

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

C.A. (CAA) No.47/BB/2020
U/S.230 to 232 of Companies Act, 2013
R/w Companies (CAA) Rules, 2016

In the matter of:

1. Supangita Engineers Private Limited

R/o. at No.7C/D,
Bommasandra Industrial Area,
Bengaluru – 560 099

- Applicant No.1/
Transferor Company

**2. Cadm Tools and Components
Private Limited**

R/o. at No.7C,
Bommasandra Industrial Area,
Bengaluru – 560 099

- Applicant No.2/
Transferee Company

Date of Order: 16th December, 2020

Coram: 1.Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

Parties/Counsels Present (Through Video Conference):

For the Applicant Companies : Shri Raghuram Cadambi

ORDER

Per: Rajeswara Rao Vittanala, Member (J)

1. C.A. (CAA) No.47/BB/2020 is filed by Supangita Engineers Private Limited & another, under Sections 230 to 232 of the Companies Act, 2013 R/w Companies (CAA) Rules, 2016, by *inter alia* seeking to dispense with the convening and holding the meeting of the Shareholders, Sole Secured Creditor of the Transferor Company and Shareholders of the Transferee Company; and to direct for convene the meeting of the Unsecured Creditors of the Transferor Company.



2. Brief facts of the case, as mentioned in the Application, which are relevant to the issue in question, are as follows:

(1) **Supangita Engineers Private Limited** (hereinafter referred as the Transferor Company/Applicant Company No.1) is Private Limited Company, was incorporated on 30.03.1985, under the provisions of the Companies Act, 1956 bearing CIN: U85110KA 1985PTC006800 and having its registered office situated at No.7C/D, Bommasandra Industrial Area, Bengaluru - 560 099. Its Authorised Share Capital is Rs.50,00,000/- (Rupees Fifty Lakhs only) divided into 20,000 equity shares of INR 100/- each and 30,000 Preference Share of INR 100/- each and the Issued, Subscribed and Paid-up Share Capital is Rs.20,00,000/- (Rupees Twenty Lakhs only) divided into 20,000 equity shares of INR 100/- each and 30,000 Preference Shares of Rs.100/- each. The main objects of Transferor Company is *inter-alia* to carry on the business of Mechanical Engineers, Manufacturers of Machinery and Machinery accessories, Machine Tools and accessories, Magnetic, pneumatic, hydraulic, Electric, Electro Hydraulic, Electro Magnetic, Electro pneumatic Elements and equipment used in machine tools and general machinery etc.

(2) Ramesh Rao & Co. LLP, Chartered Accountants, have issued a Certificate dated 30.06.2020, by certifying that there are 3 (Three) Shareholders in the Transferor Company/Applicant Company No.1 viz., U. M. Suresh Rao, holding 6150 Equity Shares of Rs.100/- each, Sangita Navada holding 13,050 Equity Shares of Rs.100/- each, and Suparna Sharma holding 800 Equity Shares of Rs.100/- each. The Company has Authorised Preference Share Capital of Rs.30,00,000/- (30,000 Pref. Shares of Rs.100 each) which was issued at par and was redeemed on 11.01.2017. Presently the preference share capital is Nil. Accordingly, Mr. U. M. Suresh Rao, has



filed an Affidavit dated 30.06.2020, by *inter alia* stating that he is holding 6,150 Equity Shares of Rs.100/- each and has accorded unconditional consent to the Scheme. Similarly, other two Shareholders have filed their respective Affidavit dated 30.06.2020 with similar declaration, for approval of the proposed Scheme.

- (3) Ramesh Rao & Co. LLP, Chartered Accountants, have issued a Certificate dated 30.06.2020, by certifying that there are (2) two Secured Creditor in the Transferor/Applicant Company No.1 as on 30th June, 2020 viz., HSBC Overdraft Account, due amount of Rs.74,492,056 and HSBC Buyers Credit Account, due amount of Rs.31,656,296/- as on 30.9.2019. Accordingly, Mr. Dilip Gopinath, Senior Vice President (Business Banking) of The HongKong and Shanghai Banking Corporation Limited (HSBC) has filed an Affidavit dated 10.11.2019, by *inter alia* stating that he is a Secured Creditor of the Transferor Company, and the Company owes the Creditor a total sum of Rs.10,61,48,352/- as on 30.9.2019, and has given consent for the said Scheme.
- (4) Ramesh Rao & Co. LLP, Chartered Accountants, have issued a Certificate dated 30th June, 2020, by certifying that there are 4 (Four) Unsecured Creditors amounting to Rs.7,54,12,620/- as on 30.06.2020, viz., Ms. Sangita Navada, due amount of Rs.21,961,922/-; Mr. Shiva Prasad Navada, due amount of Rs.5,596,533/-; Mr. Suresh Rao U.M, due amount of Rs.42,991,433/-; and Ms. Usha S Rao, due amount of Rs.4,862,732/-; and Trade payables aggregating to Rs.8,61,55,103.04/- in the Applicant Company No.1/Transferor Company as on 30th June, 2020. The Applicant Company No.1/Transferor Company seeks to convene the meeting of the Unsecured Creditors of the Applicant Company No.1/ Transferor Company for the proposed Scheme.

- (5) **CADM Tools and Components Private Limited** (hereinafter referred as the Applicant Company No.2/Transferee Company) is a Private Limited Company, was incorporated on 19.9.2018 under the Companies Act, 2013 bearing CIN: U36999KA2018 PTC116426 and having its registered office situated at No.7C, Bommasandra Industrial Area, Bengaluru-560099. Its Authorised Share Capital is Rs.20,00,000/- divided into 20,000 Equity shares of Rs.100/- each and Issued, Subscribed and Paid-up Share Capital is Rs.1,00,000/- divided into 1,000 equity shares of Rs.100/- each. The main objects of Applicant Company No. 2/Transferee Company are *inter-alia* to carry on the business of Mechanical Engineers, manufacturers of Machinery and Machinery accessories, Machine Tools and accessories, Magnetic, pneumatic, hydraulic, Electric, Electro Hydraulic, Electro Magnetic, Electro pneumatic Elements and equipment used in machine tools and general machinery etc.
- (6) Ramesh Rao & Co. LLP, Chartered Accountants, have issued a Certificate dated 30.06.2020, by certifying that there are 03 (three) Shareholders in the Applicant Company No.2/Transferee Company as on 30.06.2020 viz., U. M. Suresh Rao, holding 310 Equity Shares of Rs.100/- each, Sangita Navada, holding 650 Equity Shares of Rs.100/- each, and Suparna Sharma, holding 40 Equity Shares of Rs.100/- each. Accordingly, Mr. U. M. Suresh Rao, has filed an Affidavit dated 30.06.2020, by *inter alia* stating that he is holding 310 Equity Shares of Rs.100/- each, and has accorded unconditional consent to the proposed Scheme. Similarly, other two Shareholders have filed their respective Affidavit dated 30.06.2020, with similar declaration, for approval of the proposed Scheme.
- (7) Ramesh Rao & Co LLP, Chartered Accountants, have issued a



Certificate dated 30.06.2020, by certifying that there are no Secured, Unsecured Creditors and Trades payable in the Applicant Company No.2/Transferee Company as on 30.06.2020.

- (8) The Board of Directors of the Applicant Companies have approved and adopted the Composite Scheme of Demerger in their respective meeting held on 30th November, 2018 and the Board reconfirms its approval to the Scheme of Demerger in their respective meeting held on 10th June, 2020.
- (9) Ramesh Rao & Co LLP, Chartered Accountants and the Statutory Auditors of the Applicant Companies, has issued a separate Certificate dated 30th June, 2020, by *inter alia* stating that the accounting treatment contained in the aforesaid Scheme is in compliance with SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 and circulars issued thereunder and all the applicable Accounting Standards specified U/S.133 of the Companies, Act, 2013.
- (10) The rationale for the Scheme *inter alia* that the scheme will enable the Transferor Company and Transferee Company to achieve their respective business objectives more effectively, and offer opportunities to their respective managements to vigorously pursue growth opportunities and to focus on its remaining business activities by streamlining operations and reducing costs etc.
- (11) It is further stated that no investigations, proceedings and winding up proceedings are pending against the Applicant Companies u/s XIV of the Act, or under the Companies Act, 1956.
3. Heard Shri Raghuram Cadambi, Learned Counsel for the Applicant Companies, **through Video Conference**. We have carefully



perused the pleadings of the party and extant provisions of the Companies Act, 2013, and the Rules made thereunder, and the Law on the issue.

4. Shri Raghuram Cadambi, learned Counsel for the Applicant Companies, while pointing out various averments made in the Company Application, has further submitted that the Scheme in question is made in the best interests of the Applicant Companies, and their respective Shareholders. He has pointed out that the Chartered Accountant, after verifying the records of the Companies, have duly certified the existing Shareholders and Creditors of the Companies. He, therefore, urged the Tribunal to allow the Application as prayed for.
5. As stated supra, the Companies have followed extant provisions of Companies Act in framing the Scheme in question, which are duly approved by the Board of Directors of the Companies involved. The Statutory Auditors/Chartered Accountants of the Company have also issued respective Certificates by inter-alia certifying that the details of shareholders, creditors, and compliance of accounting treatment as prescribed U/s.133 of the Companies Act, 2013 with reference to the Scheme in question. The Applicant Companies have disclosed all the material facts relating to the Scheme in question and filed necessary documents along with the Application. Therefore, we are convinced with the case made out by the Applicants so as to grant relief as sought for, by dispensing with meetings of the Shareholders and Sole Secured Creditors of Transferor Company and Shareholders of the Transferee Company , to convene and holding the meeting of the Unsecured Creditors of the Transferor Company by appointing the Chairperson and Scrutinizer for convening the meeting, fixing venue, time, quorum etc.



6. In the result, **C.A. (CAA) No.47/BB/2020** is disposed of with the following directions:

- (i) It is hereby dispensed with the convening and holding the meetings of the Shareholders and Sole Secured Creditor of the Transferor Company and Shareholders of the Transferee Company.
- (ii) The meeting of the Unsecured Creditors including Trade Payables of the Applicant Company No.1/Transferor Company be convened and held on 3rd February, 2021 at 11:00 AM, through Video Conference for the purpose of considering and, if thought fit, approving with or without modification(s) the proposed Scheme of Demerger. Mr. Avdhesh Bairwa, Advocate ,MSCL, #204, Second Floor,MB Centre, 134, Infantry Road, Bengaluru - 560 001Ph. No. 9988723233; email id avdheshbairwalaw@gmail.com is hereby appointed as Chairperson and Ruchira J & Associates , having address at No. C-402, Cauvery Serenity, # 10/1-1, Tumkur Road , Yeswanthpur, Bangalore-560 023 Contact No. 8369210464 Email ID:csruchiraj@gmail.com , is appointed as Scrutinizer for the said meeting. The remuneration for Chairperson shall be Rs.75,000/- and for Scrutiniser shall be Rs.40,000/-. The Quorum for the said meeting is 30% of total value of Unsecured Creditors, either in person or through representative in view of the Act prescribed three-fourth of the Unsecured Creditors required for consideration of the Scheme later on.
- (iii) The Notice for the said meeting shall be published in an English Daily "The Hindu" and in Kannada Daily "Udayavani". The Applicant Companies and the Chairperson and Scrutiniser appointed in the case, are hereby directed to follow all extant provisions of the Companies Act, 2013 R/w Companies (Compromises, Arrangements and Arrangements) Rules, 2016 in convening above meetings.
- (iv) The Chairperson and Scrutinizer are directed to file their respective reports with Registry of this Tribunal, within two



weeks from the date of conclusion of respective meetings, and thereafter, the Applicant Companies are hereby granted two weeks' time to file appropriate Company Petition, in accordance with law, to seek sanction of the Scheme in question, subject to all statutory Compliances.

- (v) Any person/Company/Institution aggrieved by this order, can approach this Tribunal by way of filing Interim Application(s) seeking appropriate directions.

**ASHUTOSH CHANDRA
MEMBER, TECHNICAL**

**RAJESWARA RAO VITTANALA
MEMBER, JUDICIAL**

Shruthi