

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH - II, CHENNAI**

CP(CAA)/2(CHE)/2024

in

CA(CAA)/52(CHE)/2023

(filed under Sections 230 to 232 of the Companies Act, 2013)

In the matter of the Scheme of Amalgamation

Between

RITE STEEL INDUSTRIES PRIVATE LIMITED,

Registered Office:

NO.D.P.NO.101-A & 101-B, Sidco Industrial Estate,
Kakkalur 602 003, Tiruvallur Taluk, Chengai District,

Represented by its Director Mr. Vaidyanathan.

... 1st Petitioner / Transferor Company

With

SUMANGALA STEEL PRIVATE LIMITED

Registered Office:

45, Chamiers Road, Chennai 600 028,

Represented by its Managing Director,

Mr. Rajendran Sabanayagam

... 2nd Petitioner / Transferee Company

And

THEIR RESPECTIVE MEMBERS AND CREDITORS

Order Pronounced on 26th July 2024

CORAM

JYOTI KUMAR TRIPATHI, MEMBER (JUDICIAL)

RAVICHANDRAN RAMASAMY, MEMBER (TECHNICAL)

Present: -

For Petitioner(s) : Mr.Pankaj Mehta, Chartered Accountant

For Regional Director : Mr.Avinash Krishnan Ravi, Advocate

Ms.Nandini Agarwal, Advocate

For Income Tax Department : Mr. Rajkumar Jhabakh, Advocate

For Official Liquidator : Mrs.Sri Kumari, JTO

Mr.B.Palani, Estate Assistant

COMMON ORDER

(Hearing Conducted though Video Conferencing)

These Company Petitions have been filed by **RITE STEEL INDUSTRIES PRIVATE LIMITED** (hereinafter referred to as “Transferor Company”) and **SUMANGALA STEEL PRIVATE LIMITED** (hereinafter referred to as “Transferee Company”) under section 230-232 of the Companies Act, 2013, and other applicable provisions of the Companies Act, 2013 read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (for brevity ‘the Rules’) for approval of the Scheme of Amalgamation (hereinafter referred to as the ‘SCHEME’) pursuant to the Scheme proposed by the Petitioner Companies and the said Scheme is also filed along with all the Petitions.

2. An affidavit in support of the present petition sworn by,
 - i) **Mr.Vaidyanathan** for Transferor Company in the capacity of Director.
 - ii) **Mr.Rajendran Sabanayagam** for Transferee Company in the capacity of Authorised Signatory.

And the corresponding Board Resolutions are placed on record.

3. 1ST MOTION APPLICATION – IN BRIEF

3.1. The Petitioner Companies filed the First Motion Applications vide CA(CAA)/52(CHE)/2023 and sought directions for dispensation

conducting the meeting of its members and creditors regarding approval of the proposed Scheme. Based on the submissions, and after considering the requisite consents affidavits from the Members and Creditors of the Petitioner Companies this Tribunal vide order dated 22.12.2023 dispensed with the meetings.

4. SCHEME SUMMARY:

The Scheme provides for the amalgamation of Transfer Company (**RITE STEEL INDUSTRIES PRIVATE LIMITED**) and the Transferee Company (**SUMANGALA STEEL PRIVATE LIMITED**).

5. RATIONALE OF THE SCHEME

The rationale and benefits of the Scheme are briefed in Clause-3 of the Scheme as follows,

- a) *“The circumstances which justify and have necessitated the proposed Scheme of Amalgamation are as follows:-*
- b) *Greater integration and financial strength for the Transferee Company, which would result in maximising overall shareholder value, and will improve the financial position of the Transferee Company.*
- c) *Rationalization and saving in administrative expenses by way of elimination of duplication in accounting and operational expenses and greater strength in administrative work through simplification of business processes.*

- d) The amalgamation will result in reduction of multiplicity of entities, thereby reducing compliance cost of multiple entities viz., statutory filings, and regulatory compliances.*
- e) Would channelize synergies, enable optimum utilization of the available resources and enabling a focused business approach for achieving optimization.*
- f) Would enable to achieve higher long-term financial returns and better financial strength and flexibility in the combined entity.*
- g) Would be beneficial for pooling of financial, managerial and personnel capabilities, skills, expertise and technologies leading to increased competitive strength for the Transferee Company.*
- h) Would enable the Transferee Company to have diversified portfolio which would enable it to manage risks in a better way.”*

6. In the second motion Petition filed by the Petitioner Companies, this Tribunal vide order dated 24.01.2024 directed the Petitioner Companies to issue notice to the Statutory / Regulatory Authorities to the authorities concerned as well as directed to issue paper publication.

7. In compliance with the said directions issued by this Tribunal, the Petitioner Companies have effected paper publications as directed by the Tribunal in “Business Standard” (All India Edition) in English and “Makkal Kural” (Tamil Nadu Edition) in Tamil on 21.02.2024.

Notices have been served to (i) Regional Director, Southern Region, Chennai, (ii) Registrar of Companies Chennai, (iii) Income Tax Department on 31.01.2024 and the proof of the same by way of affidavit of service dated 27.02.2024 have been enclosed with the separate typed set. Pursuant to the service of notice of the petitions the following statutory authorities have responded as under:

8. STATUTORY / REGULATORY AUTHORITIES

8.1. REGIONAL DIRECTOR

The Regional Director (RD), Southern Region to whom the notice was issued has filed its report dated 07.03.2024 before this Tribunal expressed its 'No Objection' to the Scheme as follows,

“12) The scheme of amalgamation filed with the application has been examined and it has been decided not to make any objection to the scheme and it is therefore prayed that this Hon'ble National Company Law Tribunal Bench at Chennai may dispose of the matters on merits and pass such order/orders as deemed fit and proper.”

8.2. OFFICIAL LIQUIDATOR:

8.2.1. The Official Liquidator, Chennai to whom the notice was issued in the first motion itself, has filed his Report dated 10.10.2023 before this Tribunal and has stated that they have appointed M/s.Gayathiri & Co, Chartered Accountants Firm from the panel list maintained by their

office to verify into the affairs of the Transferor Company. In para 5 of the above said report the Official Liquidator has expressed his satisfaction as follows,

“... The Official Liquidator is of the view that the petition may be considered fairly as the affairs of the Company have not been conducted in a manner prejudicial to the interest of its creditors or public.”

8.2.2. Further, the Official Liquidator sought to take the report of the Chartered Accountant on record and has also sought to fix the remuneration payable to the Auditor who has investigated into the affairs of the Transferor Company. In this regard, this Tribunal hereby directs the Transferor Company to pay a sum of **Rs.50,000/-** plus GST.

8.3. INCOME TAX DEPARTMENT:

The Income Tax of Department to whom the notice was issued has filed his Report dated 29.04.2024 before this Tribunal and has expressed their ‘No Objection’ as follows,

“There is “No Objection” to the undersigned for the approval of the Scheme of Amalgamation between RITE STEEL INDUSTRIES PRIVATE LIMITED- AAACM5369F (Transferor company) and SUMANGALA STEEL PRIVATE LIMITED (Transferee company) filed before the National Company Law Tribunal [NCLT], Division Bench - II, Chennai in CP(CAA)/2/(CHE)2024.

The “NOC” is issued at the specific request of the assessee company to file the same before Hon’ble NCLT, Divison Bench-II, Chennai.

To submit the relevant documents once the Scheme of Amalgamation process is completed.”

8.4. RESERVE BANK OF INDIA:

Reserve Bank of India to whom the notice was issued in the first motion itself, has filed his Report dated 22.02.2024 before this Tribunal and has stated as follows,

“We submit that it is the duty of the companies undergoing compromise/ arrangement/ amalgamation to comply with the requirements of various laws including the rules, regulations and guidelines prescribed by RBI, viz., the companies may have to comply with Foreign Exchange Management Act, 1999, and the rules and regulations made thereunder. It is also submitted that as a regulator it will not be ethical on the part of RBI to vet individual cases, as it will preclude it from taking action on contravention, if any, committed by such companies”

9. ACCOUNTING TREATMENT

The Certificates issued by the Statutory Auditors certifying the Accounting Treatment of the all petitioners companies are in compliance with Section 133 of the Companies Act, 2013 are placed on record.

10. Valuation

The valuation report dated 04.08.2023 of registered valuer Vandana Sankhala is placed on record wherein the wherein the fair share exchange ratio is arrived as follows,

1 (One) fully paid up Equity Share of M/s Sumangala Steel Private Limited (hereinafter referred to as Transferee Company) of Rs.100/- each for every 28.57 (Twenty eight point five-seven) Equity Share of Rs. 10/- each fully paid up held in M/s Rite Steel Industries Private Limited (hereinafter referred to as Transferor Company)

11. OBSERVATIONS OF THIS TRIBUNAL

11.1. This Tribunal is of the view that the scheme as contemplated amongst the petitioner companies seems to be *prima facie* not, in any way detrimental to the interest of the members of the Company. In view of the absence of any material objections from any statutory authorities and since all the requisite statutory compliances have been fulfilled, this Tribunal sanctions the Scheme of Amalgamation as well as the prayer made therein.

11.2. Notwithstanding the above, if there is any deficiency found or, the violation committed qua any enactment, statutory rule or regulation, the sanction granted by this Tribunal will not come in the way of action being taken, albeit, in accordance with the law, against the concerned persons, directors and officials of the petitioners.

11.3. While approving the Scheme as above, it is clarified that this order should not be construed as an order in any way granting exemption from payment of stamp duty, taxes or any other charges, if any, payment is due or required in accordance with law or in respect to any permission/ compliance with any other requirement which may be specifically required under any law.

12. THIS TRIBUNAL DO FURTHER ORDER:

- (i) That all properties, rights and interests of the Transferor Company shall, pursuant to Section 232(3) of the Companies Act, 2013 without further act or deed be transferred to and vest in or be deemed to have been transferred and vested in the Transferee Company in terms of the Scheme.
- (ii) That all the liabilities, powers, engagements, obligations and duties of the Transferor Company shall pursuant to Section 232(3) of the Companies Act, 2013 without further act or deed be transferred to and vest in or be deemed to have been transferred and vested in the Transferee Company in terms of the Scheme.
- (iii) That the Appointed date for the Scheme shall be **01.04.2023** as mentioned in clause 4.3 of the Scheme.
- (iv) The 'Effective Date' shall be same as the appointed date.
- (v) That all proceedings now pending by or against the Transferor Companies be continued by the Transferee Company.
- (vi) That all the employees/workmen of the Transferor Company in service on the date immediately preceding the date on which the Scheme finally takes effect shall become the employees of the Transferee Company

without any break or interruption in their service with all the benefits.

- (vii) That the Transferee Company shall pay the consideration as follows,

"One (1) fully paid-up equity share of Rs.100/- each of the Transferee Company shall be issued and allotted for every Twenty eight point five seven (28.57) fully paid-up equity share of Rs.10/- each held by the Shareholders in Transferor Company."

- (viii) That the Transferee Company shall file the revised Memorandum and Articles of Association with the Registrar of Companies, Chennai and further make the requisite payments of the differential fee (if any) for the enhancement of authorized capital of the Transferee Company after setting off the fees paid by the Transferor Company.

- (ix) That both the Petitioner Companies, shall within thirty days of the date of receipt of this order cause a certified copy of this order to be delivered to the Registrar of Companies for registration and on such certified copy being so delivered, on such certified copy being so delivered, the Transferor Company shall be dissolved without winding up and the Registrar of Companies shall place all documents relating to the Transferor Company registered with him on the file kept by him in

relation to all the Transferee Company and the files relating to all the said companies shall be consolidated accordingly.

- (x) That any person interested shall be at liberty to apply to the Tribunal in the above matter for any directions that may be necessary.

13. Accordingly, the Company Petition stands **Allowed** on the aforementioned terms and is disposed of.

Sd/-

RAVICHANDRAN RAMASAMY
MEMBER (TECHNICAL)

Sd/-

JYOTI KUMAR TRIPATHI
MEMBER (JUDICIAL)