

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI, COURT-III

COMPANY APPLICATION NO. (CAA)- 43/(ND)/2024

(Under Section 230-232 and other applicable provisions of the Companies Act, 2013 r/w the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016)

IN THE MATTER OF SCHEME OF AMALAGAMATION

BETWEEN

M/s. ELECTROSPARK ENCLOSURES PRIVATE LIMITED

.... Transferor Company

AND

M/s. MICRO COILS AND REFRIGERATION PRIVATE LIMITED

.... Transferee Company

AND

THEIR RESPECTIVE SHAREHOLDERS AND CREDITORS

Order Delivered on: 30.04.2024

CORAM:

SHRI BACHU VENKAT BALRAM DAS, HON'BLE MEMBER (JUDICIAL)
SHRI ATUL CHATURVEDI, HON'BLE MEMBER (TECHNICAL)

APPEARANCES:

For the Applicant: CA Vijay Kumar Gupta

ORDER

PER- ATUL CHATURVEDI, MEMBER (TECHNICAL)

1. This application (CA (CAA)-43(ND)/2024) have been jointly filed by the applicant companies herein, M/s. Electrosark Enclosures Private Limited (“Transferor Company”) and M/s. Micro Coils and Refrigeration Private Limited (“Transferee Company”) under section 230-232 of Companies Act, 1956, and other applicable provisions of the Companies Act, 2013 read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 in relation to the Scheme of Amalgamation (hereinafter referred to as the “SCHEME”) proposed between the applicants.
2. Affidavits in support of the above applications have been sworn by Mr. Vinay Bansal, Director of Transferor Company and Mr. Sanjay Kumar Gupta, Director of the Transferee Company being the authorized signatory of the Applicant Companies, who have been authorized vide board resolutions dated 08.01.2024 for all the Applicant Companies and have been duly filed, along with the application.
3. The Transferor Company-M/s. Electrosark Enclosures Private Limited bearing Corporate Identification No (CIN): U27106DL2006PTC146064 was incorporated under the provisions of the Companies Act, 1956, as a private limited company vide Certificate of Incorporation dated 08.02.2006, having its registered office at L-53" First Floor, Bal Udhyan Road, Uttam Nagar, New Delhi, Delhi, Delhi, India, 110059. The Authorized Share Capital of the Company is Rs. 6,00,00,000/- and the paid-up share capital of the company is Rs. 6,00,00,000/-.

4. The Transferee Company – M/s. Micro Coils and Refrigeration Private Limited bearing Corporate Identification No. (CIN): U28990DL2014PTC268063 was incorporated under the provisions of the Companies Act, 2013, as a private limited company vide Certificate of Incorporation dated 17.06.2014, having its registered office at BA-72-B Janakpuri, New Delhi, - 110058. The Authorized Share Capital of the Company is Rs. 5,00,00,000/- and the paid-up share capital of the company is Rs.4,06,25,000/-.
5. The Transferor Company as well as the Transferee Company have filed their respective Memorandum and Articles of Association inter alia delineating their object clauses, as well as their last Audited Annual Accounts as on 31.03.2023.
6. The Transferor Company and Transferee Company, vide their respective meeting of the Board of Directors held on 08.01.2024 have unanimously approved the proposed Scheme of Amalgamation.
7. It has been stated that the Transferor Company and the Transferee Company had some 'Statutory and Other dues' which have either been paid in full or being provisional in nature, are not due for payment as on the date of this Application. Certificates from Chartered Accountants confirming same has been enclosed.
8. It is pertinent to note that the consent affidavits obtained are more than the requisite statutory majority of 100% of total value required to approve the Scheme of Amalgamation in terms of the provisions of Section 230(9) of the Companies Act, 2013.

9. The Applicant Companies have further placed on record the certificate of statutory auditors regarding conformity of accounting treatment in the scheme which is in consonance with Section 133 of the Companies Act, 2013.
10. The management wishes to amalgamate the Transferor Company with the Transferee Company for following benefits: -
- i) Pooling of resources and infrastructure of the entities to their common advantage, resulting in a more productive utilization of the resources, costs and operational efficiencies, faster and effective decision making and its implementation, which would be beneficial for all stakeholders;*
 - ii) Integrate, rationalize and streamline the management and administrative structure of the merged business and achieve cost saving.*
 - iii) Avoid duplication of regulatory compliances and statutory filings with various government departments;*
 - iv) Greater economies of scale, reduction in overheads and other expenses; and*
 - v) Greater efficiency in cash management of the Transferee entity, and unfettered access to cash flow generated by the combined business which can be deployed more efficiently to fund organic and inorganic growth opportunities, to maximize shareholder value.*
 - vi) Facilitate inter transfer of resources and costs and optimum utilization of Assets.*
 - vii) Synchronizing of efforts to achieve uniform corporate policy.*
 - viii) To reflect the consolidated net worth of these companies in one balance sheet.*

11. 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 as follows:

I. In relation to the Transferor Company: (M/s. ELECTROSPARK ENCLOSURES PRIVATE LIMITED)

- a) With respect to Equity shareholders:** In view of consent affidavits from 9 equity shareholders, having 100% of voting share, convening the meeting of shareholders/members is dispensed with.
- b) With respect to Secured Creditors:** In view of consent affidavit from 1 Secured Creditor, having 100% of voting share, convening the meeting of Secured Creditor is dispensed with.
- c) With respect to Unsecured Creditors:** In view of consent affidavits from 81 Unsecured Creditor, having 100% of voting share, convening the meeting of Unsecured Creditor is dispensed with.

II. In relation to the Transferee Company: (MICRO COILS AND REFRIGERATION PRIVATE LIMITED)

- a) With respect to Equity shareholders:** In view of consent affidavits from 6 equity shareholders, having 100% voting share, convening the meeting of shareholders/members is dispensed with.
- b) With respect to Secured Creditors:** In view of consent affidavits from 3 Secured Creditors, having 100% of voting share, convening the meeting of Secured Creditor is dispensed with.
- c) With respect to Unsecured Creditors:** In view of consent affidavits from 84 Unsecured Creditors, having 100% of voting share, convening the meeting of Unsecured Creditors is dispensed with.

12. Having heard the submissions made by Ld. Counsel and having perused the records as well as the documents placed on record, we allow the following prayers:

- a. *“Dispense with the requirement of convening meetings of Equity Shareholders of the Applicant Company.*
- b. *Dispense with the requirement of convening meetings of Secured Creditors of the Applicant Company.*
- c. *Dispense with the requirement of convening meetings of Un-Secured Creditors of the Applicant Company.*
- d. *Direct service of notice of the present Application on (a) the Central Government through the office of the concerned Regional Director, Ministry of Corporate Affairs, New Delhi; (b) the Registrar of Companies, New Delhi; (c) the office of the concerned Official Liquidator, New Delhi; and (d) the concerned Income Tax Department.*
- e. *Pass such other/further order(s) as this Hon'ble Tribunal may deem fit and proper.”*

13. The prayer sought in the present petition bearing CA.(CAA)-43(ND)/2024 stands **allowed** on the aforesaid term and is accordingly **disposed of**.

14. 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 Applicant Companies.

15. Let copy of the order be served to all the parties.

The application **CA (CAA)- 43/(ND)/2024** stands **allowed** on the aforesaid term and accordingly **disposed of**.

Sd/-

(ATUL CHATURVEDI)
MEMBER (TECHNICAL)

Sd/-

(BACHU VENKAT BALRAM DAS)
MEMBER (JUDICIAL)