

**IN THE NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH – II, CHENNAI**

CA(CAA)/16/(CHE)/2024

*(filed under Section 230 of the Companies Act, 2013 read with Companies (Compromises,
Arrangements and Amalgamations), 2016)*

In the matter of Scheme of Amalgamation

ARUDHRA PROPERTIES LIMITED

CIN: U70101TN1995PLC030675

No. 24/12, Raghavaiah Road, 3rd Floor, 'A' Wing,

T. Nagar, Chennai – 600 017

Tamil Nadu

*...1st Applicant/ 1st Transferor Company
&*

RKS PROPERTIES LIMITED

CIN: U70101TN1995PLC030719

No. 24/12, Raghavaiah Road, 3rd Floor, 'C' Wing,

T. Nagar, Chennai – 600 017

Tamil Nadu

*...2nd Applicant/ 2nd Transferor Company
With*

KOCHAR PROPERTIES PRIVATE LIMITED

CIN: U45201TN2004PTC053615

No. 24/12, Raghavaiah Road,

T. Nagar, Chennai – 600 017

Tamil Nadu

*... 3rd Applicant/ Transferee Company
And*

Their Respective Shareholders & Creditors

Order Pronounced on 10th May 2024

CORAM

SHRI JYOTI KUMAR TRIPATHI, MEMBER (J)

SHRI VENKATARAMAN SUBRAMANIAM, MEMBER (T)

For Applicants: Mr. D. Peruman Saranyan, Advocate

ORDER

1. Under consideration is a joint application filed by the Applicant Companies, namely *ARUDHRA PROPERTIES LIMITED*, (herein after referred to as “1st Transferor Company”), *THE SOUTHERN TEXTILE LIMITED* (herein after referred to as “2nd Transferor Transferee Company”) and *KOCHAR PROPERTIES PRIVATE LIMITED* (herein after referred to as “Transferee Company”) in relation to a Scheme of Amalgamation (hereinafter referred to as the “SCHEME”) under section 230-232 of Companies Act, 2013, and other applicable provisions of the Companies Act, 2013 read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. The said Scheme is appended as Annexure –10 to the Company Application filed.
2. The Applicant Companies have sought the following reliefs;

	EQUITY SHAREHOLDERS	SECURED CREDITORS	UNSECURED CREDITORS
1ST TRANSFEROR COMPANY	<i>To Dispense with Convening of meeting</i>	NA	<i>To Dispense with Convening of meeting</i>
2ND TRANSFEROR COMPANY	<i>To Dispense with Convening of meeting</i>	NA	<i>To Dispense with Convening of meeting</i>
TRANSFEREE COMPANY	<i>To Dispense with Convening of meeting</i>	NA	<i>To Dispense with Convening of meeting</i>

3. A Common Affidavit verifying the Application is sworn for and on behalf of the Companies by one **Mr. Sohanraj Uttamchand** Son of Sohanraj in his capacity of Authorised signatory/Director of the Applicant Companies. It is also mentioned that the registered office of the Applicant Companies are situated within the jurisdiction of Registrar of Companies, Chennai, Tamil Nadu.

4. In the certificate of incorporation filed, it is stated that the 1st Transferor Company is a Public Limited company incorporated under the provisions of Companies Act, 1956 on 27.03.1995. The main object of the company is to purchase, take on lease or in exchange, hire or otherwise acquire and to hold, lease, sell, develop and deal in any movable or immovable properties, patents, licenses, rights or privileges and turn them to account, etc., The Registered office of the company is situated at No. 24/12, Raghavaiah Road, 3rd Floor, 'A' Wing, T. Nagar, Chennai – 600 017, Tamil Nadu. The Authorized, issued, subscribed and Paid-up share capital of the 1st Transferor Company as on 31.03.2023 is as follows:

PARTICULARS	AMOUNT (IN INR)
Authorized Share Capital	
5,00,000 Equity Shares of Rs.10/- each	50,00,000/-
Issued, Subscribed and Paid – up Share capital	
91,700 Equity Shares of Rs.10/- each	9,17,000/-

5. In the certificate of incorporation filed, it is stated that the 2nd Transferor Company is a Public Limited company incorporated under the provisions of Companies Act, 1956 on 29.03.1995. The main object of the company is to purchase, take on lease or in exchange, hire or otherwise acquire and to hold, lease, sell, develop and deal in any movable or immovable properties, patents, licenses, rights or privileges and turn them to account, etc.,. The Registered office of the company is situated at No. 24/12, Raghavaiah Road, 3rd Floor, 'C' Wing, T. Nagar, Chennai – 600 017, Tamil Nadu. The Authorized, issued, subscribed and Paid-

up share capital of the 1st Transferor Company as on 31.03.2023 is as follows:

PARTICULARS	AMOUNT (IN INR)
Authorized Share Capital	
5,00,000 Equity Shares of Rs.10/- each	50,00,000 /-
Issued, Subscribed and Paid – up Share capital	
91,675 Equity Shares of Rs.10/- each	9,16,750 /-

6. In the certificate of incorporation filed, it is stated that the Transferee Company is a Private Limited company incorporated under the provisions of Companies Act, 1956 on 02.07.2004. The main object of the company is to buy, sell, develop, maintain properties in India and abroad and to take up construction work promotional work and act as engineers, consultants, architects, contractors, dealers in builders, manufacturers, developers promoters and distributors of building materials of all kinds, commission agents and consultants for all kinds of goods and services relating to the development of property etc.,. The Registered office of the company is situated at No. 24/12, Raghavaiah Road, T. Nagar, Chennai – 600 017, Tamil Nadu. The Authorized, issued, subscribed and Paid-up share capital of the 1st Transferor Company as on 31.03.2023 is as follows:

PARTICULARS	AMOUNT (IN INR)
Authorized Share Capital	
98,00,000 Equity Shares of Rs.10/- each	9,80,00,000 /-
Issued, Subscribed and Paid – up Share capital	
1,43,000 Equity Shares of Rs.10/- each	14,30,000 /-

7. The Applicant Companies have filed their Memorandum and Articles of Association *inter alia* delineating its object clauses. They have also filed the last available Audited Annual Accounts for the year ended 31.03.2023 and Unaudited financials as on 30.09.2023.
8. The Board of Directors of the Applicant Companies vide individual meetings held on 29th November 2023 have unanimously approved the proposed Scheme as contemplated above and the copy of the resolutions passed thereon have been placed on record by the applicant Companies.
9. The Appointed date as specified in the Scheme is 01.04.2023.
10. The Statutory Auditors of the Applicant Companies have individually examined the Scheme in terms of the provisions of Sec. 232 of Companies Act, 2013 and the rules made thereunder and certified that the Accounting Standards are in compliance with Section 133 of the Companies Act, 2013. The Certificates of the Statutory Auditor issued in this regard is placed between Pg. nos. 377-379 of the Company Application.
11. **ARUDHRA PROPERTIES LIMITED (1ST TRANSFEROR COMPANY)**
 - i. There are 7 (*seven*) Equity Shareholders as on 30.09.2023 and the certificate along with the list issued by the Chartered Accountant to this effect is placed between page nos. 224-225. The Consent affidavits given by the equity shareholders constituting 100% of value are placed between page nos. 202-223 and has sought for dispensation of holding of meeting.

- ii. There is **NIL** Secured Creditor and the certificate issued by the Chartered Accountants to this effect is placed at page no. 271 of the typed set filed with the application.
- iii. There are **2** (*two*) Unsecured Creditors as on 30.09.2023 and the certificate along with the list issued by the Chartered Accountant to this effect is placed at page no. 272. The Consent affidavits given by the Unsecured Creditors constituting 100% of value are placed between page nos. 265-270 and has sought for dispensation of holding of meeting.

12. RKS PROPERTIES LIMITED (2ND TRANSFEROR COMPANY)

- i. There are **7** (*seven*) Equity Shareholders as on 30.09.2023 and the certificate along with the list issued by the Chartered Accountant to this effect is placed between page nos. 249-250. The Consent affidavits given by the equity shareholders constituting 100% of value are placed between page nos. 227-248 and has sought for dispensation of holding of meeting.
- ii. There is **NIL** Secured Creditor and the certificate issued by the Chartered Accountants to this effect is placed at page no. 286 of the typed set filed with the application.
- iii. There are **2** (*two*) Unsecured Creditors as on 30.09.2023 and the certificate along with the list issued by the Chartered Accountant to this effect is

placed at page no. 287. The Consent affidavits given by the Unsecured Creditors constituting 100% of value are placed between page nos. 281-285 and has sought for dispensation of holding of meeting.

13. KOCHAR PROPERTIES PRIVATE LIMITED (TRANSFEREE COMPANY)

- i) There are **3** (*three*) Equity Shareholders as on 30.09.2023 and the certificate along with the list issued by the Chartered Accountant to this effect is placed at page no. 262. The Consent affidavits given by the equity shareholders constituting 100% of value are placed between page nos. 252-261 and has sought for dispensation of holding of meeting.
- ii) There is **NIL** Secured Creditor and the certificate issued by the Chartered Accountants to this effect is placed at page no. 293 of the typed set filed with the application.
- iii) There are **38** (*thirty-eight*) Unsecured Creditors as on 30.09.2023 and the certificate along with the list issued by the Chartered Accountant to this effect is placed between page nos. 294-296. The Consent affidavits given by the Unsecured Creditors constituting 92.89% of value are placed between page nos. 297-366 and has sought for dispensation of holding of meeting.

14. Considering the submissions and the documents filed, as well as the position of law, the following directions are issued: -

A. IN RELATION TO THE 1ST TRANSFEROR COMPANY:

a. With respect to Equity shareholders:

Since, it is represented by 1st Transferor Company that there are 7 Equity Shareholders whose consent by way of affidavits have been obtained and placed on record, the necessity of convening, holding and conducting a meeting is *dispensed with*.

b. With respect to Secured Creditors:

Since it is represented by the 1st Transferor Company that there are *NIL* Secured Creditor in the Company. The necessity of Convening, holding and conducting a meeting *does not arise*.

c. With respect to Unsecured Creditors:

Since it is represented by the 1st Transferor Company that there are 2 Unsecured Creditors whose consent by way of affidavits have been obtained and placed on record, the necessity of convening, holding and conducting a meeting is *dispensed with*.

B. IN RELATION TO THE 2ND TRANSFEROR COMPANY

a. With respect to Equity shareholders:

Since, it is represented by 2nd Transferor Company that there are 7 Equity Shareholders whose consent by way of affidavits have been obtained and placed on record, the necessity of convening, holding and conducting a meeting is *dispensed with*.

b. With respect to Secured Creditors:

Since it is represented by the 2nd Transferor Company that there are *NIL* Secured Creditor in the Company. The necessity of Convening, holding and conducting a meeting *does not arise*.

c. With respect to Unsecured Creditors:

Since it is represented by the 2nd Transferor Company that there are 2 Unsecured Creditors whose consent by way of affidavits have been obtained and placed on record, the necessity of convening, holding and conducting a meeting is *dispensed with*.

C. IN RELATION TO THE TRANSFEREE COMPANY

a. With respect to Equity shareholders:

Since, it is represented by Transferee Company that there are 3 Equity Shareholders whose consent by way of affidavits have been obtained and placed on record, the necessity of convening, holding and conducting a meeting is *dispensed with*.

b. With respect to Secured Creditors:

Since it is represented by the Transferee Company that there are *NIL* Secured Creditor in the Company. The necessity of Convening, holding and conducting a meeting *does not arise*.

c. With respect to Unsecured Creditors:

Since it is represented by the Transferee Company that there are 38 Unsecured Creditors and consent affidavits placed on record constitutes only 92.89% of

value. Thus, the meeting of the Unsecured Creditors of the Transferee company is directed to be held on **24.06.2024** at **11:00 AM** at its registered office or through video conferencing or if not convenient at any other suitable place for which prior approval shall be sought from this Tribunal within a period of 7 days from the date of this order and prior to the issuance of notices.

15. QUORUM FOR THE MEETING

The quorum for the meeting of the Unsecured Creditors of the Transferee Company is 12.

- i) The Chairperson appointed for the above said meetings shall be *Mr. Sudhir GS (Contact No. 94455 03208)*. The fee of the Chairperson for the aforesaid meeting(s) shall be **Rs. 35,000/-** (consolidated) in addition to meeting their incidental expenses.
- ii) **Mr. Umar - (Contact No. 70101 89754)** is appointed as a Scrutinizer for meeting(s) of the company(s) would be entitled to fee of **Rs. 25,000/-** (consolidated) for services in addition to meeting(s) incidental expenses. The Chairperson will file the reports of the meetings within a week from the date of holding of the above said meetings.
- iii) In case the quorum as noted above, for the above meeting(s) of the Applicant company(s) are not present at the meeting(s), then the meeting(s) shall be adjourned by half an hour, and thereafter the person(s) present and voting shall be deemed to constitute the quorum. For the purpose of computing the quorum the valid proxies shall also be considered, if the proxy in the prescribed form, duly signed by the person entitled to attend and vote at the meeting, is filed with the

registered office of the applicant companies at least 48 hours before the meetings. The Chairperson and Alternate Chairperson appointed herein along with Scrutinizer shall ensure that the proxy registers are properly maintained. However, every endeavour should be made by the applicant companies to attain at least the quorum fixed, if not more in relation to approval of the scheme.

- iv) The meeting(s) shall be conducted either by way of physical means or by video or other audio visual means enabled with e-voting as per applicable procedure prescribed under the MCA Circular MCA General Circular Nos. (i) 20/2020 dated 5th May, 2020 (AGM Circular), (ii) 14/2020, dated 08.04.2020 (EGM Circular-I) and (iii) 17/2020 dated 13.04.2020 (EGM Circular-II);
- v) That individual notices of the above said meetings shall be sent by the Applicant company(s) through registered post or speed post or through courier or e-mail, 30 days in advance before the scheduled date of the meeting, indicating the day, date, the place and the time as aforesaid, together with a copy of Scheme, copy of explanatory statement, required to be sent under the Companies Act, 2013 and the prescribed form of proxy shall also be sent along and in addition to the above any other documents as may be prescribed under the Act or rules may also be duly sent with the notice.
- vi) That the Applicant company(s) shall publish advertisement with a gap of atleast 30 clear days before the aforesaid meetings, indicating the day, date and the place and time as aforesaid, to be published in the English Daily "*Business Standard*" (All India Edition), "*Makkal Kural*" Tamil (Tamil Nadu Edition) in Vernacular stating the copies of Scheme, the Explanatory Statement required to be furnished pursuant to Section 230 of the Companies Act, 2013 and the form of proxy shall be provided free of charge at the

registered office of the respective Applicant company(s).

- vii) The Chairperson shall be responsible to report the result of the meeting within a period of 3 days of the conclusion of the meeting with details of voting on the proposed scheme. Voting % of creditors as per list is to be decided after considering the amount of debt as on the date of voting, which is to be considered by the Chairperson.
- viii) The applicant company(s) shall further furnish copy of the Scheme free of charge within 1 day of any requisition for the Scheme made by every creditor or member of the applicant company(s) entitled to attend the meetings as aforesaid.
- ix) The Authorized Representative of the Applicant company(s) shall furnish an affidavit of service of notice of meetings and publication of advertisement and compliance of all directions contained herein at least a week before the proposed meetings.
- x) All the aforesaid directions are to be complied with strictly in accordance with the applicable law including forms and formats contained in the Companies (Compromises, Arrangements, Amalgamations) Rules, 2016 as well as the provisions of the Companies Act, 2013 by the Applicants.

16. Accordingly, the Application stands **Allowed** on the aforementioned directions and is disposed of.

-Sd-

VENKATARAMAN SUBRAMAIAM
MEMBER (TECHNICAL)

-Sd-

JYOTI KUMAR TRIPATHI
MEMBER (JUDICIAL)