

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH
COMPANY SCHEME APPLICATION NO. 25 OF 2018

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

AND

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

AND

In the matter of Scheme of Arrangement between
LIFE FITNESS INDIA PRIVATE LIMITED, the
Demerged Company and UM FITNESS PRIVATE
LIMITED, the First Resulting Company and ASVI
FITNESS PRIVATE LIMITED, the Second Resulting
Company.

LIFE FITNESS INDIA PRIVATE)

LIMITED, a company incorporated)

under the Companies Act, 1956 having)

its registered office at Agnelo House,)

4th Floor, S V Road, Opp. Rajasthan)

Restaurant, Khar (West), Mumbai -)

400052.

)...Applicant Company No.1

UM FITNESS PRIVATE LIMITED, a)

company incorporated under the)

Companies Act, 1956 having its)

registered office at C- 40, Bldg. No.51,)

Pandurang C.H.S. Ltd Santacruz (W),)

A. B. Nair Road, Pandurangwadi,)

Mumbai – 400049.

)...Applicant Company No.2

ASVI FITNESS PRIVATE LIMITED, a)

company incorporated under the)

Companies Act, 1956 having its)

registered office at 401, Jivom, CTS No.)

213 to 215, Kalyani Nagar, Pune -)

411006.

)...Applicant Company No.3

Called for Notice of Admission:

Rajesh Shah, Advocate with Ahmed M. Chunawala, Advocate; i/b Rajesh Shah & Co., Advocates for the Applicant.

Coram: SH. B.S.V. Prakash Kumar Hon'ble Member (Judicial) and SH. V. Nallasenapathy Hon'ble Member (Technical)

Date: 8th February, 2018

MINUTES OF THE ORDER

UPON the application of the Applicant Company above named by a Company Notice of Admission **AND UPON HEARING** Mr. Rajesh Shah instructed by Rajesh Shah & Co., Advocate for the Applicant Company, **AND UPON READING** the Application along with the Notice of Admission dated 18th day of May, 2017 of Mr. Virendra Sharad Sherlekar, Director of the Applicant Companies, in support of Notice of Admission along with Application and the Exhibits therein referred to, **IT IS ORDERED THAT:**

1. A meeting of the Equity Shareholders of the Applicant Company No. 1 be convened and held at Agnelo House, 4th Floor, S V Road, Opp. Rajasthan Restaurant, Khar (West), Mumbai – 400052, on Monday, 19th March, 2018 at 12 noon for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of Arrangement between LIFE FITNESS INDIA PRIVATE LIMITED, the Demerged

Company and UM FITNESS PRIVATE LIMITED, the First Resulting Company and ASVI FITNESS PRIVATE LIMITED, the Second Resulting Company.

2. A meeting of the Equity Shareholders of the Applicant Company No. 2 be convened and held at C- 40, Bldg. No.51, Pandurang C.H.S. Ltd Santacruz (W), A. B. Nair Road, Pandurangwadi, Mumbai – 400049, on Monday, 19th March, 2018 at 3:00 p.m. for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of Arrangement between LIFE FITNESS INDIA PRIVATE LIMITED, the Demerged Company and UM FITNESS PRIVATE LIMITED, the First Resulting Company and ASVI FITNESS PRIVATE LIMITED, the Second Resulting Company.
3. A meeting of the Equity Shareholders of the Applicant Company No. 3 be convened and held at 401, Jivom, CTS No. 213 to 215, Kalyani Nagar, Pune - 411006, on Tuesday, 20th March, 2018 at 12 noon for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of Arrangement between LIFE FITNESS INDIA PRIVATE LIMITED, the Demerged Company and UM FITNESS PRIVATE LIMITED, the First Resulting Company and ASVI FITNESS PRIVATE LIMITED, the Second Resulting Company
4. At least 30 clear days before the said meeting of the Equity Shareholders of the Applicant Companies 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 Companies at their respective registered or last known addresses or by e-mail to the registered e-mail address of the Equity Shareholders as per the records of the Applicant Companies.

5. At least 30 clear days before the Meeting of the Equity Shareholders of the Applicant Companies to be held as aforesaid, a notice convening the said meeting, at the place, date and time aforesaid and stating that copies of the 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 Companies as aforesaid and shall also be published once each in 'Free Press Journal' in English and 'Navshakti' in Marathi circulation at Mumbai in respect of Applicant Company No.1 and No.2 and also be published once each in 'Economic Times' in English and 'Maharashtra Times' in Marathi circulation at Pune in respect of the Applicant Company No.3.
6. The Applicant Companies undertakes to:
 - i. issue Notice convening 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 meeting as per Form No. CAA.2 (Rule 7) the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

The undertaking is accepted.

7. Mr. Virendra Sharad Sherlekar, failing whom Mrs. Asha Virendra Sherlekar, Directors of the Applicant Company No.1 is appointed as the Chairperson for the meeting of Equity Shareholders. The Scrutinizer for the meeting shall be Mr. Vishwas Bokil, Practicing Company Secretary, (Membership No. FCS 5756 and CP No. 3449).

8. Mr. Virendra Sharad Sherlekar, failing whom Mrs. Asha Virendra Sherlekar, Directors of the Applicant Company No.2 is appointed as the Chairperson for the meeting of Equity Shareholders. The Scrutinizer for the meeting shall be Mr. Vishwas Bokil, Practicing Company Secretary, (Membership No. FCS 5756 and CP No. 3449).
9. Mr. Virendra Sharad Sherlekar, failing whom Mrs. Asha Virendra Sherlekar, Directors of the Applicant Company No.3 is appointed as the Chairperson for the meeting of Equity Shareholders. The Scrutinizer for the meeting shall be Mr. Vishwas Bokil, Practicing Company Secretary, (Membership No. FCS 5756 and CP No. 3449).
10. The Chairpersons appointed for the aforesaid Meeting to issue the notices of the Meeting referred to above. The said Chairperson shall have all 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 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 meeting of the Equity Shareholders shall be as prescribed under Section 103 of the Companies Act, 2013.
12. The voting by proxy or authorised 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 Companies at its Registered Office, not later than, 48 hours before the aforesaid meeting 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 Companies 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. The Chairpersons 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 advertisement have been duly complied with as per Rule 12 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
15. The Chairpersons to report to this Tribunal, the result of the aforesaid meeting within thirty working days of the conclusion of the meeting, and the said report shall be verified by his Affidavit as per Rule 14 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
16. That Counsel for the Applicant Company No. 1 submits that there are no Secured Creditors as mentioned in Para 30 of the Application.
17. That Counsel for the Applicant Company No. 2 submits that there are no Secured Creditors as mentioned in Para 31 of the Application.
18. That Counsel for the Applicant Company No. 3 submits that there are no Secured Creditors as mentioned in Para 32 of the Application.
19. That Counsel for the Applicant Company No. 1 submits that since the scheme is an arrangement between the Applicant Company and its 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 No. 1 to issue notice to its Unsecured creditors 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 No. 1.

20. That Counsel for the Applicant Company No. 2 submits that since the scheme is an arrangement between the Applicant Company and its 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 No. 2 to issue notice to its Unsecured creditors 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 No. 2.
21. That Counsel for the Applicant Company No. 3 submits that since the scheme is an arrangement between the Applicant Company and its 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 No. 3 to issue notice to its Unsecured creditors 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 No. 3
22. The Applicant Companies 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 Regional Director within 30 days of the date of receipt of the notice it will be presumed that Regional Director and/ or Central Government has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
23. The Applicant Companies 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 Registrar of Companies has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

24. The Applicant Companies to serve the notice on 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 the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from the Income Tax Authority within 30 days of the date of receipt of the notice it will be presumed that Income Tax Authority has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
25. The Applicant Companies to file an affidavit of service of the directions given by the Tribunal not less than seven days before the date fixed for the holding of the meetings and do report to this Tribunal that the direction regarding the issue of notices have been duly complied with.

Sd/-

V. Nallasenapathy Member (T)

Sd/-

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