

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SUMMONS FOR DIRECTION NO 368 OF 2015

In the matter of the Companies Act,
1956 (1 of 1956);

AND

In the matter of Sections 391 to 394
of the Companies Act, 1956;

AND

In the matter of Scheme of
Amalgamation

of

Hemkunt Buildtech Private Limited
("the Transferor Company")

with

Payone Enterprises Private Limited
("the Transferee Company")

and

their respective shareholders

HEMKUNT BUILDTECH PRIVATE)
LIMITED, a Company)
incorporated under the provisions)
of the Companies Act, 1956 and)
having its registered office at)
Trade World, 'B' Wing, 7th Floor, S.)
B. Marg, Lower Parel, Mumbai)
-400013)

.....Applicant Company

Called for Summons for Direction

Mr. Rajesh Shah i/b. Rajesh Shah & Co. Advocates for the Applicant.

Coram: S. J. Kathawalla, J.

Date: 8th May, 2015

MINUTES OF THE ORDER

UPON the application of the Applicant Company above named by a Summons for Direction AND UPON HEARING Mr. Rajesh Shah instructed by Rajesh Shah & Co., Advocates for the Applicant Company, AND UPON READING the Affidavit dated 31st March, 2015 of Mr. Monish Sheth, Director of the Applicant Company, in support of Summons for Direction and the exhibits therein referred to, **IT IS ORDERED THAT:**

1. The convening and holding the meeting of the Equity Shareholders of the Applicant Company, for the purpose of considering and, if thought fit, approving with or without modification(s), the proposed Scheme of Amalgamation of Hemkunt Buildtech Private Limited ("the Transferor Company") with Payone Enterprises Private Limited ("the Transferee Company") and their respective shareholders, is dispensed with in view of the consent given by both the Equity shareholders of the Applicant Company which are annexed as **Exhibits 'K1' and 'K2'** to the affidavit in support of the Summons for Direction.
2. That there are no Secured Creditors in the Applicant Company, as mentioned in paragraph 16 of the Affidavit in support of the Summons for Direction. Hence, the question of convening and holding the meeting of Secured Creditors does not arise
3. The convening and holding the meeting of the Unsecured Creditors of the Applicant Company for the purpose of considering and, if thought fit, approving with or without modification(s), the proposed Scheme of Amalgamation of Hemkunt Buildtech Private Limited ("the Transferor Company") with Payone Enterprises Private Limited ("the Transferee Company") and their respective shareholders is dispensed with in view of the averment made in paragraph 17 of the affidavit in support of the Summons for

Direction interalia stating that as far as the rights of unsecured creditors of the Applicant Company are concerned, they will not be affected by the proposed Scheme of Amalgamation since post Scheme, the assets of the Applicant Company will be sufficient to discharge its liabilities and that the Applicant Company undertakes to issue individual notice of hearing of the Petition by R.P.A.D to all its Unsecured Creditor and also to publish the same in two local newspapers i.e. Free Press Journal, in English language and translation thereof in Navshakti, in Marathi language both having circulation in Mumbai. The said undertaking is accepted.

4. In view of the averments made in paragraphs (18) to (20) of the affidavit in support of the Summons for Direction, interalia stating that the entire share capital of the Applicant Company is held by the Transferee Company and hence after the Scheme becoming effective, no new shares would be issued to the members of the Applicant Company by the Transferee Company and since there is no reorganization of the Share Capital in the Transferee Company and in view of the observations of this Court in Mahaamba Investments Limited Vs IDI Limited (2001) Company Cases 105 filing of a separate Company Summons for Direction and Company Scheme Petition for sanctioning the Scheme of Amalgamation by the Transferee Company, M/s Payone Enterprises Private Limited is dispensed with.

(S. J. Kathawalla, J.)