

**IN THE HON'BLE NATIONAL COMPANY LAW TRIBUNAL  
BENCH AT CHANDIGARH**

**CA (CAA) No. 34/Chd/Chd/2023  
(1<sup>st</sup> Motion)**

**Under Sections 230 to 232 of the  
Companies Act, 2013 read with  
Companies (Compromise,  
Arrangements and Amalgamations)  
Rules, 2016**

**IN THE MATTER OF SCHEME OF AMALGAMATION OF:**

**P & R GOGRIPUR HYDRO POWER PRIVATE LIMITED**

Regd office: Quite Office No. 7,  
2<sup>nd</sup> Floor, Sector 35-A, Chandigarh  
CIN: U40101CH2007PTC044413

**... APPLICANT COMPANY/ TRANSFEROR COMPANY NO. 1**

**And**

**P & R FILMS PRIVATE LIMITED**

Regd office: Quite Office No. 7,  
2<sup>nd</sup> Floor, Sector 35-A,  
Chandigarh  
CIN: U92400CH2011PTC044416

**... APPLICANT COMPANY / TRANSFEROR COMPANY NO. 2**

**With**

**P AND R ENGINEERING SERVICES PRIVATE LIMITED**

Regd office: Quite Office No. 7,  
2<sup>nd</sup> Floor, Sector 35-A,  
Chandigarh  
CIN: U74210CH1999PTC044412

**... APPLICANT COMPANY / TRANSFEREE COMPANY**

**Order delivered on: 14.09.2023**

**Coram: HON'BLE MR. HARNAM SINGH THAKUR, MEMBER (JUDICIAL)  
HON'BLE MR. SUBRATA KUMAR DASH, MEMBER (TECHNICAL)**

**Present:-**

For the Applicant Companies: Mr. Balwinder Singh Kalsi, Advocate

**Per: Subrata Kumar Dash, Member (Technical)**

**ORDER**

This is a Joint First Motion Application filed by Applicant Companies namely; **P & R GOGRIPUR HYDRO POWER PRIVATE LIMITED** (referred to as “Applicant Company /Transferor Company No. 1”) and **P & R FILMS PRIVATE LIMITED** (referred to as “Applicant Company / Transferor Company No. 2”), and **P AND R ENGINEERING SERVICES PRIVATE LIMITED** (referred to as “Applicant Company / Transferee Company”) under Section 230-232 of the Companies Act, 2013 (the Act) and other applicable provisions of the Act read with Companies (Compromises, Arrangements, and Amalgamations) Rules, 2016 (the Rules) in relation to the Scheme of Amalgamation for merger of P & R Gogripur Hydro Power Private Limited and P & R Films Private Limited (referred to as the Transferor Companies) with P & R Engineering Services Private Limited (Transferee Company). The said Scheme is attached as Annexure P- 24 with the Application.

2. The matter was relisted on 24.08.2023 due to the irregularity that the consents of shareholders and secured and unsecured creditors of both Applicant Companies have been furnished in the form of letters and not by way of affidavits. The compliance was made by submitting the consent on affidavit vide Dairy No. 02112/1 dated 31.08.2023.

3. The applicant companies have prayed for dispensing with the requirement of convening the meetings of shareholders, secured and unsecured creditors of the applicant companies.

4. The Transferor Company No. 1 is presently engaged in the business of, *inter alia*, to carry on the business of to set up the Hydro power plants for generation and distribution of electricity and other related activities.

5. The Transferor Company No. 2 is presently engaged in the business of, *inter alia*, film production. Now, it has also entered into the business of distribution and generation of hydro power by passing a special resolution.

6. The Transferee Company is presently engaged in the business of, *inter alia*, provide engineering services to various constructions and power projects along with generation, distribution and other activities related to power and electricity.

7. It is submitted that the registered offices of the Applicant Company No. 1, Applicant Company No. 2 and Applicant Company No. 3 are situated at the same address and are within the Union Territory of Chandigarh, therefore, the territorial jurisdiction of Applicant Companies falls with this Bench.

8. The rationale of the Scheme is given below :-

- a. The aforesaid amalgamation will enable appropriate consolidation and integration of the operations and activities of all companies and enable the merged entity to offer a comprehensive package of all activities relating to business under a simplified corporate structure.
- b. The proposed merger will enable the merged entity to run and manage business activities more competitively and effectively with the combined infrastructures, credentials, experience and track record of all Companies.
- c. The business of the amalgamated entity will be continuing to run more efficiently and economically as a result of pooling of resources and their effective utilization. This will also result in substantial reduction in costs and duplicity.
- d. As such the amalgamation of the Transferor Companies with the

Transferee Company will also result in the formation of a larger, more profitable and broad based company having greater capacity to raise and access funds for growth and expansion of its business, marketing and selling its services.

- e. The amalgamation will enable greater realisation of the potential of the business of the Transferor Company No 1, Transferor Company No 2 and the Transferee Company in the merged entity and will have beneficial results for the said Companies, their shareholders and all other stakeholders.

9. It is stated that the Board of Directors of the Transferor Companies and the Transferee Company, in their meetings held on 30.05.2023, have considered and unanimously approved the Scheme subject to the sanction of the same by this Tribunal. The copies of the Board Resolutions of the Transferor Companies and the Transferee Company are part of Annexures P-1, P-2, and P-3 of the Application respectively.

10. The appointed date of the Scheme is 01.04.2022 as defined in Part-I, Clause 1 sub clause ii of Scheme of Amalgamation which is attached as Annexure P-24 of the Application.

11. It is submitted that the Scheme of Amalgamation (Annexure P-24) also takes care of the interest of the staff/workmen and employees of the Applicant Companies, by virtue of Clause 8.1, 8.2 and 8.3 of the Scheme.

12. It is stated that the Applicant Companies have filed the audited financial statements as at 31.03.2022 as Annexure- P-5, Annexure P-11 and Annexure P-17, along with provisional financial statements as on 31.12.2022, with the application which are attached as Annexure P-5, Annexure P-11 and Annexure P-17 of the application respectively.

13. It is further submitted that in pursuance to Section 230 and Section 232 of the Act, the Applicant Companies have filed the certificate dated 23.06.2023 issued by the Statutory Auditor of the Applicant Companies certifying that the Scheme is in compliance with the Accounting Standards under Section 133 of the Act which is attached as Annexure P-23 of the application.

14. It is further submitted by the counsel for applicant companies that the valuation report has been submitted by Mr. Harman Jit Singh, IBBI Registered Valuer, having Regn. No. IBBI/RV/06/2019/12115 which is attached as Annexure P-25 of the application. As per the valuation report dated 23.06.2023 the following share exchange ratio has been proposed :-

- a. *In case of Transferor Company No 1: 1 New Equity Share of Rs.10/- each in the Transferee Company credited as fully paid up for every 83 (Eighty Three) Equity Shares of Rs.10/- each fully paid-up held by them in the capital of the Transferor Company No 1.*
- b. *In case of Transferor Company No 2: 1 New Equity Share of Rs.10/- each in the Transferee Company credited as fully paid up for every 5000 (Five Thousand) Equity Shares of Rs.10/- each fully paid-up held by them in the capital of the Transferor Company No 2.*

15. It is deposed by way of affidavits furnished by authorized signatories of the Applicant Companies that there are no material investigations or proceedings pending against the Applicant Companies under the Companies Act, 2013 or any other provision of law which have a material adverse effect on the sanction of the Scheme. There are no material legal proceedings against the Applicant Companies under applicable laws that adversely impact the sanction of the Scheme. (Annexure P-22 of the Application).

16. It is further deposed by the authorized representatives of Applicant Companies that the Applicant Companies are not regulated or governed by any sectoral regulators such as the Securities and Exchange Board of India (SEBI), Reserved Bank of India, Competition Commission of India (CCI), or any other Sectorial Regulator. The aforesaid affidavit has been attached as (Annexure P-22 of the Application).

17. It is deposed by the way of affidavit that the present Scheme of Amalgamation does not involve the reduction of share capital and that the Scheme does not provide for any arrangement with the outside creditors and thus thereby Corporate Debt restructuring is not applicable to the Scheme (Annexure P-22 of the Application).

18. It is further stated that the Scheme does not envisage any buyback of shares. None of the Applicant Companies hold any public deposit, as on the date of the application.

19. The Applicant Companies have furnished the following documents:-

- a) Proposed Scheme (Annexure P-24 of the application).
- b) The Certificates of Incorporation along with Memorandum and Articles of Association of applicant companies. (Annexures P-4, P-10 & P-16, respectively of the Application)
- c) List of Equity Shareholders of Applicant Company No.1 along with consent duly supported by affidavit of director (Annexures P-6 and P-7 of the application).
- d) List of Secured and Unsecured Creditors of Applicant Company No. 1 duly certified by Chartered Accountants along with consent of

creditors duly supported by affidavit of director (Annexures P-8 and P-9 of the application).

- e) List of Equity Shareholders of Applicant Company No. 2 along with consent duly supported by affidavit of director (Annexure P-12 and P-13 of the application).
- f) List of Secured and Unsecured Creditors of Applicant Company No. 2 duly certified by Chartered Accountants along with consent of creditors duly supported by affidavit of director (Annexures P-14 and P-15 of the application).
- g) List of Equity Shareholders of the Applicant Company/Transferee Company along with consent duly supported by affidavit of director (Annexures P-18 and P-19 of the application).
- h) List of Secured and Unsecured Creditors of Applicant Company/Transferee Company duly certified by Chartered Accountants along with consent of creditors duly supported by affidavit of director (Annexures P-20 and P-21 of the application).
- i) Certificates of Statutory Auditors to the effect that accounting treatment proposed in the Scheme is in conformity with Section 133 of the Act (Annexures P -23 of the application).
- j) Proposed scheme along with exchange ratio (Annexure P-24 of the application).
- k) Audited Financial Statements as on 31.03.2022 of the applicant companies (Annexures P-5, P-11 and P-17 of the application).
- l) Provisional Financial Statements as on 31.12.2022 of the applicant companies (Annexures P-5, P-11 and P-17 of the application).

m) Affidavit with regard to the Sectoral Regulator of the applicant companies (Annexure P-22 of the application).

20. The Applicant Companies have furnished the details of the Equity Shareholders, Preference Shareholders, Secured Creditors, Unsecured Creditors, and Debenture holders as follows:

Name of the Applicant Companies	Shareholders along with their consent				Creditors along with their consent.					
	Equity Shareholder	Consent with calculations	Preference Shareholders	Consent Given	Debenture Holders	Consent with calculations	Secured Creditors	Consent with calculations	Unsecured Creditors	Consent with calculations
Applicant Company/ Transferor Company No. 1	6	100% in Value	NIL	NA	Nil	NA	1	100% in Value	4	100% in Value
Applicant Company/ Transferor Company No. 2	2	100% in Value	NIL	NA	Nil	NA	NIL	NA	2	100% in Value
Applicant Company/ Transferee Company	8	100% in Value	Nil	NA	Nil	NA	1	100% in Value	NIL	NA

21. Accordingly, the directions of this Bench in the present case are as under:

**I. In relation to Applicant Company /Transferor Company No. 1:**



- a. The meeting of the Equity Shareholders is dispensed with keeping in view the shareholding pattern, financial structure of the company, and the fact that the consents have been received by way of affidavits;
- b. The meeting of Unsecured creditors of the Applicant Company No. 1 has been dispensed with as the consent of all unsecured creditors have been furnished by way of affidavits;
- c. The meeting of sole secured creditor of the Applicant Company No. 1 has been dispensed with as the consent of sole secured creditor have been furnished by way of affidavit;

**II. In relation to Applicant Company /Transferor Company No. 2:**

- a. The meeting of the Equity Shareholders is dispensed with keeping in view the shareholding pattern, financial structure of the company, and the fact that the consent has been received by way of affidavit;
- b. The meeting of unsecured creditors of the Applicant Company No. 2 has been dispensed with as the consent of all unsecured creditors have been furnished by way of affidavit;
- c. Since there are no Secured creditor in Applicant Company No. 2, therefore, there is no scope for any meeting;

**III. In relation to Applicant Company /Transferee Company:**

- a. The meeting of the Equity Shareholders is dispensed with keeping in view the shareholding pattern, financial structure of the company, and the fact that the consent has been received by way of affidavits;
- b. The meeting of sole Secured creditor of the Applicant Company/ Transferee Company has been dispensed with as the consent of sole secured creditor have been recieved by way of affidavit;

c. Since there are NIL Unsecured creditor in Applicant Company/  
Transferee Company, therefore, there is no scope for any meeting;

22. In view of the above, the First Motion Application stands allowed by giving liberty to the Applicant Companies to file Second Motion Petition with a direction that the Applicant Companies shall make specific prayer for sending notices to the (a) Central Government through Regional Director, Northern Region, Ministry of Corporate Affairs, New Delhi, (b) concerned Registrar of Companies; (c) Official Liquidator; and (d) Income Tax Authorities by disclosing the PAN numbers of all the Applicant Companies in the title of the Second Motion Petition.

Sd/-

**(Subrata Kumar Dash)**  
**Member (Technical)**

Sd/-

**(Harnam Singh Thakur)**  
**Member (Judicial)**

September 14, 2023  
PRF/TBG