

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL

COURT NO VI, NEW DELHI

CA(CAA) – 35/ND/2024

(Under sections 230-232 and other applicable provisions of the Companies Act, 2013 read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.)

IN THE MATTER OF SCHEME OF ARRANGEMENT OF

M/s VISTA FURNISHING LIMITED

Registered Office at:

F-228, Ground Floor, Old M.B. Road, Village Lado Sarai, Mehrauli, New Delhi-110030

... Applicant Company 1/Demerged Company

AND

M/s VISTA DECOR PRIVATE LIMITED

Registered Office at:

F-228, Ground Floor, Old M.B. Road, Village Lado Sarai, Mehrauli, New Delhi-110030

... Applicant Company 2/Resulting Company No.1

M/s VISTA FASHIONS PRIVATE LIMITED

Registered Office at:

F-228, Ground Floor, Old M.B. Road, Village Lado Sarai, Mehrauli, New Delhi-110030.

... Applicant Company 3/ Resulting Company No.2

For the Petitioners: Adv. Hemant Sharma, Adv. Aditi Sharma

CORAM:

SH. MAHENDRA KHANDELWAL, HON'BLE MEMBER (JUDICIAL)

SH. RAHUL BHATNAGAR, HON'BLE MEMBER (TECHNICAL)

ORDER

PER – RAHUL BHATNAGAR, MEMBER (TECHNICAL)

Order Delivered on: 22.04.2024

1. This is a first motion application filed jointly by M/s Vista Furnishing Limited (for brevity “Demerged Company / Applicant Company No 1”), M/s Vista Décor Private Limited (for brevity “Resulting Company No 1/ Applicant Company No 2”) and M/s Vista Fashions Private Limited (for brevity “Resulting Company No 2/ Applicant Company No 3”) under Section 230-232 of Companies Act, 2013 read with other applicable provisions of the Act read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (the Rules) in relation to the Scheme of Arrangement between the Applicant Companies in relation to the Scheme of Arrangement by way of Demerger (hereinafter referred to as the “SCHEME”) proposed between the applicants.
2. That all the three Applicant Companies under the Scheme of Arrangement have their respective registered office in Delhi and hence are under the jurisdiction of the National Company Law Tribunal, Bench at New Delhi.

3. The Scheme of Arrangement by way of demerger was approved by Board of Directors of the Applicant Companies No 1, 2 & 3 on 05.01.2024 and the copy of the same have been duly filed along with the application.
4. The Applicant Company No.1/Demerged Company – M/s Vista Furnishing Limited, bearing Corporate Identification No. (CIN): U17291DL2015PLC311388, was originally incorporated under the provisions of the Companies Act, 2013 as a Private Limited Company vide Certificate of Incorporation dated 23.12.2015. However, the name of the Company was changed from Vista Furnishing Private Limited to Vista Furnishing Limited vide fresh certificate of incorporation issued on 10.03.2022 by Registrar of Companies, Delhi. The registered office of the Applicant Company No 1 is at F-228, Ground Floor, Old M.B. Road, Village Lado Sarai, Mehrauli, New Delhi-110030. The Share Capital of the Applicant Company No. 1/ Demerged Company as on 31.03.2023 is as under: -

Particulars	Amount in Rs.
Authorised Share Capital	
15,00,000 Equity Shares of Rs. 10 each	150,00,000
79,00,000, 0.10% Non-Cumulative Convertible Preference Shares of Rs. 100 each	79,00,00,000
Total	80,50,00,000

Issued, Subscribed and Paid-up	
12,80,000 Equity Shares of Rs. 10 each	128,00,000
73,41,000 0.10% Non-Cumulative Convertible Preference Shares of Rs. 100 each	73,41,00,000
Total	74,69,00,000

5. The Authorised Share Capital of the Applicant Company No 1 was reorganised by way of Special Resolution by the members of the Company at Annual General Meeting held on 30.12.2023. Accordingly, the Authorised Share Capital of the Company is as under: -

Particulars	Amount in Rs.
Authorised Share Capital	
65,90,000 Equity Shares of Rs. 10 each	6,59,00,000
73,91,000, 0.10% Non-Cumulative Convertible Preference Shares of Rs. 100 each	73,91,00,000
Total	80,50,00,000

6. The -Applicant Company No. 2 /Resulting Company No 1 – M/s Vista Décor Private Limited, bearing Corporate Identification No. (CIN): U74102DL2023PTC421345, was incorporated under the provisions of the Companies Act, 2013 as Private Limited Company vide Certificate of Incorporation dated 14.10.2023 with the Registrar of Companies, NCT of Delhi & Haryana and having its registered office at F-228, Ground Floor, Old M.B. Road, Village Lado Sarai, Mehrauli, New Delhi-110030. The Share Capital of the Resulting Company No 1 is as under:

Particulars	Amount in Rs.
Authorized Share Capital	
150,000 Equity Shares of Rs. 10 each	15,00,000
Total	15,00,000
Issued, Subscribed and Paid-up	
10,000 Equity Shares of Rs. 10 each	100,000
Total	100,000

7. The Applicant Company No. 3/Resulting Company No 2 – M/s Vista Fashions Private Limited, bearing Corporate Identification No. (CIN): U13919DL2023PTC421303, was incorporated under the provisions of the Companies Act, 2013 as Private Limited Company vide Certificate of Incorporation dated 13.10.2023 with the Registrar of Companies, NCT of Delhi & Haryana and having its registered office at F-228, Ground Floor, Old M.B. Road, Village Lado Sarai, Mehrauli, New Delhi-110030. The Share Capital of the Resulting Company No 2 is as under: -

Particulars	Amount in Rs.
Authorized Share Capital	
150,000 Equity Shares of Rs. 10 each	15,00,000
Total	15,00,000
Issued, Subscribed and Paid-up	
10,000 Equity Shares of Rs. 10 each	100,000
Total	100,000

8. The Demerged Company as well as the Resulting Company No 1 and 2 have filed their respective Memorandum and Articles of Association, inter alia delineating their object clauses.

9. The Appointed date as per the scheme of Arrangement is 01.04.2023

10. It has been stated that the Demerged Company has 10 Equity Shareholders and 204 Preference Shareholders. Certificate from the Chartered Accountants certifying list of Shareholders was annexed. It was further represented that the Demerged Company has 2 Secured Creditors.

Certificate from the Chartered Accountants certifying list of creditors was annexed. The Demerged Company has 425 Unsecured Creditors. Certificate from Chartered Accountants certifying list of creditors was annexed. In relation to the Shareholders (Equity and Preference), Secured and Unsecured Creditors, the Applicant Companies prayed to hold four separate meetings.

11. It has been stated that the Resulting Company No 1 has 2 Equity Shareholders. Certificate from the Chartered Accountants certifying list of Shareholders was annexed. Both the Shareholders have given their respective consents by way of affidavits, which were annexed to the application. The Resulting Company No 1 has NIL Secured Creditors hence the necessity of convening or dispensing the meeting does not arise. Certificate from the Chartered Accountants certifying NIL creditors was annexed. It was further represented that the Resulting Company No 1 has NIL Unsecured Creditors hence the necessity of convening or dispensing the meeting does not arise. Certificate from the Chartered Accountants certifying NIL creditors was annexed. In relation to the Shareholders, it seeks to dispense with the holding/convening of the meetings as their consent affidavits were placed on record.

12. It has been stated that the Resulting Company No 2 has 2 Equity Shareholders. Certificate from the Chartered Accountants certifying list of Shareholders was annexed. Both the Shareholders have given their respective consents by way of affidavits, which were annexed to the application. The Resulting Company No 2 has NIL Secured Creditors

hence the necessity of convening or dispensing the meeting does not arise. Certificate from the Chartered Accountants certifying NIL creditors was annexed. It was further represented that the Resulting Company No 2 has NIL Unsecured Creditors hence the necessity of convening or dispensing the meeting does not arise. Certificate from the Chartered Accountants certifying NIL creditors was annexed. In relation to the Shareholders, it seeks to dispense with the holding/convening of the meetings as their consent affidavits were placed on record.

13. That the businesses/divisions of Applicant Company No 1 are diversified with different manufacturing processes, markets, staff skill etc and in order to grow these businesses to ensure optimum utilization of resources with an objective to create maximum value for the shareholders, it has been considered prudent to segregate these distinct divisions/undertakings into two separate companies (i.e. two resulting companies) other than Applicant no.1.
14. That Vista Decor Private Limited, Resulting Company/Applicant no.2 and Vista Fashions Private Limited, Resulting Company/Applicant no. 3 have been created to carve out and to transfer the Fabric & Window Covering Division and Soft Home Furnishing Division along with the new spinning business of the Demerged Company respectively to them. The Demerged Company is the holding company and Resulting Companies being Applicant no.2 and Applicant no.3 are the subsidiary companies of Demerged company herein, with Demerged company having 99.9% shareholding in the respective companies

15. As stated in the petition, the proposed scheme of demerger will have following benefits:

- a. To create more transparency for the shareholders, since visibility and control over the operations and cash flow of the businesses through the Resulting Company No. 1 and Resulting Company No. 2 shall increase.
- b. Each of the Resulting Companies shall be able to manage its capital structure, financing and investment decisions which will lead to better resource allocation and financial management
- c. The resulting companies shall be able to engage specialized staff for manufacturing and for marketing as per their own requirements
- d. All the real estate shall remain housed in demerged Company and as a result shall be saved from the business risks which the resulting companies shall be exposed to.
- e. The businesses of both the resulting companies shall get focused attention of their respective managements and the same shall help the said companies to grow to their potential.
- f. To consecutively reduce overall risk exposure of the companies as the challenges faced by the business of one Resulting Company will not affect the performance of the other group companies.
- g. The shareholders of the Demerged Company can enjoy the benefits of more strategically focused businesses with independent management accountability. This shall result in higher value for their investment.

16. Upon the coming into effect of this Scheme, after completion of the conversion of the Preference Shares in the First Phase of this Scheme; and in consideration of the transfer and vesting of the Demerged Undertakings of the Demerged Company to the Resulting Companies shall, without any further application, act or deed, issue and allot fully paid-up equity shares without any cash consideration being paid, to the Equity Shareholders of the Demerged Company, whose names are recorded in the register of

members of the Demerged Company on the Record Date in the following proportion, which is called the "Share Entitlement Ratio:

(a) In consideration for the demerger of Demerged Undertaking-I, VDPL (Resulting Company-1) proposes to issue 4 (Four) fully paid-up equity shares of the face value INR 10 each for every 1 (One) fully paid-up equity shares of the face value INR 10 each in Vista Furnishing Limited (Demerged Company) and

(b) In consideration for the demerger of Demerged Undertaking-II, VFPL (Resulting Company-2) proposes to issue 2 (Two) fully paid-up equity share of the face value INR 10 each for every 1 (One) fully paid-up equity shares of the face value INR 10 each in Vista Furnishing Limited (Demerged Company)

17. The Share Entitlement Ratio adopted under the scheme is based upon the report issued by Transique Valuation Advisors Private Limited.

18. The Applicant Companies have stated that the provisions relating to the accounting treatment for the proposed scheme were in conformity with the applicable provisions of the Companies Act, 2013. Certificates from the Statutory Auditor of the Applicant Companies on the accounting treatment, as proposed in the Scheme, were annexed to the application and it is clearly stated that the accounting treatment is in conformity with that prescribed under Section 133 of Companies Act, 2013.

19. Affidavits in terms of Section 230(2) of the Companies Act, 2013 have been filed.
20. The Applicant Companies have stated that no litigation, proceedings or any investigation were pending against any of the Applicant Companies. Affidavits to that effect has also been placed on record.
21. Taking into consideration the submissions and the documents filed therewith, the following directions are issued forthwith in respect of convening/holding or dispensing with the meetings of the Shareholders. Secured and Unsecured Creditors as well as issue of notices including by way of paper publication as follows:

A. In relation to the Demerged Company:

- a) **With respect to Equity Shareholders:** The meeting of the Equity Shareholders is directed to be held at the venue, date, time and mode as decided by the Chairperson in consultation with the counsel for Applicant Companies. The quorum for the meeting will be 7, being 2/3 in number.
- b) **With respect to Preference Shareholders:** The meeting of the Preference Shareholders is directed to be held at the venue, date, time and mode as decided by the Chairperson in consultation with the counsel for Applicant Companies. The quorum for the meeting will be 136, being 2/3 in number.
- c) **With respect to Secured Creditors:** The meeting of the Secured Creditors of the Demerged Company is directed to be held at the venue, date, time and mode as decided by the Chairperson in consultation with the counsel for Applicant Companies. The quorum for the meeting will be 2.

d) **With respect to Unsecured Creditors:** The meeting of the Unsecured Creditors of the Transferor Company is directed to be held at the venue, date, time and mode as decided by the Chairperson in consultation with the counsel for Applicant Companies. The quorum for the meeting will be 284, being 2/3 in number.

B. In relation to the Resulting Company No 1:

e) **With respect to Equity Shareholders:** In view of consent affidavits from the 2 Shareholders, having 100% voting share, been filed, convening the meeting of shareholders/members is dispensed with.

f) **With respect of Secured Creditors:** Since there are no secured creditors, the necessity of convening or dispensing the meeting does not arise.

g) **With regard to Unsecured Creditors:** Since there are no unsecured creditors, the necessity of convening or dispensing the meeting does not arise.

C. In relation to the Resulting Company No 2:

h) **With respect to Equity Shareholders:** In view of consent affidavits from the 2 Shareholders, having 100% voting share, been filed, convening the meeting of shareholders/members is dispensed with.

i) **With respect of Secured Creditors:** Since there are no secured creditors, the necessity of convening or dispensing the meeting does not arise.

j) **With regard to Unsecured Creditors:** Since there are no unsecured creditors, the necessity of convening or dispensing the meeting does not arise.

22. Mr. Jagadip Narayan Singh (IAS Retd), (E-mail Id-jagadipsingh@gmail.com ; Mobile No.-9978405930) is appointed as the **Chairperson**, Mr. Abhishek Varma, (Advocate) (E-mail Id-abhishek20varma@gmail.com; Mobile No.- 8800463883) is appointed as **Alternate Chairperson** and Ms. Shivani Chawla , (Advocate) (E-mail Id schawla744@gmail.com; Mobile No.- 9873778845) is appointed as **Scrutinizer** for the 4 meetings of the Equity Shareholders, Preference Shareholders, Secured Creditors and Unsecured Creditors of the Demerged Company in terms of the directions issued herein.

23. In case the quorum for the aforesaid meeting is not present at the meeting, then the meeting shall be adjourned by half an hour. Thereafter the persons present and voting shall be deemed to constitute the quorum. The Chairperson and Alternate Chairperson appointed herein along with the Scrutinizer shall ensure that the proxy Registers are properly maintained.

24. The Fees of the Chairperson for all the aforesaid 4 meetings shall be Rs. 1,75,000/ -. The Fees of the Alternate Chairperson shall be Rs. 1,50,000/- and the Fees of the Scrutinizer shall be Rs. 1,25,000/- in addition to meeting their incidental expenses. The Chairperson will file his report within a week from the date of holding of the aforesaid meetings. The fees of Chairperson, Alternate Chairperson and Scrutinizer along with the travelling expenses and other out of pocket expenses shall be borne by the respective Applicant Company. A copy of this order shall be provided to the learned counsels for the Applicant Companies who in turn shall provide a copy of the same to the Chairperson, Alternate Chairperson and the Scrutinizer.

25. Individual notices shall be sent to the Secured and Unsecured Creditors as above by the Applicant Companies through email or through registered post or speed post, 30 days in advance before the scheduled date of meeting, indicating the day, date, the place fixed for and time of meeting as aforesaid, together with a copy of the Scheme and copy of explanatory statement as required under the Companies Act, 2013 and the Rules, along with the proxy forms and any other documents as may be prescribed under the Act. These will be provided free of cost. A compliance affidavit of service will be filed with this Tribunal.
26. The Applicant Companies shall publish an advertisement at least 30 clear days before the aforesaid meeting, indicating the day, date and the place fixed and time of meeting as aforesaid, which will be published in “Business Express” (English) and “Business Standard” (Hindi), both Delhi NCR editions. The Applicant Companies shall also publish the notice on their websites, if any and file a compliance affidavit of service with this Tribunal.
27. The Chairperson shall be responsible to report the results of the meetings to the Tribunal within 7 (seven) days of the conclusion of the meetings. The Chairperson shall be assisted by the Authorized Representative / Company Secretary of the Applicant Companies and the Scrutinizer, who will assist the Chairperson and Alternate Chairperson in preparing and finalizing the reports.
28. Voting shall be allowed on the proposed Scheme by voting in person, by proxy, through postal ballot or through electronic means as may be decided by the Chairperson in consultation with the counsel of the

Applicant Companies in terms of the provisions of the Companies Act, 2013 and Rules framed there under.

29. Notice of this application shall be served on the following:

- i. The Regional Director, Northern Region, Ministry of Corporate Affairs, B-2 Wing, 2nd Floor, Pt. Deendayal Antyodaya Bhawan, CGO Complex, New Delhi-110003;
- ii. The Registrar of Companies, NCT of Delhi and Haryana, 4th Floor, IFCI Tower, 61, Nehru Place, New Delhi-110019;
- iii. Concerned office of Income Tax Department of both the Applicant Companies.
- iv. Reserve Bank of India at General Manager, Legal Department, World Trade Centre, Cuffe Parade, Colaba, Mumbai, Maharashtra- 400005.
- v. Any other sectoral regulators required to be served.

The application stands allowed on the aforesaid term and accordingly disposed off.

SD/-
(RAHUL BHATNAGAR)
MEMBER (TECHNICAL)

SD/-
(MAHENDRA KHANDELWAL)
MEMBER (JUDICIAL)