

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,**

**MUMBAI BENCH**

**COMPANY SCHEME APPLICATION NO. 128 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 along with the Companies Act, 1956.

And

In the matter of Sections 391 to 394 of the Companies Act, 1956 and other relevant provisions of the Companies Act, 2013;

And

In the matter of Scheme of Amalgamation of Western Outdoor Interactive Private Limited (the Transferor Company) with Fairdeal Multimedia Private Limited (the Transferee Company)

**Western Outdoor Interactive Private )  
Limited, a company incorporated under )  
the Companies Act, 1956 having its )  
Registered Office at 201-202, Tower II, )  
SEEPZ++, SEZ-SEEPZ, MIDC, )  
Andheri (East), Mumbai – 400096. ) ...Applicant Company.**

**Called for Notice of Admission:**

Mr. Hemant Sethi, i/b M/s. Hemant Sethi & Co., Advocate for the Applicant.

Coram: B.S.V. Prakash Kumar (Judicial)

V. Nallasenapathy Hon'ble (Technical)

Date: 3<sup>rd</sup> May, 2017

**MINUTES OF THE ORDER**

1. The Counsel for the Applicant states that the present Scheme is a Scheme of Amalgamation between Wester Outdoor Private Limited ('the Transferor Company') and Fairdeal Multimedia Private Limited ('the Transferee Company').
2. The Counsel for the Applicant further submit that the proposed Scheme would have the following benefits:
  - a. The business of the Transferor Company was acquired by the Transferee Company through a two-step process i.e. (a) acquisition of business of the Transferor Company, and (b) consolidation of the acquired business of the Transferor Company into the Transferee Company.
  - b. The Transferor Company is a wholly owned subsidiary of the Transferee Company. A consolidation of the Transferor Company and the Transferee Company by way of amalgamation would therefore lead to a more efficient utilization of capital in one entity.
  - c. The proposed amalgamation will also result in administrative and operation rationalization, organizational efficiencies, reduction in overheads, administrative and operational costs and other expenses and optimal utilization of various resources. It will prevent cost duplication that can erode financial efficiencies of a holding structure and the resultant operations would be substantially cost-efficient. The synergies created by the arrangement would increase operation efficiency and integrate business functions.
  - d. The proposed amalgamation will eliminate a multi-layered structure and reduce managerial overlaps, which are necessarily involved in running multiple entities. The Transferor Company is a wholly owned subsidiary of the Transferee Company and all the shares of the Transferor Company are presently held by the Transferee Company in its own name and ten shares by a nominee of the Transferee Company. The Scheme is not prejudicial to the interest of the shareholders of the Transferor Company. The Scheme does not affect the rights and interest of the shareholders or the creditors of the Transferee Company. The shareholding and other rights of the members of the Transferee Company will remain unaffected as no new shares are being issued by the Transferee Company to the shareholders of the Transferor Company.

3. That the meeting of the Equity Shareholders of the Applicant Company, be convened and held at 201-202, Tower II, SEEPZ++, SEZ-SEEPZ, MIDC, Andheri (East), Mumbai – 400096 on Friday, 9<sup>th</sup> day of June, 2017 at 11 a.m. for the purpose of considering and if thought fit, approving, with or without modification(s), the proposed Scheme of Amalgamation of Western Outdoor Interactive Private Limited, the Transferor Company with Fairdeal Multimedia Private Limited, the Transferee Company.
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 the copy of the scheme, a copy of statement disclosing all material facts as required under section 230(3) of the Companies Act read with Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rule 2016 notified on 14<sup>th</sup> December 2016 and the prescribed Form of Proxy, shall be sent by Courier / Registered Post / Hand Delivery/ Speed Post or through Email (to those 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, a notice 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. Mr. Amit Shah, Chairman & Director of the Applicant Company failing him Mr. Vishal Chhabria, Director of the Applicant Company, shall be the alternative Chairman of the aforesaid Meeting to be held at 201-202, Tower II, SEEPZ++,

SEZ-SEEPZ, MIDC, Andheri (East), Mumbai – 400096 on Friday, 9<sup>th</sup> day of June, 2017 at 11 a.m. or any adjournments thereof.

7. That the Notice of the Meeting shall be advertised in two local newspapers viz. “Free Press Journal” in English and “Navshakti” in Marathi, both circulated in Mumbai not less than 30 days before the date fixed for the meeting.
8. That the Chairman appointed for the aforesaid Meeting to issue the advertisement and send out the notices 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 or any other matter including an amendment to the Scheme or the Resolution, if any proposed at the meeting by any person(s).
9. The quorum for the aforesaid meeting of the Equity Shareholders shall be as prescribed under Section 103 of the Companies Act, 2013.
10. 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.
11. 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 201-202, Tower II, SEEPZ++, SEZ-SEEPZ, MIDC, Andheri (East), Mumbai – 400096 not later than 48 hours before the aforesaid meeting.
12. That Mrs. Harsha Sharma, Practicing Company Secretary is hereby appointed as Scrutinizers of the meeting of the Members of the Applicant Company proposed to be 201-202, Tower II, SEEPZ++, SEZ-SEEPZ, MIDC, Andheri (East), Mumbai –

400096 on Friday, 9<sup>th</sup> day of June, 2017 at 11 a.m. The remuneration of the scrutinizer is fixed at Rs. 5,000/-.

13. That the Chairman 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 days of the conclusion of the Meeting.
15. That Counsel for the Applicant 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 all its Unsecured Creditors of the Applicant Company 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 with in whose jurisdiction the Applicant Company's assessments are made, (ii) to the Central Government through the office of Regional Director, Western region, Mumbai, (iii) to the Registrar of Companies, Mumbai with the direction that they may submit their representations, if any, within a period of thirty days from the date of the receipt of such notice to the Tribunal with copy of such representations shall simultaneously be served to the Applicant Company, failing which, it shall be presumed that the authorities have no representations to make on the proposal.
17. The Petitioner Company is also directed to serve notice along with copy of scheme upon Official Liquidator. M/s. Jacob Koshy & Co. Chartered Accountants are appointed to assist the Official Liquidator to scrutinize books of accounts of the Petitioner Company for the last 5 years. The fees of the Chartered Accountant is fixed at Rs. 2,00,000/-. The official Liquidator may submit his representations,

if any, within a period of thirty days from the date of the receipt of such notice to the Tribunal with copy of such representations shall simultaneously be served to the Applicant Company, failing which, it shall be presumed that the Official Liquidator has no representations to make on the proposal.

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 15 and 16 above and publication of notice in newspapers.

Sd/-

**V. Nallasenapathy, Member (T)**

Sd/-

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