

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH
COMPANY SCHEME APPLICATION NO. 536 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.

And

In the matter of Scheme of Arrangement between Atos India Private Limited ('Demerged Company' or 'Applicant Company') and Atos Global IT Solutions and Services Private Limited. ('Resulting Company')

And

Their Respective Shareholders

ATOS INDIA PRIVATE LIMITED, a)
company incorporated under the)
Companies Act, 1956 having its)
Registered Office at Godrej & Boyce)
Complex, Plant 5, Pirojshanagar, LBS)
Marg, Vikhroli West, Mumbai - 400079)
CIN.NO: U74140MH1983PTC030711)
... Applicant Company.

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

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

V. Nallasenapathy, Member (Technical)

DATE: 1ST May, 2017

MINUTES OF THE ORDER

1. The Counsel for the Applicant Company states that the present Scheme is a Scheme of Arrangement between Atos India Private Limited ('Demerged Company' or 'Applicant Company') and Atos Global IT Solutions and Services Private Limited ('Resulting Company').
2. Atos India Private Limited and Atos Global IT Solutions and Services Private Limited are part of the same group of companies. Atos currently operates two strategic business units, namely:
 - i. Global Delivery Centre Business which consists of application management, consulting services, business integration and business, process solutions, security solutions and cloud services being offered to the Atos Group Companies;
 - ii. Local business which consists of application management, consulting services, business integration and business process solutions, security solutions and cloud services being offered to any third party customer
3. The scheme envisages segregation of Global Delivery Centre Business from Atos India Private Limited into Atos Global IT Solutions and Services Private Limited. The Counsel for the Applicant Company further submits that the proposed Scheme would benefit the Applicant Company and other stakeholders of the Applicant Company on account of the following reasons:
 - a. Dedicated management focus for each business;
 - b. Accelerate independent growth of businesses unlocking significant value for the shareholders;
 - c. Greater visibility on the performance of individual businesses;
 - d. Attribution of appropriate risk and valuation to different business based on their respective risk return profile and cash flows;
 - e. Access to various funding options for rapid growth for each of the businesses; and
 - f. Enhanced strategic flexibility.
4. That the meeting of the Equity Shareholders of the Applicant Company be convened and held at Godrej & Boyce Complex, Plant 5, Pirojshanagar, LBS Marg, Vikhroli West, Mumbai – 400079, Maharashtra, on Tuesday, 6th day of June, 2017 at 11.00 a.m. for the purpose of considering and, if thought fit,

approving with or without modification(s) the proposed arrangement embodied in the Scheme of Arrangement between Atos India Private Limited and Atos Global IT Solutions and Services Private Limited and their respective shareholders.

5. At least one month before the said meeting of the Equity 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) Rule, 2016 notified on 14th December 2016 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 or by email (to those shareholders whose email addresses are duly registered with the Applicant Company for the purpose of receiving such notices by email) to each of the Equity Shareholders of the Applicant Company at their respective registered or last known addresses or e-mail address of the Equity Shareholders as per the records of the Applicant Company.
6. At least one month before the said 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 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 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 Nav Parmanu, Behind Amar Cinema, Chembur, Mumbai – 400071.
7. That the Notice of the aforesaid meetings shall be advertised in two local newspapers viz. 'Free Press Journal' in English and 'Navshakti' in Marathi, both circulated in Mumbai not less 30 days before the date fixed for the meeting.
8. That Mr. Milind Kamat, Director of the Applicant Company shall be the Chairperson of the meeting of Equity Shareholders and failing him, Mr. Vinay

Aggarwal, Director of the Applicant Company shall be the alternate Chairperson of the said meeting to be held at 11 a.m. or any adjournment or adjournments thereof.

9. That Ms. Vandana Thakur, Proprietor of M/s. Vandana J Thakur & Associates, Practicing Company Secretary is hereby appointed as Scrutinizer of the meeting of Equity Shareholders of the Applicant Company be convened and held at Godrej & Boyce Complex, Plant 5, Pirojshanagar, LBS Marg, Vikhroli West, Mumbai – 400079, Maharashtra on Tuesday, 6th day of June, 2017 at 11.00 a.m. or any adjournment or adjournments thereof. The fees of the scrutinizer is fixed at Rs. 5,000/-.
10. That the Chairperson appointed for the aforesaid meeting to issue the advertisement and send out the notices of the meeting 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 resolution, if any, proposed at the meeting by any person(s).
11. The quorum for the aforesaid meetings of the Equity Shareholders shall be as prescribed under Section 103 of the Companies Act, 2013.
12. The voting by proxy or authorised 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, are filed with the Applicant Company at the Registered Office, not later than, 48 hours before the aforesaid Equity Shareholders meeting.
13. The value and number of the shares of each Equity Shareholder shall be in accordance with the books/ register of the Applicant Company or depository records and where the entries in the books / register / depository records are disputed, the Chairperson of the Meeting shall determine the value for the purpose of the aforesaid meeting of the Equity Shareholders of the Applicant Company and his decision in that behalf would be final.
14. The Chairperson of the Applicant Company to file an affidavit not less than seven days before the date fixed for the holding of the meeting and to report to

this Tribunal that the direction regarding the issue of notices and the advertisement have been duly complied with.

15. The Chairperson of the Applicant Company to report to this Tribunal, the result of the aforesaid meeting within thirty days of the conclusion of the meeting.
16. That the Applicant Company is directed to serve notices along with copy of the 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; and
 - (iii) Registrar of Companies, Mumbai with an intimation that they may, if they so wish, submit their representations, if any, within a period of thirty days from the date of receipt of such notice with the Tribunal with copy of such representations simultaneously served upon the Applicant Company, failing which, it shall be presumed that the authorities have no representations to make on the proposed arrangement embodied in the Scheme.
17. The Chairperson appointed, respectively for the aforesaid Equity Shareholders meeting to issue the notice of the meetings referred to above. The said Chairperson shall have all powers under the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 in relation to the conduct of the meeting(s), including for deciding procedural questions that may arise or at any adjournment thereof.
18. The Counsel for the Applicant Company submits that there are no Secured Creditors in the Applicant Company and therefore, the question of sending notices to the Secured Creditors does not arise. That Counsel for the Applicant Company submits that since the Scheme is an Arrangement between the Applicant Company and their respective shareholders, only a meeting of the Equity Shareholders of the Applicant Company 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 having an outstanding balance of Rs. 1,00,000/- and above 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.

19. That the Applicant Company is directed to file affidavit of service in the Registry proving dispatch of notices upon shareholders, Creditors, publication of notices in newspapers and to all Regulatory authorities as stated in clause 16 above and to 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)