

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, AT ALLAHABAD
CP No. 281/ALD/2019
CA No. 51/ALD/2019**

In the matter of the Companies Act, 2013

AND

In the matter of Petition under Sections 230 to 232 read with Section 52, 66 and other applicable provisions of the Companies Act, 2013 read with Companies (Compromises, Arrangements and Amalgamation) Rules, 2016

AND

In the matter of Archidply Industries Limited, a company incorporated under the provisions of the Companies Act, 1956

AND

In the matter of Archidply Décor Limited, a company incorporated under the provisions of the Companies Act, 2013

AND

In the matter of Scheme of Arrangement between Archidply Industries Limited ('the Demerged Company') and Archidply Décor Limited ('the Resulting Company')

Archidply Industries Limited,

Registered Office at Plot No.7,
Sector- 9, Integrated Industrial Estate,
SIDCUL, Pant Nagar, Udham Singh Nagar,
Uttarakhand -263153

.... Petitioner Company No. 1 / Demerged Company

AND

Archidply Décor Limited,

Registered Office at Plot No.7,
Sector- 9, Integrated Industrial Estate,
SIDCUL, Pant Nagar, Udham Singh Nagar,
Uttarakhand -263153

.... Petitioner Company No.2 / Resulting Company

ORDER RESERVED ON:05.12.2019

ORDER DELIVERED ON:08.01.2020

CORAM: Justice (Retd.) Rajesh Dayal Khare, Hon'ble Member (Judicial)

Counsel for the Petitioners: Mr. Suhail Ahmad Ansari, Advocate.

Per se: Justice (Retd.) Rajesh Dayal Khare, Hon'ble Member (Judicial)

ORDER

1. The Present Petition is filed by Petitioner Companies under Sections 230, 232 read with Section 52, 66 and other applicable provisions of the Companies Act, 2013 read with Rules framed there under as in force

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from time to time for the sanction of the proposed Scheme of Arrangement Arrangement between Archidply Industries Limited ('the Demerged Company') and Archidply Décor Limited ('the Resulting Company') and their respective Shareholders and Creditors (hereinafter referred to as "Scheme" or "Scheme of Arrangement"). ***(A copy of the Scheme has been annexed and marked Annexure I to the Company Petition No. 281/ALD of 2019).***

2. The proposed Scheme of Arrangement has been approved by the Board of Directors of the Demerged Company (AIL) and Resulting Company (ADL) in their respective meetings held on 30th May, 2018.

3. The rational for the Scheme of Arrangement are as under.

- In order to achieve geographical operational efficiencies and unlock shareholders value, the management of AIL has proposed to separate each business undertaking based on the commercial objectives and relevant geographies of the undertaking into separate company. Therefore with a view to effect such reorganization the present scheme is proposed for Transfer of Chintamani Undertaking into Archidply Décor Limited (ADL)

- In order to concentrate its growth efforts in a focused manner, introduce different strategies for growth and different focus for alliance / ventures and to enable direct Equity participation from investors and the Demerged Company has determined to create a focused entity and accordingly proposes the transfer and vesting of the Demerged Undertaking (as defined hereinafter) in the Resulting Company by way of a Demerger (as hereinafter defined) undertaken through this Scheme (as hereinafter defined) under the provisions of Sections 230 to 232 read alongwith Section 52 and Section 66 and other relevant provisions of the Act.

- The above transfer will be carried out by demerging Chintamani unit from AIL to ADL as per the provisions of Section 2(19AA) of the Income Tax Act, 1961 (IT Act).

- Upon the effectiveness of this scheme, ADL will be listed on the stock exchanges where shares of AIL are listed i.e. BSE and NSE, subject to the approval of respective stock exchanges.

4. Accordingly, this Scheme provides for the transfer by way of a Demerger

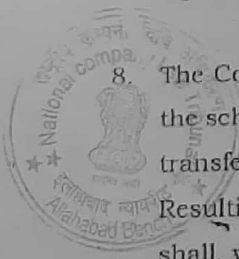
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of the Demerged Undertaking of the Demerged Company to the Resulting Company and the consequent issue of equity shares by the Resulting Company to the shareholders of the Demerged Company pursuant to Sections 230 to 232 read alongwith Section 52 and Section 66 and other relevant provisions of the Act and various other matters consequential to or otherwise integrally connected with the above in the manner provided for in this Scheme.

5. The Petitioners have stated that the accounting treatment proposed in the Scheme of Arrangement is in conformity with the accounting standards prescribed under Section 133 of the Companies Act, 2013. (Certificates from the respective Statutory Auditors of the Petitioner Companies are annexed and collectively marked as Annexure L and M to the Company Petition No. 281/ALD of 2019).

6. It has also been stated in the Petition that none of the Directors of the Petitioner Companies have any material interest in the Scheme, save as except to the extent of shareholding in the abovementioned Petitioner Companies.

7. It has also been stated in the Petition that the Scheme is not prejudicial to the interest of the Shareholders and Creditors of the Petitioner Companies and the Petition is made bona fide and is in the interest of all the Petitioner Companies and their Equity Shareholders, Secured Creditors and Un-secured Creditors as a whole and is also just and equitable.



8. The Counsel for the Petitioners submit that in terms of clauses 8.1 of the scheme, Upon this scheme coming into effect, in consideration of the transfer of the Demerged Undertaking by the Demerged Company to the Resulting Company, in terms of this scheme, the Resulting Company shall, without any further act or deed, issue and allot to every member of the Demerged Company holding fully paid up equity shares in the Demerged Company and whose names appear in the Register of Members of the Demerged Company on the record date in respect of every four (4) Equity Shares of the face value of Rs. 10 /- each fully paid up held by him / her / it in the Demerged Company, one (1) new Equity share of the Resulting Company of the face value of Rs.10/- each fully paid up.

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9. The counsel for the petitioners submit that in terms of Clause 11 of the Scheme, the debit balance of the said Demerger / Reconstruction adjustment account shall be adjusted against the Profit and Loss account and / or Securities premium account of the Demerged Company. The debit balance of the Demerger / Reconstruction Adjustment Account of the company will be adjusted against Securities Premium Account of the Company to the maximum extent of Rs. 44,22,48,275/- (Rupees Forty Four Crore Twenty Two Lakhs Forty Eight Thousand Two Hundred Seventy Five only). The reduction of Securities Premium account will not cause any prejudice to the creditors of the Company. For sake of clarity, it is specified that the reduction in Securities Premium Account does not involve either the diminution of any liability in respect of any unpaid capital or the payment to any shareholder of any paid-up capital nor is any call being waived. The provisions of section 66 of the Companies Act, 2013 will not be applicable. The Creditors of the Company are in no way affected by the proposed restructuring by way of the reduction and utilization of Securities Premium Account as there is no reduction in the amount payable to any of the creditors, no compromise or arrangement is contemplated with the creditors. Further, the proposed adjustment would not in any way adversely affect the ordinary operations of the Company or the ability of the Company to honour its commitments or to pay its debts in the ordinary course of business. The Demerged Company shall not be required to add the words "and reduced" as a suffix to its name consequent upon such reduction. Pursuant to Clause 11 of the Scheme of Arrangement there will be application and utilization of the Securities Premium Account, in pursuance of the Scheme, which shall be effected as an integral part of the Scheme without having to follow the process under Section 66 read alongwith Section 52 of the Companies Act, 2013 and the order of the National Company Law Tribunal (NCLT) sanctioning the scheme shall be deemed to be also the order under Section 66 of the Companies Act, 2013 confirming such reduction. That the minute set forth hereto and is annexed as Annexure Z be and is hereby approved.

10. The Counsel for the Petitioners further submits that, pursuant to the order dated 14th May, 2019 passed in Company Application CA (CAA) 51 / ALD /of 2019, meetings of Equity Shareholders, Secured Creditors

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and Unsecured Creditors of the Demerged Company - Archidply Industries Limited were convened as per the direction, for the purpose of considering and if thought fit, approving, with or without modification the arrangement embodied in the Scheme. In the said meetings, the Resolution for the Scheme was approved without any modification by all the Equity Shareholders, Secured Creditors and Unsecured Creditors of the Petitioner Company No. 1 / AIL / Demerged Company with requisite majority.

The common chairman appointed for the meetings has filed its report dated 3rd July, 2019 and **which are annexed to the petition as annexure - "R", "T" and "V".**

11. This Hon'ble Tribunal vide its order dated 1st August, 2019 directed to issue notice of hearing in respect of present Company Petition to the Statutory Authorities and also to make paper publication in this respect in English Newspaper "Indian Express", Delhi Edition and Hindi Newspaper "Jansatta, Delhi Edition.
12. In compliance thereof, the Petitioner Companies have filed Affidavit of service and publication, confirming that notices have been duly published in English Newspaper "Indian Express", Delhi Edition and Hindi Newspapers "Jansatta Delhi Edition. The Petitioner Companies have duly served on notices to (a) the Central Government through the Regional Director, Northern Region, Ministry of Corporate Affairs, New Delhi; (b) the Registrar of Companies, Uttarakhand; (c) the Income Tax Authorities; and (d) BSE Limited (e) National Stock Exchange of India Limited (NSE) and (f) Securities and Exchange Board of India (SEBI).
13. In response to the above stated notice, the Regional Director, Northern Region, Ministry of Corporate Affairs, New Delhi submitted its report through a representation/ affidavit, wherein it has not raised any objection against the Scheme of Arrangement.
14. In response to the above stated notice, the Registrar of Companies, Ministry of Corporate Affairs, Dehradun, Uttarakhand has also submitted its report through a representation/affidavit, wherein it has not raised any objection against the Scheme of Arrangement.
15. In response to the above stated notice, the Income Tax Department has not objected to the Propose Scheme of Arrangement. However the Petitioner Companies submit that both the Petitioner Companies will



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remain in existence even after the sanction of the Scheme of Arrangement. The Scheme of Arrangement is subject to the provisions of the Income Tax Act and the Petitioner Companies will comply with the provisions of the Income Tax, 1961, including the provisions of section 72A of the Act with regard to carry forward of any loss.

16. In response to the above stated notice, BSE Limited, National Stock Exchange of India Limited (NSE) and Securities and Exchange Board of India (SEBI) has not objected to the Propose Scheme of Arrangement. However BSE Limited and National Stock Exchange of India Limited (NSE) have given their observation letters which are annexed as annexure "N" and "O" to the Petition.
17. No objector has approached, neither to the Petitioner Companies nor before the Tribunal to oppose this Scheme of Arrangement.
18. We have gone through the reports of the Ld. Regional Director (Northern Region), Ministry of Corporate Affairs, New Delhi, Ld. Registrar of Companies, Ministry of Corporate Affairs, Dehradun, Uttarakhand and after perusing the same we are of the view that the sanction of the present Scheme is not against public policy, nor it would be prejudicial to the public interest at large.
19. In addition to above, all the statutory compliance either seems to have been complied with or further undertaken for making compliances by Petitioner Companies. Therefore, the present Company Petition deserves to be allowed in terms of its Prayer clause. In the result, the Scheme of Arrangement annexed to Company Petition is duly approved and hereby sanctioned.
20. In the result, the proposed Scheme of Arrangement which is annexed to the Company Petition stand approved and sanctioned. Petitioner Companies are required to act upon as per terms and condition of the sanctioned Scheme and the same to be binding on its Shareholders, Secured Creditors and Un-secured Creditors of the above named Petitioner Companies and also on the Petitioner Companies with effect from the appointed date i.e. 1st day of April, 2018.
21. While approving the Scheme as above, it is clarified that this order should not be construed as, in any way, granting exemption from payment of stamp duty (if any is applicable), taxes (including Income Tax, GST or any other charges, if any are applicable) and payment in



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accordance with law or in respect to any permission/ compliance with any other requirement which may be specifically required under anylaw.

22. The Petitioner Companies shall within thirty days of the date of the receipt of this order cause a certified copy of this order to be delivered to the Registrar of Companies for registration.
23. All concerned regulatory authorities to act on a copy of this order annexed with the Scheme duly authenticated by the Assistant Registrar, National Company Law Tribunal, Allahabad Bench.
24. Leave is granted to the Petitioners to file the Schedule of Assets.
25. Any person interested shall be at liberty to apply before this Tribunal in the above matter for such directions as may be necessary.
26. Accordingly, the present Company Petition bearing CP No. 281/ALD of 2019 is allowed and stands disposed of.

Date:08.01.2020



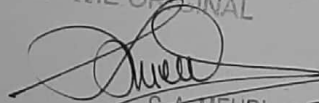
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JUSTICE RAJESH DAYAL KHARE
MEMBER (J)

Date of Application.....14/01/2020
Amount paid along with application.....35/-
Copy presented to every.....yes
Balance amount, if any.....Nil
Date of delivery.....15/01/2020

Compared by Me
Mahesh Sahas
15/01/20

CERTIFIED TO BE TRUE COPY
OF THE ORIGINAL


S.A. MEHDI
DESIGNATED REGISTRAR
NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD U.P.