

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL  
BENCH, AT MUMBAI

CP NO. 305 OF 2017

IN THE MATTER of the Companies Act, 2013;

AND

IN THE MATTER of Section 14 (1) of the Companies Act,  
2013;

AND

IN THE MATTER of the conversion of status of Piramal Glass  
Limited from that of Public in to a Private Company.

**Piramal Glass Limited**

.... Petitioner Company

Order delivered on 6th September, 2017.

Coram :

Shri BSV Prakash Kumar, Member (J)

Shri V. Nallasenapathy, Member, (T)

For the Petitioner ...

1. Mrs. Alpana Ghone

2. Mr. Arvind Talgaonkar

i/b M/s. Crawford Bayley & Co., Advocates for Applicant.

**Per:** Shri BSV Prakash Kumar, Member (J)

**ORDER:**

1. Petition Admitted.
2. Petition fixed for hearing and final disposal on 4<sup>th</sup> October, 2017.
3. The Learned Counsel for the Petitioner states that, the circumstances that have necessitated or justified the Proposed conversion of status of the Petitioner Company from that of Public Company in to a Private Company are, inter alia, as under:



- i. The Petitioner Company is an Unlisted Public Company, which delisted its shares from BSE Limited and National Stock Exchange of India Limited in July 2014, under the Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2009 ('the SEBI Delisting Regulations') post which, the promoters of the Petitioner Company had provided an exit opportunity to the public shareholders of the Company, under the SEBI Delisting Regulations at a price of INR. 140 per share, which offer concluded on July 27, 2015. Post the delisting and exit offer, the shareholding of public shareholders reduced from 26.29% to 2.59%.
  - ii. In view of non-tradability of the shares in the Petitioner Company and in order to provide an opportunity to the public shareholders to liquidate their shareholding, which had become illiquid, the Shareholders had at the 18<sup>th</sup> Annual General Meeting of the Company held on 20<sup>th</sup> September, 2016, approved a Capital Reduction, whereby, shares held by Public Shareholders were reduced and cancelled in the share capital of the Petitioner Company. The said scheme was also confirmed and sanctioned by the Hon'ble National Company Law Tribunal vide its order dated 27<sup>th</sup> January, 2017. As per the said order and in terms of the Reduction of Capital, the Petitioner Company had discharged the consideration of INR. 275/- (Rupees Two Hundred and Seventy-Five) per share to the members of the Non-promoter Group and/or the Public Shareholders and consequently, the shares held by Public shareholders have been cancelled.
  - iii. Subsequent to the aforesaid Reduction of Share Capital, there are no public shareholders.
  - iv. Accordingly, the Board of Directors of the Petitioner Company resolved on 5<sup>th</sup> April, 2017 that, subject to the directions and sanctions of this Tribunal as required under law approved the conversion of the Petitioner Company into a Private Limited Company, which would *inter alia* simplify to a large extent various requirements pertaining to the Petitioner Company. This would also enable the Petitioner Company to obtain privileges which are available to Private Limited Companies.
4. The Learned Counsel for the Petitioner Company further submits that at the Extraordinary General Meeting of Equity Shareholders of the Petitioner Company held on 23<sup>rd</sup> May 2017, all ten (10) Equity Shareholders holding total 7,90,70,576



Equity Shares (100% Equity Shares), were present in person, authorized representation and/or by proxy. The following Special Resolution pursuant to Section 14(1)(b) of the Companies Act, 2013 and other applicable provisions, if any, of the Act, by way of special business of the Extraordinary General Meeting for conversion of the Petitioner Company into a Private Limited Company, was passed by an overwhelming majority of 99.74% of the Equity Share capital held by the Equity Shareholders present in person or authorized representative:

*“RESOLVED THAT pursuant to the provisions of sections 13 and 14 and as permitted by the provisions of section 18 and subject to other applicable provisions, if any, of the Companies Act, 2013, and the Rules prescribed thereunder (including any statutory modifications or re-enactment(s) thereof for the time being in force) and subject to the approval of the National Company Law Tribunal ('the NCLT') and other authorities, as may be applicable, and further, subject to such conditions, if any, as may be prescribed or stipulated by the concerned authorities, while granting such approvals and which may be agreed to by the Board of Directors of the Company ('the Board', which term shall include its Committee(s) constituted / to be constituted by it for this purpose), consent of the members of the Company be and is hereby granted to convert the Company from a 'Public Limited Company' to a 'Private Limited Company' and consequently, the name of the Company shall be changed from 'Piramal Glass Limited' to 'Piramal Glass Private Limited' by inserting the word 'PRIVATE' before the word 'LIMITED' in its name;*

*RESOLVED FURTHER THAT subject to other amendments being carried out in the Articles of Association of the Company, which are set out in the new set of Articles of Association as applicable to a Private Limited Company and which is hereby approved and adopted by the Members of the Company, the conditions stipulated in section 2(68) of the Companies Act, 2013, which are characteristic of a Private Limited Company, shall also be incorporated in the Articles of Association of the Company;*

*RESOLVED FURTHER THAT the Board be and is hereby authorized to do all such acts, deeds, matters and things as it may, in its absolute discretion deem necessary or desirable for the purpose of giving effect to this resolution, including to settle all questions, difficulties or doubts that may arise in this regard, with power to delegate its powers to a Committee of Directors or to any officer or other person as it may deem fit and proper in the best interests of the Company.”*



5. A Petition for conversion of Public Company to Private Company is required to accomplish certain conditions laid down under Rule 68 of NCLT Rules, 2016. In compliance of Rule 68 the Petitioner setting forth the following information:
- (a) the date of the Board meeting at which the proposal for alteration of Articles was approved;*
  - (b) the date of the general meeting at which the proposed alteration was approved;*
  - (c) State at which the registered office of the company is situated;*
  - (d) number of members in the company, number of members attended the meeting and number of members of voted for and against;*
  - (e) reason for conversion into a private company, effect of such conversion on shareholders, creditors,*
  - (f) present status of the company;*
  - (g) details as to whether a company registered under section 8 of the Act;*
  - (h) the details of the creditors.*
6. At least fourteen clear days (14) before the date fixed for hearing, Petitioner to serve the notice of hearing of Petition upon (i) the Central Government through the office of the Regional Director, Western Region, Ministry of Corporate Affairs, Mumbai, Maharashtra; and (ii) the Registrar of Companies, Mumbai, Maharashtra.
7. At least fourteen clear days (14) before the date fixed for hearing, Petitioner to issue the individual notice of hearing of Petition by R.P.A.D. upon all its creditors.
8. That Counsel for the Petitioner Company further submits that, as on 30<sup>th</sup> June, 2017, the Petitioner Company has 1178 unsecured creditors to whom an aggregate amount of INR.6,74,31,48,993/- is due to be paid by the Petitioner Company. As far as unsecured creditors of the Petitioner Company are concerned, they will be paid off in the ordinary course of business and they will not be affected by proposed conversion of the Petitioner Company into a Private Limited Company in view of the fact that the assets of the Petitioner Company are far more than its liabilities. There has been no substantial change in the amount due to the unsecured creditors and the number of unsecured creditors as on the date of filing this Petition. This bench hereby directs the Petitioner Company to issue the individual notice of hearing of Petition by R.P.A.D. to all its creditors, at least fourteen clear days (14) before the date fixed for hearing, with a direction that they may submit their representations, if any, to the Tribunal and copy of such representations shall simultaneously be served upon the Petitioner Company.



9. At least fourteen clear days (14) before the date fixed for hearing, Petitioner Company to publish the notice of hearing of Petition in two local newspapers viz. "Free Press Journal", in English language and translation thereof in "Navshkti", in Marathi language, both having circulation in Mumbai.
10. Petitioner Company to file an Affidavit of service of notices issued to creditors, publication of notices in newspapers, to the regulatory authorities as stated hereinabove and do report to this Tribunal that the directions regarding the issue of notices have been complied with.

Sd/-

**V. Nallasenapathy, Member, (T)**

Sd/-

**B.S.V. Prakash Kumar, Member (J)**