IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 30.08.2016

DELIVERED ON : 31.08.2016

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The Honourable **Mr.Justice RAJIV SHAKDHER**

C.P.Nos. 155 and 156 of 2016

Apnaa Engg. Industries Private Limited
E10, Thiru.Vi.Ka. Industrial Estate,
Guindy, Chennai - 600 032
rep. by its Director
Mr.Baskar Raj D Ceri
.. Petitioner in C.P.No.155 of 2016/
Demerged Company

Guindy Engineering Solutions India Private Limited
E10, Thiru.Vi.Ka. Industrial Estate,
Guindy, Chennai - 600 032
rep. by its Director
Mr.M.Senthil Raj Ceri Desappan
.. Petitioner in C.P.No.156 of 2016/
Resulting Company

Petitions filed under sections 391 to 394 of the Companies Act, 1956 to sanction the scheme of arrangement (demerger).

For Petitioners : Mr.A.M.Ilango

Mr.G.Venkatesan
for Regional Director
Ministry of Company Affairs
Chennai

COMMON ORDER

These Company Petitions are preferred under Sections 391 to 394 of the Companies Act, 1956 for sanctioning the scheme of arrangement (demerger) (in short Scheme) between the Demerged company with the Resulting company with effect from 01.04.2016. The Scheme is appended as Annexure '5' to the petitions.

2. M/s.Apnaa Engg. Industries Private Limited, the petitioner in C.P.No.155 of 2016 is the Demerged company and M/s.Guindy Engineering Solutions India Private Limited, the petitioner in C.P.No.156 of 2016 is the Resulting Company.

3. A perusal of the records shows that the respective petitioner company have complied with the formalities as prescribed under the Companies Act and the Rules framed therein.

3.1. It is stated that there is no secured creditor as far as the Demerged Company as well as the Resulting Company are concerned. Certificates of the Chartered Accountant confirming the said position are appended as Annexure '7' to these petitions.

4. A copy of two separate resolutions of even date, i.e., 19.03.2016, passed by the Board of Directors of both the Demerged Company as well as the Resulting Company adopting the scheme is enclosed as Annexure '4' to these petitions.

5. The affidavits of the equity shareholders of both the Demerged and Resulting companies giving their consent to the scheme is appended as Annexure '9' collectively to the petitions.

5.1. By order dated 31.03.2016 in C.A.Nos.349 and 350 of 2016, this Court dispensed with the convening, holding and conducting of the meeting of the shareholders of both the Demerged Company and Resulting company for the purpose of considering and if thought fit, approving with or without modification, the scheme conceived by the petitioner companies involving arrangement (demerger).

5.2. Insofar as the unsecured creditors of the Demerged Company is concerned, it is seen that there is a liability to pay the corporation tax, which is a statutory due. As far as the Resulting Company is concerned, it is seen that the liability is with regard to trade payables only, which is insignificant. Further, it is averred in both the petitions that the assets of the respective petitioner company are more than sufficient to meet the liabilities of the respective petitioner company and the Scheme will not adversely affect the rights of any of the creditors of the petitioner companies.

6. The petitioners state that no investigation proceedings are pending against the petitioner companies under Sections 206 to 229 of the Companies Act, 2013.

7. Upon notice being issued, the Regional Director, Ministry of Company Affairs has filed his report stating that he has no objection to the scheme being sanctioned.

8. I have perused the proposed scheme filed along with the company petitions. I find that the said Scheme is not prejudicial to the interest of any person or entity, which has a stake/interest in the petitioner companies. The said scheme as framed is not violative of any statutory provisions.

9. The proposed scheme as formulated is fair, just, sound and is not contrary to any public policy or public interest. No proceedings appear to be pending under the provisions of Sections 206 to 229 of the Companies Act, 2013. All the statutory provisions appear to have been complied with.

10. Consequently, there shall be an order approving the scheme of arrangement (demerger) of the Demerged company, viz., M/s.Apnaa Engg. Industries Private Limited, the petitioner in C.P.No.155 of 2016 with the Resulting Company, viz., M/s.Guindy Engineering Solutions India Private Limited, the petitioner in C.P.No.156 of 2016, as provided in Annexure "5" to these petitions with effect from 01.04.2016, as per the procedure laid down under

Sections 391 to 394 of the Companies Act, 1956. Needless to say, the procedure prescribed will be duly complied with.

11. It is made clear, that this order will not be construed as an order granting exemption from payment of stamp duty or, taxes or, any other charges, if any, payable, as per the relevant provisions of law or, from any applicable permissions that may have to be obtained or, even compliances that may have to be made, as per the mandate of law.

12. The learned Senior Central Government Standing Counsel is entitled to a fee of Rs.5,000/- from the Demerged company.

13. The above petitions are disposed of in the aforementioned terms.

31.08.2016

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RAJIV SHAKDHER,J.

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Pre-Delivery Order in

C.P.Nos.155 and 156 of 2016

Dated: 31.08.2016