

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
BENCH AT MUMBAI
COMPANY SCHEME APPLICATION NO. 50 OF 2017**

(High Court transferred Company Summons for Direction (L) No. 778 of 2016)

IN THE MATTER of the Companies Act, 2013
(and the erstwhile Companies Act, 1956);

AND

IN THE MATTER of Sections 230-232 of the
Companies Act, 2013 (and the erstwhile Sections
391 to 394 of the Companies Act, 1956);

AND

IN THE MATTER of Sunflower Investments &
Textiles Limited;

AND

IN THE MATTER of Composite Scheme of
Arrangement of N.W. Exports Limited, Sunflower
Investments & Textiles Limited and
NowrosjeeWadia& Sons Limited, with their
respective shareholders.

Sunflower Investments & Textiles Limited)	
a company incorporated under the provisions of the)	
Companies Act, 1913 having its registered office at)		
Neville House, JN Heredia Marg, Ballard Estate,)	
Mumbai – 400 001)	...Applicant / Transferor
		Company 2

Called for Notice of Admission:

Mr. Ankit Lohia, Advocate and Ms. Debashree Dey, Advocate, i/b. Desai & Diwanji,
Advocates for the Applicant.

Coram: Shri B.S.V. Prakash Kumar, Member (J)

Shri V. Nallasenapathy, Member (T)

Date: 16 February 2017

MINUTES OF THE ORDER

UPON the application of the Applicant Company abovenamed by a High Court
transferred Company Summons for Direction **AND UPON HEARING** Mr. Ankit Lohia,

Advocate and Ms. Debashree Dey, Advocate, instructed by Desai & Diwanji, Advocates for the Applicant Company, **AND UPON READING** the Affidavit dated 23 September 2016 of Mr. Jairaj Bham along with the Additional Affidavit of Mr. Jairaj Bham dated 07 February 2017, the Director of the Applicant Company, in support of the High Court transferred Company Summons for Direction and the Exhibits therein referred to, **IT IS ORDERED THAT:**

1. A meeting of the Equity Shareholders of the Applicant Company, be convened and held at Wadia International Center C-1, Pandurang Budhkar Marg, Worli, Mumbai – 400025 on Monday, 27 March 2017 at 12.00p.m. for the purpose of considering, and if thought fit, approving, with or without modification(s), the proposed Composite Scheme of Arrangement of N.W. Exports Limited (**“Transferor Company 1”**), Sunflower Investments & Textiles Limited (**“Transferor Company 2”**) and Nowrosjee Wadia & Sons Limited (**“Transferee Company”**).
2. 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, day, date and time aforesaid, together with a copy of the Scheme, a copy of the Explanatory Statement required to be sent under Section 230 of the Companies Act, 2013 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 to each of the Equity Shareholders of the Applicant Company at their respective registered or last known addresses or by email to the registered email address of the Equity Shareholders as per the records of the Applicant Company.
3. 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, day, date and time aforesaid and stating that copies of the Composite Scheme of Arrangement and the statement required to be furnished pursuant to Section 230 of the Companies Act, 2013 and that the form of Proxy can be obtained free of charge at the Registered Office of the Applicant Company as aforesaid, shall be published once each in ‘Free Press Journal’ in English and ‘Navshakti’ in Marathi, both circulated at Mumbai.
4. Mr. J C Bham, the Director of the Applicant Company is appointed as the Chairperson for the meeting of the Equity Shareholders called under this order and the relevant law of the Applicant Company. Mr. S Raja, the Director of the Applicant Company shall be the alternative Chairperson of the aforesaid meeting called under this order and the relevant law of the Applicant Company. The Scrutinizer for the meeting shall be Mr. Vaibhav Shah of Vaibhav Shah & Co, the

Practicing Company Secretary of the Applicant Company or failing him Mr. P N Parikh of Parikh & Associates , the Practicing Company Secretary of the Applicant Company.

5. A meeting of the Preference Shareholders of the Applicant Company, be convened and held at Wadia International Center C-1, Pandurang Budhkar Marg, Worli, Mumbai – 400025 on Monday, 27 March 2017 at 1.00 p.m. for the purpose of considering, and if thought fit, approving, with or without modification(s), the proposed Composite Scheme of Arrangement of the Transferor Company No.1, Transferor Company No.2 and the Transferee Company with their shareholders.
6. At least 30 clear days before the said meeting of the Preference Shareholders of the Applicant Company to be held as aforesaid, a notice convening the said meeting at the place, day, date and time aforesaid, together with a copy of the Scheme, a copy of the Explanatory Statement required to be sent under Section 230 of the Companies Act, 2013 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 to each of the Preference Shareholders of the Applicant Company at their respective registered or last known addresses or by email to the registered email address of the Preference Shareholders as per the records of the Applicant Company.
7. At least 30 clear days before the said meeting of the Preference Shareholders of the Applicant Company to be held as aforesaid, a notice convening the said meeting at the place, day, date and time aforesaid and stating that copies of the Composite Scheme of Arrangement and the statement required to be furnished pursuant to Section 230 of the Companies Act, 2013 and that the form of Proxy can be obtained free of charge at the Registered Office of the Applicant Company as aforesaid, shall be published once each in 'Free Press Journal' in English and 'Navshakti' in Marathi, both circulated at Mumbai.
8. Mr. J C Bham, the Director of the Applicant Company is appointed as the Chairperson for the meeting of the Preference Shareholders called under this order and the relevant law of the Applicant Company. Mr. S Raja, the Director of the Applicant Company shall be the alternative Chairperson of the aforesaid meeting called under this order and the relevant law of the Applicant Company. The Scrutinizer for the meeting shall be Mr. Vaibhav Shah of Vaibhav Shah & Co, the Practicing Company Secretary of the Applicant Company or failing him Mr. P N Parikh of Parikh & Associates , the Practicing Company Secretary of the Applicant Company.

9. The Applicant Company undertakes to:

- i. issue Notice convening meeting of the Equity Shareholders and Preference 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 10) of the Companies (Management and Administration) Rules, 2014; and
- iv. advertise the Notice convening meeting as per Form No. CAA.2 (Rule 7) of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

The undertaking is accepted.

10. The Chairpersons appointed for the aforesaid Meetings to issue the advertisement and send out the notices of the Meetings referred to above. The said Chairpersons shall have all the 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 at the meeting 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. The quorum for the aforesaid meetings of the Equity and Preference Shareholders shall be as prescribed under Section 103 of the Companies Act, 2013.
12. The voting by proxy or authorized representative in case of a body corporate be permitted, provided that a proxy in the prescribed form/ authorization duly signed by the person entitled to attend and vote at the meetings, is filed with the Applicant Company at its Registered Office at 'Neville House, J.N. Heredia Marg, Ballard Estate, Mumbai 400 001, Maharashtra', not later than 48 hours before the aforesaid meetings as required under Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
13. The value and number of the shares of each member 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 Chairpersons of the Meetings shall determine the value for the purpose of the aforesaid meetings and their decisions in that behalf would be final.
14. The Chairperson to file an affidavit not less than seven days before the date fixed for the holding of the meeting and do report this Tribunal that the direction

regarding the issue of notices and the advertisement have been duly complied with as per Rule 12 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

15. The Chairperson to report to this Tribunal, the result of the aforesaid meetings of the Equity and Preference Shareholders within three days of the conclusion of the meetings, and the said reports shall be verified by his Affidavit as per Rule 14 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
16. That Counsel of the Applicant Company submits that since the Scheme is an arrangement between the Applicant Company and its respective shareholders, only a meeting of the equity shareholders and the preference 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 Creditors and the Debenture Holders as required under Section 230(3) of the Companies Act, 2013 with the direction that they may submit their representations, if any, to the Tribunal and copies of such representations shall simultaneously be served upon the Applicant Company.
17. The Applicant to serve the notice upon 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 the 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/Central Government has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
18. The Applicant to serve the notice upon the concerned Registrar of Companies, pursuant to Section 230(5) of the Companies Act, 2013 as per Rule 8 of the 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.
19. The Applicant to serve the notice upon the Official Liquidator, High Court, Bombay pursuant to Section 230(5) of the Companies Act, 2013. The Tribunal is appointing Chartered Accountant, M/s S.U. Buch & Co. with remuneration of Rs. 30,000/- for the services. If no response is received by the Tribunal from the Official Liquidator within 30 days of the date of receipt of the notice, it will be

presumed that the Official Liquidator, High Court, Bombay has no objection to the proposed Scheme as laid out in Section 230(5) of the Companies Act, 2013.

20. The Applicant to serve the notice upon the concerned Income Tax Authority within whose jurisdiction the Applicant Company is situated pursuant to Section 230(5) of the Companies Act, 2013. 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 Income Tax Authority has no objection to the proposed Scheme as laid out in Section 230(5) of the Companies Act, 2013.
21. The Applicant to file an affidavit of service of the notices issued to the equity shareholders, preference shareholders and notices to creditors and debenture holders not less than seven days before the date fixed for the holding of the meetings and do report this Tribunal that the direction regarding the issue of notices have been duly complied with.

Sd/-

B.S.V. Prakash Kumār, Member (J)

Sd/-

V. Nallasenapathy, Member (T)