

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

NEW DELHI

CA (CAA)-89 (ND)/2017

Present: SHRI R.VARADHARAJAN, MEMBER (JUDICIAL)

IN THE MATTER OF SECTIONS 230-232 OF THE COMPANIES ACT, 2013

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
OF
RAGHUNATH EQUIPMENTS PRIVATE LIMITED
(APPLICANT COMPANY-I/ AMALGAMATING COMPANY)**

AND

MECTECH SYSTEMS PRIVATE LIMITED



(APPLICANT COMPANY-II/ AMALGAMATING COMPANY)

WITH

MECTECH PROCESS ENGINEERS PRIVATE LIMITED

(APPLICANT COMPANY-III/ AMALGAMATED COMPANY)

WITH

Their respective Shareholders and Creditors

MEMO OF PARTIES

RAGHUNATH EQUIPMENTS PRIVATE LIMITED

Company incorporated under the Companies Act, 1956

Having Registered Office at:

708, Shakuntla Apartments, 19, Nehru Place

New Delhi-110019

CIN:U74899DL1982PTC031795

.....APPLICANT NO.1/ AMALGAMATING
COMPANY-1

MECTECH SYSTEMS PRIVATE LIMITED

Company incorporated under the Companies Act, 1956

Having Registered Office at:

708, Shakuntla Apartments, 19, Nehru Place

New Delhi-110019



CIN:U70100DL1985PTC020686

.....APPLICANT NO.II/ AMALGAMATING
COMPANY-II

MECTECH PROCESS ENGINEERS PRIVATE LIMITED

Company incorporated under the Companies Act, 1956

Having Registered Office at:

708, Shakuntla Apartments, 19, Nehru Place

New Delhi-110019

CIN:U74899DL1983PTC015592

.....APPLICANT NO.III/ AMALGAMATED
COMPANY

Counsel for the Applicants: Ms. Shalini Sharma, P.C.S



ORDER

Order Delivered on: 11.09.2017

1. This is an application which is filed by the applicant companies herein, namely Raghunath Equipments Private Limited (for brevity "Applicant No.1/ Amalgamating Company-1"), Mectech Systems Private Limited (for brevity "Applicant No.2/ Amalgamating Company-2) and Mectech Process Engineers Private Limited (for brevity "Applicant No.3 /Amalgamated Company") under sections 230-232 of Companies Act, 2013, and other applicable provisions of the Companies Act, 2013 read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 in relation to the Scheme of Arrangement by way of Amalgamation (hereinafter referred to as the "SCHEME") proposed between the applicants. The said Scheme is also annexed as Annexure "A" to the application. The applicants above named have preferred the instant application in effect for the following purpose as evident from the reliefs sought for in the Application, namely:-

- A. dispense the requirement of convening, holding and conducting the meetings of the equity shareholders, the secured creditors and unsecured creditors of each of the Applicant Companies;

B. AND/OR Passing such other and further orders as are deemed necessary in the facts and circumstances of the case.

2. An Affidavit in support of the above application sworn for and on behalf of Applicant No.1/ Amalgamating Company-1 by one Mr. Harish Chander Bhatt, for Applicant No.2/ Amalgamating Company-2 has been filed by one Mr. Ishwar Sahai, and similarly for the Applicant No.3/ Amalgamated Company has been filed by one Mr. Ishwar Sahai being the authorized signatory of the respective Companies along with the application. Counsel for the joint applicants took us through the averments made in the application as well as the typed set of documents annexed there with. Learned Counsel represents that the Scheme does not contemplate any corporate debt restructuring exercise as contemplated under Section 230(2) of the Act. It is further represented that a joint application filed by the applicants are maintainable in view of Rule 3(2) of the Companies (Compromises, Arrangements and Amalgamations) Rules 2016.
3. In relation to Raghunath Equipments Private Limited being the Applicant No.1/ Amalgamating Company-1, in the Scheme marked as Annexure – "A", it represented that it is having 4 (Four) Equity Shareholders and that all four



have given their consents by way of affidavit. It is further represented by the counsel for Applicants that Applicant No.1/ Amalgamating Company-1 has 2 (Two) Secured Creditors and 48 Unsecured Creditor out of which 39 unsecured creditors have given their consents constituting 98.54% and in relation to secured creditors both of them have given their consents. In relation to the shareholders, secured and unsecured creditors of the Applicant No.1/ Amalgamating Company-1, Applicant No.1/ Amalgamating Company-1 seeks dispensation from convening and holding of the meetings in view of consent affidavits being obtained and are placed on record.

4. In relation to Mectech Systems Private Limited being Applicant No.2/ Amalgamating Company No.2 in the Scheme marked as Annexure-"A", Learned Counsel represents that company is having 3 (Three) Equity Shareholders and all three have given their consents by way of affidavit. It is further represented by the counsel for Applicants that Applicant No.2/ Amalgamating Company No.2 has 1 (One) secured and 2 (Two) Unsecured Creditors and each of them have given their consents. In relation to the Equity Shareholders, Secured and Unsecured creditors of the Applicant No.2/ Amalgamating Company No.2, Applicant No.2/ Amalgamating Company No.2 seeks dispensation of the meeting for the purpose of obtaining their



approval to the proposed Scheme of Amalgamation in view of consent being obtained and are placed on record.

5. In relation to Mectech Process Engineers Private Limited being Applicant No.3/ Amalgamated Company in the Scheme marked as Annexure-"A", Learned Counsel represents that the company is having 3 (Three) Equity Shareholders and all three of them have given their consents. It is further represented by the counsel for Applicants that Applicant No.3/ Amalgamated Company has 2 (Two) secured creditors and 35 Unsecured Creditors out of which 29 in number constituting 91.14% in value have given their consents and in relation to the secured creditors, both of them have given their consents. In relation to the Equity Shareholders, Secured Creditor and Unsecured creditors of the Applicant No.3/ Amalgamated Company, Applicant No.3/ Amalgamated Company seeks dispensation of the meeting for the purpose of obtaining their approval to the proposed Scheme of Amalgamation in view of consent being obtained and are placed on record.

6. Learned Counsel for the Applicants also represents that the provisions of Section 233 of 2013 Act will not apply as the Scheme is a composite Scheme.

Further, the registered office of all the applicant Companies are situated



within New Delhi and subject to Registrar of Companies, NCT, New Delhi and hence are amenable to the territorial jurisdiction of this Tribunal.

7. We have perused the joint application and the connected documents / papers filed therewith including the Scheme of Amalgamation contemplated between the Applicant companies.
8. From the certificate of incorporation filed, it is evident that Applicant No.1 is a private limited company incorporated under the provisions of Companies Act, 1956 on 26th June, 1982 with the name of Raghunath Equipments Private Limited.
9. The Authorized Share Capital of the Applicant Company No.1/ Amalgamating Company No.1 is Rs. 4,00,00,000/- divided into 4,00,000 equity shares of Rs.100/- each. The issued and paid up capital is 2,49,02,000 divided into 2,49,020 equity shares of INR 100 each/-.
10. The main objects of the Applicant No.1/ Amalgamating Company No.1 is:
 - To set up and run solvex plants for extraction of edible or non-edible oils from rice bran, sal seeds, groundnuts, sesame, copra, soya beans, cotton seeds and other agricultural produce and to



carry on the business of extraction, pumping, drawing, transporting and purifying and dealing in all kinds of edible or non-edible oils.

- To establish factory or factories or mill or mills for manufacturing, to take on lease or hire, to import, to have on hire-purchase basis, or to produce in any other manner whatsoever, all classes, types and varieties, of any capacity, plants and machinery, including the plants to crush oilseeds, to cleanse and to purify to oil for converting it into edible and non-edible, heartening or lightening oils, dehydrating and converting them into vanaspatis, packing such oils and vanaspatis into cans and tins of various sizes, for making and preparing soaps, both washing and toils, other toilet material, printing tin sheets, making cans and tins of various and different types and varieties, agricultural machinery and implements, or all or any of the components thereof, and to install and fix the same anywhere, on the sites belonging to the Company or someone else, within or outside India, for its own use and working or for the use and working of someone else.
- To purchase, to stock and store to import and export, to sell, to supply on consignment basis, the various agricultural products, including oilseeds, oils both edible and non-edible including Vanaspati, soaps and toilet materials, allied chemicals, and any other articulated which may be thought proper and expedient.
- To carry on the business of producing, trading, making and manufacturing of cattle food, any animal food and feeding and fattening preparations of every descriptions, making and manufacturing of artificial, natural manures and fertilizers or every description.
- To act as consultants for setting up oil industry and to assist in setting up oil industry on turnkey basis.



11. From the certificate of incorporation filed, it is evident that the Applicant No.2 was incorporated with the name of Mectech Systems Private Limited under the provisions of Companies Act, 1956 on 15th April, 1985.

12. The Authorised Share Capital of the Applicant No.2/ Amalgamating Company No.2 is Rs. 2,00,00,000/- divided into 20,00,000 equity shares of Rs. 10/- each. The Issued, Subscribed and Paid-up Share Capital is Rs.1,97,55,120 divided into 19,75,512 equity shares of INR 10/- each.

13. The main objects of the Applicant No.2/ Amalgamating Company No.2 is:

- To do the business of industrial and management consultants.
- To provide technical know-how in the manufacture of processing of goods or materials or in the installations or erection of plant for such manufacture or processing, or in the working of a power generation, mine, oil, well or, other source of mineral deposits or in the search for, or discovery or testing of, mineral deposits on the winning success to then or in carrying out any operation relating to them or rendering services in connection with the provision of such technical know-how on trunk basis.



- To provide technical know-how of any patent, invention, model, design, secret formula, or process or similar property, right or information concerning industrial, commercial or scientific knowledge, experience, or skill made available or provided or agreed to be made available on turnkey basis.
- To provide market surveys, project reports and services in connection thereon.
- To arrange collaborations between foreign party or concern and the company or any other Indian parties or to act as trustees for foreign or Indian investors and collaborations and to carry out the terms of agreement, concessions or privileges, designs and other assistance or to give the benefit of technical know-how to others in collaboration with the company.
- To carry out business of and to establish and develop information technology part, complexes, campuses, special economic zones, economic trading zones, free trade industrial cluster, economic and industrial growth centers, custom bonded facility, economy parks, industrial estates and parks and industrial engineering, equipments complexes, along with required infrastructure and infrastructural facilities, group housing zones for all or any combination of or for any specific industries, products, services and activities (collectively called "Capital SEZ and Parks") including equipment and engineering parks and parks for provision of any product or products



and related services for engineering, energy, telecom, reservoir engineering, oil and gas, geo-chemistry, geo-physics, geology both inland and off shore, all aspects of refining, marketing and storage (including strategic reserves) of engineering, information technology and software infrastructure products, their downstream products and equipments of all kinds, and to provide leasing, consultancy, management and other ancillary services.

- To promote, encourage, establish, develop, maintain, organise, undertake, manage, operate, conduct and to run in India or abroad data processing centers, and other allied units with all infrastructural facilities, equipments, space and manpower to customers for providing all kinds of facilities relating to back office services, call centre operations, business and knowledge processing, outsourcing and other related services.
- To develop, manufacture, produce, to generate, design, install, implement, distribute, license, buy, sell, import, export, customize, maintain, alter, adopt, upgrade, service, maintain and deal in all type of software development and design, software products, computer programs and system studies.
- To purchase in such lawful manner, any land, building and structures and to lay out, develop, construct, build, erect, demolish, alter, repair and do any other such civil and constructional work in connection with any building or building schemes



and such other infrastructure projects or any other such structural or architectural work related thereto and for such purpose to prepare estimates, designs, plans, specifications or models related thereto and to purchase land for sale, let out and to develop into farmland plots, construct buildings and flats for sale on instalments and to carry on the business as civil contractors for construction of markets, commercial complex, buildings, and residential flats, factory shed and buildings, and installation and erection of plant and machinery for manufacture or processing of goods and materials and such other necessary related civil and constructional work of all types.

14. From the certificate of incorporation filed, it is evident that the Applicant No.3/ Amalgamated Company is a private limited company incorporated under the provisions of Companies Act, 1956 on 22nd April, 1983 under the name and style of Mectech Process Engineers Private limited.

15. The Authorised Share Capital of the Applicant No.3/ Amalgamated is Rs. 1,00,00,000/- divided into 10,00,000 equity shares of Rs 10/- each. The Issued, Subscribed and Paid-up Share Capital is Rs. 49,99,960/- divided into 4,99,996 equity shares of Rs.10/-each.

16. The main objects of the Applicant No.3/ Amalgamated Company is:



- To do the business of industrial and management consultants.
- To provide technical know-how in the manufacture of processing of goods or materials or in the installations or erection of plant for such manufacture or processing, or in the knowledge of a power generation, mine, oil, well or, other source of mineral deposits or in the search for, or discovery or testing of, mineral deposits on the winning success to then or in carrying out any operation relating to them or rendering services in connection with the provision of such technical know-how on turnkey basis including supply of plant and machinery, allied equipments and spares parts.
- To provide technical know-how of any patent, invention, model, design, secret formula, or process or similar property, right or information concerning industrial, commercial or scientific knowledge, experience, or skill made available or provided or agreed to be made available on turnkey basis.
- To provide market surveys, project reports and services in connection thereon.
- To arrange collaborations between foreign party or concern and the company or any other Indian parties or to act as trustees for foreign or Indian investors and collaborations and to carry out the terms of agreement, concessions or privileges, designs and other assistance or to give the benefit of technical know-how to others in collaboration with the company.



- To carry on the business of installation and/or erection of plant and machinery for manufacturing or processing of goods and/or materials.
- To purchase in such lawful manner, any land, building and structures and to lay out, develop, construct, build, erect, demolish, alter, repair and do any other such civil and constructional work in connection with any building or building schemes and such other infrastructure projects or any other such structural or architectural work related thereto and for such purposes to prepare estimates, designs, plans, specifications or models related thereto and to purchase land for sale, let out and to develop into farmland plots, construct buildings and flats for sale on instalments and to carry on the business as civil contractors for construction of markets, commercial complex, buildings, and residential flats, factory shed and buildings, and installation and erection of plant and machinery for manufacture or processing of goods and materials and such other necessary related civil and constructional work of all types.

17. All the applicants have filed their respective Memorandum and Articles of Association as well as their last available audited financial statements for the year ended 31.03.2016 and also the provisional financial statements for the period April 1, 2016 to January 31, 2017. .



18. The appointed date as specified in the Scheme is 01.04.2017 subject to the directions of this Tribunal.

19. The Board of Directors of the Amalgamating companies and the Amalgamated company vide separate meetings held on 20th March, 2017, have unanimously approved the proposed Scheme of Amalgamation as contemplated above and copies of resolutions passed thereat have been placed on record by the companies.

20. All the companies have submitted that no investigation proceedings are pending against them under Sections 210 or any other applicable provisions of the Companies Act, 2013.

21. Taking into consideration the application filed jointly by the Amalgamating companies and the Amalgamated company 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 as well as issue of notices including by way of paper publication as follows:-



A) In relation to the Applicant Companies/ Amalgamating Companies No.1 and 2

(i) With respect to Equity shareholders:

Since it is represented by the Amalgamating Companies No.1 and 2 that all the Equity shareholders in each of the Amalgamating Companies have given their consents and are placed on record, therefore the necessity of convening and holding a meeting to consider and if thought fit, the approval of the scheme is dispensed with.

(ii) With respect to Secured Creditors:

Since it is represented by the Amalgamating Companies 1 and 2 that all the Secured Creditors in each of the Amalgamating Companies have given their consents and are placed on record, therefore the necessity of convening and holding a meeting to consider and if thought fit, the approval of the scheme is dispensed with.

(iii) With respect to Unsecured Creditors:

Since it is represented by the Amalgamating Companies 1 and 2 that 98.54% of unsecured creditors in Amalgamating Company No.1 have given their consents and in Amalgamating Company No.2, all the Unsecured Creditors have given their consent and are placed on record for each of the Companies, therefore the



necessity of convening and holding a meeting to consider and if thought fit, the approval of the scheme is dispensed with.

B) In relation to Applicant No.3/ Amalgamated Company:

(i) With respect to Equity shareholders:

Since it is represented by the Applicant No.3/ Amalgamated Company that there are only 3 Equity shareholders in the Company whose consents have been obtained and are placed on record, therefore the necessity of convening and holding a meeting to consider and if thought fit, the approval of the scheme is dispensed with.

(ii) With respect to Secured Creditors:

Since it is represented by the Applicant No.3/ Amalgamated Company that there are 2 (Two) Secured Creditors in the Company whose consents have been obtained and are placed on record, therefore the necessity of convening and holding a meeting to consider and if thought fit, the approval of the scheme is dispensed with.

(iii) With respect to Unsecured Creditors:

Since it is represented by the Applicant No.3/ Amalgamated Company that there are only 35 Unsecured Creditors in the Company out of which 91.14% in value have given their consents and are placed on record, therefore the necessity of



convening and holding a meeting to consider and if thought fit, the approval of the scheme is dispensed with.

The application stands allowed on the aforesaid terms. Let the petition for approval of the scheme of Amalgamation be filed within a period of two weeks from the date this order.

Sd-

11.9.17.

(R.VARADHARAJAN)

MEMBER (JUDICIAL)

U.D Mehta