

IN THE HIGH COURT OF DELHI AT NEW DELHI
CO.APPL. (M) 141/2016

IN THE MATTER OF:

TIMES CENTRE FOR LEARNING LIMITED

... Applicant/ Demerged Company

AND

BENNETT, COLEMAN & COMPANY LIMITED

... Non Applicant/Resulting Company

Through: Mr. Vikrant Rohilla and Akul
Mehandru, Advocates.

CORAM:
HON'BLE MR JUSTICE SIDDHARTH MRIDUL

ORDER
17.10.2016

1. The present is an application for first motion, filed under Sections 391(1) and 393 of the Companies Act, 1956, read with Rules 6 and 9 of the Companies (Court) Rules, 1959, by the Applicant Company seeking directions of this Court to dispense with the requirement of convening and holding separate meetings of the Equity Shareholders, Preference Shareholders, Debenture Holders and Unsecured Creditors of the Applicant Company, to consider and approve, with or without modifications, the proposed Scheme of Arrangement between Times

Centre for Learning Limited (hereinafter referred to as “Applicant/Demerged Company”) and Bennett, Coleman & Company Limited (hereinafter referred to as “Non-Applicant/Resulting Company”) and their respective shareholders, whereby and whereunder, the Professional Training Business of the Applicant Company (referred to as the Demerged Undertaking, as defined in the said Scheme) shall be de-merged and transferred to the Non-Applicant Company, on terms as have specifically been incorporated in the said Scheme.

2. The registered office of the Applicant Company is situated at New Delhi, and, therefore this Court has necessary jurisdiction to adjudicate the matter.

3. The Registered office of the Non-Applicant Company is situated at Mumbai within the jurisdiction of the Hon’ble High Court of Judicature at Bombay. It has been stated on behalf of the Applicant Company that the Non-Applicant Company is instituting appropriate proceedings before the Hon’ble High Court of Judicature at Bombay, seeking an exemption from separately filing a petition before the Hon’ble High Court of Judicature at Bombay, in relation to the said Scheme, in view of the circumstance that the latter is the Holding company of the former.

4. The Applicant Company was originally incorporated on 26th June, 2007 under the Companies Act, 1956, in the name and style of Times Yoga Limited and registered with the Registrar of Companies, NCT of Delhi & Haryana.

Consequently, the name of the Applicant Company was changed to its present name, 'Times Centre For Learning Limited' and a fresh Certificate of Incorporation was issued by the Registrar of Companies, NCT of Delhi & Haryana on 11th September, 2012.

5. The Authorised Share Capital of the Applicant Company, as on 31.03.2016 is Rs.5,00,00,000/-, divided into 30,00,000 Equity Shares of Rs.10/- each and 20,00,000 Preference Shares of Rs.10/- each. The issued, subscribed and paid up share capital of the Applicant Company is Rs.1,11,40,000/-, divided into 10,00,000 Equity Shares of Rs.10/- each, partly paid to the extent of Re.1/- each and 10,14,000 7% Optionally Convertible Non-Cumulative Preference Shares of Rs.10/- each, fully paid up. The Non-Applicant Company (together with its nominees) beneficially holds the entire issued, subscribed and paid up Equity Share Capital as well as the Preference Share Capital of the Applicant Company.

6. Copies of the Certificate of Incorporation along with the fresh Certificate of Incorporation issued pursuant to change of name and Memorandum and Articles of Association of the Applicant Company have been placed on record. The audited accounts as on 31st March, 2016, together with report of the Auditors and the certified copy of the unaudited financial statements of the Applicant Company as on 30th June, 2016 have also been placed on record.

7. A copy of the Scheme of Arrangement has been filed along with the present application and the same is on record. The salient features of the Scheme are set out in detail in the instant application supported by the accompanying affidavit. It has been submitted by the counsel appearing on behalf of the Applicant Company that the nature of risk, rewards and competition involved in the Professional Training Business *vis-à-vis* the Government Business is distinct and requires different skill sets, branding, approach and focus. The Non-Applciant Company has significant financial resources which can be utilized to fund the expansion plans of the Professional Training Business and the media business operated by the Non-Applciant Company, coupled with its brands like Education Times, Ascent, MaTa Campus, can be leveraged more effectively if the Professional Training Business is housed within the Non-Applciant Company. It has been therefore submitted that in view of the rationale of the Scheme, it is considered desirable, beneficial and expedient to demerge the Professional Training Business of the Applicant Company to the Non-Applciant Company, in the manner and on the terms and conditions as stated in the Scheme, with effect from the Appointed Date i.e. 1st July, 2016.

8. So far as the aspect of consideration is concerned, it has been further stated on behalf of the Applicant Company that no new shares shall be issued

and allotted by the Non-Applicant Company to the Applicant Company or any other person, in consideration of the demerger of the Professional Training Business in terms of the said Scheme, as the Applicant Company is a wholly owned subsidiary of the non-Applicant Company. Furthermore, as a part of the Scheme, all the Optionally Fully Convertible Debentures presently issued by the Applicant Company and held by the Non-Applicant Company, shall stand reduced and cancelled.

9. It has been averred on behalf of the Applicant Company that no investigation proceedings have been initiated or are pending in relation to the Applicant/Demerged Company under Sections 235 to 251 of the Companies Act, 1956 or corresponding Sections of the Companies Act, 2013.

10. That the Board of Directors of the Applicant Company had, in their meeting held on 2nd August, 2016, approved the said Scheme and the Board of Directors of the Non-Applicant Company and the Management Committee of the Board of Directors of the Non-Applicant Company, had in their respective meetings held on 8th July, 2016 and 2nd August, 2016, approved the said Scheme. Copies of the said resolutions passed in the said meetings have been placed on record.

11. The status of consents obtained from the shareholders, debenture holders, secured and unsecured creditors of the Applicant company as stated in the

application and supported by documents filed therewith is reproduced as hereinunder:

	Number	Consent
Equity Shareholders	7 (seven)	All
Preference Shareholders	1 (one)	All
Debenture Holders	1 (one)	All
Secured Creditors	Nil	N.A.
Unsecured Creditors	72 (seventy two)	Being 19 in number and 90% in value.

12. A prayer has been sought for dispensation of the requirement of convening meetings of Equity Shareholders, Preference Shareholders, Debenture Holders, Secured Creditors.

13. The Applicant Company has 07 (seven) Equity Shareholders. Each of the said 07 (seven) Equity Shareholders have given their consents/no objections in writing to the proposed Scheme and have also given their written consents for dispensing with convening and holding a meeting of the Equity Shareholders of the Applicant Company for consideration of the said Scheme. The said

documents have been examined and the same have been found in order. In view of the consents/no objections given by the Equity Shareholders of the Applicant Company, the requirement of convening a meeting of the Equity Shareholders of the Applicant Company to consider, and if thought fit, approve, with or without modifications, the said Scheme, is dispensed with.

14. The Applicant Company has 01 (one) Preference Shareholder. The said 01 (one) Preference Shareholder has given its consent/no objection in writing to the proposed Scheme and has also given its written consent for dispensing with convening and holding a meeting of the Preference Shareholders of the Applicant Company for consideration of the said Scheme. The said document has been examined and the same has been found in order. In view of the consent/no objection given by the Preference Shareholder of the Applicant Company, the requirement of convening a meeting of the Preference Shareholders of the Applicant Company to consider, and if thought fit, approve, with or without modifications, the said Scheme is dispensed with.

15. The Applicant Company has 01 (one) Debenture Holder. The said 01 (one) Debenture Holder has given its consent/no objection in writing to the proposed Scheme and has also given its written consent for dispensing with convening and holding a meeting of the Debenture Holders of the Applicant Company for consideration of the said Scheme. The said document has been

examined and the same has been found in order. In view of the consent/no objection given by the Debenture Holder of the Applicant Company, the requirement of convening and holding of a meeting of the Debenture Holders of the Applicant Company to consider, and if thought fit, approve, with or without modifications, the said Scheme is dispensed with.

16. A perusal of the record reveals that there are no secured creditors of the Applicant Company as on the date of filing of the instant application and therefore the question dispensation of the requirement of convening a meeting of the secured creditors.

17. Learned counsel appearing on behalf of the Applicant Company does not press the prayer seeking dispensation of the requirement of convening a meeting of the unsecured creditors of the Applicant Company.

18. In view of the foregoing, the meeting of the unsecured creditors of the Applicant Company is hereby directed to be convened. The same is to be held on 19.11.2016 at 11.00 a.m., at TimesPro, F-11, South Extension Part 1, Near McDonalds, New Delhi-110049. The necessary details *qua* convening the same are enumerated hereinbelow:

- i. Ms Mansi Markandey (Advocate), Mobile No. 9910772005 is appointed as the Chairperson and Mr Mehul Rathore (Advocate), Mobile No. 7042704279 is appointed as the Alternate Chairperson to conduct the said

meeting.

- ii. The Quorum of the meeting of the unsecured creditors company shall be 50% in number and more than 50% in value of the total unsecured debt.

19. In case the quorum as noted above, for the abovesaid meeting is not present at the meeting, then the meeting shall be adjourned by half an hour, and thereafter, the persons present and voting shall be deemed to constitute the quorum. For the purpose of computing the quorum the valid proxies shall also be considered, if the proxy in the prescribed form duly signed by the person entitled to attend and vote at the meeting is filed with the registered offices of the applicant company at least 48 hours before the meeting. The Chairperson and Alternate Chairperson shall ensure that the proxy registers are properly maintained.

20. The Chairperson and Alternate Chairperson shall ensure that notices for convening the aforesaid meeting of the unsecured creditors of the Applicant Company, along with copies of the Scheme and the statement under Section 393 of the Companies Act, 1956, shall be sent to the unsecured creditors of the Applicant Company by speed post at their registered or last known addresses at least 21 days before the date appointed for the meeting, in their presence or in the presence of their authorized representatives.

21. Notice of the meeting shall also be published in the newspapers, namely,

‘Times of India’ (English) and ‘Nav Bharat Times’ (Hindi) in terms of the Companies (Court) Rules, 1959 at least 21 days before the date appointed for the meeting.

22. The Chairperson and Alternate Chairperson will be at liberty to issue suitable directions to the management of the Applicant Company so that the aforesaid meeting of the unsecured creditors of the Applicant Company is conducted in a just, free and fair manner.

23. The fee of the Chairperson and the Alternate Chairperson for the aforesaid meeting shall be Rs.75,000/- each, in addition to meeting their incidental expenses, to be borne by the Applicant Company. The Chairpersons will file their reports within two weeks from the date of holding of the aforesaid meeting.

24. The application stands allowed in the aforesaid terms and is accordingly disposed of.

25. The copy of the order be given *dasti*.

SIDDHARTH MRIDUL, J

OCTOBER 17, 2016

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