

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CP No.39 of 2016 (O&M)
Date of Decision:-17.10.2016

IN THE MATTER OF:

SCHEME OF ARRANGEMENT (DE-MERGER)

CHANDIGARH SOFTECH PRIVATE LIMITED

..... Transferor Company/Demerged Company

And

H.N. Softech Private Limited

.... Transferee Company No.1

And

N.H. Infrastructure Private Limited

.... Transferee Company No.2

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr.Alok Kumar Jain, Advocate,
for the petitioner-Companies.

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

RAKESH KUMAR JAIN, J.

CA No.529 of 2016

This application is filed under Rules 6 & 9 of the Companies
(Court) Rules, 1959 read with Section 151 of the CPC in order to place on
record the affidavits of Director and Authorised Signatory of Transferor
Company and Transferee Company No.1 and 2.

Application is allowed as prayed for.

Affidavits dated 28.9.2016 of authorized signatories of the Transferor Company and Transferee Company No.1 & 2 are taken on record.

CA stands disposed of.

CP No.39 of 2016 (O&M)

This petition is jointly filed by the petitioners-companies for first and second motion under Sections 391 (1), 392, 393 and 394 of the Companies Act, 1956 [for short 'the Act'] and for sanctioning of the Scheme of Arrangement (Demerger) (Annexure P-17) [for short 'the Scheme'] between the Petitioner-companies.

Convening of meetings of the Equity Shareholders and Unsecured Creditors of the Transferor Company, Transferee Company No.1 and Transferee Company No.2 and Secured Creditors of the Transferor Company were dispensed with vide order dated 19.02.2016. Since, there were no Secured Creditors of the Transferee Company No.1, therefore there was nothing to convene their meeting.

By virtue of Order dated 19.02.2016, notice was issued to the Regional Director, Northern Region, Ministry of Corporate Affairs, New Delhi. Notice was also ordered to be published in 'Indian Express' (English) and 'Dainik Bhaskar' (Hindi), both Chandigarh Editions and in the official Gazette of the Chandigarh Administration, Chandigarh. It was also ordered to be uploaded on the website of the Official Liquidator.

Pursuant to the aforesaid order dated 19.2.2016, affidavit of publication was filed, however, published inadvertently in the Official Gazette of Government of Haryana instead of Chandigarh Administration, Chandigarh, therefore, on 20.5.2016 notice was ordered to be published in

further direction was issued to make necessary compliance for issuance of notice to the Regional Director, Northern Region, Ministry of Corporate Affairs, New Delhi for 1.8.2016. On 1.8.2016, following order was passed:

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“Counsel for the petitioner submits that inadvertently, notice could not be got published in the official gazette of the Chandigarh Administration and the lapse on his part is regretted.

The petitioner is permitted to do the needful on or before the next date of hearing.

Adjourned to 16.9.2016.

In the meantime, the report of the Regional Director be also produced.”

Pursuant to the aforesaid order dated 1.8.2016, affidavit of publication dated 15.9.2016 has been filed.

The Official Liquidator has filed the representation/affidavit of Narender Kumar Bhola, Regional Director, Northern Region, Ministry of Corporate Affairs, New Delhi dated 30.08.2016 in which he has not raised any objection to the Scheme except the observation made in para 12, which read as under: -

“The deponent is to say that in the instant scheme the applicability of relevant accounting standard issued by the Institute of Chartered Accountants of India has not been mentioned. The Hon’ble Court may direct the petitioner companies to comply with the applicable Accounting Standards.”

Learned counsel for the petitioner-Companies has submitted that the Transferor Company/Demerged Company and Transferee Companies No.1 & 2 shall comply with the provisions of Accounting Standard-14 issued by the Institute of Chartered Accountants of India as has been undertaken in the affidavits dated 28.9.2016 by Vijender Singh, Jagdish Rai Goyal and Jagat Singh, authorized signatories of the Transferor Company/Demerged Company, Transferee Company No.1 and Transferee Company No.2, respectively.

The explanations/undertakings submitted by the authorized signatories of the Transferor Company/Demerged Company, Transferee Company No.1 and Transferee Company No.2 meets with the queries raised by the Regional Director.

The Petitioner-Companies have confirmed that no proceedings are pending under Sections 235 to 251 of the Companies Act, 1956 against either of the Transferor Company or against the Transferee Company No.1 and/or Transferee Company No.2.

For the reasons aforesaid and on consideration of all the relevant facts and the procedural requirements in terms of Section 391-394 of the Act and the relevant Rules and on due consideration of the report of the Regional Director, Ministry of Corporate Affairs, New Delhi, the Scheme of Arrangement and Demerger is hereby sanctioned and as a result thereto, the Assets and Liabilities of the "I.T. Division" of the Chandigarh Softech Private Limited (Transferor Company/Demerger Company) shall stand vested in the H.N. Softech Private Limited (Transferee Company No.1) and "Infrastructure Division" of the Chandigarh Softech Private Limited (Transferor Company No.1/Demerged company) shall stand vested

Transferor Company/Demerged Company and Transferee Company No.1 and 2 shall comply with the provisions of Accounting Standard-14 of Institute of Chartered Accountants of India.

The Scheme of Arrangement and Demerger shall be binding on the Petitioner-Transferor Company/Demerged Company and Transferee Company No.1 and 2 and their respective Shareholders, Creditors and all concerned.

Let formal order of sanction of the Scheme of Arrangement and Demerger 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 'Indian Express' (English) and 'Dainik Bhaskar' (Hindi), both Chandigarh Editions and in the Official Gazette of Chandigarh Administration, 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-Companies stated that the Petitioner-Companies 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.

(RAKESH KUMAR JAIN)
JUDGE

17.10.2016
Vivek

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No