

IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD

CA(CAA)No.85/230/HDB/2017

U/s 232 r/w Sec 230 of the Companies Act, 2013

In the matter of:

PBEL Property Development (India) Private Limited
Having its registered office at
Plot No. 69 & 70, Opposite Lane to Madhapur Police Station,
Kavuri Hills, Madhapur, Hyderabad - 500033
Telangana, India.

... 1st Applicant/Demerged Company

Incor Chennai Projects Two Private Limited
Having its registered office at:
H. No: 8-2-700, Srida Anushka Pride,
4th Floor, Road No. 12, Banjara Hills,
Hyderabad - 500034
Telangana, India.

CERTIFIED TO BE TRUE COPY
OF THE ORIGINAL

... 2nd Applicant/Resulting Company No.1

Incor Chennai Projects Three Private Limited
Having its registered office at :
H. No: 8-2-700, Srida Anushka Pride,
4th Floor, Road No. 12, Banjara Hills,
Hyderabad - 500034
Telangana, India.

... 3rd Applicant/Resulting Company No.2

Incor Chennai Projects Four Private Limited
Having its registered office at:
H. No: 8-2-700, Srida Anushka Pride,
4th Floor, Road No. 12, Banjara Hills,
Hyderabad - 500034
Telangana, India.

... 4th Applicant/Resulting Company No.3

Order Pronounced on: 08.11.2017

Coram:

Hon'ble Shri Rajeswara Rao Vittalala, Member (Judicial)

Hon'ble Shri Ravikumar Duraisamy, Member (Technical)



Parties to the Petition:

For the Applicants: Shri A. Venkatesh, along with Shri L. Aravind Reddy and Shri Rusheek Reddy. K.V, Advocates

Per: Ravikumar Duraisamy, Member (Technical)

ORDER

1. The present Joint Company Application bearing CA(CAA) No. 85/230/HDB/2017 is filed by PBEL Property Development (India) Private Limited and others under Sections 230-232 of the Companies Act, 2013 by seeking the following reliefs:

(i) In case of the 1st Applicant / Demerged Company

To dispense with the meetings of the equity shareholders and Unsecured Creditors of the 1st Applicant /Demerged Company.

(ii) In case of the 2nd Applicant / Resulting Company 1

To dispense with the meetings of the equity shareholder, Secured Creditor and Unsecured Creditors of the 2nd Applicant/ Resulting Company 1 and pass such other order or orders as this Hon'ble Bench may deem fit and proper in the circumstances of the case.



(iii) In case of the 3rd Applicant / Resulting Company 2

To dispense with the meetings of the equity shareholders of the 3rd Applicant / Resulting Company 2 and pass such other order or orders as this Hon'ble Bench may deem fit and proper in the circumstances of the case.

(iv) In case of the 4th Applicant / Resulting Company 3

To dispense with the meetings of the equity shareholders of the 4th Applicant /Resulting Company 3 and pass such other order or orders as this Hon'ble Bench may deem fit and proper in the circumstances of the case.

2. Brief facts of the Applicants in Scheme of Demerger/Arrangement:

A. Details of Applicant/Demerged Company:

- a. PBEL Property Development (India) Private Limited, (hereafter referred to as “1st Applicant/Demerged Company”) was incorporated as a private limited company on 2nd February, 2007 in the State of Telangana. The Registered Office of the Demerged Company is situated at Plot No. 69 & 70, Opposite Lane to Madhapur Police Station, Kavuri Hills, Hyderabad – 500033, Telangana, India.
- b. The main objects of the Demerged Company are set out in the Memorandum of Association which are briefly as under:-

To carry on business of builders and contractors for the construction, upgradation, maintenance and repair of roads, bridges, viaducts, buildings, interchangers and other related works. To negotiate and obtain concessions from the appropriate Governments for the rights to build, operate and own or transfer highways, interchangers, viaducts and bridges and any other structures, buildings and services, etc.
- c. At present the Demerged Company is engaged in the business of development and construction of real estate.
- d. The authorized, issued, subscribed and paid-up share capital of the Demerged Company as on 31stDecember, 2016 was as under:

Authorised Share Capital	Rupees
2,25,00,000 Equity Shares of Rs. 10/- each	22,50,00,000
Total	22,50,00,000
Issued, Subscribed and Paid-up Share Capital	
2,25,00,000 Equity Shares of Rs. 10/- each fully paid up	22,50,00,000
Total	22,50,00,000



B. Details of 2nd Applicant/Resulting Company No. 1:

a. Incor Chennai Projects Two Private Limited (hereafter referred to as “2nd Applicant/Resulting Company No. 1”) was incorporated as a private limited company on 14th March, 2017 in the State of Telangana. The Registered Office of the Resulting Company No. 1 is situated at H.No. 8-2-700, Srida Anushka Pride, 4th Floor, Road No. 12, Banjara Hills, Hyderabad – 500034, Telangana, India.

b. The main objects of the Resulting Company are set out in the Memorandum of Association which are briefly as under:-

To construct, execute, undertake, carryout, run, establish, acquire, maintain, remodel, alter, develop, work, control, manage, take on lease, purchase or acquire, any apartments, residential complexes, commercial complexes, villas, resorts, Information Technology parks, etc. To carry on the business of Infrastructure development in India and abroad and setting up, establishing and operating, infrastructure projects, like civilcontracts, landscaping and development of infrastructure for businesses, etc.

The Resulting Company No. 1 is also engaged in the business of development and construction of real estate.

d. The authorized, issued, subscribed and paid-up share capital of the Resulting Company No. 1 as on the date of this application is as under:

Authorised Share Capital	Rupees
3,00,000 Equity Shares of Rs. 10/- each	30,00,000
Total	30,00,000
Issued, Subscribed and Paid-up Share Capital	
2,50,000 Equity Shares of Rs. 10/- each	25,00,000
Total	25,00,000

C. Details of 3rd Applicant/Resulting Company No. 2:

- a. Incor Chennai Projects Three Private Limited (hereafter referred to as “3rd Applicant/Resulting Company No. 2”) was incorporated as a private limited company on 5th June, 2017 in the State of Telangana. The Registered Office of the Resulting Company No. 2 is situated at H.No. 8-2-700, SridaAnushka Pride, 4th Floor, Road No. 12, Banjara Hills, Hyderabad – 500034, Telangana, India
- b. The main objects of the Resulting Company No. 2 are set out in the Memorandum of Association which are briefly as under:-

To construct, execute, undertake, carryout, run, establish, acquire, maintain, remodel, alter, develop, work, control, manage, take on lease, purchase or acquire, any apartments, residential complexes, commercial complexes, villas, resorts, Information Technology parks, etc. To carry on the business of Infrastructure development in India and abroad and setting up, establishing and operating, infrastructure projects, like civilcontracts, landscaping and development of infrastructure for businesses, etc.

- c. The Resulting Company No. 2 is also engaged in the business of development and construction of real estate.
- d. The authorized, issued, subscribed and paid-up share capital of the Resulting Company No.2 as on the date of this application is as under:

Authorised Share Capital	Rupees
3,00,000 Equity Shares of Rs. 10/- each	30,00,000
Total	30,00,000
Issued, Subscribed and Paid-up Share Capital	
2,50,000 Equity Shares of Rs. 10/- each	25,00,000
Total	25,00,000

D. Details of 4th Applicant/Resulting Company No. 3:

- a. Incor Chennai Projects Four Private Limited (hereafter referred to as “4th Applicant/Resulting Company No. 3”) was incorporated as a private limited company on 30th May, 2017 in the State of Telangana. The Registered Office of the Resulting Company No. 3 is situated at H.No. 8-2-700, Srida Anushka



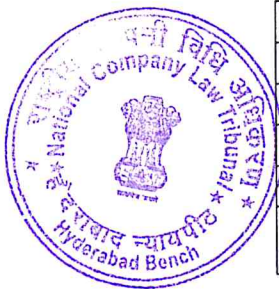
Pride, 4th Floor, Road No. 12, Banjara Hills, Hyderabad – 500034, Telangana, India.

- b. The main objects of the Resulting Company No. 3 are set out in the Memorandum of Association which are briefly as under:-

To construct, execute, undertake, carryout, run, establish, acquire, maintain, remodel, alter, develop, work, control, manage, take on lease, purchase or acquire, any apartments, residential complexes, commercial complexes, villas, resorts, Information Technology parks, etc. To carry on the business of Infrastructure development in India and abroad and setting up, establishing and operating, infrastructure projects, like civilcontracts, landscaping and development of infrastructure for businesses, etc.

- c. The Resulting Company No. 3 is also engaged in the business of development and construction of real estate.
- d. The authorized, issued, subscribed and paid-up share capital of the Resulting Company No.3 as on the date of this application is as under:

Authorised Share Capital	Rupees
3,00,000 Equity Shares of Rs. 10/- each	30,00,000
Total	30,00,000
Issued, Subscribed and Paid-up Share Capital	
2,50,000 Equity Shares of Rs. 10/- each	25,00,000
Total	25,00,000



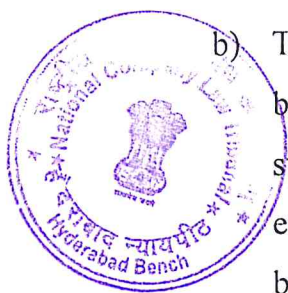
3. By the proposed scheme, the Demerged Company proposes to transfer the businesses of various projects of the Demerged Company located at Thaiyur 'B' Village and Panchayat, Thiruporur Panchayat Union, Chengalpattu Taluk, Kanchipuram District, Tamil Nadu – 603103

- (i) Demerged Undertaking No.1 and Demerged Undertaking No. 2 shall stand transferred to and vested in and/or be deemed to have been transferred to and vested in Resulting Company No.1;

- (ii) Demerged Undertaking No.3 shall stand transferred to and vested in and/or be deemed to have been transferred to and vested in Resulting Company No.2; and
- (iii) Demerged Undertaking No.4 and Demerged Undertaking No.5 shall transferred to and vested in and/ or be deemed to have been transferred to and vested in Resulting Company No. 3.

4. **RATIONALE FOR THE PROPOSED SCHEME OF DEMERGER:**

- a) The nature of risks and competition involved in relation to each of the on-going projects are different and this arrangement will enable differentiated management approach and focus in relation to each of the Demerged Undertakings, to tackle/ address the same efficiently/ effectively, as appropriate.



- b) The respective managements of Demerged and Resulting Companies believe that this arrangement will provide opportunities for creating strategic partnerships and flexibility of fund raising for future growth and expansion and to create a business structure, which is geared to gain benefits from possible growth opportunities etc.

- 5. In view of the aforesaid advantages, the Board of Directors of the Applicant Companies vide their respective Board Meetings held on August 4, 2017 approved the Scheme of Demerger among Applicant Companies.
- 6. There are 2 (two) Equity Shareholders in the Demerged Company and both of them have given their consent to the proposed Scheme by means of affidavits.
- 7. There are 2 (Two) Equity Shareholders in the Resulting Company No. 1 and both the shareholders have given their consent to the proposed Scheme by means of affidavits.
- 8. There are 4 (Four) Equity Shareholders in the Resulting Company No. 2 and all the shareholders have given their consent to the proposed Scheme by means of affidavits.

9. There are 4 (Four) Equity Shareholders in the Resulting Company No. 3 and all the shareholders have given their consent to the proposed Scheme by means of affidavits.
10. At present there are no Secured Creditors of the Demerged Company and there are 70 (Seventy) Unsecured Creditors amounting to Rs.3,33,57,86,165/- in the Demerged Company who are interested in the proposed Scheme. 7 (Seven) Unsecured creditors amounting to Rs.3,30,02,16,013/-constituting 98.93% in value of Unsecured Creditors have given their consent to the proposed scheme by way of affidavits.
11. At present, there is 1 (One) Secured Creditor of the Resulting Company No. 1 amounting to Rs. 30,00,00,000/- and has given its consent to the proposed Scheme by means of affidavit. Further, there are no other Unsecured Creditors in the Resulting Company No. 1 except in the nature of Trade Creditors amounting to Rs. 78,83,717/-. The rights of Trade Creditors will not be affected by the proposed Scheme since post sanction of the Scheme, the assets of the Resulting Company No. 1 will be sufficient to discharge its liabilities and it does not involve any compromise or arrangement with any creditors of the Resulting Company 1.
12. At present, there are no Secured and Unsecured Creditors in Resulting Company No.2 and Resulting Company No.3.
13. Heard Shri A. Venkatesh alongwith Shri L. Aravind Reddy and Shri Rusheek Reddy K.V Learned Counsels for Applicants and have carefully perused all materials on record and the provisions of Companies Act, 2013, with relevant Rules.
14. We have also perused the objects of Scheme of Demerger in question and the Affidavits filed by Applicants and its prayer for seeking to dispense with conducting meeting of various shareholders. Applicant Company submitted that the Scheme is initiated for over all benefits of its Shareholders, creditors and all interested parties. Therefore, we are of the considered view that it would not serve any purpose to order to hold meetings of Shareholders and Creditors. In the interest of ease of doing business, it would be just, proper and expedient to accede the prayer of applicants.



15. In the result, the CA(CAA) No.85/230/HDB/2017 is allowed with following directions:

- a) Dispensed with the meeting of the Equity Shareholders of all the Applicant Companies, as the shareholders have given their consent to the Scheme of Arrangment by way of sworn Affidavit.
- b) Dispensed with the meetings of the Unsecured Creditors of the 1st Applicant/Demerged Company as the Unsecured Creditors have given their consent to the Scheme of Arrangment to the extent of 98.93%.
- c) Dispensed with the meeting of the Secured Creditor of the 2nd Applicant/Resulting Company No.1 as the Secured Creditor has given consent to the Scheme of Arrangement.
- d) The Counsel is directed to ensure that the approval given by foreign entity authorises the Indian National to submit an affidavit in relation to the Scheme of Arrangment and the same should be Apostille as per the Laws of the Country in which the foreign entity is registered, while filing the subsequent Petition.



The Applicant Companies are directed to communicate this Order to the Registrar of Companies, Hyderabad, Regional Director, Income Tax Department and all other Concerned authorities within three weeks from the date of receipt this order.

- f) The parties who have not given their consent to the Scheme of Arrangement are at liberty to express their views at the time of filing Company Petition by the Applicant Companies.

Sd/-
RAVIKUMAR DURASAMY
MEMBER (TECHNICAL)

Sd/-
RAJESWARA RAO VITTANALA
MEMBER (JUDICIAL)

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16
f. Dy. Regr./Asst. Regr./Court Officer/
National Company Law Tribunal, Hyderabad Bench

प्रमाणित प्रति
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केस संख्या
CASE NUMBER...CA(CAA) NO.85/230/HDB/2017
निर्णय का तारीख
DATE OF JUDGEMENT...2.11.2017
प्रति तैयार किया गया तारीख
COPY MADE READY ON...9.11.2017