

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, CHENNAI

Arguments heard on 25.04.2017
Orders passed on 25.04.2017

TCA /54/CAA/2017
and

TCA/55/CAA/2017

(Under Sections 391 to 394 of the Companies Act, 1956 and the corresponding
Sections 230 to 232 of the Companies Act, 2013)

And

In the matter of Scheme of Arrangement

of

M/s. Congruent Solutions Private Limited (Demerged company)

With

M/s. Congruent IT Services Private Limited (Resulting company)

And

Their Respective Shareholders and creditors.

Applicants are represented by : Senior Counsel Mr. R. Murari

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ANANTHA PADMANABHA SWAMY & CH MOHD SHARIEF TARIQ,
MEMBERS (JUDICIAL)

ORDER

CH MOHD SHARIEF TARIQ, MEMBER(JUDICIAL) :- (ORAL)

1. Under consideration are two applications unnumbered which were filed before Hon'ble High Court of Madras and transferred to this Bench and renumbered as TCA /54/CAA/2017 and TCA /55/CAA/2017 respectively, pertaining to the proposal of the Scheme of Arrangement. The demerged company is M/s. Congruent Solutions Private Limited and the resulting company is M/s. Congruent IT Services Private Limited. The Registered Office of

the demerged company is situated at First Floor, North Wing, Central Square 1, C28-C35, CIPET Road, TVK Industrial Estate, Guindy, Chennai – 600 032, Tamilnadu and the Registered Office of the resulting company is at Sri Tower, 2nd Floor, No.34, Developed Plot (South Phase), Guindy, Chennai – 600 032, Tamilnadu. The prayer made in both the applications pertains to one Scheme of Arrangement. Therefore, we take both the applications together for disposal.

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2. The prayer made in the application of the demerged company viz., M/s.Congruent Solutions Private Limited is to dispense with to convene, hold and conduct the meeting of the equity shareholders and secured and unsecured creditors. There are 25 equity shareholders and 2 preference shareholders in the demerged company. The list of the shareholders are placed at pages 116 and 117 of the application. The consent affidavits of both the equity shareholders and preference shareholders have been obtained and placed at pages 118 to 166 of the application. In the affidavits, it has been deposed by the equity/preference shareholders that they have perused the Scheme of Arrangement and accord consent to the Scheme and did agree to dispense with the convening, holding and conducting of meeting of the equity/preference shareholders. The requirement under law is fulfilled. We order to dispense with the meeting of the equity/preference shareholders of the demerged company.

3. In relation to creditors, it has been submitted that there are two secured creditors, and the same has been confirmed by the certificate of the Chartered Accountant placed at page 170 of the application, who have given the consent on their letter head. Therefore, the demerged company is directed to obtain the consent affidavit of the secured creditors at the time of presentation of the Petition. It is also on record that there are 28 unsecured creditors as per the certificate of the Chartered Accountant placed at page 174 of the application. However, the latest position is that there is only Rs.1,94,596 and Rs.1,15,000/- is outstanding credit as on 24.4.2017, which is microscopic amount and payable in the months of April, May, and June, 2017. Therefore, there may not be any requirement to obtain the consent of the unsecured creditors. However, at the appropriate stage, individual notices to the unsecured creditors shall be ordered to be issued.

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4. The prayer made in the application of the resulting company viz., M/s. Congruent IT Services Private Limited is to dispense with the convening, holding and conducting the meeting of the equity shareholders and secured and unsecured creditors. There are 2 equity shareholders and their list is placed at page 118 of the application. In the affidavits, it has been deposed by the equity shareholders that they have perused the Scheme of Arrangement and accord consent to the Scheme and did agree to dispense with convening, holding and conducting of the meeting of the equity shareholders. The consent affidavits are placed at pages 119 to 121 of the application. The

requirement under law is fulfilled. We order to dispense with the meeting of the equity shareholders of the resulting company.

5. In relation to creditors, it has been submitted that there is no secured creditor and the same has been confirmed by the certificate of the Chartered Accountant placed at page 123 of the application. There is only unsecured creditor in the resulting company. The unsecured creditor has given consent in a letter head which is placed at page 125 of the application. However, the latest position is that there is only Rs.5,869/- as outstanding credit as on 15.10.2016. The counsel for the resulting company undertakes to bring the affidavit of the unsecured creditor along with the Petition.

6. We direct the companies to present the Petition on or before 7.6.2017 before this Bench. These applications are disposed of accordingly.


ANANTHA PADMANABHA SWAMY
MEMBER (JUDICIAL)


CH. MOHD SHARIEF TARIQ
MEMBER (JUDICIAL)