

**BEFORE THE HON'BLE NATIONAL COMPANY  
LAW TRIBUNAL, HYDERABAD BENCH  
AT HYDERABAD**

**CA (CAA)No.13/230/HDB/2017**

Date of order 08/05/2017

**Between**

M/s. MN Science & Technology Park Private Limited  
(Formerly known as Alexandria Knowledge Park Private Limited)  
Building 450, Genome Valley, Turkapally (V),  
Shamirpet Mandal, R.R District,  
Hyderabad - 500078,  
Telangana

..1<sup>st</sup> Applicant / Demerged Company

**AND**

M/s. MN Bio-Technology Private Limited  
Registered Office: 15-31-LHC-1B-1800,  
Lodha Bellezza,  
KPHB-IV, Kukatpally,  
Hyderabad – 500072.

..2<sup>nd</sup> Applicant /Resulting Company

**CERTIFIED TO BE TRUE COPY  
OF THE ORIGINAL**

**Counsel for Applicants**

: Sri V..S,Raju &V.B.Raju

**CORAM**

**RAJESWARA RAO VITTANALA, MEMBER (JUDICIAL)**

**ORDER**

**(As per Rajeswara Rao Vittanala, Member (Judicial))**

1. The Company application bearing CA(CAA) No.13 / 230/ HDB / 2017 (referred to as Company application hereinafter) is jointly filed by M/s. MN Science & Technology Park Private Limited and M/s. MN Bio-Technology Private Limited, under sections 232 read with 230 of Companies Act, 2013 and with Companies (Compromises, Arrangements and Amalgamation) Rules, 2016, by seeking the following reliefs:



Companies (Compromises, Arrangements and Amalgamation) Rules, 2016, by seeking the following reliefs:

- (i) To dispense with meetings of the equity shareholders and preference shareholders and unsecured creditors of the 1st Applicant / Demerged Company ;
- (ii) To dispense with meetings of the equity shareholders, secured creditors and unsecured creditors of the 2nd Applicant / Resulting Company and pass such other order or orders as this Hon'ble Bench may deem fit and proper in the circumstances of the case.

2. Brief facts, as mentioned in the Company application none are as follows

- (a) M/s. MN Science & Technology Park Private Limited (1<sup>st</sup> Applicant Company) was incorporated as a Private Limited Company under the Companies Act, 1956, in the then State of Andhra Pradesh under the name and style of Shapoorji Pallonji Biotech Park Private Limited on 7<sup>th</sup> day of September, 2001 vide Corporate Identity Number U01119AP2001PTC037768. Subsequently, its name was changed to Alexandria Knowledge Park Private Limited and a fresh certificate of incorporation consequent upon change of name was issued by the Registrar of Companies, Andhra Pradesh on 22<sup>nd</sup> day of October, 2010. The name of the Demerged Company was further changed to MN Science & Technology Park Private Limited and a fresh certificate of incorporation consequent upon change of name was issued by the Registrar of Companies, Andhra Pradesh and Telangana on 20 January, 2017.



(b) The Registered Office of the 1st Applicant / Demerged Company is situated at Building 450, Genome Valley, Turkapally (V), Shamirpet Mandal, Ranga Reddy District, Hyderabad – 500078, Telangana.

(c) The main objects and nature of business of the 1st Applicant / Demerged Company, in brief, as set out in the Memorandum of Association, are as under:-

(i) *To carry on the business of establishing, constructing, developing, operating and maintaining Biotechnology parks and projects anywhere in Indian or abroad.*

(ii) *To undertake all the services relating to Biotechnology Parks and projects, including conceptualization, designing, developing, constructing, marketing, operating and maintaining and assisting financially for biotechnology parks/infrastructure projects to render allied services.*

(iii) *To carry on research, development, manufacture, utilization and business, sell, deal, export and import in all types of Medical, Agricultural and Industrial Biotechnology, Biometric, Bio-informatics, Bio-pesticides, Bio-fertilizers, Bio-chemicals, production of harmless yeast, utilization of Bacteria for production of Bio-energy, beverages, Hybridization of seeds etc., and other intermediaries technology utilization, chemical and bio-chemical and bio-chemical formulations and the allied areas.*





(iv) *To carry on the business of Research and Development, scaling up of technology, manufacturing and production, testing, lab work and certification, selling (including exports and imports) and any other related work pertaining to any field of Biotechnology Applications – including horticulture, floriculture, clonal (plant, animal and human), pharma and industrial applications.”*

(v) *First Applicant / Demerged Company is engaged inter alia, in the business of establishing, constructing, developing, operating and maintaining biotechnology parks and projects etc.,*

d) The authorized, issued, subscribed and paid-up share capital of the 1st Applicant/ Demerged Company as on the date of this Application is as follows:

Authorised Capital	Amount (in Rs.)
11,445,434 Equity Shares of Rs. 10 each	114,454,340
91,054,566 9% Compulsorily Convertible Cumulative Preference Shares of Rs. 10 each	910,545,660
Total	1,025,000,000
Issued, Subscribed and Paid-up Capital	Amount (in Rs.)
4,191,826 Equity Shares of Rs.10 each fully paid-up	41,918,260



67,349,152 9% Compulsorily Convertible Cumulative Preference Shares of Rs. 10 each fully paid up	673,491,520
Total	715,409,780

e) MN Bio-Technology Private Limited (hereinafter referred to as “the 2<sup>nd</sup> Applicant / Resulting Company”) was incorporated under the Companies Act, 2013 in the name of MN Bio-Technology Private Limited on 09<sup>th</sup> day of July, 2016. It’s Registered Office situated at 15-31-LHC-1B-1800, Lodha Bellezza, KPHB-IV, Kukatpally, Hyderabad – 500072, Telangana.

f) The main objects and nature of business of the 2<sup>nd</sup> Applicant / Resulting Company, in brief, as set out in the Memorandum of Association are as under:-

- (i) *To carry on the business of establishing, constructing, developing, operating and maintaining Biotechnology parks and projects anywhere in Indian or abroad.*
- (ii) *To undertake all the services relating to Biotechnology Parks and projects, including conceptualization, designing, developing, constructing, marketing, etc.*
- (iii) *To carry on research, development, manufacture, utilization and business, sell, deal, export and import in all types of Medical, Agricultural and Industrial Biotechnology, Biometric, etc.*



- (iv) *To carry on the business of Research and Development, scaling up of technology, manufacturing and production, testing etc.,*
- (v) *It is also engaged inter alia, in the business of establishing, constructing, developing, operating and maintaining biotechnology parks and projects etc.,*

g) The authorized, issued, subscribed and paid up share capital of the 2nd Applicant / Resulting Company as on the date of this Application is as follows:

Authorised Capital	Amount (in Rs.)
1,25,00,000 Equity Shares of Rs. 10 each	12,50,00,000
Total	12,50,00,000
Issued, Subscribed and Paid-up Capital	Amount (in Rs.)
98,22,500 Equity Shares of Rs.10 each	9,82,25,000
Total	9,82,25,000



3. It is stated that the both the Companies are engaged in the same business of establishing, constructing, developing, operating and maintaining biotechnology parks and projects. The proposed Demerger would enable the 2nd Applicant/ Resulting Company to strengthen focus on business of establishing, constructing, developing, operating and maintaining biotechnology parks and projects, and to create a



more competitive business both in scale and operations. The 2nd Applicant/ Resulting Company would develop long-term corporate strategies and financial policies specifically with respect to the Demerged Undertaking, thus enabling better management and accelerated growth of the business of establishing, constructing, developing, operating and maintaining biotechnology parks and projects. The intention of the proposed demerger of 1<sup>st</sup> Applicant Company Undertaking was to augment 2<sup>nd</sup> Applicant/ Resulting Company's infrastructure portfolio, thereby accelerating its growth.

4. The acquisition, integration and consolidation of the Demerged Business with the 2nd Applicant / Resulting Company would, inter alia, be expected to have the following benefits:

- (a) Enhance growth prospects for the people and organizations connected with Demerged and Resulting Company whilst unlocking shareholders' value and create long term value for all the other stakeholders.
- (b) Focused approach on the business of establishing, constructing, developing, operating and maintaining biotechnology parks and projects and provide greater flexibility to Demerged and Resulting Companies to meet the needs while carrying out its operations in the best interests of the their shareholders and creditors.
- (c) Re-organize the operations to provide focused attention on management and leadership.
- (d) Greater leverage in operations planning and process optimization and enhanced flexibility in product offerings.



5. In view of the aforesaid advantages, the Board of Directors of the 1st Applicant / Demerged Company vide its resolution dated 09/01/2017 approved the Scheme of Arrangement between MN Science & Technology Park Private Limited and MN Bio-Technology Private Limited and their respective shareholders and creditors. The Board of Directors of the 2nd Applicant/ Resulting Company has also approved the Scheme at their meeting held on 09/01/2016.

6. The proposed Scheme contains the following terms and conditions:

a. TRANSFER AND VESTING OF UNDERTAKING

With effect from the Appointed Date and the Scheme becoming effective, the Demerged Undertaking shall vest in the Resulting Company, as a going concern and shall include all its properties and assets, whether movable or immovable, tangible or intangible, balance in bank, cash etc, with effect from the Appointed Date .

b. With effect from the Appointed Date, all inter-party transactions between the Demerged Company and the Resulting Company so far as they relate to the Demerged Undertaking shall be considered as intra-party transactions for all purposes.

7. The Resulting Company has issued 545 redeemable and rated non-convertible debentures of a nominal value of Rs.1,000,000 each on a private placement basis, aggregating to not more than Rs.545,000,000 pursuant to a debenture trust deed dated 27 September 2016 between the Resulting Company and IDBI Trusteeship Services Limited, as the debenture trustee. Further, MN Takshila Industries Private Limited, a group company of the Resulting Company, has issued 1,675





redeemable and rated non-convertible debentures of a nominal value of Rs. 1,000,000 each on a private placement basis, aggregating to not more than Rs. 1,675,000,000/- pursuant to a debenture trust deed dated 27 September 2016 between MN Takshila Industries Private Limited and IDBI Trusteeship Services Limited as the debenture trustee. Pursuant to the transaction documents for these issuances, the Demerged Company is required to provide a guarantee for the outstanding obligations under these issuances and create security over its movable and immovable properties to secure the issuances. Notwithstanding anything contained herein, the guarantee(ies) or/and security(ies) as provided/ to be provided by the Demerged Company in relation to the of the scheme mentioned issuances shall without any further act or deed, be vested in the Resulting Company by virtue of this Scheme and will become the guarantees and the security provided by the Resulting Company.



8. The Demerger of the Demerged Undertaking of the Demerged Company into the Resulting Company, pursuant to and in accordance with this Scheme, shall take place with effect from the Appointed Date and shall be in accordance with Section 2(19AA) of the Income-tax Act, 1961. If any terms or provisions of the Scheme is/ are inconsistent with the provisions of Section 2(19AA) of the Income-tax Act, 1961, the provisions of Section 2(19AA) shall prevail and the Scheme shall stand modified to the extent necessary to comply with such provisions. Such modifications will however not affect the other parts of the Scheme.
9. It is stated that the Demerged Company is a subsidiary of the Resulting Company wherein majority shareholding of the Demerged Company is held by the Resulting Company.

Therefore, there will be no issue/allotment of shares as consideration for transfer of Demerged Undertaking to the extent of shareholding in the Demerged Company as held by the Resulting Company and such investment held by the Resulting Company in the Demerged Company shall get adjusted. However, in case of shareholders of the Demerged Company, other than the Resulting Company, the consideration for Demerger of Demerged Undertaking shall be furthered as provided below:

- (i) Upon the Scheme becoming effective and in consideration of transfer and vesting of the Demerged Undertaking, the Resulting Company shall, without any further application or deed, issue and allot equity shares having face value of Rs. 10 (Rupees Ten Only) credited as fully paid-up to the extent indicated below, to the other equity shareholders and compulsorily convertible cumulative preference shareholder, as the case maybe of the Demerged Company as on the Record Date holding fully paid-up equity shares and compulsory convertible cumulative preference shares, respectively and whose name appear in the register of members or to such of their respective heirs, executors, administrators or other legal representatives or other successors in title, as may be recognized by the Board of Directors:



- 7 (Seven) equity share in the Resulting Company of the face value of Rs. 10 (Rupees Ten Only) each credited as fully paid-up for every 2 (Two) equity share of Rs. 10/- (Rupees Ten Only) each fully paid-up held in the Demerged Company.
- 7 (Seven) equity share in the Resulting Company of the face value of Rs. 10/- (Rupees

Ten Only) each credited as fully paid-up for every 34 (Thirty Four) compulsorily convertible cumulative preference share of Rs. 10/- (Rupees Ten Only) each fully paid-up held in the Demerged Company

- (ii) The equity shares to be issued to the members of the Demerged Company in the Resulting Company pursuant to Clause 5.2 (i) of the scheme shall be subject to the memorandum and articles of association of the Resulting Company and shall rank pari-passu in all respects with the existing shares of a similar class, if any, in Resulting Company.
- (iii) The equity shares to be issued to the members of the Resulting Company pursuant to Clause 5.2 of the Scheme shall be in multiples of 1 (One). Any fractional shares shall be rounded off to the next higher multiple of 1 (One), attributable to the Demerged Business, shall be adjusted against the capital reserves in the books of account of the Resulting Company.



10. It is further stated that the amount of any inter-company balances between the Demerged Company and the Resulting Company, appearing in the Financial Statements of the respective companies relating to the Demerged Business, shall stand cancelled without any further act or deed, upon the Scheme coming into effect, and the amounts so cancelled shall not be recorded in the Financial Statements of the Resulting Company.
11. No investigation or proceedings under the Companies Act, 1956 / Companies Act, 2013 have been instituted or are pending against the 1st Applicant / Demerged Company and



the 2nd Applicant / Resulting Company Both the Companies are closely held private and unlisted Companies.

12. It is stated that there are 3 (Three) equity shareholders in the 1st Applicant Company / Demerged Company. Out of the said 3 (Three) equity shareholders, 2 (Two) equity shareholders holding 91.15% of the issued, subscribed and paid up equity share capital of the Company have given their no objection to the proposed Scheme by means of consent affidavits. And further stated that equity shareholders of 1<sup>st</sup> Applicant / Demerged Company have given their consent unanimously to the Scheme in question, in the extraordinary general meeting of First Applicant Company / Demerged Company dated February 13, 2017 wherein the Scheme was placed for procuring consent of all shareholders.



13. It is stated that there are 2 (Two) compulsorily convertible cumulative preference shareholders in the 1st Applicant/ Demerged Company. Both the compulsorily convertible cumulative preference shareholders of the 1st Applicant Company have given their no objection to the proposed Scheme by means of affidavits.
14. It is stated that there are no secured or unsecured creditors in the 1st Applicant/ Demerged Company except amount outstanding in the nature of Trade Creditors of 1<sup>st</sup> Applicant / Demerged Company. So far as the rights of Trade Creditors of the Demerged Company are concerned, they will not be affected by the proposed Scheme of Arrangements since post scheme, the assets of Demerged Company will be sufficient to discharge its liabilities and it does not involve any compromise or arrangement with any creditors of the Demerged Company.

Hence, there is no requirement to conduct any meeting and it can be dispensed with.

15. It is stated that there are 2 (Two) equity shareholders in the 2nd Applicant / Resulting Company, who are interested in the Scheme and no objection obtained by means of affidavits to the proposed Scheme . There is 1 (One) secured creditor of the 2nd / Resulting Company, who is the Non-Convertible Debenture holder and the said Non-Convertible Debentures are listed on the Debt Segment of the Bombay Stock Exchange. No objection letter obtained from the said Non-Convertible Debenture holder to the proposed Scheme is obtained and filed. That there is 1 (One) unsecured creditor of the 2nd Applicant Company / Resulting Company who is the Compulsorily Convertible Debenture holder. No objection letter obtained from the said Compulsorily Convertible Debenture holder to the proposed Scheme is obtained and filed.



16. I have heard Shri V.B.Raju, Learned Counsel for the Applicants and carefully perused all material documents filed in their support along with relevant provisions of Companies Act, 2013 and rules made there under.
17. As stated supra, there are three (03) Equity Shareholders in the 1<sup>st</sup> Applicant/ Demerged Company vis. MN Bio-Technology Private Limited (91.15%), LC Cerestra Core Opportunities Fund Pte Ltd (Negligible) and Government of Telangana (8.85%). It is also on record that all the concerned parties, as detailed above, have given their no objections/accepts the Scheme in question by way of affidavits dated 27/02/2017. However, it is not stated whether Government of Telangana is intimated about the present Scheme of Arrangement. There are two (02) compulsorily convertible cumulative preference shareholders in the 1<sup>st</sup> Applicant / Demerged Company vis. MN



Bio-Technology Private Limited (95.06%) and LC Cerestra Core Opportunities Fund Pte Ltd (4.94%). It is also on record that all the concerned parties, as detailed above, have given their no objections/accepts the Scheme in question by way of affidavits dated 27/02/2017.

18. Similarly, there are two (02) Equity Shareholders in the 2<sup>nd</sup> Applicant / Resulting Company vis. LC Cerestra Core Opportunities Fund Pte Ltd (99.99%) and Canton Real Estate Pte Ltd (0.01%); One (01) Compulsorily Convertible Debenture holder viz., LC Cerestra Core Opportunities (Amount Rs.6,83,70,000/-) and one (01) Non-convertible Debenture holder viz. DB International (Asia) Limited (Debenture Trustee: IDBI Trusteeship Services Limited) {Rs. 54,50,00,000/-}. It is also on record that all the concerned parties, as detailed above, have given their consent to the Scheme of Arrangement, subject to the conditions mentioned therein.

19. The Board of Directors of the Companies have also approved the scheme subject to final approval of Tribunal. All the procedure as per law has been duly followed before filing this application seeking the relief as prayed for. I am convinced that the applicants have followed all pre-conditions before filing this application and the respective affidavits of stake holders filed along with this application show that ordering to conduct meeting of respective parties / stakeholders would not serve any purpose and thus they are entitled for dispensation of conducting meetings as prayed for in the application.

20. In view of the above circumstances of the case, and in the interest of expeditious justice, the Company application bearing CA(CAA)13/230/HDB/2017 is disposed of with the following directions:-





- (i) Dispensed with conducting of meetings of the equity shareholders and preference shareholders and unsecured creditors of the 1st Applicant / Demerged Company.
- (ii) Dispensed with conducting meetings of the equity shareholders, secured creditors and unsecured creditors of the 2nd Applicant / Resulting Company.
- (iii) Direct to intimate the order of this Tribunal to the Government of Telangana and obtain necessary approval from them on the scheme and it should be filed at the time of filing regular Company Petition for sanction of the Scheme.
- (iv) Direct to communicate this order to Registrar of Companies, Government of India and other authorities concerned.



*Sd/-*  
Rajeswara Rao Vittanala  
Member (Judicial)

*V. Annapoorna*  
(V. ANNAPOORNA)  
ASSISTANT DIRECTOR  
NCLT, HYDERABAD

*Order received by the  
Registry on 20/06/2017*

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