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IN THE NATIONAL COMPANY LAW TRIBUNAL  
CUTTACK BENCH  
CUTTACK

CP (CAA) No. 15/CB/2023  
Connected With  
CA(CAA) No. 12/CB/2023

In the Matter of: -

Sections 230 to 232 of the Companies Act, 2013;

And

In the Matter of: -

Companies (Compromises, Arrangements and Amalgamations) Rules, 2016

And

In the Matter of: -

Petition for Sanction of Scheme of Arrangement

And

In the Matter of: -

**S B MULTIMEDIA PRIVATE LIMITED**, a company incorporated under the Companies Act, 2013; and having its registered office at 1<sup>st</sup> Floor, Aarson Motors, Lodhipara Chowk, Raipur, Chhattisgarh- 492 001, within the aforesaid jurisdiction;

And

In the Matter of: -

**SHRI BAJRANG DEVCON PRIVATE LIMITED**, a company incorporated under the Companies Act, 2013; and having its registered office at C/o Suresh Goel & Brothers, Opp. Patidar Bhawan, New Timber Market, Fafadih, Raipur, Chhattisgarh- 492 001, within the aforesaid jurisdiction;

In the Matter of:-

1. S B MULTIMEDIA PRIVATE LIMITED
2. SHRI BAJRANG DEVCON PRIVATE LIMITED

... Petitioners

Order Pronounced on: 22.04.2024

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**Coram:**

Shri P. Mohan Raj : Member (Judicial)  
Shri Kaushalendra Kumar Singh : Member (Technical)

**Counsel on Record (Through Hybrid Mode):**

For the Petitioner: - FCS Mr. Gopinath Nayak, Pr. Company Secretary

**ORDER**

1. The object of this petition is to obtain sanction of this Hon'ble National Company Law Tribunal ("Tribunal") to a Scheme of Arrangement between S B MULTIMEDIA PRIVATE LIMITED ("Demerged Company") and SHRI BAJRANG DEVCON PRIVATE LIMITED ("Resulting Company") whereby the Demerged Undertaking of the Demerged Company i.e. skill development school, allied activities, land, residential properties, investments required for skill development business and office building under construction, be demerged and transferred to the Resulting Company w.e.f. the Appointed date i.e. 1<sup>st</sup> April 2023, on the terms and conditions fully stated in the Scheme of Arrangement which is annexed and marked with the letter "A-1" to this petition.
2. S B MULTIMEDIA PRIVATE LIMITED ("Demerged Company") was incorporated on "26<sup>th</sup> May 2006" as a Private Limited Company limited by shares under the provisions of the Companies Act, 1956 and CIN is U13100CT2006PTC020001.
3. The Authorized Share Capital of S B MULTIMEDIA PRIVATE LIMITED is Rs.5,00,00,000/- (Rupees Five Crore only) comprising of 50,00,000 (Fifty Lakh) Equity Shares of Rs. 10/- (Rupees Ten only) each. The Issued, Subscribed & Paid-Up Capital is Rs. 3,57,00,000/- (Rupees Three Crore Fifty-Seven Lakh only) comprising of 35,70,000 (Thirty-Five Lakh Seventy Thousand) Equity Shares of Rs. 10/- (Rupees Ten only) each.
4. SHRI BAJRANG DEVCON PRIVATE LIMITED ("Resulting Company") was incorporated on "05<sup>th</sup> August, 2011" as a Private Limited Company

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limited by shares under the provisions of the Companies Act, 1956 and CIN is U45200CT2011PTC022615.

5. The Authorized Share Capital of SHRI BAJRANG DEVCON PRIVATE LIMITED is Rs. 1,00,00,000/- (Rupees One Crore only) comprising of 10,00,000 (Ten Lakh) Equity Shares of Rs. 10/- (Rupees Ten only) each. The Issued, Subscribed & Paid-Up Capital is Rs. 14,30,000/- (Rupees Fourteen Lakh Thirty Thousand only) comprising of 1,43,000 (One Lakh Forty-Three Thousand) Equity Shares of Rs. 10/- (Rupees Ten only) each.
6. By an order dated 25th September 2023 in Company Application (CAA) No. 12/CB/2023, this Hon'ble Tribunal waived the meetings of the Equity Shareholders and Creditors of the Petitioner Companies for the purpose of considering and if thought fit for approving with or without modification, the said Scheme of Arrangement in view of the written consent obtained from the Equity Shareholders and Creditors of the respective companies. Further, by the said order dated 25th September 2023, this Hon'ble Tribunal directed the Applicant Companies to serve notice, as per the requirements of sub-section (5) of Section 230 of the Companies Act, 2013, along with the Application and all others documents including copy of Scheme of Arrangement and the statement disclosing necessary details on the Central Government through Regional Director, North Western Region, MCA, Ahmedabad; the concerned Registrar of Companies; the concerned Assessing Officer along with the Chief Commissioner of Income Tax and also on the Official Liquidator and Reserve Bank of India (if applicable), having jurisdiction over the Applicant Companies; Competition Commission of India, New Delhi; the Ministry of Information & Broadcasting, Government of India and other Regulatory Authorities, if any, through Speed Post and E-mail, both. A copy of the said order dated 25th September 2023 is annexed and marked with the letter "A-11" to this petition.

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7. In terms of the order of this Hon'ble Tribunal, notices have been sent to Central Government through Regional Director, North Western Region, MCA, Ahmedabad; Registrar of Companies-cum-Official Liquidator, Bilaspur, Chhattisgarh; Assistant Commissioner of Income Tax, Range-1, Civil Lines, Main Building, Raipur; Chief Commissioner of Income Tax, Range-1, Civil Lines, Main Building, Raipur; Competition Commission of India, New Delhi and the Ministry of Information & Broadcasting, New Delhi.
8. It is submitted that the Petitioner Companies have complied with all directions passed by this Hon'ble Tribunal in Company Application (CAA) No. 12/CB/2023 and have filed the Company Petition for seeking sanction and confirmation of the Scheme. A copy of Affidavit of Compliance along with the proof of service of notice to the directed authorities in terms of order of Hon'ble NCLT is annexed and marked with letter "A-12" to this petition.
9. It is submitted by the Petitioners that vide order dated 05th December 2023, the Company Petition (CAA) No. 15/CB/2023 (2<sup>nd</sup> Motion) was admitted with directions for publication of notice of hearing to be advertised in "THE PIONEER" in English and the "AMANPATH" in Hindi. The Petitioners were also directed to serve notice of hearing upon the following Authorities, namely, Assistant Commissioner of Income Tax, Range-1, Civil Lines, Main Building, Raipur; Chief Commissioner of Income Tax, Range-1, Civil Lines, Main Building, Raipur; Regional Director, North Western Region, MCA, Ahmedabad; Registrar of Companies-cum-Official Liquidator, Bilaspur, Chhattisgarh; Competition Commission of India, New Delhi and the Ministry of Information & Broadcasting, New Delhi. The same have been complied with and Affidavit of Compliance has been filed.
10. A certificate from Chartered Accountant relating to compliance of Accounting Standard is annexed and marked with letter "A-7" to this petition.

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11. It is submitted by the Petitioners that there are no proceedings pending under Sections 235 to 251 of the Companies Act, 1956 and/or corresponding provisions of Companies Act, 2013 against any of the Petitioner Companies.
12. It is further submitted by the Petitioners that the Scheme does not contain any clause due to which there will be any reduction of share capital of Applicant Companies.
13. It is further submitted by the Petitioners that the Scheme does not provide (contain any clause) for any kind of corporate debt restructuring.
14. It is further submitted by the Petitioners that the assets of the Applicant Companies are sufficient to meet all their liabilities. The Applicant Companies have made due provisions for payment of all liabilities as and when the same will fall due. Further, the said Scheme of Arrangement does not involve any compromise or composition with the creditors of the Applicant Companies and Scheme will not affect the rights of the creditors of the Applicant Companies in any manner whatsoever.
15. It has been stated that notice of petition was served upon the Central Government, Statutory Authorities and publications of notice of petition was made in two newspapers - "THE PIONEER" (English) on 14th December 2023 and "AMANPATH" (Hindi) on 14th December 2023.
16. It is further submitted that Sri G. C. Yadav, Joint Director in the office of Regional Director, North Western Region, Ministry of Corporate Affairs, Ahmedabad, has filed affidavit duly affirmed on 24<sup>th</sup> November 2023 wherein he has made the following observations:
  - a) The Registrar of Companies, Chhattisgarh, Bilaspur, has reported that there are no complaints, inquiry, inspection, investigation or prosecution is pending against the Petitioner companies.
  - b) The Petitioner Companies should be directed to be directed to obtain NOC/Comments from the Ministry of Information and Broadcasting, New Delhi.

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- c) The Petitioner Companies shall undertake to serve details of assets and liabilities to the creditors of Demerged company as on Appointed Date.
- d) The Petitioner Resulting Company be directed to comply with the provisions of Section 61 of the Companies Act, 2013 and also as to the payment of stamp duty, registration fees etc. and file the relevant e-form with respective Registrar of Companies for increase in authorized share capital of the Resulting Company.
- e) The Petitioner Companies be directed to confirm this Hon'ble NCLT about the issue of shares at premium, name of allottees, amount of premium, valuation of shares, assessment u/s 68 of the Income Tax Act for issue of shares at premium and shares if transferred to existing shareholders and to place the said fact of issue and transfer at premium to satisfy the Hon'ble Bench for compliance of provision of Income Tax Act, 1961 or seek comments of IT Department.
- f) The Petitioner Companies have not filed form BEN-2 for declaring name of the significant beneficial owner with concerned ROC.
- g) The Petitioner Companies be further directed to:
- i. To ensure compliance and furnish the clarification, if any, regarding observations made by Registrar of Companies and Regional Director;
  - ii. To preserve its books of accounts, papers and records and shall not be disposed of without prior permission of Central Government as per the provision of Section 239 of the Companies Act, 2013;
  - iii. To ensure statutory compliance of all applicable laws including Ministry of HRD norms, if applicable, on transfer of assets pertaining to school business to Resulting Company and on sanctioning of the present Scheme, the Petitioner Companies shall not be absolved from any of its statutory liabilities, in any manner;
  - iv. To pay necessary Stamp Duty on transfer of property/assets, if any, to the respective Authorities before implementation of the Scheme;

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- v. The Petitioner Companies involved in the Scheme to comply with the provisions of Section 232(5) of the Companies Act, 2013 with respect to filing certified copy of order sanctioning the Scheme with Registrar of Companies within 30 days from date of passing order;
- vi. The Petitioner companies shall undertake comply with Income Tax/GST law and any demand/taxes payable on implementation of the said scheme as per law;
- vii. Applicant company/(ies) to pay such amount of legal fees/cost to the Central Government which may be considered appropriate by this Hon'ble NCLT for submission of report and representing the matter on behalf of the Central Government.

17. The Petitioners by their Rejoinder affidavit filed on 15.01.2024 have replied to the observations of the Regional Director as follows:

- a) That with reference to paragraph No. 5 (i) of the RD Report dated 24<sup>th</sup> November 2023, the Petitioner Companies have nothing to comment on as regards the report of the Registrar of Companies, Cuttack on the proposed arrangement.
- b) That with reference to paragraph No. 6 (i) of the RD Report dated 24<sup>th</sup> November 2023, in compliance of directions made by the Hon'ble NCLT, Cuttack Bench in its Orders dated 25.09.2023 and 05.12.2023, the Petitioner Companies have served notices on the Ministry of Information and Broadcasting on two occasions seeking observations/ representations from the Ministry. Further, in terms of applicable provisions if no observation/representation is received from the authority(ies) within 30 days of service of notice it shall be presumed that the authority(ies) have no objection to the proposed arrangement. In the instant case, the Ministry of Information and Broadcasting has not made any observation/representation within due time.
- c) That with reference to paragraph No. 6 (ii) of the RD Report dated 24<sup>th</sup> November 2023, the Petitioner Companies undertook to serve details of Assets

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and Liabilities of Demerged Company to the creditors of the Demerged Company.

- d) That with reference to paragraph No. 6 (iii) of the RD Report dated 24<sup>th</sup> November 2023, the Petitioner Companies stated that in terms of Clause 17.1 of the Scheme of Arrangement the authorised share capital of the Resulting Company shall be reorganized to accommodate issue of shares pursuant to shareholders of the Demerged Company in terms of Share Exchange Ratio and in doing so the Resulting Company undertook to comply with the provisions of Section 61 and others applicable provisions, if any, of the Companies Act, 2013 and pay all necessary fees and duties incidental thereto.
- e) That with reference to paragraph No. 6 (iv) of the RD Report dated 24<sup>th</sup> November 2023, the Petitioner Companies stated that the companies have complied with the provisions of Income Tax, 1961 and had also submitted details on issue of shares at premium, transfer of shares, valuation report along with demand notice and Assessment Order issued by Income Tax authority.
- f) That with reference to paragraph No. 6 (v) of the RD Report dated 24<sup>th</sup> November 2023, the Petitioner Companies stated that filing of e-form BEN-2 is not applicable to the Demerged Company as there are no significant beneficial owners of the Demerged Company holding more than 10% of total shareholding of the Demerged Company nor any individual holds majority stake in M/s Banka Finance & Securities Private Limited.
- g) That with reference to paragraph No. 7 of the RD Report dated 24<sup>th</sup> November 2023, the Petitioner Companies undertook:
- i. To comply and furnish clarifications on observations, if any, made by the Registrar of Companies and/or Regional Director, North-Western Region.
  - ii. To preserve the books of accounts, papers and records and not dispose them off without prior permission of Central Government in terms of Section 239 of the Companies Act, 2013.

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- iii. To comply with all applicable statutory laws including Ministry of HRD norms.
- iv. To pay stamp duty, if applicable, on the transfer of assets to Resulting Company.
- v. To comply with the provision of Section 232(5) of the Companies Act, 2013 in respect of filing of certified copy of order sanctioning the scheme with the Registrar of Companies within 30 days of passing of order.
- vi. To comply with Income Tax/GST laws and any demands made by the authorities under such laws.
- vii. To pay legal fees/cost to the Central Government as may be considered appropriate by this Hon'ble NCLT.

18. It is further submitted that this Hon'ble Tribunal vide its order dated 17th January 2024 directed the Petitioner Companies to send notice to the concerned Income Tax Department along with the RD Report and also directed the Income Tax Department to give their comment on the observation made in the RD Report.

19. It is further submitted that the Petitioner Companies have complied with the directions made by this Hon'ble Tribunal in its order dated 17th January 2024 and Affidavit of Compliance in this regard has been filed by the Petitioners on 07.02.2024.

20. It is further submitted that in hearing of the matter on 21.02.2024, this Hon'ble Tribunal noted that the Income Tax Department had still not given its report and directed the Petitioner Companies to send a reminder notice to the concerned Income Tax Department for their comment on the RD Report. The Petitioner Companies were also directed to serve details of Income Tax assessment order and valuation report to the Regional Director, North Western Region, MCA, Ahmedabad.

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21. It is further submitted that the Petitioner Companies have complied with the directions made by this Hon'ble Tribunal in its order dated 21st February 2024 and Affidavit of Compliance in this regard has been filed by the Petitioners on 15.03.2024.
22. It is further submitted that in hearing of the matter on 20.03.2024, this Hon'ble Tribunal directed the Petitioner Companies to file a list of assets and liabilities to be transferred to the Resulting Company.
23. It is further submitted that the Petitioner Companies have complied with the directions made by this Hon'ble Tribunal in its order dated 20th March 2024 and an Affidavit for placing additional documents before this Hon'ble Tribunal has been filed by the Petitioners on 22.03.2024.
24. In view of the foregoing, upon considering the approval accorded by the members and creditors of the Petitioner Companies to the proposed Scheme, and the reports of the Registrar of Companies, Bilaspur, Chhattisgarh and the Regional Director, North Western Region, MCA, Ahmedabad; there appears to be no impediment in sanctioning the present Scheme. Consequently, sanction is hereby granted to the Scheme under Sections 230 to 232 of the Companies Act, 2013. The Petitioner shall however, remain bound to comply with the statutory requirements in accordance with law.
25. While approving the Scheme as above, we further clarify that this order should not be construed as an order in any granting exemption from payment of stamp duty, taxes including income tax, GST etc. or any other charges, if any, and payment accordance with law or in respect of any permission/compliance with any other requirement which may be specifically required under any law.

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26. Notwithstanding the above, if there is any deficiency found, or violation committed of any enactment, statutory rules or regulation, the sanction granted by this Tribunal to the scheme will not come in the way of action being taken in accordance with law, against the concerned persons, directors and official of the petitioners.
27. In view thereof, we have perused the documents annexed to the petition and have heard the submissions made of the petitioners and pass the following orders:-
- a) That the Scheme of Arrangement mentioned in paragraph "1" of this Petition being Annexure "A-1" is sanctioned by this Hon'ble Court to be binding, with effect from the 1<sup>st</sup> day of April 2023, on the Demerged Company and the Resulting Company;
  - b) That all properties including land, residential properties, investments required for skill development business, investment in shares, Office building under construction and cash balance & cash equivalents for future capital expenditures, and other rights and interests attributable to the Demerged Undertaking of the Demerged Company be transferred to and be vested without further act or deed in Resulting Company and accordingly the same shall pursuant to Section 230 to 232 of the Companies Act, 2013 be transferred to and be vested in Resulting Company for all the estate and interest of the Demerged Company subject nevertheless to all Charges now affecting the same;
  - c) That all liabilities and duties attributable to the Demerged Undertaking of the Demerged Company be transferred without further act or deed and accordingly the same shall pursuant to Section 230 to 232 of the Companies Act, 2013 be transferred to and become the liabilities and duties of Resulting Company;
  - d) That the Share Exchange Ratio mentioned in the Scheme at Para 13.1 be sanctioned by this Hon'ble Tribunal to be binding, with effect from the 1<sup>st</sup>

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- day of April 2023, on the Demerged Company and the Resulting Company;
- e) That the Demerged Company and the Resulting Company within 30 days after the date of the order to be made herein cause a certified copy thereof to be delivered to the Registrar of Companies, Bilaspur;
- f) That any person interested shall be at liberty to apply to this Hon'ble Tribunal in the above matter for such directions as may be necessary.
28. In the event of the Petitioners supply legible computerized printout of the Scheme in acceptable form to the department, the department will append such computerized printout, upon verification to the certified copy of the order without insisting on a hand-written copy thereof.
29. Accordingly, Company Petition (CAA) No. 15/CB/2023 connected with Company Application (CAA) No. 12/CB/2023 stands disposed of with the aforesaid directions.
30. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.
31. File be consigned to records.

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**Kaushalendra Kumar Singh**  
**Member (Technical)**

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**P. Mohan Raj**  
**Member (Judicial)**

Signed on this 22<sup>nd</sup> day of April, 2024.

Kaushal\_P.S.