

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

**CP/45/CAA/2017
[CA/3&4/CAA/2017)**

Under Sections 230 to 232 of the Companies Act, 2013

In the matter of Scheme of Arrangement of

M/s. Bonfiglioli Renewable Power Conversion India Private
(Demerged Company)

With

M/s. Bonfiglioli Transmission Private Limited
(Resulting Company)

Order delivered on: 25.10.2017

Coram:

Ch. Mohd Sharief Tariq, Member (J)

S. Vijayaraghavan, Member (T)

For the Petitioners: Shri K. Ramasamy, Advocate

Shri G.V. Mohankumar, Advocate

ORDER

Per: Ch. Mohd Sharief Tariq, Member (J)

1. Under consideration is a joint Company Petition No. CP/45/CAA/2017 filed by the above mentioned Petitioner Companies under section 230 of the Companies Act, 2013 r/w the Companies (Compromises, Arrangements & 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 'Solar Business Undertaking' (in short, '**Demerged Undertaking**') of *M/s.* Bonfiglioli Renewable Power Conversion India Private (hereinafter referred to as '**Demerged Company**') is

proposed to be demerged, transferred and vested in M/s. Bonfiglioli Transmission Private Limited (hereinafter referred to as '**Resulting Company**') as a going concern.

2. The details of Share Capital, shareholders, Secured & Unsecured creditors of the Companies are as under:

Particular	Authorised Capital	Issued, S&P Capital	Equity Share-holders	Secured Creditors	Unsecured Creditors
Demerged Company	Rs. 35,00,00,000	Rs. 35,00,00,000	2	1	2
Resulting Company	Rs. 12,50,00,000	Rs. 12,50,00,000	2	1	Nil

3. Both the companies are Private Limited Companies and engaged in the business of power transmission having registered office at Plot No. AC 7-AC 11, SIDCO Industrial Estate, Thirumudivakkam, Chennai-600044. The Board of Directors of petitioner companies vide resolutions dated 11.01.2017 approved the said scheme of Arrangement of Demerger.

4. This Bench vide its order dated 23.03.2017, in CA/3&4/CAA/2017 dispensed with the convening and holding the meeting of the equity shareholders of the Demerged Company and the Resulting Company respectively. The petitioner companies have sent separate notices by way of RPAD about the Scheme of Arrangement to all its Secured & Unsecured Creditors and no objection has been received from them.

The petitioner companies complied with all the orders passed by this bench. The petitioner companies have submitted that there is no arrangements between the company and its creditors to alter their rights in terms of Sec 230 (1)(a) of the Companies Act 2013 and their interests are sufficiently protected.

5. Shri K. Ramasamy, learned counsel appearing for the Petitioner Companies submitted that the rationale and circumstances that have necessitated the proposed scheme are that the demerged undertaking requiring special attention will be separated and both the companies would focus on their respective business to achieve sustained growth. Also, the demerger would provide scope for independent expansion without committing the organisation in entirety and create enhanced value for the shareholders. The learned counsel further submits that no investigation proceedings are pending against the Companies under the provisions of the Companies Act, 1956 or corresponding provisions of the Companies Act, 2013.
6. Learned Counsel for the Companies has further submitted that the equity shares of the Petitioner companies are not listed with the stock exchanges, thus the Petitioner Companies do not require compliance of Listing Agreement or SEBI Rules/regulations.
7. The notices were issued to the statutory authorities viz. Regional Director, RoC, Income Tax Authority & RBI as per the procedure


prescribed. However, there has been no objection to the proposed scheme under reference.

8. The Regional Director, Southern Region (In short, 'RD') in the Report Affidavit (for brevity, 'Report') dated 22.08.2017 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. It is submitted that clause 9.1 of the scheme provides for protection of the interest of the employees of the demerged undertaking. It is further submitted that in clause 13.1 of the scheme, the transferee company proposes to enhance its authorized capital to the extent of shares issued under the scheme and hence the transferee company may be directed to file the amended MoA & AoA with the RoC, Chennai alongwith the fees if any as provided under the Companies Ac, 2013 and rules framed thereunder. The RD has decided not to make any objection to the Scheme and submitted that the petition may be disposed of on merits.

9. With regard to the above observation made by the RD, the Demerged Company has produced an affidavit signed by Shri G.A. Balaji, Director of the Demerged Company wherein it has been stated that the Company undertakes to make necessary compliances.


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 cast 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 is no additional requirement for any modification and the said Scheme of Arrangement appears to be fair and reasonable and is not contrary to public policy and not violative of any provisions of law. All the statutory compliances have been made under section 230 to 232 of the Companies Act, 2013. Taking into consideration the above facts, the Company Petition is allowed and the scheme of Arrangement annexed with the petition is hereby sanctioned which shall be binding on 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 Transferee Company is directed to file the amended MoA & AoA with the RoC, Chennai. 

14. The Companies 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.
15. The Petitioner Companies shall file with the Registrar of Companies the certified copy of this Order within 30 days of the receipt of the order.
16. 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 notified on 14th December, 2016.
17. Accordingly, the Scheme annexed with the petition stands sanctioned and CP/45/CAA/2017 stands disposed of.


(S. Vijayaraghavan)
Member (T)


(Ch. Mohd. Sharief Tariq)
Member (J)

RLS