IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.07.2015

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The Honourable Mrs.Justice PUSHPA SATHYANARAYANA

C.P.Nos.188 to 190 of 2015

Cooper Bussmann India Private Limited
having its registered Office at
No.2, EVR Street,
Sedarapet,
Pondicherry – 605 111
represented by its Director
Mr.Nitin Shridhar Chalke
.. Petitioner in C.P.No.188 of 2015
/1st Transferor Company

Eaton Electric Private Limited
having its registered Office at
No.2, EVR Street,
Sedarapet,
Pondicherry – 605 111
represented by its Director
Mr.Sachit Nayak
.. Petitioner in C.P.No.189 of 2015
/2nd Transferor Company

Eaton Power Quality Private Limited
having its registered Office at
No.2, EVR Street,
Sedarapet,
Pondicherry – 605 111
represented by its Director
Mr.Sivagurunatha Pillai Arumugam

.. Petitioner in C.P.No.190 of 2015/
Transferee Company

Petitions filed under sections 391 to 394 of the Companies Act, 1956 to sanction the scheme of amalgamation between the petitioners' companies with effect from 1st April 2014, so as to be binding on all the equity shareholders of the petitioners companies.

For Petitioners : Mr.T.K.Bhaskar

Mr.M.Gopikrishnan
Central Government Counsel
for Regional Director
Ministry of Company Affairs,
Chennai.

Mr. Atchutha Ramaiah,
Official Liquidator

COMMON ORDER

These company petitions are preferred under sections 391 to 394 of the Companies Act, 1956 for sanctioning the scheme of amalgamation of two transferor companies, petitioners in C.P.Nos.188 and 189 of 2015 with the transferee Company, petitioner in C.P.No.190 of 2015 with effect from 1st April 2014. The scheme of amalgamation is annexed as Annexure 8 in the respective petitions.

2. A perusal of the records show that the petitioners have complied with the prescribed procedure. The petitioners in C.P.Nos.188 and 189 of 2015 are the transferor companies and the petitioner in C.P.No.190 of 2015 is the transferee company.

3. The 1st transferor company was incorporated under the provisions of the Companies Act, 1956, on 24th September 1992 with the Registrar of Companies, Tamil Nadu under the name and style of "S S P Industrial Investments Private Limited" and the name was subsequently, changed to "S & S Low Tension Switchgear Private Limited" vide a fresh certificate of incorporation dated 18th August 1988 and the name was subsequently, changed to its present name "Cooper Bussmann India Private Limited", vide a fresh certificate of incorporation dated 22nd November 2000. The 1st transferor company is involved in the business of manufacture and sale of HRC fuses, combiner boxes and fuse fittings as well as UPS products to cater to both the export and domestic requirements and trading activities as well. The objects of the 1st transferor company are mentioned in its Memorandum of Association.

The Certificates of incorporation and the Memorandum of Association and Articles of Association of the 1st transferor company are enclosed as Annexure-1 to C.P.No.188 of 2015.

4. The 2nd transferor company was incorporated under the provisions of the Companies Act, 1956, on 17th November 2005 with the Registrar of Companies, Delhi and Haryana under the name and style of "Moeller HPL India Private Limited" and the name was subsequently, changed to its present name "Eaton Electric Private Limited", vide a fresh certificate of incorporation dated 13th March 2012. The registered office of the 2nd transferor company was shifted to Puducherry vide resolution dated 10.02.2015. The 2nd transferor company is involved in the business of manufacturing and trading of mainly miniature circuit breakers (MCB) and residual current circuit breakers (RCCB). The objects of the 2nd transferor company are mentioned in its Memorandum of Association. The Certificates of incorporation and the Memorandum of Association and Articles of Association of the 2nd transferor company are enclosed as Annexure-1 to C.P.No.189 of 2015.

5. The transferee company was incorporated under the provisions of the Companies Act, 1956, on 1st March 1996 with the Registrar of Companies, Pune, under the name and style of "CG Powerware Private Limited" and the name was then changed to "Powerware International Private Limited" on 9th January 2001 and the name was subsequently changed to its present name "Eaton Power Quality Private Limited" on 10th November 2004. The registered office of the transferee company was shifted to Pondicherry vide resolution dated 16.01.2015. The transferee company is involved in the business of manufacturing and trading of mainly single phase and 3-phase UPS and DC power systems, SMPS power supply, power quality and distribution system and also provide maintenance services related to these items. The objects of the transferee company are mentioned in its Memorandum of Association. The Certificates of incorporation and the Memorandum of Association and Articles of Association of the transferee company are enclosed as Annexure-1 to C.P.No.190 of 2015.

6. The Chartered Accountant's Certificate certifying that there are no secured creditors in respect of the first and second transferor

companies and that of the transferee company, namely, petitioners in C.P.Nos.188, 189 and 190 of 2015 is annexed as Annexure No.7 to the respective petitions. The copy of the resolution dated 23.02.2015 of the Board of Directors of the first and second transferor companies namely, petitioners in C.P.Nos.188 and 189 of 2015 and that of the transferee company, viz., petitioner in C.P.No.190 of 2015 adopting the scheme of amalgamation is annexed as Annexure No.3 to the respective petitions.

7. Each of the petitioner companies, viz., first and second transferor companies and the transferee company, has two equity shareholders respectively. A copy of the list of equity shareholders and copies of their consent affidavits consented to the scheme of amalgamation and agreed to dispense with convening of a meeting for approving the said scheme are annexed as Annexures – 5 and 6 to the respective petitions. By order dated 16.04.2015 in Comp.A.Nos.393, 394 and 395 of 2015 filed by the petitioner companies (both transferor companies and transferee company) this Court, dispensed with the convening, holding and conducting of the meeting of the equity

shareholders for the purpose of considering and if thought fit, approving with or without modification, the scheme of amalgamation of the transferor companies with the transferee company.

8. On notice, the Regional Director, Ministry of Company Affairs has filed his report stating no objection to the scheme being sanctioned.

9. The Official Liquidator has filed his report along with the report of the Chartered Accountant. It is stated that under Clause 16 of the proposed scheme, the interest of all the permanent employees in the service of the transferor companies are safeguarded. It is also stated that pursuant to the scheme coming into effect and as a consideration for the transfer of undertaking of the transferor companies to the transferee company, and without any further application, act or deed, the transferee company shall issue and allot, compulsorily convertible preference shares (CCPS) to Bussmann International Holdings, LLC, the member of CBIPL, the 1st transferor company and to Eaton Holding (Austria) GmbH and ETN Holding2

Limited, the member of EEPL, the 2nd transferor company. It is further stated in the report of the Official Liquidator that it is clarified that the nominee shareholder of CBIPL i.e., Cooper Wiring Devices de Mexico S.A. De C.V. Shall not be issued any CCPS pursuant this provision and any shares held by Cooper Wiring Devices de Mexico S.A. De C.V. Shall stand cancelled without any further application, act or deed. The CCPS shall have a face value of INR 10. Any fractional entitlement shall be ignored. Further the fair value per equity share of the transferor companies and the transferee company has been worked out by an independent accounting firm in accordance with internationally accepted valuation principles as per the regulations under the Foreign Exchange Management Act, 1999 and is indicative of the tangible and intangible assets which have built up the intrinsic values of each of the companies. The fair value per equity share of each of the companies is as follows:-

Company	***EPQPL (Transferee Company)***	***EEPL (Transferor Company No.2)***	***CBIPL (Transferor Company No.1)***
Fair value per equity share (INR)	113.8	27.5	732.0

Accordingly, the entitlement ratio (after ignoring any fractional entitlement) of the members of the transferor companies is set out herein below:-

A. EEPL (Transferor Company No.2)

Name of the Member	*Number of Equity Shares held in EEPL*	*Number of CCPS entitled for the specified equity shares*
Eaton Holding (Austrial) GmbH	20,40,000	4,97,561
ETN Holding 2 Limited	19,60,000	4,78,049

B. CBIPL (Transferor Company No.1)

Name of the Member	*Number of Equity Shares held in CBIPL*	*Number of CCPS Entitled for the Specified Equity Shares*
Bussmann International Holdings, LLC	1,06,09,575	6,79,01,280

The aggregate amount of CCPS issued will thus be equivalent to the aggregate fair value of the Undertaking of the transferor companies which is the consideration received by the transferee company for the issue of the CCPS.

10. It is further stated in the report of the Official Liquidator that the records maintained in the office of the Registrar of Companies were also caused to be inspected by the said Chartered Accountant. The report of the chartered accountant states that the affairs of the

transferor companies have not been conducted in a manner prejudicial to the interest of its members or to public interest and they do not come across any act of misfeasance by the Directors attracting the provisions of Sections 542 and 543 of the Companies Act, 1956. In the absence of any material to indicate that the affairs of the transferor companies were being conducted in a manner prejudicial to the interest of its members or public interest, the Official Liquidator has filed his report before this Court for orders as to the dissolution of the transferor companies without winding up.

11. I have perused the scheme filed in the company petitions. The Scheme contains no objectionable feature detrimental to the interest of the employees of the transferor companies or of the transferee company. The said scheme is not violative of any statutory provisions. The scheme is fair, just, sound and is not against any public policy or public interest. No proceedings are pending under Sections 235 to 251 of the Companies Act, 1956. All the statutory provisions are complied with.

12. Consequently, there shall be an order approving the scheme of amalgamation of the transferor companies, viz., Cooper Bussmann India Private Limited (1st Transferor Company), petitioner in C.P.No.188 of 2015 along with Eaton Electric Private Limited (2nd Transferor Company), petitioner in C.P.No.189 of 2015 with Eaton Power Quality Private Limited (Transferee Company), petitioner in C.P.No.190 of 2015, as provided in Annexure - 8 in these Company Petitions, with effect from 01.04.2014, as the procedure laid down under Sections 391 to 394 of the Companies Act are duly complied with. The petitions are allowed.

13. Taking note of the report by the Chartered Accountant as enclosed by the Official Liquidator, in terms of the order passed by this Court, the 1st and 2nd transferor companies viz., Cooper Bussmann India Private Limited (petitioner in C.P.No.188 of 2015) and Eaton Electric Private Limited (petitioner in C.P.No.189 of 2015) shall stand dissolved without winding up.

14. The learned Central Government Counsel is entitled to a fee of Rs.15,000/- (Rs.5,000/- in each petitions) from the transferee company.

10.07.2015

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PUSHPA SATHYANARAYANA,J.

Mra

C.P.Nos.188 to 190 of 2015

10.07.2015