

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,

MUMBAI BENCH

COMPANY SCHEME PETITION NO. 23 OF 2017

(HIGH COURT TRANSFERRED PETITION)

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 970 OF 2016

In the matter of the Companies Act, 2013 (18 of 2013);

AND

In the matter of Sections 230 to 232 of the Companies Act, 2013 and other relevant provisions of the Companies Act, 2013

AND

In the matter of Sections 391 to 394 of the Companies Act, 1956 and other relevant provisions of the Companies Act, 2013;

AND

In the matter of Scheme of Amalgamation of HAPPY HIGHRISES LIMITED, the Transferor Company with GODREJ PROPERTIES LIMITED, the Transferee Company.

HAPPY HIGHRISES LIMITED, a)

company incorporated under the)

Companies Act, 1956 having its registered)

office at 5th Floor, Godrej One,)

Pirojshanagar, Eastern Express Highway,)

Vikhroli East, Mumbai – 400079,)

Maharashtra, India.)

...Petitioner Company.

Called for Admission of Petition:

Mr. Rajesh Shah with Mr. Ahmed M Chunawala i/b M/s. Rajesh Shah & Co., Advocate for the Petitioner.

Coram: SH. B.S.V. Prakash Kumar Hon'ble Member (J) and SH. V. Nallasenapathy Hon'ble Member (T)

Date: 25th January, 2017.

MINUTES OF THE ORDER

1. Petition Admitted.
2. Petition fixed for hearing and final disposal on 8th March, 2017.
3. Learned Counsel for the Petitioner states that in pursuance of order of the Hon'ble High Court, Bombay dated 9th December, 2016 passed in the Company Summons for Direction No. 970 of 2016 of the High Court, Bombay, for the convening and holding of the meeting of the Equity shareholders was dispensed with in view of consent given by all the Seven Equity Shareholders. There were no Secured Creditors in the Petitioner Company, hence the question of convening and holding meeting of Secured creditors did not arise. The meeting of the Unsecured Creditors was also dispensed with upon an undertaking given by the Petitioner Company to issue an individual notice of the date of hearing of the Petition by Registered Post A.D. to all its Unsecured Creditors having an outstanding balance of Rs. 10,00,000/- and above and also to publish the same in two local newspapers. At least 14 clear days before the date fixed for hearing, Petitioner to issue an individual notice of hearing of Petition by Registered Post A.D. upon all its Unsecured Creditors having an outstanding balance of Rs. 10,00,000/- and above.
4. The Learned Advocate for the Petitioner further states that since the Petitioner Company is wholly owned subsidiary company of GODREJ PROPERTIES LIMITED and all the shares of the Petitioner Company are presently held by the GODREJ PROPERTIES LIMITED and its nominees and that after the scheme being sanctioned, no new shares are required to be issued to the members of the Petitioner Company by the GODREJ PROPERTIES LIMITED and the entire share capital of the Petitioner Company will stand cancelled and that the Scheme does not affect the rights

and interests of the members or the creditors of GODREJ PROPERTIES LIMITED and does not involve any re-organization of the Share Capital of GODREJ PROPERTIES LIMITED and that the assets and liabilities of the Petitioner Company will be vested under the scheme with the GODREJ PROPERTIES LIMITED and the shareholding and other rights of the members of the GODREJ PROPERTIES LIMITED will remain unaffected as no new shares are being issued and there will be no change in capital structure. In view of the judgment passed by the Hon'ble High Court, Bombay in Mahaamba Investment Limited v/s IDI Limited (2001) Company Cases 105, filing of Company Summons for Direction and Company Scheme Petition by GODREJ PROPERTIES LIMITED, the Transferee Company was dispensed with vide order dated 9th December, 2016 passed by the Bombay High Court, in CSD No. 970 of 2016.

5. The Learned Counsel for the Petitioner Company further submits that the Company Petition is filed in consonance with section 230 to 232 of the Companies Act, 2013 and Section 391 to 394 of the Companies Act, 1956 along with the Order passed in Company Summons for Direction by the Bombay High Court.
6. At least 30 clear days before the date fixed for hearing, Petitioner to serve the notice of hearing of Petition upon the Regional Director, Western Region, Ministry of Corporate Affairs, Mumbai Maharashtra, pursuant to Section 230(5) of the Companies Act, 2013. If no response is received by the concerned Tribunal from Regional Director within 30 days it will be presumed that Regional Director and/ or Central Government has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
7. At least 30 clear days before the date fixed for hearing, Petitioner to serve the notice of hearing of Petition upon the Official Liquidator, High Court,

Bombay pursuant to Section 230(5) of the Companies Act, 2013. The Tribunal is appointing Chartered Accountant, M/s Dalal & Kala Associates to assist the Official Liquidator for a remuneration of Rs. 2,00,000/- for his services. If no response is received by the concerned Tribunal from Official Liquidator within 30 days it will be presumed that Official Liquidator, High Court, Bombay has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

8. At least 30 clear days before the date fixed for hearing, Petitioner to serve the notice of hearing of Petition upon the concerned Registrar of Companies. If no response is received by the concerned Tribunal from Registrar of Companies within 30 days it will be presumed that Registrar of Companies has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
9. At least 30 clear days before the date fixed for hearing, Petitioner to serve the notice of hearing of Petition on the concerned Income Tax Authority within whose jurisdiction the Petitioner Company's assessment are made, with a direction that the Income Tax Authority may submit their comments/views/remarks on the tax aspects of the Scheme to the concerned Regional Director within 15 days from the receipt of the notice of the hearing of the Petition, in terms of General Circular No.1/2014,F.No.2/2014 dated 15th January, 2014 issued by Ministry of Corporate Affairs, Government Of India.
10. At least 10 clear days before the date fixed for hearing, Petitioner to publish the notice of hearing of Petition in two local news papers viz. "Free Press Journal", in English language and translation thereof in "Navashakti", in Marathi language, both having circulation in Mumbai as per Rule 16 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

11. At least 14 clear days before the date fixed for hearing, Petitioner to issue an individual notice of hearing of Petition by Registered Post A.D. upon all its Unsecured Creditors having an outstanding balance of Rs. 10,00,000/- and above.
12. Publication of Notice of hearing of the Petition in the Maharashtra Government Gazette is dispensed with.
13. Petitioner to file in the Registry an Affidavit of Service before 7 days from the date of Final Hearing of the Petition.

Sd/-

B.S.V. Prakash Kumar Member (Judicial)

Sd/-

V. Nallasenapathy Member (Technical)