

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
BENCH, AT MUMBAI

COMPANY SCHEME APPLICATION NO. 1004 OF 2017.

In the matter of Companies Act, 2013 (18 of 2013);

AND

In the matter of Section 230 to 232 and other applicable provisions of the Companies Act, 2013 and Rules framed there under as in force from time to time;

AND

In the matter of Scheme of Merger by Absorption of ASIAN STAR JEWELS PRIVATE LIMITED, the Transferor Company

And

ASIAN STAR COMPANY LIMITED, the Transferee Company

A sian Star Jewels Private Limited, a	}	
Company incorporated under	}	
the Companies Act, 1956 and	}	
having its registered office at	}	
Gala No. G-23, G&J ComplexIII	}	
SEEPZ SEZ, Andheri (East), Mumbai 400096	}	First Applicant Company

AND

A sian Star Company Limited	}	
A Company incorporated under the Companies	}	
Act, 1956 and having its registered office at	}	
114-C Mittal Court, Nariman Point, Mumbai	}	
400021	}	Second Applicant Company

Order delivered on 19th January, 2018

Coram:

Hon'ble **M.K.SHRAWAT**, MEMBER (J)

Hon'ble **BHASKARA PANTULA MOHAN**, MEMBER (J)



Per: **BHASKARA PANTULA MOHAN** Hon'ble, Member (J)

Order

1. The Authorised Representative for the Applicant states that the present Scheme is a Scheme of Merger by Absorption of Asian Star Jewels Private Limited(The Transferor Company) with Asian Star Company Limited ('the Transferee Company) and their respective Shareholders.
2. The Authorised Representative for the Applicants further submit that the First Applicant company is presently carrying on business of importers, exporters, manufacturers, wholesalers, and retailers of diamonds, gold, Jewellery, silver, bullion, precious and semi-precious stones and other semi-precious metals. The Second Applicant Company is presently engaged in the business of importers, exporters, manufacturers, wholesalers, and retailers of diamonds, gold, Jewellery, silver, bullion, precious and semi-precious stones and other precious metals.
3. The Transferee Company is holding the entire share capital of the Transferor Company and as the Transferor Company and Transferee Company's business activities are similar and complement each other, and to achieve *inter-alia* economies of scale and efficiency and to reduce multiplicity of costs, the merger by absorption is being undertaken. The Merger by Absorption of the Transferor Company with the Transferee Company would *inter alia* have the following benefits:
 - a. Greater integration and greater financial strength and flexibility for the Transferee company which would result in maximising overall shareholders value, and will improve the competitive position of the combined entity.
 - b. Greater efficiency in cash management of the Transferee Company, and unfettered access to cash flow generated by the combined business which can be deployed more efficiently to fund organic and inorganic growth opportunities, to maximize shareholders value.
 - c. Improved organizational capability and leadership, arising from the pooling of human capital who have the diverse skills, talent and vast experience to compete successfully in an increasingly competitive industry.

- d. Cost savings are expected to flow from more focused operational efforts, rationalization, standardisation and simplification of business processes, and the elimination of duplication, and rationalization of administrative expenses.
 - e. Achieving economies of scale.
 - f. Greater ability of the Transferee company to raise financial resources, either as equity or debt, based on combined financials.
4. That the meeting of the Equity Shareholders of the First Applicant Company be convened and held at 114-C Mittal Court, Nariman Point, Mumbai 400021 on Monday, 12th March 2018 at 12.30 p.m. for the purpose of considering and, if thought fit, approving with or without modification(s) the proposed Scheme of Merger by Absorption of Asian Star Jewels Private Limited, the Transferor Company with Asian Star Company Limited, the Transferee Company and their respective Shareholders.
 5. That the meeting of the Equity Shareholders of the Second Applicant Company be convened and held at Sangam Hall, Agarwal Bhavan, 100-C Marine Drive, Next to Indian Oil Petrol Pump, Mumbai-400002 on Monday, 12th March 2018 at 2.30 p.m. for the purpose of considering and, if thought fit, approving with or without modification(s) the proposed Scheme of Merger by Absorption of Asian Star Jewels Private Limited, the Transferor Company with Asian Star Company Limited, the Transferee Company and their respective Shareholders.
 6. The Second Applicant Company will also give an option to the Equity Shareholders to vote for approval of Scheme of Merger by Absorption through Postal Ballot and Remote E-Voting.
 7. That at least one month before the said Meetings of the Equity Shareholders of the First and Second Applicant Company to be held as aforesaid, a notice convening the said Meetings 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) Rules, 2016 notified on 14th December, 2016 and the prescribed Form of Proxy, shall be sent through Email (to those shareholders whose email addresses are duly registered with the First and Second Applicant Company for the purpose of receiving such notices by email) or in absence of email address by Courier / Registered Post / Speed Post or by Hand Delivery, addressed to each of the



Shareholders of the First and the Second Applicant Company, at their last known address as per the records of the concerned Applicant Company.

8. That at least one month before the meetings of the Shareholders of the First and Second Applicant Company to be held as aforesaid, a notice convening the said Meetings, indicating the place, date and time of meeting as aforesaid be published in newspapers as mentioned in Point 9 below 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 Authorised Representative, M/s. Rajendra & Co. Chartered Accountants having their First and Second Applicant Company as aforesaid and / or at the office of its office at 1311 Dalamal tower, 211 Nariman Point, Mumbai-400021.
9. That the Notice of the Meetings of the Applicant Companies shall be advertised in two local newspapers viz. "Free Press Journal" in English and "Navshakti" in Marathi, both circulated in Mumbai, not less thirty (30) days before the date fixed for the meeting.
10. That Mr. Dinesh Tarachand Shah, Director of the First Applicant Company, and failing him, Mr. Arvind Tarachand Shah, Director of First Applicant Company shall be the Chairman of the aforesaid meeting of the Equity Shareholders of the First Applicant Company to be held at 114-C Mittal Court, Nariman Point, Mumbai 400021 on Monday, 12th March 2018 at 12.30 p.m. or any adjournment or adjournments thereof.
11. That Mr. Arvind Tarachand Shah, Director of the Second Applicant Company, and failing him, Mr. Vipul Prabodh Shah, Managing Director and Chief Executive Officer of the Second Applicant Company, and failing him Mr. Rahil Vipul Shah, Director of Second Applicant Company shall be the Chairman of the aforesaid meeting of the Equity Shareholders of the Second Applicant Company to be held at Sangam Hall, Agarwal Bhavan, 100-C Marine Drive, Next to Indian Oil Petrol Pump, Mumbai-400002 on Monday, 12th March 2018 at 2.30 p.m. or any adjournment or adjournments thereof.



12. That the Chairman appointed for the aforesaid Meetings to issue the advertisement and send out the notices of the Meetings 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 meetings, including for deciding procedural questions that may arise at the meetings or at any adjournment thereof or resolution, if any, proposed at the meetings by any person(s).
13. That the quorum of the aforesaid meetings of the Equity Shareholders shall be as prescribed under Section 103 of the Companies Act, 2013.
14. That voting by proxy or authorized representative in case of 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, are filed with the First and Second Applicant Company at their respective Registered Office(s) at Gala No. G-23, G&J Complex III, SEEPZ SEZ, Andheri (East), Mumbai 400096 and at 114-C Mittal Court, Nariman Point, Mumbai 400021 not later than forty eight (48) hours before the aforesaid meetings.
15. That the value and number of the shares of each Equity Shareholder shall be in accordance with the books / register of the First and Second Applicant Company or depository records and where the entries in the books / register / depository records are disputed, the Chairman of the Meetings shall determine the value for the purpose of the aforesaid meetings and his decision in that behalf would be final.
16. That Mr. Yogesh Choudhary, Proprietor of Yogesh Choudhary & Associates, Practicing Company Secretary is hereby appointed as Scrutinizer of the meeting of the Equity Shareholders of the First and Second Applicant Company proposed to be held on Monday, 12th March 2018 at the place and time as mentioned in paragraphs 4 and 5 above and his remuneration is fixed as Rs. 25,000/- (Rupees Twenty five thousand only) for both meetings together.
17. That the Chairman is directed to file an affidavit not less than seven (7) days before the date fixed for the holding of the meetings and to report to this

Tribunal that the direction regarding the issue of notices and the advertisement have been duly complied with.

18. That the Chairman of the meetings is directed to report to this Tribunal, the results of the aforesaid meetings within thirty (30) days of the conclusion of the meetings.

19. The First Applicant and Second Applicant Company are directed to serve notices along with copy of scheme upon:- (i) concerned Income Tax Authority within whose jurisdiction the First and Second Applicant Company's assessments are made. The Addresses of the Income Tax Authority are as under

Name of Company	PAN Number	Designation of Authority	Address
Asian Star Jewels Private Limited – Transferor Company	AAHCA4477B	Deputy Commissioner/Assistant Commissioner Circle (3) (1)	19 th Floor, Air India Building Nariman Point Mumbai 400021
Asian Star Co Limited – Transferee Company	AAACA4856B	Deputy Commissioner/Assistant Commissioner Central Circle 13	Pratishtha Bhavan, 9 th Floor, 99 Maharshi Karve Road, New Marine Lines Mumbai 400020

(ii) the Central Government through the Office of Regional Director, Western Region, Mumbai, and (iii) Registrar of Companies; with a direction that they may submit their representations, if any, within a period of thirty (30) days from the date of receipt of such notice to the Tribunal and copy of such representations shall simultaneously be served upon the First and Second Applicant Company, failing which, it shall be presumed that the authorities have no representations to make on the proposals.

20. The Second Applicant Company is listed on the Bombay Stock Exchange. Pursuant to Sub clause 6 of Rule 37 of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations 2015, the Bombay Stock Exchange does not need to give approval to the said scheme. However, as per the Said Rule – the Second Applicant Company is

hereby directed to file with the Bombay Stock Exchange the copy of the draft scheme for the purposes of disclosure.

21. The First Applicant Company is also directed to serve notice along with copy of scheme upon Official Liquidator pursuant to section 230(5) of the Companies Act, 2013. M/s DKP & Associates, Chartered Accountants, having their office at 611 Dalamal Tower, 211 Nariman Point, Mumbai 400021 are appointed to assist the Official Liquidator. The Transferee Company to pay fees of Rs.75,000/- (Rupees Seventy Five Thousand only) to M/s. DKP & Associates, Chartered Accountants as professional fees for the said assistance to the Official Liquidator. If no response is received by the Tribunal from the Official Liquidator within 30 days of the date of receipt of notice, it will be presumed that the Official Liquidator has no objection to proposed scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
22. The Authorised Representative for the First and Second Applicant Companies submits that there are Secured and Unsecured Creditors in the First and Second Applicant Company. The Authorised Representative for the Applicant Companies submit that since the Scheme is an arrangement between the Applicant Companies 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 First and Second Applicant Companies to issue notice to all its Secured and Unsecured Creditors of the value above Rs.3,00,000/- (Three Lakhs Only) as on 31st December 2017, either by email if available or if no email is available, by Courier /Registered Post /Speed Post or by Hand Delivery 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 Companies.
23. The First and Second Applicant Companies to file affidavit of service in the Registry proving dispatch of notices to the shareholders as directed in clause 7 above, creditors above the threshold limit as stated in clause 21 above, publication of notices in newspapers as directed in clause 9 above and to the regulatory authorities as directed in clause 19 above and to report to this

Tribunal that the directions regarding the issue of notices have been duly complied with.

Sd/-

BHASKARA PANTULA MOHAN
MEMBER (J)

Sd/-

M.K.SHRAWAT
MEMBER (J)

Date : 19th Jan - 2018