

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH
COMPANY SCHEME APPLICATION NO. 644 OF 2017**

In the matter of the Companies Act, 2013 (18 of 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 Arrangement between The Dukes Retreat Private Limited ('First Demerged Company' or 'First Applicant Company') and Sonmil Industries Private Limited ('First Resulting Company' or 'Second Applicant Company') and Sonmil Engineering Private Limited ('Second Resulting Company' or 'Third Applicant Company')

And

Their Respective Shareholders

THE DUKES RETREAT PRIVATE

LIMITED, a company incorporated)

under the Companies Act, 2013 having)

its Registered Office at Sadhana Rayon)

House, DN Road, Mumbai – 400 001)

CIN.NO: U55200MH1968PTC013933).... First Applicant Company.

SONMIL INDUSTRIES PRIVATE

LIMITED, a company incorporated)

under the Companies Act, 2013 having)

its Registered Office at Sadhana Rayon)

House, DN Road, Mumbai – 400 001)

CIN.NO: U55200MH1968PTC013933).... Second Applicant Company

SONMIL ENGINEERING PRIVATE

LIMITED, a company incorporated)

under the Companies Act, 2013 having)

its Registered Office at Sadhana Rayon)

House, DN Road, Mumbai – 400 001)

CIN.NO: U55200MH1968PTC013933).... Third Applicant Company

Mr. Hemant Sethi i/b. Hemant Sethi & Co., Advocates for the First, the Second and the Third Applicant.

CORAM: Ina Malhotra, Member (Judicial)

DATE: 19th June, 2017

MINUTES OF THE ORDER

1. The Counsel for the Applicant Companies states that the present Scheme is a Scheme of Arrangement between The Dukes Retreat Private Limited ('First Demerged Company' or 'First Applicant Company') and Sonmil Industries Private Limited ('First Resulting Company' or 'Second Demerged Company' or 'Second Applicant Company') and Sonmil Engineering Private Limited ('Second Resulting Company' or Third Applicant Company').

2. The Dukes Retreat Private Limited, Sonmil Industries Private Limited and Sonmil Engineering Private Limited are part of the same group of companies. The First Applicant Company currently operates two strategic business units, namely:
 - i. Hospitality division which consists of a resort in Lonavala;
 - ii. Ventra division which consists of manufacturing of locomotives, sale of locomotives and spares for the same.
3. The Second Applicant Company deals in machineries, equipment's and fitting of every description, manufacture of locomotives of all sizes and descriptions, cable making machines, agricultural implements and to act as manufactures of agricultural and other machinery, toolmakers, builders, founders, metal workers, water supply engineers. The existing business along with the Ventra division constitutes the Locomotive business.
4. It is felt to consolidate the locomotive business under one entity to rationalize the overall group structure. The Counsel for the First, the Second and the Third Applicant Company further submits that the proposed Scheme would benefit the First, the Second and the Third Applicant Company and other stakeholders of the Applicant Companies on account of the following reasons:
 - a. Dedicated management focus for each business;
 - b. Accelerate independent growth of businesses unlocking significant value for the shareholders;
 - c. Greater visibility on the performance of individual businesses;
 - d. Attribution of appropriate risk and valuation to different business based on their respective risk return profile and cash flows;
 - e. Access to various funding options for rapid growth for each of the businesses; and
 - f. Enhanced strategic flexibility.
5. That the meeting of the Equity Shareholders of the First Applicant Company be convened and held at Sadhana Rayon House, DN Road, Mumbai – 400 001, Maharashtra, on Wednesday, 26th day of July, 2017 at 11.00 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 Dukes Retreat Private Limited, Sonmil Industries

Private Limited and Sonmil Engineering Private Limited and their respective shareholders.

6. That the meeting of the Equity Shareholders of the Second Applicant Company be convened and held at Sadhana Rayon House, DN Road, Mumbai – 400 001, Maharashtra, on Wednesday, 26th day of July, 2017 at 2.00 p.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 Dukes Retreat Private Limited, Sonmil Industries Private Limited and Sonmil Engineering Private Limited and their respective shareholders.
7. That the meeting of the Equity Shareholders of the Third Applicant Company be convened and held at Sadhana Rayon House, DN Road, Mumbai – 400 001, Maharashtra, on Wednesday, 26th day of July, 2017 at 4.00 p.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 Dukes Retreat Private Limited, Sonmil Industries Private Limited and Sonmil Engineering Private Limited and their respective shareholders.
8. At least one month before the said meeting of the Equity Shareholders of the First, the Second and the Third 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 Registered Post or by Air Mail or by courier or by speed post or by hand delivery or by email (to those shareholders whose email addresses are duly registered with the Applicant Companies for the purpose of receiving such notices by email) to each of the Equity Shareholders of the First, the Second and the Third Applicant Company at their respective registered or last known addresses or e-mail address of the Equity Shareholders as per the records of the Applicant Companies.
9. At least one month before the said meeting of the Equity Shareholders of the First, the Second and the Third 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 First, the Second and the Third Applicant Company as aforesaid and / or at the office of its Advocates, M/s Hemant Sethi & Co., 1602 Nav Parmanu, Behind Amar Cinema, Chembur, Mumbai – 400071.

10. That the Notice of the aforesaid meetings 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.
11. That Ms. Sonali S. Thakker, Director of the First Applicant Company shall be the Chairperson of the meeting of Equity Shareholders and failing her, Ms. Sugumari Muthukrishnan, Authorised Signatory of the First Applicant Company shall be the alternate Chairperson of the said meeting to be held at 11 a.m. or any adjournment or adjournments thereof.
12. That Sonal Shirke, Partner at M/s. S N Shirke & Associates, Practicing Company Secretary is hereby appointed as Scrutinizer of the meeting of Equity Shareholders of the First Applicant Company be convened and held at Sadhana Rayon House, DN Road, Mumbai – 400001, Maharashtra on Wednesday, 26th day of July, 2017 at 11.00 a.m. or any adjournment or adjournments thereof. The fees of the scrutinizer is fixed at Rs. 5,000/-.
13. That Ms. Sonali S. Thakker, Director of the Second Applicant Company shall be the Chairperson of the meeting of Equity Shareholders and failing her, Ms. Sugumari Muthukrishnan, Authorised Signatory of the Second Applicant Company shall be the alternate Chairperson of the said meeting to be held at 2 p.m. or any adjournment or adjournments thereof.
14. That Sonal Shirke, Partner at M/s. S N Shirke & Associates, Practicing Company Secretary is hereby appointed as Scrutinizer of the meeting of Equity Shareholders of the Second Applicant Company be convened and held at Sadhana Rayon House, DN Road, Mumbai – 400001, Maharashtra on

Wednesday, 26th day of July, 2017 at 2.00 p.m. or any adjournment or adjournments thereof. The fees of the scrutinizer is fixed at Rs. 5,000/-.

15. That Ms. Sonali S. Thakker, Director of the Third Applicant Company shall be the Chairperson of the meeting of Equity Shareholders and failing her, Ms. Sugumari Muthukrishnan, Authorised Signatory of the Third Applicant Company shall be the alternate Chairperson of the said meeting to be held at 4 p.m. or any adjournment or adjournments thereof.
16. That Sonal Shirke, Partner at M/s S N Shirke & Associates, Practicing Company Secretary is hereby appointed as Scrutinizer of the meeting of Equity Shareholders of the Third Applicant Company be convened and held at Sadhana Rayon House, DN Road, Mumbai – 400001, Maharashtra on Wednesday, 26th day of July, 2017 at 4.00 p.m. or any adjournment or adjournments thereof. The fees of the scrutinizer is fixed at Rs. 5,000/-.
17. That the Chairman appointed for the respective aforesaid meeting of the Equity Shareholders of the First, the Second and the Third Applicant Company 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).
18. The quorum for the respective aforesaid meetings of the Equity Shareholders of the First, the Second and the Third Applicant Company 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, are filed with the First, the Second and the Third Applicant Company at their respective Registered Offices, not later than, 48 hours before the aforesaid Equity Shareholders meetings of the First, the Second and the Third Applicant Company.

20. The value and number of the shares of each Equity Shareholder shall be in accordance with the books/ register of the First, the Second and the Third Applicant Company or depository records 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 of the Equity Shareholders of the First, the Second and Third Applicant Company and his decision in that behalf would be final.
21. The Chairperson of the First, the Second and the Third Applicant Company to file an affidavit not less than seven days before the date fixed for the holding of the meetings and to report to this Tribunal that the direction regarding the issue of notices and the advertisement have been duly complied with.
22. The Chairperson of the First, the Second and the Third Applicant Company to report to this Tribunal, the result of the aforesaid meetings within thirty days of the conclusion of the respective meetings.
23. That the First, the Second and the Third Applicant Company is directed to serve notices along with copy of the Scheme upon:-
- (i) concerned Income Tax Authority within whose jurisdiction the Applicant Company's assessments are made;
 - (ii) the Central Government through the office of Regional Director, Western region, Mumbai; and
 - (iii) Registrar of Companies, Mumbai with an intimation that they may, if they so wish, submit their representations, if any, within a period of thirty days from the date of receipt of such notice with the Tribunal with copy of such representations simultaneously served upon the First or the Second or the Third Applicant Company, failing which, it shall be presumed that the authorities have no representations to make on the proposed arrangement embodied in the Scheme.
24. The Chairperson appointed, for the aforesaid Equity Shareholders meetings to issue the notice 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.

25. That Counsel for the First Applicant Company submits that since the Scheme is an Arrangement between the First Applicant Company and their respective shareholders, only a meeting of the Equity Shareholders of the First Applicant Company 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 Secured and Unsecured Creditors 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 First Applicant Company.
26. The Counsel for the Second Applicant Company submits that there are no Secured Creditors in the Second Applicant Company and therefore, the question of sending notices to the Secured Creditors does not arise. That Counsel for the Second Applicant Company submits that since the Scheme is an Arrangement between the Second Applicant Company and their respective shareholders, only a meeting of the Equity Shareholders of the Second Applicant Company 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 all its Unsecured Creditors 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 Second Applicant Company.
27. The Counsel for the Third Applicant Company submits that there are no Secured and Unsecured Creditors in the Third Applicant Company and therefore, the question of sending notices to the Secured and Unsecured Creditors does not arise. That Counsel for the Third Applicant Company submits that since the Scheme is an Arrangement between the Third Applicant Company and their respective shareholders, only a meeting of the Equity Shareholders of the Third Applicant Company is proposed to be held in accordance with the provisions of Section 230 (1) (b) of the Companies Act, 2013.
28. That the First, the Second and the Third Applicant Company is directed to file affidavit of service in the Registry proving dispatch of notices upon

shareholders, Creditors, publication of notices in newspapers and to all Regulatory authorities as stated in clause 23 above and to report to this Tribunal that the directions regarding the issue of notices have been duly complied with.

Sd/-

Ina Malhotra, Member (Judicial)