

**THE NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH,
NEW DELHI**

COMPANY PETITION NO. CA (CAA)-86 (PB)/2019

Under Sections 230 to 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

of

AMP Supercars Private Limited

Demerged Company

WITH

AMP Motors Private Limited

Resulting Company

Judgment delivered on: 14.06.2019

CORAM:

DR. DEEPTI MUKESH, HON'BLE MEMBER (J)

MR. S. K. MOHAPATRA, HON'BLE MEMBER (T)

For Applicants: Mr. P. Nagesh, Mr. Dhruv Gupta and
Mr. Harshal Kumar, Advocates

ORDER

S.K. Mohapatra, Member

1. This application has been jointly filed by the Applicant Companies under Sections 230 to 232 of the Companies Act, 2013 read with the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 and the National Company Law Tribunal Rules, 2016, duly supported by separate affidavits of the Applicant Companies, seeking appropriate orders/directions for dispensing with the respective meetings of the shareholders, secured creditors and unsecured creditors of both the companies, in connection with the proposed Scheme of Arrangement as contemplated between the applicant companies. The said Scheme of Arrangement (hereinafter referred to as the "Scheme") has been placed on record along with the joint application.
2. It is represented that the registered offices of both the applicant companies are situated in New Delhi and therefore the subject matter of this joint application falls within the Jurisdiction of this Bench.



3. M/s AMP Supercars Private Limited (Demerged Company) was incorporated on 12.08.2014 under the provisions of the Companies Act, 1956. The present Authorized Share Capital of the Demerged Company is Rs. 1,00,00,000/- divided into 10,00,000 Equity Shares of Rs. 10/- each. The present Issued, Subscribed and paid-up Share Capital of the Company is Rs. 1,00,00,000/- divided into 10,00,000 Equity Shares of Rs. 10/- each. The registered office of the Company is situated at 2686, Kashmiri Gate, New Delhi.

4. It is submitted that the Demerged Company has two Equity Shareholders and both the equity shareholders have given their consent affidavits to the Scheme constituting 100% in value and 100% in number. The consent affidavits of each of the members have been placed on record. It is further represented that the Demerged company has no secured creditor and four unsecured creditors. The certificates of chartered accountant in respect of creditors of the demerged company have also been placed on record. As the company has no secured creditor, the requirement of convening of secured creditors meeting does not arise. All the

four unsecured creditors have given their consent affidavits in favour of the scheme. In relation to the shareholders and unsecured creditors, the demerged company seeks dispensation from convening and holding of their respective meetings on the ground that all the equity shareholders and all the unsecured creditors of the company have given consent affidavits in favour of the Scheme.

5. M/s AMP Motors Private Limited (Resulting Company) was incorporated on 22.10.2009 under provisions of the Companies Act, 1956. The present Authorized Share Capital of the Resulting Company is Rs. 7,50,00,000/- divided into 75,00,000 Equity Shares of Rs. 10/- each. The present Issued, Subscribed and paid-up Share Capital of the Company is Rs. 4,87,18,000/- divided into 48,71,800 Equity Shares of Rs. 10/- each. The registered office of the Company is situated at 2686, Kashmiri Gate, New Delhi - 110006.

6. It is submitted that the Resulting Company has three Equity Shareholders and all the equity shareholders have given their consent affidavits to the Scheme constituting 100% in value and 100% in number. The consent affidavits of each of the members have been placed on record. It is

further represented that the Resulting company has six secured creditors and 179 unsecured creditors. The certificates of chartered accountant in respect of creditors have also been placed on record. All the secured creditors of the resulting company have given their consent affidavits in favour of the scheme. 11 numbers of unsecured creditors out of 179 unsecured creditors holding 94.04% in value of the total unsecured debt of the resulting company have given their consent affidavits in favour of the scheme. In relation to the shareholders, secured creditors and unsecured creditors, the resulting company seeks dispensation from convening and holding of their respective meetings on the ground that all the equity shareholders, all secured creditors and unsecured creditors having 94.04% in value of the total unsecured debt of the company have given consent affidavits in favour of the Scheme. Needless to say, that under subsection 9 of Section 230 of Companies Act, 2013 meeting of creditors can be dispensed with if creditors having at least 90% in value agree by way of affidavit in favour of the Scheme, which is satisfied in the present case.



7. We have perused the joint application and the connected documents/papers filed with the application including the Scheme of Arrangement as contemplated between the Applicant companies.
8. It is seen that the board of directors of both the applicant companies vide separate meetings, held on 03.01.2019 and 04.01.2019 respectively have unanimously approved the proposed Scheme of Arrangement. Copies of such board resolutions passed by the board of directors have been placed on record by the applicant companies.
9. Both the applicants have filed their respective Memorandum of Associations and Articles of Associations. The applicants have also filed their respective latest audited financial statements for the year ending 31.03.2018 and provisional balance sheet till 31.12.2018.
10. It is submitted that the proposed demerger is sought to be made under the provisions of Section 230 to 232 of the Companies Act, 2013 and the same if sanctioned by this Tribunal, the appointed date as provided in the Scheme shall be April 1st, 2018.

11. Both the applicant companies have submitted that no proceedings for inspection, inquiry or investigation under the provisions of the Companies Act, 2013 or under the provisions of the Companies Act, 1956 is pending against any of the applicant companies.
12. The certificates of respective statutory auditors of both the applicant companies have been placed on record confirming that the accounting treatment adopted in the scheme is in conformity with Section 133 of the Companies Act, 2013.
13. Further, it has been stated in the application that the Scheme will be beneficial to all the applicant companies and their respective shareholders, employees, creditors and other stake holders.
14. Taking into consideration the application filed jointly by all the Applicant Companies the following directions are issued: -

A) In relation to the Demerged Company: -

- (i) *The meeting of Equity Shareholders is dispensed with as there are only two equity shareholders in the company and all of their*

consent affidavits in favour of the Scheme have been placed on record.

(ii) *The meeting of secured creditors is also dispensed with because there is no secured creditor in the company and therefore, the requirement of convening meeting of secured creditors does not arise.*

(iii) *The meeting of unsecured creditors is also dispensed with as there are only 4 unsecured creditors and all of their consent affidavits in favour of the Scheme have been placed on record.*

B) In relation to the Resulting Company:-

(i) *The meeting of Equity Shareholders is dispensed with as there are only three equity shareholders in the company and all of their consent affidavits in favour of the Scheme have been placed on record.*

(ii) *The meeting of secured creditors is also dispensed with because there only six*

secured creditors in the company and all of their consent affidavits in favour of the Scheme have been placed on record.

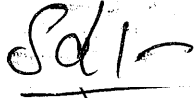
(iii) The meeting of unsecured creditors is also dispensed with as unsecured creditors holding more than 90% of the total value of unsecured debt have given their consent affidavits in favour of the Scheme.

15. In view of the above the present joint application stands allowed by dispensing with the meetings of shareholders and creditors of both the applicant companies.

16. The applicants are directed to serve notice of the proposed Scheme on the Regional Director, Ministry of Corporate Affairs, B-2 Wing, 2nd Floor, Paryavaran Bhavan, CGO Complex, New Delhi-110 003, Registrar of Companies at 4th Floor, IFCI Tower, 61, Nehru Place, New Delhi-110 019; the Official Liquidator, Lok -Nayak -Bhavan, 8th Floor, Khan Market, New Delhi -110 001; the office of the Income Tax Department, Income Tax Officer, Ward - 7(4), Central Revenue Building, IP Estate, New Delhi-110 002 and Office of the Income Tax Department, Income Tax Officer, Additional

Commissioner of Income Tax, Special Range-4, Central Revenue Building, IP Estate, New Delhi-110 002. The notices to Income Tax authorities shall disclose sufficient details like PAN card numbers, ward numbers etc. so that proper reply may be filed.

Let copy of the order be served to the parties.

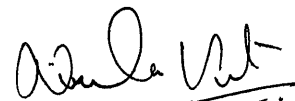


(S. K. MOHAPATRA)
MEMBER (T)



(DR. DEEPTI MUKESH)
MEMBER (J)

Pronounced today under Rule 151 of the NCLT Rules 2016 as Dr. Deepti Mukesh, Hon'ble Member (J) is not holding Court today.



(Nirmala Vincent)
Court Officer

Renu