

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH

COMPANY SCHEME APPLICATION NO 474 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 applicable provisions of the Companies Act, 2013;

AND

In the matter of Section 391 to 394 and other applicable provisions of the Companies Act, 1956;

AND

In the matter of Scheme of Amalgamation ('Scheme') of Kundan Realtors Private Limited and Jawala Real Estate Private Limited and Sarvavasa Buildtech & Farms Private Limited and Lodha Aviation Private Limited (hereinafter collectively referred to as 'Transferor Companies') with Lodha Developers Private Limited ('Transferee Company') and their respective shareholders and creditors.

Jawala Real Estate Private Limited,	}
a Company incorporated under the provisions of	}
Companies Act, 1956 having its registered office	}
at 412, 4 th floor, 17G, Vardhaman Chamber,	}
Cawasji Patel Road, Horniman Circle, Fort.	}
Mumbai – 400001	}
CIN: U74999MH2005PTC288192	}.....Applicant Company

Called for hearing:

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)

Dated: 6th day of July 2017

MINUTES OF THE ORDER

1. The Counsel for the Applicant Company states that the Scheme of Amalgamation provides for the amalgamation of Kundan Realtors Private Limited and Jawala Real Estate Private

Limited and Sarvavasa Buildtech & Farms Private Limited and Lodha Aviation Private Limited (hereinafter collectively referred to as 'Transferor Companies') with Lodha Developers Private Limited ('Transferee Company') pursuant to the relevant provisions of the Act.

2. The Counsel for the Applicant Company further submit that the amalgamation of the Transferor Companies with the Transferee Company would inter alia have the following benefits:
 - The Scheme will consolidate and simplify the group structure;
 - The Scheme will result in elimination of multiple entities in the group which will eliminate duplication of administrative functions and reduction in the multiplicity of legal and regulatory compliances required at present to be carried out by the Transferor Companies and the Transferee Company.
 - Achieving operational and management efficiency; and
 - Synergies arising out of consolidation of business, such as, enhancement of net worth of the combined business to capitalise on future growth potential, optimal utilisation of resources.

3. A meeting of the Equity Shareholders of the Applicant Company, be convened and held at 10th Floor, Lodha Excelus, Apollo Mills Compound, N. M. Joshi Marg, Mahalaxmi, Mumbai- 400 011 on 14th day of August, 2017 at 9.30 A.M. for the purpose of considering and if thought fit, approving, with or without modification(s), the proposed Scheme of Amalgamation of Kundan Realtors Private Limited and Jawala Real Estate Private Limited and Sarvavasa Buildtech & Farms Private Limited and Lodha Aviation Private Limited (hereinafter collectively referred to as 'Transferor Companies') with Lodha Developers Private Limited ('Transferee Company') and their respective shareholders.

4. That at least one month before the said Meeting of the Equity shareholders of the Applicant Company to be held 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 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 Shareholders of the Company, at their last known address or email addresses as per the records of the Applicant Company.

5. That at least one month before the meeting of the Equity Shareholders of the Applicant Company to be held as aforesaid, notices convening the said Meeting, indicating the place, date and time of meeting as aforesaid be published and stating that the 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 shall be obtained free of charge at the Registered Office of the Applicant Company as aforesaid and / or at the offices of its Advocates, M/s Hemant Sethi & Co., 1602 Nav Parmanu, Behind Amar Cinema, Chembur Mumbai – 400071.
6. That Ms Sanjyot Rangnekar, Authorised Representative of the Applicant Company, failing him Mr. Vishal Ghadigaonkar, Authorised Representative of the Applicant Company & failing him Mr. Govind Agarwal, Authorised Representative of the Applicant Company shall be the Chairman of the aforesaid meeting of the Equity Shareholders to be held at 10th Floor, Lodha Excelus, Apollo Mills Compound, N. M. Joshi Marg, Mahalaxmi, Mumbai – 400 011 on 14th day of August, 2017 at 9.30 A.M. or any adjournments thereof.
7. That Mr. Sharatkumar Shetty, Practising Company Secretary is hereby appointed as Scrutinizer of the meeting of Equity Shareholders of the Applicant Company to be held at 10th Floor, Lodha Excelus, Apollo Mills Compound, N. M. Joshi Marg, Mahalaxmi, Mumbai – 400 011 on 14th day of August, 2017 at 9.30 A.M. or any adjournments thereof and his remuneration is fixed at Rs. 5,000/- (Rupees Five Thousand only).
8. That the Notice of the aforesaid Meeting of the Equity Shareholders shall be advertised in two local newspapers viz. “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.
9. That the Chairman appointed for the aforesaid Meeting to issue the advertisements and send out the notice of the Meeting referred to above. The said Chairman shall have all the powers as per the 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.
10. The quorum for the aforesaid meeting of the Equity Shareholders shall be as prescribed under Section 103 of the Companies Act, 2013.
11. The value and number of the Equity shares of each member shall be in accordance with the books/ register of the Applicant Company and where the entries in the books/ register 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.

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 meeting, is filed with the Applicant Company at its Registered Office at 412, 4th floor, 17G, Vardhaman Chamber, Cawasji Patel Road, Horniman Circle, Fort. Mumbai – 400001 not later than 48 hours before the aforesaid meeting.
13. That the Chairman of the Meeting to file an affidavit not less than seven (7) 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 and the advertisement have been duly complied with.
14. That the Chairman of the Meeting to report to this Tribunal, the results of the aforesaid meeting within thirty (30) days of the conclusion of the Meeting.
15. That Counsel for the Applicant Company submit that since the Scheme is an arrangement between the Applicant Company 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 Applicant Company to issue notice to secured 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 Applicant Company. This bench hereby also directs the Applicant Company to issue notice to 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 Applicant Company.
16. That the Applicant Company is directed to serve notices along with copy of 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, (iii) the Registrar of Companies, Mumbai, (iv) the Official Liquidator, High Court, Bombay, with the direction that they may submit their representations, if any, within a period of thirty (30) days from the date of the receipt of such notice to the Tribunal with copy of such representations shall simultaneously be served upon the Applicant Company, failing which, it shall be presumed that the authorities have no representations to make on the proposals.
17. The Applicant Company is also directed to serve notice along with copy of Scheme of Amalgamation upon Official Liquidator, High Court, Bombay. V. C. Shah & Co. are

appointed to assist the Official Liquidator to scrutinize books of accounts of the Applicant Company. The Applicant Company to pay fees of Rs. 50,000/-.

18. Applicant Company to file affidavit of service in the Registry proving dispatch of notices upon shareholders, Creditors, notices to Regulatory authorities as stated in Clause 16 above and publication of notice in newspapers.

Sd/-

V. Nallasenapathy, Member (Technical)

Sd/-

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