

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,

MUMBAI BENCH

COMPANY SCHEME APPLICATION NO 163 OF 2017

In the matter of the Companies Act, 2013

And

In the matter of Heritage Foods Limited ('Transferor Company') and Heritage Foods Retail Limited ('Transferee Company' or 'Demerged Company') and Future Retail Limited ('Resulting Company' or 'Applicant Company') and their respective Shareholders and Creditors

And

In the matter of Sections 230 read with Section 232 and Section 52 and Section 66 and other applicable provisions of the Companies Act, 2013

Future Retail Limited, a Company incorporated	}	
under the provisions of Companies Act, 1956	}	
having its registered office at Knowledge House,	}	
Shyam Nagar, Off Jogeshwari – Vikhroli Link Road,	}	
Jogeshwari (East), Mumbai – 400 060	}	
CIN L51909MH2007PLC268269	}	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: 23rd February , 2017

MINUTES OF THE ORDER

1. The Counsel for the Applicant submits that the present Scheme is a Composite Scheme of Arrangement among Heritage Foods Limited ('Transferor Company') and Heritage Foods Retail Limited ('Transferee Company' or 'Demerged Company') and Future Retail Limited ('Resulting Company') and their respective Shareholders and Creditors. The Scheme inter-alia provides for the demerger of the Retail Undertaking of Heritage Foods Retail Limited into Future Retail Limited.
2. The Composite Scheme of Arrangement involving the Transferor Company, the Transferee Company and the Applicant Company would have the following benefits:
 - a. facilitate each business to be effectively integrated for achieving growth for each of the verticals independently;
 - b. enhance management focus and operational flexibility;
 - c. facilitate investment by strategic players;
 - d. create a platform to enhance financial flexibility to pursue growth;
 - e. consolidation of the retail operations of the Applicant Company and the Transferee Company;

- f. unlocking of value; and
 - g. synergies expected to bring in cost savings in the marketing, selling and distribution expenses for the Applicant Company.
3. The meeting of the Equity Shareholders of the Applicant Company be convened and held at Rangswar, Fourth Floor, Y. B. Chavan Centre, Gen. Jagannath Bhosale Marg, Mumbai - 400 021 on Thursday, the 6th day of April, 2017 at 10:30 am for the purpose of considering and, if thought fit, approving with or without modification(s) the proposed arrangement embodied in the Composite Scheme of Arrangement among Heritage Foods Limited and Heritage Foods Retail Limited and Future Retail Limited and their respective Shareholders and Creditors.
 4. In compliance with Clause 9 of SEBI Circular No. CIR/CFD/CMD/16/2015 dated 30th November 2015, the Applicant Company will also obtain the approval of shareholders to the said Scheme of Arrangement through e-voting.
 5. That at least 30 clear days 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 Section 102 of the Companies Act, 2013 and 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 Applicant Company for the purpose of receiving such notices by email), addressed to each of the Equity 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 30 clear days 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 copies of the Scheme and the statement required to be furnished pursuant to Section 230(3) of the Companies Act 2013 read with Section 102 of the Companies Act, 2013 and 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, 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. 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.
8. That Mr. Kishore Biyani, Chairman and Managing Director of the Applicant Company, and failing him, Mr. Rakesh Biyani, Joint Managing Director and failing him, Ms. Gagan Singh, Independent Director of the Applicant Company shall be the Chairman / Chairperson of the aforesaid meeting of the Equity Shareholders to be held at Rangswar, Fourth Floor, Y. B. Chavan Centre, Gen.

Jagannath Bhosale Marg, Mumbai - 400 021 on Thursday, the 6th day of April, 2017 at 10:30 am or any adjournment or adjournments thereof.

9. That Ms. Bindu Darshan Shah (Membership No. 20066 /CP No. 7378), Proprietor - M/s. K. Bindu & Associates, Practicing Company Secretaries is hereby appointed as Scrutinizer of the meeting of Equity Shareholders of the Applicant Company to be held at Rangswar, Fourth Floor, Y. B. Chavan Centre, Gen. Jagannath Bhosale Marg, Mumbai - 400 021 on Thursday, the 6th day of April, 2017 at 10:30 am or any adjournment or adjournments thereof and her remuneration is fixed as Rs. 25,000/- (Rupees Twenty Five Thousand Only) excluding any applicable taxes thereon and other out of pocket expenses at actuals.
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 any other matter including an amendment to the Scheme or resolution, if any, proposed at the meeting by any person(s).
11. That the quorum of the aforesaid meeting of the Equity Shareholders shall be as prescribed under Section 103 of the Companies Act, 2013.
12. 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 Knowledge House, Shyam Nagar, Off Jogeshwari – Vikhroli Link Road, Jogeshwari (East), Mumbai – 400 060 not later than 48 hours before the aforesaid meeting.

13. That 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 and his decision in that behalf would be final.
14. 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 direction regarding the issue of notices and the advertisement have been duly complied with.
15. 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.
16. 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 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 its Secured Creditors as on 31st January, 2017 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.

17. 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 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 its Unsecured Creditors as on 31st January 2017 of the value of Rs. 2,00,000/ - and above representing about 99% of the value of creditors 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.
18. 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) Registrar of Companies, (iv) BSE Limited, (v) National Stock Exchange of India Limited, (vi) Securities and Exchange Board of India, and (vii) Competition Commission of India, 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 arrangement embodied in the Scheme.

19. The 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 18 above and publication of notice in newspapers.

Sd/-

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

Sd/-

V. Nallasenapathy, Member (Technical)