

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL BENCH, AT MUMBAI

COMPANY APPLICATION NO. 538 OF 2017

In the matter of Companies Act, 2013;

And

In the matter of Sections 230 to 232 of the Companies Act, 2013;

And

In the matter of Sigma Electric Manufacturing Corporation Pvt. Ltd, a company incorporated under the Companies Act, 1956 having its registered office located at Gate No. 154/1 Mahalunge Village, Post Chakan, Pune, Maharashtra - 410501;

And

In the matter of Sigma Electric Manufacturing Pvt. Ltd, (Formerly known as Sunk Rock Metal Foundries India Pvt. Ltd.) a company incorporated under the Companies Act, 2013 having its registered office located at Gate No. 154/1 Mahalunge Village, Post Chakan, Pune, Maharashtra - 410501;

And

In the matter of Scheme of Amalgamation Between Sigma Electric Manufacturing Corporation Pvt. Ltd. And Sigma Electric Manufacturing Pvt. Ltd (Formerly known as Sunk Rock Metal Foundries India Pvt. Ltd.) and their respective Shareholders and Creditors

**Sigma Electric Manufacturing
Corporation Pvt. Ltd.**

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)

CIN no.U31909PN1996PTC101929)
a Private Limited Company)
incorporated under the provisions)
of the Companies Act, 1956, having)
its registered office at Gate No. 154/1)
Mahalunge, Village Post Chakan,)
Pune, Maharashtra- 410 501) ...Applicant/Transferor Company

Sigma Electric Manufacturing)
Pvt. Ltd (Formerly Known as Sunk)
Rock Metal Foundries India Pvt. Ltd.)
CIN no.U74999PN2016PTC165939)
a Private Limited Company)
incorporated under the provisions)
of the Companies Act, 2013, having)
its registered office at Gate No. 154/1)
Mahalunge, Village Post Chakan,)
Pune, Maharashtra- 410 501)...Applicant / Transferee Company

Called for Notice of Admission:

Counsel Alpana Ghone, with Prateek Mishra and Praveer Shetty i/b Res Legal Advocate for the Applicants

Coram: B.S.V.Prakash Kumar, Member (J)

V.Nallasenapathy, Member(T)

Date: 3rd May 2017

MINUTES OF THE ORDER

Upon the application of the Applicant Companies above named by a Company Notice of Admission and upon hearing Ms. Alpana Ghone instructed by Res Legal Advocate for the Applicants AND UPON READING the Application alongwith the Notice of Admission dated 21st April 2017 of Mr.Jitendra

Jawalekar, Authorised signatory of the Applicants, in Support of the company Application and the Exhibits referred therein IT IS ORDERED THAT:

1. A meeting of equity shareholders of the Applicant/Transferor Company be convened and held at Gate No. 154/1 Mahalunge Village, Post Chakan, Pune, Maharashtra - 410501 on 12th June, 2017 at 10.30 a.m, for the purpose of considering and if thought fit, approving with or without modification the proposed Scheme of Amalgamation Of Sigma Electric Manufacturing Corporation Pvt. Ltd. (the Transferor Company) with Sigma Electric Manufacturing Pvt. Ltd. (the Transferee Company) and their Shareholders.
2. A meeting of equity shareholders of the Applicant/Transferee Company be convened and held at Gate No. 154/1 Mahalunge Village, Post Chakan, Pune, Maharashtra - 410501 on 12th June, 2017 at 12:00 noon, for the purpose of considering and if thought fit, approving with or without modification the proposed Scheme of Amalgamation Of Sigma Electric Manufacturing Corporation Pvt. Ltd. ("the Transferor Company") with Sigma Electric Manufacturing Pvt. Ltd. ("the Transferee Company") and their Shareholders.
3. At least 30 clear days before the said meeting of the Equity Shareholders of the Applicant Companies to be held as aforesaid, a notice convening the said meeting at the place, day, date and time aforesaid, together with a copy of the Scheme, a copy of the Explanatory statement required to be sent under Section 230 of the Companies Act, 2013 and the prescribed form of proxy, shall be sent by Registered Post or by Air mail or by courier or by Speed Post or by hand delivery to each of the Equity Shareholders of the Applicant Companies at their respective registered or last known address or by email to the registered e-mail address of the Equity Shareholders as per the records of the Applicant Companies.
4. At least 30 clear days before the Meeting of the Equity Shareholders of the Applicant Companies to be held as aforesaid, a notice convening the said meeting, at the place, date and time aforesaid and stating that

copies of the Scheme of Amalgamation and the statement required to be furnished pursuant to Section 230 of the Companies Act, 2013 and that the form of proxy can be obtained free of charge at the Registered Office of the Applicant Companies as aforesaid and shall also be published once each in Pune edition of "Indian Express" in English and Pune edition of "Loksatta" in Marathi.

5. The Applicant Companies undertake to:
 - i. Issue Notice convening meeting of the equity shareholders as per, Form No. CAA.2 (Rule 6) of the Companies (Compromises, Arrangement and Amalgamation) Rules, 2016
 - ii. Issue Statement containing all the particulars as per Section 230 of the Companies Act, 2013;
 - iii. Issue Form of Proxy as per Form No. MGT-11 (Rule 19) of the Companies (Management and Administration) Rules, 2014; and
 - iv. Advertise the Notice convening meeting as per Form No. CAA.2 (Rule 7) the Companies, Arrangement and Amalgamation) Rules, 2016.

The Undertaking is accepted.

6. That Mr. Pravin Krishnarao Nagale shall be the Chairperson of the meetings of Equity Shareholders and failing him, Mr. Milind Mukund Bhide and failing him, Mr. Rohan Rajiv Malhotra shall be the alternate Chairperson of the said equity shareholders meeting. The Scuritiner for the meetings shall be Mr.Dhananjay V. Athare Patil, Advocate (Enrolment No.MAH 3121/2006, residing at Apartment No.21, Aamod Apartments, Behind Shravan Hotel, Mahajan Path, Model Colony, Shivajinagar, Pune-411016.
7. The Chairperson appointed for the aforesaid Equity Shareholders meeting to issue the notices of the Meeting referred to above. The said Chairperson shall have all powers under the Companies (Compromises, Arrangement and Amalgamations) Rules, 2016 in relation to the conduct of the meeting(s), including for deciding procedural questions that may

arise 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).

8. The quorum for the aforesaid meeting of the Equity Shareholders shall be as prescribed under Section 103 of the Companies Act, 2013.
9. The voting by proxy or authorised representative in case of body corporate be permitted, provided that a proxy in the prescribed form/authorization duly signed by the person entitled to attend and vote at the meeting, is filed with the Applicant Company at its Registered Office at Gate No. 154/1 Mahalunge Village, Post Chakan, Pune, Maharashtra - 410501, not later than, 48 hours before the aforesaid Equity Shareholders meetings as required under Rule 6 of the Companies (Compromise, Arrangements and Amalgamations) Rules, 2016.
10. The value and number of the shares of each member shall be in accordance with the books/register of the Applicant Company or depository records and where the entries in books/register/depository records are disputed, the Chairperson of the meeting shall determine the value for the purpose of the aforesaid meeting and his decision in that behalf would be final.
11. The Chairperson to file an affidavit not less than seven days before the date fixed for the holding of the meeting and do report this Tribunal that the direction regarding the issue of notices and advertisement have been duly complied with as per Rule 12 of the Companies (Compromises, Arrangement and Amalgamations) Rules, 2016.
12. The Chairperson to report to this Tribunal, the result of the aforesaid meeting within thirty days of the conclusion of the meeting, and the said report shall be verified by his Affidavit as per Rule 14 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

13. That there are no Secured Creditors of the Applicant Companies as stated in paragraphs 26 and 27 of the Application of the Applicant Companies.
14. That the Learned Counsel for the Applicant Companies submits that since the scheme is an amalgamation between the Applicant Company and their respective shareholders, only a meeting of the shareholders is proposed to be held in accordance with the provisions of Section 230 (1) (b) of the Companies Act, 2013. This Bench hereby directs the Applicant Company to issue notice to its unsecured creditors as required under section 230(3) of the Companies Act, 2013 with a direction that they may submit their representation, if any, to the Tribunal and copy of such representation shall simultaneously be served upon the Applicant Company.
15. The Applicant Companies to serve the notice upon the Regional Director, Western Region, Ministry of Corporate Affairs, Mumbai Maharashtra, pursuant to Section 230(5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangement and Amalgamation) Rule, 2016. If no response is received by the Tribunal from Regional Director within 30 days of the date of receipt of the notice it will be presumed that Regional Director and/or Central Government has no objection to the Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
16. The Applicant Companies to serve the notice upon the Official Liquidator, High Court, Bombay pursuant to Section 230(5) of the Companies Act, 2013. The Tribunal is appointing Chartered Accountant, JMR & Associate with remuneration of Rs. 1,00,000/- for the services. If no response is received by the Tribunal from Official Liquidator within thirty days of the date of receipt of the notice, it will be presumed that Official Liquidator has no objections to the proposed Scheme as per Rule 8 of the

Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

17. The Applicant Companies to serve the notice upon the concerned Registrar of Companies, pursuant to Section 230 (5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from the Registrar of Companies within 30 days of the date of receipt of the receipt of the notice 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.
18. The Applicant Companies to serve the notice on the concerned Income Tax Authority within whose jurisdiction the Applicant Companies assessment are made, pursuant to Section 230(5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from the Income Tax Authority within 30 days of the date of receipt of the notice it will be presumed that Income Tax Authority has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
19. The Applicant Companies to file an affidavit of service of the directions given by the Tribunal not less than seven days before the date fixed for the holding of the meetings and do report to this Tribunal that the direction regarding the issue of notices have been duly complied with.

Sd/-
V.Nallasenapathy, Member(T)

Sd/-
B.S.V.Prakash Kumar, Member (J)