

NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH  
CHENNAI

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ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI  
NATIONAL COMPANY LAW TRIBUNAL, HELD ON 24/08/2017 AT 10.30 AM

PRESENT: SHRI Ch. MOHD SHARIEF TARIQ, MEMBER - JUDICIAL  
SHRI. S. VIJAYARAGHAVAN – MEMBER - TECHNICAL

APPLICATION NUMBER :  
PETITION NUMBER : CA/145,146,147/CAA/2017  
NAME OF THE TRANSFEROR : CHERRY INTERNATIONAL TRADING PVT LTD  
NAME OF THE TRANSFEROR : MEGAPRO INVESTEMENTS PVT LTD  
NAME OF THE TRANSFERRE : XS REAL PROPERTIES PVT LTD  
UNDER SECTION : 230

S.No.	Name (in Capital)	Represented by	Signature
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1.	A.M. ILANGO	COUNSEL FOR PETITIONER	7.
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IN THE NATIONAL COMPANY LAW TRIBUNAL,  
DIVISION BENCH, CHENNAI

**CA/145/CAA/CB/2017**  
**CA/146/CAA/CB/2017**  
**CA/147/CAA/CB/2017**

**Under Sections 230 to 232 of the Companies Act, 2013**

In the matter of Scheme of Amalgamation and Arrangement  
between

**M/s. Cherry International Trading Ltd.**

(1<sup>st</sup> Transferor company)

**and**

**M/s. Mega Pro Investments Pvt. Ltd.**

(2<sup>nd</sup> Transferor company)

**With**

**M/s. XS Real Properties Pvt. Ltd.**

(Transferee company)

*Order passed on 24<sup>th</sup> of August, 2017*

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**CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)**  
**S.VIJAYARAGHAVAN, MEMBER (TECHNICAL)**

For Applicant(s) : Mr. A.M. Ilango and Mr. N. Ramanathan

**ORDER**

Per : CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

1. Under consideration are three Applications No;. CA/145/CAA/CB/2017, CA/146/ CAA/CB/2017 and CA/147/ CAA/CB/2017 filed under Sections 230 to 232 of the Companies Act, 2013. Since all the three

Applications are with regard to the single Scheme of Amalgamation and Arrangement, we take them together to pass a common order.

**CA/145/CAA/2017**

2. In relation to the 1<sup>st</sup> Transferor company viz., M/s. Cherry International Trading Private Limited, there are three equity shareholders. The certificate of Chartered Accountant to the effect is placed at page 167 of the typed set of Application. The consent affidavits given by the above three shareholders are placed at pages 168 to 174 of the typed set of Application, wherein it has been deposed that they did support the Scheme and consent to dispense with convening, holding and conducting the meeting of equity shareholders.

In the light of the affidavits placed on record, the requirement under law has been fulfilled. Therefore, we order to dispense with the meeting of the equity shareholders of the 1<sup>st</sup> Transferor company.

3. The 1<sup>st</sup> Transferor company has no secured creditors. The certificate of the Chartered Accountant to the effect is placed at page 159 of the typed set of Application.

As far the unsecured creditors are concerned, 1<sup>st</sup> Transferor company has two unsecured creditor. The certificate of the Chartered Account is placed at page 160 of the typed set of Application. The consent affidavits given by the unsecured creditors are placed at pages 161 to 164 of the typed set of Application, wherein it has been deposed that they have no objection for the proposed Scheme and dispensing with the meeting of the creditors.

In the light of the affidavits filed in respect of the unsecured creditors, the requirement under law has been fulfilled. Therefore, under clause (9) of the Section 230 of the Companies Act 2013, we order to dispense with the meeting of the unsecured creditors of the 1<sup>st</sup> Transferor company.



**CA/146/CAA/2017**

4. In relation to the 2<sup>nd</sup> Transferor company viz., M/s. Megapro Investments Private Limited, there are three equity shareholders. The certificate of Chartered Accountant to the effect is placed at page 151 of the typed set of Application. The consent affidavits given by the above three shareholders are placed at pages 152 to 158 of the typed set of Application, wherein it has been deposed that they did support the Scheme and consent to dispense with convening, holding and conducting the meeting of equity shareholders.

In the light of the affidavits placed on record, the requirement under law has been fulfilled. Therefore, we order to dispense with the meeting of the equity shareholders of the 2<sup>nd</sup> Transferor company.

5. The 2<sup>nd</sup> Transferor company has no secured creditor. The certificate of the Chartered Accountant to the effect is placed at page 143 of the typed set of Application.

As far the unsecured creditors are concerned, 2<sup>nd</sup> Transferor company has one unsecured creditor. The certificate of the Chartered Account is placed at page 144 of the typed set of Application. The consent affidavit given by the unsecured creditor is placed at pages 145 and 146 of the typed set of application, wherein it has been deposed that he has no objection for the proposed Scheme and dispensing with the meeting of the creditors.

In the light of the affidavit filed in respect of the unsecured creditor, the requirement under law has been fulfilled. Therefore, under clause (9) of Section 230 of the Companies Act 2013, we order to dispense with the meeting of the unsecured creditor of the 2<sup>nd</sup> Transferor company.

**CA/147/CAA/2017**

6. In relation to the Transferee company viz., M/s. XS Real Properties Private Limited, there are four equity shareholders. The certificate of Chartered

Accountant to the effect is placed at page 167 of the typed set of Application. The consent affidavits given by the above four shareholders are placed at pages 168 to 179 of the typed set of Application, wherein it has been deposed that they did support the Scheme and consent to dispense with convening, holding and conducting the meeting of equity shareholders.

In the light of the affidavits placed on record, the requirement under law has been fulfilled. Therefore, we order to dispense with the meeting of the equity shareholders of the Transferee company.

7. The Transferee company has two secured creditors and 87 unsecured creditors. The certificate of the Chartered Accountant to the effect is placed at page 161 and 162 to 164 respectively, of the typed set of Application.

8. We order for convening, holding and conducting of the meeting of secured creditors on 23.09.2017 at 10.00 a.m. in the premises of the Registered Office of

the Transferee company at No.12, South Mada Street, Sri Nagar Colony, Saidapet, Chennai- 600 015.

We appoint Mr. B. Ravishankar, (Chartered Accountant) and alternatively, Mr. Sudhakara Gupta Gunneswaran, (the Authorised Signatory of the Company) as Chairman for the meeting of the secured creditors. We fix the quorum for meeting at two. In case the quorum is not there at the designated time, when the meeting is called, then, the meeting shall be adjourned by half an hour, and thereafter, the person present for voting shall be deemed to constitute the quorum.

9. As far as unsecured creditors are concerned, we order for convening, holding and conducting of the meeting of unsecured creditors on 23.09.2017 at 11.00 a.m. in the premises of its Registered Office of the Transferee company at No.12, South Mada Street, Sri Nagar Colony, Saidapet, Chennai- 600 015.



We appoint Mr. B. Ravishankar, (Chartered Accountant) and alternatively, Mr. Sudhakara Gupta Gunneswaran,(the Authorised Signatory of the Company) as Chairman for the meeting of the unsecured creditors. We fix the quorum for meeting at 40 (forty) and constituting 25% or more in value of the total unsecured credit. In case the quorum is not there at the designated time, when the meeting is called, then, the meeting shall be adjourned by half an hour, and thereafter, the persons present for voting shall be deemed to constitute the quorum.

10. The notice of the meeting of secured/unsecured creditors shall be issued at least not less than 30 days prior to the date fixed for meeting. The service of notice shall be effected by speed post/through electronic means, provided the e-mail address of the members/creditors available with the Transferee company.

11. The Transferee company is also directed to make available the facility for voting by making appropriate arrangements. The information about such arrangements shall be given to secured/unsecured creditors well before the date fixed for the meeting. Those who received the notices may vote in the meeting either in person or through proxy for the adoption of the scheme. The Chairman shall ensure that the proceedings of the meeting may take place in a just, free and fair manner, and within one week of the meeting, the Chairman shall file the reports of the meeting of both secured/unsecured creditors before this Bench.

12. After hearing the Counsel for the Applicants and perusal of records, we are inclined to direct the Registry to issue notice to the Regional Director, Ministry of Corporate Affairs, ROC concerned and Income Authority. Since the Applicants are a private limited company, there is no requirement to issue notices to the SEBI and other stock exchanges. As per the memo of undertaking filed by the Ld. Counsel for

the Applications, there is no requirement to issue notice to CCI or other sectoral regulators. In case any authority are desirous of making any objection/representation, they may do so within 30 days from the date of receipt of the notice. In case no objection/representation is made, it shall be presumed that they/any of them have/has no objection/representation to make.

13. The Applicants are directed to effect publication separately in the newspapers one in English "The Business Standard" (Chennai edition) and another in vernacular language "Makkal Kural" (Chennai edition) having wide circulation in the State of Tamilnadu, not less than 30 days before filing the Company Petition. The Applicants are directed to upload the notice on their websites and display the notice on the notice board at the Registered Office of its company. The Registry is also directed to display the notice on the notice board of this Bench. The Applicants are directed to issue private notice separately to the

authorities/regulators by way of speed post/hand delivery. The proof of sending and effecting the service upon them along with the newspaper publication be submitted along with an affidavit.

14. We also direct the Registry to issue notice to the Official Liquidator in respect of 1<sup>st</sup> Transferor company and the 2<sup>nd</sup> Transferor company. The Official Liquidator shall appoint Chartered Accountant on his own for the purpose of preparation of the report which shall be submitted to this Bench within four weeks from the date the copy of this order is received.

15. Accordingly, the Applications are allowed. We direct the Applicants to present Petition within one week from the date the report of the Chairman of the Transferee company is submitted to this Bench.

  
**(S.VIJAYARAGHAVAN)**  
MEMBER (TECHNICAL)  
PAM

  
**(CH. MOHD. SHARIEF TARIQ)**  
MEMBER (JUDICIAL)