

NATIONAL COMPANY LAW TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

C.P NO.
CA NO. CA(CAA)-02(PB)/2017

CORAM:

PRESENT: CHIEF JUSTICE M. M. KUMAR
Hon'ble President

SH. R.VARADHARAJAN
Hon'ble Member (J)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF PRINCIPAL BENCH OF THE
NATIONAL COMPANY LAW TRIBUNAL ON 25.01.2017

NAME OF THE COMPANY: Den Network Ltd.
And
Sky Cable Network Pvt. Ltd.

SECTION OF THE COMPANIES ACT: 230-234

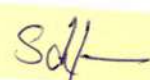
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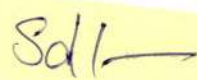
ORDER

It has come to my notice that in para (D) of the order dated 23.1.2017 an error has crept in. Mr. Vineet Chaudhary Practising Company Secretary in fact has been appointed as a Scrutinizer. Therefore para (D) needs to be modified and after modification it would read as under:-

"D) Hon'ble Mr. Justice D.R. Deshmukh, (Retd.) (Cell No.9971599954) is appointed as the Chairperson and Ms Ranjana Roy Gowai, Advocate, (Cell No.9811415871) is appointed as the Alternate Chairperson for the meeting of Equity Shareholders, Secured Creditors and Unsecured creditors of the Applicant Companies. The Statutory Company Secretary and the Chartered Accountant shall provide secretarial assistance to the Chairperson and the Alternate Chairperson. The fee of the Chairperson for the aforesaid meetings shall be Rs. Two lacs and the fee of the Alternate Chairperson shall be Rs. One lac, in addition to meeting their incidental expenses. Mr. Vineet Chaudhary Practising Company Secretary is appointed as a Scrutinizer and would be entitled to fee of Rs. One lac for his services in addition to meeting his incidental expenses. The Chairpersons will file their reports within two weeks from the date of holding of the abovesaid meeting."

Let the order with aforesaid modifications be issued today itself with a copy to all concerned. The Bench Officer shall ensure service of the copies of the order on all concern alongwith all the relevant papers.


(CHIEF JUSTICE M.M. KUMAR)
PRESIDENT


(R. VARADHARAJAN)
MEMBER (J)

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL, PRINCIPAL BENCH
NEW DELHI**

Company Application No.A.2/PB/2017

Present: CHIEF JUSTICE (Retd.) SHRI M.M.KUMAR, HON'BLE PRESIDENT

& SHRI R.VARADHARAJAN, MEMBER (JUDICIAL)

In the matter of:

Sections 230-232 and other applicable provisions of the Companies Act, 2013 read with
Companies (Compromises, Arrangements, and Amalgamations) Rules, 2016.

AND

IN THE MATTER OF:

Den Networks Limited
(TRANSFEROR COMPANY)

AND

Skynet Cable Network Private Limited
(RESULTING COMPANY)

AND

Their respective Shareholders and Creditors

MEMO OF PARTIES

1. DEN NETWORKS LIMITED

Company registered under the Companies Act, 1956

Through its authorized representative: Mr. Jatin Mahajan

Registered Office:

236, Okhla Industrial Area, Phase - III

New Delhi-110 020

CIN: L92490DL2007PLC165673

.....Applicant Company No.1 /
Transferor Company

2. SKYNET CABLE NETWORK PRIVATE LIMITED

Company registered under the Companies Act, 1956

Through its authorized representative: Mr. K Hari Govind

Registered Office:

C-148, Mayapuri Industrial Area, Phase -II,

New Delhi-110 064

CIN: U74140DL2011PTC228312

.....Applicant Company No.2 /
Resulting Company

Counsel for the Applicants: Mr. Deepak Diwan, Advocate

Mr. Vinod Kumar, Advocate

Ms. Himanshi Taneja, Advocate

ORDER

1) This is an application which is jointly filed by the applicant companies herein, namely Den Networks Limited (for brevity "Transferor Company") and Skynet Cable Network Private Limited (for brevity " Resulting Company / Transferee Company") under Section 230 to 232 and other applicable provisions of the Companies Act, 2013 read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 in relation to the Scheme of Arrangement by way of Demerger (hereinafter referred to as the "SCHEME") proposed between the applicants and the said Scheme is also annexed as Annexure "P-1" to the application. The applicants above named have preferred the instant joint application for the following purpose as evident from the notice of admission circulated by the applicants :-

- a) For the directions for convening, holding and conducting of the meeting of the Equity Shareholders of Den Networks Limited, Transferor / Applicant Company No. 1, for the purpose of obtaining their approval, with or without modifications, to the proposed Scheme of Arrangement.
- b) Advertise the notice of the meetings of Equity shareholders about the meeting being held as above for sanction to the scheme once in:
 - i) Business Standard (English Language Daily)
 - ii) Jansatta (Regional Language Daily)
- c) For the directions for convening, holding and conducting of the meeting of the Secured and Unsecured Creditors of **DEN NETWORKS LIMITED**, Transferor /

Applicant Company No. 1 for the purpose of obtaining their approval, with or without modifications, to the proposed Scheme of Arrangement.

- d) Advertise the notice of the meetings of the Secured Creditors and Unsecured Creditors being held as above for sanction to the scheme once in:
 - a) Business Standard (English Language Daily)
 - b) Jansatta (Regional Language Daily)
- e) In view of the lower value percentage of unsecured creditors of value of Rs. 500,000 or less than Rs. 500,000 who constitute only 1.72% to the total debt value, the Applicant Company No. 1 is seeking exemption from sending individual notices to the unsecured creditors having debt value of upto Rs.500,000/-.
- f) For the directions for dispensing with the meetings of the Equity Shareholders, Secured and Un-secured Creditors of Skynet Cable Network Private Limited, the Resulting Company / Applicant Company No. 2 for the proposed Scheme of Arrangement and also for dispensing with the issue and publication of Notices of the meetings in newspapers in view of consent given and to dispensing with the meeting by them.

2) An Affidavit in support of the above joint application sworn for Transferor Company by one Mr. Jatin Mahajan and for Transferee Company by one Mr. K Hari Govind, being the Company Secretary has also been filed along with the application. Mr. Deepak Diwan, Counsel for the joint applicants took us through the averments made in the application as well as the typed set of documents annexed there with. Learned Counsel represents that the Scheme does not contemplate any corporate debt restructuring exercise as contemplated under Section 230(2) of the Act. It is further represented that a joint application as filed by the applicants are maintainable in view of Rule 3(2) of the Companies (Compromises, Arrangements and Amalgamations) Rules 2016 and it is also represented that the registered office of both the applicant companies

are situated within the territorial jurisdiction of this Tribunal and falling within Registrar of Companies, NCT, New Delhi. In relation to Den Networks Limited being the Transferor Company in the Scheme marked as Annexure – “P1”, Learned Counsel represents that the said company is a listed company, presently listed on BSE Ltd. and National Stock Exchange of India Ltd. having 11118 shareholders as on 23.12.2016. It is further represented by the counsel for Applicants that the Applicant No. 1 / Transferor Company as on 27th December, 2016 has 6 Secured Creditors amounting in aggregate to Rs.4,15,25,000/- owed and 1227 Unsecured Creditors amounting in aggregate to Rs.4,45,20,99,159/- owed as on 15th December, 2016. In relation to the shareholders, creditors both secured and unsecured, the Applicant No. 1 / Transferor for the purpose of obtaining their approval to the proposed Scheme of Arrangement is required to convene, hold and conduct meetings of them for which directions are being sought vide this application. However, in relation to the unsecured creditors of the company to whom the Transferor company owes less than Rs.500,000 and who constitute less than 1.72% in value of total amount owed to unsecured creditors, the details of which have also been filed, it is represented that in view of their small percentages in comparison to the total value owed to other unsecured creditors, individual notices to the unsecured creditors to whom the Transferor Company owes less than Rs.500,000 may be dispensed.

3) In relation to the Resulting / Transferee Company is concerned, the learned counsel for the applicants represent that the company is incorporated as a private limited company and is a wholly owned subsidiary of the Transferor Company having no secured creditor and only one unsecured creditor from whom consent for the scheme as well as for dispensing with the meeting has been obtained and in the circumstances, the requirement of convening the meeting of shareholders and unsecured creditors respectively of the Transferee Company may be dispensed with.

4) Learned Counsel for the Applicants also represents that despite the Transferor and Transferee Company having the relationship of holding and subsidiary company,

the provisions of Section 233 of 2013 Act will not apply as the arrangement contemplated by virtue of Annexure – “P.1” is by way of De-merger and not a Scheme of Merger or Amalgamation. The above joint application seems to have been filed, as evident from the endorsement made by the Registry of this Tribunal on 10.01.2017 and in light of the notification of the provisions for Sections 230 to 232 of Companies Act, 2013 and as well as Companies (Compromises, Arrangements and Amalgamation) Rules, 2016 framed there under having been brought into force prior to the date of filing, this Tribunal proceeds to entertain the above joint application filed under the 2013 Act. Further, the registered office of both the applicants are situated within New Delhi and subject to Registrar of Companies, NCT, New Delhi and hence are amenable to the territorial jurisdiction of this Tribunal.

5) We have perused the joint applications and the connected documents / papers filed herewith including the Scheme of Arrangement by way of Demerger between the Applicant companies.

6) From the certificate of incorporation filed it is evident that the Transferor company was initially incorporated under the name and style of Den Digital Entertainment Networks Private Limited on 10th July, 2007 and consequent to having converted itself into a Public Limited Company on 15th April, 2008 dropped the word “Private” from its name and as per fresh certificate of incorporation issued consequent to conversion came to be called as Den Entertainment Networks Limited, which name seems to have also undergone a change on and from 27.06.2008, consequent upon a change of name to DEN NETWORKS LIMITED, as evident from fresh certificate of incorporation of even date by Registrar of Companies, NCT, Delhi and Haryana.

7) The authorized capital of the Transferor company, as on 31.03.2016 is Rs.2,00,00,00,000/- divided into 20,00,00,000 equity shares of Rs. 10/- each. The issued, subscribed and Paid- up capital of the company is Rs.1,78,19,98,060/- divided into 17,81,99,806 equity shares of Rs. 10/- each. However, subsequent to 31.03.2016, the capital structure seems to have undergone a change in as much additional capital have

been issued and the issued and Paid- up capital presently stands at Rs.1,94,02,58,450/- divided into 19,40,25,845 equity shares of Rs. 10/- each.

8) The main objects of the Transferor company as stated in the application is to carry on the business of broadcasting, telecasting, relaying, transmitting, distributing, cable services encompassing distribution and internet based services and that the company has been granted and is operating under Internet Service Provider License No. 820-990/07-LR dated 06.02.2008 issued by Department of Telecommunications, Ministry of Communications & IT.

9) The Resulting company / Applicant No. 2 seems to have been incorporated as a private limited company on 5th December, 2011 under the Companies Act, 1956 with the Registrar of Companies, NCT of Delhi & Haryana and the Resulting company is a wholly owned subsidiary of Transferor company. The following are the main objects to be pursued by the Resulting company namely :

1. To carry on the business of cable networking, press agents, printing agents, newspaper, cutting agents, bills, posters, commission agents, consultants, publicity, marketing and advertising agents and all business of like or allied nature, promoters or organizers of or agents of all types of advertisements or publicity schemes and methods inclusive of all mass media like radio, television, cinema, video, hoardings, newspapers, magazines and films and to carry on business of providing advertising consultancy and market research including public relations.
2. To carry on the business of Signal Transmission, relaying, cable services, encompassing distribution, Video on demand Services or any other services through cable by means of any system and to create infrastructure of dark fibers and telecom based cable services to end subscribers and customers in India.
3. To provide internet based services including but not limited to offering international and domestic voice, voice-over-internet protocol (VOIP),

Broadband internet, wireless, data and hosting services to business and residential retail customers and other carries located in the territory of India and to apply and obtain licenses to carry on these objects.

10) The authorised share capital of the Resulting / Transferee company is Rs.90,00,000/- divided into 9,00,000 equity shares of Rs. 10/- each. The issued, subscribed and Paid-up capital is Rs.81,50,000/- divided into 8,15,000 equity shares of Rs. 10/- each.

11) Both the applicants have filed their respective Memorandum and Articles of Association as well as their last available audited financial statements for the year ended 31.03.2016.

12) A copy of the Scheme of Arrangement by way of Demerger as stated supra as Annexure – P.1 has been placed on record and the salient features of the Scheme have been brought about by the applicants in the application which is stated to be that of having focused attention in relation to internet service provider business as presently the Transferor company is having two lines of business, namely Cable TV business and Provider of Internet Services and by hiving off the Internet Service Provider business to the Resulting company and thereby accelerating value creation to shareholders. It is further claimed that by effecting the Scheme, structural and operational efficiency and significant growth potential can be achieved.

13) The Scheme basically contemplates the hiving off Internet Service Provider (IPS) business from the Transferor company and vesting the same in the Resulting company termed as “Demerged Business” on and from the appointed date i.e. 1st April, 2016 and the residual undertaking other than the Demerged Business being left with the Transferor company. In relation to the valuation of the Demerged Business, Valuation Report of M/s. B.L.Sachdeva & Associates, dated 30.08.2016 and fairness opinion of M/s. D&A Financial Services (P) Ltd., Merchant Banking & Corporate Advisory Business dated 05.09.2016 have been attached.

14) The Board of Directors of the Transferor company and the Resulting company vide separate meetings held on 5th September, 2016 have unanimously approved the proposed Scheme of Amalgamation and copies of resolutions passed thereat have been placed on record by both the companies.

15) The Transferor company being a listed company in both BSE and NSE have approached both the Exchanges with the draft Scheme for approval and which has been granted approval, however, with certain conditions & observations as evident therein vide their communication dated 28th November, 2016 and 29th November, 2016 respectively.

16) Both the companies have submitted that no investigation proceedings are pending against them in relation to Sections 201, 213, 214, 215, 261(1), 261(3), 216(4), 217, 219, 220 and Sections 222 to 227 of the Companies Act, 2013.

17) Taking into consideration the application filed jointly by the Transferor company and Resulting company being the Transferee company and the documents filed therewith, we propose to issue the following directions with respect to calling, convening and holding of the meetings of the shareholders, secured and unsecured creditors or dispensing with the same as well as issue of notices including by way of paper publication as follows :-

A) In relation to the Transferor Company:

(i) With respect to Equity shareholders :

Meeting of the Equity Shareholders of the Transferor Company is directed to be held at 10 AM at PHD Chamber of Commerce, Siri Institutional Area, August Kranti Marg, New Delhi – 110 016 on 11.03.2017 subject to the notice of meeting being issued. The quorum for the meeting of the Equity Shareholders of the Applicant No. 1 / Transferor Company shall be 1000 in number and more than 20% in value in terms of the total Equity Share Capital.

(ii) With respect to Secured Creditors :

Meeting of Secured creditors of the Transferor Company is directed to be held at 11.30 AM at PHD Chamber of Commerce, Siri Institutional Area, August Kranti Marg, New Delhi – 110 016 on 11.03.2017 subject to the notice of meeting being issued. The quorum for the meeting of the Secured creditors shall be 3 in number and more than 50% in value in terms of the total secured debt with an additional direction that assets which are secured to such Secured creditors and forming part of Demerged Business shall necessarily form part of the quorum.

(iii) With respect to Unsecured Creditors :

Meeting of Unsecured Creditors of the Transferor Company is directed to be held at 12.30 PM at PHD Chamber of Commerce, Siri Institutional Area, August Kranti Marg, New Delhi – 110 016 on 11.03.2017 subject to the individual notice of meeting being issued to all Unsecured Creditors to whom the Transferor Company owes Rs.500,000 and above is being dispensed with. The quorum for the meeting of Unsecured Creditors shall be 50 in number and more than 20% in value in terms of the total unsecured debt.

B) In relation to Transferee Company :

(i) With respect to Equity shareholders :

Meeting of members of the Resulting / Transferee Company at 2 PM at PHD Chamber of Commerce, Siri Institutional Area, August Kranti Marg, New Delhi – 110 016 on 11.03.2017 subject to the notice of meeting being issued. The quorum for the Equity Shareholders Meeting shall be 2 in number and more than 95% in value.

(ii) With respect to Secured Creditors :

Since it is represented by the Resulting company that there are no secured creditors, the necessity of convening a meeting of secured creditors do not arise.

(iii) With respect to Unsecured creditors :

As per the list of Unsecured creditors furnished by the Resulting / Applicant company No. 2, it is seen that there is only a single unsecured creditor to whom the Applicant company No. 2 owes money and in respect of the said unsecured creditor, a consent letter backed by a Board Resolution of the said unsecured creditor have been produced and a perusal of which discloses that the said unsecured creditor does not have any objection to the proposed Scheme between the applicants. In light of the same and taking into consideration the consent / no objection of the convening of the meeting of the Unsecured Creditors of the Resultant / Applicant company No. 2 to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Arrangement by way of Demerger is dispensed with.

- C) In case the quorum as noted above for the above meetings of the Transferee Company or Resulting company is not present at the meetings, then the meetings shall be adjourned by half an hour, and thereafter the persons present and voting shall be deemed to constitute the quorum. For the purpose of computing the quorum the valid proxies shall also be considered, if the proxy in the prescribed form, duly signed by the person entitled to attend and vote at the meeting, is filed with the registered office of the applicant / transferee company at least 48 hours before the meetings. The Chairperson and Alternate Chairperson appointed herein along with Scrutinizer shall ensure that the proxy registers are properly maintained.
- D) Hon'ble Mr. Justice D.R.Deshmukh, (Retd.) (Cell No. 9971599954) is appointed as the Chairperson and Ms Ranjana Roy Gowai, Advocate, (Cell No. 9811415871) is appointed as the Alternate Chairperson for the meeting of Equity Shareholders, Secured creditors and Unsecured creditors of the Applicant Companies.

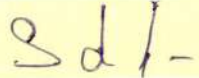
The Statutory Company Secretary and the Chartered Accountant shall provide secretarial assistance to the Chairperson and the Alternate Chairperson. The fee of the Chairperson for the aforesaid meetings shall be Rs. Two lacs and the fee of the Alternate Chairperson shall be Rs. One lac, in addition to meeting their incidental expenses. Mr.Vineet Choudhary Practising Company Secretary is appointed as a Scrutinizer and would be entitled to fee of Rs.One lac for his services in addition to meeting his incidental expenses. The Chairpersons will file their reports within two weeks from the date of holding of the abovesaid meetings.

- E) That individual notices of the said meetings shall be sent by the Applicant Companies through registered post or speed post or through courier or through e-mail 30 days in advance before the scheduled date of the meeting, indicating the day, date, the place and the time as aforesaid, together with a copy of Scheme of Arrangement by way of Demerger, copy of explanatory statement, required to be sent under the Companies Act, 2013 and the prescribed form of proxy shall be sent alongwith and any other documents as may be prescribed under the Act.
- F) That the Applicant Companies shall publish advertisement with a gap of atleast 30 clear days before the aforesaid meetings, indicating the day, date and the place and time as aforesaid, to be published in the English Daily 'Indian Express' and Hindi Daily 'Jansatta' (Delhi Edition) stating the copies of Scheme of Arrangement by way of Demerger, the Explanatory Statement required to be furnished pursuant to Section 230 of the Companies Act, 2013 and the form of proxy shall be provided free of charge at the registered office of the Applicant Companies.
- G) Voting shall be allowed on the proposed Scheme by voting in person, by proxy, through postal ballot or through electronic means. The Chairperson shall be

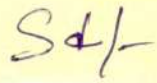
responsible to report the result of the meeting within two weeks of the conclusion of the meeting with a vote on the proposed scheme.

- H) The companies shall individually send notice to Central Government, the Income Tax Authorities, concerned Registrar of Companies, Stock Exchanges in which the shares of the company are listed, SEBI and to such other regulators including DOTE, Ministry of Communications & IT who may have significant bearing on the operation of the applicant companies along with copy of required documents and disclosures required under the provisions of Companies Act, 2013 read with Companies (Compromises, Arrangements, Amalgamations) Rules, 2016.
- I) The applicant companies further furnish copy of the Scheme free of charge within 1 day of any requisition for the Scheme made by every creditor or member of both companies entitled to attend the meetings as aforesaid.
- J) The authorized representative of the Applicant Companies shall furnish an affidavit of service of notice of meetings and publication of advertisement and compliance of all directions contained herein at least a week before the proposed meetings.
- K) All the aforesaid directions are to be complied with strictly in accordance with the applicable law including forms and formats contained in the Companies (Compromises, Arrangements, Amalgamations) Rules, 2016 as well as the provisions of the Companies Act, 2013 by the Applicants.

The application stands allowed in the aforesaid terms.


(CHIEF JUSTICE M.M.KUMAR)

PRESIDENT

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(R.VARADHARAJAN)
MEMBER (JUDICIAL)