

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH
TRANSFER COMPANY SCHEME APPLICATION NO. 55 OF 2017
CONNECTED WITH
B.H.C. COMPANY SUMMONS FOR DIRECTION (L) NO. 1091 OF 2016**

In the matter of the Companies Act, 1956 or any re-enactment thereof;

And

In the matter of Application under Sections 391 to 394 and other relevant provisions of the Companies Act, 1956 or any re-enactment thereof;

And

In the matter of HGP Community Private Limited [CIN: U45201MH2016PTC274222], a company, incorporated under the Companies Act, 2013, having its registered office at 514 Dalamal Towers, 211 Free Press Journal Marg, Nariman Point, Mumbai 400021, Maharashtra;

And

In the matter of the Scheme of Arrangement amongst HGP Community Private Limited and Festus Properties Private Limited and Melronia Hospitality Private Limited and their respective shareholders and creditors and reduction of share capital of the HGP Community Private Limited.

HGP Community Private Limited [CIN:)
U45201MH2016PTC274222], a company,)
incorporated under the Companies Act, 2013,)
having its registered office at 514 Dalamal)
Towers, 211 Free Press Journal Marg, Nariman)
Point, Mumbai 400021, Maharashtra.) ...Applicant Company

Mr. Chetan Kapadia, Advocate, along with Mr. Tapan Deshpande and Ms. Priya Patwa, Advocates i/b M/s. Cyril Amarchand Mangaldas, Advocates for the Applicant Company.

Coram: B.S.V. Prakash Kumar, Member (Judicial)
V Nallasenapathy, Member (Technical)
Date: 15th March, 2017

MINUTES OF THE ORDER

UPON the Application of the Applicant Company above named by the Company Summons for Direction and upon hearing Mr. Chetan Kapadia, Advocate for the Applicant Company AND UPON READING the Affidavit dated 13th December, 2016 of Dr. Arun Shetty, a Director of the Applicant Company in support of the Company Summons for Direction and the Exhibits referred therein AND UPON READING the further Affidavit dated 14th March, 2017 of Dr. Arun Shetty, a Director of the Applicant Company, **IT IS ORDERED:**

1. That the meeting of the equity shareholders of the Applicant Company be convened and held at the Main Conference Room, 3rd Floor, Olympia Building, Central Avenue, Hiranandani Garden, Powai, Mumbai 400076, on Wednesday, the 26th day of April, 2017 at 11:30 a.m. for the purpose of considering and, if thought fit, approving the Scheme of Arrangement amongst HGP Community Private Limited and Festus Properties Private Limited and Melronia Hospitality Private Limited and their respective shareholders and creditors and reduction of share capital of the HGP Community Private Limited (**Scheme of Arrangement**).
2. That at least 30 clear days before the said meeting of the equity shareholders of the Applicant Company to be held as aforesaid, Notice of the said meeting together with copy of the Scheme of Arrangement, a copy of the 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) Rules, 2016

prescribed Form of Proxy, and other relevant documents as set out in Section 230 (3) of the Companies Act, 2013, as applicable shall be sent by Courier / Registered Post, Speed Post or through e-mail (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 shareholder of the Applicant Company, at their last known address or email addresses as per the records available with the Applicant Company.

3. That at least 30 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 the meeting as aforesaid, be published in Free Press Journal in English language and in Navshakti in Marathi language, both circulated in Mumbai stating that copies of the Scheme of Arrangement 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 shall be obtained free of charge at the registered office of the Applicant Company as aforesaid and / or at the offices of its Advocates, Cyril Amarchand Mangaldas, 5th Floor Peninsula Chambers, Peninsula Corporate Park, Ganpatrao Kadam Marg, Lower Parel, Mumbai 400013.
4. The Applicant Company undertakes to:
 - i. Issue Notice convening the meeting of the equity shareholders as per Form No. CAA 2 (Rule 6) of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016;

- ii. Issue Statement containing all the particulars as per Section 230 of the Companies Act, 2013;
- iii. Issue Form of Proxy as per Form No. MGT- 11 (Rule 19) of the Companies (Management and Administration) Rules, 2014; and
- iv. Advertise the Notice convening the meeting as per Form No. CAA 2 (Rule 7) the Companies (Compromises, Arrangements and Amalgamation) Rules, 2016.

The undertaking is accepted.

5. That Dr. Arun Shetty, a Director of the Applicant Company, failing him, Mrs. Asha Bhatia, a Director of the Applicant Company and failing her, Mr. N. Shridhar, Group Director of the Hiranandani Group shall be the Chairman of the aforesaid meeting of the equity shareholders to be held, on Wednesday, the 26th day of April, 2017 at 11:30 a.m. or any adjournments thereof. The Scrutinizer for the meeting shall be Mr. Girish Papat, practicing Company Secretary (Membership No. ACS 17433).
6. 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, under the Companies Act, 2013 and Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 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).

7. That the quorum of the aforesaid meeting of the equity shareholders shall be as prescribed under Section 103 of the Companies Act, 2013.
8. That voting by proxy or by 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 514 Dalamal Towers, 211 Free Press Journal Marg, Nariman Point, Mumbai 400021, Maharashtra, not later than 48 hours before the aforesaid meeting.
9. That the value and the 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 entities 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.
10. 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.
11. That the Chairman of the meeting to report to this Tribunal, the results of the aforesaid meeting within three (3) days of the conclusion of the meeting and the said Affidavit shall be verified by his Affidavit as per Rule 12 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
12. That the convening and holding the meeting of the secured creditors of the Applicant Company for the purpose of considering and if thought fit, approving the Scheme of Arrangement is not required to be held in view

of the averments made in paragraph 20 of the Affidavit dated 13th December, 2016 in support of the Company Summons for Directions and paragraph 6 of the further Affidavit of Dr. Arun Shetty dated 14th March, 2017. In terms of paragraph 6 of the said further Affidavit, out of the total secured liabilities of INR 8498,01,83,839/- (Eight Thousand Four Hundred Ninety Eight Crore, One Lakh, Eighty Three Thousand Eight Hundred and Thirty Nine Only), 3 secured creditors viz. Housing Development Finance Corporation Ltd. (HDFC), Axis Bank and Apex Constructions whose total secured outstanding is INR 8358,87,26,770/- (Rupees Eight Thousand Three Hundred and Fifty Eight crores, Eighty-seven lakhs, Twenty-six thousand seven hundred and seventy only) as on 8th March, 2017 being more than 98% of the total outstanding secured loans, have by their respective consent affidavits (being Exhibits C-1 to C-3 thereto) given their consent to the Scheme of Arrangement. The Applicant Company is directed to issue notice of the meeting to all its secured creditors as on 8th March, 2017 under Section 230(3) of the Companies Act, 2013, with a direction that they may submit their representations, if any.

13. That the convening and holding the meeting of the unsecured creditors of the Applicant Company for the purpose of considering and if thought fit, approving the said Scheme of Arrangement, is not required to be held, in view of the averments made in paragraph 21 of the Affidavit dated 13th December, 2016 in support of the Company Summons for Directions and paragraph 7 of the further Affidavit of Dr. Arun Shetty dated 14th March, 2017. In terms of paragraph 7 of the said further Affidavit, out of the total unsecured liabilities of INR 2543,40,11,199/- (Two Thousand Five Hundred Forty Three Crore, Forty Lakhs Eleven Thousand One Hundred and Ninety

Nine Only) as on 8th March, 2017, 1 unsecured creditor whose aggregate outstanding of INR 2409,15,78,942/- (Two Thousand Four Hundred and Nine Crore, Fifteen Lakhs Seventy Eight Thousand Nine Hundred and Forty Two Only) being more than 94% of the total unsecured liability, have by its consent affidavit duly agreed, confirmed, approved and consented to the Scheme of Arrangement, subject to such modification and changes therein, as may be deemed fit by the Board of Directors of both the companies and this Tribunal. The Applicant is directed to issue notice to all its unsecured creditors, whose outstanding is INR 2,00,000/- and above, as on 8th March, 2017 under Section 230 (3) of the Companies Act, 2013 with a direction that they may submit their representations, if any.

14. That the Applicant Company to serve the notice upon the Central Government through the Regional Director, Western Region, Ministry of Corporate Affairs, Mumbai, Maharashtra, pursuant to Section 230 (5) of the Companies Act, 2013 as per Rule 8 of Companies (Compromises, Arrangements and Amalgamations) Rules 2016. If no response is received by the Tribunal from the Regional Director within 30 days of the date of receipt of the notice, it will be presumed that the Regional Director and/or the Central Government has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules 2016.
15. That the Applicant Company to serve the notice upon the Registrar of Companies, pursuant to Section 230 (5) of the Companies Act, 2013 as per Rule 8 of Companies (Compromises, Arrangements and Amalgamations) Rules 2016. If no response is received by the Tribunal from the Registrar of Companies within 30 days of the date of receipt of the notice, it will be presumed that the Registrar of Companies has no objection to the

proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules 2016.

16. That the Applicant Company to serve the notice upon the concerned Income Tax Authority within whose jurisdiction the Applicant Company's assessment are made, pursuant to Section 230 (5) of the Companies Act, 2013 as per Rule 8 of Companies (Compromises, Arrangements and Amalgamations) Rules 2016. If no response is received by the Tribunal from the concerned Income Tax Authority within 30 days of the date of receipt of the notice, it will be presumed that the concerned Income Tax Authority has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules 2016.
17. That the Applicant Company undertakes to file an Affidavit proving service of notice on the unsecured creditors, Central Government through the Regional Director, Registrar of Companies, concerned Income Tax Authority, and publication of notice of the meeting in newspapers, not less than seven (7) days before the date fixed for the holding of the meeting.

Sd/-

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

Sd/-

V. Nallasenapthy,
Member (Technical)