

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH

CSA No. 200 of 2017

Under Section 230-232 of the Companies Act, 2013

In the matter of scheme of amalgamation of
Titanium Properties Private Limited - Transferee Company
and Esteem Equitrades Private Limited - Transferor
Company and Helios Research Private Limited - Transferor
Company and their Respective Shareholders and unsecured
creditors ("Scheme")

Titanium Properties Private Limited)
a company incorporated under)
the Companies Act, 1956 having its)
Registered Office at 301,)
Paras Apartment, 4,)
Dattatray Road, Santacruz (W),)
Mumbai 400054)..... **Applicant Company (Transferee)**

Judgement / Order delivered on: 20.07.2017

Coram:

Hon'ble **BSV. Prakash Kumar**, (Member) (J)
Hon'ble **V. Nallasenapathy**, (Member) (T)

For the petitioner(s): Mr. Ajay Anil Thorat of M/s. Ajay Anil Thorat & Associates,
Company Secretaries, Navi Mumbai

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

ORDER

1. **UPON** the application of the Applicant Company **AND UPON HEARING** Mr. Ajay Anil Thorat, Practicing Company Secretary for the Applicant Company **AND UPON READING** the Company Summons for Directions, the Affidavit dated 5th April, 2016 and the board resolution passed at the meeting of the Board of Directors of the Applicant Company held on 21st December, 2015 approving the scheme of amalgamation of the Titanium Properties Private Limited - Transferee Company (CIN No. U45400MH2007PTC171451) **AND** Esteem Equitrades Private Limited - Transferor Company (CIN No. U67120MH2007PTC171449) **AND** Helios Research

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Private Limited - Transferor Company (CIN NO. U74130MH2004PTC149303) as already filed with the Tribunal on 17th February, 2017.

2. **THAT** it is stated in the Certificate of the Company Secretary; vide Exhibit A that there are only two equity shareholders of The Applicant Company as on 31st March 2017. The Applicant Company requested this Tribunal to give necessary directions for holding the meeting of Equity Shareholders for the purpose of considering and, if thought fit, approving the scheme with or without modification(s). Hence, The Applicant Company shall hold the meeting of Equity Shareholders as per the directions to follow in this order.
3. **THAT** it is stated in the Certificate of the Company Secretary, vide Exhibit A that there are no secured creditors. Hence, there is no need for The Applicant Company to hold the meeting of secured creditors for the purpose of considering and, if thought fit, approving the scheme with or without modification(s).
4. **THAT** it is stated in the Certificate of the Company Secretary, vide Exhibit A that there are unsecured creditors. The Applicant Company requested this Tribunal to give necessary directions for holding the meeting of unsecured creditors for the purpose of considering and, if thought fit, approving the scheme with or without modification(s). Hence, The Applicant Company shall hold the meeting of unsecured creditors as per the directions to follow in this order.
5. Having considering the entire material on record, this Tribunal passes the following order and accordingly **IT IS ORDERED THAT:**
 - a. That a meeting of the Equity Shareholders of the Applicant Company be convened and held on Tuesday, 26th September, 2017 at 10.30 a.m. at 301, Paras Apartment, 4, Dattatray Road, Santacruz (W), Mumbai, Maharashtra-400054, India for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of Amalgamation between Titanium Properties Private Limited - Transferee Company (CIN No. U45400MH2007PTC171451) AND Esteem Equitrades Private Limited -

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Transferor Company (CIN No. U67120MH2007PTC171449) AND Helios Research Private Limited - Transferor Company (CIN NO. U74130MH2004PTC149303):

- b. That a meeting of the Unsecured Creditors of the Applicant Company be convened and held on Tuesday, 26th September, 2017 at 12.00 p.m. at 301, Paras Apartment, 4, Dattatray Road, Santacruz (W), Mumbai, Maharashtra-400054, India for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of Amalgamation between Titanium Properties Private Limited - Transferee Company (CIN No. U45400MH2007PTC171451) AND Esteem Equitrades Private Limited - Transferor Company (CIN No. U67120MH2007PTC171449) AND Helios Research Private Limited - Transferor Company (CIN NO. U74130MH2004PTC149303):
- c. The aforesaid meetings of the Shareholders and Unsecured Creditors of the Applicant Company are hereinafter referred to as the 'said Meetings'.
- d. At least 30 clear days before the said Meetings of the Equity Shareholders and Unsecured Creditors 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 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 and Unsecured Creditors 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.
- e. At least 30 clear days before the said Meetings of the Equity Shareholders and Unsecured Creditors of the Applicant Company to be held as aforesaid, a notice convening the said meeting at the place, date and time aforesaid and

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stating that copies of the scheme of Amalgamation 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 as aforesaid, shall be published once each in 'Free Press Journal' in English and 'Navshakti' in Marathi, both circulated at Mumbai, A joint advertisement for the Said Meetings may be given.

- f. The Applicant Company undertakes to:
- i. Issue Notice convening the Said Meetings 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 Said Meetings as per Form No. CAA. 2 (Rule 7) the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016

The undertaking is accepted.

1. Mr. Uday Suresh Shah (DIN: 00983098), Director of the Applicant Company, failing whom Mrs. Bhavini Shah (DIN: 01774956), Director of the Applicant Company is appointed as the Chairperson for the Said Meetings of the Equity Shareholders and Unsecured Creditors of Applicant Company.
2. The Scrutinizer for the Said Meetings shall be Mr. Ajay Anil Thorat Practicing Company Secretary (Membership No. A30934).
3. The Chairperson appointed for the Said Meeting to issue advertisement and send out the notices of the Said Meetings. The said Chairperson shall have all power under the Companies (Compromise, Arrangement and Amalgamations) Rules,

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2016 in relation to conduct of the Said Meeting, including for deciding procedural questions that may arise at the meeting 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 persons(s).

4. The quorum for the aforesaid meeting of the Equity Shareholders shall be as prescribed under section 103 of the Companies Act, 2013.
5. That the quorum for the meeting of the Unsecured Creditors of the Applicant Company shall be three fourths by value of the Unsecured Creditors of the Applicant Company, present in person or by proxy.
6. The voting by proxy or authorised 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 Applicant Company all having its Registered Office at 301, Paras Apartment, 4, Dattatray Road, Santacruz (W), Mumbai, Maharashtra-400054, India, not later than, 48 hours before aforesaid meeting as required under Rule 6 of the Companies (Compromises, Arrangement and Amalgamations) Rules, 2016.
7. The Value and number of the share of each number, or value of the debts of Unsecured Creditors, as the case may be, shall be in accordance with the books/register of the Applicant Company's records and where the entries in the books/ register/ depository records are disputed, the Chairperson of the Said Meeting shall determine the value for the purpose of the aforesaid meeting and his decision in that behalf would be final.
8. The Chairperson to file an affidavit not less than seven days before the date fixed for the holding of the Said Meeting and do report this Tribunal that the direction regarding the issue of notices and the advertisement have been duly complied with as per Rule 12 of the Companies (Compromises, Arrangement and Amalgamations) Rules, 2016.

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9. The Chairperson to report to this Tribunal, the result of Said Meeting within seven days of the conclusion of the meeting, and the said report shall be verified by his Affidavit as per Rule 14 of the Companies (Compromises, Arrangement and Amalgamations) Rules, 2016.
10. The Applicant Company shall 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, Arrangement 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 the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangement and Amalgamations) Rules, 2016.
11. The Applicant Company shall serve the notice upon the concern Registrar of Companies, pursuant to Section 230(5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangement and Amalgamations) Rules, 2016. If no response is received by the Tribunal from 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, Arrangement and Amalgamations) Rules, 2016.
12. The Applicant Company shall serve the notice on the concerned Income Tax Authority within whose Jurisdiction the assessment of The Applicant Company are made, pursuant to section 230 (5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangement 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 the Income tax Authority has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangement and Amalgamations) Rules, 2016.

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13. The applicant company to file affidavit in the registry providing the dispatch of notices upon shareholders and creditors and regulatory authorities as stated in clause 10, 11 & 12 and publication of notices in newspapers and to report to this Tribunal that requirements regarding the issue of notices have been duly complied with.

Sd/-

V. Nallasenapathy, Member (T)

Sd/-

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