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NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD

CA(CAA) No. 13/NCLT/AHM/2018


Coram: Hon'ble Mr. BIKKI RAVEENDRA BABU, MEMBER JUDICIAL  
Hon'ble Ms. MANORAMA KUMARI, MEMBER JUDICIAL

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD  
BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 06.02.2018**

Name of the Company: Nila Infrastructures Ltd.

Section of the Companies Act: Section 230-232 of the Companies Act, 2013

**S.NO. NAME (CAPITAL LETTERS) DESIGNATION REPRESENTATION SIGNATURE**

1.	Pranjal Buch for Singhi & Co.	Advocate	Applicant	
2.				

**ORDER**

Learned Advocate Mr. Pranjal Buch i/b Singhi & Co. present for Applicant.

Order pronounced in open court. Vide separate sheets.

  
MANORAMA KUMARI  
MEMBER JUDICIAL

  
BIKKI RAVEENDRA BABU  
MEMBER JUDICIAL

Dated this the 6th day of February, 2018.

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH**

**CA(CAA)No.13/NCLT/AHM/2018**

In the matter of:-

Nila Infrastructure Limited,  
A company incorporated under  
the provisions of the Companies  
Act, 1956 and having its  
Registered Office at First Floor,  
Sambhaav House,  
Opp. Chief Justice's Bungalow,  
Bodakdev,  
Ahmedabad - 380015,  
Gujarat.

... Applicant  
(Demerged Company)

Order delivered on 6<sup>th</sup> February, 2018

**Coram: Hon'ble Mr. Bikki Raveendra Babu , Member (J)  
And  
Hon'ble Ms. Manorama Kumari, Member (J)**

**Appearance:**

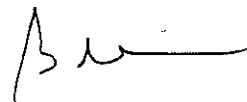
Mr. Sandeep Singhi, Advocate, with Mr. Pranjal Buch and Ms. Parini Shah, Advocates, for M/s. Singhi & Co., Advocates for the Applicant Company.

**ORDER**

[Per: Bikki Raveendra Babu, Member (J)]

1. Heard learned Advocates Mr. Sandeep Singhi for M/s. Singhi & Co., Advocates for the Applicant Company. Perused the application and the supporting affidavit of Mr. Dipen Parikh, Company Secretary of the Applicant Company, dated 27<sup>th</sup> day of January 2018 and the documents annexed hereto.





2. Nila Infrastructures Limited (hereinafter referred to as the "Demerged Company" or the "Applicant Company" as the context may admit) is a public company limited by shares.

3. Nila Spaces Limited (hereinafter referred to as the "Resulting Company") is an unlisted public company limited by shares.

4. The Demerged Company has filed this application seeking directions for convening meetings of its Equity Shareholders, Secured Creditors and Unsecured Creditors of the Applicant Demerged Company in respect of the arrangement embodied in the Scheme of Arrangement among Nila Infrastructures Limited and Nila Spaces Limited and their respective shareholders and creditors ("Scheme" for short) in the nature of (i) demerger of the Real Estate Undertaking (as defined in the Scheme) of the Demerged Company and transfer of the same to the Resulting Company; (ii) sub-division of the equity share capital of the Resulting Company and increase in the authorised share capital of the Resulting Company; (iii) issuance of equity shares by the Resulting Company to the equity shareholders of the Demerged Company; (iv) reduction of paid-up equity share capital of the Resulting Company pursuant to cancellation of equity shares held by the Demerged Company in the Resulting Company; and (v) reduction of Securities Premium Account of the Demerged Company, pursuant to the provisions of Sections 230 - 232 of

*Atarshi*

the Companies Act, 2013 (hereinafter referred to as the "Act") and other applicable provisions of the Act.

5. The Demerged Company obtained Valuation Report, Fairness Opinion, report of the Audit Committee vide Annexures H, I, J, respectively.

6. The Board of Directors of the Demerged Company, in its meeting held on 17<sup>th</sup> October 2017, passed a resolution (Annexure K) approving the proposed Scheme placed before the Board.

7. It is submitted by the learned advocate appearing for the Applicant Company that the Demerged Company vide its letters, both dated 8<sup>th</sup> day of January 2018, informed BSE Limited (BSE) and National Stock Exchange of India Limited (NSE) about the change of name of the Resulting Company and enclosed the Scheme after incorporating the relevant changes to the name of the Resulting Company in the Scheme. The Scheme annexed at Annexure "G" to the application reflects the change in the name of the Resulting Company which has occurred post filing of the Scheme with BSE and NSE. Copies of the aforesaid letters are annexed at Annexure N (Colly) to the application.

8. It is further submitted that Securities and Exchange Board of India (SEBI), thereafter, by its letter dated 18<sup>th</sup> day of January

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2018 addressed a communication in respect of the Scheme to BSE/NSE. In the said communication, SEBI, inter alia, made the following comments:

*“Company shall ensure that information, if any, submitted by the Company, after filing the Scheme with the Stock Exchange, from the date of receipt of this letter is displayed on the websites of the listed company.”*

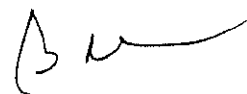
*“Company shall duly comply with various provisions of the Circulars.”*

*“Company is advised that the observations of SEBI/Stock Exchanges shall be incorporated in the petition to be filed before National Company Law Tribunal (NCLT) and the company is obliged to bring the observations to the notice of NCLT.”*

*“It is to be noted that the petitions are filed by the company before NCLT after processing and communication of comments/observations on draft scheme by SEBI/stock exchange. Hence, the company is not required to send notice for representation as mandated under Section 230(5) of Companies Act, 2013 to SEBI again for its comments / observations / representations.”*

9. Based on the aforesaid comments from SEBI, BSE and NSE issued No Adverse Observations/No Objection letters, both dated 19<sup>th</sup> day of January 2018 to the Demerged Company vide Annexure “O (Colly)”.

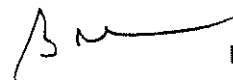
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10. Statutory Auditor issued certificate dated 17<sup>th</sup> day of October 2017 in respect of non-applicability of paragraph paragraph 9 of Annexure I of SEBI Circular dated 10<sup>th</sup> day of March 2017 (Annexure V) based on the undertaking in relation to non-applicability of requirements prescribed in para (I)(A)(9)(a) of Annexure 1 of SEBI Circular No. CFD/DIL3/CIR/2017/21 dated 10<sup>th</sup> day of March 2017. It is stated in the application that no investigation has been instituted or pending in relation to the Demerged Company or the Resulting Company under Chapter XIV of the Companies Act, 2013. It is also stated in the application that no winding up proceedings are filed or pending either against the Demerged Company or the Resulting Company. The Demerged Company has filed its Annual Reports as on 31<sup>st</sup> day of March 2017. The Demerged Company has also filed the original certificate issued by the Statutory Auditor of the Demerged Company issued under Section 133 of the Companies Act, 2013 vide Annexure Q.

11. It is also stated in the said paragraph that no notice under Section 230(5) of the Act is required to be issued to the Competition Commission of India in the facts of the present case.

12. In this Company Application, the Demerged Company, has prayed for holding separate meetings of the Equity Shareholders, Secured Creditors and Unsecured Creditors of the Demerged Company for the purpose of considering and, if thought fit,

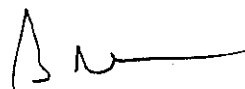


approving with or without modification(s), the Scheme and for issuing appropriate directions incidental for holding of such meetings.

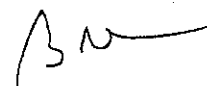
13. Having considered the entire material on record, this Tribunal passes the following order:-

- (a) A meeting of the equity shareholders of the applicant company shall be convened and held at First Floor, Sambhaav House, Opp. Chief Justice's Bungalow, Bodakdev, Ahmedabad - 380 015, Gujarat, India, on Tuesday, the 20<sup>th</sup> day of March, 2018 at 10.00 A.M., for the purpose of considering and, if thought fit, approving with or without modification(s) the arrangement embodied in the Scheme.
- (b) A meeting of the secured creditors of the applicant company shall be convened and held at First Floor, Sambhaav House, Opp. Chief Justice's Bungalow, Bodakdev, Ahmedabad - 380 015, Gujarat, India, on Tuesday, the 20<sup>th</sup> day of March 2018 at 11.00 A.M., for the purpose of considering and, if thought fit, approving with or without modification(s) the arrangement embodied in the Scheme.





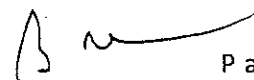
- (c) A meeting of the unsecured creditors of the applicant company shall be convened and held at First Floor, Sambhaav House, Opp. Chief Justice's Bungalow, Bodakdev, Ahmedabad - 380 015, Gujarat, India, on Tuesday, the 20<sup>th</sup> day of March 2018 at 12.00 noon., for the purpose of considering and, if thought fit, approving with or without modification(s) the arrangement embodied in the Scheme.
- (d) In view of Sections 230(4), 232(1) of the Act read with rules 5 and 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 ('Rules') and rules 20 and 22 of the Companies (Management and Administration) Rules, 2014, the Applicant Company is required to provide the facility of postal ballot and e-voting to its shareholders. Accordingly, voting by the Equity Shareholders of the Applicant Company to the Scheme, shall be carried out through (i) postal ballot and e-voting; and (ii) ballot/polling paper at the venue of the meeting to be held on Tuesday, the 20<sup>th</sup> day of March 2018. In the case of meetings of Secured Creditors and Unsecured Creditors, the voting shall be carried out through ballot/polling paper.
- (e) At least one month before 20<sup>th</sup> day of March 2018, i.e. the date of the aforesaid meetings, an advertisement about

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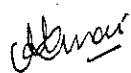
convening of the said meetings, indicating the day, the date, place and time aforesaid, shall be published in English in newspaper "Indian Express" (All editions) and a Gujarati translation thereof in vernacular newspaper "Sandesh" (Ahmedabad edition). The publication shall indicate time within which the copies of the Scheme shall be made available to the concerned persons free of charge from the registered office of the Applicant Company. The publication shall also indicate that the statement required to be furnished pursuant to Section 102 of the Act read with Section 230-232 of the Act and the prescribed form of proxy can be obtained free of charge at the registered office of the Applicant Company or at the office of its Advocates, i.e. M/s. Singhi & Co., Singhi House, 1, Magnet Corporate Park, Near Sola Flyover, S. G. Highway, Ahmedabad-380 059 in accordance with second proviso to sub-section (3) of Section 230 of the Act and Rule 7 of the Rules.

- (f) At least one month before 20<sup>th</sup> day of March 2018, i.e. the date of the aforesaid meeting of the Equity Shareholders, a notice in Form No. CAA.2 convening the said meeting, indicating the day, the date, the place and time aforesaid containing instructions with regard to postal ballot and e-voting (in case of the Equity Shareholders), together with a copy of the Scheme, a copy of the statement required to be furnished pursuant to Section 102 of the Act read with the




provisions of Sections 230 – 232 of the Act and Rule 6 of the Rules, and the prescribed form of Proxy, shall be sent to each of the Equity Shareholders of the Applicant Company at their respective registered or last known addresses either by Registered Post or Speed Post or by Courier or e-mail. The aforesaid notice and other documents shall also be placed on the website of the Applicant Company, if any, and the same shall be sent to SEBI [proviso to Section 230(3)]. The notice shall be sent to the Equity Shareholders of the Applicant Company with reference to the list of the persons appearing on the record of the Applicant Company and its register as on 7<sup>th</sup> day of February 2017, being the cut-off date as prescribed under rule 20 of the Companies (Management and Administration) Rules, 2014. The aforesaid cut-off date would be the date determining the eligibility to vote by the Equity Shareholders.

- (g) In addition, at least one month before the date of the aforesaid meetings of the Secured Creditors and the Unsecured Creditors to be held as aforesaid, a notice convening the said meetings, indicating the day, the date, the place and time aforesaid, together with a copy of the Scheme, a copy of the statement required to be furnished pursuant to Section 102 of the Act read with the provisions of Sections 230 – 232 of the Act and Rule 6 of the Rules,

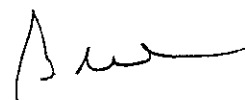
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and the prescribed form of Proxy, shall be sent to each of the Secured Creditors and the Unsecured Creditors of the Applicant Company at their respective registered or last known addresses either by Registered Post or Speed Post or by Courier. The notice shall be sent to the Secured Creditors and the Unsecured Creditors of the Applicant Company with reference to the list of the persons appearing on the record of the Applicant Company as on 16<sup>th</sup> day of January 2018. The aforesaid date of 16<sup>th</sup> day of January 2018 would be the date determining the eligibility to vote by the Secured Creditors and the Unsecured Creditors.

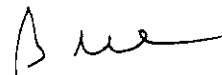
- (h) Mr. Justice (Retd.) K. A. Puj, former Judge of the High Court of Gujarat shall be the Chairman of the aforesaid meetings to be held on 20<sup>th</sup> day of March 2018 and in respect of any adjournment or adjournments thereof.
- (i) Mr. Umesh Ved, a Practising Company Secretary, is appointed as Scrutinizer for the meetings of the equity shareholders, secured creditors and unsecured creditors of the applicant company.



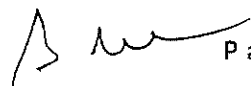
- (j) The Chairman appointed for the aforesaid meetings shall issue the advertisements and send out the notices of the meetings referred to above. The Chairman is free to avail the services of the Applicant Company or any agency for carrying out the aforesaid directions. The Chairman of the meetings shall have all powers under the Articles of Association of the Applicant Company and also under the Rules in relation to conduct of meetings, including for deciding any procedural questions that may arise at the meetings or at adjournment or adjournments thereof proposed at the said meetings, amendment(s) to the aforesaid Scheme or resolution, if any, proposed at the aforesaid meetings by any person(s) and to ascertain the decision of the sense of the meeting of Equity Shareholders by (i) postal ballot and e-voting; and (ii) ballot/polling paper at the venue of the meeting of the Equity Shareholders and for the Secured Creditors and the Unsecured Creditors by ballot/polling paper.
- (k) The quorum for the meeting of the Equity Shareholders shall be 30 (thirty) persons present in person. The quorum for the meeting of the Secured Creditors shall be 2 (two) persons present in person. The quorum for the meeting of the Unsecured Creditors shall be 5 (five) persons present in person.



- (l) Voting by proxy/authorised representative is permitted, provided that the proxy in the prescribed form/authorisation duly signed by the person entitled to attend and vote at the aforesaid meetings, is filed with the Applicant Company at its registered office at First Floor, Sambhaav House, Opp. Chief Justice's Bungalow, Bodakdev, Ahmedabad - 380 015, Gujarat, India, not later than 48 hours before the meetings vide Rule 10 of Rules read with Section 105 of the Act.
- (m) The number and value of the equity shares of the Equity Shareholders or the value of the debts of the Secured Creditors and Unsecured Creditors, as the case may be, shall be in accordance with the records or registers of the Applicant Company and where the entries in the records or registers are disputed, the Chairman of the meetings shall determine the number or value, as the case may be, for purposes of the meetings, subject to the orders of this Tribunal in the petition seeking sanction of the Scheme.
- (n) Chairman of the meetings to file an affidavit not less than seven (7) days before the date fixed for the holding of the meetings and do report to this Tribunal that the directions regarding the issuance of notices and the advertisement of the meetings, have been duly complied with as per Rule 12 of the Rules.




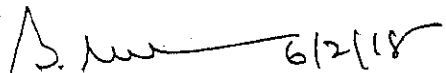
- (o) It is further ordered that the Chairman shall report to this Tribunal on the result of the said meetings in Form No. CAA.4, verified by his affidavit as per Rule 14 of the Rules in Form No. CAA.4 within 7 (seven) days after the conclusion of the meetings. The report of Chairman shall be filed before this Tribunal by the Chairman himself, but not Applicant Company.
- (p) In compliance of sub-section (5) of Section 230 of the Act and Rule 8 of the Rules, the Applicant Company shall send the notice of meeting under sub-section (5) of Section 230 of the Act read with Rule 6 of the Rules in Form No. CAA.3 along with the copy of the Scheme, the explanatory statement and the disclosures mentioned under Rule 6 of the Rules to (i) the Central Government through Regional Director, North-Western Region; (ii) the Registrar of Companies, Gujarat; (iii) concerned Income-Tax Authorities; (iv) Reserve Bank of India; (v) BSE Limited; (vi) National Stock Exchange of India Limited; and (vii) SEBI, stating that representations, if any, to be made by them shall be made within a period of 30 days from the date of receipt of such notice, failing which it shall be presumed that they have no objection to make on the proposed Scheme. The said notice shall be sent forthwith after notice is sent to the members or creditors of the Applicant

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Company by registered post or by speed post or by courier or by hand delivery at the office of the authority as required by sub-rule (2) of Rule 8 of the Rules. The aforesaid authorities, who desire to make any representation under sub-section (5) of Section 230 of the Act, shall send the same to the Tribunal within a period of 30 days from the date of receipt of such notice, failing which it will be deemed that they have no representation to make on the proposed arrangement.

14. This Company Application is disposed of accordingly.

  
(Ms. Manorama Kumari)  
Member (J)

  
(Bikki Raveendra Babu)  
Member (J)

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