

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
BENCH, AT MUMBAI

COMPANY SCHEME APPLICATION NO. 584 (MAH) of 2017

In the matter of the Companies Act, 2013

AND

In the matter of application under Sections 230 to 233 of the Companies Act, 2013 and other applicable provisions of the Companies Act, 2013

AND

In the matter of Oricon Enterprises Limited, a company incorporated under the provisions of the Companies Act, 1956

AND

In the matter of Scheme of Amalgamation of Oricon Properties Private Limited ('the Transferor Company'), WITH Oricon Enterprises Limited ('the Transferee Company')

Oricon Enterprises Limited,
a company incorporated under the
Companies Act, 1956, having its
registered office at 1076, Dr. E. Moses
Road, Worli, Mumbai -400 018.

...the Applicant / Transferee Company

Called for Notice of Admission:

Mr. NaserAli Rizvi i / b Thakore Jariwala & Associates, Advocates for
Applicant

Coram: - Hon'ble Member Ina Malhotra (J)

Date :- 23rd June, 2017

MINUTES OF THE ORDER

UPON the application of the Applicant / Transferee Company above named by a Company Notice of Admission **AND UPON HEARING** Mr. Naser Ali Rizvi instructed by Thakore Jariwala & Associates, Advocate for the Applicant Company, **AND UPON READING** the Application along with the Notice of Admission dated 26th day of April, 2017 of Sanjay Jain Company Secretary of the Applicant Company, in support of Notice of Admission along with Application and the Exhibits therein referred to, **IT IS ORDERED THAT:**

- 1 The counsel for the Applicants states that the Scheme of Arrangement provides for the amalgamation of Oricon Properties Private Limited (transferor Company) with Oricon Enterprises Limited (Transferee Company) pursuant to the relevant provisions of the Act.
- 2 The counsel for the Applicant Further submits that the amalgamation of the Transferor Company with the transferee company would inter alia have the benefits as mentioned in para "C" forming part of the preamble of the Scheme of Amalgamation.
- 3 A meeting of the Equity Shareholders of the Applicant Company be convened and held at Shri S. K. Somani Hall, Hindi Vidhya Bhavan, 79, Marine Drive, Mumbai -400 002 on Saturday, 19th August, 2017 at 11.00 A. M., for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of Amalgamation between Oricon Properties Private Limited the Transferor Company and Oricon Enterprises Limited The Transferee Company and their respective Shareholders ("Scheme").

- 4 That at least 30 clear days before the said Meeting of the Equity Shareholders of the Applicant Company 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 (3) of the Companies Act, 2013 read with Rule 6 of the Companies (Compromises, arrangements and amalgamations) Rule, 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 to each of the Equity Shareholders of the Applicant Company 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 and / or Depositories.

- 5 That At least 30 clear days before the Meeting of the Equity Shareholders of the Applicant Company 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 (3) of the Companies Act, 2013 read with Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rule, 2016 and that the form of Proxy can be obtained free of charge at the Registered Office of the Applicant Company as aforesaid, be published once each in 'Free Press Journal' in English and 'Navshakti' in Marathi, both circulated in Mumbai not less than thirty (30) days before the date fixed for the meeting.

- 6 The Applicant Company 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.

7. Mr. Rajendra Somani, failing whom Mr. Susheel Somani, Directors of the Applicant Company, shall be the Chairman for the aforesaid meeting of Equity Shareholders of the Applicant Company or any adjournments thereof.
8. The Scrutinizer for the meeting / postal ballot / e-voting or any adjournments thereof shall be Mr. Prabhat Maheshwari, Partner at M/s. GMJ & Associates Company Secretaries in practice or in his absence Mr. Mahesh Soni Partner at M/s. GMJ & Associates Companies Secretaries in practice.
9. The Chairman appointed for the aforesaid Meeting of the Applicant Company to issue the notices of the Meeting of the Equity Shareholders referred to above. The said Chairman 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).
10. The quorum for the aforesaid meeting of the Equity Shareholders of the Applicant Company shall be as prescribed under Section 103 of the Companies Act, 2013.
11. That 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 at its Registered Office at 1076, Dr. E. Moses Road, Worli, Mumbai – 4000 18, not later than, 48 hours before the aforesaid meeting as required under Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

12. 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 Meeting shall determine the value for the purpose of the aforesaid meeting and his decision in that behalf would be final.
13. The Chairman to file an affidavit not less than seven days before the date fixed for the holding of the meeting of the Applicant Company 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.
14. The Chairman to report to this Tribunal, the result of the aforesaid meeting within thirty days of the conclusion of the meeting of the Applicant Company, and the said report shall be verified by his Affidavit as per Rule 14 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
15. The Counsel for the Applicant Company submits that since the scheme is an Arrangement between the Transferor Company and The Transferee Company 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 to issue notice to all its Secured Creditors and also to all its Unsecured Creditors as on 31st December, 2016 by Post / courier / email / hand-delivery 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.

16. The Applicant Company 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.
17. The Applicant Company 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.
18. The Applicant Company 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.

19. The Applicant Company to serve the notice upon the Securities and Exchange Board of India, BSE Limited and the National Stock Exchange of India Limited 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 Securities and Exchange Board of India, BSE Limited and the National Stock Exchange of India Limited within 30 days of the date of receipt of the notice it will be presumed that the Securities and Exchange Board of India, BSE Limited and the National Stock Exchange of India Limited has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
20. The Applicant Company 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 meeting and do report to this Tribunal that the direction regarding the issue of notices have been duly complied with.

Sd/-

Ms. Ina Malhotra, Hon'ble Member (J)