IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CP No. 141 of 2015 (O&M)

Date of decision : 11.1.2016

In the matter of
Scheme of Arrangement between :

Carniwal Investments Limited .... Demerged Company
And
Astaka Properties Private Limited .... Petitioner / Resultant Company

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Deepak Suri, Advocate, for the petitioner.

Mr. Deepak Aggarwal, Advocate, with
Mr. D. K. Singh, Official Liquidator.

Rajesh Bindal, J.

In this petition, the petitioner companies seek sanctioning of Scheme of Arrangement (Annexure P-1), vide which "Property Leasing Undertaking" of the demerged company i.e. Carniwal Investments Limited shall demerge into petitioner /resultant company i.e. Astaka Properties Private Limited.

It is averred in the petition that the registered office of Carniwal Investments Limited (Demerged Company) is situated Mumbai, whereas, the registered office of petitioner/resultant company is situated at Gurgaon, which is within the jurisdiction of this Court.

Main objects of the Demerged Company and Petitioner / Resultant Company are detailed in their respective Memorandum and Articles of Association annexed with the petition at **Annexure P-7 and P-3,** respectively.

The Board of Directors of the Demerged Company and Petitioner /Resultant Company have approved the said Scheme in their respective meetings held on 20.3.2015, vide resolutions **Annexures P-6 and P-2,** respectively.

Earlier vide order dated 3.7.2015 passed in CP No. 92 of 2015, this Court has disposed of the first motion petition, while dispensing with convening of meetings of equity share holders and unsecured creditors of the petitioner company.

On 14.8.2015, notice of the petition was directed to be issued to Regional Director, Ministry of Corporate Affairs, Noida. Notice was also directed to be published in 'Indian Express' (English) and 'Jansatta' (Hindi) both Delhi/ NCR Editions and in the official Gazette of Government of Haryana. The aforesaid order has been complied with and an affidavit to this effect has been placed on record.

Pursuant thereto, the Official Liquidator has placed on record the representation/ affidavit dated 14.10.2015 of A. K. Chaturvedi, Regional Director, Northren Region, Ministry of Corporate Affairs, New Delhi. The Regional Director in his report has raised the issue that the scheme pertains to Demerger of "Property Leasing Undertaking" of the Demerged Company to the Resulting Company but the assets/ liabilities to be demerged by the Demerged undertaking and value thereof, which is material information regarding the present scheme of demerger has not been disclosed by the petitioner company.

In response to the query raised by the Regional Director, the petitioner/ Resulting company has filed affidavit of Aayushi Mulasi, the authorised representative has stated in para 8 that since the Demerged Company and the Petitioner Resultant company are going concerns, the position of assets and liabilities of the Demerged Company as on the appointed date would be different from the position of assets and liabilities as on the Effective date. It was further submitted that as the assets and liabilities to be transferred to the Petitioner Company pursuant to the Scheme would be those as on the effective date, the company is not in a position to submit the accurate details of the assets and liabilities that will be transferred pursuant to scheme becoming effective. It has further been undertaken that the company will submit the schedule of assets and liabilities at the time of preparation of the formal order so that it can be made a part of the final order to be filed with the Registrar of Companies. In support of his arguments, learned counsel for the petitioner referred to judgment of Delhi High Court in *CP No. 194 of 2008 – Doosan Babcock*

Energy India Pvt. Ltd. Vs Doosan Engineering & Services India Pvt. Ltd., dated 16.9.2008.

The petitioner- company has confirmed that there are no investigations or proceedings pending against them under Sections 237 to 251 of the Companies Act, 1956 or under any provisions of Companies Act, 2013.

For the reasons afore-stated and on consideration of all the relevant facts and the procedural requirements contemplated under the Act and the relevant Rules and on due consideration of the report of Regional Director, Northern Region, Ministry of Corporate Affairs, the Scheme of Arrangement is hereby sanctioned, subject to sanctioning of the Scheme by the High Court of Bombay. The assets and liabilities of the "Property Leasing Undertaking" of the demerged company i.e. Carniwal Investments Limited shall demerge into petitioner /resultant company i.e. Astaka Properties Private Limited. The undertaking given by the petitioner Company shall be complied with.

The Scheme shall be binding on the Demerged and Resultant companies, their respective Shareholders, Creditors and all concerned.

Let formal order of sanction of the Scheme of Arrangement be drawn in accordance with law and its certified copy be filed with the Registrar of Companies within 30 days from the date of receipt thereof.

A notice of the order be published in the 'Indian Express' (English) and 'Jansatta' (Hindi) both Delhi/ NCR Editions and in the official Gazette of Government of Haryana.

Any person interested shall be at liberty to apply to the Court for any direction(s) as per law.

Learned counsel for the petitioner company states that the Petitioner Company would voluntarily deposit a sum of ₹ 1,00,000/- in the Common Pool Fund Account of the Official Liquidator within four weeks.

The statement is accepted.

Disposed of accordingly.

11.1.2016 **(Rajesh Bindal)**
vs **Judge**