

THE NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH-I, CHANDIGARH

CA (CAA) No. 9/Chd/Hry of 2024

IN THE MATTER OF SCHEME OF ARRANGEMENT:

PEE EMPRO EXPORTS PVT LTD

...Applicant No. 1/Demerged Company

And

HEMLA EMBROIDERY MILLS PVT LTD

...Applicant No. 2/Resulting Company

Order delivered on: 25.04.2024

Section 230 & 232 of the Companies Act, 2013

CORAM:

SH. HARNAM SINGH THAKUR, HON'BLE MEMBER (JUDICIAL)

SH. L. N. GUPTA, HON'BLE MEMBER (TECHNICAL)

PRESENT

For the Applicant Companies: Mr Kartikeya Goel, Advocate

ORDER

Per: SH. L. N. GUPTA, M (T) & SH. HARNAM SINGH THAKUR, M (J)

1. The Applicant Companies have filed the present Application under Sections 230-232 of the Companies Act, 2013 with prayers for (a) calling, convening, and holding the meetings of Unsecured Creditors of the Demerged Company; and Secured Creditors and Unsecured Creditors of the Resulting Company, and (b) dispensing with the meetings of Equity

Shareholders of the Demerged Company and the Resulting Company. The Applicant Companies have further prayed for approval of the ‘Scheme of Arrangement, which shall take effect from the Effective Date.

2. Pee Empro Exports Pvt Ltd (hereinafter referred to as the **“Applicant No. 1/ Demerged Company”**) having CIN: U74899HR1980PTC115338, is a private limited company incorporated on 18th June, 1980 under the provisions of the Companies Act, 1956. The registered office of the Demerged Company is situated at Plot No. 78, Sector-27A, Main Mathura Road, Faridabad-121 003, Haryana. The present Authorised Share Capital of the Demerged Company is ₹5,00,00,000 divided into 5,00,000 Equity Shares of ₹100 each. The present Issued, Subscribed and Paid-up Capital of the Company is ₹4,80,00,000 divided into 4,80,000 Equity Shares of ₹100 each.

3. Hemla Embroidery Mills Pvt Ltd (hereinafter referred to as the **“Applicant No. 2/ Resulting Company”**) having CIN: U74999HR1958 PTC002248, is a private limited company incorporated on 21st August, 1958 under the provisions of the Companies Act, 1956. The registered office of the Resulting Company is situated at 14/6, Hemla Nagar, Mathura Road, Faridabad-121 003, Haryana. The Authorized Share Capital of the Resulting Company is ₹50,00,000 divided into 50,000 Equity Shares of ₹100 each. The present Issued, Subscribed and Paid-up Capital of the Company is ₹45,00,000 divided into 45,000 Equity Shares of ₹100 each.

4. This Application has been preferred by the Transferor and Transferee Companies jointly. Both the 'Demerged Company' and 'Resulting Companies together are called **'Applicant Companies'** **hereinafter**. The Registered offices of both the Companies being in State of Haryana, the territorial jurisdiction lies with this Bench.

5. It is seen from the record that the Board of Directors of the Applicant Companies, vide separate meetings held on 18th December 2023, have approved the proposed "Scheme of Arrangement".

6. It is stated by the Applicant Companies that the aforesaid "Scheme of Arrangement" will result in the following advantages:

i. "Pee Empro Exports Pvt Ltd is primarily engaged in manufacturing and export of readymade garments. The Company is a recognized Export House registered with Apparel Export Promotion Council (AEPC). Apart from the core business of manufacturing and export of readymade garments, the Company is also engaged in investment business and other ancillary activities. Thus, the Demerged Company has two business verticals-Garment Business and Investment Business.

ii. Whereas Hemla Embroidery Mills Pvt Ltd is engaged in business of embroidery on fabric and other related activities. The Company is one of the leading players in schiffli embroidery. Catering to the needs of garment and fabric exporters for more than 50 years, it has one of the largest processing facilities in Northern India. The Resulting Company is a subsidiary of the Demerged Company. The Demerged Company

is holding 91% of the total issued and paid-up Equity Share Capital of the Resulting Company.

- iii.** *To have complete focus on its core business activities of manufacturing and export of readymade garments and for other strategic reasons, the Demerged Company is proposing to hive off its Investments Business and consolidated the same into its Subsidiary Resulting Company.*
- iv.** *The proposed Demerger will enable better management focus on the respective businesses. It will facilitate administrative convenience and will ensure optimum utilization of various resources in the Demerged Company and the Resulting Company.*
- v.** *The proposed Demerger will enable the Demerged Company and the Resulting Company to hire suitable manpower, raise necessary funds, invite strategic investors and other stakeholders for their respective businesses.*
- vi.** *The proposed Demerger will provide scope for independent expansion of various businesses. It will strengthen, consolidate and stabilize the business of these Companies and will facilitate further expansion and growth of their business.*
- vii.** *The proposed Demerger will have beneficial impact on the Demerged Company and the Resulting Company, their shareholders, employees, and other stakeholders and all concerned.”*

7. The Applicant Companies have filed affidavits dated 29th February, 2024 in compliance with Section 230(2)(a) of the Companies Act, 2013, submitting therein that no legal proceeding for inspection, inquiry, or investigation under the provisions of the Companies Act are pending against them.

8. The Applicant Companies have also placed on record the Certificates from the statutory Auditors confirming that their accounting standards are in conformity with the provision of section 133 of the Companies Act, 2013.

9. The Applicant Companies have filed their respective Memorandum of Association (MoAs) and Articles of Association (AoAs), their audited Balance Sheets as on 31.03.2023 and their Un-audited Financial Statements (provisional) for the period ended on 30.09.2023 on record.

10. The position of Applicant Company-wise no. of Shareholders and Creditors and their consent through Affidavits are summarised overleaf:

Demerged Company

Particulars	Total No.	Consent Affidavits Obtained
Equity Shareholders	2	All
Secured Creditors	Nil	N.A.
Un-secured Creditors	375¹	Meeting to be convened ²

Resulting Company

Particulars	Total No.	Consent Affidavits Obtained
Equity Shareholders	4	All
Secured Creditors	3	Meeting to be convened ²
Un-secured Creditors	66¹	Meeting to be convened ²

¹ In addition to the aforesaid Unsecured Creditors, the Demerged Company and the Resulting Company have some 'Statutory and Other Dues' which have either been paid in full or being provision in nature, are not due for payment. Certificates from the Chartered Accountants confirming the same are enclosed.

² Separate meetings of Secured Creditors of the Demerged Company; and Secured Creditors and Unsecured Creditors of the Resulting Company are proposed to be convened through Video Conferencing with facility of remote e-voting under the supervision of this Hon'ble Tribunal to consider and approve the proposed Scheme of Arrangement.

11. Since 100% Equity Shareholders of the Demerged Company and Resulting Company have given their consents on affidavit, therefore, the requirement of convening their meetings is dispensed with.

12. There are no Secured Creditors in the Demerged Company hence, the question of convening their meeting does not arise.

13. There are 375 Unsecured Creditors in the Demerged Company, and 03 Secured Creditors & 66 Unsecured Creditors in the Resulting Company, whose consents have not been taken. The Applicant Companies, have prayed to convene their meetings. Therefore, the meetings of the Unsecured Creditors of the Demerged Company and

Secured Creditors & Unsecured Creditors of the Resulting Company are ordered to be convened in the following manner:

- a. The meeting of the Unsecured Creditors of the Applicant Demerged Company shall be convened through video conferencing with facility for remote e-voting.
- b. The details of the quorum, time, and date of the meeting of the Unsecured Creditors of the Applicant No.1/Demerged Company are fixed as follows:

Meeting	Time	Date of the Meeting	Total No. of Unsecured Creditors	Quorum of the Meeting
Unsecured Creditors of Demerged Company	11:00 A.M.	Thursday, 13 th June, 2024	375	50 in no.

- c. The meeting of the Secured Creditors of the Applicant Resulting Company shall be convened through video conferencing with facility for remote e-voting.
- d. The details of the quorum, time, and date of the meeting of the Secured Creditors of the Applicant No. 2/Resulting Company are fixed as follows:

Meeting	Time	Date of the Meeting	Total No. of Secured Creditors	Quorum of the Meeting
Secured Creditors of Resulting Company	2:00 P.M.	Thursday, 13 th June, 2024	3	2 in no.

- e. The meeting of the Unsecured Creditors of the Applicant Resulting Company shall be convened through video conferencing with facility for remote e-voting.
- f. The details of the quorum, time, and date of the meeting of the Unsecured Creditors of the Applicant No. 2/Resulting Company are fixed as follows:

Meeting	Time	Date of the Meeting	No. of Unsecured Creditors	Quorum of the Meeting
Unsecured Creditors of Resulting Company	4:00 P.M.	Thursday, 13 th June, 2024	66	10 in no.

- g. In case the required quorum as noted above for the meetings is not present at the commencement of the meeting, the Chairman shall adjourn the meeting by 30 minutes and thereafter, the creditors present shall be deemed to constitute the quorum.
- h. In compliance of the order dated 20.03.2024 Applicants suggested the following names :

c. Appoint Mr Ajay Garg, Advocate (Mob: 9810158129, Email: ajay@gargonline.in) as the common Chairperson, for the aforesaid meetings and to direct the Chairperson to file his Report(s) on the meetings before this Hon'ble Tribunal. Fee of ₹-----/- (Rupees----- Only) be paid to the Chairperson for his services as the Chairperson.

Appoint Mr Naresh Chand Gupta, Advocate (Mob: 9839121835, Email: advgupta59@gmail.com) as the common Alternate Chairperson, for the aforesaid meetings. Fee of ₹-----/- (Rupees----- Only) be paid to the Alternate Chairperson for his services as the Alternate Chairperson.

Appoint Ms Mallika Goel, FCS (Mob: 9044297143, Email: goelmallika9@gmail.com) as the common Scrutiniser for the aforesaid meetings. Fee of ₹-----/- (Rupees----- Only) be paid to the Scrutiniser for her services as the Scrutiniser.


KARTIKENA GOEL
Advocate

Accordingly,

- i. Mr. Ajay Garg, Advocate (Mob: 9810158129, Email: ajay@gargonline.in), is appointed as the common **Chairperson** for the meetings to be called under this order. Consolidated amount of ₹1,50,000/- be paid for his services as the Chairperson.
- j. Mr. Naresh Chand Gupta, Advocate (Mob: 9839121835, Email: advgupta59@gmail.com), is appointed as the **common Alternate Chairperson** for the meetings to be called under this order. Consolidated amount of ₹1,00,000/- be paid for his services as the Alternate Chairperson.
- k. Ms Mallika Goel, Company Secretary (Mob: 9044297143, Email: goelmallika9@gmail.com), is appointed as the **common Scrutinizer** for the above meetings to be called under this order. Consolidated amount of ₹1,00,000/- be paid for her services as the Scrutinizer.
- l. The fee of the Chairperson, Alternate Chairperson, Scrutinizer and other out-of-pocket expenses for them shall be borne by the Applicant Demerged Company and the Resulting Company jointly.
- m. It is further directed that individual notices of the aforesaid meetings shall be sent by the Applicant Demerged Company to its Unsecured Creditors and by the Resulting Company to its respective Secured Creditors and Unsecured Creditors, through registered post or speed post or through courier and e-mail, 30 days in advance before the scheduled date of the meetings, indicating the day, date and time as aforesaid, together with a copy of the Scheme, copy of the explanatory statement with Share Exchange Ratio as required to be

sent under the Companies Act, 2013 and the applicable Rules and any other documents as may be prescribed under the Act shall also be duly sent with the notice.

- n. The Demerged Company and the Resulting Company shall publish an advertisement with a gap of at least 30 clear days before the aforesaid meetings, indicating the day, date and place and the time of the meetings as aforesaid, to be published in “Business Standard” (English, Delhi NCR Edition) and “Business Standard” (Hindi, Delhi NCR Edition).
- o. Voting is allowed on the proposed Scheme through remote e-voting process which should follow the guidelines issued by the Ministry of Corporate Affairs in this regard.
- p. The Chairperson shall be responsible to report the result of the meetings to this Tribunal within 7 (seven) working days of the conclusion of the aforesaid meetings.
- q. Further, the Applicant Demerged Company and the Resulting Company shall individually and in compliance of sub-section (5) of Section 230 of the Act send separate Notices together with a copy of the Scheme, copy of the explanatory statement with Share Exchange Ratio to:
 - (i) The Central Government through the office of the Regional Director, Northern Region, Ministry of Corporate Affairs, New Delhi;
 - (ii) The Registrar of Companies, NCT of Delhi and Haryana, New Delhi;

- (iii) The Income Tax Department, in the respective circle/ward where these Companies are assessed or through the nodal office by mentioning the PAN number of the Applicant Companies.
- (iv) Such other Sectoral Regulatory Authorities, which govern the working of the Companies involved in the Scheme.
- r. The aforesaid Authorities are directed to raise objection/representation, if any, within 30 days from the date of receipt of such notice. In the event of no objection or representation made within the stipulated timeframe, it shall be presumed that they do not have any objection.
- s. The authorized representative of the Applicant Demerged Company and the Resulting Company shall file affidavit of service of notice of meetings and publication of advertisement in newspapers and compliance of all directions contained herein at least a week before the proposed meetings.

14. **The Application is allowed in the aforesaid terms.**

Sd/-
(L. N. Gupta)
Member (Technical)

Sd/-
(Harnam Singh Thakur)
Member (Judicial)