, 2017

Coram:

Hon'ble **B.S.V. Prakash Kumar**, Member (J)
Hon'ble **V .Nallasenapathy**, Member (T)

For the Petitioner(s): Mr. Hemant Sethi i/b Hemant Sethi & Co

Per: **B.S.V. Prakash Kumar**, Member (J)

Order

1. By order dated 21st June 2017 passed in CSA No 398 of 2017 necessary directions were given for convening meetings of Equity shareholders, secured and unsecured creditors of the Transferor and Transferee Companies.
2. The counsel for the Applicants submits that in pursuance of the said order the meetings of the Equity Shareholders of the Transferor and Transferee Companies have been held and the scheme has been approved by requisite majority of members present and voted. .
3. The present Miscellaneous Application has been taken out by the Applicants for rescheduling meetings of the Secured and Unsecured Creditors in view of the fact that one of the Creditor Edelweiss Asset Reconstruction Company Limited by their letter dated 14th August 2017 requested for the meeting to be convened at a later date in view of the fact the scheme is very elaborate and needs more time for analysis. Copy of letter is annexed as Annexure-1 to the Application. In view thereof the following order is passed:-
 - (a) That the meeting of the Secured creditors of the First Applicant Company shall be convened and held at 302, Level 3, Ceejay House, Shiv Sagar Estate, F Block, Dr. Annie Besant Road, Worli, Mumbai – 400018 on 1st November 2017 at

10.00 a.m. for the purpose of considering and, if thought fit, approving with or without modification(s) of the proposed Scheme of Amalgamation of Arshiya Industrial & Distribution Hub Limited ("The First Transferor Company") and Arshiya Transport and Handling Limited ("The Second Transferor Company") with Arshiya Rail Infrastructure Limited ("The Transferee Company") and their respective Shareholders.

- (b) That the meeting of the Unsecured creditors of the First Applicant Company be convened and held at 302, Level 3, Ceejay House, Shiv Sagar Estate, F Block, Dr. Annie Besant Road, Worli, Mumbai – 400018 on 1st November 2017 at 1.00 p.m. for the purpose of considering and, if thought fit, approving with or without modification(s) of the proposed Scheme of Amalgamation of Arshiya Industrial & Distribution Hub Limited ("The First Transferor Company") and Arshiya Transport and Handling Limited ("The Second Transferor Company") with Arshiya Rail Infrastructure Limited ("The Transferee Company") and their respective Shareholders.
- (c) That the meeting of the Unsecured creditors of the Second Applicant Company be convened and held at 302, Level 3, Ceejay House, Shiv Sagar Estate, F Block, Dr. Annie Besant Road, Worli, Mumbai – 400018 on 2nd November 2017 at 11.30 a.m. for the purpose of considering and, if thought fit, approving with or without modification(s) of the proposed Scheme of Amalgamation of Arshiya Industrial & Distribution Hub Limited ("The First Transferor Company") and Arshiya Transport and Handling Limited ("The Second Transferor Company") with Arshiya Rail Infrastructure Limited ("The Transferee Company") and their respective Shareholders.
- (d) That the meeting of the Secured creditors of the Third Applicant Company be convened and held at 302, Level 3, Ceejay House, Shiv Sagar Estate, F Block, Dr. Annie Besant Road, Worli, Mumbai – 400018 on 3rd November 2017 at 10.00 a.m. for the purpose of considering and, if thought fit, approving with or without modification(s) of the proposed Scheme of Amalgamation of Arshiya Industrial & Distribution Hub Limited ("The First Transferor Company") and Arshiya Transport and Handling Limited ("The Second Transferor Company") with Arshiya Rail Infrastructure Limited ("The Transferee Company") and their respective Shareholders.
- (e) That the meeting of the Unsecured creditors of the Third Applicant Company be convened and held at 302, Level 3, Ceejay House, Shiv Sagar Estate, F Block, Dr. Annie Besant Road, Worli, Mumbai – 400018 on 3rd November 2017 at 1.00 p.m. for the purpose of considering and, if thought fit, approving with or without modification(s) of the proposed Scheme of Amalgamation of Arshiya Industrial

& Distribution Hub Limited ("The First Transferor Company") and Arshiya Transport and Handling Limited ("The Second Transferor Company") with Arshiya Rail Infrastructure Limited ("The Transferee Company") and their respective Shareholders.

- (f) That at least one month before the said Meetings of the Secured and Unsecured Creditors of the First, Second and Third Applicant Company to be held as aforesaid, a notice convening the said Meeting at the place date and time as aforesaid, together with a copy of the Scheme, a copy of statement disclosing all material facts as required under Section 230(3) of the Companies Act 2013 read with Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rule, 2016 notified on 14th December 2016 and the prescribed Form of Proxy, shall be sent by Courier / Registered Post / Speed Post or through Email (to those Creditors whose email addresses are duly registered with the First, Second and Third Applicant Company for the purpose of receiving such notices by email), addressed to each of the Creditors of the First, Second and Third Applicant Company, at their last known address or email addresses as per the records of the Applicant Company.
- (g) That the Notice of the Meetings shall be re 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.
- (h) That Mr. Ajay S Mittal, Director of the First Applicant Company, and failing him, Mr. Navnit Choudhary, Director of the First Applicant Company shall be the Chairman of the aforesaid meeting of the Secured and Unsecured Creditors of the First Applicant to be held at 302, Level 3, Ceejay House, Shiv Sagar Estate, F Block, Dr. Annie Besant Road, Worli, Mumbai – 400018, Maharashtra on 1st November 2017 at 10:00 A.M and 1 p.m. respectively or any adjournment or adjournments thereof.
- (i) That Mr. Ajay Mittal, Director of the Second Applicant Company, and failing him, Mr. Navnit Choudhary, Director of the Second Applicant Company shall be the Chairman of the aforesaid meeting of the Unsecured Creditors of the Second Applicant Company to be held at 302, Level 3, Ceejay House, Shiv Sagar Estate, F Block, Dr. Annie Besant Road, Worli, Mumbai – 400018, Maharashtra on 2nd November 2017 at 11:30 A.M or any adjournment or adjournments thereof.
- (j) That Mr. Ajay Mittal, Director of the Third Applicant Company, and failing him, Mr. Navnit Choudhary, Director of the Third Applicant Company shall be the Chairman of the aforesaid meeting of the Secured and Unsecured Creditors of the Third Applicant Company to be held at 302, Level 3, Ceejay House, Shiv

Sagar Estate, F Block, Dr. Annie Besant Road, Worli, Mumbai – 400018, Maharashtra on 3rd November 2017 at 10.00 a.m. and 01.00 P.M. respectively or any adjournment or adjournments thereof.

- (k) That the Chairman appointed for the aforesaid Meetings to issue the advertisement and send out the notices of the Meetings referred to above. The said Chairman shall have all powers as per Articles of Association and also under the Companies Act 2013 in relation to the conduct of the meetings, including for deciding procedural questions that may arise or at any adjournment thereof or resolution, if any, proposed at the meetings by any person(s).
- (l) That the quorum of the aforesaid meetings of the Secured and Unsecured Creditors of the First and Third Applicant Company and the Unsecured Creditors of Second Applicant Company shall be five present in person or through proxy.
- (m) That voting by proxy or authorized representative in case of body corporate be permitted, provided that a proxy in the prescribed form / authorization duly signed by the person entitled to attend and vote at the meetings, are filed with the First, Second and Third Applicant Company at its Registered Office at 302, Level 3, Ceejay House, Shiv Sagar Estate, F Block, Dr. Annie Besant Road, Worli, Mumbai – 400018, Maharashtra and Second Applicant Company at its Registered Office at 302, Level 3, Ceejay House, Shiv Sagar Estate, F Block, Dr. Annie Besant Road, Worli, Mumbai – 400018, Maharashtra, respectively, not later than 48 hours before the aforesaid meeting.
- (n) That Mr. Mohammad Aabid, Practising Company Secretary partner of Aabid & Co., Company Secretaries, is hereby appointed as Scrutinizers of the meetings of the Equity shareholders of the First Applicant Company proposed to be held on 1st November 2017 at 302, Level 3, Ceejay House, Shiv Sagar Estate, F Block, Dr. Annie Besant Road, Worli, Mumbai – 400018, Maharashtra, the Second Applicant Company proposed to be held on 2nd November, 2017 at 302, Level 3, Ceejay House, Shiv Sagar Estate, F Block, Dr. Annie Besant Road, Worli, Mumbai – 400018, Maharashtra, and Third Applicant Company proposed to be held on 3rd November 2017 at 302, Level 3, Ceejay House, Shiv Sagar Estate, F Block, Dr. Annie Besant Road, Worli, Mumbai – 400018 respectively and his remuneration is fixed as Rs. 5,000/- excluding taxes.
- (o) That the Chairman to file an affidavit not less than seven (7) days before the date fixed for the holding of the meetings and do report this Tribunal that the direction regarding the issue of notices and the advertisement have been duly complied with.
- (p) That the Chairman of the meetings to report to this Tribunal, the results of the aforesaid meetings within thirty days of the conclusion of the meetings. The

Chairperson shall also file report pertaining to the meeting of the Equity Shareholders along with the Report pertaining meetings of secured and unsecured creditors.

4. The First, Second and Third Applicant Company to file affidavit of service in the Registry proving dispatch of notices to the Creditors, publication of notices in newspapers and do report to this Tribunal that the directions regarding the issue of notices have been duly complied with.

Sd/-

V .Nallasenapathy, Member (T)

Sd/-

B.S.V. Prakash Kumar, Member (J)