

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,**

**MUMBAI BENCH**

**COMPANY SCHEME APPLICATION NO 284 OF 2017**

IN THE MATTER OF THE COMPANIES ACT,  
2013 (18 of 2013)

AND

IN THE MATTER UNDER SECTION 230 TO  
SECTION 232 OF THE COMPANIES ACT, 2013  
and rules framed thereunder as in force from  
time to time

AND

In the matter of the Scheme of Arrangement  
between Jay Equipment and System Private  
Limited (JESPL or the Applicant company no.1  
or the Demerged Company) and Jay Storage  
Solutions Private Limited (JSSPL or the  
Applicant Company no.2 or the First Resulting  
Company) and Jay Novatech Private Limited  
(JNPL or the Applicant Company no.3 or the  
Second resulting Company) and their respective  
shareholders.

**JAY EQUIPMENT AND SYSTEM  
PRIVATE LIMITED,**

a company incorporated under the  
Companies Act, 1956 and having its  
registered office at 36/37,Vakharia  
Industrial Estate, Ram Mandir Road,  
Goregaon (West), Mumbai - 400104.

**...APPLICANT COMPANY NO.1**

**JAY STORAGE AND SOLUTIONS  
PRIVATE LIMITED,**

a company incorporated under the  
Companies Act, 1956 and having its  
registered office at 36,Vakharia  
industrial Estate, Ram Mandir  
Road,Goregaon (West), Mumbai -  
400104.

**...APPLICANT COMPANY NO.2**

**JAY NOVATECH PRIVATE LIMITED,**

a company incorporated under the Companies Act, 1956 and having its registered office at 36, Vakharia Industrial Estate, Ram Mandir Road, Goregaon (West), Mumbai – 400104,

**...APPLICANT COMPANY NO.3**

**Called for Notice of Admission:**

Mr Manish Ajay Malpani, Advocate for the Applicants.

Coram: B.S.V Prakash Kumar Hon'ble Member (J) and  
V Nallasenapathy Hon'ble Member (T).

Date: 30<sup>th</sup> March, 2017

**MINUTES OF THE ORDER**

UPON the application of the Applicant Companies above named by a Company Application **AND UPON HEARING** Mr Manish Ajay Malpani Advocate for the Applicant Companies, **AND UPON READING** the Applications dated 16<sup>th</sup> day, of March 2017 along with Exhibits therein, wherein para no. 25 of the application states the reasons that have necessitated the arrangement between the applicant companies are as follows:-

*25. The reasons that have necessitated the arrangement between the Applicant Company no.1, Applicant company no.2 and Applicant Company no.3 are as follows:-*

- a. As part of restructuring of the business of the Demerged Company, it is proposed that the Demerged Undertaking 1*

*and the Demerged Undertaking 2 should be Demerged into JSSPL and JNPL respectively.*

- b. *The Demerged Undertaking 1 and the Demerged Undertaking 2 which are proposed to be demerged into the resulting companies require different independent assets and financial requirements coupled with undivided care and attention for the optimum growth, expansion and development in order to pursue their respective business strategies and with their respective expertise. The proposed demerged shall, inter alia, enable the business activities comprised in Demerged Undertaking 1, Demerged Undertaking 2 and remaining business to be carried on with greater focus, efficiency, attention and specialisation for sustained growth and development of their respective business activities”,*

**IT IS ORDERED THAT:**

1. A meeting of the Equity shareholders of the Applicant Company No.1 be convened and held at 36/37,Vakharia Industrial Estate, Ram Mandir Road, Goregaon (West), Mumbai – 400104 on 31<sup>st</sup> May, 2017 at 10.00 A.M for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Composite Scheme of Arrangement between Jay Equipment and System Private Limited (the Applicant company no.1) and Jay Storage Solutions Private Limited ( The Applicant No 2 Company ) and Jay Novatech Private Limited ( The Applicant No 3 Company ) and their respective Shareholders.

2. At least 30 clear days before the said Meeting of the Equity Shareholders of the Applicant Company No.1 to be held as aforesaid, a notice convening the said Meeting at the place, day and time aforesaid, together with a copy of the Scheme, a copy of the explanatory Statement required to be sent under Section 230 of the Companies Act, 2013 and the prescribed Form of Proxy, shall be sent by Registered Post or by Air Mail or by courier or by speed post or by hand delivery to each of the Equity Shareholders of the Applicant Company No.1 at their respective registered or last known addresses or by e-mail to the registered e-mail address of the equity Shareholders as per the records of the Applicant Company No.1.
  
3. At least 30 clear days before the Meeting of the Equity Shareholders of the Applicant Company No.1 to be held as aforesaid, a notice convening the said meeting indicating the place, date and time aforesaid and stating that copies of the scheme and the statement required to be furnished pursuant to Section 230 of the Companies Act, 2013 and that the form of Proxy can be obtained free of charge at the Registered Office of the Applicant Company No.1 as aforesaid, be published once in "Free Press Journal" in English and "Navshakti" in Marathi, both circulated in Mumbai.
  
4. The Applicant Company No.1 undertakes to:
  - i. issue Notice convening meeting of the equity shareholders as per Form No CAA. 2 (Rule 6 ) of the Companies (Compromises, Arrangements and Amalgamations ) Rules, 2016
  - ii. issue statement containing all the particulars as per Section 230 of the Companies Act, 2013.

- iii. issue Form of Proxy as per Form No MGT- 11 ( Rule 19) of the Companies (Management and Administration) Rules, 2014 and
- iv. advertise the Notice convening meeting as per Form No CAA.2 (Rule 7) the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

The undertaking is accepted.

- 5. Mr. Arvind Karelia, failing whom Mr. Nimesh Karelia, failing whom Mr. Premal Karelia Directors of the Applicant Company No.1, appointed as the Chairperson for the meeting of Equity Shareholders of the Applicant Company No.1. The Scrutinizer for the meeting shall be Mr Pramod Agarwal Chartered Accountant, M.No. 038208, Partner at M/S Rahul Pramod and Co., Chartered Accountants.
- 6. The Chairperson appointed for the aforesaid Meeting of the Applicant Company No.1 to issue the notices of the Meeting of the Equity Shareholders referred to above. The SAID Chairperson shall have all powers under the Companies (Compromises, arrangements and Amalgamations) Rules, 2016 in relation to the conduct of the meeting(s), including for deciding procedural questions that may arise or at any adjournment thereof or any other matter including an amendment to the scheme or resolution, if any, proposed at the meeting by any person(s).
- 7. The quorum for the aforesaid meeting of the Equity shareholders of the First Applicant Company shall be as prescribed under Section 103 of the Companies Act, 2013.

8. The voting shall be allowed on the proposed Scheme by voting in person, by proxy or through postal ballot or through electronic means. The voting by proxy or authorised 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 meeting, is filed with the Applicant Company No.1 at its registered office at 36/37,Vakharia Industrial Estate, Ram Mandir Road, Goregaon (West), Mumbai – 400104, not later than, 48 hours before the aforesaid meeting as required under Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
9. The value and number of the shares of each member shall be in accordance with the books/ register of the applicant Company No.1 and where the entries in the books / register/ depository records are disputed, the Chairperson of the Meeting shall determine the value for the purpose of the aforesaid meeting and his decision in that behalf would be final.
10. The Chairperson to file an affidavit not less than seven days before the date fixed for the holding of the meeting of the Applicant Company No.1 and do report this Tribunal that the direction regarding the issue of notices and advertisement have been duly complied with as per Rule 12 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
11. The Chairperson to report to this Tribunal, the result of the aforesaid meeting within thirty days of the conclusion of the

meeting of the Applicant Company No.1, and the said report shall be verified by his Affidavit as per Rule 14 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

12. A meeting of the Equity Shareholders of the Applicant Company No.2 be convened and held at 36,Vakharia Industrial Estate, Ram Mandir Road, Goregaon (West), Mumbai – 400104, on Monday, May 31<sup>st</sup>, 2017 at 9.00 A.M., for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Composite Scheme of Arrangement between Jay Equipment and System Private Limited (the Applicant company no.1) and Jay Storage Solutions Private Limited ( The Applicant No 2 Company ) and Jay Novatech Private Limited ( The Applicant No 3 Company ) and their respective Shareholders.
13. At least 30 clear days before the said meeting of the Equity Shareholders of the Applicant Company No.2 to be held as aforesaid, a notice convening the said Meeting at the place, day, date and time aforesaid, together with a copy of the Scheme, a copy of the Explanatory Statement required to be sent under Section 230 of the Companies Act, 2013 and the prescribed Form of Proxy, shall be sent by Registered Post or by Air Mail or by courier or by speed post or by hand delivery to each of the Equity Shareholders of the Applicant Company No.2 at their respective registered or last known addresses or by e-mail to the registered e-mail address of the Equity Shareholders as per the records of the Applicant Company No.2.

14. At least 30 clear days before the Meeting of the Equity Shareholders of the Applicant Company No.2 to be held as aforesaid, a notice convening the said meeting indicating the place, date and time aforesaid and stating that copies of the Scheme and the statement required to be furnished pursuant to Section 230 of the Companies Act, 2013 and that the form of Proxy can be obtained free of charge at the Registered Office of the Applicant Company No.2 as aforesaid, be published once each in 'Free Press Journal' in English and 'Navshakti' in Marathi, both circulated in Mumbai.

15. The Applicant Company No.2 undertakes to:

- i. issue Notice convening meeting of the equity shareholders as per Form No. CAA.2 (Rule 6) of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016
- ii. issue Statement containing all the particulars as per Section 230 of the Companies Act, 2013;
- iii. issue Form of Proxy as per Form No. MGT-1 I (Rule 19) of the Companies (Management and Administration) Rules, 2014; and
- iv. advertise the Notice convening meeting as per Form No. CAA.2 (Rule 7) the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

The undertaking is accepted.

16. Mr. Arvind Karelia, failing whom Mr. Nimesh Karelia, failing whom Mr. Premal Karelia Directors of the Applicant Company No.2, appointed as the Chairperson for the meeting of Equity Shareholders of the Applicant Company No.2. The Scrutinizer for the meeting shall



be Mr Pramod Agarwal Chartered Accountant, M. No. 038208, Partner at M/S Rahul Pramod and Co., Chartered Accountants.

17. The Chairperson appointed for the aforesaid Equity Shareholders Meeting of the Applicant Company No.2 to issue the notices of the Meeting referred to above. The said Chairperson shall have all powers under the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 in relation to the conduct of the meeting(s), including for deciding procedural questions that may arise or at any adjournment thereof or any other matter including an amendment to the Scheme or resolution, if any, proposed at the meeting by any person(s).
18. The quorum for the aforesaid meeting of the Equity Shareholders of the Applicant Company No.2 shall be as prescribed under Section 103 of the Companies Act, 2013.
19. The voting by proxy or authorised 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 meeting, is filed with the Applicant Company No.2 at its Registered Office at 36, Vakharia Industrial Estate, Ram Mandir Road, Goregaon (West), Mumbai – 400104, not later than, 48 hours before the aforesaid meeting as required under Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
20. The value and number of the shares of each member shall be in accordance with the books/ register of the Applicant Company No.2

and where the entries in the books / register records are disputed, the Chairperson of the Meeting shall determine the value for the purpose of the aforesaid meeting and his decision in that behalf would be final.

21. The Chairperson to file an affidavit not less than seven days before the date fixed for the holding of the Equity Shareholders meeting of the Applicant Company No.2 and do report this Tribunal that the direction regarding the issue of notices and advertisement have been duly complied with as per Rule 12 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
22. The Chairperson to report to this Tribunal, the result of the aforesaid meeting within thirty days of the conclusion of the meeting of the Applicant Company No.2, and the said report shall be verified by his Affidavit as per Rule 14 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
23. A meeting of the Equity Shareholders of the Applicant Company No.3 be convened and held at 36, Vakharia Industrial Estate, Ram Mandir Road, Goregaon (West), Mumbai - 400104, on Monday, May 31<sup>st</sup>, 2017 at 11.00 A.M., for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Composite Scheme of Arrangement between Jay Equipment and System Private Limited (the Applicant company no.1) and Jay Storage Solutions Private Limited ( The Applicant No 2 Company) and Jay Novatech Private Limited (The Applicant No 3 Company) and their respective Shareholders.

24. At least 30 clear days before the said meeting of the Equity Shareholders of the Applicant Company No.3 to be held as aforesaid, a notice convening the said Meeting at the place, day, date and time aforesaid, together with a copy of the Scheme, a copy of the Explanatory Statement required to be sent under Section 230 of the Companies Act, 2013 and the prescribed Form of Proxy, shall be sent by Registered Post or by Air Mail or by courier or by speed post or by hand delivery to each of the Equity Shareholders of the Applicant Company No.3 at their respective registered or last known addresses or by e-mail to the registered e-mail address of the Equity Shareholders as per the records of the Applicant Company No.3.
25. At least 30 clear days before the Meeting of the Equity Shareholders of the Applicant Company No.3 to be held as aforesaid, a notice convening the said meeting indicating the place, date and time aforesaid and stating that copies of the Scheme and the statement required to be furnished pursuant to Section 230 of the Companies Act, 2013 and that the form of Proxy can be obtained free of charge at the Registered Office of the Applicant Company No.3 as aforesaid, be published once each in 'Free Press Journal' in English and 'Navshakti' in Marathi, both circulated in Mumbai.
26. The Applicant Company No.3 undertakes to:
- i. issue Notice convening meeting of the equity shareholders as per Form No. CAA.2 (Rule 6) of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016

- ii. issue Statement containing all the particulars as per Section 230 of the Companies Act, 2013;
- iii. issue Form of Proxy as per Form No. MGT-11 (Rule 19) of the Companies (Management and Administration) Rules, 2014; and
- iv. advertise the Notice convening meeting as per Form No. CAA .2 (Rule 7) the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

The undertaking is accepted.

27. Mr. Arvind Karelia, failing whom Mr. Nimesh Karelia, failing whom Mr. Premal Karelia Directors of the Applicant Company No.3, appointed as the Chairperson for the meeting of Equity Shareholders of the Applicant Company No.3. The Scrutinizer for the meeting shall be Mr Pramod Agarwal Chartered Accountant, M. No. 038208, Partner at M/S Rahul Pramod and Co., Chartered Accountants.
28. The Chairperson appointed for the aforesaid Meeting of the Applicant Company No.3 to issue the notices of the Meeting referred to above. The said Chairperson shall have all powers under the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 in relation to the conduct of the meeting(s), including for deciding procedural questions that may arise or at any adjournment thereof or any other matter including an amendment to the Scheme or resolution, if any, proposed at the meeting by any person(s).
29. The Quorum for the aforesaid meeting of the Equity Shareholders shall be as prescribed under Section 103 of the Companies Act,

2013.

30. The 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, is filed with the Third Applicant Company at its Registered Office at 36, Vakharia Industrial Estate, Ram Mandir Road, Goregaon (West), Mumbai – 400104, not later than, 48 hours before the aforesaid meeting as required under Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
31. The value and number of the shares of each member shall be in accordance with books/ register of the Applicant Company No.3 and where the entries in the books/ register records are disputed, the Chairperson of the Meeting shall determine the value for the purpose of the aforesaid meeting and his decision in that behalf would be final.
32. The Chairperson to file an affidavit not less than seven days before the date fixed for the holding of the meeting of the Applicant Company No.3 and do report this Tribunal that the direction regarding the issue of notices and advertisement have been duly complied with as per Rule 12 of the Companies (Compromises, Arrangements and Amalgamations ) Rule, 2016.
33. The Chairperson to report to this Tribunal, the result of the aforesaid meeting within thirty days of the conclusion of the meeting of the Applicant Company No.3, and the said report shall be verified by his

Affidavit as per Rule 14 of the Companies (Compromises, Arrangements and Amalgamations) Rule, 2016.

34. The Counsel for the Applicant Company No.1 submits that since the scheme is an Arrangement between the Applicant Company No.1 and their respective shareholders and therefore, only 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 Applicant Company No.1 to issue notice of the Equity Shareholders' meeting by Post / courier / email / hand-delivery to all its Secured Creditors and also to all Unsecured Creditors as on 31<sup>st</sup> December 2016 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 No.1.

35. The Counsel for the Applicant Company No.2 submits that since the scheme is an Arrangement between the Applicant Company No.2 and their respective shareholders and therefore, only 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. Further there is no secured creditors therefore the question of issue of notice to secured creditors does not arise. This bench hereby directs the Applicant Company No.2 to issue notice of the Equity Shareholders' meeting by Post / courier / email / hand-delivery to all its Unsecured Creditors as on 31<sup>st</sup> December 2016 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 No.2.

36. The Counsel for the Applicant Company No.3 submits that since the scheme is an Arrangement between the Applicant Company No.3 and their respective shareholders and therefore, only 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. Further there is no secured creditors therefore the question of issue of notice to secured creditors does not arise. This bench hereby directs the Applicant Company No.3 to issue notice of the Equity Shareholders' meeting by Post / courier / email / hand-delivery to all its Unsecured Creditors as on 31<sup>st</sup> .December 2016 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 No.3

37. The Applicant Companies to serve the notice upon the Regional Director, Western Region, Ministry of Corporate Affairs, Mumbai Maharashtra, pursuant to Section 230(5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from Regional Director within 30 days of the date of receipt of the notice it will be presumed that Regional Director and/ or Central

Government has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

38. The Applicant Companies to serve the notice upon the concerned Registrar of Companies, pursuant to Section 230(5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from the Registrar of Companies within 30 days of the date of receipt of the notice it will be presumed that Registrar of Companies has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

39. To Applicant Companies to serve the notice on the concerned Income Tax Authority within whose jurisdiction the respective Applicant Company's assessment are made, pursuant to Section 230(5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from the Income Tax Authority within 30 days of the date of receipt of the notice it will be presumed that Income Tax Authority has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.



40. The Applicant Companies to file an affidavit of service of the directions given by the Tribunal not less than seven 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 have been duly complied with.

Sd/-

B.S.V Prakash Kumar Member (J)

Sd/-

V. Nallasenapathy Member (T)