

**IN THE NATIONAL COMPANY LAW TRIBUNAL
"CHANDIGARH BENCH, CHANDIGARH"**

**CA 85/2017
IN
CP(CAA)No.2/Chd/Pb/2017**

In the matter of:
Sections 230-232 of the Companies Act, 2013

AND

In the matter of:
A composite Scheme of Arrangement and Amalgamation between:

Fortis Healthcare Limited	AND	... Demerged Company
SRL Limited	AND	... Amalgamating Company
Fortis Malar Hospital Limited		... Resulting/Amalgamated Company

Present: Mr. Anand Chhibbar, Sr. Advocate with Mr. Gyanendra Kumar, Ms. Shikha Tandon, Advocates for the applicant-companies.
Mr. Rajiv Atma Ram, Sr. Advocate with Mr. Manish Jain, Mr. Jasdev Singh Mehndiratta and Ms. Divya Sharma, Mr. Keshav Raychanduri, Advocates for Intervener.
Mr. Deepankur Sharma, Advocate for Official Liquidator and Regional Director, Northern Region, Ministry of Corporate Affairs.

The first motion petition CA(CAA)01/Chd/2017 for the sanction of the Scheme of Arrangement by the Demerged Company, Amalgamating Company and the Resulting/Amalgamated Company was disposed of by this Tribunal on 21.02.2017 directing the calling and convening of shareholders and creditors meetings, appointing Chairperson, Alternate Chairperson and Scrutinizer. The matter is now pending for hearing of second motion petition filed after receipt of the reports of meetings.

M/s Daiichi Sankyo



Company Limited has filed CA No.75/2017 as an Intervener, which is pending for consideration.

When the matter was listed on 16.08.2017 learned Senior Counsel for the Intervener filed copy of the order dated 11.08.2017 passed by the Hon'ble Supreme Court of India in SLP No.(C) 20147/2017 and copy of the Interlocutory application with a prayer to file additional documents, copy of the Special Leave Petition in case **Dalichi Sankyo Company Limited Vs. Oscar Investments Limited & Ors** has also been filed. Learned Senior Counsel for the Intervener has submitted that Hon'ble Supreme Court has been pleased to pass the following order: -

"Heard the learned counsel for the petitioner and perused the relevant material.

Permission to file lengthy synopsis and list of dates is granted.

Permission to file additional documents is granted.

Issue notice, returnable in four weeks.

In the interim it is directed that status quo as on today with regard to the shareholding of Fortis Healthcare Holding Private Limited in Fortis Healthcare Limited shall be maintained."

Learned Senior Counsel for the Intervener submitted that with the sanction of the proposed Scheme of Arrangement and Amalgamation there would be change in the shareholding of Fortis Healthcare Holding Private Limited in Fortis Healthcare Limited and that the latter is one of the petitioners in the instant case.

Learned Senior Counsel for the Intervener referred to Annexure A-12 of CA No.75/2017 at page 636 that the shareholding of Fortis Healthcare Holding Private Limited in Fortis Healthcare Limited before the sanction of the Scheme is 58.98% and post-sanction of the Scheme the shareholding of Fortis Healthcare Holding Private Limited in Fortis

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Healthcare Limited would be reduced to 58.37% as is evident from page 643 of the paper book of CA 75/2017 and thus sanction of Scheme would be in violation of the status quo order passed by the Hon'ble Supreme Court.

Learned Senior Counsel for the petitioners however submitted that as per the tabular chart relating to the pre and post sanction of Scheme, the number of shares of Fortis Healthcare Holding Private Limited would remain the same though there may be little variation in the percentage. Learned Senior Counsel further contends that the petitioners are the independent entities and the dispute between the applicant with RHC Holdings and Oscar Investments Limited has nothing to do with the Scheme of Arrangement and further that the petitioners are not parties in the litigation filed in the High Court of Delhi.

I have heard learned Senior Counsel for the parties on this aspect.

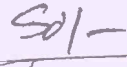
Learned Senior Counsel for Intervener refers to Para 2 of the interlocutory application filed in the Hon'ble Supreme Court for permission to file additional documents. It is stated that the respondents namely; RHC Holdings Private Limited and Oscar Investments Private Limited, before the Hon'ble Supreme Court, are the promoters and controlling shareholders of Fortis Healthcare Limited, a listed company, through their wholly owned subsidiary Fortis Healthcare Holdings Private Limited. It is stated in para No.4 of the said application that Fortis Healthcare disclosed to the BSE that the shareholders had approved the special resolution for increasing the shareholding limit for foreign investors from 24% to 75% of shareholding in

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Fortis Healthcare. It was further stated that the real intent and purpose behind the special resolution is to enable the respondents to sell their stake in Fortis Healthcare to third parties. In Para 9 of the said application, it is stated that Fortis Healthcare, Fortis Malar Hospitals Limited and SRL Limited (subsidiaries of the respondents) the petitioners in this case, have applied to the National Company Law Tribunal, Chandigarh Bench for sanctioning of Scheme for Arrangement and Amalgamation between three entities. It was stated further that the implementation of the Scheme would lead to a change in the status of the respondents' unencumbered assets as disclosed to the Hon'ble Delhi High Court pursuant to the Hon'ble High Court's order dated 06.3.2017.

In view of the above it would be proper to defer this case in view of the order of status quo with regard to the shareholding of Fortis Healthcare Holding Private Limited in Fortis Healthcare Limited, passed by the Hon'ble Supreme Court of India.

Therefore, the matter is adjourned to 10.10.2017.



(Justice R.P. Nagraath)
Member (Judicial)

August 21, 2017
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