

(31)

NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH
CHENNAI

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI
NATIONAL COMPANY LAW TRIBUNAL, HELD ON 21/07/2017 AT 10.30 AM

PRESENT: SHRI Ch. MOHD SHARIEF TARIQ, MEMBER-JUDICIAL
SHRI S. VIJAYARAGHAVAN, MEMBER-TECHNICAL

APPLICATION NUMBER :
PETITION NUMBER : CA/117/CAA/2016⁷
NAME OF THE PETITIONER(S) : BATEMAN ENGINEERING INDIA PVT LTD
NAME OF THE RESPONDENT(S) : TENOVA INDIA PVT LTD
UNDER SECTION : 230

S.No.	NAME (IN CAPITAL)	DESIGNATION	SIGNATURE
		REPRESENTATION BY WHOM	

1) K. RAMASAMI
G.V. MOHAN KUMAR

Counsel for Applicant

G.V. Mohan

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IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, CHENNAI

CA/117/CAA/2017

In the matter of Scheme of Arrangements (Demerger)
between

M/s.Bateman Engineering (India) Pvt Ltd (Demerged company)
and

M/s. Tenova India Private Ltd. (Resulting company)

Orders passed on 21.07.2017

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CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)
S.VIJAYARAGHAVAN, MEMBER (TECHNICAL)

For Applicants : Mr. K.Ramasamy, Advocate

ORDER

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

1. Under consideration is an application filed under sections 230 to 232 of the Companies Act, 2013 and Rule 3(1) (2) of the Companies (Compromises, Arrangements and Amalgamations) Rules 2016.
2. In relation to the Demerged company, there are only two equity share holders, i.e. BENV NV, Netherlands and TENOVA Deutschland Holding GmbH, Germany. The affidavits dated 26th June 2017 given by the representatives of the above two shareholders are placed at Page 254 to 257, wherein it has been deposed that they did support the Scheme and consent to dispense with holding/convening of the meeting of equity shareholders.

3. In relation to the Resulting company, there are only two equity share holders, i.e. TENOVA SpA, Italy and TENOVA Deutschland Holding GmbH, Germany. The affidavits dated 26th June 2017 given by the representatives of the above two shareholders are placed at Page 263 to 266, wherein it has been deposed that they did support to the Scheme and give consent to dispense with holding/convening of any meeting of equity shareholders.

In the light of the affidavits placed on record, the requirement under law has been fulfilled. Therefore, we order to dispense with the meeting of the Equity shareholders of the Demerged company and Resulting Company.

4. The Demerged company does not have secured creditors, but has 37 unsecured creditors. The total value of credit is Rs.24,33,88,025/- The Resulting Company has one secured creditor and 937 unsecured creditors. The total value of credit is Rs.112,21,01,296/-. In this regard, the applicant made prayers *inter alia* stating under Para 39(c) which is as follows :-

“the meeting of the Unsecured creditors of the First Applicant Company and Second Applicant Company not required to be convened”

The reason stated for the said prayer is that the applicant companies will continue to function as separate legal entities even after the sanction of the scheme of arrangement. However, the applicant is directed to send individual notices to all the creditors.

6. We direct the Registry to issue notice to Regional Director, Ministry of Corporate Affairs, ROC concerned, RBI, CCI and Income Tax authorities. In case the 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 applicant companies are directed to effect publication separately in the newspapers one in English "Business standard" and another in vernacular language "Malai Malar" having wide circulation in the State of Tamilnadu, at least not less than 30 days before filing the company petition. The applicant companies are directed to upload the notice on their websites and display the notice on the notice board at the Registered Office of their companies respectively. The Registry is also directed to display the notice on the notice board of this Bench. The applicant is directed to issue private notice to the regulators by way of speed post/hand delivery. The proof of sending and effecting the service thereon along with the newspaper publication be submitted along with an affidavit.

8. Accordingly, the application is allowed. The Applicant companies are directed to file the Company petition on or before 31.08.2017.


(S.VIJAYARAGHAVAN)
MEMBER (TECHNICAL)


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