

IN THE NATIONAL COMPANY LAW TRIBUNAL
AT JAIPUR

**CORAM: SHRI DEEP CHANDRA JOSHI,
HON'BLE JUDICIAL MEMBER**

**SHRI RAJEEV MEHROTRA,
HON'BLE TECHNICAL MEMBER**

CA (CAA) No. 03/230-232/JPR/2024

Section: Section 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 AMALGAMATION OF

M/S SUNCITY METALS AND TUBES PVT. LTD.
(Formerly known as Suncity Sheets Pvt. Ltd.)
(Applicant Company 1/ Resulting Company)

AND

M/S BHUVEE STENOVATE PVT. LTD.
(Applicant Company 2/ Transferor Company)

MEMO OF PARTIES

M/S SUNCITY METALS AND TUBES PVT. LTD.
(Formerly known as Suncity Sheets Pvt. Ltd.)
Plot No. 27A/68, Adarsh Society Light
Industrial Area, Near ITI Circle, Jodhpur
Shastri Nagar, Jodhpur- 342003
(Rajasthan)

**...Applicant Company 1/
Resulting Company**


AND

M/S BHUVEE STENOVATE PVT. LTD.
Room No. 307, Swaika Centre 4A
Pollock Street, Kolkata- 700001 (West
Bengal)

**...Applicant Company 2/
Transferor Company**

COUNSEL FOR APPLICANT(S): Aditya Vijay, Adv.





Order Pronounced on: 17.05.2024

ORDER

Per: Shri Deep Chandra Joshi, Judicial Member

1. This Application has been filed jointly by the Applicant Companies, namely, *M/s Suncity Metals and Tubes Private Limited* ('Resulting Company' / 'Applicant Company 1') and *M/s Bhuvée Stenovate Pvt. Ltd* ('Transferor Company' / 'Applicant Company 2'), under Sections 230-232 and other applicable provisions of the Companies Act, 2013 read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 ('Rules') in relation to the Scheme of Arrangement by way of Demerger ('Scheme') proposed between the Applicants. The said scheme is annexed as Annexure-16 of the Application.
2. The Applicant Companies have preferred the instant Application *inter alia* seeking the following reliefs:
 - a) *Appropriate directions may kindly be issued for dispensing with the requirement of holding of meeting of equity shareholders of the Applicant Resulting Company and Applicant Transferor Company;*
 - b) *Appropriate directions may kindly be issued for convening the meeting of the Secured Creditors of the Applicant Resulting Company. Further, in case this Hon'ble Tribunal directs for holding of the meeting, the notices for the same be serve on the secured creditors of both the companies through their E-mails or*

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Whatsapp and the meeting be also convened through Video Conferencing.

- c) *Appropriate directions may kindly be issued for convening the meeting of the Unsecured Creditors of the Applicant Resulting Company and the Applicant Transferor Company, Further, in case this Hon'ble Tribunal directs for holding of the meeting, the notices for the same be served on the unsecured creditors of both the companies through their E-Mails or Whatsapp and the meeting be also convened through Video Conferencing.*
3. Affidavits in support of the Application sworn for and on behalf of the Resulting Company and the Transferor Company have been filed by their authorised signatories, namely, *Mr. Mahaveer Agarwal* and *Mr. Devesh Goel*, respectively. The Learned Advocate for the Applicants has drawn the attention of this Tribunal to the averments made in the Application as well as the set of documents annexed therewith. It was submitted that the joint Application filed by the Applicants is maintainable in view of Rule 3(2) of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. Further, the Registered Office of the Resulting Company falls within the purview of the Registrar of Companies, Jaipur. Therefore, this Tribunal has the necessary territorial jurisdiction to entertain this Application.
4. It is stated that *M/s Bhuvée Stenovate Pvt. Ltd.* (Transferor Company) is demerged into two Resulting Companies i.e., *Suncity Metals and Tubes*

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Pvt. Ltd., and *Laser Power & Infra Pvt. Ltd.* Since the Registered office of *M/s Laser Power & Infra Pvt. Ltd.* is situated in *West Bengal*, a similar application is being filed at NCLT, Kolkata.

5. It has been submitted that the Applicant Company 1/Resulting Company, *M/s Suncity Metals and Tubes Private Limited* is a Private Limited Company incorporated on 10.09.1981 under the provisions of the Companies Act, 1956. The name of the company was changed to *Suncity Sheets Pvt. Ltd.* and the company obtained a fresh certificate of incorporation from RoC, Jaipur on 30.05.2003. Subsequently, the name was changed to *Suncity Metals and Tubes Pvt. Ltd.* and the company obtained another fresh certificate of incorporation on 21.11.2023.
6. The Applicant Company 2/ Transferor Company, *M/s Bhuvée Stenovate Private Limited*, is a Private Limited Company incorporated under the provisions of the Companies Act, 1956. It was constituted on 07.11.2007 under the name and style of *M/s Integrated Equipments & Infrservices Pvt. Ltd.* and the name was later changed to *M/s Bhuvée Stenovate Pvt. Ltd.* and the company obtained fresh Certificate of Incorporation from the RoC, Kolkata on 13.08.2017.
7. A perusal of the Application filed by the Applicant Companies indicates the details of the capital structure of the Applicant Companies as on 31.01.2024, which is tabulated below for reference:

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Sr. No.	Name of the Company	Authorized Share Capital	Issued, paid up and Subscribed Share Capital
1.	<i>M/s Suncity Metals & Tubes Pvt. Ltd. (Resulting Company)</i>	Rs. 24,00,00,000/- divided into 1,90,000 Equity Shares of INR 1000/- each and 50,000 Preference Shares of INR 1000/- each	Rs. 19,48,45,000/- divided into 1,64,845 Equity Shares of INR 1000/- each and 30,000 Preference Shares of INR 1000/- each
2.	<i>M/s Bhuvee Stenovate Pvt. Ltd. (Transferor Company)</i>	Rs. 531,00,00,000/- divided into 53,10,00,000 Equity Shares of INR 10/- each	Rs. 1,00,00,000/- divided into 10,00,000 Equity Shares of INR 10/-each

8. The Applicant Companies have also filed their respective Memorandum and Articles of Association, inter alia delineating their object clauses and the same are annexed as Annexure- 3 & 13 of the Application. The Applicant Companies have filed Copy of the Audited Financial Statements for the year ending 31.03.2023.
9. The Board of Directors of the Applicant Companies have approved the Scheme of Demerger *vide* their Resolution dated 16.03.2024. Copies of the Board Resolutions dated 16.03.2024 are annexed with the Application as Annexure- 17 & 18 (Colly). It was pointed out that the Scheme does not involve any reduction in Share Capital or Corporate Debt Restructuring. Further, no investigation, enquiry, or inspection proceedings have been initiated or are pending against the Applicant Companies.




10. The Applicants have furnished the details of the Shareholders, Secured and Unsecured Creditors of the Resulting Company and the Transferor Company, which are tabulated below:

	<i>Resulting Company/ Applicant Company 1</i>	<i>Transferor Company/ Applicant Company 2</i>
<i>Equity Shareholders</i>	20	5
<i>Preference Shareholders</i>	2	-
<i>Secured Creditors</i>	3	0
<i>Unsecured Creditors</i>	108	21

11. The Applicant Companies have complied with Section 230 (7) and Section 232(3) of the Act by filing the certificate of the company's auditor concerning compliance with the Accounting Standards under Section 133 of the Companies Act, 2013.
12. Taking into consideration the Application filed by the Applicant Companies and the documents filed therewith, this Tribunal hereby issues the following directions with respect to calling, convening and holding of the meetings of the Equity Shareholders, Secured and Unsecured Creditors or dispensing with the same as well as issue of notices, including by way of paper publication, as follows:

In relation to Applicant Resulting Company -

(i) With respect to Equity Shareholders:

Since it is represented that there are 20 (Twenty) Equity Shareholders in the Resulting Company, and it is seen that their

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consent affidavits have been placed on record as Annexure 20 (Colly), therefore, the necessity of convening and holding a meeting of the Equity Shareholders for the approval of the Scheme is dispensed with.

(ii) *With respect to Preference Shareholders:*

Since it is represented that there are 2 (Two) Preference Shareholders in the Resulting Company, and it is seen that their consent affidavits have been filed as Annexure 20 (Colly), therefore, the necessity of convening and holding a meeting of the Preference Shareholders is dispensed with.

(iii) *With respect to Secured Creditors:*

There are 3 (Three) Secured Creditors in the Resulting Company, and their consent is not on record; therefore, this Tribunal is of the view that a meeting of the Secured Creditors of the Applicant Company 1/ Resulting Company is required to be held through VC & OAVM subject to notice of the meeting being issued through post, courier or e-mail ids registered with the Applicant Company 1.

(iv) *With respect to Unsecured Creditors:*

As per the Application, there are 108 unsecured Creditors in the Resulting Company, and it is seen that their consent is not on record; therefore, this Tribunal is of the view that a meeting of the

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Unsecured Creditors of the Applicant Company 1/ Resulting Company is required to be held through VC & OAVM subject to notice of the meeting being issued through post, courier or e-mail ids registered with the Applicant Company 1.

In relation to Applicant Transferor Company -

(i) With respect to Equity Shareholders:

Since it is represented that there are 5 (Five) Equity Shareholders in the Transferor Company, and it is seen that their consent affidavits have been placed on record as Annexure- 26 (Colly), therefore, the necessity of convening and holding a meeting to consider the approval of the Scheme is dispensed with.

(ii) With respect to Secured Creditors:

Since it is represented that there are no Secured Creditors in the Transferor Company, therefore, there is no requirement of convening and holding a meeting of Secured Creditors to consider the approval of the Scheme.

(iii) With respect to Unsecured Creditors:

Since it is represented that there are 21 (Twenty One) Unsecured Creditors in the Transferor Company, and it is seen that their consent is not on record; therefore, this Tribunal is of the view that a meeting of the Unsecured Creditors of the Applicant Company 2/ Transferor Company is required to be held through VC & OAVM

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subject to notice of the meeting being issued through post, courier or e-mail ids registered with the Applicant Company 2.

13. Directions for the Meeting to be held are issued as under: -

Considering the prevalent norms, the above-stated meetings of the Applicant Companies shall be called, convened and conducted through VC & OAVM, subject to the notice of the meeting being issued through post/courier/e-mail, as specified below:

- (i) Holding the meetings and conclusion of the voting of the Secured and Unsecured Creditors of the Applicant Companies as directed above shall be done through VC & OAVM, within sixty days of passing of this Order, following the Companies Act, 2013, and applicable Rules & Guidelines. The quorum of the meeting of the Secured and Unsecured Creditors shall be 33% in value.
- (ii) In case the quorum as noted above for the aforesaid meetings of the Applicant Companies is not present at the specified time, then the meeting shall be adjourned by half an hour, and thereafter the persons present and voting, including authorized representatives, shall be deemed to constitute the quorum. The Scrutinizer is duty-bound to record all proceedings of the meeting conducted through VC & OAVM. The Applicant Companies shall endeavour to attain at least the quorum fixed, if not more, concerning the Scheme's approval.




- (iii) *Shri Ganga Prasad Gupta*, Advocate, having an email address i.e., gagan.gupta@gmail.com and contact no. 9414032025, is appointed as the Chairperson, and *Shri Akshat K Jangid, C.S.*, having contact no. 7737196496, is appointed as the Scrutinizer, for meetings of the Secured and the Unsecured Creditors of the Applicant Companies through VC & OAVM, which are directed by this Tribunal to be called, convened, conducted and concluded.
- (iv) The honorarium of the Chairperson for the aforesaid meetings of the Secured and the Unsecured Creditors of the Applicant Companies shall be Rs. 75,000/- (Rupees Seventy Five Thousand Only) and the honorarium of the Scrutinizer shall be Rs. 50,000/- (Rupees Fifty Thousand Only) in addition to the reimbursement of their incidental and out of pocket expenses. The Chairperson and Scrutinizer shall file their report within a week of the conclusion of the meetings. They shall be fully assisted by the authorized representative/ Company Secretary and other relevant staff of the Applicant Companies.
- (v) Individual notice(s) of the above said meeting shall be sent by the Applicant Companies to the Secured and Unsecured Creditors on record of the company through registered post or speed post or courier or e-mail, 30 days in advance before the scheduled date of the meeting, indicating the day, date, time and link to meeting



through VC & OAVM as aforesaid, together with a copy of the Scheme, a copy of the explanatory statement required to be sent along with any other documents as prescribed under the Companies Act, 2013, and Rules/ Guidelines thereunder and also any information/document as specified in this order which shall also be duly sent with the notice.

- (vi) It is further directed that along with the notice, the Applicant Companies shall also send a statement(s) explaining the effect of the Scheme on the creditors, key managerial personnel, promoters and non-promoter members, *etc.*, along with the effect of the arrangement for demerger on any material interests of the directors of the company(s), as provided under sub-section 3 of Section 230 of the Companies Act, 2013.
- (vii) The Applicant Companies shall publish an advertisement indicating the day, date, time and link of the meeting to be conducted through VC & OAVM as aforesaid, with a gap of at least 30 clear days before holding of the meeting/conference. Such meeting notice shall be published in two leading daily newspapers with a large circulation in the area, in English and in vernacular, stating that the copies of the Scheme and the Explanatory Statement that are required to be furnished according to Section 230 of the Companies Act, 2013 shall be available and provided free of charge at the



registered office of the Applicant Companies to eligible persons.

The Applicant Companies shall publish the notice on its website if any.

- (viii) The Applicant Companies shall further furnish a copy of the Scheme free of charge within one day of any requisition for the Scheme made by any Shareholder, Secured Creditor, and Unsecured Creditor of the Applicant Companies entitled to vote as aforesaid.
- (ix) The authorized representative of the Applicant Companies shall furnish an affidavit of service of notice of meeting and publication of advertisement and compliance with all directions contained herein at least a week before the proposed meetings.
- (x) The Chairperson shall be responsible to report the result of the meetings of secured and unsecured creditors of Applicant Companies held in compliance of the instant Order to the Tribunal in Form No. CAA – 4, as per Rule 14 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 within seven days of the conclusion of the aforesaid meetings. The Chairperson would be fully assisted by the authorised representative/ Company Secretary of the Applicant Companies, and the Scrutinizer will assist the Chairperson in preparing and finalising the reports of the meetings.



14. All the aforesaid directions are to be complied with strictly in accordance with the applicable law, including forms and formats contained in the Companies (Companies, Arrangements, Amalgamations) Rules, 2016, as well as the provisions of the Companies Act, 2013. The Applicant Company is directed to send notice individually along with a copy of the Scheme to the Income Tax Authorities (indicating the respective PAN Nos.), ROC concerned, Official Liquidator and Regional Director (North Western Region), Reserve Bank of India, Competition Commission of India as well as other sectoral regulators or authorities, if applicable, as an advance notice for their representation/ observation, if any. The Applicant Companies shall file affidavit regarding sectoral regulators that may be concerned and include a specific prayer with respect to notices to relevant regulators and authorities also at the stage of second motion.
15. The Applicant Companies shall file the petition for issuance of notice and fixing date for the approval of the Scheme in due course.
16. Hence, this Application bearing CA (CAA) No. 03/230-232/JPR/2024 stands allowed on the aforesaid terms.



DEEP CHANDRA JOSHI
JUDICIAL MEMBER



RAJEEV MEHROTRA
TECHNICAL MEMBER