

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

CA/01/CAA/2018

Under Sections 230 to 232 of the Companies Act, 2013

In the matter of Scheme of Arrangement

Between

M/s Arun Wind Mills India Private Limited

(Demerged/ 1st Resulting Company)

M/s Aniruth Green India Private Limited

(2nd Resulting Company)

M/s Aadhav Energy Tech Private Limited

(3rd Resulting Company)

And

M/s Apsara Power India Private Limited

(Demerged Company)

Order delivered on 8th of January, 2018

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CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

For Applicant(s) : Mr. V. Srinivasan, Counsel

ORDER

Per: CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

1. Under consideration is a joint Application filed under Sections 230 to 232 of the Companies Act, 2013.

The prayer made is to dispense with convening, holding and conducting of the meeting of equity/preference

shareholders, secured/unsecured creditors in relation to the Demerged and Resulting Companies.

2. **M/s. Arun Wind Mills India Private Limited**

i. The Demerged/1st Resulting Company viz., M/s. Arun Wind Mills India Private Limited has 8 equity shareholders. The list of equity shareholders is placed at page 318 of the typed set filed with the Application. The consent affidavits given by all the 8 equity shareholders are placed at pages 319 to 334 of the typed set filed with the Application, wherein it has been deposed that they do support the Scheme and consent to dispense with convening, holding and conducting the meeting of equity shareholders. Therefore, the meeting of the equity shareholders of the Demerged/1st Resulting Company is allowed to be dispensed with.

ii. There is no secured creditor in relation to the Demerged/1st Resulting Company. The certificate issued by the Chartered Accountant to this effect is placed at page 300 of the typed set filed with the Application.

iii. There are 11 unsecured creditors in relation to the Demerged/1st Resulting Company. The certificate issued by the Chartered Accountant to this effect is placed at page 301 of the typed set filed with the Application. Out of 11 unsecured creditors 8 have given consent Affidavits, which constitutes 99.17% of the total value of the credit. The consent affidavits given by the unsecured creditors are placed at pages 302 to 317 of the typed set filed with the Application. Therefore, the meeting of the unsecured creditors is allowed to be dispensed with under clause (9) of the Section 230 of the Companies Act, 2013.

3. **M/s. Aniruth Green India Private Limited**

i. The 2nd Resulting Company viz., M/s. Aniruth Green India Private Limited has 5 equity shareholders and 3 preference shareholders. The list of equity and preference shareholders are placed at pages 353 and 366 respectively of the typed set filed with the Application. The consent affidavits given by the equity shareholders and preference shareholders are placed at

pages 354 to 365 and 367 to 372 respectively of the typed set filed with the Application, wherein it has been deposed that they do support the Scheme and consent to dispense with convening, holding and conducting the meeting of equity shareholders. Therefore, the meeting of the equity and preference shareholders of the 2nd Resulting Company is allowed to be dispensed with.

ii. There is no secured creditor in relation to the 2nd Resulting Company. The certificate issued by the Chartered Accountant to this effect is placed at page 336 of the typed set filed with the Application.

iii. There are 13 unsecured creditors in relation to the 2nd Resulting Company. The certificate issued by the Chartered Accountant to this effect is placed at page 337 of the typed set filed with the Application. Out of 13 unsecured creditors 6 have given the consent Affidavits and 2 have given consent letter, which constitute 97.87% of the total value of credit. The consent affidavits given by the unsecured creditors are placed at

pages 338 to 345, 348, 349, 351 and 352 of the typed set filed with the Application. Therefore, the meeting of the unsecured creditor is allowed to be dispensed with under clause (9) of the Section 230 of the Companies Act, 2013 subject to condition that Affidavits of the remaining two unsecured creditors are filed at the time of filing main Company Petition.

4. **M/s. Aadhav Energy Tech Private Limited**

i. The 3rd Resulting Company viz., M/s. Aadhav Energy Tech Private Limited has 4 equity shareholders and 2 preference shareholders. The list of equity and preference shareholders are placed at pages 391 and 402 respectively of the typed set filed with the Application. The consent affidavits given by the equity shareholders and preference shareholders are placed at pages 392 to 401 and 403 to 406 respectively of the typed set filed with the Application, wherein it has been deposed that they do support the Scheme and consent to dispense with convening, holding and conducting the meeting of equity and preference shareholders.

Therefore, the meeting of the equity and preference shareholders of the 3rd Resulting Company is allowed to be dispensed with.

ii. There is no secured creditor in relation to the 3rd Resulting Company. The certificate issued by the Chartered Accountant to this effect is placed at page 373 of the typed set filed with the Application.

iii. There are 12 unsecured creditors in relation to the 3rd Resulting Company. The certificate issued by the Chartered Accountant to this effect is placed at page 374 of the typed set filed with the Application. Out of 12 unsecured creditors 6 have given the consent Affidavits and 2 have given consent letter which constitute 99.78% of the total value of credit. The consent affidavits given by the unsecured creditors are placed at pages 375 to 380, 382, 383, 386, 387, 389 and 390 of the typed set filed with the Application. Therefore, the meeting of the unsecured creditor is allowed to be dispensed with under clause (9) of the Section 230 of the Companies Act, 2013, subject to condition that

Affidavits of the remaining two unsecured creditors are filed at the time of filing main Company Petition.

5. **M/s. Apsara Power India Private Limited**

i. The Demerged Company viz., M/s. Apsara Power India Private Limited has 7 equity shareholders and 4 preference shareholders. The list of equity and preference shareholders is placed at pages 427 and 445 of the typed set filed with the Application. The consent affidavits given by all the equity shareholders and preference shareholders are placed at pages 428 to 444 and 446 to 453 of the typed set filed with the Application, wherein it has been deposed that they do support the Scheme and consent to dispense with convening, holding and conducting the meeting of equity and preference shareholders. Therefore, the meeting of the equity and preference shareholders of the Demerged Company is allowed to be dispensed with.

ii. There is no secured creditor in relation to the Demerged Company. The certificate issued by the Chartered Accountant to this effect is placed at page 407 of the typed set filed with the Application.

iii. There are 16 unsecured creditors in relation to the Demerged Company. The certificate issued by the Chartered Accountant to this effect is placed at page 408 of the typed set filed with the Application. Out of 16 unsecured creditors 6 have given consent Affidavits and 6 have given consent letters, which constitutes 99.49% of the total value of the credit. The consent affidavits given by the unsecured creditors are placed at pages 409 to 414 and 419 to 424 of the typed set filed with the Application. Therefore, the meeting of the unsecured creditors is allowed to be dispensed with under clause (9) of the Section 230 of the Companies Act, 2013 subject to condition that Affidavits of the remaining 6 unsecured creditors are filed at the time of filing main Company Petition.

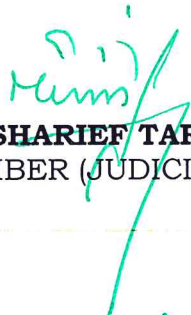
6. The Registry is directed to issue notice to the concerned Regional Director, Ministry of Corporate Affairs, RoC and Income Tax Authorities in relation to the Applicant Companies separately. Since the Applicants are private limited companies, there is no requirement to issue notice to SEBI or other stock exchanges and CCI or other sectoral regulators. In case, the statutory authorities are desirous of making any objection/representation, they may do so within 30 days from the date of receipt of the notice. In case no objection/representation is made, it shall be presumed that they/any of them have/has no objection/representation to make.

7. The Applicants are directed to issue private notice to the concerned authorities/regulators by way of speed post/hand delivery separately. The proof of sending and effecting the service of notice upon them along with the newspaper publication shall be submitted with the supporting affidavit to this Bench along with Company Petition(s).

8. The Applicant companies are directed to effect publication separately in the newspapers one in English "The New Today" (Tamilnadu Edition) and another in vernacular language "Makkal Kural" (Karur Edition) provided the said newspapers have wide circulation in the State of Tamilnadu, having not less than 30 days before filing the Company Petition(s). The Applicants are directed to upload the notice on their websites and display the notice on the notice board at the Registered Office of their respective companies. The Registry is also directed to display the notice on the notice board of this Bench.

9. Accordingly, the Application is allowed. The Applicant Companies are directed to present the Petition(s) on or before 05.03.2018.

P.ATHISTAMANI


[CH. MOHD. SHARIEF TARIQ]
MEMBER (JUDICIAL)