

**In the National Company Law Tribunal
Single Bench, Chennai**

CP/56&57/CAA/2017

[CA/1&2/CAA/2017]

In the matter of Scheme of Arrangement of Demerger

Between

M/s. Tube Investments of India Limited
(Demerged Company)

And

M/s. TI Financial Holdings Limited
(Resulting Company)

And

Their Respective Shareholders

Order delivered on: 17.07.2017

For the Petitioners: Shri P.H. Arvindh Pandian, Sr. Advocate

Per: K. ANANTHA PADMANABHA SWAMY, MEMBER (J)

ORDER

1. Under consideration are two Company Petitions filed by the above named Petitioner Companies under Section 230 of the Companies Act, 2013 r/w the Companies (Compromises, arrangements and Amalgamations) Rules 2016. The purpose of the Company Petitions is to obtain sanction of the Scheme of Arrangement of Demerger (in short, 'Scheme') by virtue of which the Manufacturing Business Undertaking of M/s. Tube Investments of India Limited (hereinafter referred to as 'Demerged Company') as specified in Clause 1.9 of the said scheme of arrangement, shall be demerged, transferred and vested with M/s. TI Financial Holdings Limited (hereinafter referred to as 'Resulting Company'), a wholly owned subsidiary of the Demerged Company, in terms of the said scheme of arrangement of demerger.

2. The Share Capital of the Petitioner Companies as on 31st March, 2016 is as under:

| Particulars | Authorized Capital | Issued, Subscribed & Paid up capital |
|--------------------|---------------------------|---|
| Demerged Company | Rs. 43,00,00,000 | Rs. 37,46,93,074 |
| Resulting Company | Rs. 2,00,00,000 | Rs. 11,00,000 |

3. At the outset, it is necessary to know the details of the scheme which needs determination. Both the Companies are Public Companies having registered office at Dare House, No. 234, NSC Bose road, Chennai- 600001 and the Board of Directors of both the companies vide their resolutions dated 3rd November, 2016 have approved the said scheme of Arrangement. The main objects the Demerged Company as set out in Clause III of MoA is to carry on the business of manufacturers, assemblers, dealers, importers, exporters of bicycles, motor cars, motor-propelled cycles engine of all kinds and vehicles and rolling stock of every description and of spare parts and component thereof whereas the main objects of the Resulting Company are to carry on the business of an investment company in all its branches and without prejudice to generality of the foregoing to buy in and to invest in, acquire, sell, transfer, underwrite, subscribe for, hold and otherwise deal in and invest in any shares, bonds, stocks, obligations issued or guaranteed by any companies and the matter incidental thereto .
4. This Bench vide its order dated 10.03.2017 in CA/1/CAA/2017 ordered to hold the meeting of the equity shareholders whereas dispensed with the convening and holding of the meeting of the Secured as well as Unsecured Creditors of the Demerged Company on the basis of production of NOC by way of consent affidavits. The Demerged Company has furnished the

consent affidavits from the unsecured creditors constituting 91.3% of the outstanding debt. Further, this Bench vide its order dated 10.03.2017 in CA/2/CAA/2017 dispensed with the convening and holding of the meeting of the equity shareholders of the Resulting Company. The Resulting Company has furnished a Certificate from the Chartered accountant stating that there are no Secured and Unsecured Creditors.

5. Shri Arvinth Pandian, learned Senior Counsel appearing for the Petitioner Companies submitted that the rational, reasons and circumstances that have necessitated the proposed scheme are that the Demerger holds good for the companies. The proposed restructuring would result in better and efficient control by the management for the segregated businesses and promote their growth. Further, it would also result the several benefits viz. Greater administrative efficiency; Operational rationalization, organisation efficiency and optimum utilisation of various resources; ability to leverage financial and operational resources of each business; each business would be able to address independent business opportunities, pursue efficient capital allocation and attract different sets of investors, strategic partners, lenders, and other stakeholders. The proposed restructuring is likely to be value accretive for the shareholders and would enable them to select investments best suited to their investments strategies. Further, the segregation is also expected to unlock the value of the business of the Demerged Company. The learned counsel further submits that no investigation proceedings are pending against the Companies under section 235 to 251 or any other provisions of the Companies Act, 1956 or corresponding provisions of the Companies Act, 2013.

6. Learned Counsel for the Companies further submitted that both the companies are Public Limited companies and equity shares of the companies are listed with stock exchanges, thus the Companies require compliance with the requirements of the Listing Agreement or any SEBI Rules/regulations. It was also submitted that the stock exchange has given NOC as well as in-principle approval to the said scheme of demerger.
7. To dispose of this petition as per the provisions of the Companies Act, 2013, this Bench issued notices issued to the statutory authorities as per the procedure prescribed. However, there were no objection to the scheme.
8. The Regional Director, Southern Region (In short, '**RD**') in its Report Affidavit (for brevity, '**Report**') dated 30.06.2017 submitted that as per records of ROC, Chennai, the Demerged Company is regular in filing its statutory returns and no investigation is pending against the company, therefore, RD decided not to make any objection to the Scheme and submitted that it has been decided not to make any objection to the scheme except for the observation made in para 10 and 11. In Para 10 of the Report, it has been submitted that the Clause 17 of the subject scheme proposes to swap the name of the companies i.e. the demerged company will take the name of the Resulting Company and the Resulting Company will take the name of the Demerged Company. As the name could not be changed without following the procedure laid down in the Companies Act 2013 and rules framed thereunder, the companies may be directed to follow the procedure like filing the necessary eforms through the MCA21 portal and get the change of name certificate from the concerned RoC. In Para 11 of the Report, it has been stated that clause 18 and 19 of the scheme proposes

to insert under the main object certain clauses in the place of existing main object clauses, therefore the companies may be directed to file the amended MoA with the Registrar of Companies, Chennai for his records. Therefore, the RD submitted that the Scheme of Arrangement of Demerger filed with the petitions have been examined and it has been decided not to make any objection to the scheme except for the observation made in Para 10 and 11.

9. With regard to the observation made by the RD in his Report in relation to change of objects, the learned counsel submitted that the Petitioner Companies undertakes to comply with the provisions of the Act, 2013 and rules framed thereunder and also furnished an affidavit from the Company secretary of the Demerged Company as well as Director of the Resulting Company to this effect.
10. Further perusal of the scheme shows that the accounting treatment is in conformity with the established accounting standards. In short, there is no apprehension that any of the creditors would lose or be prejudiced if the proposed scheme is sanctioned. The said Scheme of Arrangement will not cost any additional burden on the stakeholders and also will not prejudicially affect the interests of any class of the creditors in any manner. The Appointed date of the said Scheme is 1st April, 2016.
11. There does not require any modification to the Scheme of Arrangement of demerger as same appears to be fair and reasonable, not contrary to public policy and also not violative of any provisions of law. All the statutory compliances have been made under section 230 to 232 of the Companies Act, 2013 r/w the Companies (Compromise, Arrangement and Amalgamation) Rules, 2016. Taking into consideration all the above, the

Company Petition is allowed and the scheme of Arrangement of Demerger annexed with the petition is hereby sanctioned which shall be binding on all the members, creditors and shareholders.

12. While approving the scheme as above, we further clarify that this order will not be construed as an order granting exemption from payment of stamp duty or taxes or any other charges, if payable, as per the relevant provisions of law or from any applicable permissions that may have to be obtained or, even compliances that may have to be made as per the mandate of law.
13. The Petitioner companies are directed to comply with the provisions of the Act, 2013 and rules framed thereunder as has been suggested by the RD in its report dated 30th June, 2017 for change/swapping of their names and their main object clause.
14. The Company to the said Scheme or other person interested, shall be at liberty to apply to this Bench for any direction that may be necessary with regard to the working of the said Scheme. The Petitioner Company do file with the Registrar of Companies the certified copy of this Order within 30 days of the receipt of the order.
15. The Order of sanction to this Scheme shall be prepared by the Registry as per the format provided under the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 as has been notified on 14th December, 2016.
16. Accordingly, the subject Scheme of arrangement of demerger stands sanctioned.



K. ANANTHA PADMANABHA SWAMY, MEMBER (J)