

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH**

CSA NO 848 OF 2017

In the matter of the Companies Act, 2013;

AND

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

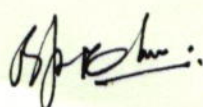
AND

In the matter of Scheme of Amalgamation between
Oaknet Life Sciences Private Limited ('OLSPL' or 'the
Transferor Company') and Oaknet Healthcare Private
Limited ('OHPL' or 'the Transferee Company') and their
respective shareholders and creditors

Oaknet Life Sciences Private Limited, a company	}	
incorporated under the provisions of	}	
Companies Act, 2013 having its registered office at	}	
'Art Guild House', Unit GB-01, B-Wing,	}	
Phoenix Market City, LBS Marg, Kurla (W),	}	
Mumbai – 400070, Maharashtra, India	}First Applicant Company (Transferor Company)

Oaknet Healthcare Private Limited, a company	}	
incorporated under the provisions of	}	
Companies Act, 1956 having its registered office at	}	
'Art Guild House', Unit GB-01, B-Wing,	}	
Phoenix Market City, LBS Marg, Kurla (W),	}	
Mumbai – 400070, Maharashtra, India	}Second Applicant Company (Transferee Company)

Mr. Hemant Sethi i/b. Hemant Sethi & Co., Advocates for the Applicants



Order delivered on 14th September , 2017

Coram:

Hon'ble M.K. Shrawat , Member (J)

Hon'ble Bhaskara Pantula Mohan , Member (J)

For the Applicant(s): Mr. Hemant Sethi i/b Hemant Sethi & Co. Advocates for Applicants

Per: Bhaskara Pantula Mohan, Member (J)

Order

1. The Counsel for the Applicants submit that the present Scheme is a Scheme of Amalgamation between Oaknet Life Sciences Private Limited (" the "Transferor Company") and Oaknet Healthcare Private Limited (the "Transferee Company"). This Scheme of Amalgamation is proposed to merge the Transferor Company with the Transferee Company without winding up of the former pursuant to the applicable provisions of the Companies Act, 2013 (the 'Act').
2. The Counsel for the Applicants further submits that the merger would help to simplify the group structure, minimise cost of administration of two legal entities, lead to better and more economic and efficient management, control and running of the business of the companies concerned and pooling of resources of both the companies for growth.
3. That the meeting of the Equity Shareholders of the First Applicant Company be convened and held at 'Art Guild House', Unit GB-01, B-Wing, Phoenix Market City, LBS Marg, Kurla (W), Mumbai – 400070, Maharashtra, India on Monday, 23rd day of October, 2017 at 10.00 a.m. for the purpose of considering and, if thought fit, approving with or without modification(s) the proposed merger embodied in the Scheme of Amalgamation between Oaknet Life Sciences Private Limited and Oaknet Healthcare Private Limited and their respective shareholders and creditors.
4. That the meeting of the Equity Shareholders of the Second Applicant Company be convened and held at 'Art Guild House', Unit GB-01, B-Wing, Phoenix Market City, LBS Marg, Kurla (W), Mumbai – 400070, Maharashtra, India on Monday, 23rd day of October, 2017 at 12 noon for the purpose of considering and, if thought fit, approving with or without modification(s) the proposed merger embodied in the Scheme of Amalgamation between Oaknet Life Sciences Private Limited and Oaknet Healthcare Private Limited and their respective shareholders and creditors.

Bhaskara Pantula Mohan:

5. That the meeting of the Compulsorily Convertible Cumulative Preference Shareholders of the First Applicant Company be convened and held at 'Art Guild House', Unit GB-01, B-Wing, Phoenix Market City, LBS Marg, Kurla (W), Mumbai – 400070, Maharashtra, India on Monday, 23rd day of October, 2017 at 2:00 p.m. for the purpose of considering and, if thought fit, approving with or without modification(s) the proposed merger embodied in the Scheme of Amalgamation between Oaknet Life Sciences Private Limited and Oaknet Healthcare Private Limited and their respective shareholders and creditors.
6. That there being only one Non-Convertible Preference Shareholder ('NCPS holder'), i.e the Transferee Company itself in the First Applicant Company, it is practically not possible to hold such meeting and thereby holding NCPS holder meeting is not required in view of the consent given by the sole NCPS holder of the First Applicant Company which is annexed as Exhibit 'J' to the Company Scheme Application.
7. That at least one month before the said Meetings of the Equity Shareholders of the Applicant Companies and the Compulsorily Convertible Cumulative Preference Shareholders of the First 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 / Hand Delivery / Speed Post or through Email (to those shareholders whose email addresses are duly registered with the First and Second Applicant Company for the purpose of receiving such notices by email), addressed to each of the Equity Shareholders of the First and Second Applicant Company and the Compulsorily Convertible Cumulative Preference Shareholders of the First Applicant Company, at their last known address or email addresses as per the records of the Applicant Companies.
8. That at least one month before the meetings of the Equity Shareholders of the First and Second Applicant Company and the Compulsorily Convertible Cumulative Preference Shareholders of the First Applicant Company, to be held as aforesaid, a notice convening the said Meetings, indicating the place, date and time of meeting

Spoken:

as aforesaid be published and stating that copies of the Scheme and the statement required to be furnished pursuant to Section 230(3) of the Companies Act 2013 read with Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rule, 2016 and the Form of Proxy can be obtained free of charge at the Registered Office of the Applicant Companies as aforesaid and / or at the office of its Advocates, M/s Hemant Sethi & Co., 1602 Nav Parmanu, Behind Amar Cinema, Chembur, Mumbai – 400071.

9. That the Notice of the Meeting shall be advertised in two local newspapers viz. "Financial Express" in English and "Navshakti" in Marathi both circulated in Mumbai not less 30 days before the date fixed for the meeting.
10. That Mr. R.S.Raghav, Managing Director of the First Applicant Company and failing him, Ms. Nita Borkar, Director of the First Applicant Company and failing her Mr Ashwin Trinidad, Authorised Signatory of the First Applicant Company shall be the Chairman of the aforesaid meeting of the Equity Shareholders of the First Applicant Company to be held at 'Art Guild House', Unit GB-01, B-Wing, Phoenix Market City, LBS Marg, Kurla (W), Mumbai – 400070, Maharashtra, India on Monday, 23rd day of October, 2017 at 10.00 a.m. or any adjournment or adjournments thereof.
11. That Ms. Nita Borkar, Director of the Second Applicant Company and failing her, Mr. R.S.Raghav, Managing Director of the Second Applicant Company and failing him Mr Ashwin Trinidad, Authorised Signatory of the Second Applicant Company shall be the Chairman of the aforesaid meeting of the Equity Shareholders of the Second Applicant Company to be held at 'Art Guild House', Unit GB-01, B-Wing, Phoenix Market City, LBS Marg, Kurla (W), Mumbai – 400070, Maharashtra, India on Monday, 23rd day of October, 2017 at 12 noon or any adjournment or adjournments thereof.
12. That Mr. R.S.Raghav, Managing Director of the First Applicant Company, and failing him, Ms. Nita Borkar, Director of the First Applicant Company and failing her Mr Ashwin Trinidad, Authorised Signatory of the First Applicant Company shall be the Chairman of the aforesaid meeting of the Compulsorily Convertible Cumulative Preference Shareholders of the First Applicant Company to be held at 'Art Guild House', Unit GB-01, B-Wing, Phoenix Market City, LBS Marg, Kurla

A. P. Raghav

(W), Mumbai – 400070, Maharashtra, India on Monday, 23rd day of October, 2017 at 2:00 pm or any adjournment or adjournments thereof.

13. 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).
14. That the quorum of the aforesaid meetings of the Shareholders shall be as prescribed under Section 103 of the Companies Act, 2013.
15. 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 Applicant and Second Applicant Company at their Registered Office at 'Art Guild House', Unit GB-01, B-Wing, Phoenix Market City, LBS Marg, Kurla (W), Mumbai – 400070, Maharashtra, India not later than 48 hours before the aforesaid meetings.
16. That the value and number of the shares of each Equity Shareholder and Compulsorily Convertible Cumulative Preference Shareholders shall be in accordance with the books / register of the First Applicant and Second Applicant 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.
17. That Ms. MRUNAL MARGAJ proprietor of M/s MRUNAL S MARGAJ & CO, Practicing Chartered Accountant is hereby appointed as Scrutinizers of the meeting of the Equity shareholders of the First Applicant and Second Applicant Company and also for the meeting of the Compulsorily Convertible Cumulative Preference Shareholders of the First Applicant Company proposed to be held on Monday, 23rd day of October, 2017 at 'Art Guild House', Unit GB-01, B-Wing, Phoenix Market City, LBS Marg, Kurla (W), Mumbai – 400070, Maharashtra, India and his remuneration is fixed as Rs. 1,800/- per meeting excluding taxes.

Signature:

18. 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.
19. 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.
20. The First and Second Applicant Company are directed to serve notices along with copy of scheme upon:- (i) concerned Income Tax Authority within whose jurisdiction the Applicant Companies assessments are made, (ii) the 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 First Applicant and the Second Applicant Company, failing which, it shall be presumed that the authorities have no representations to make on the proposals.
21. The First Applicant Company is also directed to serve notice along with copy of scheme upon Official Liquidator, pursuant to section 230(5) of the Companies Act, 2013. M/s Dalal & Kala, Chartered Accountants are appointed to assist the Official Liquidator to scrutinize books of accounts of the First Applicant Company for the last 2 years since the company was incorporated in April, 2015. The First Applicant Company to pay fees of Rs. 55,000/- for the services. If no response is received by the Tribunal from Official Liquidator within thirty days of the date of receipt of notice, it will be presumed that Official Liquidator has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
22. The Counsel for the First Applicant Company submits that there are no Secured Creditors in the First Applicant Company, therefore the question of sending notices to the Secured Creditors does not arise. The Counsel for the First Applicant Company further submits that since the Scheme is an amalgamation between the First and Second Applicant Company and their respective shareholders only a meeting of the Equity Shareholders and Compulsorily Convertible Cumulative Preference Shareholders is proposed to be held in accordance with the provisions of Section 230(1)(b) of the Companies Act 2013. This bench hereby directs the First Applicant Company to issue notice to all its Unsecured Creditors as on July 31, 2017 under Section 230(3) of the Companies Act, 2013 with a direction that they

[Signature]

may submit their representations, if any, to the Tribunal and copy of such representations shall simultaneously be served upon the Applicant Company.

23. The Counsel for the Second Applicant Company submits that there are no Secured Creditors in the Second Applicant Company, therefore the question of sending notices to the Secured Creditors does not arise. The Counsel for the Second Applicant Company further submits that since the Scheme is an amalgamation between the First and second Applicant 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. This bench hereby directs the Second Applicant Company to issue notice to its Unsecured Creditors having an outstanding balance of Rs. 3,00,000/- and above as on July 31, 2017 with a direction that they may submit their representations, if any, to the Tribunal and copy of such representations shall simultaneously be served upon the Applicant Company.

24. The First and Second Applicant Company to file affidavit of service in the Registry proving dispatch of notices to the shareholders, Creditors, publication of notices in newspapers and to the regulatory authorities as stated in the above clauses and do 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 : 14.09.2017