

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH

CSP NO. 627 OF 2017

IN

CSA NO. 244 OF 2017

In the matter of the Companies Act, 2013;  
AND

In the matter of Sections 230 to 231 of the Companies  
Act 2013);

AND

In the matter of Scheme of Arrangement between  
Speedon Network Limited having CIN  
U32202DN2011PLC000373 (Demerged Company),  
and Sterlite Technologies Limited having CIN  
L31300MH2000PLC269261 (Resulting Company) and  
their respective Shareholders

Sterlite Technologies Limited, a company )  
incorporated under the provisions of Companies )  
Act, 1956 with CIN L31300MH2000PLC269261 )  
and having its registered office at E1, MIDC )  
Industrial Area, Waluj, Aurangabad, 431136, )  
Maharashtra, India ) ..... Petitioner

Order delivered on 27<sup>th</sup> July, 2017.

Coram:

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

Hon'ble V. Nallasenapathy, Member (T)

For the Petitioner(s): Mr. Hemant Sethi i/b Hemant Sethi & Co

Mr. Mr. Ramesh Golap, Assistant Director in the office of  
Regional Director

Per: B.S.V. Prakash Kumar, Member (J)

Order

1. Heard the learned counsel for the Petitioner Company. None appears before this Tribunal either to oppose the Scheme or to contravene averments made in the Petition.
2. The sanction of this Tribunal is sought under section 230 to 232 of the Companies Act, 2013, to the Scheme of Arrangement between Speedon Network Limited ("Demerged Company") and Sterlite Technologies Limited ("Resulting Company") and their respective shareholders ("Scheme").

3. The Counsel for the Petitioner Company further submits that the Demerged Company is engaged inter alia in the business of (i) deployment of passive telecom infrastructure network for providing last mile access to various Telecom Service Providers ('TSPs') and Internet Service providers ('ISPs') to deliver high speed broadband services to ultimate consumers; and (ii) equipment leasing. The Demerged Company has decided to segregate its Passive Infrastructure Business into the Applicant Company on a going concern basis.
4. The demerger of the Passive Infrastructure Business from the Demerged Company and consolidation of the same with the Telecom Product and Solutions business currently carried out by the Applicant Company would be in the best interest of the shareholders, creditors, employees and all other stakeholders of the Applicant Company and Demerged Company and is envisaged to yield specific benefits as follows:
  - Synergy benefits from integration of operations;
  - Optimal utilization of resources and better administration;
  - Rationalization and optimization of administrative expenses for both the companies by eliminating duplication of efforts
5. Petitioner Company has approved the said Scheme by passing the Board Resolutions which is annexed to the Company Scheme Petition. The learned Counsel for the Petitioner Company further states that, the Petitioner Company has complied with all the directions passed in Company Scheme Application and that the Company Scheme Petition has been filed in consonance with the order passed in Company Scheme Application.
6. The learned Counsel for the Petitioner Company further states that the Petitioner Company has complied with all requirements as per the directions of this Tribunal and has filed necessary Affidavits of compliance in the Tribunal. Moreover, the Petitioner Company through its Counsel undertakes to comply with all statutory requirements, if any, as required under the Companies Act, 2013 and the rules made there under whichever is applicable. The said undertaking is accepted.
7. The Regional Director has filed his Report dated 26<sup>th</sup> July, 2017 stating therein that save and except as stated in paragraph IV of the said Affidavit, it appears that the Scheme is not prejudicial to the interest of shareholders and public. In paragraph IV of the said Affidavit, the Regional Director has stated that:



- (i) *In addition to compliance of AS-14 (IND-AS103) the Transferee Company shall pass such accounting entries which are necessary in connection with the scheme to comply with other applicable Accounting Standards such as AS-5 (IND AS-8).*
- (ii) *As per existing practice, the Petitioner Companies are required to serve Notice for Scheme of Arrangement to the Income tax Department for their comments. It appears that the company vide letter dated 20<sup>th</sup> May 2017 has served a copy of Compoany Scheme Petition No CSA No. 244 of 2017 along with relevant orders etc. further the Regional Director has also issued a reminder 21/07/2017 to IT Department.*
- (iii) *The tax implication if any arising out of the scheme is subject to final decision of Income Tax Authorities. The approval of the scheme by this Hon'ble Court may not deter the Income Tax Authority to scrutinize the tax return filed by the transferee company after the giving efect to the scheme. The decision of the Income Tax Authority is binding on the Petitioner Company.*
- (iv) *The Registered office of M/s Speedon Network Limited (Demerged Company) is situated at Survey No. 68/1, Rakholi Village, Madhuban Dam Road, Silvassa, Union Territory of Dadra & Nagar Haveli-396230 is outside the jurisdiction of this Hon'ble Tribunal and falls within the jurisdiction of Hon'ble NCLT, at Ahmedabad. Accordingly , similar approval be obtained by the Demerged Company form Hon'ble NCLT, at Ahmedabad.*

8. In so far as observations made in paragraph IV (a) of the Report of Regional Director is concerned, the Transferee Company through its Counsel undertakes that in addition to compliance of AS -14 (IND AS – 103), the Transferee Company shall pass such accounting entries which are necessary in connection with the scheme to comply with other applicable Accounting Standard such as AS-5 (IND AS – 8) etc to the extent it may be applicable .
9. In so far as observations made in paragraph IV (2) and (3) of the Report of Regional Director is concerned, the Petitioner through its Counsel undertakes to comply with all applicable provisions of the Income Tax Act, 1961 and all tax issues arising out of the Scheme will be met and answered in accordance with law.
10. As far as observations made in paragraph IV (3) of the Report of the Regional Director is concerned, the Counsel for the Petitioner submits that Petition filed by the Demerged Company was heard on 19<sup>th</sup> July 2017 by NCLT, Ahemdabad Bench and the orders are awaited.

11. The observations made by the Regional Director have been explained by the Petitioner Company in paragraphs 8 to 10 above. The clarifications and undertakings given by the Petitioner Company are hereby accepted.
12. From the material on record, the Scheme appears to be fair and reasonable and is not in violation of any provisions of law and is not contrary to public policy. None of the parties concerned have come forward to oppose the Scheme. Since all the requisite statutory compliances have been fulfilled, Company Scheme Petition No. 627 of 2017 filed by the Petitioner Company is made absolute in terms of prayer clause (a) of the Petition.
13. The Petitioner Company to lodge a copy of this order and the Scheme duly authenticated by the Deputy Director, National Company Law Tribunal, Mumbai Bench, with the concerned Superintendent of Stamps for the purpose of adjudication of stamp duty payable, if any, on the same within 60 days from the date of receipt of the order.
14. Petitioner Company is directed to file a certified copy of this order along with a copy of the Scheme with the concerned Registrar of companies, electronically, along with E-form INC 28 in addition to the physical copy, within 30 days from the date of issuance of the order by the Registry.
15. The Petitioner Company to pay cost of Rs.25,000/- to the Regional Director, western Region, Mumbai. The cost to be paid within four weeks from the date of receipt of Order.
16. All authorities concerned to act on a certified copy of this order along with Scheme duly certified by the Deputy Director, National Company Law Tribunal, Mumbai Bench.
17. Any person interested shall be at liberty to apply to the Tribunal in the above matter for any direction that may be necessary.

Sd/-

**V. Nallasenapathy, Member (T)**

Sd/-

**B.S.V. Prakash Kumár, Member (J)**