

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
COURT -V, MUMBAI BENCH**

CA(CAA)/144/MB-V/2021

In the matter of the Companies Act,
2013

AND

In the matter of Sections 230 to Section
232 of the Companies Act, 2013 and
other applicable provisions the
Companies Act, 2013 read with
Companies (Compromises,
Arrangements and Amalgamation)
Rules, 2016

AND

In the matter of Scheme of Arrangement
between Ajmera Realty and Infra India
Limited and Radha Raman Dev
Ventures Private Limited and their
respective Shareholders

AJMERA REALTY AND INFRA INDIA LIMITED

CIN: L27104MH1985PLC035659

...First Applicant Company / ARIL

RADHA RAMAN DEV VENTURES PRIVATE LIMITED

CIN: U70109MH2016PTC286540

...Second Applicant Company



Order Delivered on: 22.09.2021

Coram:

Hon'ble Suchitra Kanuparthi, Member (Judicial)
Hon'ble Chandra Bhan Singh, Member (Technical)

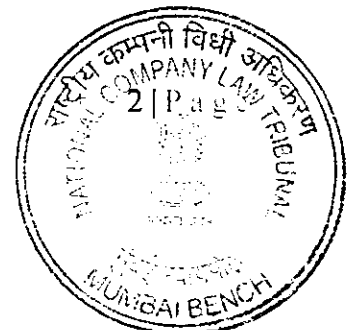
Appearances (via videoconferencing):

For the Applicant(s): Mr. Hemant Sethi, Ms. Vidisha Poonja i/b Hemant Sethi &
Co., Advocates

Per: Chandra Bhan Singh, Member (Technical)

ORDER

1. This Court is convened via video conferencing.
2. The Counsel for the Applicant Companies submits that the present Scheme is a Scheme of Arrangement between Ajmera Realty and Infra India Limited and Radha Raman Dev Ventures Private Limited and their respective Shareholders ('the Scheme'), for demerger of Demerged Undertaking (as defined under clause 1.11 of the Scheme) of the First Applicant Company into the Second Applicant Company, under the provisions of Section 230 to 232 of the Companies Act, 2013.
3. The Counsel for the Applicant Companies submits that upon the coming into effect of this Scheme and in consideration for the transfer of and vesting of Demerged Undertaking of the First Applicant Company into the Second Applicant Company, the First Applicant Company shall issue and allot fully paid up Equity shares of its own capital, to the members of the First Applicant Company or their respective heirs, executors, administrators or other legal representatives or other successors in title, whose names appear in the Register of Members on the Effective Date as under:

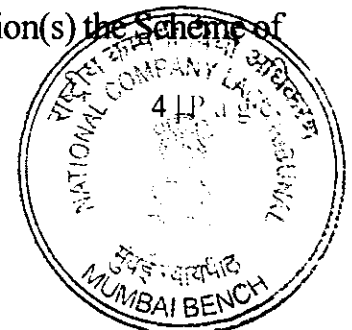


“1(One) Equity Share of the First Applicant Company of Rs. 10/- each fully paid up to be issued and allotted for every 50 (Fifty) Equity Shares of the First Applicant Company of Rs. 10/- each fully paid up held in the First Applicant Company in their proportion.

4. The Counsel for the Applicant Companies further submits that the First Applicant Company is engaged in real estate business with a strong presence in and around Mumbai, Ahmedabad, Surat, Rajkot and Bangalore and has an international project in Bahrain.
5. The Counsel for the Applicant Companies further submits that the Second Applicant Company is incorporated to engage, inter alia in the business of real estate. The Second Applicant Company is wholly owned subsidiary of the First Applicant Company.
6. The Counsel for the Applicant Companies further submits that the rationale for the Scheme is as under:
 - a. ARIIL is engaged in real estate development business. It is proposing to develop a project on a land parcel situated at Plot area of Sub Plot “C” bearing CTS No. 1A/11 and 1A/12 of Village Anik, Wadala (East), Mumbai – 400037 admeasuring 28,113 sq.mts. of area (approximately 6.5 acres), which will be developed into commercial project.
 - b. It is proposed to segregate business of development of commercial project (6.5 acres) into separate company such that it will result in focused approach to exploit the growth potential of the project. It will also help in providing flexibility to attract fresh set of investors / strategic partners to participate in the project.

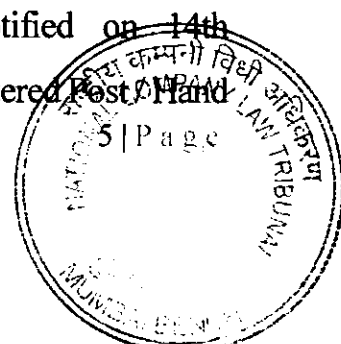


- c. This Scheme will result in providing flexibility to ARIIL in scouting for and inviting the potential investors and thereby resulting in unlocking the value of each of the project.
7. The Counsel for the Applicant Companies further submits that the Board of Directors of the Applicant Companies in their respective meetings held on 13th January 2020 have approved the Scheme. The Appointed Date for the Scheme is 1st April 2020.
8. The Counsel for the Applicant Companies further submits that the shares of First Applicant Company are listed on BSE Limited ("BSE") and National Stock Exchange of India Limited ("NSE"). Pursuant to the Securities Exchange Board of India ("SEBI") circular CFD/DIL3/CIR/2017/21 dated March 10, 2017, as amended from time to time ("SEBI Circular") read with Regulation 37 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ("LODR Regulations"), First Applicant Company had applied to BSE and NSE for their "Observation Letter" / "No Objection Letter" to file the Scheme for sanction of the Tribunal. BSE by its letter dated March 26, 2021 and NSE by its letter dated March 26, 2021, have respectively given their "No Objection Letter" letters to First Applicant Company, to file the Scheme with the Tribunal.
9. This Bench directs the conduct of meeting of the First Applicant Company as follows: -
- (i) That the meeting of the Equity Shareholders of the First Applicant Company will be convened and held as follows on Monday, 15th November 2021. The meeting will be convened and held for the purpose of considering and, if thought fit, approving with or without modification(s) the Scheme of



Arrangement through video conferencing or other audio-visual means, and not in physical presence of shareholders, as the same in the current COVID-19 environment related social distancing norms shall not be possible.

- (ii) In view of provisions of Section 230(4) read with Section 108 of the Companies Act, 2013 read with Rule 20 and other applicable provisions of the Companies (Management and Administration) Rules, 2014 and in accordance with Regulation 44(1) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, the First Applicant Company proposes to provide the facility of remote e-voting to its Equity Shareholders in respect of the resolution to be passed at the aforesaid meeting. The Equity Shareholders of the First Applicant Company are also allowed to avail the facility of e-voting during the aforesaid meeting to be held through video conferencing and/or other audio-visual means on October 25, 2021 at 4:00 pm. The e-voting facility for the Equity Shareholders of the First Applicant Company shall be provided in compliance with the conditions specified under the Companies (Management and Administration) Rules, 2014, Regulation 44 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 and Secretarial Standard on General Meetings (SS2) issued by the Institute of Company Secretaries of India, as applicable.
- (iii) That at least 30 (thirty) days before the said Meeting of the Equity Shareholders of the First Applicant Company to be held as aforesaid, a Notice convening the said Meeting at the day, date and time as aforesaid, together with a copy of the Scheme, a copy of Explanatory Statement disclosing all material facts as required under Section 230(3) of the Companies Act, 2013 read with Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 notified on 14th December, 2016 shall be sent by Air Mail / Courier / Registered Post / Hand



Delivery / through Email to those all the Equity Shareholders of the First Applicant Company.

- (iv) That at least 30 (thirty) days before the said Meeting of the Equity Shareholders to be held as aforesaid, a Notice convening the said Meeting at the day, date and time as aforesaid be published once each in '*Business Standard*' in English having nation-wide circulation and '*Navshakti*' in Marathi having circulation in Maharashtra, both having wide circulation in the State of Maharashtra, and stating that copies of the Scheme and the said statement required to be furnished pursuant to section 230 (3) of the Companies Act, 2013 can be obtained free of charge by emailing the aforesaid Applicant Companies at investors@ajmera.com.
10. This Bench hereby appoints Mr. Rajnikant S. Ajmera, Chairman and Managing Director and failing him Mr. K. G. Krishnamurthy, Independent Director and failing him Mr. A. C. Patel, Independent Director as Chairperson for the meeting of the Equity Shareholder of the First Applicant Company.
11. This Bench hereby appoints Mr. Haresh P. Sanghvi (COP No.: 3675/ Membership No. FCS 2259) as Scrutinizer for the meetings of the Equity Shareholder of the First Applicant Company. The fee of the professional appointed as Scrutinizer for the meetings of the Equity shareholders of the First Applicant Companies shall be Rs. 80,000/- excluding applicable taxes.
12. The quorum for the aforesaid meeting of the Equity Shareholders of First Applicant Company shall be as prescribed under Section 103 of the Companies Act, 2013 and would include Equity Shareholders present through video conferencing and/or other audio- visual means. In case the required quorum as stated above is not present at the commencement of the meeting, the meeting

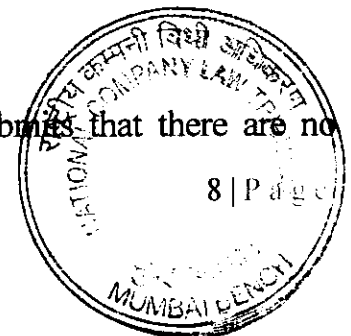


shall be adjourned by 30 (thirty) minutes and thereafter the persons present shall be deemed to constitute the quorum.

13. The voting by proxy shall not be permitted as the meeting would be held through video conferencing and/or other audio-visual means. However, voting in case of body corporate be permitted, provided the prescribed form/authorization is filed with the Applicant Company1 at investors@ajmera.com not later than 48 hours before the start of the aforesaid meeting as required under Rule 10 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
14. That the Chairperson appointed for the aforesaid meetings of the First Applicant Company to issue the notices of the meetings referred to above. The said Chairperson shall have all powers pursuant to sections 230 and 232 of the Companies Act, 2013 read with other applicable provisions of the Companies Act, 2013, the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 and Companies (Management and Administration) Rules, 2014, to the extent necessary and applicable, in relation to the conduct of the meeting including for deciding procedural questions that may arise at or at any adjournment thereof or any other matter including, an amendment to the Scheme or resolution, if any, proposed at the meeting by any person(s).
15. That the value and number of the shares of each shareholder shall be in accordance with the registers of all the First Applicant Companies or depository records for Equity Shareholders in case of the First Applicant Company and where the entries in the register / depository records are disputed, the Chairperson of the meeting shall determine the value and the number for the purpose of the aforesaid meeting and his/her decision in that behalf would be final.



16. That the Chairperson shall file a compliance report not less than 7 (Seven) days before the date fixed for the holding of the meeting of the Equity Shareholders of the First Applicant Company to this Tribunal that the directions regarding the issue of notices and advertisements have been duly complied with as per Rule 12 of Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
17. That the Chairman of the meeting to report to this Tribunal, the results of the said meeting of the Equity Shareholders of the First Applicant Company within thirty days of the conclusion of the meetings.
18. The Counsel for the Applicant Companies submits that the entire share capital of the Second Applicant Company is held by the First Applicant Company (and its nominees). Also, the consent affidavits of all the Equity Shareholders of the Second Applicant Company have been annexed as Annexure 'J1' to the Company Scheme Application. In view of the fact that all the Equity Shareholders of the Second Applicant Company have given their consent to the Scheme, the meeting of the Equity Shareholders of the Second Applicant Company is hereby dispensed with.
19. The Counsel for the Applicant Companies submits that as on March 31, 2021, the First Applicant Company has 14 secured creditors, the aggregate value of such secured creditors being Rs. 641,69,12,109. The First Applicant Company undertakes to submit "No Objection Letters" in respect of the Scheme, from the Secured Creditors of the First Applicant Company before the date of final hearing of the petition. Therefore, the meeting of the Secured Creditors of the First Applicant Company is dispensed with.
20. The Counsel for the Applicant Companies further submits that there are no



Secured Creditors in the Second Applicant Company, and therefore the question of sending notices or convening meeting of Secured Creditors of the Second Applicant Company does not arise.

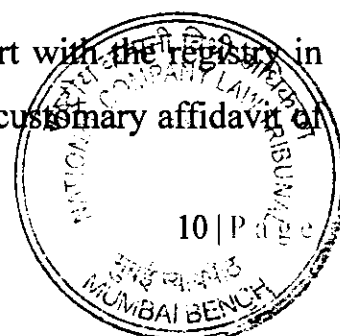
21. The Counsel for the Applicant Companies submits that as on March 31, 2021, the First Applicant Company has 990 unsecured creditors, the aggregate value of such unsecured creditors being Rs. 228,14,07,079 and the Second Applicant Company has 8 unsecured creditors, the aggregate value of such unsecured creditors being Rs. 22,99,998. The Counsel for the Applicant Companies further submits that the present Scheme is a Scheme of Arrangement of the First Applicant Company and the Second Applicant Company and their respective Shareholders as contemplated under Section 230(1)(b) of the Companies Act, 2013 and not in accordance with the provisions of Section 230(1)(a) of the Companies Act, 2013 as there is no compromise and/or arrangements with the creditors as no sacrifice is called for. Therefore, the meetings of the Unsecured Creditors of the Applicant Companies are dispensed with. However, this bench hereby directs the Applicant Companies to issue notice to all their respective Unsecured Creditors by Registered Post Acknowledgement Due or Hand Delivery or through Email (to those creditors whose email addresses are duly registered with the respective Applicant Companies for the purpose of receiving such notices by email), at their last known addresses as per the records of the First Applicant Company, as may be feasible in view of the lockdown owing to the Covid-19 pandemic.
22. The Applicant Companies, pursuant to Section 230 (5) of the Companies Act, 2013 read with Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules,2016, is directed to serve the notices upon:



- (a) the Central Government of India (through the Regional Director, Western Region, Ministry of Corporate Affairs);
- (b) concerned Income Tax Authority within whose jurisdiction the assessments of the Applicant Companies are made; for the First Applicant Company – PAN AAACS7866F having jurisdiction at Central Circle 2(4), Central Building, Mumbai and for the Second Applicant Company PAN AAHCR9858F having jurisdiction at Ward 11(1)(1), Aayakar Bhavan, Mumbai.
- (c) Registrar of Companies, Mumbai, Maharashtra;
- (d) BSE Limited; (in so far as the First Applicant Company is concerned)
- (e) National Stock Exchange of India Limited; (in so far as the First Applicant Company is concerned)
- (f) Securities and Exchange Board of India; (in so far as the First Applicant Company is concerned)
- (g) the Real Estate Regulatory Authority

with a direction that they may submit their representation, if any, within a period of 30 (thirty) days from the date of receipt of such notice, to the Tribunal and copy of such representations shall simultaneously be served upon the Applicant Companies, failing which, it will be presumed that the aforesaid authorities have no representations to make on the Scheme.

- 23. The Applicant Companies shall host the notices directed herein, on their respective websites, if any.
- 24. The Applicant Companies shall file compliance report with the registry in regard to the directions given in this Order in lieu of customary affidavit of



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service, due to lockdown situation prevailing now, proving dispatch of notices to the Equity Shareholders of the First Applicant Company, and service of notice to the regulatory authorities and creditors as stated above and do report to this Tribunal that the directions regarding the issue of notices have been duly complied with.

25. With a view to avoid any conflict arising out from those shareholders, whose email addresses are not available with the First Applicant Company or who have not received notice convening meeting or notice seeking representations, as the case may be, due to non-functionality of delivery or post services in current COVID-19 environment, the Applicant Companies shall host such notices on its website.

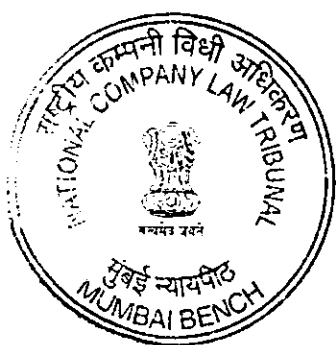
26. Order accordingly.

Sd/-

Chandra Bhan Singh
Member (Technical)

Sd/-

Suchitra Kanuparthi
Member (Judicial)



Certified True Copy
Copy issued "free of cost"
On 30/09/2021

Sachinkumar
Deputy Registrar 30/09/2021
National Company Law Tribunal Mumbai Bench
Government of India