

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, CHENNAI**

**CP/125/CAA/2018
[CA/29/CAA/2018]**

Under Section 230 to 232 of the Companies Act, 2013

In the matter of Scheme of Amalgamation between

M/s. SHRIPROP HOUSING PRIVATE LIMITED
(CIN: U45202KA2008PTC045031)
(Transferor Company)

With

M/s. SHRIRAM PROPERTIES PRIVATE LIMITED
(CIN: U72200TN2000PTC044560)
(Petitioner/Transferee Company)

And

Their Respective Shareholders

Order delivered on: 12.09.2018

Coram:

K. Anantha Padmanabha Swamy, Member (Judicial)

S. Vijayaraghavan, Member (Technical)

For the Petitioner: *Shri. Naveen Kumar Murthi, Advocate*
Shri.G.V. Mohan Kumar, Advocate

ORDER

Per: K. ANANTHA PADMANABHA SWAMY, MEMBER (J)

1. Under consideration is a Company Petition No: 125/CAA/2018. The Petition has been filed under Section 230 of the companies Act, 2013 read with the companies (Compromises, Arrangements and Amalgamations) Rules, 2016. The purpose of filling the company petition is to obtain sanction to the scheme of Amalgamation (in

Short, '**Scheme**') by virtue of which M/s. Shriprop Housing Private Limited (hereafter referred to as '**Transferor Company**') will get merged with M/s. Shriram Properties Private Limited (hereafter referred to as '**Transferee Company**') as a going concern.

2. The Authorised and Issued, Subscribed & Paid up share capital of the Transferee Company and secured and unsecured creditors are as under:

Particulars	Authorised Capital	Issued, S&P Capital	No. of Equity Share-holders	No. of Secured Creditors	No. of Un-secured Creditors
Transferee Company	Rs. 170,00,00,000/-	Rs. 148,41,14,480/-	60	4	333

3. The **Transferor Company** is a Private Limited Company and having their Registered Office at No.40/43, 8th Main 4th Cross, RMV Extension, Sadashivnagar, Bangalore-560 080, State of Karnataka and the same is **falling within the jurisdiction of NCLT, Bangalore Bench**. The NCLT, Bangalore Bench has to approve the scheme of amalgamation with respect to the Transferor Company. The Transferee Company is a Private Limited Company and originally incorporated on 28.03.2000 under the name and style M/s. Synectics Infoway Private Limited. Subsequently, the company name was changed to M/s. Shriram Properties Private Limited with

effect from 28.03.2003. Later the Company was converted into a Limited Company on 11.11.2009. Thereafter it was converted into Private Limited Company with effect from 19.11.2011, having its registered office at Lakshmi Neela Rite Choice Chamber, New No.9, Bazullah Road, T. Nagar, Chennai-600017. The Transferee Company is engaged *inter-alia* in the business of builders, masonry, engineers, general construction contractors and development of townships, housing, built-up infrastructure and construction development projects etc. The Board of directors of Petitioner Company vide its resolutions dated 11th day of December, 2017 approved the said scheme of Amalgamation.

4. This Bench vide its order dated 19.02.2018 passed in CA/29 /CAA/2018 has ordered and appointed Mr. R. Vijay Krishna, Advocate, as Chairman for convening, holding and conducting meeting of the Equity Shareholders of the Transferee Company and separate convening, holding and conducting meeting of the of secured creditor and unsecured creditors in respect of the Transferee Company. The Equity Shareholders of the Transferee Company has present at the meeting in person or by proxy voted in favour of the scheme and the resolution presented at the meeting was approved unanimously. The 4 (Four) Equity shareholders of the Transferee



Company has representing 73.13% value of the Equity shares Rs. 10,85,33,916/-. The Authorised representing of 2 (Two) Secured creditors of the Transferee Company have attended and voted in favour of the scheme and the resolution presented at the meeting was approved unanimously. The said 2 Secured Creditors of the Transferee Company are representing 97.21% of value of the secured credit Rs. 3,24,94,18,342/-. Further, out of 333 unsecured Creditors, 37 Creditors of the Transferee Company representing 13.69% value of the unsecured credit of Rs. 10,01,11,440/- have attended the meeting in person or by proxy in favour of the scheme and one has opposed and the resolution presented at the meeting was approved with the requisite majority and the Chairman's Report has also been filed in this regard. In this connection, the Chairman's report and the subsequent memo filed on behalf the applicant on 06.09.2018 *"it is stated that the meeting of unsecured Creditors of the Applicant/Petitioner Company was started at 12.00 Noon on 13th Day of April, 2018, since the requisite quorum was not present at the time fixed for the meeting. The Chairman adjourned the meeting by half an hour till 12.30 PM"*. In the view of this, the Tribunal holds that the Scheme was approved by the unsecured creditors in the meeting. Therefore, the Petitioner Company complied with all the orders passed by the Bench.

5. The learned counsel appearing for the Petitioner/Transferee Company submitted that the rationale of the scheme of amalgamation is that the Transferor Companies and Transferee are group companies under the common control. Scheme of Amalgamation will enable the group to achieve greater integration and financial strength and flexibility for the merged entity, which would result in maximizing overall shareholder value and will improve the competitive position of the combined entity; the consolidation of the operations of the Transferor Company into the Transferee Company will assist the Transferor Company and its management in meeting the funding through a common funding mechanism; this will result in effective management and utilization of funds for capital expenditure and working capital; the efficiencies generated through cash management of the merged entity and access to cash flow generated by the combined business can be deployed more efficiently to fund organic and inorganic growth opportunities and to maximize shareholders value; the merged company will have the benefit of synergy, optimum use of human relations, expertise and stability of operations and would help to achieve economies of scale through efficient utilization of resources and facilities; and enable the Transferee Company to get direct participation in the

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business of its present wholly owned subsidiary being M/s. Shriprop Housing Private Limited. The learned counsel further submitted that there is no investigation proceedings are pending against the Transferee Company.

6. The Regional Director, Southern Region (In short, 'RD') in the Report/Affidavit (for brevity, 'Report') dated 23.04.2018 submitted that as per records of ROC, Chennai, the Transferee Company is having its registered office in Chennai and falling within the jurisdiction of the Hon'ble NCLT, Chennai Bench whereas the Transferor Company is registered with ROC, Bangalore. Further, the RD, vide para 5, has reported that there are 6 (six) subsisting charges as per the record amounting to Rs.446.94 crores; as the Transferee Company will continue to be in existence, the discrepancy will not have any impact on the scheme and that the company may take up the matter with ROC, Chennai independently. The Transferee Company is regular in filing its statutory returns and no complaint is pending and no inspection or investigation is pending in respect of the Transferee Company. Further, the RD submitted that as per clause 3.9 of the Scheme proposes to merge the authorised capital of the Transferor Company with that of the Transferee Company. As provided in Clause (i) to Sub Section (3)

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of Section 232 of the Companies Act, 2013, the Transferee Company has to pay the fees, if any, for the enhanced authorized capital subsequent to the amalgamation after setting off the fees paid by the Transfer Company. Therefore, the Transferee Company may be directed to file a MoA and AoA with the ROC, Chennai for records. The RD has not raised any other objection to the scheme under consideration.

7. With regard to above observation made by the RD, the learned counsel filed a memo stating that out of 7 secured creditors (as mentioned in para 5 of the RD Report) 3 secured creditors have been settled already and no due certificates have been obtained from the them are attached at P.No.175 to 178 of the typed set of documents filed in CA/29/CAA/2017 and at present, there are only 4 secured creditors in the Transferee Company.

8. With regard to observation made by the RD at para 9 of his Report the Transferee Company has undertaken to comply with the observations raised by filling the amended Memorandum and Articles of Association of the Transferee Company under section 232(3)(i) of the Companies Act, 2013.



9. Further perusal of the scheme shows that the accounting treatment is in conformity with the established Accounting Standards – 103 (Appendix C). In short, there is no apprehension that any of the creditors would lose or be prejudiced if the proposed scheme is sanctioned. The said Scheme of Amalgamation will not cost any additional burden on the stakeholders and also will not prejudicially affect the interests of any class of the creditors in any manner. **The Appointed date of the said Scheme is 1st April, 2018.**

10. There is no additional requirement for any modification and the Scheme of Amalgamation appears to be fair and reasonable and is not contrary to public policy and not violative of any provisions of law. All the statutory compliances have been made under section 230 to 232 of the Companies Act, 2013. Counsel for the petitioner also given an undertaking that the notice to the Competition Commission of India and its approval under the provisions of the Competition Commission Act, 2002 is not required for the Scheme of Amalgamation. Taking into consideration the above facts, the Company Petition is allowed and the scheme of Amalgamation annexed with the petition is hereby sanctioned which shall be binding on the members, unsecured creditors and shareholders.



11. While approving the Scheme as above, it is further clarified that this order will not be construed as an order granting exemption from payment of stamp duty or taxes or any other charges, if payable, as per the relevant provisions of law or from any applicable permissions that may have to be obtained or, even compliances that may have to be made as per the mandate of law.
12. The Transferee Company to the Scheme or other person interested shall be at liberty to apply to this Bench for any direction that may be necessary with regard to the working of the said Scheme.
13. A certified copy of this Order shall be filed with Registrar of Companies within 30 days of the receipt of the order.
14. Upon receiving the certified copy of this order and the order of the NCLT, Bangalore with respect of the Transferor Company, the ROC, Chennai is directed to consolidate all documents relating to the Transferor Companies with that of the Transferee Company, so that the files relating to the Transferor Companies shall be consolidated with the files and records of the Transferee Company.
15. The Order of sanction of the Scheme shall be prepared by the Registry as per the relevant format provided under the Companies

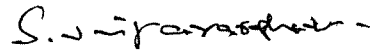


(Compromises, Arrangements and Amalgamations) Rules, 2016,

Notified on 14th December, 2016.

16. Accordingly, the Scheme is sanctioned and **CP/125/CAA/2018**

stands disposed of.



(S. Vijayaraghavan)
Member (Technical)


(K. Anantha Padmanabha Swamy)
Member (Judicial)

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