

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

ATTENDANCE CUM ORDER SHEET OF THE HEARING
HELD ON **20.03.2024** THROUGH VIDEO CONFERENCING

**PRESENT: HON'BLE SHRI. SANJIV JAIN, MEMBER (JUDICIAL)
HON'BLE SHRI. VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)**

APPLICATION NUMBER :
PETITION NUMBER : CA(CAA)/65(CHE)/2023
NAME OF THE APPLICANT : Dipak Raj Sood
NAME OF THE RESPONDENTS : Rupa Sood
UNDER SECTION : Sec 230-232 of CA, 2013

ORDER

Present: Shri Pranav G., Ld. Counsel for the Applicants.

Vide separate order pronounced in the Open Court, the application stands **allowed** on the terms recorded in the order.

File be consigned to records.

Sd/-

**VENKATARAMAN SUBRAMANIAM
MEMBER (TECHNICAL)**

Sd/-

**SANJIV JAIN
MEMBER (JUDICIAL)**

vs

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH - I, CHENNAI**

CA (CAA)/65 (CHE)/2023

(Under Sections 230 to 232 of the Companies Act, 2013

In the matter of Scheme of Arrangement

*Involving the Takeover of Shares Belonging to the Public Shareholders of
India Forge & Drop Stampings Limited*

DIPAK RAJ SOOD

SHAREHOLDER OF INDIA FORGE & DROP STAMPINGS LIMITED

Having Residence at
G-10, Maharani Bagh,
New Delhi - 110 065

... First Applicant

RUPA SOOD

SHAREHOLDER OF INDIA FORGE & DROP STAMPINGS LIMITED

Having Residence at
G-10, Maharani Bagh,
New Delhi - 110 065

...Second Applicant

Order Pronounced on 20th March 2024

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SANJIV JAIN, MEMBER (JUDICIAL)

VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

For Applicant(s): T.K Bhaskar, Advocate

ORDER

(Hearing Conducted through VC)

This Application has been filed by **DIPAK RAJ SOOD** (hereinafter "First Applicant"), and **RUPA SOOD** (hereinafter Second Applicant") under section 230(11) of Companies Act, 2013, read with Rule 11 of the National

Company Law Tribunal Rules, 2016 in relation to the Scheme of Arrangement (hereinafter referred to as the "SCHEME") proposed by the Applicants herein praying for an order allowing for takeover/acquisition of the shares held by the public shareholders of the company. The said Scheme is placed at **Page 204-211** of the Application Typeset.

2. The Applicants in this Company Application have sought for the following reliefs:

- a) *Dispense with the convening, holding and conducting of the meeting of the Equity Shareholders of the Company and consequently dispense with the publication of notice of the meeting of the Equity Shareholders of the Company;*
- b) *Dispense with the convening, holding and conducting of the meeting of the Secured Creditors of the Company and consequently dispense with the publication of notice of the meeting of the Secured Creditors of the Company;*
- c) *Dispense with the convening, holding and conducting of the meeting of the Unsecured Creditors of the Company and consequently dispense with the publication of notice of the meeting of the Unsecured Creditors of the Company;*
- d) *And pass such further or other orders, as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case and render justice.*

3. The shareholding pattern of the company as of the date of the present application is as under:

S.No	CATEGORY OF SHAREHOLDING	NO OF SHARES	PERCENTAGE OF HOLDING
1	Promoter Group Shareholding		
	(1) Dipak Raj Sood	14,33,516	48.12%
	(2) Rupa Sood	14,30,895	48.04%
	(3) Dipak Raj Sood HUF	100	0.00%
	(4) SBP Madan Mohan	100	0.00%
	(5) Suresh Kumar	100	0.00%
	(6) Ranjit Abraham	100	0.00%
	(7) Mandip Malik	100	0.00%
2.	Non-Promoter/ Public Shareholding ¹		
	(1) CDSL & NSDL	42,613	1.43%
	(2) THC	71,179	2.39%
	(3) Giridhar Krishnan	100	0.00%

1. The entry represents the holding by the Public Shareholders who are 109 in number as of the date of this application.

4. The shareholding of the Applicants in the company as on 03.11.2023 is as follows:

NAME OF SHAREHOLDER	NO. OF SHARES	PERCENTAGE
Dipak Raj Sood	14,33,516	48.12%

Rupa Sood	14,30,895	48.04%
Total	28,64,411	96.16%

5. In the certificate of incorporation, it is stated that the Company namely India Forge & Drop Stampings Limited is a Public Limited Unlisted company incorporated under the provisions of Companies Act, 1956 on 27.06.1960 with CIN: U28910TN1960PLC004192. The Registered office address of the India Forge & Drop Stampings Limited is situated at A1 J Industrial Area, Maramalai Nagar, Kancheepuram, TamilNadu – 603 209.

PARTICULARS	AMOUNT IN RS.
Authorised Share Capital	
47,50,000 Equity Shares of Rs.10/- each	4,75,00,000/-
25,000 Redeemable Cumulative Preference Shares of Rs. 100 each	25,00,000/-
Total	5,00,00,000/-
Issued	
33,91,247 Equity Shares of Rs.10/- each	3,39,12,470/-
Total	3,39,12,470
Subscribed and paid up share capital	
29,78,803 Equity Shares of Rs.10 each	2,97,88,030
Total	2,97,88,030

There is no change in the capital structure of the company from 30.06.2023 till date

6. It is stated that the main objects of the company are as follows;

- a) *To carry on the business of Forge Masters and Drop Stampers and to manufacture every type of Forging and Drop Stampings for all Traders and Industry.*
- b) *To carry on the Business of Tool makers and to establish Tool Room for this Purpose.*
- c) *To carry on the Business of metallurgists, smelters, metal founders, miners metal workers, metal spraying, mill wrights, machinists and manufacturers of machinery parts, hardware, tools, implements and metals ware of every description and to carry on any other business manufacturing or otherwise which may seem to the Company capable of being conveniently carried on in connection with the above or otherwise calculated directly or indirectly to enhance the value of the Company's rights and properties for time being.*

7. It is stated that the equity shares of the Company were listed on Bombay Stock Exchange (hereinafter referred as "BSE") and Madras stock Exchange Ltd (hereinafter referred as "MSE"). The shares of the Company were delisted from the above-mentioned stock exchanges on 09.12.2009 and 14.12.2009 respectively. Pursuant to delisting that took place in the year-2009, the number of public shareholders as on date in the Company are 109.

An affidavit in support of the above application sworn for and on behalf of the First Applicant has been filed by one "Mr.Dipak Raj Sood" in the capacity of Shareholder and on behalf of the Second Applicant, it has been filed by " Rupa Sood" in the capacity of Shareholder. The same are placed

along with the Application at pages 14-17 of the Application. It is represented that the registered office of the Applicant Company are situated within the jurisdiction of Registrar of Companies, Chennai.

8. We have perused the application and the connected documents / papers filed therewith including the Scheme contemplated by the Applicant Company.

9. The Applicant Company has filed the Memorandum and Articles of Association *inter alia* delineating its object clauses as well as their last available Audited Financial Statements for the year ended 31.03.2023 and Provisional/ Unaudited Financial Statements as on 30.06.2023.

10. The Board of Directors of the Applicant Company vide meeting held on 07.11.2023 have unanimously approved the proposed Scheme as contemplated above. Copies of the resolutions passed thereon have been placed on record by the Applicant Company.

11. The Appointed date as specified in the Scheme shall mean the Effective Date or such other date as the NCLT may direct.

12. The Statutory Auditors of the Applicant Company have examined the Scheme in terms of provisions of Sec. 232 of Companies Act, 2013 and the rules made thereunder and certified that the Accounting Standards are in compliance with Section 133 of the Companies Act, 2013. The accounting treatment certificates for the Applicant Company are placed at Page No's: 134-135 of the Application.

13. The present Application has been filed under Section 230(11) of the Companies Act, 2013 for takeover of shares belonging to the Public Shareholders of India Forge & Drop Stampings Limited. Rule 3(5) and (6) of the Companies (Compromises, Arrangements and Amalgamation) Rules, 2016 enable the member of the Company to takeover the shares belonging to the Public Shareholders, provided if they hold not less than three-fourth of the shares in the Company. Rule 3(5) and (6) of the Companies (Compromises, Arrangements and Amalgamation) Rules, 2016 state as follows;

(5) A member of the company shall make an application for arrangement, for the purpose of takeover offer in terms of sub-section (11) of section 230, when such member along with any other member holds not less than three-fourths of the shares in the company, and such application has been filed for acquiring any part of the remaining shares of the company.

Explanation I. - "shares" means the equity shares of the company carrying voting rights, and includes any securities, such as depository receipts, which entitles the holder thereof to exercise voting rights.

Explanation II. - Nothing in this sub-rule shall apply to any transfer or transmission of shares through a contract, arrangement or succession, as the case may be, or any transfer made in pursuance of any statutory or regulatory requirement.

(6) An application of arrangement for takeover offer shall contain: -

(a) the report of a registered valuer disclosing the details of the valuation of the shares proposed to be acquired by the member after taking into account the following factors: -

(i) the highest price paid by any person or group of persons for acquisition of shares during last twelve months;

(ii) the fair price of shares of the company to be determined by the registered valuer after taking into account valuation parameters including return on net worth, book value of shares, earning per share, price earning multiple vis-à-vis the industry average, and such other parameters as are customary for valuation of shares of such companies.

(b) details of a bank account, to be opened separately, by the member wherein a sum of amount not less than one-half of total consideration of the takeover offer is deposited.

14. In the present case, the first and the second Application hold 96.16% of shares in the Company, which are more than three – fourth of the shares of the companies as prescribed under Rule 3(5) of the Companies (Compromises, Arrangements and Amalgamation) Rules, 2016.

15. Further, in accordance with Rules 3(6) of the Companies (Compromises, Arrangements and Amalgamation) Rules, 2016, the Applicant have filed the valuation report of a registered valuer disclosing the valuation of the shares proposed to be acquired by the Applicants. The valuation of the Registered Valuer is appended at Page Nos.136-201 to this Application.

16. The valuation report dated 30.10.2023 issued by Transaction Square Advisory LLP, Registered Valuer as well as another valuation report dated 03.11.2023 issued by PKF Sridhar & Santhanam LLP, Registered Valuer, taking into account the aforesaid parameters have been obtained by the Applicants to determine the fair price of the shares of the Company, at which the takeover ought to be consummated. The valuation arrived at by Transaction Square Advisory LLP in the report is Rs. 1,155.60/share. The valuation arrived at by PKF Sridhar & Santhanam LLP is Rs. 1,147/share. The Applicants have decided to offer the higher of the two valuations as the offer price in respect of the takeover of the shares.

17. Based on the above, the total consideration for the takeover ("Total Consideration") works out to Rs.13,16,59,152/- (Rupees Thirteen Crores Sixteen Lakhs Fifty Nine Thousand One Hundred Fifty Two only) for the acquisition/takeover of 1,13,892 of equity shares of Rs. 1156/-each, from the public shareholders of the Company.

18. The Applicants herein have opened a separate bank account, wherein a sum of amount not less than one-half of the total consideration of the takeover offer has been deposited, in compliance with the requirements as set out under Rule 3(6)(b) of the Companies (Compromises, Arrangements

and Amalgamations) Rules, 2016. The details of the bank account are as follows:

Name of Bank: Axis Bank Limited
Bank Account Number: 923010035947968
Branch: Ballabhgarh, Faridabad
IFSC Code: UTIB0000039
Amount Deposited (in RS.): 6,60,00,000/-

19. It is noted that the takeover of the public shareholders as in the present case is falling under section 230(11) of the Companies Act 2013. All the procedure required for any other Compromise or Arrangement under section 230 of the Companies Act, 2013 has to be fulfilled for the takeover under sub - Section(11) of Section 230 i.e Preparation of Scheme under section 230(11); filing of Application before NCLT for directing meeting of members and creditors; Calling of the meetings of members and creditors as per direction; Approval of the scheme by majority of members/creditors holding $\frac{3}{4}$ in value, as the case may be; Servicing of application to authorities as per Section 230(5) ie to RD, ROC Income-tax authority etc. In the present case, only the Board of Directors have approved the Scheme under Section 230(11) of the Companies Act, 2013, however the Scheme of Arrangement has not been approved by the majority of members/creditors holding $\frac{3}{4}$ in value. The Applicant is seeking dispensation of the meeting of the Equity shareholders and Secured / Unsecured Creditors, however the Applicant has

not placed on record the consent affidavits of the members nor the Secured / Unsecured Creditors.

20. In relation to the same, the Applicant has referred to the following Judgments;

- a) *In Re: Reckitt Benckiser (India) Ltd,*
(2005) 122 DLT 612 Para 21 of the Judgement
- b) *Sandvik Asia Limited vs Bharat Kumar Padamsi.*
(2009) 3 Com CR 57 para 2 & 16 of the Judgement
- c) *Piyush Dilipbhai Shah Nilakantha vs Sygenta India Limited*
2021 SCC OnLine NCLAT 142 Para 24 & 40 of the Judgement
- d) *Brillio Technologies Pvt Ltd v Registrar of Companies, Karnataka,*
2021 SCC OnLine NCLAT 508 Para 56 & 57 of the Judgement
- e) *In Re: RDJ Constructions Limited, CP No.226 of 2021,*
NCLT, Mumbai Bench Para 4,5 & 11 of the Judgement
- f) *Hindustan Lever Employees' Union v Hindustan Lever Ltd,*
1995 Supp (1) SCC 499 Para 42 & 45 of the Judgement
- g) *Wartsila India Limited v Janak Mathurdas,*
(2011) 1 Bom CR 600 Para 27,31 & 34 of the Judgement.

21. We have perused the aforesaid Judgments. The Judgments referred by the Applicant pertain to the reduction of share capital under Section 66 of Companies Act, 2013. Under Section 66 of Companies Act, 2013, the Extraordinary General Meeting of the Company are attended by the shareholders before whom the Scheme of reduction of share capital is placed and the same is approved. However, in case of Section 230 of the Companies Act, 2013, firstly the Board of Directors of the Company would approve the Scheme and thereafter it is required to be placed before the members and creditors for its approval. Under Section 230 of the Companies Act, 2013 this Tribunal is required to see whether the Scheme of Arrangement is approved by the members and creditors holding $\frac{3}{4}$ in value. Only after satisfying the said condition, this Tribunal can approve the Scheme under Section 230 of the Companies Act, 2013. Hence, the aforementioned Judgments referred to by the Applicant for seeking dispensation of the meeting of the member and creditors cannot be made applicable to the facts of the present case.

22. Hence, for the reasons aforesaid, the relief seeking dispensation of the meeting of the members and creditors of the Applicant Company stands rejected and consequentially we order for the meeting as follows;

A. INDIA FORGE & DROP STAMPINGS LIMITED

I. EQUITY SHAREHOLDERS

- (i) It is represented that, there are **Hundred and Sixteen (116)** Equity Shareholders. The Certificate issued by the Chartered Accountant certifying the list of Equity Shareholders is placed at **Pg. 116 to 119** of the application typeset.
- (ii) Meeting of the Equity Shareholders of the India Forge & Drop Stampings Limited is directed to be held on **04.05.2024 at 10.00AM** in the registered office of the India Forge & Drop Stampings Limited or through video conferencing or if not convenient at any other suitable place for which prior approval shall be sought from this Tribunal within a period of 7 days from the date of this order and prior to the issue of notices.

II. SECURED CREDITORS

- (i) It is represented that, there are **Four (4)** Secured Creditors. The Certificate issued by the Chartered Accountant certifying the list of Secured Creditors is placed at **Pg. 120-121** of the application typeset.

- (ii) Meeting of the Secured Creditors of the India Forge & Drop Stampings Limited is directed to be held on **04.05.2024** at **11.00AM** in the registered office of the India Forge & Drop Stampings Limited or through video conferencing or if not convenient at any other suitable place for which prior approval shall be sought from this Tribunal within a period of 7 days from the date of this order and prior to the issue of notices.

III. UNSECURED CREDITORS

- (i) It is represented that, there are **Four Hundred and Ninety Five (495)** Unsecured Creditors. The Certificate issued by the Chartered Accountant certifying the list of Unsecured Creditors is placed at **Pg. 122 to 133** of the application typeset.
- (ii) Meeting of the Unsecured Creditors of the India Forge & Drop Stampings Limited is directed to be held on **04.05.2024** at **02.00 PM** in the registered office of the India Forge & Drop Stampings Limited or through video conferencing or if not convenient at any other suitable

place for which prior approval shall be sought from this Tribunal within a period of 7 days from the date of this order and prior to the issue of notices.

23. The quorum for the meeting of the India Forge & Drop Stampings Limited shall be as follows;

India Forge & Drop Stampings Limited

S.No	CLASS	QUORUM
1	EQUITY SHAREHOLDERS	24

India Forge & Drop Stampings Limited

S.No	CLASS	QUORUM
1	SECURED CREDITORS	1

Applicant Company

S.No	CLASS	QUORUM
1	UNSECURED CREDITORS	100

- i) The Chairperson appointed for the above said meetings shall be **I.B.Harikrishna, PCS (Mob:93805 71141)**. The Fee of the Chairperson for the aforesaid meeting shall be **Rs.1,00,000/- (Rupees One Lakh only)** in addition to meeting his incidental expenses. The Chairperson(s) will file the reports of the meeting within a week from the date of holding of the above said meetings

- ii) **Ramesh Kumar Mallela, FCA (Mob: 9381931353)** appointed as a Scrutinizer and would be entitled to a fee of **60,000/- (Rupees Sixty Thousand Only)** for services in addition to meeting incidental expenses.
- iii) In case the quorum as noted above, for the above meeting of the Applicant Company is not present at the meeting, then the meeting shall be adjourned by half an hour, and thereafter the person(s) present and voting shall be deemed to constitute the quorum. For the purpose of computing the quorum the valid proxies shall also be considered, if the proxy in the prescribed form, duly signed by the person entitled to attend and vote at the meeting, is filed with the registered office of the applicant companies at least 48 hours before the meeting. The Chairperson appointed herein along with Scrutinizer shall ensure that the proxy registers are properly maintained. However, every endeavour should be made by the applicant companies to attain at least the quorum fixed, if not more in relation to approval of the scheme.
- iv) The meetings shall be conducted as per applicable procedure prescribed under the MCA Circular MCA General Circular Nos. (i) 20/2020 dated 5th May, 2020 (AGM Circular), (ii) 14/2020, dated 08.04.2020 (EGM Circular-I) and (iii) 17/2020 dated 13.04.2020 (EGM Circular-II);
- v) That individual notices of the above said meetings shall be sent by the Applicant Company through registered post or speed post or through courier or e-mail, 30 days in advance before the scheduled date of the meeting, indicating the day, date, the place and the time as aforesaid, together with a copy of Scheme, copy of explanatory statement, required to be sent under the Companies Act, 2013 and the prescribed form of proxy shall also be sent along and in addition to the above any other documents as may be

prescribed under the Act or rules may also be duly sent with the notice.

- vi) That the Applicant Company shall publish advertisement with a gap of at least 30 clear days before the aforesaid meetings, indicating the day, date and the place and time as aforesaid, to be published in the English Daily "*Business Standard*" (*All India Edition*), and "*Makkal Kural*" *Tamil (Tamil Nadu Edition)* in Vernacular stating the copies of Scheme, the Explanatory Statement required to be furnished pursuant to Section 230 of the Companies Act, 2013 and the form of proxy shall be provided free of charge at the registered office of the respective Applicant Companies.
- vii) The Chairperson shall as aforesaid be responsible to report the result of the meeting within a period of 3 days of the conclusion of the meeting with details of voting on the proposed scheme.
- viii) The company shall individually send notice to concerned Regional Director, MCA, Registrar of Companies, and the Income Tax Authorities as well as other Sectoral regulators who may have significant bearing on the operation of the applicant companies or the Scheme *per se* along with copy of required documents and disclosures required under the provisions of Companies Act, 2013 read with Companies (Compromises, Arrangements, Amalgamations) Rules, 2016.
- ix) The applicant company shall further furnish copy of the Scheme free of charge within 1 day of any requisition for the Scheme made by every creditor or member of the applicant companies entitled to attend the meetings as aforesaid.
- x) The Authorized Representative of the Applicant Company shall furnish an affidavit of service of notice of meetings and

publication of advertisement and compliance of all directions contained herein at least a week before the proposed meetings.

- xi) 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 Applicants.

24. The Applications stand **allowed** on the aforesaid terms.

-Sd-

-Sd-

VENKATRAMAN SUBRAMANIAM
MEMBER (TECHNICAL)

SANJIV JAIN
MEMBER (JUDICIAL)

SriramAnanth.V