

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

NEW DELHI

CA (CAA)-115 (ND)/2017

Coram: 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

**ULTRA TECH STEELS PRIVATE LIMITED
(TRANSFEROR COMPANY)**

WITH

**AMRIT PLASTICS LIMITED
(TRANSFeree COMPANY)**



MEMO OF PARTIES

ULTRA TECH STEELS PRIVATE LIMITED

Having registered office at:
B-83, Greater Kailash Part-1
New Delhi -110048.

..... TRANSFEROR COMPANY

AMRIT PLASTICS LIMITED

Having Registered Office at:
B-83, Greater Kailash Part-1
New Delhi -110048.

..... TRANSFEREE COMPANY

Counsel for the Applicants:

Mr. Prince Mohan Sinha, Co. Secretary.

Mr. Dinesh Mohan Sinha, Advocate.



ORDER

Order Delivered on: 21.12.2017

1. This is an application which is filed on 12.09.2017 by the applicant companies herein, namely Ultra Tech Steels Private Limited (for brevity "Transferor Company"), and Amrit Plastics Limited (for brevity "Transferee 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 "11.29" 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 to the effect that this Hon'ble Tribunal may be pleased to pass an order of Dispensing with the meeting of Equity shareholders, Secured Creditors, Unsecured Creditors and Trade Creditors of the Transferor Company for consideration of approval of the Scheme of Amalgamation with or without modification and to pass such and further order(s) as this Hon'ble National Company Law Tribunal may deem fit and proper in the facts and circumstances of the case.

2. An Affidavit in support of the above application sworn for and on behalf of Transferor Company has been filed by one Mr. Praveen Khorana and for the Transferee Company has been filed by one Mrs. Sudershan Khorana being the Director 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 Ultra Tech Steels Private Limited being the Transferor Company, in the scheme marked as Annexure – “11.29”, it is represented that it is having 13 Equity Shareholders and all 13 of them have given their consents by way of affidavit. It is further represented by the counsel for Applicants that Transferor Company has no Secured Creditor and Trade Creditor. The Transferor Company is having 1 unsecured creditor being the Transferor Company itself, but however whose consent affidavit has been received and is placed on record. In relation to the shareholders and unsecured creditor of the Transferor Company, it seeks dispensation from convening and holding of the meetings in view of consent affidavits being obtained and which are placed on record.
4. In relation to Amrit Plastics Limited being Transferee Company in the Scheme marked as Annexure-“11.29”, Learned Counsel represents that the company is having 9 Equity Shareholders and all 9 of them have given their consents. It is further represented by the counsel for Applicants that Transferee Company has no secured, unsecured and Trade Creditor. In relation to the Equity Shareholders of the Transferee Company, it 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 affidavits which are placed on record.
5. Learned Counsel for the Applicants also represents that the provisions of Section 233 of 2013 Act will not apply. Further, the registered office of both 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.



6. We have perused the joint application and the connected documents / papers filed therewith including the Scheme of Amalgamation contemplated between the Applicant companies.
7. From the certificate of incorporation filed, it is evident that Transferor Company is a private limited company incorporated under the provisions of Companies Act, 1956 on 5th August, 2002 vide CIN: U27310DL2002PTC116432 with Registrar of Companies, NCT of Delhi & Haryana initially under the name and style of M/s Capps Airlite Footwears Private Limited. The name of the company was changed to its present name i.e. Ultra Tech steels Private limited w.e.f 9th July, 2009.
8. The Authorized Share Capital is Rs.70,00,000/- (Rupees Seventy Lakh Only). The Issued, Subscribed and Paid-Up Share Capital of the Transferor Company is Rs. 63,61,950/. (Rupees Sixty Three Lakh Sixty One Thousand Nine Hundred and Fifty only).
9. From the certificate of incorporation filed, it is evident that the Transferee Company is a limited company incorporated under the provisions of Companies Act, 1956 on 22nd January, 1976 vide CIN: U1 9202DL1976PLC008045 with Registrar of Companies, NCT of Delhi & Haryana initially under the name and style of Amrit Plastics Private limited. Later on the name and type of the company was changed to its present name i.e. Amrit Plastics Limited w.e.f 1st March, 1984.
10. The Authorised Share Capital of the Transferee Company is Rs. 1,30,00,000/- (Rupees One Crore Thirty Lakh Only). The Issued, Subscribed and Paid-up Share Capital is Rs.1,10,01,800 (Rupees One Crore Ten Lakh One Thousand Eight Hundred Only).
11. The applicant companies have filed their respective Memorandum and Articles of Association interalia delineating their object clauses.



12. The applicant companies have filed their last available audited financial statements for the year ended 31.12.2016 along with the Provisional (unaudited) financial statement as at 30.09.2017.
13. The Board of Directors of the Transferor Company and the Transferee company vide separate meetings held on 5th August, 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.
14. The appointed date as specified in the Scheme is 1st January 2017 subject to the directions of this Tribunal.
15. Both the companies have stated in the petition that no investigation proceedings are pending against them under Sections 210 or any other applicable provisions of the Companies Act, 2013.
16. Taking into consideration the application filed jointly by the Transferor company and the Transferee 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 Transferor Company:

- (i) With respect to Equity shareholders:

Since it is represented by the Transferor Company that there are only 13 Equity shareholders in the Transferor 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 Creditor:

Since it is represented by the Transferor Company that there is no Secured Creditor in the Company, therefore, the necessity of convening a meeting does not arise.

(iii) With respect to Unsecured Creditor and Trade Creditor:

Since it is represented by the Transferor Company that there is only 1 unsecured creditor in the Transferor Company whose consent have been obtained and is 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. In relation to the Trade Creditor, it is represented by the Transferor Company that there is no Trade Creditor in the Company, therefore, the necessity of convening a meeting does not arise.

B) In relation to Transferee Company:

(i) With respect to Equity shareholders:

Since it is represented by the Transferee Company that there are 9 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 Transferee Company that there is no Secured Creditor in the Company, therefore, the necessity of convening a meeting does not arise.



(iii) With respect to Unsecured Creditor and Trade Creditor:

Since it is represented by the Transferee Company that there are no Unsecured and Trade Creditors in the Company, therefore, the necessity of convening a meeting does not arise.

The application stands allowed on the aforesaid terms. Taking into consideration the provisions of Companies Act, 2013 as well as the attendant rules framed, let the petition for approval of the scheme of Amalgamation be filed within a period of one week from the date of this order by both the Transferor and Transferee Companies.

Sd-
(R.VARADHARAJAN)
MEMBER (JUDICIAL)

U.D Mehta
Assisted by: Madhuri Jain