

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

Company Application No.A.10/PB/2017

**Present: CHIEF JUSTICE (Retd.) SHRI M.M.KUMAR, HON'BLE PRESIDENT &
SHRI R.VARADHARAJAN, MEMBER (JUDICIAL)**

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 ARRANGEMENT
OF**

Standipack Private Limited (SPL)

(DEMERGED COMPANY/APPLICANT COMPANY NO.1)

AND

Faridabad Ventures Private Limited

(RESULTING COMPANY NO. 1 /APPLICANT COMPANY NO.2)

WITH

Okhla Ventures Private Limited

(RESULTING COMPANY NO. 2/APPLICANT COMPANY NO.3)

WITH

Their respective Shareholders and Creditors



MEMO OF PARTIES

1. STANDIPACK PRIVATE LIMITED

Company registered under the Companies Act, 1956

Having Registered Office at :

25, Community Centre, East of Kailash, New Delhi-110065

.....Demerged Company/Applicant Company No.1

2. FARIDABAD VENTURES PRIVATE LIMITED

Having Registered Office at :

25, Community Centre, East of Kailash, New Delhi-110065

Resulting Company No. 1 /Applicant Company No.2

3. BESTECH HOSPITALITIES PRIVATE LIMITED

Having Registered Office at :

25, Community Centre, East of Kailash, New Delhi-110065

.....Resulting Company/Applicant Company No.3

Counsel for the Applicants: Mr. Deepak Diwan/ Vinod Kumar/ Himanshi Taneja
Advocate,

ORDER

- 1) This is an application jointly filed by the applicant companies namely, Standipack Private Limited (SPL) (Demerged Company/Applicant Company No.1), Faridabad Ventures Private Limited (Resulting Company No. 1 /Applicant Company No.2) and Okhla Ventures Private Limited (Resulting Company No. 2/Applicant Company No.3). The application has been filed under sections 230 to 232 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 (hereinafter referred to as the "SCHEME") proposed

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between the applicants. The aforesaid Scheme is also annexed as Annexure "P-1" to the application. The applicants above named have preferred the instant joint application for the following purpose as is evident from the reliefs sought in Paragraph IV of the application which read thus:

- i. Dispensation Order that the requirement for convening and holding and conducting of the meeting of the Equity Shareholders of all the Applicant Companies to consider and approve the scheme of arrangement of Applicant Company No.1, 2 and 3 be dispensed with.
 - ii. Order that the convening and holding and conducting meeting of the Secured Creditors and unsecured creditors of the Applicant Company No.1, 2 and 3 and convening and holding of the meeting of the Unsecured Creditors of the Applicant Company No.1, 2 and 3 to consider and approve the Scheme of Arrangement of Applicant Company No.1, 2 and 3 be dispensed with.
 - iii. Directions to the method of convening, holding and conducting the meeting of the Secured Creditors and Unsecured Creditors of the Applicant Company No.3, appointment of chairman and as to the notices and advertisements to be issued as prayed for in the Notice of Admission.
 - iv. Pass such order or further order(s) which this Hon'ble Tribunal may deem fit, proper and just under the circumstances of the case.
- 2) An Affidavit in support of the above joint application is sworn for Demerged Company/Applicant Company No.1 and for Resulting Company/ Applicant Company No.2 by one Mr. Sheel Chand Singhal, and for Resulting Company No. 2/ Applicant Company No.3 again by one Mr. Sheel Chand Singhal, being the Director of the respective Companies and has been filed along with the application.
- 3) Learned 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. It is represented 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 as filed by the applicants is maintainable in view of Rule 3(2) of the Companies (Compromises, Arrangements and Amalgamations) Rules 2016 and the registered office of all the applicant companies are situated within the territorial jurisdiction of this Tribunal; and falling within Registrar of Companies, NCT, New Delhi. In relation to Standipack Private Limited being the Demerged Company/ Applicant Company No.1 in the Scheme marked as Annexure – “P-1” Learned Counsel represents that the Demerged Company/ Applicant Company No.1 is a company incorporated on 8th June 1972 having 2 Equity Shareholders as on 07.01.2017. It is further represented by the counsel for Applicants that the Applicant No. 1 / Demerged Company as on 7th January 2017 has 1 Secured Creditors and 14 Unsecured Creditor as on 6th January 2017 to whom the Demerged Company/ Applicant Company owes a sum of Rs.79,77,021 as on 6th January 2017 out of which Rs. 73,41,779 constitutes 92.04% in value; they have given their consent for the scheme. They also seek dispensing with the meetings from whom consent letter have been obtained.

- 4) In relation to Faridabad Ventures Private Limited being the Resulting Company/ Applicant Company No.2 in the Scheme marked as Annexure-“P-1”, Learned Counsel represents that company is having Two Equity Shareholders as on 7.01.2017. It is further represented by the learned counsel for Applicants that the Applicant No.2 / Transferee/ Resulting Company have no secured and Unsecured Creditor as on 6th January 2017. In relation to the Equity Shareholders, the Resulting Company/ Applicant Company No.2 seeks dispensing with the meetings for the purpose of obtaining their approval to the proposed Scheme of Arrangement in view of the consent having been obtained from all the Equity shareholders of the Resulting Company/ Applicant Company No.2
- 5) In relation to Okhla Ventures Private Limited being the Resulting Company/ Applicant Company No. 3 in the Scheme (Annexure-“P-1”), Learned Counsel represents that company is having only Two Equity Shareholders as on 7.01.2017. It is further represented by the learned counsel that Resulting Company/ Applicant Company No. 3 as on 6.01.2017 has no secured and Unsecured Creditor. In relation to the Equity Shareholders, the Resulting



Company/ Applicant Company No.3 seeks dispensing with the meeting for the purpose of obtaining their approval to the proposed Scheme of Arrangement in view of consent obtained from all the Equity shareholders of the Resulting Company/ Applicant Company No.3.

- 6) Learned Counsel for the Applicants further represents that the provisions of Section 233 of 2013 Act will not apply as the Scheme is a composite Scheme which contemplates the Demerger of Corrugated Packaging Division of Demerged Company/ Applicant Company No.1 into Resulting Company No. 1/Applicant Company No. 2 and the warehousing division of Demerged Company/ Applicant Company No.1 into Resulting Company NO. 2/Applicant Company No. 3, and the Applicant Company No.1 do not have a subsidiary/holding company relationship with the Resulting Company no. 1 and 2. The above joint application has been filed on 07.02.2017 and this Tribunal hence proceeds to entertain the above joint application filed under the 2013 Act. Further, the registered office of all the applicant Companies are situated within New Delhi and subject to the territorial jurisdiction of Registrar of Companies, NCT, New Delhi as well as this Tribunal.
- 7) We have perused the joint application and the connected documents / papers filed along with including the Scheme of Arrangement contemplated between the Applicant companies.
- 8) From the certificate of incorporation filed, it is evident that the Demerged Company / Applicant Company No.1 was incorporated under the name and style of Standipack Private Limited on 8th June 1972 as a Private Limited Company with the Registrar of Companies, NCT of Delhi and Haryana.
- 9) The authorized capital of the Demerged company/ Applicant Company No.1, as on 31.03.2016 is Rs. 4, 00, 00, 000/- divided into 3, 95,000 equity shares of Rs. 100/- each. And 5000 preference shares of Rs. 100 each. The issued, subscribed and Paid- up capital of the company is Rs. 3, 79, 10,300divided.
- 10) The main objects of the Transferor Company/ Applicant Company No.1 as stated in the application are:

(a) To carry on the business of manufacturing, distributing, selling, buying, importing, exporting and dealing in all kinds of cooling, towers and/or their parts, whether made of wood, steel, metal, plastic, PVC, fiberglass or any



other material and to process the same and all, or any other materials, that are or that may be developed for the said purposed.

- (b) To carry on the business of manufacturing, assembling, distributing and to, stock, barter, exchange, pledge, repair, use, buy, sell, import and export and otherwise deal in all kinds of air conditioners, refrigerators, frigidaire and other cooling apparatus and appliances and devices. To manufacture and deal in all kinds of parts of accessories in connection with such machines and appliances as may be requite.*
- (c) To carry on the business of iron founders, mechanical engineers, and manufacturers of industrial & auto-mobile gears, automobile parts, agricultural implements and other machinery, tool makers, brass founders, metal workers, boiler makers, iron and steel converters, smiths, wood workers builders, painters, metallurgists, electrical engineers, water supply engineers, and to buy, sell, manufacture, repair, convert, alter, let on hire and deal in machinery, implements, rolling stock, and hardware of all kinds.*
- (d) To undertake and execute any contracts relating to development of forest plantation, to develop, maintain, acquire and run wood seasoning and wood processing and word working plants.*
- (e) To engage in and carry on the business of project planners, consultants, and engineers for the planning, designing, manufacturing, constructing, operating and erecting all types of machinery, systems or workshops required or used in connection with refrigeration and cooling systems and other substances appertaining to or useful or capable of being used in connection with the foregoing and to act as consultants and advisers in the matter aforesaid.*
- (f) To carry on the business of generating, accumulating, distributing and supplying Solar Energy for its own use or for sale to Government, State Electricity Boards, Intermediaries in Power Transmission /Distribution, Companies, Industrial Units, or to other types of users / consumers of Energy.*
- (g) To acquire concessions or licenses granted by or to enter into contracts with, the Government of India, any State Government , Municipal, Local*

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Authority or other Statutory bodies, Companies or any other person for the development, erection, installation, establishment, construction, operation and maintenance of Solar Power Plants, and in this regard to promote, develop, own, acquire, set up, erect, build, install, commission, construct, establish, maintain, improve, manage, operate alter, control, take on hire /lease, carry out and run all necessary plants, equipments, substations, workshops, generators, transmission facilities, machinery, electrical equipment, accumulators, repair shops, wires, cables, lamps, fittings and apparatus in the capacity of principals, contractors, developers or otherwise and to deal, buy, sell and hire /lease all apparatus and things required for or used in connection with generation, distribution, supply, accumulation of Solar Energy.

(h) To carry on the business of consultants, advisors, auctioneers for all type of Solar Energy Plants and to undertake research and development in the field of solar energy and other allied fields.

- 11) From the certificate of incorporation filed, it is evident that the Resulting Company no. 1 / Applicant Company No.2 was incorporated with Registrar of Companies, NCT of Delhi & Haryana under the name and style of Faridabad Ventures Private Limited on 8th August 2016 and continues to be known under the said name and style.
- 12) The authorized capital of the Resulting company no. 1/ Applicant Company No. 2, as on 31.03.2016 is Rs.5, 00, 000/- divided into 50,000 equity shares of Rs. 10/- each. The issued, subscribed and Paid- up capital of the company is Rs.1, 00, 000 divided into 10000 equity shares of Rs.10/- each.
- 13) The main objects of the Resulting company no. 1/ Applicant Company No.2 as stated in the application are—
- a) *To carry on the business of manufacturing pouches/ containers for filling of lubricants, sachet, tetra packets, carry bages, jumbo bags of plouthine & laminates or any other materials and all other type of packing materials for making, developing & marketing of the said product & to enter into techno commercial collaboration with any such other firms or companies in India*




and foreign to take or provide technical know how and financial arrangements and marketing of the said products.

b) *To carry on the business of manufacturers, suppliers, buyers, dealers, traders, distributors, designer, developers, importers, exporters all types of boards, papers and any such other material to carry on business for cartons, boxes, corrugated boxed or any other material to carry on the business of painters, designers, architect, developers for making, developing and marketing of the said product & to enter in to techno commercial collaboration with any such other firms or companies in India and foreign to take or provide technical know how and financial arrangements and marketing of the said products.*

(c) *To carry on the business of manufacturer of or dealers in automatic form fill and seal machine, sealing & coding machines, dispensing machine, filling machine for liquids, filling, sealing & coding machine & marketing of the said product & to enter in to techno commercial collaboration with any such other firms or companies in India and foreign to take or provide technical know how and financial arrangements and marketing of the said products.*

14) From the certificate of incorporation filed, it is evident that the Resulting Company no. 2 / Applicant Company No.3 was incorporated with Registrar of Companies, NCT of Delhi & Haryana under the name and style of Okhla Ventures Private Limited on 8th August 2016 and continues to be known under the said name and style.

15) The authorized capital of the Resulting company no. 2/ Applicant Company No. 3, as on 31.03.2016 is Rs.5, 00, 000/- divided into 50,000 equity shares of Rs. 10/- each. The issued, subscribed and Paid- up capital of the company is Rs.1, 00, 000 divided into 10000 equity shares of Rs.10/- each.

16) The main objects of the Resulting company no. 2/ Applicant Company No. 3, as stated in the application are—



- a) *To carry on the business of warehouse keepers, warehouse owners, warehouse builders & contractors, to take or give on lease or on rent, let out or otherwise give or take land, godowns, buildings, premises for warehouse business.*
- b) *To carry on the business of financing, leasing, letting on hire, hire purchase or easy payment system for moveable and or immovable properties including godwns, sheds, buildings, stores, flats, warehouses, shops, hotels, factories, garages, plants and machines and equipments etc.*
- 17) All the applicants have filed their respective Memorandum and Articles of Association as well as the last available audited financial statements as at 31st March, 2016.
- 18) The Scheme of Arrangement contemplates that the Demerged Company has been carrying on its business and has apart from its core business activity two other distinct businesses viz. a Corrugated Packaging Division and Warehousing Division. By this scheme, they propose to hive off the Corrugated Packaging Division and Warehousing Division into two separate companies. It's noticed that the business sources and strategy for all the three businesses are altogether different. It's also a factor that the association of collaborators and strategic partners(both Indian and foreign) will only mature when the core businesses are segregated into separate entities. Further, dedicated business model will attract Joint Venture Parties. Further, it is envisioned that growth of the business would require induction of large capital funding to be generated through known sources i.e strategic partners, private equity investors, banks and financial institutions and IPO's. The Scheme (P-1) has been placed on record and the salient features of the Scheme have been brought about by the applicants in the application. One of the features amongst others is stated to be that by demerger of Applicant Company No. 1 all the stakeholders would be benefited and create better synergies and optimal utilization of resources. The appointed date as specified in the Scheme is 1st September 2016 subject to the directions of this Tribunal.



- 19) The Board of Directors of the Companies, vide separate meetings held on 04.01.2017, have unanimously passed resolutions and approved the proposed Scheme of Arrangement as contemplated above and copies of resolutions have been placed on record by the companies. [Annexure P-3, P-13 and P-20]
- 20) All the companies have submitted that no investigation proceedings are pending against them either under Sections 235 to 251 of the Companies Act, 1956.
- 21) Taking into consideration the joint application 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 Demerged Company/ Applicant Company No.1:

(i) With respect to Equity shareholders:

The holding of meeting is dispensed with as there are only two shareholders and their consent letters have been placed on record (P-6/P-7).

(ii) The meeting of Secured Creditors and unsecured creditors is also dispensed with because there is only one secured creditor who has consented and out of 14 unsecured creditors 10 have consented from the scheme which constitutes 92.04% value.

B) In relation to Resulting Company 1 / Applicant Company No.2:

(i) With respect to Equity shareholders:

Meeting of the Equity Shareholders of the Transferee Company/ Applicant Company No.2 also dispensed with because there are only two equity shareholder who have given consent to the scheme vide their letters dated 07.01.2017 (P-15/P-16)

(ii) With respect to Secured and Unsecured Creditors:

Since it is represented by the Resulting Company No.1 / Applicant Company No.2 that there are no Secured and Unsecured Creditors in the Company, the necessity of convening a meeting of Secured Creditor or Unsecured Creditor does not arise.

C) In relation to Resulting Company 2 / Applicant Company No.3:

(i) With respect to Equity shareholders:

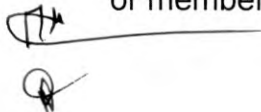
The meeting of the Equity Shareholders of the Resulting Company 2 / Applicant Company No.3 also dispensed with as there only two equity shareholders and both have given their consent to the scheme and there letters are dated 07.01.2017 (P-22/P-23)

(ii) With respect to Secured and Unsecured Creditors:

Since it is represented by the Resulting Company No. 2 / Applicant Company No.3 that there are no Secured and Unsecured Creditors in the Company, the necessity of convening a meeting of Secured Creditor or Unsecured Creditor does not arise.

D) The companies shall individually send notice to Central Government, the Income Tax Authorities, Registrar of Companies NCT Delhi & Haryana as well as other sectoral regulators who may have significant bearing on the operation of the applicant companies or about the Scheme perse along with copy of required documents and disclosures required under the provisions of Companies Act, 2013 read with Companies (Compromises, Arrangements, Amalgamations) Rules, 2016.

E) The applicant companies shall further furnish copy of the Scheme free of charge within 1 day of any requisition for the Scheme made by every creditor or member of all the companies.



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F) The authorized representative of the Applicant Companies shall furnish an affidavit of service of notice on all concerned and compliance of all directions contained.

G) All the aforesaid directions are to be complied with strictly in accordance with the applicable law including forms and formats contained in the Companies (Compromises, Arrangements, Amalgamations) Rules, 2016 as well as the provisions of the Companies Act, 2013 by the Applicants.


22) The application stands allowed on the aforesaid terms

S/D

(CHIEF JUSTICE M.M. KUMAR)
PRESIDENT

S/D

(R. VARADHARAJAN)
MEMBER (J)


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Dated: 22.2.2017