

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,

MUMBAI BENCH

COMPANY SCHEME APPLICATION NO 2 OF 2017

In the matter of the Companies Act, 2013;

AND

In the matter of Sections 230 to 232 of the Companies Act, 2013;

AND

In the matter of Scheme of Amalgamation of Gauss Networks Private Limited having CIN U72200MH2013PTC288316 (the Transferor Company) with Delta Corp Limited having CIN L65493PN1990PLC058817 (the Transferee Company) and their respective Shareholders and Creditors

Delta Corp Limited, a Company incorporated

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under the provisions of Companies Act, 1956

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having its registered office at 10, Kumar Place, 2408,

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General Thimayya Road, Pune, Maharashtra – 411001

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CIN L65493PN1990PLC058817

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..... First

Applicant Company

Gauss Networks Private Limited, a Company incorporated

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under the provisions of Companies Act, 1956

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having its registered office at Office no. 115, 1st floor, Bayside mall,

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35-C, Tardeo, Pt. Madan Mohan Malviya Road, Mumbai-400034,

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Maharashtra. CIN U72200MH2013PTC288316

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..... Second

Applicant Company

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

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

V. Nallasenapathy, Member (Technical)

DATE: 18th January 2017

MINUTES OF THE ORDER

UPON an common Application filed by the First Applicant Company and the Second Applicant Company above named by a Company Application **AND UPON HEARING** Mr. Hemant Sethi instructed by Hemant Sethi & Co., Advocates for the First Applicant Company and the Second Applicant Company, **AND UPON READING** the Application dated 22nd day of December, 2016 of Mr. Dilip Vaidya, Authorised Signatory of the First Applicant Company and the Second Applicant Company, verified by an Affidavit and the Annexures therein referred to, **IT IS ORDERED THAT:**

1. The meeting of the Equity Shareholders of the First Applicant Company be convened and held at Hotel Conrad, 7 Mangaldas Road, Sangamvadi, Pune, Maharashtra 411001 on Thursday, 2nd day of March, 2017 at 3.00 pm for the purpose of considering and, if thought fit, approving with or without modification(s) the proposed arrangement embodied in the Scheme of Amalgamation of Gauss Networks Private Limited (Transferor Company) with Delta Corp Limited (Transferee Company) and their respective Shareholders.
2. In compliance with Clause 9 of SEBI Circular No. CIR/CFD/CMD/16/2015 dated 30th November 2015, the First Applicant Company will also obtain the approval of shareholders to the said Scheme of Amalgamation through e-voting.
3. That at least 30 clear days before the said Meeting of the Equity Shareholders of the First 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 Courier / Registered Post / Speed Post or through Email (to those shareholders whose email addresses are duly registered with the First Applicant Company for the purpose of receiving such notices by email), addressed to each of the Equity Shareholders of the First Applicant Company, at their last known address or email addresses as per the records of the First Applicant Company.

4. That at least 30 clear days before the meeting of the Equity Shareholders of the First 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 First 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.
5. That the Notice of the Meeting shall be advertised in two local newspapers viz. “Times of India” in English and “Maharashtra Times” in Marathi, both circulated in Pune and also in “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.
6. That Mr. Jaydev Mody, Chairman of the First Applicant Company, and failing him, Mr. Ashish Kapadia, Managing Director of the First Applicant Company and failing him Mr. Ravindra Kumar Jain, Director of Applicant Company and failing him Mr. Rajesh Jaggi, also Director of Applicant Company shall be the Chairman of the aforesaid meeting of the Equity Shareholders to be held at Hotel Conrad, 7 Mangaldas Road, Sangamvadi, Pune, Maharashtra 411001 on Thursday, 2nd day of March, 2017 at 3.00 pm or any adjournment or adjournments thereof.

7. That Mr. Ashish Jain, Practicing Company Secretary is hereby appointed as Scrutinizers of the meeting of Equity Shareholders of the First Applicant Company to be held at Hotel Conrad, 7 Mangaldas Road, Sangamvadi, Pune, Maharashtra 411001 on Thursday, 2nd day of March , 2017 at 3.00 pm or any adjournment or adjournments thereof and his remuneration is fixed as Rs. 30,000/-.
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 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).
9. That the quorum of the aforesaid meeting of the Equity Shareholders shall be as prescribed under Section 103 of the Companies Act, 2013.
10. 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 First Applicant Company at its Registered Office at 10, Kumar Place, 2408, General Thimayya Road, Pune, Maharashtra – 411001 not later than 48 hours before the aforesaid meeting.
11. That the value and number of the shares of each Equity Shareholder shall be in accordance with the books/ register of the First Applicant Company or depository records and where the entries in the books / register / depository records 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.
12. 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.

13. 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.
14. That the meeting of the Secured Creditors of the First Applicant Company for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed arrangement embodied in the Scheme of Amalgamation of Gauss Networks Private Limited (Transferor Company) with Delta Corp Limited (Transferee Company) and their respective Shareholders is not required to be convened in view of the averments made in paragraph 20 of the Application. However the First Applicant Company is directed to issue notice to all its Secured Creditors as on December 31, 2016 under section 230(3) of the Companies Act, 2013 with a direction that they may submit their representations, if any, within a period of thirty days from the date of receipt of such notice to the Tribunal and copy of such representations shall simultaneously be served upon the First Applicant Company, failing which, it shall be presumed that the Creditor has no representations to make on the proposals.
15. That the meeting of the Unsecured Creditors of the First Applicant Company for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed arrangement embodied in the Scheme of Amalgamation of Gauss Networks Private Limited (Transferor Company) with Delta Corp Limited (Transferee Company) and their respective Shareholders is not required to be convened in view of the averments made in paragraph 21 of the Application. However the First Applicant Company is directed to issue notice to all its Unsecured Creditors as on December 31, 2016 under section 230(3) of the Companies Act, 2013 with a direction that they may submit their representations, if any, within a period of thirty days from the date of receipt of such notice to the Tribunal and copy of such representations shall simultaneously be served upon the First Applicant Company, failing which, it shall be presumed that the Creditor has no representations to make on the proposals.

16. The meeting of the Members of the Second Applicant Company be convened and held at the registered office of the Second Applicant Company at Office no. 115, 1st floor, Bayside mall, 35-C, Tardeo, Pt. Madan Mohan Malviya Road, Mumbai-400034 on Tuesday, 28th day of February, 2017 at 2.00 pm for the purpose of considering and, if thought fit, approving with or without modification(s) the proposed arrangement embodied in the Scheme of Amalgamation of Gauss Networks Private Limited (Transferor Company) with Delta Corp Limited (Transferee Company) and their respective Shareholders.
17. That at least 30 clear days before the said Meeting of the Members of the Second 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 Courier / Registered Post / Speed Post or through Email (to those Members whose email addresses are duly registered with the Second Applicant Company for the purpose of receiving such notices by email), addressed to each of the Members of the Second Applicant Company, at their last known address or email addresses as per the records of the Second Applicant Company.
18. That at least 30 clear days before the meeting of the Members of the Second 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 Second 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.

19. 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.
20. That Mr. Anuj Gupta, Director of the Second Applicant Company, and failing him, Mr. Mohit Agarwal, Director of the Second Applicant Company, and failing him, Mr. Mukesh Agarwal, shall be the Chairman of the aforesaid meeting of the Members to be held at the registered office of the Second Applicant Company at Office no. 115, 1st floor, Bayside mall, 35-C, Tardeo, Pt. Madan Mohan Malviya Road, Mumbai-400034 on Tuesday, 28th day of February, 2017 at 2.00 pm or any adjournment or adjournments thereof.
21. That Mr. Ashish Jain, Practicing Company Secretary is hereby appointed as Scrutinizers of the meeting of Members of the Second Applicant Company to be held at the registered office of the Second Applicant Company at Office no. 115, 1st floor, Bayside mall, 35-C, Tardeo, Pt. Madan Mohan Malviya Road, Mumbai-400034 on Tuesday, 28th day of February, 2017 at 2.00 pm or any adjournment or adjournments thereof and his remuneration is fixed as Rs. 30,000/-.
22. 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 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).
23. That the quorum of the aforesaid meeting of the Members shall be as prescribed under Section 103 of the Companies Act, 2013.

24. 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 Second Applicant Company at its Registered Office at Office no. 115, 1st floor, Bayside mall, 35-C, Tardeo, Pt. Madan Mohan Malviya Road, Mumbai-400034 not later than 48 hours before the aforesaid meeting.
25. That the value and number of the shares of each Member shall be in accordance with the books / register of the Second Applicant Company or depository records and where the entries in the books / register / depository records 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.
26. 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.
27. 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.
28. That the meeting of the Unsecured Creditors of the Second Applicant Company for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed arrangement embodied in the Scheme of Amalgamation of Gauss Networks Private Limited (Transferor Company) with Delta Corp Limited (Transferee Company) and their respective Shareholders is not required to be convened in view of the averments made in paragraph 23 of the Application. However the Second Applicant Company is directed to issue notice to all its Unsecured Creditors as on December 31, 2016 under section 230(3) of the Companies Act, 2013 with a direction that they may submit their representations, if any, within a period of thirty days from the date of receipt of such notice to the Tribunal and copy of such representations shall simultaneously be served upon the Second Applicant Company,

failing which, it shall be presumed that the Creditor has no representations to make on the proposals.

29. The First Applicant Company is directed to serve notices along with copy of scheme upon:- (i) concerned Income Tax Authority with in whose jurisdiction the First Applicant Company's assessments are made,(ii) to Securities and Exchange Board of India(iii) the Central Government through the office of Regional Director, Western region, Mumbai (iv) BSE Limited and (v) National Stock Exchange of India Limited (NSE),with a direction that they may submit their representations, if any, within a period of thirty days from the date of receipt of such notice to the Tribunal with copy of such representations shall simultaneously be served upon the First Applicant Company, failing which, it shall be presumed that the authorities have no representations to make on the proposals.

30. The Second Applicant Company is directed to serve notices along with copy of scheme upon:- (i) concerned Income Tax Authority with in whose jurisdiction the Second Applicant Company's assessments are made, (ii) the Central Government through the office of Regional Director, Western region, Mumbai with a direction that they may submit their representations, if any, within a period of thirty days from the date of receipt of such notice to the Tribunal with copy of such representations shall simultaneously be served upon the Second Applicant Company, failing which, it shall be presumed that the authorities have no representations to make on the proposals.

31. The Second Company is also directed to serve notice along with copy of scheme upon Official Liquidator. M/s Shetty & Bala, Chartered Accountants are appointed to assist the Official Liquidator to scrutinize books of accounts of the Second Applicant Company for the last 3 years. The Second Applicant Company to pay fees of Rs. 1,00,000/- within a period one week from today.

32. Applicant Companies to file affidavit of service in the Registry proving dispatch of notices upon shareholders, creditors, publication of notice in newspapers and notices to Regulatory authorities as stated in clauses 29 and 30 above.

Sd/-

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

Sd/-

V. Nallasenapathy, Member (Technical)