

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, CHANDIGARH**

CP NO. 239/2016

with CA 47/2017

RT No.CP(CAA) 114/Chd/Hry/2017

DATE OF ORDER: 15.05.2017

**IN THE MATTER OF COMPANIES ACT 1956 (1 OF 1956) AND
COMPANIES ACT, 2013 (18 of 2013):**

AND

In the matter of petition under Sections 391 and 394 of the Companies Act, 1956 for sanction of the scheme of Amalgamation of the Transferor Companies with Transferee Company.

AND

IN THE MATTER OF

ARG AUTO COMPONENTS PRIVATE LIMITED

**having its registered office situated at
118-120, 1st Floor, Suncity Success Tower,
Golf Course Extension Road, Sector-65,
Gurgaon, Haryana**

... Applicant Company /Transferor-I

AND

ARG AUTOSYSTEMS LTD.

**having its registered office situated at
118-120, 1st Floor, Suncity Success Tower,
Golf Course Extension Road, Sector-65,
Gurgaon, Haryana**

... Applicant Company /Transferor -II

WITH

ARG UDYOG PRIVATE LIMITED

**having its registered office situated at
118-120, 1st Floor, Suncity Success Tower,
Golf Course Extension Road, Sector-65,
Gurgaon, Haryana**

... Applicant Company /Transferee Company



Present: Mrs. Munisha Gandhi, Senior Advocate, with Ms. Salina Chalana Mr. Amit Aggarwal, and Ms. Shruti A. Chandna, Advocates for the Petitioners.

Official Liquidator: Mr. D.K. Singh.

Coram: Hon'ble Justice Mr.R.P. Nagrath, Member (Judicial) (ORAL)

ORDER

The amended memo of parties was filed with CA No.47 of 2017, which was allowed by the Hon'ble Punjab and Haryana High Court on 14.03.2017. CANo.47 of 2017 was filed due to change of registered office of the companies during pendency of the instant petition.

This petition filed jointly by the Transferor Company-I, Transferor Company-II as well the Transferee Company above named has come up before us for the purpose of the approval of the Scheme Of Arrangement, as contemplated between the companies and shareholders of the Applicant Companies by way of amalgamation of Transferor Company I and II with the Transferee Company. A perusal of the Petition discloses that a petition seeking for dispensation of convening the meeting of equity shareholders, secured creditors and unsecured creditors of all the three companies was filed before the Hon'ble High Court of Punjab and Haryana in CP No. 239 of 2016. It was further prayed that the petition be treated as second motion petition and notices to Central Government, Ministry of Corporate Affairs through its Regional Director and Official Liquidator attached to the Hon'ble High Court may also be issued with a further prayer to sanction the scheme of Amalgamation (Annexure P-23) so as to be binding on all shareholders of the Transferor Companies as well as the Transferee Companies and of the

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unsecured creditor of the Transferor Company-II and upon the companies themselves. The Hon'ble High Court of Punjab and Haryana vide its order dated 14.12.2016, in addition to dispensing with the requirement of convening of the meetings of the equity shareholders, secured and unsecured creditors of all the Applicant Companies, had further been pleased to issue notice to the Regional Director and the Official Liquidator and further ordered publication of the notice in the newspapers and the official gazette of the State Government and in this connection the relevant part of the order of the Hon'ble High Court dated 14.12.2016 is reproduced hereunder:-

"In view of the matter and for the reasons stated above, convening of the meetings of the Equity Shareholders of the applicant/Transferor Company-I & II and Transferee Company and Unsecured Creditors of the Transferor Company-II are hereby ordered to be dispensed with. Since, there are no Secured Creditors of the applicant/Transferor Company-I & II and Transferee Company and Unsecured Creditors of Transferor Company-I and Transferee Company, therefore, there is nothing to convene their meeting.

Let notice be issued to the Regional Director, Northern Region, Ministry of Corporate Affairs, New Delhi and the Official Liquidator for 13.03.2017.

Notice be published in 'Financial Express' (English) and 'Jansatta' (Hindi), both NCR/Delhi editions and in the official Gazette of the Government of Haryana. The same be also uploaded on the website of the Official Liquidator. Learned counsel for the Petitioner-Companies to supply copy of the notice in the office of the Official Liquidator within ten days."

2. In Compliance with the aforesaid order dated 14.12.2016, the Applicant Companies filed an affidavit dated 28.02.2017, before the Hon'ble High Court and a perusal of the same discloses that the Applicant Companies have effected the publication, as directed by the Hon'ble High Court, in one issue of the 'Financial Express' on 25.01.2017 (Annexure P-1) and in "Jansatta" again on 25.01.2017 (Annexure P-2) and also in the

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Official Gazette of Haryana on 21.02.2017 (Annexure P-3), in relation to the date of hearing of the Petition on 13.03.2017. It has also been disclosed in the affidavit that the notice has been uploaded on the website of the High Court through the Official Liquidator. Further, the affidavit also discloses that notices have been issued to the Regional Director, Northern Region as well as to the Official Liquidator attached to the Hon'ble High Court of Punjab and Haryana in compliance with the order dated 14.12.2016 and proof of the same have also been enclosed.

3. Since the provisions relating to Compromise, Arrangements and Amalgamation as contemplated under Section 230-232 of the Companies Act, 2013 have been notified w.e.f. 15.12.2016 wherein the power to consider such schemes have now been vested with the National Company Law Tribunal, the Hon'ble High Court, pursuant to the notification dated 07.12.2016 and 03.02.2017, issued by the Ministry of Corporate Affairs has transferred/transmitted the records of the above Petition to this Tribunal vide order dated 14.03.2017.

4. The record reveals that pursuant to the notices issued, the Regional Director as well as the Official Liquidator sought information from the applicant companies. In addition to this, the Regional Director also issued letters to the Registrar of Companies and the Income Tax Department asking them for their reports and further requested the applicant companies to serve a copy of petition upon both the authorities.

5. Based on the information received, Regional Director, Northern Region has filed his representation by way of affidavit dated 10.03.2017 before this Tribunal. An examination of the said representation/affidavit of

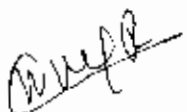
(Signature)

Regional Director, Northern Region, Ministry of Corporate Affairs, New Delhi discloses that despite letter dated 23.01.2017 issued to the Income Tax Department, no observations/comments have been received from the said office inspite of lapse of stipulated period of 15 days. The official liquidator, who has filed the representation of Regional Director, before this Tribunal states that there are no adverse observations/comments in the said representation.

6. Similarly, the official liquidator has filed a report dated 08.05.2017, on the basis of information sought from the Applicant Transferor Companies. The official liquidator submits that he also has no objection to the Scheme of Amalgamation.

7. I have heard learned senior counsel for the Applicant Companies and also considered the representations made by the Regional Director, Northern Region by way of affidavit dated 10.3.2017 as well as the Report of the Official Liquidator dated 08.05.2017.

8. For the reasons stated above and on consideration of all relevant facts and procedural requirements in terms of Section 391-394 of the Companies Act, 1956 and the relevant Rules and on due consideration of the reports of the Regional Director, Ministry of Corporate Affairs, New Delhi and the Official Liquidator, the Scheme of Amalgamation annexed as Annexure P-23 is hereby sanctioned and as a result thereto, the Assets and Liabilities of the ARG Auto Components Private Limited (Applicant/Transferor Company-I) and ARG Autosystems Limited (Applicant/Transferor Company-II) shall stand vested in ARG Udyog Private Limited (Applicant/Transferee Company) and all the Transferor Companies would



stand dissolved without being wound up.

9. The Scheme of Amalgamation shall be binding on the Applicant-Transferor and Transferee Companies, their respective Shareholders, Creditors and all concerned.

10. *While approving the scheme as above, we further clarify that this order should not be construed as an order in any way granting exemption from payment of any stamp duty, taxes or any other charges, if any, and payment in accordance with law or in respect to any permission / compliance with any other requirement which may be specifically required under any law.*

11. *Each of the applicant companies have concurred herein to pay costs of ₹10,000/- each to the Regional Director, Northern Region, Delhi and in addition, the Transferor Companies shall pay a sum of ₹10,000/- to the Official Liquidator for the same purpose within four weeks from the date of the order.*

THIS TRIBUNAL DO FURTHER ORDER

i) That all the property, rights and powers of the Transferor Companies be transferred without further act or deed to the Transferee Company and accordingly the same shall pursuant to section 232 of the Act, be transferred to and vested in the Transferee Company for all the estate and interest of the Transferor Companies therein but subject nevertheless to all charges now affecting the same; and

ii) That all the liabilities and duties of the Transferor Companies be transferred without further act or deed to the Transferee Company and accordingly the same shall pursuant to section 232 of the Act, be transferred

to and become the liabilities and duties of the Transferee Company; and

iii) That all the employees of the Transferor Companies shall be transferred to the Transferee Company in terms of the Scheme;


iv) That all proceedings now pending by or against the Transferor Companies be continued by or against the Transferee Company;

v) That the transferee company do without further application allot to all the members of the transferor companies as is required by clause 3.2 of the Scheme (Annexure P-23) the shares in the transferee company to which they are entitled under the said compromise or arrangement;

vi) That the fee, if any, paid by the Transferor Company on its authorized capital shall be set off against any fees payable by the transferee company on its authorized capital subsequent to the amalgamation;

vii) That the Transferor Companies shall within thirty days of the date of the receipt of this order cause a certified copy of this order to be delivered to the Registrar of Companies for registration and on such certified copy being so delivered the Transferor Companies shall be dissolved and the Registrar of Companies shall place all documents relating to the Transferor Companies and registered with him on the file kept by him in relation to the Transferee Company and the files relating to the said companies shall be consolidated accordingly;

viii) That any person interested shall be at liberty to apply to the Tribunal in the above matter for any directions that may be necessary.


(Justice R.P. Nagrath)
Member (Judicial)

May 15, 2017
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