

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
BENCH AT MUMBAI
COMPANY SCHEME APPLICATION NO. 737 OF 2017**

In the matter of the Companies Act, 2013;

AND

In the matter of sections 230 to 234 of the Companies Act, 2013;

AND

In the matter of Cole Paints and Contracts Private Limited;

AND

In the matter of Scheme of Arrangement between Cole Paints and Contracts Private Limited and Cole Meridian Properties Private Limited and their respective shareholders.

Cole Meridian Properties Private)
Limited, a company incorporated under)
the Companies Act, 2013 and having)
its registered office at 1/A, 1st floor, Plot- 59,))
National Insurance Building, Dr. V.B.)
Gandhi Marg, Kala Ghoda, Fort)
Mumbai- 400 001.)

..... Applicant Company/Resulting

Called Summons for Direction

Mr. Yohann Cooper alongwith Mr. Aditya N. Raut, i/b Desai Desai Carrimjee & Mulla, for Applicant Company

Coram:

Mr. M. K. Shrawat (Hon'ble Judicial Member)

Mr. Bhaskara Pantula Mohan (Hon'ble Judicial Member)

Per : Bhaskara Pantula Mohan, Member (Judicial)

Date: 15th September, 2017

MINUTES OF THE ORDER

UPON the application of the Applicant Company above named by a Summons for Direction AND UPON HEARING Mr. Yohann Cooper and Mr. Aditya N. Raut, instructed by M/s. Desai Desai Carrimjee & Mulla., Advocates for the Applicant Company, AND UPON READING the Affidavit dated 8th May, 2017 of Mr. Moeen Baaqer Shirazi, Director of the Applicant Company, in support of Summons for Direction and the exhibits referred to therein, **IT IS ORDERED:**

[Signature]

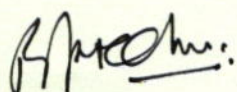
1. The Counsel for the Applicant Company submits that the present Scheme is an Arrangement between Cole Paints and Contracts Private Limited ("Demerged Company") and Cole Meridian Properties Private Limited ("the Applicant Company/ the Resulting Company") and their respective Shareholders. This Scheme of Arrangement provides for the demerger and vesting of real estate business activities, both commercial and residential of the Demerged Company including its management, development, construction, operation and sale of commercial complexes and/ or properties, incorporation of and investment in special purpose vehicle thereof for the aforesaid purposes and the acquisition of real estate, both commercial and residential for the aforesaid purposes and the provision of various services for the aforesaid, including marketing, construction, financing, project management ("Demerged Undertaking") from the Demerged Company to the Resulting Company.
2. The Counsel for the Applicant Company further submits that the Demerged Company is, inter alia, engaged in the business of industrial paints and related consulting activities thereon in addition to the aforementioned Demerged Undertaking and certain other businesses. The Demerged Company operates in different areas which inter-alia includes the Demerged Undertaking, which includes real estate business activities, both commercial and residential of the Demerged Company including its management, development, construction, operation and sale of commercial complexes and/ or properties, incorporation of and investment in special purpose vehicle for the aforesaid purposes thereof and the acquisition of real estate, both commercial and residential for the aforesaid purposes and the provision of various services for the aforesaid, including marketing, construction, financing, project management. The Resulting Company is, inter alia, engaged in the business of real estate commercial development and its activities are in compliance with all the laws of the land.
3. The Counsel for the Applicant Company further submits that with effect from 1st November, 2016, the Demerged Undertaking of the Demerged Company be demerged into the Resulting Company, as a going concern, pursuant to this proposed Scheme of Arrangement (Exhibit- "F" to the Summons for Direction of the Applicant Company) between the Demerged Company and the Resulting Company and their respective shareholders.
 - (i) Both, the Demerged Company and the Resulting Company are under a common management and it is believed that the Scheme of Arrangement would result in certain definite advantages. The circumstances and/or reasons which justify and/or necessitate the proposed Scheme of Arrangement and some of the major benefits which will accrue therefrom are, inter alia, as follows:

[Signature]

- (ii) The Resulting Company is a concern inter alia engaged in the business of real estate commercial development and its activities are in compliance with the law. Such business of the Resulting Company is on a sound footing and has good potential for growth and development. The present level of operations of the Demerged Company is not substantial and it has been looking at suitable proposals for consolidation and diversification.
 - (iii) The demerger of the Demerged Undertaking of the Demerged Company under the Scheme of Arrangement will create a focused entity engaged in the Demerged Undertaking business, which will allow the shareholders of the Demerged Company to participate directly in an entity focused and engaged in the Remaining Business in a manner such that the Demerged Company's parentage and control continues.
 - (iv) The Scheme of Arrangement will facilitate appropriate consolidation of the activities and operations of the Demerged Company and the Resulting Company with better utilization of their combined resources in the business of the Resulting Company and enable such business to be run, controlled and managed more economically, conveniently and advantageously.
 - (v) The Demerger will result in the formation of a larger company and will strengthen and fortify the position of the Resulting Company to raise funds required for expansion and diversification of its business and activities more efficiently and adequately.
 - (vi) The demerger will create a platform for future growth of the Demerged Undertaking, while allowing the Demerged Company to concentrate its growth efforts in its Remaining Business in a focused manner towards strengthening the Demerged Company's existing market leadership/share therein.
 - (vii) The Scheme of Arrangement is aimed at protecting and maximizing value for the shareholders of the Demerged Company and the Resulting Company. The Scheme of Arrangement will also have beneficial results for both the Demerged Company and the Resulting Company, its employees and all concerned and is proposed to their advantage.
 - (viii) In the circumstances, it is considered desirable and expedient to demerge the Demerged Undertaking from the Demerged Company and transfer the same to the Resulting Company in the manner and on the terms and conditions stated in this Scheme of Arrangement.
4. The Demerged Company and the Resulting Company will also obtain the approval of shareholders to the said Scheme of Arrangement by voting in person or through authorized proxies or through Postal Ballot.

Approved:

5. That at least 21 clear days before the said Meeting of the Equity Shareholders of the Demerged Company and at least 7 clear days before the Meeting of the Equity Shareholders of the Resulting Company to be held as aforesaid, a notice convening the said Meetings at the place date and time as aforesaid, together with a copy of the Scheme of Arrangement, 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 shareholders whose email addresses are duly registered with the Demerged Company and the Resulting Company for the purpose of receiving such notices by email), addressed to each of the Equity Shareholders of the Demerged Company and the Resulting Company, at their last known address or email addresses as per the records of the Demerged Company and the Resulting Company.
6. That the meeting of the Equity Shareholders of the Demerged Company be convened and held at its Registered office at 59, Forbes Street, Fort, Mumbai- 400 001 on 23rd October, 2017 at 10:00 A.M. for the purpose of considering and, if thought fit, approving with or without modification(s) the proposed arrangement embodied in the Scheme of Arrangement between the Demerged Company and the Resulting Company and their respective Shareholders (Exhibit- "F" to the Summons for Direction of the Applicant Company).
7. That the meeting of the Equity Shareholders of the Resulting Company be convened and held at its Registered office at 1/A, 1st floor, Plot- 59, National Insurance Building, Dr. V.B. Gandhi Marg, Kala Ghoda, Fort, Mumbai- 400 001 on 29th September, 2017 at 10:00 A.M. for the purpose of considering and, if thought fit, approving with or without modification(s) the proposed arrangement embodied in the Scheme of Arrangement between the Demerged Company and the Resulting Company and their respective Shareholders (Exhibit- "F" to the Summons for Direction of the Applicant Company).
8. That Mr. Moeen Baaqer Shirazi, Director of the Demerged Company shall be the Chairman of the aforesaid meeting of the Equity Shareholders of the Demerged Company to be held at 59, Forbes Street, Fort, Mumbai- 400 001 on 23rd October, 2017 at 10:00 A.M. or any adjournment or adjournments thereof.
9. That Mr. Moeen Baaqer Shirazi, Director of the Resulting Company shall be the Chairman of the aforesaid meeting of the Equity Shareholders of the Resulting Company to be held at its Registered office at 1/A, 1st floor, Plot- 59, National Insurance Building, Dr. V.B.



Gandhi Marg, Kala Ghoda, Fort, Mumbai- 400 001 on 29th September, 2017 at 10:00 A.M. or any adjournment or adjournments thereof.

10. That the Chairman appointed for the aforesaid Meetings shall 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).
11. That the quorum of the aforesaid meetings of the Equity Shareholders shall be as prescribed under Section 103 of the Companies Act, 2013.
12. That voting by proxy or authorized 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 meetings, are filed with the Demerged Company and Resulting Company at their respective Registered Offices at not later than 48 hours before the aforesaid meeting.
13. That the value and number of the shares of each Equity Shareholder shall be in accordance with the books / register of the Demerged Company and the Resulting Company or depository records and where the entries in the books / register / depository records are disputed, the Chairman of the Meetings shall determine the value for the purpose of the aforesaid meetings and his decision in that behalf would be final.
14. That Mr. Yogesh Chaudhary, of Yogesh Choudhary & Associates, Practicing Company Secretary is hereby appointed as a Scrutinizer of the meeting of Equity shareholders of Demerged Company and the Resulting Company proposed to be held on 23rd October, 2017 and 29th September, 2017 respectively at their respective Registered Offices as setout hereinabove and his remuneration is fixed as Rs. 5,000/- for each meeting.
15. 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 to this Tribunal that the direction regarding the issue of notices and the advertisement have been duly complied with.
16. 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.
17. The Demerged Company and Resulting Company is directed to serve notices along with copy of scheme upon:- (i) concerned Income Tax Authority with in whose jurisdiction the Demerged Company's and Resulting Company's assessments are made, (ii) the

As per Order:

Central Government through the office of Regional Director, Western region, Mumbai (iii) Registrar of Companies with a direction that they may submit their representations, if any, within a period of thirty days from the date of receipt of such notice to the Tribunal with copy of such representations shall simultaneously be served upon the Demerged Company and the Resulting Company, failing which, it shall be presumed that the authorities have no representations to make on the proposals.

18. Simultaneous with the Demerged Company and Resulting Company giving the necessary notice as per clause 17 above, the Demerged and the Resulting Company will also publish the notice of the final hearing of the petition in two newspapers viz. 'The Free Press Journal' in English language and the translation thereof in 'Navshakti', in Marathi Language, both having circulation in Mumbai.
19. The Counsel for the Demerged Company submits that there are no secured creditors in the Demerged Company, therefore the question of sending notices to the secured creditors does not arise. The Counsel for the Demerged Company further submits that since the Scheme is an arrangement between the Demerged Company and their respective shareholders only a meeting of the Equity Shareholders is proposed to be held in accordance with the provisions of Section 230(1)(b) of the Companies Act 2013. The Demerged Company also has no unsecured creditors and therefore the question of sending notices to the unsecured creditors does not arise either.
20. The Counsel for the Resulting Company submits that there are no secured creditors in the Resulting Company, therefore the question of sending notices to the secured creditors does not arise. The Counsel for the Resulting Company further submits that since the Scheme is an arrangement between the Resulting Company and their respective shareholders only a meeting of the Equity Shareholders is proposed to be held in accordance with the provisions of Section 230(1)(b) of the Companies Act 2013. The Resulting Company also has no unsecured creditors and therefore the question of sending notices to the unsecured creditors does not arise either.
21. The Demerged Company and the Resulting Company to file affidavit of service in the Registry proving dispatch of notices to the shareholders, Creditors if any and regulatory authorities as stated in the clauses hereinabove and report to this Tribunal that the directions regarding the issue of notices have been duly complied with.

Sd/-

BHASKARA PANTULA MOHAN
MEMBER (JUDICIAL)

Sd/-

M. K. SHRAWAT
MEMBER (JUDICIAL)

DATED : 15.09.2017