

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, MUMBAI

TRANSFERRED COMPANY SCHEME APPLICATION NO. 254 OF 2017

In the matter of Companies Act, 1956,
(1 of 1956);

AND

In the matter of Sections 391 to 394 of
the Companies Act, 1956; (to the
extent applicable provisions of the
Companies Act, 2013)

AND

In the matter of Scheme of
Amalgamation of Ikebonsai
Investments & Traders Private
Limited with Mogra Investments
Private Limited and Their respective
shareholders

Mogra Investments Private)
Limited, a company)
incorporated under the)
provisions of Companies Act,)
1956, having its Registered office)
at 78-A, Hingorani House, Gr)
Floor, Dr Annie Besant Road,)
Worli, Mumbai - 400 018,)
Maharashtra, India.

.....Applicant Company

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

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

DATE: 22nd March, 2017

MINUTES OF THE ORDER

1. The Counsel for the Applicant submits that present Scheme is an Amalgamation of Ikebonsai Investments & Traders Private Limited with Mogra Investments Private Limited and their respective shareholders. The Counsel for the Applicant further submits that the Applicant Company is engaged in the business of investment & financing activity.
2. The Counsel for the Applicant further submit that Board of Directors of both the Companies i.e. Ikebonsai Investments & Traders Private Limited, the Transferor Company and Mogra Investments Private Limited, the Transferee Company anticipate the following benefits pursuant to the Scheme:

- i. Combined capital resources would strengthen the financial position of the merged entity and result in increasing leveraging capacity of the merged entity i.e. its capacity to borrow funds for business purposes.
 - ii. Avoiding duplication of efforts, costs and resources.
 - iii. Lesser regulatory / procedural compliance.
 - iv. Move towards creating a future business plan by taking advantage of the combined resource pool.
 - v. Cost saving in fees/ duties payable on statutory and procedural compliance.
3. A meeting of the Equity Shareholders of the Applicant Company, be convened and held at the registered office of the Applicant Company at its Registered office at 78-A, Hingorani House, Gr Floor, Dr Annie Besant Road, Worli, Mumbai - 400 018 049 on 2nd day of May, 2017 at 11 a.m. for the purpose of considering and if thought fit, approving, with or without modification(s), the proposed Scheme of Amalgamation of Ikebonsai Investments & Traders Private Limited with Mogra Investments Private Limited and Their respective shareholders .
4. That at least one month before the said Meeting of the Equity shareholders of the Applicant Company to be held as aforesaid, together with the copy of the scheme, a copy of 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) 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 Company, at their last known address or email addresses as per the records of the Applicant Company.
5. That at least one month 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 the 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 shall be obtained free of charge at the Registered Office of the Applicant Company as aforesaid and / or at the offices of its Advocates, M/s Hemant Sethi & Co., 1602 Nav Parmanu, Behind Amar Cinema, Chembur Mumbai – 400071.

6. Mr. Indru B. Hingorani, Director of the Applicant Company failing him, Mrs. Kiran I. Hingorani, Director of the Applicant Company, shall be the alternative Chairman of the aforesaid Meeting to be held at its Registered office at 78-A, Hingorani House, Gr Floor, Dr Annie Besant Road, Worli, Mumbai - 400 018 on 2nd day of May, 2017 at 11 a.m. or any adjournments thereof.
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 30 days before the date fixed for the meeting.
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 the powers as per the 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.
9. The quorum for the aforesaid meeting of the Equity Shareholders shall be as prescribed under Section 103 of the Companies Act, 2013.
10. The value and number of the Equity shares of each member shall be in accordance with the books/ register of the Applicant Company and where the entries in the books/ register 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.
11. 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 78-A, Hingorani House, Gr Floor, Dr Annie Besant Road, Worli, Mumbai - 400 018 not later than 48 hours before the aforesaid meeting.
12. That Mr. P. S. Gupchup, practising Company Secretary is hereby appointed as Scrutinizer of the meeting of Equity Shareholders of the Applicant Company to be held at Registered office at 78-A, Hingorani House, Gr Floor, Dr Annie Besant Road, Worli, Mumbai - 400 018 on 2nd day of May, 2017 at 11.00 am or any adjournments thereof. The fees of the scrutinizer is fixed at Rs 5000.
13. 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.

14. 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.
15. The Counsel for the Applicant Company submits that there are no Secured Creditors in the Applicant Company, therefore the question of sending notices to the Secured Creditors does not arise. The Counsel for the Applicant further 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 Un-Secured creditors of the Applicant Company 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.
16. 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) to the Registrar of Companies, Mumbai 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 proposal.
17. Applicant Company to file affidavit of service in the Registry proving dispatch of notices upon shareholders, Un-Secured Creditors, notices to Regulatory authorities as stated in clause 16 above and publication of notice in newspapers.

Sd/-

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

Sd/-

V. Nallasenapathy, Member (Technical)