

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**NEW DELHI**  
**BENCH-VI**

**CAA/125/(ND)2021**  
**IN**  
**C.A.(CAA)/115/(ND)2021**

*(Under Section 230-232 of the Companies Act, 2013 read with read with the Company (Compromises, Arrangements and Amalgamations) Rules, 2016)*

**In the Matter of Scheme of Arrangement**

**1. Vandana Infratech Pvt Ltd.**

**(CIN:U 70109DL2008PTC180064**

**Registered Office:** A-69, Nirman Vihar, Delhi-110 092;

**...Demerged Company No 1/  
Petitioner No -1**

AND

**2. NJD Merchandise Pvt Ltd.**

**(CIN:U74120DL2008PTC174165**

**Registered Office:** A-69, Nirman Vihar, Delhi-110 092;

**...Demerged Company No 2/  
Petitioner No -2**

AND

**3. NJD Plastomold Pvt Ltd**

**(CIN:U72300DL2008PTC174159**

**Registered Office:** A-69, Nirman Vihar, Delhi-110 092;

**...Demerged Company No 3/  
Petitioner No -3**

With

**4.JND Builders Pvt. Ltd.**

**(CIN- U45201DL2005PTC137655**

**Registered office:** A-69, Nirman Vihar, Delhi-110092;

**... Resulting Company/  
Petitioner No- 4**

**Coram:**

**SH. P.S.N. PRASAD, HON'BLE MEMBER (JUDICIAL)**

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

**Counsel for Mr. Rajeev K Goel, Advocate.  
Petitioner/Applicant:**

**Counsel for RD Adv. Shankari Mishra.**

**ORDER**

**PER:SH. P.S.N PRASAD, MEMBER (JUDICIAL)**

**Date: 19.01.2023**

- 1.This joint petition has been filed by M/s Vandana Infratech Pvt. Ltd, M/s NJD Merchandise Pvt. Ltd, M/s NJD Plastomold Pvt. Ltd and M/s JND Builders Pvt Ltd (hereinafter collectively referred to as 'Petitioner Companies') under Sections 230 to 232 of the Companies Act, 2013, read with the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, and the National Company Law Tribunal Rules, 2016, for the purpose of the approval of the proposed Scheme of Arrangement between petitioner companies. The copy of the Scheme of Arrangement (hereinafter referred as the "Scheme"), has been placed on record.
- 2.The Demerged Company No -1 i.e., M/s Vandana Infratech Pvt Ltd. (CIN:U70109DL2008PTC180064) was incorporated under the provisions of the Companies Act, 1956 on 25<sup>th</sup> June, 2008, presently having its registered office situated at A-68, Nirman Vihar, Delhi-110092. The registered office of the Company is under the jurisdiction of this Tribunal.

- 3.The Demerged Company No-2 i.e., M/s NJD Merchandise Pvt Ltd. (CIN: U74120DL2008PTC174165) was incorporated under the provisions of the Companies Act, 1956 on 18<sup>th</sup> February, 2008, presently having its registered office situated at A-68, Nirman Vihar, Delhi- 110092. The registered office of the Company is under the jurisdiction of this Tribunal.
- 4.The Transferor Company 3 i.e., NJD Plastomold Pvt Ltd (CIN: U72300DL2008PTC174159) was incorporated under the provisions of the Companies Act, 1956 on 18<sup>th</sup> February, 2008, presently having its registered office situated at A-68, Nirman Vihar, Delhi- 110092. The registered office of the Company is under the jurisdiction of this Tribunal.
- 5.The Resulting Company i.e., JND Builders Pvt Ltd. (CIN- U45201DL2005PTC137655) was incorporated under the provisions of the Companies Act,1956 on 15<sup>th</sup> June, 2005, presently having its registered office situated at A-69, Nirman Vihar, Delhi-110092. The registered office of the Resulting Company is under the jurisdiction of this Tribunal.

6.The Petitioner Company submits that the proposed scheme of arrangement of the Petitioner Companies would have the following benefits: -

- a. All the Demerged Companies and the Resulting Company are family owned closely held private limited Group Companies under common shareholding, management and control.
- b. All the Demerged Companies are engaged in real estate business and other related activities. In addition to their respective core businesses, these Companies have also made investments in Mutual Funds and other Group Companies. The Management has decided to consolidate the entire Investment Business into the Resulting Company.
- c. The proposed de-merger of the respective Investment Business of the Demerged Companies No. 1 to 3 into the Resulting Company would enable consolidation of the entire Investment Business of all these Companies into one single entity.

- d. The proposed de-merger of the respective Investment Business of the Demerged Companies into the Resulting Company would result in business synergy, consolidation and pooling off the resources pertaining to the Investment Business.
- e. The proposed de-merger will streamline the holding structure of various Group Companies and simplify the corporate structure.
- f. It will impart better management focus, will facilitate administrative convenience and will ensure optimum utilization of various resources by these Companies.
- g. It is further submitted that the proposed de-merger 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. The Scheme will enable the Demerged Companies to focus on their core businesses; to raise funds and to invite strategic investors/partners for their respective core businesses.

- h. The proposed de-merger will have beneficial impact on the demerged Companies and the Resulting Company, their employees, shareholders and other stakeholders and all concerned.
- i. With a view to achieve greater management focus and keeping in mind the paramount and overall interest of the shareholders, the Board of Directors of the Demerged Companies and the Resulting Company considered that a Scheme of Arrangement for de-merger would be the most appropriate methodology.
7. The appointed date as fixed for the proposed scheme of Arrangement is 01<sup>st</sup> April, 2021 being the date with effect from which this scheme shall be deemed to be effective.
8. A perusal of the petition discloses that the first motion application bearing CA (CAA)/115/ND/2021 was filed by the Petitioner Companies. Based on the averments made in the said application, the Tribunal vide order dated 21.12.2021 dispensed with the requirement of convening the meetings of the equity

shareholders, secured creditors and unsecured creditors of the Petitioner companies.

9. The Tribunal directed the petitioner companies to issue individual notices to the (i) Regional Director, Ministry of Corporate Affairs, (ii) Registrar of Companies, NCT of Delhi and Haryana, (iii) concerned Income Tax Department. The Petitioner Company has filed an affidavit of service dated 14.02.2022 in respect of notice of petition served to the Regional Director, Ministry of Corporate Affairs, Registrar of Companies, NCT of Delhi and Haryana and the concerned Income Tax Department.
10. The Petitioner Companies has also filed affidavit of publication dated 14.02.2022 affirming that notice of hearing was duly advertised in “Business Standard” (Hindi) Delhi Edition and “Business Standard” (English) Delhi Edition on 31.01.2022.
11. Pursuant to the Publication in the daily newspapers, for listing of the matter before this Bench, no objector has appeared before us.



12. Pursuant to the notice issued, Regional Director and Income Tax Department have filed its report and participated in the proceedings.
13. The Regional Director, Northern Region, Ministry of Corporate Affairs has filed its report and made certain observation and sought certain clarification to which petitioner has filed a reply affidavit with respect to the observations made by RD. The Counsel for the RD on hearing dated 01.12.2022 has submitted that they have gone through the affidavit submitted by the Petitioner and in light of the affidavit they have no objection to the scheme of Arrangement.
14. The Report of Official Liquidator is not required since this is a matter of Demerger.
15. The Income Tax Department has submitted its report with respect to the Resulting Company i.e. JND Builders Private Limited and no specific objections were raised in the report filed by Income Tax Department and it is stated that there is no demand pending against the Resulting Company. The Petitioner Companies have submitted their affidavit cum undertaking dated

22.07.2022. The Petitioner Company vide affidavit had undertaken that in case of any tax dues to be paid now or in future they will be paid in accordance with law. Further the Petitioner Companies have also filed Income Tax Returns for the last three years.

16. In this petition it has also been affirmed that no proceeding for inspection, inquiry or investigation under the provisions of the Companies Act, 2013 or under provisions of Companies Act, 1956 is pending against the Petitioner Companies.

17. Certificates of Statutory auditor of the petitioner company, has been placed on record, to the effect that Accounting Treatment proposed in the Scheme of Arrangement is in conformity with the Accounting Standard notified by the Central Government as specified under the provisions of Section 133 of the Companies Act, 2013 read with Rule 7 of the Companies Accounts Rules, 2014 and Companies (Accounting Standards) Amendment Rules, 2016, and other generally accepted accounting principles in accordance with the Companies Act, 2013, as applicable.

18. The shareholders of the petitioner company are the best judges of their interest, fully conversant with market trends, and therefore, their decision should not be interfered with by the Tribunal for the reason that it is not a part of the judicial function to examine entrepreneurial activities and their commercial decisions. It is well settled that the Tribunal evaluating the Scheme, of which sanction is sought under Section 230-232 of the Companies Act of 2013, will not ordinarily interfere with the corporate decisions of companies approved by shareholders and creditors.

19. It has also been affirmed in the petition that the Scheme is in the interest of all the Demerged Companies and the Resulting Company, including their shareholders, creditors, employees and all concerned. In view of the foregoing, upon considering the approval accorded by the members and creditors of the Petitioner companies to the proposed Scheme, there appears to be no impediment in sanctioning the present Scheme. Consequently, sanction is hereby granted to the Scheme under Section 230 to 232 of the Companies Act, 2013.

- (i) The Petitioner companies shall however remain bound to comply with the statutory requirements in accordance with the law.
- (ii) Notwithstanding the above, if there is any deficiency found or, violation committed, qua any enactment, statutory rule or regulation, the sanction granted by this court to the scheme will not come in the way of action being taken in accordance with the law, against the concerned persons, directors and officials of the petitioners.
- (iii) While approving the Scheme as above, we further clarify that this order should not be construed as an order in any way granting exemption from payment of stamp duty, taxes or any other charges if any, and payment in accordance with law or in respect to any permission/compliance with any other requirement which may be specifically required under any law.
- (iv) The appointment date as proposed in the Scheme of Arrangement i.e., 01<sup>st</sup> April 2021 by the petitioner companies is confirmed by this Tribunal.

20. This Tribunal do further order

1. *That all assets and liabilities including Income Tax and all other statutory liabilities, if any, of the respective Investment Business (the Demerged Company 1 to 3) of Vandana Infratech Pvt Ltd, NJD Merchandise Pvt Ltd and NJD Plastomold Pvt Ltd (the Demerged Companies No. 1 to 3, respectively) will be transferred to and vest in JND Builders Pvt Ltd (the Resulting Company).*
2. *All the employees of the Demerged Companies No. 1 to 3 employed in the activities relating to the respective Demerged Business 1 to 3, in service on the Effective Date, if any, shall become the employees of the Resulting Company on and from such date without any break or interruption in service and upon terms and conditions not less favorable than those applicable to them in the respective Demerged Business 1 to 3 of the Demerged Companies No. 1 to 3, on the Effective Date.*
3. *Share Exchange Ratio for the Scheme will be as mentioned in the scheme.*

4. *That Petitioner companies shall, within thirty days of the date of the receipt of this order, cause a certified copy of this order to be delivered to the Registrar of Companies for registration and on such certified copy being so delivered, the Demerged Undertaking of the Demerged Company shall be deemed to be transferred: and*
5. *That any person interested shall be at liberty to apply to the Tribunal in the above matter for any directions that may be necessary.*

21. The petition stands disposed of in the above terms.

Let copy of the order be served to the parties.

**(RAHUL BHATNAGAR)**  
**MEMBER (TECHNICAL)**

**(P.S.N. PRASAD)**  
**MEMBER (JUDICIAL)**