

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, AT HYDERABAD**

C.P. (CAA) No.145/230/HDB/2017
U/s 230 and 232 of the Companies Act, 2013

In the matter of

M/s. Rexnord India Private Limited
Having Registered Office at
Plot No. 92, C.I.E Phase - II, Gandhi Nagar, Balanagar,
Hyderabad, Telangana - 500037, India.
Represented by its Director
Shri Shrikant Prabhakar Wavre

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OF THE ORIGINAL**

.. Petitioner /
Transferor Company.

Date of pronouncement: 01.12.2017

CORAM:

Hon'ble Mr. Rajeswara Rao Vittanala, Member (Judicial)

Parties Present:

Counsels for the Petitioner : Mr. V.S.Raju & V.B.Raju
Counsel for Regional Director: Mr. B. Appa Rao, Central
Govt. Standing Counsel Mr.
M.Anil Kumar, Official
Liquidator, Standing Counsel.

Per: Rajeswara Rao Vittanala, Member (Judicial)

ORDER

1. The Company Petition bearing C.P.(CAA)No. 145/230/HDB/2017 is filed by M/s. Rexnord India Private Limited (Petitioner / Transferor Company) under Sections 230 & 232 of the Companies Act, 2013, by inter-alia seeking to sanction Scheme of Amalgamation in question, so as to be binding on all the Equity Shareholders / Members, Creditors and employees of the Petitioner / Transferor Company, etc.
2. Brief facts, which are relevant to the issue in question, are as under:
 - a. M/s. Rexnord India Private Limited (Petitioner / Transferor Company) is was original registered as a Private Limited Company on 30.05.2008 under the Companies Act, 1956. Later on, the jurisdiction of



Registrar of Companies, Mumbai has been transferred to jurisdiction of Registrar of Companies, Pune, on 09.02.2010. Subsequently, the company had changed its Registered Office from the State of Maharashtra to the State of Telangana by passing a special resolution on 09.08.2016 and on obtaining the approval of the Central Government on 10.01.2017. A fresh certificate of incorporation consequent on the transfer of its registered office from the State of Maharashtra to the State of Telangana was issued by Registrar of Companies, Andhra Pradesh and Telangana on 1st day of February, 2017. The Company has its registered office at Plot No. 92, C.I.E Phase - II, Gandhi Nagar, Balanagar, Hyderabad, Telangana - 500037, India.



- b. The main objects of the Transferor Company is to carry on business as an exporter importer, purchaser, seller and trader of (including manufacturing, distributing, warehousing, assembling, installing, maintaining, repairing and servicing etc.,
- c. The present Authorised Share Capital of the Petitioner / Transferor Company as on 31.03.2016 is Rs.20,00,000/- divided into 2,00,000 Equity Shares of Rs.10/- each. The issued subscribed paid up Capital of the Transferor Company is Rs.3,38,020 divided into 33,802 equity shares of Rs.10/- each.
- d. M/s. Euroflex Transmissions (India) Private Limited (Petitioner / Transferee Company) was incorporated as a Private Limited Company on 16.12.1991 under the Companies Act, 1956. The Registered Office of the Transferee Company is situated at Plot No.99, C.I.E. Phase-II, Gandhi Nagar, Balanagar, Hyderabad, Telangana. The main objects of the Transferee Company as set out in the Memorandum of Association are to carry on the business as manufacture, buyers, sellers, importers, exporters and agents and

reconditioners for all kinds of Mechanical Transmission products including shaft couplings of all kinds and components, parts, accessories and raw materials thereof etc.,

- e. The Authorized Share Capital of the Transferee Company as on 31.03.2016 is Rs. 30,00,000/- divided into 30,000 Equity Shares of Rs.100/- each. The issued subscribed and paid up capital of the Transferor Company is Rs.18,85,700/- divided into 18,857 equity shares of Rs. 100/- each full paid up.

3. The Transferor Company and the Petitioner / Transferee Company are part of Rexnord Group of Companies, headquarters at Milwaukee, Wisconsin, USA and the objects of the Transferor Company complement the objects of the Transferee Company and the amalgamation of these companies have the following benefits

- i. To fully integrate as single entity so as to provide more manufacturing facility of both Transferor Company and Transferee Company under one roof.
- ii. To enhance the scale of operations thereby providing significant impetus to the growth of both the Companies, since they are engaged in line of business that could draw upon synergies between both Petitioner / Transferor Company and Transferee Companies.
- iii. Consolidation of the Transferor Company with the Transferee Company by way of amalgamation would lead to a more efficient utilisation of capital, improved financial structure and create a stronger asset base for future growth of the amalgamated entity.
- iv. The amalgamation would improve the financial resources, managerial, technical and marketing expertise of the Transferor Company and the Transferee Company thereby enabling the



amalgamated entity to compete successfully in the ever increasing competition industry and pruning the operational and administrative costs.

- v. The amalgamation would result in enhanced potential for increase in avenues and profits for the amalgamated entity and its shareholders. The amalgamation would provide synergistic linkages besides pruning the operational and administrative costs and other benefits resulting from the economies of scale, by combining the businesses and operations of the Transferor Company and the Transferee Company and thus contributing to the profitability of the amalgamated entity by rationalisation of management and administrative structure and greater alignment of the businesses by reducing the number of legal entities and also statutory compliances.



- vi. Hence, the Board of Directors of the Transferor Company and Transferee Companies at their respective meetings held on 06th day of March, 2017 approved the Scheme of Amalgamation with effect from April 1, 2016 (Appointed date) subject to the approval of the shareholders, creditors and confirmation by this Tribunal.

4. The following are brief terms of Scheme of Amalgamation:

a) **Transfer and Vesting of Undertaking of Transferor Company**

Upon the Scheme coming into effect and with effect from the Appointed Date defined in Clause 3.3, the undertaking of the Transferor Company shall, pursuant to the sanction of this Scheme by the NCLT and pursuant to the provisions of Section 232 read with Section 230 and other applicable provisions, if any, of the Act, be and stand transferred to and vested in or be deemed to have been transferred to and vested in the Transferee Company, as a going concern without any further act, instrument, deed, matter or thing so

as to become, as and from the Appointed Date, the undertaking of the Transferee Company by virtue of and in the manner provided in the Scheme.

b) Legal proceedings

All suits, actions and legal proceedings by or against the Transferor Company or on the appointed date and till the effective date shall be transferred to the name of the Transferee Company and the same shall be continued and enforced by or against the Transferee Company.

c) Transferor Company Staff, Workmen and Employees

All the staff, workmen and other employees in service of the Transferor Company immediately before the appointed date under the scheme shall become the staff, workmen and other employees of the transferee Company on the basis that their services shall have been continuous and shall not have been interrupted by reason of such transfer as if such transfer is effected under Section 25FF of the Industrial Disputes Act, 1947.

d) Issue of shares by Transferee Company to the Shareholders of Transferor Company

Upon coming into effect of this Scheme and in consideration of the transfer and vesting of the Transferor Company in the Transferee Company in terms of Part II of Scheme of Amalgamation, the Transferee Company shall, without any further act or deed, issue and allot Equity Shares to the members of the Transferor Company whose names appear in the register of members of the Transferor Company as on the Record Date in the following manner:

“for every 29 (Twenty Nine) fully paid up equity shares of the Transferor Company having face value of INR 10 each and held by the members of the Transferor Company as on record date, 1 (One) Equity Shares of the Transferee Company having a face value of INR 100



each, credited as fully paid up shall be issued to the members of Transferor Company.”

e) **Fractional entitlement**

In respect of shareholders entitled for fractional entitlement based on the swap ratio, no fractional shares shall be issued by the Transferee Company and all fractional entitlements will be rounded up to the nearest integer.

f) **Accounting treatment**

The Transferee Company shall follow the ‘Purchase Method’ of accounting prescribed under Accounting Standard 14 issued by the Institute of Chartered Accountants of India and notified by the National Advisory Committee on Accounting Standards, Ministry of Corporate Affairs vide Notification No. G.S.R. 739(E) dated December 7, 2006, as amended from time to time, read with Section 133 of the Companies Act, 2013, which inter alia provides for the following:

Upon coming into effect of this Scheme and with effect from the Appointed Date, for the purpose of accounting for and dealing with the value of the assets and liabilities of the Transferor Company, the fair value of the assets and liabilities as appearing in the books of Transferor Company shall be determined as on the Appointed Date and accounted appropriately as may be decided by the Board of Directors of the Transferee Company.

g) **Modifications/amendments to the Scheme**

The Transferor Company and the Transferee Company, by their respective Boards, may make and consent to any modification(s) or amendment(s) to this Scheme or to any conditions or limitations that the NCLT or any other authority may deem fit to direct or impose or which may otherwise be considered necessary, desirable or appropriate by them, provided that any such modification(s) or amendment(s) to this Scheme



after the approval of this Scheme by the NCLT shall be subject to the prior approval of the NCLT. The Transferor Company and the Transferee Company by their respective Boards, shall be authorised to take all such steps as may be necessary, desirable or proper to resolve any doubts, difficulties or questions whether by reason of any directive or orders of any other authorities or otherwise howsoever arising out of or under or by virtue of this Scheme or any matter concerned or connected therewith.

For the purpose of giving effect to this Scheme or to any modification(s) or amendment(s) thereof or additions thereto, the board of directors of the Transferee Company is hereby authorised to determine and give all such directions as are necessary, including directions for settling or removing any question of doubt or difficulty that may arise and such determination or directions, as the case may be, shall be binding on all parties, in the same manner as if the same were specifically incorporated in this Scheme.

h) Scheme conditional on approvals / sanctions

This Scheme is conditional upon and subject to the sanction or approval of requisite majority of members of both the companies and approval of the scheme in question by this Tribunal.

5. The case was listed before this Bench on 11.08.2017, 04.09.2017, 19.09.2017, 17.10.2017, 25.10.2017 and finally on 27.10.2017.
6. Heard Mr. V.S.Raju and V.B.Raju, Learned Counsels for the Petitioner / Transferor Company, Mr. B. Appa Rao, Central Government Standing Counsel and Mr. M. Anil Kumar, Standing Counsel for Official Liquidator and have carefully perused all pleadings along with material papers filed in its support.



7. Initially, the Petitioner / Transferor Company has filed C.A.(CAA) No. 30/230/HDB/2017 under Section 230 read with Section 232 of the Companies Act, 2013 and other applicable provisions of the Companies Act, 2013 by inter-alia seeking to dispense with meetings of Equity Shareholders and Unsecured Creditors of the Petitioner / Transferor Company for consideration of the Scheme of amalgamation of Petitioner / Transferor Company and M/s. Euroflex Transmissions (India) Private Limited (Petitioner / Transferee Company) as detailed in the Scheme. The said C.A. (CAA) No. 30 /230/HDB/2017 was disposed of by this Tribunal vide its Order dated 04.05.2017 directing the petitioner /Transferor Company to dispensing with the meetings of Shareholders / Unsecured Creditors. After fulfilling requisite conditions for sanction of scheme in question, the present petition is filed for sanction of the scheme.
8. The Learned Counsel submitted that as per the directions of this Tribunal, the Petitioner got published in Newspaper advertisement of the "Notice of Petition" in English Daily (Business Standard and Telugu Daily (Namasthe Telangana- from Hyderabad Editions) on 18.08.2017 and filed a proof of the same before this Bench on 27.09.2017. In pursuance to said notification, no objections / oppositions were received about the scheme in question. He further submits that pursuant to the Orders dated 11.08.2017 of the Bench, notices were also issued to the Registrar of Companies, the Official Liquidator, the Regional Director (SER) and The Income Tax Department.
10. The Regional Director (SER), Hyderabad has filed a common affidavit dated 26.09.2017 in C.P. Nos. 145/ 230 / HDB / 2017 and 146 / 230 / HDB / 2017, by inter alia stating that the Companies involved in the scheme are regular in filing statutory returns and no complaints, no investigations and no inspections are pending against it. Further, the official Liquidator has also filed his report stating that the affairs of the Petitioner Company appears to have not been conducted



in a manner prejudicial to the interests of the members and the Tribunal can consider the case as per the merits and pass appropriate orders. However, no comments / objections of the Income Tax Department were received in response to the said notice till date.

11. I have carefully gone through all the pleadings, Report of the Regional Director (SER), Official Liquidator and also relevant provisions of Companies, 2013. I am convinced that the Petitioner / Transferor Company has complied with all statutory requirements as required under Section 230 & 232 and other relevant provisions of Companies Act, 2013 as detailed supra. The Board of Directors of the Petitioner Company at its meeting held on 06.03.2017 have duly considered the pros and cons of Scheme of Amalgamation in question, after perusing various reports on the issue, and found it is advantageous and beneficial to the Company, its members the Unsecured Creditors and all other concerned parties of the Company, and thus it was approved. I am satisfied that the Scheme of Amalgamation in question in particular and public in general. It is to be mentioned herein that the Scheme in question is not opposed by any authorities and the Petitioner / Transferor Company is admittedly following all rules / regulations of Companies Act as stated by the Regional Director. Hence, I am of considered view that the Company Petition deserved to be allowed as prayed for.

12. In the result, the C.P.(CAA) No.145/230/HDB/2017 is disposed of with the following directions:-

- a) Hereby sanctioned the Scheme of Amalgamation of Rexnord India Private Limited with Euroflex Transmissions (India) Private Limited (enclosed at Page no. 170 to 200) of the Petition) with the further declaration that the same is binding on all the members, creditors and employees of the Petitioner / Transferor Company and all concerned.





- b) Hereby ordered to dissolve the petitioner / Transferor Company without going through the process of winding up.
- c) The Petitioner / Transferor Company is permitted to cause a certified copy of this order along with all necessary documents including Scheme of amalgamation to be delivered to Registrar of Companies within 30 days from the date of receipt of Copy of this Order.
- c) The Petitioner / Transferor Company is directed to issue newspaper publication with respect to approval of Scheme of Amalgamation, in the same newspapers, in which previous publications were issued, in order to ensure transparency / dissemination of complete information to all concerned parties about the approval granted by the Tribunal for the Scheme as proposed.
- d) The Petitioner / Transferor Company is further directed to take all consequential and statutory steps required in pursuance of the approved Scheme of Amalgamation under the provisions of the Act.
- e) Liberty is granted to any party / parties, who are aggrieved by this order to seek any direction(s) by way of filing miscellaneous in the present CP.

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[Signature]
Dy. Regr./Asst. Regr./Court Officer/
National Company Law Tribunal, Hyderabad Bench

8d/-
RAJESWARA RAO VITTANALA
MEMBER (JUDICIAL)

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केस नम्बर
CASE NUMBER CP (CAA) NO: 145/230/HDB/2017
निर्णय की तारीख
DATE OF JUDGEMENT 1.12.2017
प्रति तैयार किया गया तारीख
COPY MADE READY ON 1.12.2017