

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
PRINCIPAL BENCH
NEW DELHI**

Company Application No.CA (CAA) 144/PB/2018

Judgment dated: 25.09.2018

Coram:

CHIEF JUSTICE (Rtd.) SHRI M.M. KUMAR,

HON'BLE PRESIDENT

&

MR. S.K. MOHAPATRA,

MEMBER (TECHNICAL)

In the matter of:

Sections 230-232 and other applicable provisions of the Companies Act, 2013 read with Companies (Compromises, Arrangements, and Amalgamations) Rules, 2016.

AND

IN THE MATTER OF SCHEME OF AMALGAMATION

BETWEEN

1. JTEKT SONA AUTOMOTIVE INDIA LIMITED

Company registered under the Companies Act, 1956



Having Registered Office at:

UGF-6, Indra Prakash,

21 Barakhamba Road

New Delhi-110001

..... Applicant Company No. 1 / Amalgamating Company

2. JTEKT INDIA LIMITED

Company registered under the Companies Act, 1956

Having Registered Office at:

UGF-6, Indra Prakash,

21 Barakhamba Road

New Delhi-110001

... Applicant Company No. 2 / Amalgamated Company

For the Applicants: Mr. Anirudh Das and Kamaljeet Singh, Advocates


ORDER

M.M. KUMAR, PRESIDENT

1. This is an application filed by the applicant companies under Sections 230 to 232 and other applicable provisions of the Companies Act, 2013 (for brevity 'The Act') read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (for brevity 'The Rules') in relation to the



Scheme of Amalgamation (for brevity the "SCHEME") proposed between the applicants. The said Scheme is also annexed [Annexure "1"]. In terms of Sections 230 and 232 of the 2013 Act following prayers have been made for orders:-

- (a) *This Hon'ble Tribunal directs convening of the meetings of Equity Shareholders and Unsecured Creditors of Applicant/ Amalgamating Company for the purpose of considering and if thought fit, approving with or without modification(s), the Scheme of Amalgamation between JTEKT Sona Automotive India Limited and JTEKT India Limited and their respective shareholders and creditors.*
- (b) *The Hon'ble Tribunal directs publication of a joint advertisement of the meetings of Equity Shareholders and Unsecured Creditors of Applicant/ Amalgamating Company in the newspapers namely FINANCIAL EXPRESS (English Edition) and JANSATTA (Hindi Edition), in terms of proviso to Rule 7 of the Companies(Compromises, Arrangements and Amalgamations) Rules, 2016.*
- (c) *This Hon'ble Tribunal directs convening of the meetings of Equity Shareholders, Secured and Unsecured Creditors of Applicant/ Amalgamated Company for the purpose of considering and if thought fit,*
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approving with or without modification(s), the Scheme of Amalgamation between JTEKT Sona Automotive India Limited and JTEKT India Limited and their respective shareholders and creditors.

- (d) The Hon'ble Tribunal directs publication of a joint advertisement of the meetings of Equity Shareholders, Secured and Unsecured Creditors of Applicant/ Amalgamated Company in the newspapers namely FINANCIAL EXPRESS (English Edition) and JANSATTA (Hindi Edition), in terms of proviso to Rule 7 of the Companies(Compromises, Arrangements and Amalgamations) Rules, 2016.*
- (e) The Hon'ble Tribunal directs service of notice of this application on the Regional Director, MCA, B-2 Wing, 2nd Floor, Paryavaran Bhawan, CGO Complex, New Delhi-110003.*
- (f) The Hon'ble Tribunal directs service of notice of this application on the RoC, 4th floor, IFCI Tower, 61, Nehru Place, New Delhi-110019.*
- (g) The Hon'ble Tribunal directs service of notice of this application on the Official Liquidator, Lok Nayak Bhawan, 8th Floor, Khan Market, New Delhi-110001.*



(h) The Hon'ble Tribunal directs service of notice of this application on the Deputy Commissioner of Income Tax, Circle 13(2), room no. 316 A, 3rd floor, C.R building, I.P. Estate, New Delhi-110002.

(i) Pass any such further as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.

2. An Affidavit in support of the application sworn for and on behalf of the Applicant Companies has been filed by one Mr. Hitesh Wadhera and Mr. Sudhir Chopra being the authorized representative.

3. It is represented that the Scheme does not contemplate any corporate debt restructuring exercise as contemplated under Section 230(2) of the Act.

Learned Counsel has taken us through the averments made in the application as well as the typed set of documents annexed there with.

It is further represented that the application filed by the applicants is maintainable in view of Rule 3(2) of the Rules and Learned Counsel also represented that the registered offices of both the applicant companies are situated within the territorial jurisdiction of this Tribunal and fall within domain of Registrar of Companies, NCT, New Delhi.



4. In relation to the Amalgamating/ Applicant Company No. 1 in the Scheme marked as Annexure- "A-1", it has been represented that company has 7 Equity Shareholders. We are further apprised that the Amalgamating / Applicant Company No.1 has no Secured Creditor and 149 Unsecured Creditors. In relation to the Equity Shareholders and Unsecured Creditors Amalgamating / Applicant Company No. 1 seeks a direction for convening and holding of meetings for the purpose of obtaining their approval to the proposed Scheme.

5. In relation to the Amalgamated/ Applicant Company No. 2, it has been represented that company has 46637 Shareholders, 7 Secured Creditors and 835 Unsecured Creditors. In relation to the Shareholders, Secured Creditors and Unsecured Creditors Amalgamated / Applicant Company No. 2 seeks a direction for convening the meetings for the purpose of obtaining their approval to the proposed Scheme.

6. The above application has been placed before us and this Tribunal proceeds to entertain the same. The registered offices of both the applicant companies are situated within New Delhi which are subject to the territorial jurisdiction of Registrar of Companies, NCT, New Delhi as well as that of this Tribunal.



7. We have perused the application and the connected documents filed along with the Scheme of Amalgamation contemplated between the Applicant Companies.
8. Applicant Company No. 1 was incorporated in the state of Delhi under the provisions of Companies Act, 1956 on 11.07.2007 under the name "*JTEKT SONA AUTOMOTIVE INDIA LIMITED*". The authorised share capital of the Amalgamating Company is Rs 60,00,00,000 only divided into 6,00,00,000 equity shares of Rs. 10 each. The issued, subscribed and paid-up share capital of the Company is Rs. 56,69,00,000 only divided into 5,66,90,000 equity shares of Rs. 10 each.
9. Applicant Company No. 2/ Amalgamated Company was incorporated in the state of Delhi under the provisions of Companies Act, 1956 on 14.06.1984 under the name "*Sona Steering Systems Limited*". The name of the company was changed to *Sona Koyo Steering Systems Limited*" vide fresh certificate of incorporation dated 18.09.1998. the name of the company was thereafter changed to its current name "*JTEKT India Limited*" vide fresh certificate of incorporation dated 07.04.2018. the shares of the Amalgamated Company are listed on the NSE and BSE. The authorised share capital of the Amalgamated Company is Rs. 27,10,00,000 divided into 27,10,00,000 equity shares of Re.



1 each. The issued, subscribed and paid-up share capital of the Company is Rs. 19,87,41,832 divided into 19,87,41,832 only equity shares of Re 1 each.

10. The Board of Directors of the Amalgamating Company and Amalgamated Company vide separate meetings held on 09.02.2018 have unanimously passed resolutions and approved the proposed Scheme of Amalgamation as contemplated above and copies of resolutions have also been placed on record by the Companies.

11. Taking into consideration the application and the documents filed therewith, we propose to issue the following directions with respect to calling, convening and holding of the meetings of the Shareholders, Secured and Unsecured Creditors or dispensing with the same which are as follows:-

A. In relation to the Applicant No. 1/ Amalgamating Company:

i. With respect to Shareholders:

It is represented by the Applicant No. 1 that there are 7 Shareholders in the Company. Meeting be convened on 15.11.2018; at 11.00 A.M. at the venue to be decided by the parties. The Quorum of the meeting shall be 4.

ii. With respect to Secured Creditors:



Since it is represented by the Applicant No. 1 that there is no Secured Creditor in the Company, therefore the necessity of convening and holding a meeting is obviated.

iii. With respect to Unsecured Creditors:

It is represented by the Applicant No. 1 that there are 149 Unsecured Creditors in the Company. Meeting be convened on 15.11.2018; at 01.00 P.M. at the venue to be decided by the parties. The Quorum of the meeting shall be 40.

B. In relation to the Applicant No. 2/ Amalgamated Company:

i. With respect to Shareholders:

Since it is represented by the Applicant No. 2 that there are only 46637 Shareholders in the Company. Meeting be convened on 15.11.2018; at 2.00 P.M. at the venue to be decided by the parties. The Quorum of the meeting shall be **1000**.

ii. With respect to Secured Creditors:

It is represented by the Applicant No. 2 that there are 7 Secured Creditors in the Company. Meeting be convened on 15.11.2018; at



03.30 P.M. at the venue to be decided by the parties. The Quorum of the meeting shall be 4.

iii. With respect to Unsecured Creditors:

Since it is represented by the Applicant No. 2 that there are only **835** Unsecured Creditors in the Company. Meeting be convened on - 15.11.2018 ; at 04.30 P.M. at the venue to be decided by the parties. The Quorum of the meeting shall be **250**.

C. In case the Quorum as noted above for the above meetings of the applicant companies are not present, in the meetings, then the meetings shall be adjourned for half an hour, and thereafter, the person present 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, are duly filed with registered office of the applicant companies at least 48 hours before the meetings. The Chairperson and the Alternate Chairperson appointed herein along with Scrutinizer shall ensure that the proxy registers are properly maintained.



- D.** Ms. Suruchi Aggarwal, Advocate, Supreme Court (9312631490) is appointed as the Chairperson and Mr. Vishal Aggarwal, Advocate (9814690605) appointed as Alternative Chairperson for the meetings of Applicant Nos. 1 & 2 as has been directed to be convened by this Tribunal.
- E.** The fee for the Chairperson for the aforesaid meetings shall be Rs. 2 Lacs and the fee for the Alternate Chairperson shall be Rs. 1 Lac in addition to meeting their incidental expenses. Mr. Gurdev Bassi, CA (9357052828) is appointed as a Scrutinizer and would be entitled to fee of Rs. 1 Lac for his services in addition to meeting his incidental expenses. The Chairperson will file their reports within two weeks from the date of holding of the above said meetings.
- F.** The individual notices of the said meetings shall be sent as required and prescribed by the Companies Act, 2013 through registered post or speed post or through courier or through e-mail, 30 days in advance before the scheduled date of the meeting, indicating the day, date, place and time as aforesaid, together with a copy of scheme of arrangement, a copy of explanatory statement. The prescribed form of proxy shall be sent along with and in addition to the above documents, any other documents as may be prescribed under the Act may also be duly sent with the notice.



- G. That the applicant companies shall publish advertisement with a gap of at least 30 clear days before the aforesaid meetings, indicating the day, date, place and time as aforesaid, to be published in the English Daily '**Financial Express**' (Delhi Edition) and Hindi Daily '**Jansatta**' (Delhi Edition) stating the copies of Scheme, the Explanatory Statement required to be furnished pursuant to Section 230 of the Companies Act, 2013 and the form of proxy shall be provided free of charge at the registered office of the Applicant Companies.
- H. Voting shall be allowed on the proposed Scheme by voting in person or by proxy, as may be applicable to the respective companies under the Act and rules framed there under. The Chairperson shall be responsible to report the result of the meeting to this Tribunal within two weeks of the conclusion of the meeting with regard to the proposed scheme.
- I. The Companies shall individually send notice to the Central Government, the Income Tax Authorities, concerned Registrar of Companies, NCT of Delhi & Haryana, Official Liquidator, and any sectoral regulators who may have significant bearing on the operation of the applicant companies along with copy of required documents and disclosures required under the provisions of Companies Act, 2013 read with Companies (Compromises, Arrangements, and Amalgamations) Rules, 2016.



J. All the aforesaid directions are to be complied with strictly in accordance with the applicable law including forms and formats contained in the Companies (Compromises, Arrangements, Amalgamations) Rules, 2016 as well as the provisions of the Companies Act, 2013 by the Applicants.

The application stands allowed in the aforesaid terms.

Sd/-
(M.M. KUMAR) 25.7.20

PRESIDENT

S/D
(S.K. MOHAPATRA)

MEMBER (TECHNICAL)