

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH, BENCH-I**

**C.A.(CAA)/113/MB-I/2024**

*In the matter of  
The Companies Act, 2013  
And  
In the matter of  
Sections 232 r/w Section 230 of  
The Companies Act, 2013 and other  
applicable provisions of The Companies Act,  
2013 And Rules Framed thereunder as in force  
from time to time  
And  
In the matter of  
Scheme of Arrangement  
of*

**M/s. Advik Hi-Tech Private Limited**

CIN: U29299PN1998PTC013028

**... Applicant No. 1/Demerged Company**

**M/s. Aap Traders Private Limited**

CIN: U52100PN2010PTC135834

**... Applicant No. 2/Resultant Company**

*(Applicant No. 1 Company and Applicant No. 2 Company are hereinafter collectively referred to as "Applicant Companies")*

***Order delivered on: 10.07.2024***

***Coram:***

**Shri Prabhat Kumar**

Hon'ble Member (Technical)

**Justice V.G. Bisht (Retd.)**

Hon'ble Member (Judicial)

***Appearances (through)***

For the Applicants : Adv. Avinash R. Khanolkar a/w Adv.  
Surekha Yadav and Adv Khushbu  
Bhanushali

**ORDER**

1. The present Scheme pertains to Scheme of Arrangement between **M/s. Advik Hi-Tech Private Limited** having (“**Demerged Company**”) and **M/s. Aap Traders Private Limited** (“**Resultant Company**”) and with their respective Shareholders and creditors under Sections 232 r/w Section 230 of the Companies Act, 2013 (“**Scheme**”) and other Applicable provisions of the Companies Act, 2013.
2. The Demerged Company is incorporated under the provisions of the Companies Act, 1956 and the Registered office is situated at Gat No. 357, Plot No. 99, Part A Chakan, Talegaon Road, Kharabwadi, Chakan, Pune, Maharashtra – 410 501.
3. The Demerged Company is *inter-alia* engaged in the business of manufacturing and trading of Engineering components, automobile components, engineering goods, machines, tools, consumables, stores etc.
4. The Resultant Company is incorporated under provisions of the Companies Act, 1956 and the Registered office is situated at Office 601, B Zone, Baner S No. 36/1/1/1(P), 35/2/1, Pune, Maharashtra – 411 045.

5. The Resultant Company is *inter-alia* engaged in the business of trading of engineering, industrial, electrical, mechanical, electronic, general and computer hardware, spare parts, agricultural equipment and auto parts.
6. This Scheme *inter-alia* provides to demerge/transfer die casting business carried out in Plant P28 (Categorically defined under the definition clause titled as 'Demerged Undertaking' of the Proposed Scheme) of the Demerged Company into the Resultant Company.
7. The respective Board of Directors of the Applicant Companies passed a Resolution on 01.04.2024, and approved the proposed Scheme. The proposed Appointed Date of the Scheme is 01.04.2024.
8. The Rationale and benefits of the proposed Scheme of Arrangement are as follows :
  - a) The Demerged Company is engaged in the business of manufacturing auto components. For the manufacturing of some of the auto-components, it has an in-house die casting process that it carries out in plant P28. This plant provides die-casting processes, either through job-work model or through sale of finished-goods model to the other plants of Demerged Company and few other independent customers.
  - b) It has been strategically decided to demerge die casting business carried out in plant P28 of the Demerged Company into the Resultant Company which will foster streamlining of operations and greater focus on each entities' respective business competencies.
  - c) The proposed demerger will help the Demerged Company to concentrate on areas such as new product development, advanced

designing, and engineering capabilities.

- d) The proposed demerger will lead to reduction in operational complexities, optimum resource allocation, thereby enhancing overall efficiency and profitability.
- e) Demerger of die casting business will enable concentration and distinction of manufacturing and die casting business among respective entities, thereby paving way for independent growth of each entity separately.
9. It is submitted that the Board of Directors have obtained valuation for the consideration of the proposed Scheme. Accordingly, the proposed consideration of the Scheme is as follows :

*“Upon the Scheme becoming effective and in consideration of the transfer and vesting of the Demerged Undertaking in the Resultant Company, the Resultant Company shall, without any further act or deed, issue and allot to the shareholders or to such of their respective heirs, executors, administrators or other legal representatives or other successors in title as may be recognized by the Board of Directors of the Demerged Company, **17 Equity Shares of face value of INR 10 (Rupee Ten only) of the Resultant Company for every 146 equity shares of face value INR 10 (Rupee 10 only) held by the shareholders of the Demerged Company (the “Share Exchange Ratio”)**”.*

10. The Authorized Share Capital of the Applicant No. 1 /Demerged Company as on March 31, 2024 was as under:

<b>Particulars</b>	<b>Amount (in Rs.)</b>
<b>Authorized Capital</b>	
2,68,00,000 Equity Shares of Rs. 10/- each	26,80,00,000
10,000 Preference Shares of Rs. 10/- each	1,00,000
<b>Total</b>	<b>26,81,00,000</b>
<b>Issued, Subscribed and Paid-up</b>	
23,60,000 Equity Shares of Rs. 10/- each	2,36,00,000
<b>Total</b>	<b>2,36,00,000</b>

11. The Authorized Share Capital of the Applicant No. 2 /Resultant Company as on March 31, 2024 was as under:

<b>Particulars</b>	<b>Amount (in Rs.)</b>
<b>Authorized Capital</b>	
3,00,000 Equity Shares of Rs. 10/- each	30,00,000
<b>Total</b>	<b>30,00,000</b>
<b>Issued, Subscribed and Paid-up</b>	
10,000 equity shares of Rs. 10/- each	1,00,000
<b>Total</b>	<b>1,00,000</b>

12. The Applicant Companies state and submit that all the Equity Shareholders of the Applicant Companies, respectively, have given their individual consent affidavits approving the proposed Scheme. The individual Consent Affidavits of all of the Equity Shareholders of the Applicant Companies are annexed to the Company Scheme Application and therefore the requirement of holding respective meetings of the Equity Shareholders is dispensed with.
13. It is further stated and submitted that the proposed Scheme does not seek any arrangement with the Creditors of the Applicant Companies and their interest will not be prejudiced.
14. However, as far as the question of Secured Creditors of the Demerged Company is concerned it is submitted that in the interest of justice the Board of Directors of the Demerged Company has placed the proposed Scheme before its Secured Creditors and such Secured

Creditors, by their Individual Consent Affidavits, have consented for the proposed Scheme. Accordingly, the requirement of holding meeting of the Secured Creditors of the Demerged Company be dispensed with.

15. It is further submitted that as on 31.03.2024, there are 754 Unsecured Creditors of the Demerged Company having an outstanding amount of INR 47,08,60,854/-. The certificate issued by M/s. Sharad Shah & Co., Chartered Accountants, certifying the number and outstanding amount due from Unsecured Creditors as on 31.03.2024 has been placed on record.
16. A meeting of the Unsecured Creditors of the Demerged Company be convened and held within 60 days from the date of communication of this order by the Demerged Company, through video conferencing or other audio-visual means, for the purpose of considering, and, if thought fit, approving, with or without modification(s), the Scheme, wherein the Unsecured Creditors of the Demerged Company will be able to cast their votes electronically. In addition to the above, the Demerged Company shall provide facility of remote e-voting to its Unsecured Creditors to cast their vote.
17. At least 30 clear days before the said meeting of the Unsecured Creditors of the Demerged Company is to be held as aforesaid, a notice convening the said Meetings at the place, day, date and time aforesaid, together with a copy of the Scheme, a copy of the Explanatory Statement required to be sent under Section 230 of the Companies Act, 2013 and the prescribed form of proxy, shall be sent by email to each of the Unsecured Creditor of the Demerged Company at their respective last known e-mail addresses as per the records of the Demerged Company or can be obtained free of charge at the registered office of the Demerged Company as aforesaid. Unsecured Creditors

whose e-mail address is not available, shall be provided an opportunity by way of notice in the advertisement of notice mentioned below to register their e-mail address to receive the notice of the relevant meetings, and to provide access to download the said notices from the website of the Demerged Company, for those equity shareholders who may not have received the said notice. The Demerged Company shall publish the respective notices convening the meetings of Unsecured Creditors in “**Business Standard**” in English and “**Navshakti**” in Marathi having circulation in the State of Maharashtra in which the registered office of the Demerged Company is situated.

18. The Demerged Company undertakes to:
- i. issue notice convening the meeting of the Unsecured Creditors as per Form No. CAA.2 in accordance with Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016;
  - ii. issue statement containing all the particulars as per Section 230 of the Companies Act, 2013;
  - iii. issue form of proxy as per Form No. MGT-11 in accordance with Rule 19 of the Companies (Management and Administration) Rules, 2014; and
  - iv. advertise the notice convening the said meeting as per Form No. CAA.2 in accordance with Rule 7 the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
19. That Rajesh Ranjan Prasad, Retd. Chief Commissioner of Income Tax, Mumbai Mob: 9969235200, 9560394327, email [rprasadors@rediffmail.com](mailto:rprasadors@rediffmail.com) shall be the Chairperson of the meeting of Unsecured Creditors of the Demerged Company. The Scrutinizer for

the meeting of the Unsecured Creditors of the Demerged Company shall be Mr. Mitesh Shah, ICSI No. F10070 COP 12891, Contact No: 9820464964, Email: csmjshah@gmail.com. The Demerged Company is directed to pay Rs. 1,50,000/- to the Chairperson and Rs. 50,000/- to the Scrutinizer for the said meeting.

20. The Chairperson appointed for the aforesaid meeting to issue notice of the meeting referred above. The Chairperson shall have all powers under the Companies Act, 2013 read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, as may be applicable for meeting of the Unsecured Creditors of the Demerged Company, in relation to the conduct of the meeting including for deciding procedural questions that may arise at the meeting or at any adjournment thereof or any other matter including, any amendment to the Scheme or resolution, if any, proposed at the said meeting.
21. The quorum for the meeting of the Unsecured Creditors of the Demerged Company shall be calculated as per Section 103(1) of the Companies Act, 2013. If the quorum is not present within 30 minutes of the scheduled meeting time, then the Unsecured Creditors so present shall constitute quorum for the said meeting.
22. The voting by proxy or authorized representative in case of body corporate be permitted, provided that a proxy in the prescribed form/ authorization duly signed by the person entitled to attend and vote at the meetings, is filed with the Demerged Company at their respective Registered Office not later than 48 hours before the aforesaid Unsecured Creditor's meeting as required under Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
23. The Chairperson shall file an affidavit not less than 7 (seven) days before the date fixed for holding the meeting of the Unsecured



Creditors of the Demerged Company and report to this Tribunal that the directions regarding the issue of notices and advertisements have been duly complied with, as per Rule 12 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

24. The Chairperson shall report to this Tribunal, the result of the aforesaid meeting within 7 (seven) days of the conclusion of the said meeting and the said report shall be verified by his undertaking as per Rule 14 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
25. Further, it is submitted that the Resultant Company does not have any Secured Creditor and therefore the question of holding or dispensing the meeting of the Secured Creditors of the Resultant Company does not arise.
26. Further, it is submitted that the Board of Directors of the Resultant Company has placed the proposed Scheme before its Unsecured Creditors and such Unsecured Creditors, by their individual Consent Affidavits, have approved the proposed Scheme. Accordingly, in light of Consent Affidavits from 100% Unsecured Creditors of the Resultant Company, the requirement of holding meeting of the Unsecured Creditors of the Resultant Company is dispensed with.
27. The Applicant Companies are directed to serve notices along with a copy of the Scheme under the provisions of Section 230(5) of the Companies Act, 2013 and Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 upon the:
  - a) Central Government through the Office of Regional Director, Western Region, Mumbai;
  - b) Registrar of Companies, Pune;

- c) Jurisdictional Income Tax Authority within whose jurisdiction the respective Applicant Companies are assessed to tax, clearly indicating the PAN and the Nodal Authority in the Income Tax Department having jurisdiction over such authority i.e. Asst. Commissioner of Income Tax, CIRCLE 8, Pune, Income Tax Office, Pune, where the Demerged Company's Income Tax assessments are made, along-with the Nodal Officer, Income Tax Office, Maharashtra and Goa Circle;
  - d) Goods and Service Tax Authority (GST) within whose jurisdiction the GSTIN of the Applicant Companies is registered, clearly indicating GSTIN of the Company concerned;
  - e) Any other Sectoral Regulator or Authority that the Applicant Companies are subjected to as per the laws in force.
28. Additionally, the Demerged Company is directed to serve notice along with copy of the Scheme upon the Official Liquidator, pursuant to Section 230(5) of the Companies Act, 2013 and as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
29. The Notice shall be served through Registered Post-AD/Speed Post/through email along with a copy of the Scheme and state that "If no response is received by the Tribunal from the concerned Authorities within 30 days of the date of receipt of the notice it will be presumed that the concerned Authorities have no objection to the proposed Scheme". It is clarified that notice served through courier shall be taken on record only in cases where it is supported with Proof of Delivery having acknowledgement of the notice.

30. The Applicant Companies will submit –
- i. Details of Corporate Guarantee, Performance Guarantee and Other Contingent Liabilities, if any;
  - ii. List of pending IBC cases, if any, along with all other litigations, if any, pending against the Applicant Company having material impact on the proposed Scheme;
  - iii. Details of all Letters of Credit sanctioned and utilized as well as Margin Money details, if any.
31. The Applicant Companies to file Affidavit of Service within 15 (fifteen) days from the last of the compliances as stated in above paragraphs are made and do report to this Tribunal that the directions regarding the issue of notices have been duly complied with.

Sd/-

**Prabhat Kumar**  
Member (Technical)

/SP/

Sd/-

**Justice V.G. Bisht**  
Member (Judicial)