



**NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH**

CA(CAA)No.103/NCLT/AHM/2018

**In the matter of:-**

**Deep Industries Limited**

A Company registered under the  
provisions of the Companies Act, 1956  
Having registered office at  
12A & 14, Abhishree Corporate Park,  
Ambli Bopal Road,  
Ambli,  
Ahmedabad 380 058  
Gujarat

..Applicant De-merged Company

AND

**Deep CH4 Limited**

A Company registered under the  
provisions of the Companies Act, 1956  
Having registered office at  
14, Ground Floor, Abhishree Corporate Park,  
Ambli Bopal Road,  
Ambli,  
Ahmedabad 380058  
Gujarat

Applicant Resulting Company

**Order delivered on 19<sup>th</sup> September, 2018**

**Coram: Hon'ble Ms. Manorama Kumari, Member (J)**

**Appearance:**

Advocate Ms. Swati Soparkar is present for the Petitioner  
Companies

**ORDER**

1. This joint Application is filed by the Applicant Companies under Sections 230 to 232 and other applicable provisions of the Companies Act, 2013. The Scheme of Arrangement involves

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demerger of Oil and Gas Services Undertaking of Deep Industries Limited, the Applicant De-merged Company into Deep CH4 Limited, the Applicant Resulting Company.

2. The registered office of both the Applicant Companies are situated in Ahmedabad, in the state of Gujarat and hence they are under the jurisdiction of the National Company Law Tribunal, Bench at Ahmedabad.
3. It is submitted that both the Applicant Companies are empowered by their respective Memorandum of Association to enter into Scheme of Arrangements. Copies of Memorandum of Association of both the Applicant Companies are annexed with the application. Similarly, Audited Financial Statements of both the Applicant Companies, as on 31st March 2018 are annexed with the applicant.
4. It is submitted by both the Applicant Companies that both the Applicant Companies belong to the same group of management. Deep Industries Limited, the Applicant De-merged Company is currently engaged in two distinct activities viz. (i) Oil and Gas Services Business comprising of air and natural gas compression services, gas dehydration, work over and drilling rig services; and (ii) oil and gas exploration and production. It is submitted by both the Applicant Companies that proposed segregation would enable greater / enhanced focus of the management in the Oil and Gas Service Business and oil and gas exploration and production business thereby facilitating the management to efficiently exploit opportunities for each of the said businesses. It is also submitted by both the Applicant Companies that the proposed demerger will result in unlocking the true value of Oil and Services Business and provide scope for independent collaboration and expansion for each of the businesses as well as enable attracting investors. It is also submitted by both the Applicant Companies that restructuring is in the interest of the shareholders, creditors, employees and other stakeholders in each of the companies.

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5. The Applicant Companies have submitted the Valuation Report for the proposed Exchange Ratio of Shares to be issued by the Applicant Resulting Company obtained from M/s. Walker Chanidok & Co. LLP, Chartered Accountants and is annexed with the application as **Annexure E at page 133**. The Applicant Companies have submitted that the proposed Scheme of Arrangement, was first placed before the Audit Committee of the De-merged Company and thereafter before Board of Directors of both the Applicant Companies on 26th May 2018. The Board of Directors of both the Companies have passed resolutions by which it was resolved that the Scheme of Arrangement placed before the Board be submitted to the National Company Law Tribunal, Bench at Ahmedabad for its sanction. Copies of these resolutions are annexed with the Application as **Annexure F and G respectively at page 140 and 144**.
6. It has been further submitted that Deep Industries Limited, the Applicant De-merged Company is a listed public limited company and pursuant to the SEBI guidelines, has obtained prior approval from the concerned stock exchanges viz. BSE Limited and National Stock Exchange of India Limited. Copies of the same are annexed with the application as **Annexure- H and I respectively at page 150 and 152**.
7. It is stated in the Application that no proceedings or investigations are pending against any of the Applicant Companies under sections 210-217, 219, 220, 223 to 227 of the Companies Act, 2013 and/or under sections 235 to 251 of the Companies Act, 1956 and there are no winding up petitions pending against any of the Applicant Companies. The Statutory Auditors of both the Companies have provided the certificates confirming the proposed Accounting Treatment being in conformity with the Applicable Accounting Standard. The said certificates are annexed with the application as **Annexure- K and L at page 175 & 176**.

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8. The following are the reliefs prayed by the Applicant Companies;
- (A) Directions to convene and hold separate meetings of the Equity Shareholders, Secured Creditors and Unsecured Creditors of the Applicant Demerged Company, for the purpose of considering and if thought fit, approving with or without modification(s), the Scheme of Arrangement, as proposed between the Company and its Shareholders and Creditors, be issued.
  - (B) Directions as to the method of convening, holding and conducting the said meetings and as to the notices and advertisement to be issued.
  - (C) Appoint the Chairman/men and Scrutinizer for the said meetings, who will report the result of the said meetings to this Tribunal.
  - (D) Fix the Quorum for the said meetings and to lay down the procedure for voting at the meetings, including voting by proxy.
  - (E) Dispensation of the meetings of the Equity Shareholders of the Applicant Resulting Company.
  - (F) Hold that meetings of the Secured Creditors and Unsecured Creditors of the Applicant Resulting company are not required as there are no Secured Creditors and Unsecured Creditors as on date.
  - (G) Directions be issued to the Applicant De-merged Company and the Applicant Resulting Company for the service of notices to the concerned statutory authorities:
9. It is submitted that the Applicant De-merged Company, being a listed public limited company has more than 20,000 Equity Shareholders. The Applicant De-merged Company has large size of operations and hence has 5 Secured Creditors with total value of Secured Debt of Rs.117.28 crores as on 30<sup>th</sup> August 2018. Similarly, the Applicant De-merged Company has more than 450 Unsecured Creditors representing the total value of unsecured debt of Rs.13.58 crores as on 30<sup>th</sup> August 2018. The details for the same are provided

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in the Summary Statements certified by the Chartered Accountant and annexed with the application respectively as **Annexure-M-1 and M-2 at pages 178 and 179.**

10. It is further submitted that the Applicant Resulting Company is a closely held public limited company and has only 8 Equity Shareholders, who belong to the same family. All the Equity Shareholders of the Applicant Resulting Company have given their written consent on affidavits approving the proposed Scheme. The same are annexed with the application as **Annexure-N at page 190 to 197** along with certificate from Chartered Accountant confirming the list of Equity Shareholders and further confirming the receipt of the consent letters, annexed with the application as **Annexure-O at page 198.** In view of the same, it is prayed that meeting of the Equity Shareholders of the Applicant Resulting Company be dispensed with.
11. It is stated in the application that the said Applicant Resulting Company has no Secured and/or Unsecured Creditors as on date as confirmed by the Chartered Accountant. The same is annexed with the application as **Annexure-P at page 199.** In view of the same, meetings of the Secured and/or Unsecured Creditors of the Applicant Resulting Company are not required.
12. Having heard the submissions made in this regard by Ms. Swati Soparkar, learned advocate for the Applicant Companies and on perusal of the application and the documents submitted in this respect, this Tribunal passes the following order
- (i) The meeting of the Equity Shareholders of Deep CH4 Limited, the Applicant Resulting Company is hereby dispensed with in view of the written consent letters on affidavits received from all the Equity Shareholders.
  - (ii) The meetings of the Secured as well as Unsecured Creditors of Deep CH4 Limited, the Applicant Resulting Company is not required as there are no Secured Creditors as well as Unsecured Creditors of the said company.

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- (iii) Separate meetings of the Equity Shareholders and Unsecured Creditors of Deep Industries Limited, the Applicant De-merged Company shall be convened and held at Hotel Planet Landmark, Ambli-Bopal Road, off. S.G. Road, Nr. Ashok Vatika, Ahmedabad- 380 058 in the State of Gujarat, on Tuesday, 30th day of October 2018, respectively at 11.30 a.m. and 2.00 p.m. for the purpose of considering and, if thought fit, approving the proposed Scheme of Arrangement, with or without modifications;
- (iv) A meeting of the Secured Creditors of Deep Industries Limited, the Applicant De-merged Company shall be convened and held at the registered office of the Applicant D-merged Company at 12A & 14, Abhishree Corporate Park, Ambli Bopal Road, Ambli, Ahmedabad – 380058 in the state of Gujarat on Tuesday, 30th day of October 2018, at 10.00 a.m. for the purpose of considering and, if thought fit, approving the proposed Scheme of Arrangement, with or without modifications;
- (v) The Applicant De-merged Company being a listed public limited company, is governed by the SEBI circular no. CFD/DIL3/CIR/2017/21 dated March 10, 2017 and in view of Sections 230 (4) of the Act as well as Rule 6 (3) (xi) of the Companies (Management and Administration) Rules, 2014, Disclosure Requirements Regulations, 2015; it is required to provide facility for Postal Ballot and remote e voting to the Public shareholders. In view of the same, the Applicant De-merged Company is directed to carry out voting through (i) Postal Ballot (ii) remote e voting, and (iii) Ballot or Polling Paper at the venue of the meeting for the meeting of Equity Shareholders of the Applicant De-merged Company to be held on 30th October 2018. In case of meetings of Secured and Unsecured Creditors of the Applicant De-merged Company, voting shall be carried out through ballot/polling paper at the venue of the meeting.

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- (vi) At least one month before the date of the meetings, a notice in Form No. CAA 2 convening the said meetings indicating the day, the date, the place and the time as aforesaid, together with a copy of the Scheme of Arrangement, copy of the Explanatory Statement required to be sent under Section 102 of the Act, read with Sections 230 and 232 of the Act and Rule 6 of the Companies (CAA) Rules, 2016 and the prescribed Form of Proxy shall be sent to each of the Equity Shareholders, Secured Creditors and Unsecured Creditors of the Applicant De-merged Company at their respective or last known addresses either by Registered Post/Speed Post or by Courier or by e mail. The aforesaid notice and other documents shall also be placed on the website of the Applicant De-merged Company. The notices shall be sent to all the Equity Shareholders, Secured Creditors and Unsecured Creditors of the Applicant De-merged Company with reference to the said lists as on 30th August 2018, as placed on record of NCLT.
- (vii) At least one month before the date of meetings, an advertisement about convening the said meetings, indicating the day, the date, the place and the time as aforesaid, shall be published once in English Daily 'Indian Express' Ahmedabad Edition and Gujarati translation thereof in Gujarati daily 'Sandesh' Ahmedabad edition. The publication shall also indicate that the statement required to be furnished pursuant to Section 102 of the Act, read with Sections 230 and 232 of the Act and the prescribed proxy can be obtained free of charge at the Registered Office of the Applicant De-merged Company or at the office of the Advocate, i.e. Ms. Swati Soparkar, 301, Shivalik-10, Opp. SBI Zonal Office, S. M. Road, Ambavadi, Ahmedabad 380 015 in accordance with second proviso to sub-section (3) of Section 230 and Rule 7 of the Companies (CAA) Rules, 2016.
- (viii) Mr. Dhananjay Trivedi, a practicing Chartered Accountant and/or failing him, Mr. Jayesh M. Shah, a practicing Chartered Accountant, and/or failing him Mr. Kirit Joshi, the Independent Director of the Applicant De-merged Company, shall be the

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Chairman of the said meetings for Equity Shareholders, Secured Creditors and Unsecured Creditors of the Applicant De-merged Company to be held on 30th October 2018 and in respect of any adjournment or adjournments thereof.

- (ix) Mr. Premnarayan Tripathi, practicing Company secretary, shall act as the Scrutinizer for the said meetings.
- (x) The Chairman appointed for the aforesaid meetings shall issue advertisements and send out notices of the said meetings referred to above. The Chairman is free to avail the services of the Applicant De-merged Company or any agency for carrying out the aforesaid directions. The Chairman of the meetings shall have all the powers under the Articles of Association of the Applicant De-merged Company and also under Rules, including for deciding any procedural questions, that may arise at the meetings or adjournment(s) 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 respective meetings on a poll i.e. by polling paper/ballot.
- (xi) The quorum for the meetings of Equity Shareholders shall be 30 (Thirty), Secured Creditors shall be 3 (Three) and for Unsecured Creditors shall be 15 (Fifteen) persons present in person or by authorized representative.
- (xii) Voting by proxy/authorized representative is permitted provided that the proxy in the prescribed form/authorization duly signed by the person entitled to attend and vote at the aforesaid meetings, is filed with the Applicant De-merged Company at its registered office at Ahmedabad not later than 48 hours before the said meetings.
- (xiii) The number and value of the vote of each Equity Shareholder and the value of debt of the Secured Creditors and Unsecured Creditors of the Applicant De-merged Company, as the case may



be, shall be in accordance with the register or records of the Applicant De-merged Company for Equity Shareholders and as per the entries in the books of accounts of the Applicant De-merged Company for the Secured and Unsecured Creditors; and where the entries in the records are disputed, the Chairman of the meetings shall determine the value for the purposes of the meetings.

(xiv) The Chairman shall file an affidavit not less than 7(seven) days before the date fixed for the holding of the meetings and to report to this Tribunal that the directions regarding issuance of notices and advertisement of the meetings have been duly complied with as per Rule 12 of the Companies (CAA) Rules, 2016.

(xv) It is further ordered that the Chairman shall report to this Tribunal on the result of the said meetings in Form No CAA4, verified by his affidavit, as per Rule 14 of the Companies (CAA) Rules, 2016 within 30 (Thirty) days of the conclusion of the last of the meetings.

13. In compliance of sub-section (5) of Section 230 of the Act and Rule 8 of the Companies (CAA) Rules, the Applicant Companies shall send a Notice of meeting in Form No. CAA 3 with a copy of the Scheme of Arrangement, the Explanatory Statement and the disclosures mentioned under Rule 6 to (1) Central Government through the Regional Director, North Western Region, (2) the Registrar of Companies, Gujarat; and (3) the Income Tax Authorities; (4) Reserve Bank of India; (5) BSE Limited, (6) National Stock Exchange of India Limited and (7) Securities and Exchange Board of India; stating that representations, if any, to be made by them shall be made within a period of 30 (Thirty) days from the date of receipt of such notice, failing which it will be deemed that they have no objection to make on the proposed Scheme of Arrangement. The said notices shall be sent forthwith after the notice for the meetings are sent to the Equity Shareholders, Secured and Unsecured Creditors of the Applicant De-merged Company, either by Registered Post or by Speed Post or by Courier or by Hand Delivery at the offices of the aforesaid authorities

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as required by sub-rule (2) of Rule 8 of the Companies (CAA) Rules, 2016.

14. This Company Application is disposed of accordingly.

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**Ms. Manorama Kumari  
Member (Judicial)**

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