

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

COMPANY SCHEME APPLICATION NO. 434 OF 2017

In the matter of the Companies Act, 2013;

And

In the matter of Sections 230 to 232 of the Companies Act, 2013
and other relevant provisions of the Companies Act, 2013.

And

In the matter of Scheme of Amalgamation of SD Suburban
Development Private Limited ('Transferor Company') with
Galina Consultancy Services Private Limited ('Transferee
Company') and their Respective Shareholders

SD SUBURBAN DEVELOPMENT)
PRIVATE LIMITED, a company)
incorporated under the provisions of the)
Companies Act, 1956 and having its)
registered office at 70, Nagindas Master)
Road, Fort, Mumbai – 400023.)..... Applicant Company

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

CORAM: M.K. Shrawat, Member (Judicial)

DATE: 13th April 2017

MINUTES OF THE ORDER

1. The Counsel for the Applicant Company states that the present Scheme is a Scheme of Amalgamation of SD Suburban Development Private Limited ('Transferor Company') with Galina Consultancy Services Private Limited ('Transferee Company').
2. The Counsel for the Applicant Company further submit that the proposed Scheme would help to simplify the Group structure, minimize cost of administration of two legal entities, for better and more economic and efficient management, control and running of the businesses of the companies concerned and to pool the resources of both the companies for growth.

mu

3. That the meeting of the Equity Shareholders of the Applicant Company be convened and held at 70, Nagindas Master Road, Fort, Mumbai – 400023 on Thursday, 1st day of June, 2017 at 10.30 a.m. for the purpose of considering and, if thought fit, approving with or without modification(s) the proposed amalgamation embodied in the Scheme of Amalgamation of SD Suburban Development Private Limited ('Transferor Company') with Galina Consultancy Services Private Limited ('Transferee Company') and their respective Shareholders.
4. That the meeting of the Preference Shareholders of the Applicant Company be convened and held at 70, Nagindas Master Road, Fort, Mumbai – 400023 on Thursday, 1st day of June, 2017 at 11.00 a.m. for the purpose of considering and, if thought fit, approving with or without modification(s) the proposed amalgamation embodied in the Scheme of Amalgamation of SD Suburban Development Private Limited ('Transferor Company') with Galina Consultancy Services Private Limited ('the Transferee Company') and their respective Shareholders.
5. That at least one month before the said Meetings of the Equity and Preference Shareholders of the 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 Equity and Preference Shareholders whose email addresses are duly registered with the Applicant Company for the purpose of receiving such notices by email), addressed to each of the Equity and Preference Shareholders of the Applicant Company, at their last known address or email addresses as per the records of the Applicant Company.
6. That at least one month before the meeting of the Equity and Preference Shareholders of the Applicant Company to be held as aforesaid, a notice convening the said Meeting, indicating the place, date and time of meeting 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 Company as aforesaid and / or at the office of its Advocates, M/s

W)

Hemant Sethi & Co., 1602 Nav Parmanu, Behind Amar Cinema, Chembur, Mumbai – 400071.

7. That the Notice of the Meetings of the Equity and Preference Shareholders shall be 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.
8. That Mr. Rajesh Baxi, Director of the Applicant Company, and failing him, Mr. Subodh Pagnis, Director of the Applicant Company shall be the Chairman of the aforesaid meeting of the Equity Shareholder of the Applicant to be held at 70, Nagindas Master Road, Fort, Mumbai – 400023 on Thursday, 1st day of June, 2017 at 10.30 am or any adjournment or adjournments thereof.
9. That Mr. Rajesh Baxi, Director of the Applicant Company, and failing him, Mr. Subodh Pagnis, Director of the Applicant Company shall be the Chairman of the aforesaid meeting of the Preference Shareholder of the Applicant to be held at 70, Nagindas Master Road, Fort, Mumbai – 400023 on Thursday, 1st day of June, 2017 at 11.00 am or any adjournment or adjournments thereof.
10. 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 meeting, including for deciding procedural questions that may arise or at any adjournment thereof or resolution, if any, proposed at the meeting by any person(s).
11. That the quorum of the aforesaid meeting of the Equity and Preference 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/ authorization duly signed by the person entitled to attend and vote at the meeting, are filed with the Applicant Company at their Registered Offices not later than 48 hours before the aforesaid meeting.
13. That the value and number of the shares of each Member shall be in accordance with the books / register of the 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 meeting and his decision in that behalf would be final.

14. That M/s. Sandeep P Parekh & Co, Practicing Company Secretary is hereby appointed as Scrutinizers of the meeting of the Equity and Preference Shareholders of the Applicant Company proposed to be held on Thursday, 1st day of June, 2017 at 10.30 am and 11.00 am at 70, Nagindas Master Road, Fort, Mumbai – 400023. The remuneration of the scrutinizer is fixed at Rs. 10,000/-.
15. That the Chairman of the meetings of Equity Shareholders and Preference Shareholder to file an affidavit not less than seven (7) days before the date fixed for the holding of the meeting and do report this Tribunal that the direction regarding the issue of notices and the advertisement have been duly complied with.
16. That the Chairman of the meeting of Equity Shareholders and Preference Shareholder to report to this Tribunal, the results of the aforesaid meeting within thirty days of the conclusion of the meeting.
17. The Applicant Company is directed to serve notices along with copy of scheme upon:- (i) concerned Income Tax Authority with in whose jurisdiction the Applicant Company's assessments are made, (ii) the Central Government through the office of Regional Director, Western region, Mumbai, (iii) concerned Registrar of Companies. If no response is received by the Tribunal from the Income Tax Authority, Regional Director and Registrar of Companies within thirty days of the date of receipt of notice, it will be presumed that the Income Tax Authority, Regional Director and Registrar of Companies have no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
18. The Applicant Company is also directed to serve notice along with copy of scheme upon Official Liquidator. Shri Subodh Bhandari, Chartered Accountant are appointed to assist the Official Liquidator to scrutinize books of accounts of the Applicant Company for the last 5 years. The Transferee Company to pay fees of Rs. 75,000/-. 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.



19. That Counsel for the Applicant Company submits that there are no Secured Creditors in the Applicant Company, therefore the question of sending notices to the Secured Creditors does not arise. That Counsel for the Applicant Company submits that since the Scheme is an amalgamation of the Transferor Company and the Transferee Company and their respective shareholders, only a meeting of the Equity Shareholder 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 Applicant Company to issue notice to all its Unsecured Creditors as on 15th March, 2017 as required under Section 230(3) of the Companies Act, 2013 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.
20. The Applicant Company to file affidavit of service in the Registry proving dispatch of notices to the Equity Shareholders, Preference Shareholder, Unsecured Creditors, publication of notices in newspapers and to the regulatory authorities as stated in clause 25 above and do report to this Tribunal that the directions regarding the issue of notices have been duly complied with.

sd/-

M.K. Shrawat, Member (Judicial)