

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI, BENCH VI

CA(CAA) – 26/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 ARCOP ASSOCIATES PVT LTD

CIN - U45201DL1985PTC021337

Registered Office –

A-15, Pamposh Enclave,

Greater Kailash - I,

New Delhi - 110048

... Applicant Company 1/Demerged Company

AND

M/S ARCOP PROJECTS DEVELOPMENT PVT LTD

CIN - U68100DL2023PTC417384

Registered Office –

1st Floor, A-15, Pamposh Enclave,

Greater Kailash - I,

New Delhi - 110048

... Applicant Company 2/Resulting Company

For the Applicant/Petitioner -

Mr. Kartikeya Goel, Adv

CORAM:

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

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

ORDER

PER – RAHUL BHATNAGAR, MEMBER (TECHNICAL)

Order Delivered on: 01.05.2024

1. This is a first motion application filed jointly by the Applicant Company No 1, M/s Arcop Associates Private Limited (hereinafter referred to as the “Demerged Company / Applicant Company No 1”) and M/s Arcop Projects Development Pvt Ltd (hereinafter referred to as the “Resulting Company / Applicant Company No 2”) in accordance with Section/s 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) pertaining 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 the Demerged Company and the Resulting Company under the Scheme of Arrangement have their respective registered office in New 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 both the Applicant Companies No 1& 2 on 12.10.2023 and the copy of the aforesaid resolutions have been duly signed and annexed along with the present application.
4. The Applicant Company No.1/Demerged Company – M/s Arcop Associates Private Limited (CIN - U45201DL1985PTC021337), was incorporated under the provisions of the Companies Act, 1956 as a Private Limited Company vide Certificate of Incorporation dated 26.06.1985, having its registered office at A-15, PAMPOSH ENCLAVE GREATER KAILASH-I, New Delhi, NEW DELHI, Delhi, India, 110048. The Share Capital of the Applicant Company No. 1/ Demerged Company is as under

Particulars	Amount (INR)
Authorised Capital	1,80,00,000
Paid up Capital	1,20,22,500

5. The Applicant Company No. 2/Resulting Company – M/S Arcop Projects Development Private Limited (CIN - U68100DL2023PTC417384), was incorporated under the provisions of the Companies Act, 2013 as Private Limited Company vide Certificate of Incorporation dated 20.07.2023 with the Registrar of Companies, NCT of Delhi & Haryana and having its registered office at A-15 Pamposh Enclave, Greater Kailash-1 (1st Fl, Greater Kailash, South Delhi, New Delhi, Delhi, India, 110048. The Share Capital of the Resulting Company is as under

Particulars	Amount (INR)
Authorised Capital	1,00,000
Paid up Capital	1,00,000

6. The Demerged Company as well as the Resulting Company have filed their respective Memorandum and Articles of Association, inter alia delineating their object clauses, as well as the Applicant Company No. 1/Demerged Company's Audited Annual Accounts statements as on 31.03.2023.

7. The proposed scheme of demerger will entail the following benefits –

I. The Demerged Company-Arcop Associates Pvt Ltd is engaged in providing Architectural and Design Consultancy Services. Arcop Associates Pvt Ltd is the only Architect in the Country to have won 6 AIIMS, 5 IIM's and 4 IIT's through design competition and worked on the same. In the Private Sector, the Company has provided Architectural and Design Consultancy Services to several top-notch companies in Real Estate, Hospitality and Health Care Sectors. Of late, the Demerged Company has also diversified in education sector, outsourced services and small real estate projects of end-users. Thus, business activities of the Demerged Company may be segregated in the following segments –

A. Projects of Government and Semi-Government (both Central and State).

- B. Projects of Private Sector Clients in Real Estate, Hospitality and Health Care Sectors.
 - C. Projects in education sector, outsourced services and small real estate projects of end-users.
- II. The Demerged Company has already established itself as a leading player in the first two segments. However, it has to put in concerted efforts in the newly added segment of projects in education sector, outsourced services and small real estate projects of end-users. This segment is quite distinct from the first two segments.
- III. The Demerged Company is making serious efforts to achieve substantial growth in the third segment.
- IV. To provide better management focus, facilitate administrative convenience, ensure optimum utilization of various resources and to avoid any conflict of interest, it is decided to hive off the third segment being the Identified Consultancy Business comprising of providing Architectural and Design Consultancy Services for the projects in education sector, outsourced services and small real estate projects of end-users of the Demerged Company into a separate 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 both the 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.

8. It has been averred that the Demerged Company has 12 equity Shareholders. Certificate from the Chartered Accountants certifying list of the Equity Shareholders has been annexed. All the equity shareholders of the aforesaid demerged company have issued their respective consents by way of affidavits, which have been annexed with the application.

9. The Demerged Company has 2 Secured Creditors. Certificate from Chartered Accountants certifying list of creditors was annexed. Both the Secured Creditors of the aforesaid demerged company have issued their respective consents by way of affidavits, which have been annexed with the application.

10. Further, It has been averred that the Demerged Company has 102 Unsecured Creditors. Certificate from Chartered Accountants certifying list

of the unsecured creditors has been annexed. 94.52% percent unsecured creditors (in value) have given their written consents to the Scheme of Demerger by way of corresponding affidavits, which have been annexed with the present application.

11. In relation to the Equity Shareholders, Secured and Unsecured Creditors of the Demerged Company, the applicant has sought to dispense with the holding/convening of the meetings as their consent affidavits were placed on record.

12. It has been averred that the Resulting Company has 2 Shareholders. Certificate from the Chartered Accountants certifying list of Shareholders has been annexed. Both the shareholders of the aforesaid demerged company have issued their respective consents by way of affidavits, which have been annexed with the application.

13. The Resulting Company has NIL Secured Creditors. Certificate from the Chartered Accountants certifying NIL Creditors was annexed. Hence, the necessity of convening or dispensing the meeting does not arise.

14. Further, It has been averred that that Resulting Company has 1 Unsecured Creditor. Certificate from the Chartered Accountants certifying the list of Unsecured Creditors has been annexed. The sole Unsecured Creditor has given its written consents to the Scheme of Demerger by way

of a corresponding affidavit, which has been annexed with the present application.

15. In relation to the Equity Shareholders and Unsecured Creditors of the Resulting Company, the applicant has sought to dispense with the holding/convening of the meetings as their consent affidavits were placed on record and in relation to the Secured Creditors, since there are NIL Secured Creditors, necessity for the meeting of the said Secured Creditors does not arise.

16. 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.

17. The Applicant Companies have stated there are no proceedings for inspection / investigation under the Companies Act, 1956 and Companies Act, 2013 or the Act or any proceedings under any other department of Applicant Companies or their Directors.

18. 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 of Applicant Companies -

I. In relation to the Demerged Company:

- a) With respect to Shareholders:** In view of consent affidavits from all the 12 Equity Shareholders, which have been filed, convening the meeting of shareholders/members is dispensed with.
- b) With respect to Secured Creditors:** In view of consent affidavits from the 2 Secured Creditors, which have been filed, convening the meeting of shareholders/members is dispensed with.
- c) With respect to Unsecured Creditors:** In view of consent affidavits from 83 out of 102 Unsecured Creditors, having 99.61 % voting shares, been filed, convening the meeting of Unsecured Creditors is dispensed with.

II. In relation to the Resulting Company:

- a) With respect to Equity Shareholders:** In view of consent affidavits from all the 2 Equity Shareholders, which have been filed, convening the meeting of shareholders/members is dispensed with.
- b) With respect of Secured Creditors:** Since there are no Secured Creditors of the Resulting Company, hence, the necessity of convening or dispensing the meeting does not arise.
- c) With regard to Unsecured Creditors:** In light of the fact that there is only 1 Unsecured Creditor and the said Unsecured Creditor has issued its consent to the scheme of demerger by way of an affidavit, which has been

annexed with the present application, convening the meeting of Unsecured Creditors is dispensed with.

1. 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. The notices to Income Tax Authorities shall disclose sufficient details like PAN, ward numbers and assessing officers so that timely and proper reply may be filed.
- iv. 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)