

IN THE HIGH COURT OF DELHI
COMPANY APPLICATION (MAIN) NO. 181/2015

Reserved on 7th December, 2015
Date of pronouncement: 23rd December, 2015

In the matter of

The Companies Act, 1956 & the Companies Act, 2013 (to the extent applicable):

And

**Application under Sections 391, 392 & 394 of
the Companies Act, 1956 read with Rules 6 &
9 of the Companies (Court) Rules, 1959**

Scheme of Arrangement between:

Abhinav Steels and Power Limited

Applicant/Demerged Company

AND

RS Ingot and Billet Private Limited

Applicant/Resulting Company No. 1

Siddhartha Rolling and Energy Private Limited

Applicant/Resulting Company No. 2

**Through Mr. P. Nagesh with
Mr. Ashutosh Gupta, Advocates for the
applicants**

SUDERSHAN KUMAR MISRA, J.

1. This joint application has been filed under Sections 391, 392 & 394 of the Companies Act, 1956 read with Rules 6 & 9 of the Companies (Court) Rules, 1959 by the applicant companies seeking directions of this court to dispense with the requirement of convening the meetings of their equity shareholders, secured and unsecured creditors and for convening a meeting of the secured creditors of the demerged company to consider and approve, with or without modification, the proposed Scheme of Arrangement between Abhinav Steels and Power Limited (hereinafter referred to as the demerged company) and RS Ingot and Billet Private

Limited (hereinafter referred to as the resulting company no. 1) and Siddhartha Rolling and Energy Private Limited (hereinafter referred to as the resulting company no. 2).

2. The registered offices of the demerged and resulting companies are situated at New Delhi, within the jurisdiction of this Court.

3. The demerged company was originally incorporated under the Companies Act, 1956 on 5th October, 1987 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi under the name and style of Abhinav Steels Private Limited. The company changed its name to Abhinav Steels Limited and obtained the fresh certificate of incorporation on 27th June, 2011. The company again changed its name to Abhinav Steels and Power Limited and obtained the fresh certificate of incorporation on 23rd May, 2012.

4. The resulting company no. 1 was incorporated under the Companies Act, 2013 on 16th August, 2012 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

5. The resulting company no. 2 was incorporated under the Companies Act, 1956 on 31st May, 2012 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

6. The present authorized share capital of the demerged company is Rs.50,00,00,000/- divided into 50,00,000 equity shares of Rs.100/- each. The issued, subscribed and paid-up share capital of the company is Rs.21,89,93,800/- divided into 21,89,938 equity shares of Rs.100/- each.

7. The present authorized share capital of the resulting company no.1 is Rs.10,00,000/- divided into 1,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.1,00,000/- divided into 10,000 equity shares of Rs.10/- each.

8. The present authorized share capital of the resulting company no.2 is Rs.10,00,000/- divided into 1,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.1,00,000/- divided into 10,000 equity shares of Rs.10/- each.

9. Copies of the Memorandum and Articles of Association of the demerged and resulting companies have been filed on record. The audited balance sheets, as on 31st March, 2015, of the demerged and resulting companies, along with the reports of the auditors, have also been filed.

10. A copy of the Scheme of Arrangement has been placed on record and the salient features of the Scheme have been incorporated and

detailed in the application and the accompanying affidavit. It is submitted by the applicants that the Scheme, *inter alia*, provides that, upon coming into effect of this Scheme, the Furnace and Rolling Division 1 (Demerged Undertaking 1) and the Rolling Division 2 (Demerged Undertaking 2) of the demerged company shall stand merged with the resulting company no. 1 and the resulting company no. 2 respectively. It is claimed that the proposed demerger will allow the management to lend greater focus on the operation of each of the units, thereby enabling an independent and optimal growth and development of all the three undertakings.

11. So far as the share exchange ratio is concerned, the Scheme provides that, upon coming into effect of this Scheme, the resulting companies no. 1 and 2 shall issue and allot equity shares to the shareholders of the demerged company in the following ratio:-

“380 equity share of Rs.10/- each of the resulting company no.1, credited as fully paid up, for every 100 equity shares of Rs.100/- each held by the shareholders in the demerged company.”

“20 equity shares of Rs.10/- each of the resulting company no.2, credited as fully paid up, for every 100 equity shares of Rs.100/- each held by the shareholders in the demerged company.”

12. It has been submitted by the applicants that no proceedings under Sections 235 and 251 of the Companies Act, 1956 or corresponding

provisions of the Companies Act, 2013 are pending against the applicant companies.

13. The Board of Directors of the demerged company and resulting companies in their separate meetings held on 1st August, 2015 have unanimously approved the proposed Scheme of Arrangement. Copies of the Resolutions passed at the meetings of the Board of Directors of the demerged and resulting companies have been placed on record.

14. The demerged company has 25 equity shareholders and 114 unsecured creditors. 21 out of 25 equity shareholders, being 84% in number and 94.13% in value, and all the unsecured creditors have given their consents/no objections in writing to the proposed Scheme of Arrangement. Their consents/no objections have been placed on record. They have been examined and found in order. In view thereof, the requirement of convening the meetings of the equity shareholders and unsecured creditors of the demerged company to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Arrangement is dispensed with.

15. The resulting company no. 1 has 02 equity shareholders. Both the equity shareholders have given their consents/no objections in writing to the proposed Scheme of Arrangement. Their consents/no objections

have been placed on record. They have been examined and found in order. In view thereof, the requirement of convening the meeting of the equity shareholders of the resulting company no. 1 to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Arrangement is dispensed with. There is no secured or unsecured creditor of the resulting company no. 1, as on 31st July, 2015.

16. The resulting company no. 2 has 02 equity shareholders and 02 unsecured creditors. Both the equity shareholders and both the unsecured creditors have given their consents/no objections in writing to the proposed Scheme of Arrangement. Their consents/no objections have been placed on record. They have been examined and found in order. In view thereof, the requirement of convening the meetings of the equity shareholders and unsecured creditors of the resulting company no. 2 to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Arrangement is dispensed with. There is no secured creditor of the resulting company no. 2, as on 31st July, 2015.

17. The demerged company has 03 secured creditors and a direction is sought to convene and hold their meeting to seek their approval to the proposed Scheme of Arrangement. Considering the facts and circumstances aforesaid, the meeting of the secured creditors of the demerged company shall be held on 19th March, 2016 at 12:00 noon at

Radisson Blue Hotel, H-3, Sector-14, Kaushambi, Uttar Pradesh. Mr.N.S. Benipal, Advocate, (Mobile No. 9999329299) is appointed as the Chairperson and Ms. Parul Mehra, Advocate, (Mobile No. 8375824055) is appointed as the Alternate Chairperson to conduct the said meeting. The Quorum of the meeting of the secured creditors of the demerged company shall be 02 in number and more than 25% in value of the total secured debt.

18. In case the quorum as noted above for the above meeting is not present at the meeting, then the meeting shall be adjourned by half an hour, and thereafter the persons 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 demerged company at least 48 hours before the meeting. The Chairperson and Alternate Chairperson shall ensure that the proxy registers is properly maintained.

19. The Chairperson and Alternate Chairperson shall ensure that notices for convening the aforesaid meeting of the secured creditors of the demerged company, along with copies of the Scheme of Arrangement and the statement under Section 393 of the Companies Act, 1956, shall be sent to the secured creditors of the demerged

company by ordinary post at their registered or last known addresses at least 21 days before the date appointed for the meeting, in their presence or in the presence of their authorized representatives. Notice of the meeting shall also be published in the Delhi editions of the newspapers "Business Standard" (English) and (Hindi) in terms of the Companies (Court) Rules, 1959 at least 21 days before the date appointed for the meeting.

20. The Chairperson and Alternate Chairperson will be at liberty to issue suitable directions to the management of the applicant companies so that the aforesaid meeting of the secured creditors of the demerged company is conducted in a just, free and fair manner.

21. The fee of the Chairperson and the Alternate Chairperson for the aforesaid meeting shall be Rs.50,000/- each in addition to meeting their incidental expenses. The Chairperson will file his report within two weeks from the date of holding of the aforesaid meeting.

22. The application stands allowed in the aforesaid terms.

Dasti

SUDERSHAN KUMAR MISRA, J.

December 23, 2015