

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,

MUMBAI BENCH

COMPANY SCHEME APPLICATION NO 325 OF 2017

In the matter of the Companies Act, 2013;

AND

In the matter of Sections 230 to 232 read with Section 66 of the  
Companies Act, 2013;

AND

In the matter of Scheme of Amalgamation and Arrangement  
between Utkarsh Global Holdings Private Limited ('First  
Transferor Company' or 'Applicant Company') and Brihat  
Investments Private Limited ('Second Transferor Company')  
and Harijash Investments Private Limited ('Third Transferor  
Company') and Anshul Specialty Molecules Private Limited  
( 'the Transferee Company') and their respective Shareholders.

Utkarsh Global Holdings Private Limited, a Company }

incorporated under the provisions of Companies Act, 1956 }

having its registered office at 13, Aradhana Industrial Development }

Corporation, Near Virwani Industrial Estate, Goregaon (East) }

Mumbai-400063, CIN: U65910MH1980PTC022574 }

...Applicant Company

Mr. Hemant Sethi i/b. Hemant Sethi & Co., Advocates for the Applicant Company

**CORAM: B.S.V. PrakashKumar, Member (Judicial)**

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

**DATE: 20<sup>th</sup> APRIL, 2017**

**MINUTES OF THE ORDER**

1. The Counsel for the Applicant Company submits that the present Scheme is a Scheme of Amalgamation and Arrangement between Utkarsh Global Holdings Private Limited ('First Transferor Company') and Brihat Investments Private Limited ('Second Transferor Company') and Harijash Investments Private Limited ('Third Transferor Company') with Anshul Specialty Molecules Private Limited ('the Transferee Company') and their respective shareholders (hereinafter referred

to as 'the Scheme'). The Scheme inter-alia provides for amalgamation of First Transferor, Second Transferor and Third Transferor with the Transferee Company.

2. The meeting of the Equity Shareholders of the Applicant Company be convened and held at 13, Aradhana Industrial Development Corporation, Near Virwani Industrial Estate, Goregaon (East), Mumbai-400063 on 29<sup>th</sup> May, 2017, at 11:00 a.m. for the purpose of considering and, if thought fit, approving with or without modification(s), the Scheme of Amalgamation and Arrangement between Utkarsh Global Holdings Private Limited, Brihat Investments Private Limited, Harijash Investments Private Limited with Anshul Specialty Molecules Private Limited and their respective shareholders.
3. The meeting of the 2% Non – Cumulative Redeemable Preference Shareholders of the Applicant Company be convened and held at 13, Aradhana Industrial Development Corporation, Near Virwani Industrial Estate, Goregaon (East), Mumbai-400063 on 29<sup>th</sup> May, 2017 at 11:30 a.m. for the purpose of considering and, if thought fit, approving with or without modification(s), the Scheme of Amalgamation and Arrangement between Utkarsh Global Holdings Private Limited, Brihat Investments Private Limited, Harijash Investments Private Limited with Anshul Specialty Molecules Private Limited and their respective shareholders.
4. The meeting of the 2% Cumulative Redeemable Preference Shareholders of the Applicant Company be convened and held at 13, Aradhana Industrial Development Corporation, Near Virwani Industrial Estate, Goregaon (East), Mumbai-400063 on 29<sup>th</sup> May, 2017 at 12:00 p.m. for the purpose of considering and, if thought fit, approving with or without modification(s), the Scheme of Amalgamation and Arrangement between Utkarsh Global Holdings Private Limited, Brihat Investments Private Limited, Harijash Investments Private Limited with Anshul Specialty Molecules Private Limited and their respective shareholders.
5. That at least one month before the said Meeting of the Equity Shareholders, 2% Non – Cumulative Redeemable Preference Shareholders and 2% Cumulative

Redeemable Preference Shareholders of the Applicant Company to be held as aforesaid, a notice convening the said Meeting at the place, date and time 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) Rules, 2016 and the prescribed Form of Proxy, shall be sent by Courier / Registered Post / Speed Post / Hand Delivery 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, 2% Non – Cumulative Redeemable Preference Shareholders and 2% Cumulative Redeemable Preference Shareholders of the Applicant Company, at their last known address or email addresses as per the records of the Applicant Company.

6. That at least one month before the meeting of the Equity Shareholders, 2% Non – Cumulative Redeemable Preference Shareholders and 2% Cumulative Redeemable Preference 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 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) Rules, 2016 and the Form of Proxy can be obtained free of charge at the Registered Office of the Applicant Company as aforesaid and / or at the office of its Advocates, M/s Hemant Sethi & Co., 1602, A Wing, Nav Parmanu, Behind Amar Cinema, Chembur, Mumbai – 400071.
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 one month before the date fixed for the meeting.
8. That Mrs. Usha A Shroff, Director of the Applicant Company shall be the Chairperson of the aforesaid meeting of the Equity Shareholders to be held at 13,

Aradhana Industrial Development Corporation, Near Virwani Industrial Estate, Goregaon (East), Mumbai-400063 on 29th May 2017, at 11.00 a.m. or any adjournment or adjournments thereof.

9. That Mrs. Usha A Shroff, Director of the Applicant Company shall be the Chairperson of the aforesaid meeting of the 2% Non – Cumulative Redeemable Preference Shareholders to be held at 13, Aradhana Industrial Development Corporation, Near Virwani Industrial Estate, Goregaon (East), Mumbai-400063 on 29th May, 2017, at 11.30 a.m. or any adjournment or adjournments thereof.
10. That Mrs. Usha A Shroff, Director of the Applicant Company shall be the Chairperson of the aforesaid meeting of the 2% Cumulative Redeemable Preference Shareholders to be held at 13, Aradhana Industrial Development Corporation, Near Virwani Industrial Estate, Goregaon (East), Mumbai-400063 on 29<sup>th</sup> May, 2017, at 12.00 p.m. or any adjournment or adjournments thereof.
11. That Mr. Prashant Diwan, Practicing Company Secretary, is hereby appointed as Scrutinizer of the meeting of Equity Shareholders, 2% Non – Cumulative Redeemable Preference Shareholders and 2% Cumulative Redeemable Preference Shareholders of the Applicant Company to be held at 13, Aradhana Industrial Development Corporation, Near Virwani Industrial Estate, Goregaon (East), Mumbai-400063 on 29<sup>th</sup> May, 2017 at 11:00 a.m., 11:30 a.m. and 12.00 p.m. respectively or any adjournment or adjournments thereof and his remuneration is fixed as Rs. 15,000/-.
12. That the Chairperson appointed for the aforesaid Meetings to issue the advertisement and send out the notices of the Meetings referred to above. The said Chairperson shall have all powers as per 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 resolution, if any, proposed at the meeting by any person(s).

13. That the quorum of the aforesaid meeting of the Equity Shareholders, 2% Non – Cumulative Redeemable Preference Shareholders and 2% Cumulative Redeemable Preference Shareholders shall be as prescribed under Section 103 of the Companies Act, 2013.
14. That the value and number of shares of each Equity Shareholder shall be in accordance with the books/ register of the Applicant Company and where the entries in the books / register are disputed, the Chairperson of the Meeting shall determine the value for the purpose of the aforesaid meeting and his decision in that behalf would be final.
15. That the value and number of shares of each 2% Non – Cumulative Redeemable Preference Shareholders shall be in accordance with the books/ register of the Applicant Company and where the entries in the books / register are disputed, the Chairperson of the Meeting shall determine the value for the purpose of the aforesaid meeting and his decision in that behalf would be final.
16. That the value and number of shares of each 2% Cumulative Redeemable Preference Shareholders shall be in accordance with the books/ register of the Applicant Company and where the entries in the books / register are disputed, the Chairperson of the Meeting shall determine the value for the purpose of the aforesaid meeting and his decision in that behalf would be final.
17. That the Chairperson 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 directions regarding the issue of notices and the advertisement have been duly complied with.
18. That the Chairperson of the meeting to report to this Tribunal, the results of the aforesaid meeting within thirty days of the conclusion of the meeting.
19. That Counsel for the Applicant Company submits that there are no secured and Unsecured Creditors in the Applicant Company, therefore the question of sending notices to the Secured and Unsecured Creditors does not arise.

20. 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, and (iii) Registrar of Companies, as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 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 proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
21. The Applicant Company to serve the notice upon the Official Liquidator, High Court, Bombay pursuant to Section 230(5) of the Companies Act, 2013. The Tribunal is appointing Chartered Accountant, M/s USM & Associates with remuneration of Rs. 20,000/- for their services. If no response is received by the Tribunal from Official Liquidator within thirty days of the date of receipt of the notice, it will be presumed that Official Liquidator has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
22. 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 directions regarding the issue of notices have been duly complied with.

Sd/-

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

Sd/-

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