

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH**

CSA NO. 1045 OF 2017

Under Section 230 to 232 of
Companies Act, 2013

In the matter of Scheme of Amalgamation of Plus Tech Fabricators Private Limited (Transferor Company) with Plus Tech Engineering Private Limited (Transferee Company) and their respective Shareholders.

Plus Tech Engineering Private Limited

..... Applicant Company / Transferee Company

Judgment / Order delivered on 7th day of December, 2017

Coram:

Hon'ble B.S.V. Prakash Kumar, Member (J)

Hon'ble V. Nallasenapathy, Member (T)

For the Applicant(s): Mr. Ajit Singh Tawar and Mr. Rushil Aiya i/b Ajit Singh Tawar & Co., Advocates for Applicants

Per: V. Nallasenapathy, Member (T)

ORDER

UPON the application of the Applicant Company above named by a Company Notice of Admission **AND UPON HEARING** Mr. Ajit Singh Tawar and Mr. Rushil Aiya i/b Ajit Singh Tawar & Co, Advocates for the Applicant Company. **AND UPON READING** the Application along with the Notice of Admission dated 28th day of November, 2017 of Mr. Pradeep P. Nair, Authorised Signatory of the Applicant Company, in support of Notice of Admission along with Application and Exhibits therein referred to, **IT IS ORDERED THAT:**

1. A meeting of the Equity Shareholders of the Applicant Company, be convened and held at 214 J K Chambers, Sector 17, Vashi, Navi Mumbai - 400703, Maharashtra, India on Wednesday, 24th day of January, 2018 at 11:00 AM for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of Amalgamation between Plus Tech Fabricators Private Limited, Transferor Company, with Plus Tech Engineering Private Limited, the Transferee Company and their respective Shareholders.
2. At least 30 clear days before the said meeting of the Equity Shareholders of the Applicant Company 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 Company at their respective registered or last known addresses or by e-mail to the registered e-mail address of the Equity Shareholders as per the records of the Applicant Company.
3. At least 30 clear days before the Meeting of the Equity Shareholders of the Applicant Company 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 Company as aforesaid, shall be published once each in 'Free Press Journal' in English and 'Navshakti' in Marathi, both circulated at Mumbai.
4. The Applicant Company undertakes to:
 - i. Issue Notice convening meeting of the Equity shareholders in Form No. CAA.2 as per Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016;
 - ii. Issue Statement containing all the particulars as per Section 230 of the Companies Act, 2013;
 - iii. Issue Form of Proxy in Form No. MGT-11 as per Rule 19 of the Companies (Management

and Administration) Rules, 2014; and

- iv. Advertise the Notice convening meeting in Form No. CAA.2 as per Rule 7 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

The undertaking is accepted.

5. Mr. Poothakuzhi Bhaskaran Nanoo, Director of the Applicant Company failing him, Mr. Kanaka Bhaskaran, Director of the Applicant Company, is appointed as the chairperson for the meeting of the Equity Shareholders. The Scrutinizer for the meeting shall be Mr. Kushal Kumar, Practicing Company Secretary having Membership No: A35851 and Certificate of Practice No. 19029, who shall be paid an amount of Rs. 3000/- for the services.
6. The Chairperson appointed for the aforesaid Meeting to issue the advertisement and send out the notices of the Meeting referred to above. The said Chairperson shall have all powers under the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (or any re-enactment thereof upon effectiveness of Companies Act, 2013) in relation to the conduct of the meeting(s), including for deciding procedural questions that may arise at the meeting 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).
7. The quorum for the aforesaid meetings of the Equity Shareholder shall be as prescribed under Section 103 of the Companies Act, 2013.
8. The voting by proxy or authorized representative in case of body corporate shall be permitted, provided that a proxy in the prescribed form/ authorization duly signed by the person entitled to attend and vote at the meetings, is filed with the Applicant Company at its Registered Office, not later than, 48 hours before the aforesaid meetings as required under Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
9. 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 the books / register/depository records are disputed, the Chairperson for the Meeting shall determine the value for the purpose of the aforesaid meeting and his decision in that behalf would be final.

10. The Chairperson for the meeting to file an affidavit not less than seven days before the date fixed for the holding of the meeting of equity shareholders and do report this Tribunal that the direction regarding the issue of notices and the advertisement have been duly complied with as per Rule 12 of the Companies (Compromises, Arrangements and Amalgamation) Rules, 2016.
11. The Chairperson for the meeting to report to this Tribunal, the result of the aforesaid meetings of equity shareholder within thirty (30) days after the conclusion of the meeting.
12. That Counsel for Applicant Company submits that since the Scheme is an Arrangement between the Applicant Company involved in the Scheme and its shareholders and only meeting of the Equity Shareholders of the Applicant Company 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 all its Secured 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 a copy of such representations shall simultaneously be served upon the Applicant Company.
13. That Counsel for Applicant Company submits that since the Scheme is an Arrangement between the Applicant Company involved in the Scheme and its shareholders and only meeting of the Equity Shareholders of the Applicant Company 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 all 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 a copy of such representations shall simultaneously be served upon the Applicant Company.
14. The Applicant Company to serve the notice upon the concerned Regional Director, 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 concerned Tribunal from the Regional Director within 30 days of the date of receipt of the notice it will be presumed that Regional Director has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

15. The Applicant Company 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 concerned Tribunal from the Registrar of Companies within 30 days of the date of 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.
16. The Applicant Company to serve the notice on the concerned Income Tax Authority within whose jurisdiction the Applicant Company's 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 concerned 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.
17. The Applicant Company to file an Affidavit of Service of the directions given by the Tribunal not less than seven days before the date fixed for holding of the meeting 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. Prakashkumar****Member (J)**