

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

TCSP No. 505 of 2017
And
TCSP No. 509 of 2017
And
TCSP No. 504 of 2017
And
TCSP No. 455 of 2017

In the matter of Composite Scheme of Arrangement among Reliance Big Broadcasting Private Limited (“Transferor Company 1” or “RBBPL”) and Big Magic Limited (“Transferor Company 2” or “BML”) and Azalia Broadcast Private Limited (“Transferor Company 3” or “ABPL”) and Zee Entertainment Enterprises Limited (“Resulting Company” or “ZEEL”) and their respective Shareholders and Creditors (“Scheme”)

Reliance Big Broadcasting Private Limited

.....Petitioner/Transferor Company 1
AND

Big Magic Limited

.....Petitioner/Transferor Company 2
AND

Azalia Broadcast Private Limited

.....Petitioner/ Transferor Company 3
AND

Zee Entertainment Enterprises Limited

.....Petitioner/ Resulting Company

Judgment/Order delivered on 13th July, 2017

Coram:

Hon’ble **B.S.V. Prakash Kumar**, Member (J)
Hon’ble **V .Nallasenapathy Hon’ble**, Member (T)

For the Petitioner(s): Mr. Hemant Sethi i/b Hemant Sethi & Co
Mr. Ramesh Golap, Assistant Director in the office of Regional
Director

Per: **B.S.V. Prakash Kumar, Member(J)**

Order

1. Heard the learned counsel for the Petitioner Companies. No objector has come before the Tribunal to oppose the Petitions and nor any party has controverted any averments made in the Petitions.

2. The sanction of the Tribunal is sought under Sections 230 to 233 of the Companies Act, 2013, to the Composite Scheme of Arrangement among Reliance Big Broadcasting Private Limited and Big Magic Limited and Azalia Broadcast Private Limited and Zee Entertainment Enterprises Limited and their respective Shareholders and Creditors.
3. Reliance Big Broadcasting Private Limited is engaged in the business of owning and operating non news and current affairs satellite television channels. Big Magic Limited is engaged in the business of acquiring content from producers and third parties to be broadcasted by RBBPL on the channels owned and operated by it. Azalia Broadcast Private Limited is engaged in the business of owning and operating a non news and current affairs satellite television channel under name and style of 'Big Thrill'. Zee Entertainment Enterprises Limited is engaged in Broadcasting of Satellite Television Channels and acting as Space Selling agent for other satellite television channels; Sale of its own Media Content i.e. programs / film rights / feeds / music rights.
4. The Counsel for the Petitioner Companies submit that the rationale for the scheme is as under –

Rationale for Composite Scheme of Arrangement.

- i. In case of the Transferor Companies:
 - a. helping the Transferor Companies in deleveraging its balance sheet, including reduction of debt and interest outgo as well as creation of value for the shareholders of the Transferor Companies; and
 - b. consolidate / transfer of the television broadcasting business of Transferor Companies to the Resulting Company in an efficient manner.
- ii. In case of the Resulting Company:
 - a. building strong capability to effectively meet future challenges in competitive business environment;

- b. strategic fit for serving existing market and also to cater additional volume linked to new consumers;
- c. synergies in operational process and creation of efficiencies by reducing time to market and benefitting customers as well as optimization of operation and capital expenditure; and
- d. leading to increased competitive strength, cost reduction and efficiencies, productivity gains by pooling the financial, managerial and technical resources, personnel capabilities, skills, expertise and technologies of the Transferor Companies and the Resulting Company thereby significantly contributing to future growth and maximizing shareholders value.

The proposed demerger is expected to be beneficial to Transferor Companies and Resulting Company and their respective shareholders, creditors and all other stakeholders and will enable Transferor Companies and Resulting Company to achieve and fulfil their objectives more efficiently and economically.

- 5. The Counsel for the Petitioner Companies submit that the Petitioners in their respective Board meetings have approved the said Composite Scheme of Arrangement which are annexed to the respective Company Scheme Petitions.
- 6. The Counsel appearing on behalf of the Petitioner Companies further states that the Petitioner Companies have complied with all the directions passed in Company Summons for Direction and that the Company Scheme Petitions has been filed in consonance with the orders passed in Company Summons for Direction.
- 7. The Counsel appearing on behalf of the Petitioner Companies further states that the Petitioner Companies have complied with all requirements as per directions of the Tribunal and they have filed necessary affidavits of compliance in the Tribunal. Moreover, the Petitioner Companies through their Counsel undertakes

to comply with all statutory requirements if any, as required under the Companies Act, 1956 / 2013 and the Rules made there under whichever is applicable. The said undertakings given by the Petitioner Companies are accepted.

8. The Regional Director has filed an Report dated 6th July, 2017 stating therein, save and except as stated in paragraph IV(1) to (8), it appears that the Scheme is not prejudicial to the interest of shareholders and public. In paragraph IV, of the said Report it is stated that:

- 1) *The tax implication if any arising out of the scheme is subject to final decision of Income Tax Authorities. The approval of the scheme by this Hon'ble Tribunal may not deter the Income Tax Authority to scrutinize the tax return filed by the transferee company after giving effect to the scheme. The decision of the Income Tax Authority is binding on the petitioner company.*
- 2) *It is submitted that the Petitioner Companies have submitted the proof of serving notice upon the Income Tax Authorities acknowledged dated 06.04.2017, 10.04.2017, 19.04.2017. This office has sent reminder dated 05.07.2017 requesting to send comments on the scheme directly with the Hon'ble NCLT well in time.*
- 3) *BSE and NSE vide it letter dated 3.2.2017 and 2.2.2017 which are Exhibit-E1 to E2 respectively mentioned inter alia that the petitioners to comply with the comments of the SEBI mentioned in its letter dated 2. 3. 2017 that the company shall duly comply with the various provisions of the circular No CIR/CFD/CMD/16/2015 dated 30.11.2015 and subject to that given no adverse observations. It is also mentioned that upon sanction of the scheme the listed company shall submit to the stock exchange the document mentioned therein. NSE has stated that the validity of the NOC is for 6 months with effect from 02.03.2017.*

In this regard the Petitioner Companies have to undertake to comply with the same

- 4) *That the petitioner companies have mentioned in clause 1 of the scheme that the "Appointed Date" is the close of business hours of 31.3.2017 or such other date as may be decided by the respective Board of Director of the transferor companies and the Resulting company, being the time and date with effect from which the scheme shall be deemed to be effective.*

In this regard petitioners has to undertake to confirm that the appointed Date shall be 1.4.2017 or such other date as approved by the Hon'ble Tribunal. Board shall not decide any other appointed date.

5) *That the Petitioner in clause 6 of the scheme has inter alia mentioned that upon the coming into the effect of this Scheme and with effect from the Appointed Date, All assets and liabilities of the demerged undertaking of the transferor company will be recorded at their respective fair values which are also the values appearing in the books of accounts of the Demerged Undertaking in the transferee company In this regard it is submitted that accounting of assets and liabilities as mentioned in the scheme shall be either on fair value or on book values. Petitioner has proposed for following both fair and book values. Therefore petitioners to undertake to follow one method for arriving at the values on transfer.*

6) *M/s. Reliance Big Broadcasting Pvt Ltd, Transferor Company-1 and M/s. Azalia Broadcast Pvt Ltd, Transferor Company-2 vide its letter dated 06.04.2017 submitted to the Ministry of Information and Broadcasting separately inter alia mentioned that they have no objection for transfer of their licenses as mentioned in the clause 1 of the scheme to M/s. Zee Entertainment Enterprise Limited, Resulting Company, attached herewith as **Exhibit - F1 and F2.***

7) *M/s. Reliance Big Broadcasting Pvt Ltd, Transferor Company-1, and M/s. Azalia Broadcast Pvt Ltd, Transferor Company-2 and M/s. Zee Entertainment Enterprises Limited, Resulting Company has served notice under section 230 (5) to Ministry of Information and Broadcasting vide acknowledged letter dated 13.04.2017, 06.04.2017 respectively attached herewith as **Exhibit- G 1 and G3.***

8) *M/s. Zee Entertainment Enterprises Limited, Resulting Company served application to Ministry of Information and Broadcasting vide letter acknowledged dated 19.04.2017 seeking permission for transfer of licenses relating to six General Entertainment Television Channels held by M/s. Reliance Big Broadcasting Pvt Ltd, Transferor Company-1 and M/s. Azalia Broadcast Pvt Ltd, Transferor Company-2 in favour of Zee Entertainment Enterprises Limited along with enclosures namely List of shareholders with certified true copy of resolution passed in the respective meeting of shareholders, copy of composite scheme, letter from M/s. Reliance Big Broadcasting Pvt Ltd, Transferor Company -1 and M/s Azalia Broadcasting Pvt Ltd transferor Company -2 **Exhibit H.***

9. In so far as observations made in paragraph IV(1) & (2) of the Report of Regional Director are concerned, the Petitioner Companies through its Counsel submits that the Petitioner Companies undertakes to comply with all applicable provisions of the Income Tax Act, 1961 and all income tax issues arising out of the Scheme will be met and answered in accordance with law.

10. In so far as observations made in paragraph IV(3) of the Report of Regional Director are concerned, the Petitioner Companies through its Counsel undertakes to comply with the conditions mentioned in the letter of BSE and NSE.
11. In so far as observations made in paragraph IV(4) of the Report of Regional Director are concerned, the Petitioner Companies state that as per scheme the appointed date is 'closing hours of business of 31.03.2017' and Petitioner Companies confirm that there will not be any change in the Appointed Date which shall be close of business on 31.03.2017 .
12. In so far as observations made in paragraph IV(5) of the Report of Regional Director are concerned, the Petitioner Company clarify that all the assets and liabilities of the demerged undertakings of the Transferor Companies will be recorded by the Resulting Company at their respective book values.
13. In so far as observations made in paragraph IV (6) (7) (8) of the Report of Regional Director are concerned, the same are self-explanatory.
14. The observations made by the Regional Director have been explained by the Petitioners in paragraphs 9 to 14 above. The clarifications and undertakings given by the Petitioner Companies are hereby accepted.
15. From the material on record, the Scheme appears to be fair and reasonable and is not violative of any provisions of law and is not contrary to public policy.
16. Since all the requisite statutory compliances have been fulfilled, Company Scheme Petition No. 505, 509, 504 and 455 of 2017 has been made absolute in terms of prayer of the respective petitions mentioned therein.
17. The Petitioner Companies are directed to file a copy of this order along with a copy of the Composite Scheme of Arrangement with the concerned Registrar of Companies, electronically, along with E-Form INC-28, in addition to the physical copy within 30 days from the date of issuance of the order by the Registry.
18. The Resulting Company to lodge a copy of this order and the Scheme duly certified by the Deputy Director, National Company Law Tribunal, Mumbai Bench, with the concerned Superintendent of Stamps for the purpose of

adjudication of stamp duty payable, if any, on the same within 60 days from the date of receipt of the order.

19. The Petitioner Companies to pay costs of Rs. 25,000/- each to the Regional Director, Western Region, Mumbai.
20. Costs to be paid within four weeks from the date of receipt of the order.
21. All authorities concerned to act on a certified copy of this order along with Scheme duly certified by the Deputy Director, National Company Law Tribunal, Mumbai Bench.
22. Any person interested shall be at liberty to apply to the Tribunal in the above matter for any direction that may be necessary.

Sd/-

V. Nallasenapathy, Member (T)

Sd/-

B.S.V. Prakash Kūmar, Member (J)