

IN THE NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH
HYDERABAD

CP(CAA)No.34/230/HDB/2017

U/Ss 230 & 232 of the Companies Act, 2013

In the matter of

1. Highend Properties Private Limited
NSL ICON 8-2-684/2/A,
4th Floor, Road No.12, Banjara Hills,
Hyderabad,
Telangana – 500 034. ... Petitioner/Transferor /Demerged Company

Vs.

1. NSL Properties Private Limited
Official Liquidator
4th Floor, Road No.12, Banjara Hills,
Hyderabad,
Telangana – 500 034. ... Petitioner/Transferee /Resulting Company

CERTIFIED TO BE TRUE COPY
OF THE ORIGINAL

Date of Order: 20.09.2017

CORAM:

Hon'ble Mr. Rajeswara Rao Vittanala, Member (Judicial)

Parties Present:

Counsel for the Petitioners: Dr. S.V. Rama Krishna along with Mr. S.V. Vanshi
Krishna and Ms. S. Deepa Sree

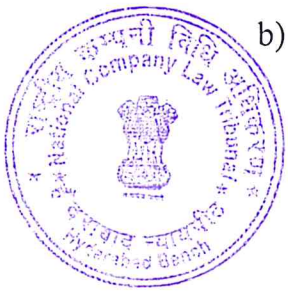
Per: Rajeswara Rao Vittanala, Member (Judicial)

ORDER

1. The Company Petition bearing CP(CAA)No.34/230/HDB/2017 is jointly filed by Highend Properties Private Limited (Transferor Company) and NSL Properties Private Limited (Transferee Company), U/Ss 230 & 232 of the Companies Act 2013, by seeking the Tribunal to sanction Scheme of Arrangement (enclosed with the Petition) as to be binding on all the Equity Shareholders/Members, Secured/Unsecured Creditors of both the Transferor

and Transferee Companies and permit the companies to file certified copy of the order passed by the Hon'ble Tribunal with ROC etc.

2. I have heard Dr. S.V. Ramakrishna, Learned Counsel for the Petitioner Companies and carefully perused all pleadings along with material papers filed in their support.
3. Brief facts of case, which are relevant to the issue in question, are as follows:-
 - a) Initially, the Transferor Company and Transferee Company have filed Company Applications bearing No.1481/2016 and 1480/2016 respectively before the Hon'ble High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh for dispensing with convening of meetings of the equity shareholders, secured and unsecured creditors of the respective companies. The Hon'ble High Court by its Order dated 14.11.2016 passed in C.A.No.1481/2016 and 1480/2016, dispensed with convening of meetings of the equity shareholders, secured and unsecured creditors of the respective companies.
 - b) The present Company Petition is filed as a Joint Company Petition under Rule 23A of NCLT Rules, 2016, by both Transferor Company and Transferee Company before this Tribunal as the cause of action and nature relief prayed for is having common interest in the matter of demerger under the present Scheme of Arrangement.
 - c) It is stated that the Petitioner No.1/Transferor Company was originally incorporated as Highend Properties Private Limited on 08.06.2006 under the provisions of the Companies Act, 1956. The Registered Office of the Company is situated at NSL ICON, 8-2-684/2/A, 4th Floor, Road No.12, Banjara Hills, Hyderabad, Telangana – 500 034. The Corporate Identity Number of the Company is U70102TG2006PTC050676. The Authorized, Issued, Subscribed and paid up Share Capital of the 1st



Petitioner/Transferor Company as on 31.03.2016 is Rs.1,00,000/- (Rupees One Lakh only) divided into 10,000 Equity Shares of Rs.10/- each. The main objects are to carry on business of Real Estate builders, developers, Promoters, Architects, Supervisors, Contractors/Consultants, Dealers, and Agents for a Real Estate including development of townships and sale of plots, etc.

- d) It is stated that the Petitioner No.2/Transferee Company was originally incorporated as NSL Properties Private Limited on 12.03.2008 under the provisions of the Companies Act, 1956 in the National Capital Territory of Delhi. Subsequently, on 08.03.2013, the Company changed its registered office from the National Capital Territory of Delhi to the then State of Andhra Pradesh and now State of Telangana. The Registered Office of the Company is situated at NSL ICON, 8-2-684/2/A, 4th Floor, Road No.12, Banjara Hills, Hyderabad, Telangana – 500 034. The Corporate Identity Number of the Company is U74120AP2008PTC086206. The Authorized Share Capital of the Transferee Company as on 31.03.2016 is Rs.2,50,00,000/- (Rupees Two Crores Fifty Lakhs only) divided into 25,00,000 Equity Shares of Rs.10/- each. The Issued, subscribed & Paid up capital of the Transferee Company is Rs.2,01,01,110/- (Rupees Two Crores One Lakh One Thousand One Hundred and Ten only) divided into 20,10,111 Equity Shares of Rs.10/- each. The main objects are to carry on business of Real Estate builders, developers, Promoters, Architects, Supervisors, Contractors/Consultants, Dealers, and Agents for a Real Estate including development of townships and sale of plots, etc.




- e) The Two Petitioner Companies, under this Scheme of Arrangement are part of NSL Group. The Group believes that the restructuring would benefit the companies and its stake holders on account of following reasons:

- (i) Segregation of real estate renting business and financing business, thereby ensuring focused management; and
 - (ii) Achieving operational and management efficiency.
- f) The Board of Directors of the Transferor and Transferee Companies, at their meeting held on 26.08.2016 passed the resolution approving the Scheme of Arrangement with the appointed date as 01.09.2016.
- g) The nature/advantages of Scheme are as follows:
- (a) The whole of undertaking, assets, properties and liabilities of the Transferor Company on the Transfer/Appointed date will become the assets and liabilities of Transferee Company.
 - (b) The entire share capital of the Transferor Company is held by Transferee Company itself and is a 100% subsidiary of Transferee Company properties, no shares would be issued by Transferee Company on demerger of the Demerged undertaking from Transferor Company into Transferee Company Properties.
 - (c) The Transferee Company shall, upon the Scheme becoming effective, record the assets, liabilities, reserves of the Demerged Undertaking of Transferor Company vested in it pursuant to this Scheme, at respective book values, as appearing in the books of Transferor at the close of business on the day immediately preceding the Appointed Date etc.
 - (d) The Transferor Company shall reduce the book value of assets and liabilities pertaining to the Demerged Undertaking transferred to Transferee Company from the book value of assets and liabilities as appearing in its books at the close of business on the day immediately preceding the Appointed Date etc.



- (e) The Transferor Company shall not utilize profits or income, if any, pertaining to the Demerged Undertaking for any purpose including declaring or paying any dividend in respect of the period falling on and after the Appointed Date. The Transferor Company shall not utilize profits, adjust or claim adjustment of the profits/loss as the case may be earned/incurred or suffered in respect of the Demerged Undertaking after the Appointed Date.
- (f) The Transferor Company shall be deemed to have been carrying on and shall carry on its business and activities relating to the Demerged Undertaking and shall be deemed to have held and stood possessed of any shall hold and stand possessed of all its properties and assets pertaining to the Demerged Undertaking for and on account of and in trust for Transferee Company etc.
- (g) All Staff and employees of Transferor Company pertaining to Demerged Undertaking in service on the effective date shall be deemed to have become staff and employees of Transferee Company etc.



4. The Learned Counsel further submitted that personal notices have been sent to all the unsecured creditors by RPAD on 15.04.2017. Newspaper advertisement of the Notice of Petition has been published in the Business Standard (English Daily-Hyderabad Edition) and in Andhra Bhoomi (Telugu Daily – Hyderabad Edition) both dated 12.04.2017.

5. The Learned Counsel further submitted that notice was also issued to the (i) Regional Director, South East Region, (ii) Registrar of Companies, Hyderabad and (iii) Income Tax Authorities on 06.04.2017.

6. The Regional Director (SER), Hyderabad has submitted an affidavit dated 21.04.2017 by inter-alia and confirming averments of Petitioner in CP, has further stated that Tribunal can consider the case as per merits, and pass appropriate orders.
7. The Learned Counsel for Petitioner further filed a Memo dated 25.04.2017 by stating that both Demerged and Resulting Companies have passed, a separate Board Resolutions of even dated 31.03.2017 by extending time limit as mentioned in clause 16 of the scheme i.e. from 31.03.2017 to 31.03.2018, and also enclosed certified copies of resolutions.
8. I have carefully gone through all the pleadings, Report of the Regional Director (SER) and also relevant provisions of Companies Act, 1956/2013. I am convinced that the Petitioner Companies have complied with all statutory requirements as required under Section 230, 232 and other relevant provisions of Companies Act, 2013 as detailed supra. The Board of Directors of the Companies at its meeting held on 26.08.2016 have duly considered the pros and cons of Scheme of Arrangement in question, after perusing various reports on the issue, and found it is advantageous and beneficial to the Company, its Members the Secured Creditors and other concerned parties of the Company and thus it was approved. Further the Board of Directors of both Companies, have further extended limited from 31.03.2017 to 31.03.2018. I am satisfied that the Scheme of Arrangement in question is for bonafide reason meant for favour of all shareholders of the Companies in particular, and public in general. It is to be mentioned herein that the Scheme in question is not opposed by any authorities and, the Petitioner Companies admittedly following all rules/regulations of Companies Acts. Hence, I am of considered view that the Company Petition deserved to be allowed as prayed for.
9. In the result, the Company Petition bearing CP(CAA)No.34/230/HDB/ 2017 is allowed with the following directions:-
 - a) Sanctioned the Scheme of Arrangement and fixed the appointment date as 01.09.2016 (which is filed as Annexure enclosed with the Petition) with



alteration of date as 31.03.2018 instead of 31.03.2017 as mentioned under Clause 16 of the scheme, and ordered that the same is binding on all the Equity Shareholders/Members and Creditors (Secured & Unsecured) of both the Transferor and Transferee Companies, and also on both the Companies.

- b) The petitioners are permitted to deliver a certified copy of this order along with scheme to Registrar of Companies within 30 days from the date of receipt of Copy of this order.
- c) The Petitioners are directed to issue newspaper publication with respect to approval of scheme of arrangement, in the same newspapers, in which previous publications were issued, in order to ensure transparency/dissemination of complete information to all concerned parties about the approval granted by the Tribunal for the Scheme as proposed.
- d) The petitioners are further directed to take all consequential and statutory steps required in pursuance of the approved Scheme of Arrangement under the Provisions of the Act.
- e) Liberty is granted to any party/parties, who is aggrieved by this order, to seek any direction(s) by way of filing miscellaneous application in the present CP.
- f) The Petitioner Companies are directed to strictly adhere to the above directions and follow all extent provisions of Companies Act, 2013.



Sd/-

RAJESWARA RAO VITTANALA
Member (Judicial)

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Dy. Regr./Asst. Regr./Court Officer/
National Company Law Tribunal, Hyderabad Bench.

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केस नंबर
CASE NUMBER *CPLCA/2016/34/230/HD/24*
दिनांक या निर्णय
DATE OF JUDGEMENT *20.9.2017*
प्रतिलि तैयार किया गया तिथि
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