IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
SPECIAL BENCH
COURT - 1

ITEM No.3

C.A.(CAA)/31(AHM)2023

Order under Sections 230-232 of the Companies Act, 2013

IN THE MATTER OF:

Supernova Systems Pvt Ltd **.....Applicants**
Supernova Engineers Ltd

Order delivered on: 19/05/2023

Coram:

Mr. Ashok Kumar Bhardwaj , Hon'ble Member(J)
Mr. Kaushalendra Kumar Singh, Hon'ble Member(T)

PRESENT:

For the Applicant :
For the Respondent :

ORDER

The case is fixed for pronouncement of order. The order is pronounced in the open court, vide separate sheet.

-SD-

KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)

-SD-

ASHOK KUMAR BHARDWAJ
MEMBER (JUDICIAL)

NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
SPECIAL BENCH
COURT-1

CA(CAA) No.31/230-232/NCLT/AHM/2023

[In the matter of Sections 230-232 and other applicable provisions of the Companies Act, 2013 read with Companies (Compromises, Arrangements, and Amalgamations) Rules, 2016]

Scheme of Amalgamation

of

Supernova Systems Private Limited
(Transferor Company)

with

Supernova Engineers Limited
(Transferee Company)

In the matter of:

Supernova Systems Pvt. Ltd.
[CIN: U31110GJ1989PTC012833]

A Company incorporated under the provisions of the Companies Act, 1956, having its registered office at 3, B Wing First floor, Shapath Hexa, Nr. Sola Bridge, Opp. Gujarat High Court, Sarkhej Gandhinagar Road, Ahmedabad-360 060

.... Applicant / Transferor Company

With

Supernova Engineers Ltd.
(CIN: U31100GJ1987PLC009346)

A Company incorporated under

the provisions of the Companies Act, 1956, having its registered office at F2, First Floor, Shapath Hexa, Nr. Sola Bridge, Opp. Gujarat High Court, Sarkhej Gandhinagar Road, Ahmedabad-360 060

.... Applicant Company / Transferee Company

Order Pronounced on: 19.05.2023

Coram: Mr.Ashok Kumar Bhardwaj, Member (Judicial)
Mr.Kaushalendra Kumar Singh-Member(Technical)

Appearance:
Ms. Swati Soparkar, Advocate for the Applicant Companies.

ORDER

1. The present application has been preferred under Sections 230 and 232 read with other relevant provisions of the Companies Act, 2013 (hereinafter referred to as the 'Act') and Companies (Compromise, Arrangements and Amalgamations) Rules, 2016, seeking dispensation of the meetings of the Equity Shareholders, Secured and Unsecured Creditors of the Transferor and Transferee Company for the purpose of considering and, if thought fit, approving, with or without modification(s), a Scheme of Arrangement in the nature of Amalgamation Supernova Systems Pvt. Ltd. (Transferor Company) with Supernova Engineers Ltd. (Transferee Company) with effect from the Appointed Date, i.e. 01.04.2022, as mentioned in the

Scheme. This Company Application was e-filed on 30.03.2023 and physical copy thereof was filed on 31.03.2023.

2. An Affidavit has been sworn by Mr. Jitesh Shah on behalf of the applicant companies who is the authorized representative and the Director of the applicant company, and the same is annexed with the application. The above-named authorized representative for the applicant companies has been authorized vide Board Resolutions respectively dated 22.12.2022 and 23.12.2022 of the applicant companies.

3. The averments made by the Applicant Companies are summarized as under:-

i) The Board of Directors of the Applicant Companies vide resolutions dated 22.12.2022 have approved the said Scheme. The said Board Resolutions are filed and produced at Annexure-F.

ii) The registered office of both the Applicant Companies is situated in the State of Gujarat, and is under the jurisdiction of the National Company Law Tribunal, Ahmedabad Bench.

iii) The Transferor Company-Supernova Systems Private Limited, having CIN: U31110GJ1989PTC012833, was incorporated under the provisions of the Companies Act, 1956 on 4th October 1989 and its registered office is

situated at Ahmedabad, Gujarat. It is engaged in the business providing after sale services for Diesel Engine Sets, manufactured by the Transferee Company. The total income of the Transferor Company for the financial year ended on 31st March, 2022 was around Rs.27.58 crores and the net profit was around Rs.1.05 crores and it has Reserves and Surplus of around Rs.5 crores. A copy of the Memorandum and Articles of Association of the Applicant Company is annexed as Annexure-A.

iv) The authorized, issued, subscribed and paid up capital of the Transferor Company as on 31.03.2022 is as follows:-

Particulars	**Amount**
Authorized Share Capital	
10,000 Equity Shares of Rs.10 each	Rs.1,00,000
Issued, Subscribed and Paid-up Share Capital	
10,000 Equity Shares of Rs.10/- each fully paid up	Rs.1,00,000

v) The Transferee Company-Supernova Engineers Limited, having CIN: U31100GJ1987PLC009346, was incorporated under the provisions of the Companies Act, 1956, is a closely held public limited. It was originally incorporated as a private limited company on 02.02.1987, the status of the company was changed to public limited company on 21.04.1995 and its registered office is situated at Ahmedabad, Gujarat. It is engaged in the business of manufacturing of Diesel Generator Sets and Acoustic Enclosures (Sound Proof System) consisting State-of-Art

technology Diesel Engines. It is original Equipment Manufacturer for world's renowned engine manufacture Perkins Engine Co. Ltd., UK, AB Volvo Penta Sweden. During the financial year ended on 31st March, 2022, it had total revenue of Rs.246.22 crores and the net profit was Approx. Rs.2.27 crores. It had total Reserves of approx. Rs.35.72 crores. A copy of the Memorandum and Articles of Association of the Applicant Company is annexed as Annexure-C.

vi) The authorized, issued, subscribed and paid up capital of the Transferee Company as on 31.03.2022 is as follows:-

Particulars	**Amount**
Authorized Share Capital	
52,50,000 Equity Shares of Rs.10 each	Rs.5,25,00,000 /-
Issued, Subscribed and Paid-up Share Capital	
46,25,000 Equity Shares of Rs.10/- each, fully paid up	Rs.4,62,50,000/-

vii) A Copy of the Valuation Report for the proposed Exchange Ratio of Shares to be issued by the Transferee Company, obtained from Ms. Dr. C.A. Anjali Choksi, the Registered Valuer, is placed on record as Annexure-'E'.

viii) Copy of the Scheme of Amalgamation is placed on record as Annexure-'G'.

ix) The affidavits stating that there are no proceedings or investigations pending against the Applicant Companies

under Sections 210-217, 219, 220, 223 to 227 of the Companies Act, 2013 and/or under Sections 235 to 251 of the Companies Act, 1956, have been filed by the Applicant Companies. It is also the stand taken by the Applicant Companies that there are no winding-up petitions or proceedings under the Insolvency and Bankruptcy Act pending against any of the Applicant Companies.

x) The Statutory Auditors of both the Applicant Companies have provided the certificate confirming the proposed Accounting Treatment is being in conformity with the applicable Accounting Standards. The said certificates are placed on record as Annexure-'H'.

xi) The Transferor Company has two (2) Equity Shareholders as on 31st December 2022 and both of them have given their consent letters on affidavit. The consent affidavits are produced at Annexures I-1. The certificate from the Chartered Accountant confirming the list of Equity Shareholders with their shareholding is annexed with the Application as Annexure-I-2.

xii) The Transferor Company has One (1) Secured Creditor as on 31.12.2022 and the Secured Creditor has given its consent letter on affidavit. The original consent affidavit of the secured creditor is produced at Annexure I-3. The certificate from the Chartered Accountant confirming the list of secured creditors with the outstanding dues is produced at Annexure I-4.

xiii) The Transferor Company has One Hundred Sixty Four (164) Unsecured Creditors having total outstanding value of Rs.6.29 crores as on 31.12.2022. Out of 164 Unsecured Creditors, 21 Unsecured Creditors representing 90.26% (Rs.5,67,58,490/-) of the debt amount have approved the proposed Scheme through their consent letters on affidavits. The Chartered Accountant, viz. S. K. Chalishazar & Co., has certified the number and value of Unsecured Creditors of the Transferor Company. Hence, the Transferor Company is seeking dispensation of the meeting of its Unsecured Creditors.

xiv) The Transferee Company has Eleven (11) Equity Shareholders as on 31.12.2022 and all the Equity Shareholders have given their consent letters on affidavit. The consent affidavits are produced at Annexures J-1. The certificate from the Chartered Accountant confirming the list of Equity Shareholders with their shareholding is annexed with the Application as Annexure J-2.

xv) The Transferee Company has three (3) Secured Creditors as on 31.12.2022 and all the Secured Creditors have given their consent letters on affidavits. The original consent affidavits of all the secured creditors are produced at Annexure J-3. The certificate from the Chartered Accountant confirming the list of secured creditors with the outstanding dues is produced at Annexure J-4.

xvi) The Transferee Company has Two Hundred Fifty (250) Unsecured Creditors having total outstanding value of

Rs.173.73 crores as on 31.12.2022. Out of 250 Unsecured Creditors, 15 Unsecured Creditors representing 93.84% (Rs.1,63,03,71,788/-/-) of the debt amount have approved the proposed Scheme through their consent letters on affidavits. The Chartered Accountant, viz. S. K. Chalishazar & Co., has certified the number and value of Unsecured Creditors of the Transferee Company. Hence, the Transferee Company is seeking dispensation of the meeting of its Unsecured Creditors.

xvii) The rationale for the Scheme of Amalgamation stated in the proposed Scheme is as under:

Both the companies belong to the same group of management and the commercial activities are complimentary in nature. The rationale for the proposed Scheme is set out below:

(i) Simplification of group structure by eliminating multiple companies thus enabling focus on core competencies and unlocking of value.

(ii) Greater efficiency in cash management of the amalgamated 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.

(iii) Cost savings are expected to flow from more focused operational efforts, rationalization, standardization and simplification of business processes, productivity improvements, improved procurement, usage of

common resource pool like human resource, administration, finance, accounts, legal, technology and other related functions, leading to elimination of duplication and rationalization of administrative expenses.

(iv) Healthier and larger balance sheet of both entities is expected to improve the credit profile, thereby enhancing the competitive positioning.

(v) The Scheme will help amalgamated entity in sharpening its competitiveness and developing its core competencies, in the long term, through cost savings and benefit of economies of scale. It would result in greater integration, greater financial strength and flexibility of the amalgamated entity which will improve the competitive position of the combined entity.

4. We have heard Mrs. Swati Soparkar, Ld. Counsel for the Applicant Companies and perused the documents annexed with the application. It appears that the present application complies with all provisions of Sections 230-232 of the Companies Act and Rules provided thereunder. Hence, we allow the present company application with the following order/directions:

i) The meetings of the Equity Shareholders and the Secured Creditor of the Transferor Company are hereby dispensed with in view of the consent affidavits attached with the application.

ii) The meeting of the Unsecured Creditors of the Transferor Company is hereby dispensed with since the Unsecured Creditors of the Transferor Company having 90.26% of their outstanding value have given their consent letters through affidavits.

iii) The meetings of the Equity Shareholders and the Secured Creditors of the Transferee Company are hereby dispensed with in view of the consent affidavits attached with the application.

iii) The meeting of the Unsecured Creditors of the Transferee Company is hereby dispensed with since the Unsecured Creditors of the Transferee Company having 93.84% of their outstanding value have given their consent letters through affidavits.

5. In compliance of subsection (5) of Section 230 of the Companies Act, 2013 and Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, the Applicant Companies shall send a notice in Form No. CAA.3 along with copy of the Scheme of Amalgamation to: **(i)** Central Government through the Regional Director, North Western Region; **(ii)** Registrar of Companies, Gujarat; **(iii)** Income Tax Authorities concerned; **(iv)** Official Liquidator (in case of Transferor Company); stating that the representations, if any, to be made by them shall be made within a period of 30 days from the date of receipt of such notice, failing which it shall be presumed that they have no objection to make on the Scheme.

6. The applicant companies shall file a compliance affidavit with the Registry with regard to the directions given in this order.

7. This Company Application is disposed of accordingly.

-SD-

KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)

-SD-

ASHOK KUMAR BHARDWAJ
MEMBER (JUDICIAL)

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