

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL

COURT NO. VI, NEW DELHI

CA(CAA) – 48/ND/2024 & CA 145/2024

**IN THE MATTER OF SECTIONS 230-232 OF THE COMPANIES ACT,
2013**

Sections 230-232 and other applicable provisions of the Companies Act, 2013 read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

IN THE MATTER OF SCHEME OF ARRANGEMENT

M/s GX Glass Sales & Services Limited

Registered Office at: A-2/10, 1st Floor, WHS DDA Marble Market, Kirti Nagar, New Delhi - 110015.

... Applicant Company No 1/Transferor Company No 1

AND

M/s AIS Adhesives Limited

Registered Office at: A-2/10, 1st Floor, WHS DDA Marble Market, Kirti Nagar, New Delhi - 110015.

... Applicant Company No 2/Transferor Company No 2

AND

M/s AIS Distribution Services Limited

Registered Office at: A2/10, 1st Floor, WHS DDA Marble Market, Kirti Nagar, New Delhi - 110015.

... Applicant Company No 3/Transferor Company No 3

M/s AIS Glass Solutions Limited

Registered Office at: A-2/10, 1st Floor, WHS DDA Marble Market, Kirti Nagar, New Delhi- 110015.

... Applicant Company No 4/Transferee Company

CORAM:

SH. MAHENDRA KHANDELWAL, MEMBER (JUDICIAL)

SH. RAHUL BHATNAGAR, MEMBER (TECHNICAL)

For the Applicants: Adv. Kamal Shankar, Adv. Bharat Apte, Adv. Tanmay Sharma, Adv. Arjun Narang.

ORDER

PER – RAHUL BHATNAGAR, MEMBER (TECHNICAL)

Order Delivered on: 05.07.2024

1. This is first motion application filed jointly by the Applicant Companies No 1 to 4 under Section 230-232 of Companies Act, 2013 read with the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, the National Company Law Tribunal Rules, 2016, and other applicable provisions in relation to the Scheme of Arrangement by way of Amalgamation (hereinafter referred to as the “SCHEME”) proposed between the applicants.
2. That the Transferor Companies and Transferee Company under the Scheme of Arrangement are having their respective registered office in the NCT of Delhi and hence are under the jurisdiction of the National Company Law Tribunal, Bench at New Delhi.

3. The Applicant Company No.1- M/s GX Glass Sales & Services Limited, was incorporated under the provisions of the Companies Act, 1956 as a Private Limited Company vide Certificate of Incorporation dated 07.05.2010, having its registered office at A-2110, 1st Floor, WHS DDA Marble Market, Kirti Nagar, New Delhi - 110015.
4. The Applicant Company No. 2- M/s AIS Adhesives Limited was incorporated under the provisions of the Companies Act, 1956 as a Private Limited Company vide Certificate of Incorporation dated 18.03.1996, having its registered office at A-2110, 1st Floor, WHS DDA Marble Market, Kirti Na gar, New Delhi - 110015
5. The Applicant Company No.3 – M/s AIS Distribution Services Limited, was incorporated under the provisions of the Companies Act, 1956 as a Private Limited Company vide Certificate of Incorporation dated 22.12.2000, having its registered office at A-2110, 1st Floor, WHS DDA Marble Market, Kirti Nagar, New Delhi - 110015.;
6. The Applicant Company No. 4 – AIS Glass Solutions Limited, was incorporated under the provisions of the Companies Act, 1956 as a Private Limited Company vide Certificate of Incorporation dated 19.07.2004, having its registered office at A-2110, 1st Floor, WHS DDA Marble Market, Kirti Nagar, New Delhi - 110015.
7. The Board of Directors of the Transferor Companies and the Transferee Company in their respective meetings held on 29.02.2024, considered and unanimously approved the proposed Scheme of Amalgamation. Copies of

the said Resolutions passed in the said Board Meetings have been placed on record.

8. The Applicant Companies belong to the same group of companies which form part of the AIS group. The Applicant Companies are all subsidiaries of Asahi India Glass Limited
9. The counsel on behalf of Applicant Companies appeared before this Tribunal on 26.04.2024 and sought time to file the consent affidavit from the secured and unsecured creditors. Accordingly, the Applicant Companies have filed an CA 145/2024 to place on record the consent affidavits from Secured and Unsecured Creditors. The consent affidavits are taken on record. Therefore, the CA/2024 stands allowed.
10. It has been stated that the Applicant Company No 1/ Transferor Company No 1 has 7 Shareholders. Certificate from the Chartered Accountant certifying list of Shareholders was annexed. The Applicant Company has prayed to convene the meeting of Shareholders of Applicant Company No 1. It was further represented that the Applicant Company No 1 has 1 Secured Creditor. Certificate from the Chartered Accountant certifying list of creditors was annexed. The Applicant Company has placed on record consent affidavit obtained from the only secured creditor of the Applicant Company No 1. In relation to the Secured Creditor, it seeks to dispense with the holding/convening of the meetings as his consent affidavit have been placed on record. The Applicant Company No 1 has 204 Unsecured Creditors. Certificate from Chartered Accountant certifying list of creditors was annexed. In relation to the Unsecured

Creditor, the Applicant Company has prayed to convene the meeting of Unsecured Creditors of Applicant Company No 1.

11. It has been stated that the Applicant Company No 2/ Transferor Company No 2 has 43 Shareholders. Certificate from the Chartered Accountant certifying list of Shareholders was annexed. The Applicant Company has prayed to convene the meeting of Shareholders of Applicant Company No 2. It was further represented that the Applicant Company No 2 has NIL Secured Creditor. Certificate from the Chartered Accountant certifying NIL Secured Creditors was annexed. Therefore, the necessity of convening of meeting does not arise. The Applicant Company No 2 has 31 Unsecured Creditors. Certificate from Chartered Accountant certifying list of creditors was annexed. Out of 31 Unsecured Creditors, the Applicant Company has placed on record consent affidavit from 8 Unsecured Creditors, together representing 90.778% of the total Unsecured Debt. In relation to the Unsecured Creditor, it seeks to dispense with the holding/convening of the meetings as their consent affidavits were placed on record.

12. It has been stated that the Applicant Company No 3/ Transferor Company No 3 has 7 Shareholders. Certificate from the Chartered Accountant certifying list of Shareholders was annexed. The Applicant Company has prayed to convene the meeting of Shareholders of Applicant Company No 3. It was further represented that the Applicant Company No 3 has 2 Secured Creditors. Certificate from the Chartered Accountant certifying list of creditors was annexed. Both the Secured Creditors have

given their consent by way of affidavits which has been placed on record. In relation to the Secured Creditor, it seeks to dispense with the holding/convening of the meetings as their consent affidavits were placed on record. The Applicant Company No 3 has 216 Unsecured Creditors. Certificate from Chartered Accountant certifying list of creditors was annexed. Out of 216 Unsecured Creditors, the Applicant Company has placed on record consent affidavit from 2 Unsecured Creditors of the Applicant Company 3, together representing 90.96% of the total Unsecured Debt. In relation to the Unsecured Creditor, it seeks to dispense with the holding/convening of the meetings as their consent affidavits were placed on record.

13. It has been stated that the Applicant Company No 4/ Transferee Company has 55 Shareholders. Certificate from the Chartered Accountant certifying list of Shareholders was annexed. The Applicant Company has prayed to convene the meeting of Shareholders of Applicant Company No 4. It was further represented that the Applicant Company No 4 has 2 Secured Creditors. Certificate from the Chartered Accountant certifying list of creditors was annexed. Both the Secured Creditors have given their consent by way of affidavits which has been placed on record. In relation to the Secured Creditors, it seeks to dispense with the holding/convening of the meetings as their consent affidavits were placed on record. The Applicant Company No 4 has 842 Unsecured Creditors. Certificate from Chartered Accountant certifying list of creditors was annexed. Out of 842 Unsecured Creditors, the Applicant Company has placed on record

consent affidavit from 1 Unsecured Creditor of the Applicant Company 4, together representing 92.80% of the total Unsecured Debt. In relation to the Unsecured Creditor, it seeks to dispense with the holding/convening of the meetings as their consent affidavits were placed on record.

14. The Applicant Companies have stated that the provisions relating to the accounting treatment for the proposed scheme were in conformity with the applicable provisions of the Companies Act, 2013. Certificates from the Statutory Auditor of the Applicant Companies on the accounting treatment, as proposed in the Scheme, were annexed to the application and it is clearly stated that the accounting treatment is in conformity with that prescribed under Section 133 of Companies Act, 2013.

15. The Appointed Date, as specified in the Scheme is 01.04.2023.

16. Taking into consideration the submissions and the documents filed therewith, the following directions are issued forthwith in respect of convening/holding or dispensing with the meetings of the Shareholders. Secured and Unsecured Creditors as well as issue of notices including by way of paper publication as follows:

A) In relation to the Transferor Company No 1

a) With respect to Equity Shareholders: The meeting of the Shareholders of the Transferor Company No 1 is directed to be held at the venue, date, time and mode as decided by the Chairperson in consultation with the counsel for Applicant Companies. The quorum for the meeting will be 5, being 2/3 in number.

b) With respect of Secured Creditors: In view of consent affidavits from the sole Secured Creditor, having 100% voting share, been filed, convening the meeting of Secured Creditors is dispensed with.

c) With respect to Unsecured Creditors: The meeting of the Unsecured Creditors of the Transferor Company No 1 is directed to be held at the venue, date, time and mode as decided by the Chairperson in consultation with the counsel for Applicant Companies. The quorum for the meeting will be 136, being 2/3 in number

B) In relation to the Transferor Company No 2

d) With respect to Equity Shareholders: The meeting of the Shareholders of the Transferor Company No 2 is directed to be held at the venue, date, time and mode as decided by the Chairperson in consultation with the counsel for Applicant Companies. The quorum for the meeting will be 29, being 2/3 in number.

e) With respect of Secured Creditors: Since there are NIL Secured Creditors of the Transferor company No 2 therefore the necessity of holding/convening the meeting does not arise.

f) With respect to Unsecured Creditors: In view of consent affidavits from 8 Unsecured Creditor, having 90.778% voting share, been filed, convening the meeting of Unsecured Creditors is dispensed with

C) In relation to the Transferor Company No 3

g) With respect to Equity Shareholders: The meeting of the Shareholders of the Transferor Company No 3 is directed to be held at the venue, date,

time and mode as decided by the Chairperson in consultation with the counsel for Applicant Companies. The quorum for the meeting will be 5, being 2/3 in number.

h) With respect to Secured Creditors: In view of consent affidavits from both Secured Creditors, having 100% voting share, been filed, convening the meeting of Secured Creditors is dispensed with.

i) With respect to Unsecured Creditors: In view of consent affidavits from the 2 Unsecured Creditors, having 90.96% voting share, been filed, convening the meeting of Unsecured Creditors is dispensed with.

D) In relation to the Transferee Company

j) With respect to Equity Shareholders: The meeting of the Shareholders of the Transferee Company is directed to be held at the venue, date, time and mode as decided by the Chairperson in consultation with the counsel for Applicant Companies. The quorum for the meeting will be 37, being 2/3 in number.

k) With respect of Secured Creditors: In view of consent affidavits from both the Secured Creditors, having 100% voting share, been filed, convening the meeting of Secured Creditors of Transferee Company is dispensed with.

l) With respect to Unsecured Creditors: In view of consent affidavits from the 1 Unsecured Creditor, having 92.80% voting share, been filed, convening the meeting of shareholders/members is dispensed with.

17. Mr. Shiv Nandan Sharma, CA (Email Id- sharmasn@gmail.com ; Mobile No.-9540000212) is appointed as the **Chairperson**, Mr. Rohan Kochhar, Advocate, (E-mail Id- rohan@skoch.in; Mobile No.- 9999610222) is appointed as **Alternate Chairperson** and Mr. Vishawjeet Singh, Advocate (E-mail Id- vishawjeet.rathore@gmail.com; Mobile No.- 8989809900) is appointed as **Scrutinizer** for the aforesaid meetings of the Transferor Companies and Transferee Company in terms of the directions issued herein.
18. In case the quorum for the aforesaid meeting is not present at the meeting, then the meeting shall be adjourned by half an hour. Thereafter the persons present and voting shall be deemed to constitute the quorum. The Chairperson and Alternate Chairperson appointed herein along with the Scrutinizer shall ensure that the proxy Registers are properly maintained.
19. The Fees of the Chairperson for the aforesaid four meetings shall be Rs. 2,00,000/ -. The Fees of the Alternate Chairperson shall be Rs. 1,75,000/- and the Fees of the Scrutinizer shall be Rs. 1,50,000/- in addition to meeting their incidental expenses. The Chairperson will file his report within a week from the date of holding of the aforesaid meeting. The fees of Chairperson, Alternate Chairperson and Scrutinizer along with the travelling expenses and other out of pocket expenses shall be borne by the respective Applicant Company. A copy of this order shall be provided to the learned counsels for the Applicant Companies who in turn shall provide a copy of the same to the Chairperson, Alternate Chairperson and the Scrutinizer.

20. Individual notices shall be sent to the Shareholders of all the Applicant Companies as well Unsecured Creditors of the Applicant Company No 1 by the Applicant Companies through email or through registered post or speed post, 30 days in advance before the scheduled date of meeting, indicating the day, date, the place fixed for and time of meeting as aforesaid, together with a copy of the Scheme and copy of explanatory statement as required under the Companies Act, 2013 and the Rules, along with the proxy forms and any other documents as may be prescribed under the Act. These will be provided free of cost. A compliance affidavit of service will be filed with this Tribunal.
21. The Applicant Companies shall publish an advertisement at least 30 clear days before the aforesaid meeting, indicating the day, date and the place fixed and time of meeting as aforesaid, which will be published in “Business Express” (English) and “Business Standard” (Hindi), both Delhi NCR editions. The Applicant Companies shall also publish the notice on their websites, if any and file a compliance affidavit of service with this Tribunal.
22. The Chairperson shall be responsible to report the results of the meetings to the Tribunal within 7 (seven) days of the conclusion of the meetings. The Chairperson shall be assisted by the Authorized Representative / Company Secretary of the Applicant Companies and the Scrutinizer, who will assist the Chairperson and Alternate Chairperson in preparing and finalizing the reports.
23. Voting shall be allowed on the proposed Scheme by voting in person, by proxy, through postal ballot or through electronic means as may be

decided by the Chairperson in consultation with the counsel of the Applicant Companies in terms of the provisions of the Companies Act, 2013 and Rules framed there under.

24. Notice of this application shall be served on the following:

- i. Regional Director, Ministry of Corporate Affairs, B-2 Wing, 2nd Floor, Paryawaran Bhavan, CGO Complex, New Delhi-110003;
- ii. Registrar of Companies at 4th floor, IFCI Tower, 61, Nehru Place, New Delhi-110019;
- iii. Official liquidator, Lok Nayak Bhavan, 8th Floor, Khan Market, New Delhi-110001;
- iv. Concerned Income Tax Department of both the Applicant Companies. The notices to Income Tax Authorities shall disclose sufficient details like PAN, ward numbers and assessing officers so that timely and proper reply may be filed.
- v. Any other sectoral regulators required to be served.

The application stands allowed on the aforesaid term and accordingly disposed off.

SD/-
(RAHUL BHATNAGAR)
MEMBER (TECHNICAL)

SD/-
(MAHENDRA KHANDELWAL)
MEMBER (JUDICIAL)