

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH
COMPANY SCHEME APPLICATION NO. 543 OF 2017

In the matter of the Companies Act, 2013

And

In the matter of Home Idea Upholstery Private Limited ('the Transferor Company') and D'Decor Home Fabrics Private Limited ('the Transferee Company')

And

In the matter of Sections 230 read with Section 232 of the Companies Act, 2013 and other applicable provisions of the Companies Act, 2013

Home Idea Upholstery Private Limited, a Company)
incorporated under the provisions of Companies Act 1956)
having its registered office at 972, Solitaire Corporate Park,)
Building No.9, 167, Guru Hargovindji Marg,)
Andheri (East), Mumbai - 400093, Maharashtra, India)

...the First Applicant Company

AND

D'Decor Home Fabrics Private Limited, a Company)
incorporated under the provisions of Companies Act 1956)
having its registered office at 6th floor, Solitaire Corporate)
Park – S 14, Guru Hargovindji Marg, Chakala,)
Andheri (East), Mumbai - 400093, Maharashtra, India)

...the Second Applicant Company

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

CORAM : **B. S.V. Prakash Kumar, Member (Judicial)**
V. Nallasenapathy, Member (Technical)

DATE : **7th June 2017**

MINUTES OF THE ORDER

1. The Counsel for the Applicants states that the present scheme is an arrangement in the nature of amalgamation between Home Idea Upholstery Private Limited and D'Decor Home Fabrics Private Limited and their Respective Shareholders ("the Scheme") and

the consequent discharge of consideration by Second Applicant Company to the respective Shareholders of First Applicant Company.

2. The Counsel for the Applicants further submits that the Applicant Companies are engaged in the following business-
 - a. The First Applicant Company is engaged in the business of manufacturing, importing, dealing and exporting fabrics and fibres;
 - b. The Second Applicant Company is engaged in the business of dyeing, printing and related activities of all kinds of fabrics;

3. The Counsel for the Applicants further submits both the Applicant Companies are part of the same business group and as their businesses are inter-connected, this Scheme is drawn in the interest of shareholders and all the stakeholders of both the Applicants, and without being prejudicial to their interests, envisages the following rationale and broad objectives:
 - (a) The amalgamation of Transferor Company with Transferee Company is being proposed for the purpose of consolidation of businesses activities of entities under D'Decor Group;
 - (b) The amalgamation would simplify the corporate structure and reduce a legal entity, which would result in reduction of overheads, administrative, managerial and other expenditure, operational rationalization, organizational efficiency and optimal utilization of various resources;
 - (c) The amalgamation would result in consolidation of enhanced financial strength and flexibility.

4. That the meeting of Equity Shareholders of the First Applicant Company be convened and held at the registered office of the company at 972, Solitaire Corporate Park, Building No.9, 167, Guru Hargovindji Marg, Andheri (East), Mumbai - 400093, Maharashtra, India on 20th July 2017 at 11.00 am for the purpose of considering, and, if thought fit, approving with or without modification(s) the proposed arrangement embodied in the Scheme between the Applicant Companies and their respective shareholders.

5. That the meeting of Equity Shareholders of the Second Applicant Company be convened and held at the registered office of the company at 6th floor, Solitaire Corporate Park – S 14, Guru Hargovindji Marg, Chakala, Andheri (East), Mumbai - 400093, Maharashtra, India on 20th July 2017 at 11.30 am for the purpose of

considering, and, if thought fit, approving with or without modification(s) the proposed arrangement embodied in the Scheme between the Applicant Companies and their respective shareholders.

6. That at least one month before the said meetings of the Equity Shareholders of the respective Applicant Companies 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 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 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 respective Applicant Companies for the purpose of receiving such notices by email), addressed to each of the Equity Shareholders of the respective Applicant Companies, at their last known address or email addresses as per the records of the respective Applicant Companies.
7. That at least one month before the meetings of the Equity Shareholders of the respective Applicant Companies to be held as aforesaid, a notice convening the said Meetings, indicating the place, date and time of meetings 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 respective Applicants as aforesaid and / or at the office of its Advocates, M/s Hemant Sethi & Co., 1602 Nav Parmanu, Behind Amar Cinema, Chembur, Mumbai – 400071.
8. That the notice of meetings shall be advertised in two local newspapers viz., “Free Press Journal” in English and “Navshakti” in Marathi, both circulated in Mumbai not less than one month before the date fixed for the meetings.
9. That Mr. Prasad Jahagirdar, the authorized representative of both the Applicants, shall be the Chairman of both the aforesaid meetings of the Equity Shareholders of First Applicant Company and Second Applicant Company respectively.
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 the powers as per Articles of Association of respective Applicants and also under the Companies Act, 2013 in relation to the conduct of the meetings of respective Applicants as aforesaid, 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. The quorum of the aforesaid meetings of the Equity Shareholders of First Applicant Company and Second Applicant Company 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 respective Applicant Company, as may be applicable, at its Registered Office not later than 48 hours before the aforesaid meetings.
13. That the value and number of the shares of each Equity Shareholder shall be in accordance with the books / register of the respective Applicant Company or depository records and where the entries in the books / register / depository records are disputed, the Chairman of the Meeting shall determine the value for the purpose of the aforesaid meetings and his decision in that behalf would be final.
14. That Nilesh Shah & Associates, a firm of Practicing Company Secretaries, represented by Mr. Nilesh Shah, and failing him, Ms. Hetal Shah, and failing her, Mr. Mahesh Darji be appointed as Scrutinizers for the meetings of Equity Shareholders of First Applicant Company and Second Applicant Company to be held on 20th July 2017 at the registered offices of the respective Applicants and its remuneration is fixed as Rs. 8,000/- each per Applicant Company plus taxes as applicable.
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 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. That the First Applicant Company is directed to serve notices along with copy of the Scheme upon the Official Liquidator, High Court, Bombay. The Tribunal is appointing

M/s. Sekhri Kanodia & Associates, Chartered Accountants with remuneration of INR 20,000 plus taxes for the services. If no response is received by the Tribunal from Official Liquidator within 30 days of the date of the receipt of the notice, it will be presumed that Official Liquidator has no objection to the proposed Scheme as per Rule 8 of Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

18. The Applicants are directed to serve individual notices along with copy of scheme upon:- (i) concerned Income Tax Authority within whose jurisdiction the respective Applicant Company's assessments is made, (ii) the Central Government through the office of Regional Director, Western region, Mumbai (iii) Registrar of Companies, Mumbai, Maharashtra, (iv) Official Liquidator, 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 respective Applicant Company, failing which, it shall be presumed that the authorities have no representations to make on the proposals.
19. The counsel for the Applicants further submits that since the Scheme is an arrangement between the Applicants 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 notices to all its Secured Creditors and Unsecured Creditors as on 27th March 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 Second Applicant Company.
20. The Counsel for the Applicants submits that there are no Secured Creditors or Unsecured Creditors of the First Applicant Company. Hence, the question issue of Secured Creditors or Unsecured Creditors of First Applicant Companies does not arise.
21. The Applicants to file affidavit of service in the Registry proving dispatch of notices to the shareholders, publication of notices in newspapers, to the regulatory authorities as stated in clause 18 above and do report to this Tribunal that the directions regarding the issue of notices have been duly complied.

Sd/-

V. Nallasenapathy, Member (T)

Sd/-

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