

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, CHENNAI**

**CA No.204/CAA/2017**

**In the matter of Scheme of Amalgamation  
under section 230 to 232 of the Companies Act, 2013**

**M/s. INDSIL Energy & Electrochemicals Private Limited  
(Transferor Company)**

**With**

**M/s INDSIL Hydro Power & Manganese Limited  
(Transferee Company)**

**And**

**Their Respective Shareholders and Creditors**

**CORAM**

**K. ANANTHA PADMANABHA SWAMY, MEMBER (J)**

**S VIJAYARAGHAVAN, MEMBER (T)**

**Order delivered on 15.12.2017**

**For the Petitioner: Shri. Ramakrishnan Viraraghavan, Senior Advocate**

**Shri. G.Sivashankaran, Advocate**

**ORDER**

**Per: K. ANANTHA PADMANABHA SWAMY, MEMBER (JUDICIAL)**

1. Under consideration are joint Company Application No. CA/204//CAA/2017 filed by the Applicant Company, **M/s INDSIL Energy & Electrochemicals Pvt Ltd** (Transferor Company), and **M/s INDSIL Hydro Power & Manganese Ltd** (Transferee Company) under Sections 230 to 232 and other applicable provisions of the Companies Act, 2013.

2. The Applicant companies through the applications have prayed for seeking directions for:

- a) dispensing with the convening and holding of the meeting of the Equity shareholders and Preference Shareholders of the Transferor company
- b) For convening, holding and conducting of the meeting of Secured and Unsecured Creditors of the Transferor Company, fix the date, time, place, quorum and appointment of Chairman for the meeting
- c) For convening, holding and conducting of the meeting of Equity Shareholders of the Transferee Company, fix the date, time, place, quorum and appointment of Chairman for the meeting
- d) For convening, holding and conducting of the meeting of Secured and Unsecured Creditors of the Transferee Company, fix the date, time, place, quorum and appointment of Chairman for the meeting
- e) For fixing a date for filing the Company Petition of the Applicant Companies.

**M/s INDSIL Energy & Electrochemicals Pvt Ltd (Transferor Company)**

3. There are 35 Equity Shareholders in the Transferor Company whose particulars are placed at pages 325 to 328 in the typed set, certified by M/s Raja & Raman, Chartered Accountants, and they have given their consent to the said scheme of amalgamation by way of consent affidavits, which are placed from Pages 329 to 441 in the typed set. Hence, holding of the meeting of the Equity Shareholders of the Transferor Company is dispensed with.

4. There are 10 Preference Shareholders in the Transferor Company whose particulars are placed at pages 442 to 443 in the typed set, certified by M/s Raja & Raman, Chartered Accountants, and they have given their consent to the said scheme of amalgamation by way of consent affidavits, which are placed from Pages 444 to 473 in the typed set. Hence, holding of the meeting of the Preference Shareholders of the Transferor Company is dispensed with.

5. There are 8 Secured Creditors of the Transferor Company whose particulars are placed at page 481 to 482 in the typed set, certified by M/s Raja & Raman, Chartered Accountants.

6. This Bench appoints Mr. S N Varadarajan, Executive Vice-Chairman, failing him, Mr Vinod Narsiman, Managing Director as Chairman for conducting the meeting of Secured Creditors on 27.01.2018 at 12.30 P.M to 01.30 P.M. at Ardra Convention Centre, 'Kaanchan', No.9, North Huzur Road, Coimbatore 641 018. The quorum for meeting of the Secured Creditors shall be 3 in number and constituting 25% or more of the Secured credit. In case, the said quorum is not present at fixed time for meeting, the meeting shall be adjourned by half an hour and thereafter, the persons present for voting shall be deemed to constitute the quorum.

7. The notices in respect of the above meeting shall be issued at least not less than 30 days prior to the date fixed for meeting. The service of notice shall be effected by speed post/through electronic means, provided the e-mail address of the creditors are available with the applicant company. The applicant company



is also directed to send the notice regarding the scheme of amalgamation to the secured creditor well before the date fixed for the meeting. The secured creditors may vote in the meetings either in person or through proxy.

8. The Chairman shall ensure that the proceedings of the meeting takes place in a just, free and fair manner. Within a week of the meetings, the Chairman shall file reports regarding the outcome of this meeting before this Bench.

9. There are 186 Unsecured Creditors in the Transferor Company whose particulars are placed at page 485 in the typed set, certified by M/s Raja & Raman, Chartered Accountants, at page 166 in the typed set.

10. This Bench appoints Mr. S N Varadarajan, Executive Vice-Chairman, failing him, Mr Vinod Narsiman, Managing Director as Chairman for conducting the meeting of Unsecured Creditors on 27.01.2018 at 03.30 P.M to 04.30 P.M. at Ardra Convention Centre, 'Kaanchan', No.9, North Huzur Road, Coimbatore- 641 018. The quorum for meeting of the Unsecured Creditors shall be 30 in number constituting more than 25% value of the unsecured credit. In case, the said quorum is not present at fixed time for meeting, the meeting shall be adjourned by half an hour and thereafter, the persons present for voting shall be deemed to constitute the quorum.

11. The notices in respect of the above meeting shall be issued at least not less than 30 days prior to the date fixed for meeting. The service of notice shall be effected by speed post/through electronic means, provided the e-mail address of the creditors are available with the applicant company. The applicant company

is also directed to send the notice regarding the scheme of amalgamation to the unsecured creditors well before the date fixed for the meeting.

12. The Chairman shall ensure that the proceedings of the meeting takes place in a just, free and fair manner. Within a week of the meetings, the Chairman shall file reports regarding the outcome of this meeting before this Bench.

13. Looking to the prayers made in the application in relation to the scheme of amalgamation, this Bench directs the issue of notices to the Regional Director, Ministry of Corporate Affairs, ROC concerned and Income Tax authorities. As the company is a private limited company, there is no requirement to send notices to SEBI and other stock exchanges. The authorities are directed to make objections/representations, if any, within 30 days from the date of the receipt of notice. In case no objection/representation is received within the stipulated time it shall be deemed that they do not have any objections.

14. The Registry is also directed to issue notice to the Official Liquidator who in turn, shall appoint a Chartered Accountant and submit a report with regard to the Transferor Company within four weeks from the date of receipt of this order.

15. The Applicants are also directed to send private notice to the authorities/regulators by way of speed post/hand delivery separately and file the

proof of sending and effecting service of notice along with the paper publication by way of an affidavit before the next date of hearing.

**M/s INDSIL Hydro Power & Manganese Ltd** (Transferee Company)

16. There are 6890 Equity Shareholders in the Transferee Company. The same has been certified by M/s Raja & Raman, Chartered Accountants, at page 474 in the typed set.

17(a). This Bench appoints Mr. S N Varadarajan, Executive Vice-Chairman, failing him, Mr Vinod Narsiman, Managing Director as Chairman for conducting the meeting of Equity Shareholders on 27.01.2018 at 10.15 A.M. to 11.30 A.M. at Ardra Convention Centre, 'Kaanchan', No.9, North Huzur Road, Coimbatore-641 018. The quorum for meeting of the Equity Shareholders shall be in terms of Section 103 of the Companies Act, 2013 or such a number which is mentioned in the Application, whichever is higher. In case, the said quorum is not present at fixed time for meeting, the meeting shall be adjourned by half an hour and thereafter, the persons present for voting shall be deemed to constitute the quorum.

(b). The Board of Directors are directed to appoint a scrutiniser for postal ballots and e-voting, which should be enabled for shareholders. This is a listed company with more than 1000 shareholders and hence the provisions of Companies (Management and Administration) Rules 2014 are applicable in the case of the transferee company.




18. The notices in respect of the above meeting shall be issued at least not less than 30 days prior to the date fixed for meeting. The service of notice shall be effected by speed post/through electronic means, provided the e-mail address of the members/creditors are available with the applicant company. The applicant company is also directed to send the notice regarding the scheme of amalgamation to the shareholders well before the date fixed for the meeting. The shareholders may vote in the meetings either in person or through proxy.

19. The Chairman shall ensure that the proceedings of the meeting takes place in a just, free and fair manner. Within one week of the meetings, the Chairman shall file reports before this Bench.

20. There are 6 Secured Creditors of the Transferee Company whose particulars are placed at page 483 in the typed set, certified by M/s Raja & Raman, Chartered Accountants.

21. This Bench appoints Mr. S N Varadarajan, Executive Vice-Chairman, failing him, Mr Vinod Narsiman, Managing Director as Chairman for conducting the meeting of Secured Creditors on 27.01.2018 at 11.30 A.M to 12.30 P.M. at Ardra Convention Centre, 'Kaanchan', No.9, North Huzur Road, Coimbatore 641 018. The quorum for meeting of the Secured Creditors shall be 2 constituting 25% or more of secured credit. In case, the said quorum is not present at fixed time for meeting, the meeting shall be adjourned by half an hour and thereafter, the persons present for voting shall be deemed to constitute the quorum.



22. The notices in respect of the above meeting shall be issued at least not less than 30 days prior to the date fixed for meeting. The service of notice shall be effected by speed post/through electronic means, provided the e-mail address of the members/creditors available with the applicant company. The applicant company is also directed to send the notice regarding the scheme of amalgamation to the secured creditors well before the date fixed for the meeting. The secured creditors may vote in the meetings either in person or through proxy.

23. The Chairman shall ensure that the proceedings of the meeting takes place in a just, free and fair manner. Within one week of the meetings, the Chairman shall file reports before this Bench.

24. There are 92 Unsecured Creditors in the Transferee Company whose particulars are placed at page 485 in the typed set, certified by M/s Raja & Raman, Chartered Accountants.

25. This Bench appoints Mr. S N Varadarajan, Executive Vice-Chairman, failing him, Mr Vinod Narsiman, Managing Director as Chairman for conducting the meeting of Unsecured Creditors on 27.01.2018 at 02.30 P.M to 03.30 P.M. at Ardra Convention Centre, 'Kaanchan', No.9, North Huzur Road, Coimbatore 641 018. The quorum for meeting of the Unsecured Creditors will be 10 constituting 25% or more of the unsecured credit. In case, the said quorum is not present at fixed time for meeting, the meeting shall be adjourned



by half an hour and thereafter, the persons present for voting shall be deemed to constitute the quorum.

26. The notices in respect of the above meeting shall be issued at least not less than 30 days prior to the date fixed for meeting. The service of notice shall be effected by speed post/through electronic means, provided the e-mail address of the creditors available with the applicant company. The applicant company is also directed to send the notice regarding the scheme of amalgamation to the unsecured creditors well before the date fixed for the meeting. The unsecured creditors may vote in the meetings either in person or through proxy.

27. The Chairman shall ensure that the proceedings of the meeting takes place in a just, free and fair manner. Within one week of the meetings, the Chairman shall file reports before this Bench.

28. Looking to the prayers made in the application in relation to the scheme of amalgamation, this Bench directs the issue of notices to the Regional Director, Ministry of Corporate Affairs, ROC concerned, Income Tax authorities & SEBI. The Transferee Company is a listed public limited company in the BSE who have conveyed their No-objection to the scheme of amalgamation vide their letter dated 22.8.2017 and 29.3.2017 (Page 324 & 325 of the typed set). The authorities are directed to make objections/representations, if any, within 30 days from the date of the receipt of notice. In case no objection/representation is received within the stipulated time it shall be deemed

that they do not have any objections. A notice to CCI will have to be issued or in the scheme if it is exempted under the Competition Act and Rules thereunder, an affidavit to this effect should be submitted.

29. The Applicants are also directed to send private notice to the authorities/regulators by way of speed post/hand delivery separately and file the proof of sending and effecting service of notice along with the paper publication by way of an affidavit before the next date of hearing.

30. In respect of the Transferor Company and the Transferee Company, the publication of notice shall be made in the newspapers, one in English "The Business Standard" (All India Edition) and another in Tamil "Malai Malar" (Tamil Nadu Edition), not less than 30 days before the date fixed for the hearing. The Petitioner Company is directed to display the notice on the notice board at its registered office and the Registry is also directed to display the notice on the board of this Tribunal.

31. The Applicant Company is directed to present the Company Petition on or before 10.02.2018.



**S Vijayaraghavan**  
**Member (Technical)**



**K Anantha Padmanabha Swamy**  
**Member (Judicial)**

TJS