

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH (COURT-I)
KOLKATA**

Company Petition (CAA) No. 167/KB/2023
Connected with
Company Application (CAA) No. 137/KB/2023

A petition under Section 230 to 232 read with section 66 and other applicable provisions of the Companies Act, 2013 read with Companies (Compromises, Arrangements and Amalgamations) Rules 2016;

In the matter of:

1. **ROSSELL INDIA LIMITED**, a company incorporated under the Companies Act, 1956 and having its registered office at Jindal Towers, Block “B” 4th Floor, 21/1A/3, Darga Road, Kolkata-700017, within the aforesaid jurisdiction.

...The first petitioner company/ demerged company

And

2. **ROSSELL TECHSYS LIMITED**, a company incorporated under the Companies Act, 2013 and having its registered office at Jindal Towers, Block “B”, 4th Floor, 21/1A/3, Darga Road, Kolkata-700017, within the aforesaid jurisdiction.

...The second petitioner company/ resulting company

And

In the matter of:

1. ROSSELL INDIA LIMITED
2. ROSSELL TECHSYS LIMITED

...Petitioner Companies

Date of pronouncing the order:25/04/2024

Coram:

Rohit Kapoor Member (Judicial)
Balraj Joshi Member (Technical)

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For the Applicant(s):

Mr. Ratnanko Banerji, Senior Advocate

Mrs. Manju Bhuteria, Advocate

Ms. Arundhati Roy Barman, Advocate

Mr. Anirudhya Dutta , Advocate

For the RD, (ER), MCA:

Mr. Sudhir Kapoor, JD

ORDER

Per: Balraj Joshi, Member, (Technical)

1. The instant petition has been filed under Section 230(6) of the Companies Act, 2013 (“Act”) for sanction of the Scheme of Arrangement of

Rossell India Limited	Demerged Company
Rossell Techsys Limited	Resulting Company

whereby and where under the Demerged undertaking is proposed to be transferred to the Resulting Company from the **Appointed Date, 1st April, 2023** in the manner and on the terms and conditions stated in the said **Scheme of Arrangement (“Scheme”)**

2. The Petition has now come up for final hearing. Counsel for the Petitioners submits as follows:-
- a) The appointed date as per the Scheme is 1st April, 2023.
 - b) The Scheme was approved by the Board of Directors of Petitioner No 1 and 2 have at their meeting held on 16th December, 2022 have approved the Scheme of Arrangement. Subsequently.
 - c) The circumstances which justify and/or have necessitated the Composite Scheme of Amalgamation and the benefits of the same are, inter alia, as follows:-

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- a) Creating a dedicated Tech vertical with focused attention on the Aerospace and Defense business under RTL and a dedicated Tea vertical which shall continue under RIL;
- b) Demerger will enable both Demerged Company and the Resulting Company to enhance business operations by streamlining operations, more efficient management control and outlining independent growth strategies;
- c) Each undertaking will be able to target and attract new investors with specific knowledge, expertise and risk appetite corresponding to their own businesses. Thus, each undertaking will have its own set of likeminded investors, thereby providing the necessary funding impetus to the long-term growth strategies of each business;
- d) Demerger will enhance efficiencies and will have different business interest into separate corporate entity, resulting in operational synergies, simplification, focused management, streamlining and optimization of the group structure and efficient administration;
- e) Pursuant to the Scheme, the equity shares issued by the Resulting Company would be listed on BSE and NSE and will unlock the value of the Demerged Undertaking for the shareholders of the Demerged Company. Further the existing shareholders of the Demerged Company would hold the shares of two (2) listed entities after the Scheme becoming effective; giving them flexibility in managing their investments in the two businesses having differential dynamics.
- f) The proposed Demerger shall also benefit all the shareholders, creditors, employees and all other stakeholders and shall enable the group to achieve and fulfil its objectives more efficiently and economically.

FOR THE PURPOSE OF ARRANGEMENT

The Scheme is a part of an overall streamlining and re-organization plan and is expected to provide the following benefits:

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- a. It will result in reduction in administrative, managerial and other expenditures, operational rationalization and optimal utilization of various resources and duplication of administrative functions will also be eliminated in reduced expenditure;
- b. Streamlining the management control and operation of businesses and activities;
- c. Provide an opportunity to leverage combined assets and build a stronger sustainable business; and
- d. Simplification and rationalization of the holding structure and reduction in corporate legal entities.
- e. The facilities available with the Transferor Company and the Transferee Company could be pooled together and the amalgamated company will be able to exploit the facilities available as one single unit for the benefit of the amalgamated company and consolidates its business.
- f. The Statutory Auditors of the Petitioner Companies have by their certificate dated 16TH December, 2022 have confirmed that the accounting treatment in the Scheme is in conformity with the accounting standards prescribed under Section 133 of the Companies Act, 2013.
- g. No proceedings are pending under Sections 210 to 227 of the Companies Act, 2013 against the Petitioners.
- h. The exchange ratio of shares in consideration of the Arrangement has been fixed on a fair and reasonable basis and on the basis of the Report dated 16th December, 2022 of Mr. Harsh Chandrakant Ruparelia ,Chartered Accountant, IBBI , Registered Valuer.
- i. By an order dated 13th July, 2023 in Company Application No. CA/(CAA)/137/KB/2022 this Tribunal made the following directions with regard to meetings of shareholders and creditors under Section 230(1) of the Act:-

SN	NAME OF THE PETITIONER COMPANIES	EQUITY SHARE HOLDERS	SECURED CREDITORS	UNSECURED CREDITORS

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1.	Rossell Limited	India	<p>A. Promoter and Promoter group-No of Shares held= 2,81,98,233 And % of total Shares 74.80%</p> <p>B. Public : No of shares held - 94,98,242 and % of total shares 25.20%</p> <p>7 (Seven including 6(six) nominees</p>	4 (Four)	358
2.	Rossell Limited	Techsys		Nil	1 (One)

3. By an order dated **13th July, 2023 in Company Application (CAA) No. 133/KB/2023** this Tribunal passed the following directions with regard to meetings of shareholders and creditors under Section 230(1) of the Act:

- (a) **Meetings of Equity Shareholders:** Meeting of the Equity Shareholders of the First Petitioner Company was held on 25th August, 2023 at 1:00 P.M. and Mr. Ritoban Sarkar was appointed as Chairperson and Ms. Shruti Singhania was appointed as Scrutinizer of the said meeting and meeting of the Second Petitioner Company was dispensed with.
- (b) **Meetings of Secured Creditors:** Meeting of the Secured Creditors of the First Petitioner Company was dispensed with in view of written consent by way of

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affidavits were given and meeting of the Second Petitioner Company was also dispensed with as there are nil Secured Creditors in the Second Petitioner Company.

- (c) **Meetings of Unsecured Creditors:** Meeting of the Unsecured Creditors of the First Petitioner Company was held on 25th August, 2023 at 4:00 P.M. and Mr. Ritoban Sarkar was appointed as Chairperson and Ms. Shruti Singhania was appointed as Scrutinizer of the said meeting and meeting of the Unsecured Creditor of Second Petitioner was dispensed in view of written consent given by way of affidavit.
- (d) **Mr. Ritoban Sarkar, Advocate** appointed as Chairperson has filed his two reports on 15th September 2023 (Annexure P-20 in Volume V at Pages 645 to 753A).

4. Consequently, the Petitioner(s) presented the instant petition for sanction of the Scheme. By an order dated 6th October, 2023 the instant petition was admitted by this Tribunal and fixed for hearing on 16th November, 2023 upon issuance of notices to the Statutory / Sectoral Authorities and advertisement of date of hearing. In compliance with the said order dated 6th October, 2023. The Petitioner(s) have duly served such notices on the Regulatory Authorities viz Particulars in tabular form as follows:-

Authorities	By Hand	Speed Post	Email
Regional Director, Eastern Region, Kolkata	19.10.2023	30.10.2023	20.10.2023
Registrar of Companies West Bengal	19.10.2023	30.10.2023	20.10.2023
Income Tax Authorities	19,10.2023	20.10.2023	20.10.2023
Goods & Services Tax Authorities	30.10.2023	20.10.2023	20.10.2023
National Stock Exchange	-	20.10.2023	20.10.2023
BSE Limited	-	20.10.2023	20.10.2023
SEBI		20.10.2023	20.10.2023
Paper Publication	30.10.2023		

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Affidavit of Compliance filed with the Registry	6.11.2023		
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5. All statutory formalities requisite for obtaining sanction of the Scheme have been duly complied with by the Petitioners. The Scheme has been made bonafide and is in the interest of all concerned.
6. It is further submitted by the Learned Counsel for the Petitioners that the National Stock Exchange (NSE) and Bombay Stock Exchange (BSE) have by their letters dated 23rd May 2023(annexed as P-18 at Pg 629 to 632) and 22nd May, 2023 (annexed as P-18 at Pg 626 to 628), respectively have given their “no objection/no adverse observation” letters to the Second Petitioner Company therein respectively mentioning the observations/directions provided /given by the Stock Exchanges on the Scheme, to file the Scheme with the Tribunal for its consideration.
7. Pursuant to the said advertisements and notices the Regional Director, Ministry of Corporate Affairs, Kolkata (“RD”) have filed their representations before this Tribunal.
8. The RD has filed his reply affidavit dated 30th November .2023 (“RD affidavit”) which has been dealt with by the Petitioner(s) by their Rejoinder affidavit dated 1st December, 2023 (“Rejoinder”). The observations of the RD and responses of the Petitioner(s) are summarized as under:-

Paragraph 2 (a) of RD Affidavit

That it is submitted that on the examination report of the Registrar of Companies, West Bengal, it appears that no complaint and/or representation has been received against the proposed Scheme of Arrangement. Further, the Demerged Company is updated in filing their Financial Statements and Annual Returns for the financial year 31/03/2023. However, in the said report, the ROC, West Bengal further reported that the Demerged Company namely Rossell India Limited has 7(seven) nos. of active charge amount of Rs.3160,00,00,000/ and

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the Resulting Company namely Rossell Techsys Limited has failed to file MGT-14 under section 179(3) read with section 117 of the Companies Act, 2013. (Copy of the said report of ROC, WB has been marked as Annexure-I to the Reply Affidavit).

Paragraph 4 of the Rejoinder

With regards to the observation raised in Paragraph 2(a) of the aforesaid affidavit, it is submitted that the Form MGT-14 was filed by the Rossell India Limited on 5th December, 2022 with regard to the formation of a New Company under the name and style of "Rossell Techsys Limited" or "Rossell Techsys India Limited" or any other name as may be approved by the MCA as a wholly owned subsidiary of Rossell India Limited. Accordingly, Form MGT-14 vide SRN F51756542 was filed on 5th December, 2022. A copy of the said Form MGT-14 along with the copy of Board Resolutions and filing receipt are annexed to Rejoinder at Pg 8 to 18. It is further stated and submitted that Resulting Company namely Rossell Techsys Limited was incorporated only on 6th December, 2022. Therefore, filing of Form MGT-14 by Resulting Company for the corresponding similar resolution is not applicable. A copy of the Certificate of Incorporation of Rossell Techsys Limited is annexed to the Rejoinder at Pg 7.

Paragraph 2 (b) of RD Affidavit

As per Scheme of Arrangement, the Demerged Company, Rossell India Limited is engaged in the business of cultivation, manufacture and selling of Bulk Tea known as Rossell Tea Division and also in Aerospace and Defense Business which has its engineering and manufacturing center in Bengaluru known as Rossell Techsys Division. Further, the Aerospace and Défense Division i.e. Rossell Techsys Division is engaged in the business of providing interconnect solutions and electrical panel assemblies, Test Solutions and aftermarket services in Aerospace and Défense Sector. The proposed Scheme of Arrangement provides for demerger of "Rossell Techsys Division Undertaking" to the Resulting Company i.e. Rossell Techsys Limited. In view of the above, the Petitioner Company, Rossell India Limited being engaged in Defense Business

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should undertake through appropriate affirmation that proper notices have been served to the Concerned Regulatory Authorities/Ministries, if applicable.

Paragraph 5 of the Rejoinder

With reference to the paragraph 2(b) of the said affidavit it is submitted that Resulting Company is engaged in the business of providing wire harnessing and aviation components to the Companies that are in the Aerospace and Defence sector. Therefore, no requirement to serve notices to the Ministry of Defence or any other concerned regulatory Authorities for the sanction of Scheme of Arrangement.

Paragraph 2 (c) of RD Affidavit

That it is submitted that Demerged Company namely Rossell India Limited is listed on the Bombay Stock Exchange Limited (BSE) and the National Stock Exchange of India (NSE). The BSE vide its letter No. DCS/AMAL/PB/IP/2765/2023/24 dated 22.05.2023 issued its "No Adverse Observation" to the proposed Scheme of Amalgamation. Further the NSE has also vide its letters No. NSE/LIST/33864 dated 23/05/2023 issued its "Observation Letter" which, inter alia, conveyed the 'No Objection' of the NSE in terms of Regulation 94 of SEBI (LODR) Regulation, 2015 so as to enable the Company to file the draft Scheme with Hon'ble NCLT. Further, as per said letters, the validity of the said 'Observation Letters' shall be six months from 23/05/2023 within which the Scheme shall be submitted to NCLT. However, the Exchanges reserves its rights to raise objections at any stage if the information submitted to the Exchange is found to be incomplete/incorrect/misleading/false or for any contravention of Rules, Bye-laws and Regulation of the Exchange, Listing Regulation, Guidelines/Regulations issued by Statutory Authorities (Copies of such letters have been collectively marked as Annexure-II to the Reply Affidavit)

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Paragraph 6 of the Rejoinder

With regards to the observation raised in paragraph 2(c) of the said affidavit it is submitted that the letter issued by the stock exchange clearly mentioned that “The validity of this letter shall be six months from May 23, 2023, within which the Scheme shall be submitted to NCLT”. It is stated and submitted that the application under section 230 and 232 of the Companies Act 2013 has been filed with the NCLT Kolkata Bench on 7th June 2023 which is within six months in terms of the letter dated May 23, 2023 issued by the National Stock Exchange of India Limited (NSE).

Paragraph 2 (d) of RD Affidavit

It is further submitted that the Demerged Company, Rossell India Limited had filed a separate Petition for sanctioning of Scheme of Amalgamation with Appointed Date as 1st July, 2022 in CP(CAA) No. 163/KB/2023 connected with CA(CAA) No. 133/KB/2023 in which the Demerged Company, Rossell India Limited of the proposed Scheme of Arrangement is the Transferee Company and the Transferor Company is BMG Enterprises Limited. However, the said Petition is still pending before the Hon’ble NCLT, Kolkata Bench.

Paragraphs 7 of the Rejoinder

With reference to the paragraph 2(d) of the said affidavit it is stated and submitted that the C.P.(CAA) No. 163/KB/2023 filed by the BMG Enterprises Limited and Rossell India Limited for sanctioning of Scheme of Amalgamation and that is the independent Scheme and have no bearing on this Scheme.

Paragraph 2 (e) of RD Affidavit

The Petitioner Companies should be directed to provide list details of Assets, if any, to be demerged transferred from the Demerged Transferor Company to the Resulting /Transferee Company upon sanctioning of the proposed Scheme of Arrangement.

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Paragraph 8 of the Rejoinder

With regards to the observation raised in Para 2(e) of the aforesaid affidavit, it is submitted that as soon as the scheme is sanctioned by this Hon'ble Tribunal the Resulting Company undertakes to file schedule of assets, to be transferred from the Demerged Company to the Resulting Company.

Paragraph 2 (f) of RD Affidavit.

That the Petitioner company should undertake to comply with the provisions of section 232(3) (i) of the Companies Act, 2013, if applicable, through appropriate affirmation.

Paragraph 9 of the Rejoinder

With regards to the observation raised in Para 2(f) of the aforesaid affidavit, it is submitted that the Resulting Company undertakes to comply with the provisions of Section 232(3)(i) of the Companies Act 2013 as soon as the scheme is sanctioned by this Hon'ble Tribunal .

Paragraph 2 (g) of RD Affidavit

That the Resulting/Transferee Company should be directed to pay applicable stamp duty on each stage of Transfer/Demerge of the immovable properties from the respective Demerged/Transferor Company to it.

Paragraph 10 of the Rejoinder

With reference to the paragraph 2(g) of the said affidavit, the Resulting Company hereby undertakes to pay necessary stamp duty as applicable as soon as the scheme is sanctioned by this Hon'ble Tribunal.

Paragraph 2 (h) of RD Affidavit

The Hon'ble Tribunal may kindly direct the Petitioners to file an affidavit to the extent that the Scheme enclosed to the Company Application and Company Petition are one and same and there is no discrepancy or no change is made.

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Paragraph 11 of the Rejoinder

With reference to paragraph 2 (h) of the said affidavit, it was confirmed and submitted that the scheme enclosed to the Company Application and Company Petition is one and same and there is no discrepancy, and no change is made.

Paragraph 2 (i) of RD Affidavit

It was submitted that the Income Tax Department had forwarded one letter no. F. No. DCIT.Circle-4(1)/Kolkata/ MCA/2023-24/118 dated 28.07.2023 stating therein that certain documents and financial statements have been requisitioned from the Applicant company and matter is under verification, the objection/non objection certificate, if any, will be sent after verification at the earliest (Copy of the said letter of Income Tax Department has been marked as Annexure-III to the Reply Affidavit).

Paragraph 12 of the Rejoinder

With reference to paragraph 2(i) of the said affidavit, it is stated and submitted that the Demerged Company has filed petition for rectification of Assessment Order as well as petition for the stay of demands raised by the Income Tax Authority before the Jurisdictional AO and the said petitions are still pending for final hearing. Copy of the Petition has been annexed to the Petition as Annexure '**B**' to the Rejoinder at Pg 19 to 32. Further, the appeals have been preferred by the Company before learned CIT (Appeals) against the arbitrary and unfair orders passed by the jurisdiction Assessing Officer, which are pending disposal. In the event any issues are raised after sanction of the Scheme, the Demerged Company shall deal with it in accordance with law.

9. Heard the submissions made by the Ld. Counsel appearing for the Petitioners and the JD appearing for the RD(ER). It has been stated by the JD (ER) that the office of RD(ER) has no objection, if the scheme of arrangement is sanctioned by this Tribunal. This statement is taken on record. Upon perusing the records and documents in the instant proceedings and considering the submissions, we allow the petition and make the following orders:-

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- i. The Scheme of Arrangement mentioned in this Petition being Annexure P-1 is hereby sanctioned by this Tribunal with Appointed date as **1st day of April, 2023** and to be binding on the Resulting Company Rossell Techsys Limited, and their shareholders and all concerned.
 - ii. Vesting and transfer of all assets, properties entitlements rights benefits and advantages, liabilities and obligations of the Demerged Undertaking of the Demerged Company to the Resulting Company and to become the assets, properties, entitlements, rights, benefits, advantages, liabilities and obligations of the Resulting Company.
 - iii. That all proceedings and/or suit appeals now pending by or against or in relation to the Demerged Undertaking of Demerged Company shall be continued by or against the Resulting Company for which necessary records of the Demerged undertaking shall be preserved by the Resulting company as per the provisions of Section 239 of the Companies Act 2013.
 - iv. Leave is granted to the Resulting Company to file the Schedule of assets, and also the liabilities, of the Demerged Company in the form as prescribed in the Schedule to Form No. CAA7 of the Companies (Compromises, Arrangements and Amalgamations) Rules 2016 within three weeks from the date of receiving a copy of this order.
 - v. That any person/authority aggrieved shall be at liberty to apply to this Tribunal in the above matter for any direction that may be necessary;
 - vi. The Demerged Company and the Resulting Company shall each within thirty days of the date of the receipt of this order, cause a certified copy thereof to be delivered to the Registrar of Companies for registration.
 - vii. The Petitioner(s) shall supply legible print out of the scheme and schedule of assets and liabilities in acceptable form to the Registry and the Registry will append such printout, upon verification to the certified copy of the order.
10. The Company Petition C.P (CAA) No. 167 KB / 2023 connected with Company Application C.A(CAA) No 137 / KB / 2023 is disposed of accordingly.

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- 11 Certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

Balraj Joshi
Member (Technical)

Order signed on 25.04.2024.

Rohit Kapoor
Member (Judicial)

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