

IN THE NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH (COURT – II)
(Through Hybrid Mode)

Item No. 4

COMP.APPL/13(CH)2024
And
CA (CAA) No.36/Chd/Hry/2023
(1st Motion)
(Disposed of on 21.12.2023)
(Pb & Hry HC Directions)

IN THE MATTER OF

Napino Auto and Electronics Ltd.

...

Applicant Companies

Under Section: 230-232, CA 2013
Rule: 11 of NCLT, 2016

Order delivered on 10.05.2024

CORAM:

SHRI. SATYA RANJAN PRASAD,
HON'BLE MEMBER (T)

SHRI. P.S.N. PRASAD,
HON'BLE MEMBER (J)

PRESENT:

For the Applicant Companies in CA (CAA) No.36/Chd/Hry/2023 & applicant in COMP.APPL/13(CH)2024 : Mr. Anand Chhibbar, Senior Advocate with Mr. Shikhar Sarin, Mr. Saurabh Kumar, Advocates.

ORDER

COMP.APPL/13(CH)2024

This is a company application filed under Rule 11 of NCLT Rules seeking the issuance of an order, direction modifying/correcting the order dated 21.12.2023 passed by this Hon'ble Tribunal, whereby the appointed date for the merger of Applicant Company No.2 into Applicant Company No.1 has been fixed as 01.04.2023 instead of 30.06.2023 as prayed for in the joint first motion application as well as in the scheme of arrangement.

Heard the submissions made by the learned counsel for the applicant. The rational and purpose behind choosing the appointed dated as 30.06.2023 is detailed-out in the application in para No.8. The justification

for fixing the appointed dated as 30.06.2023 has been detailed-out, the learned counsel also has submitted that Applicant Company No.1 acquired the shares of Applicant Company No.2 company only on 07.06.2023 and as on 01.04.2023, no shares of Applicant Company No.2 were held by Applicant Company No.1 company, therefore, setting such an appointed date would render the scheme a nullity, being wholly unworkable and therefore, prayed for fixing the appointed as 30.06.2023 and the appointed date of its merger into Napino Auto and Electronics Ltd. has to be later then the date of acquisition of the shares.

Further, demerger of business undertaking of the Applicant Company No.3 Company into Applicant No.1 company, it is submitted herein that date was fixed as 01.04.2023 and the applicant submits that commercially and legally the same is not implementable given the business of IOT (Internet of Things) of Applicant No.3 company to be demerged into Applicant No.1 which thereafter would also subsequently demerger the said business along with its own business of the same industry into Napino Tech in CA No. 39/Chd/Hry/2023 and for the detailed reasons stated therein, the applicant has prayed for keeping the appointed date for the demerger in the present application as 01.10.2022.

Upon hearing the arguments advanced by the learned Senior Counsel for the petitioner, this Tribunal directs the petitioner's counsel to submit a detailed written arguments regarding the justification of the proposed dates along with the legal decisions within next week days'.

Further, the counsel for the petitioner may be directed to justify the reasons for having two appointed dates one for amalgamation and another

for demerger and also explain as to why single appointed date cannot be followed.

Let the matter be posted to 17.05.2024.

Sd/-
(SATYA RANJAN PRASAD)
HON'BLE MEMBER (T)

Sd/-
(DR. P.S.N. PRASAD)
HON'BLE MEMBER (J)