

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 2

ITEM No 133
C.A.(CAA)/64(AHM)2021

Order under Section 230-232

IN THE MATTER OF:

Amrapali Industries Ltd
Amrapali Asset Reconstruction Company Pvt Ltd

.....Applicant

.....Respondent

Order delivered on ..13/09/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENT:

For the Applicant :
For the Respondent :

ORDER

The matter is listed today for pronouncement of the order.

The order is pronounced in the open court, vide separate sheet.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT No.2**

CA(CAA) No.64/230-232/NCLT/AHM/2021

In the matter of:

Amrapali Industries Limited,
(CIN: L91110GJ1988PLC010674)

A Company incorporated under the provisions of Companies Act 1956 having its registered office at Unit No. PO5-02D, 5th Floor Tower A WTC Gift City Gandhinagar Gujarat 382355

Applicant Demerged Company

**Amrapali Asset Reconstruction
Company Private Limited**
(CIN: U65190GJ2010PTC059157)

A Company incorporated under the provisions of Companies Act 1956 having its registered office at 19/20/21 3rd Floor, Narayan Chambers, Ashram Road, Ahmedabad Gujarat 380009

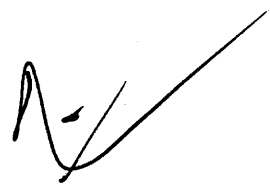
Applicant Resulting Company

**Order Reserved on : 06.09.2021
Order Pronounced on : 13.09.2021.**

**Coram: Madan Bhalchandra Gosavi, Member (Judicial)
Virendra Kumar Gupta, Member (Technical)**

Appearance:

Mr. Yuvraj Thakore, Advocate with Mr. Harmish Shah, Advocate for the Applicant Companies



ORDER

[Per Bench]

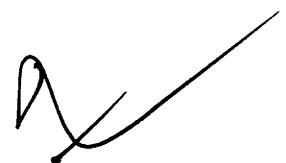
1. This present joint application is filed under Sections 230 to 232 of Companies Act, 2013 read with Companies (Compromise, Arrangement and Amalgamation) Rules, 2016, seeking appropriate directions for convening and holding of meetings of Equity Shareholders and Unsecured Creditors in respect of Applicant Demerged Company and seeking directions for dispensation of meetings of the Equity Shareholders, Unsecured Creditors in respect of Applicant Resulting Company and Secured Creditors in respect of both the Applicant Companies for considering the Scheme of Arrangement in the nature of Demerger between Amrapali Industries Limited ('Applicant Demerged Company' or 'AIL') and Amrapali Asset Reconstruction Company Private Limited ('Applicant Resulting Company' or 'AARCPL') and their respective shareholders ('the Scheme'), with effect from the Appointed Date on the agreed terms and conditions as set out in the Scheme.
2. The registered offices of the Applicant Companies are situated in the state of Gujarat and are under the jurisdiction of this Tribunal.
3. It is submitted that the Applicant Demerged Company has two different divisions namely trading of Commodities and Shares and entertainment business. To achieve operational efficiencies and streamlining its current structure, the Applicant Demerged Company has decided to demerge its Entertainment Division into Applicant Resulting Company with the primary intention to focus its business synergies on Share and Commodities trading. It is submitted that the transfer and vesting of the Entertainment

Division of the Applicant Demerged Company to Applicant Resulting Company according to this Scheme is to establish the highest operational standards and to unlock the economic value of the Entertainment Division. The re-organization exercise would inter alia achieve the following advantages:

- a. Realigning assets to create an integrated business model.
 - b. More focused leadership and dedicated management
 - c. Greater visibility on the performance of Share and Commodities trading.
4. It is submitted that the Board of Directors of the Applicant Companies in their respective Board Meetings held on 24th February 2020 passed a resolution approving the proposed Scheme as placed before the Board. Copies of the Board Resolutions are annexed with the application as **Annexure E (Colly.)**. The Applicant Companies have filed its audited balance sheet as on 31st March 2021 and the same is annexed with the application.
5. The Applicant Companies have also placed on record the Certificate of the Statutory Auditors under Section 133 of the Companies Act, 2013 vide **Annexure - G (Colly.)**
6. The Applicant Companies have submitted that no investigation or proceedings against the Applicant Companies under Section 210 to 226 of the Companies Act, 2013 as well as Section 235 to 251 of the Companies Act, 1956 are pending.
7. The Applicant Companies have further submitted that the provisions of the Competition Act, 2002 are not applicable in the

present case. Hence, no notice is required to be served to the Competition Commission of India.

8. It is further submitted that notice to RBI is not required as the Foreign Direct Investment in Applicant Resulting Company is under the automatic route. Accordingly, shares proposed to be held by the non-resident Shareholders of the Applicant Demerged Company in the Applicant Resultant Company according to the Scheme shall be under the automatic route and hence no approval under the FEMA is required. In view of the above factual position notice to RBI is not required to be issued.
9. It is submitted that the Applicant Demerged Company being a Listed Public Limited Company, a prior intimation to the Stock Exchange and Securities and Exchange Board of India through the designated stock exchange is a prerequisite. In light of the SEBI circular Ref. No. SEBI/LAD/ NRO/GN/ 2016-17/029 dated 15th February 2017 the Applicant Demerged Company has submitted the Scheme along with the documents with the BSE Limited (i.e., the Designated Stock Exchange). The Applicant Demerged Company has received a letter dated March 30, 2021, from BSE Ltd containing no adverse Observations on the draft Scheme of Arrangement.
10. The Applicant Demerged Company has submitted that there are 5830 Equity Shareholders. The Chartered Accountant Certificate certifying the number of Equity Shareholders is produced at **Annexure J** with the Application. The Applicant Demerged Company is seeking appropriate directions for holding and convening the meeting of the Equity Shareholders of the Applicant Demerged Company.



11. The Applicant Resulting Company has stated that there are 2 Equity Shareholders. The list of Equity Shareholders as certified by the Chartered Accountant is produced at **Annexure K** with this application. Their Consent Affidavits are placed on record vide **Annexure L**. Further, it is submitted that there are 2 Unsecured Creditors in the Applicant Resulting Company. The list of Unsecured Creditors as certified by the Chartered Accountant is produced at **Annexure P** with this Application. Their Consent Affidavits are placed on record vide **Annexure Q**. The Applicant Resulting Company is seeking appropriate directions for dispensing with the holding and convening meeting of the Equity Shareholders and Unsecured Creditors of the Applicant Resulting Company.
12. The Applicant Demerged Company has submitted that there are Nil Secured Creditors. Hence, there is no need of holding and convening the meeting. The Chartered Accountant certificate for the same is produced at **Annexure M**.
13. The Applicant Resulting Company has submitted that there are Nil Secured Creditors. Hence, there is no need of holding and convening the meeting. The Chartered Accountant certificate for the same is produced at **Annexure N**.
14. The Applicant Demerged Company has submitted that there are 40 Unsecured Creditors. The Chartered Accountant Certificate certifying the list of the Unsecured Creditors is produced at **Annexure O** with the Application. The Applicant Demerged Company is seeking appropriate directions for holding and

convening meeting of the Unsecured Creditors of the Applicant Demerged Company.

15. We heard the Ld. Advocate for the Applicant Companies and having perused the application, documents annexed with the Application. This Tribunal passes the following orders:

- i. The meeting of the Secured Creditors of the Applicant Demerged Company is not required to be convened and is hereby dispensed with.
- ii. The meeting of the Equity Shareholders of the Applicant Resulting Company is hereby dispensed with.
- iii. The meeting of the Secured Creditors of the Applicant Resulting Company is not required to be convened and is hereby dispensed with.
- iv. The meeting of the Unsecured Creditors of the Applicant Resulting Company is hereby dispensed with.
- v. The meeting of the Equity Shareholders of the Applicant Demerged Company shall be convened and held on the 26th day of October 2021 at 3:00 P.M. in case of a physical meeting at the Registered Office of the Company at Unit No. PO5-02D, 5th Floor Tower A WTC Gift City Gandhinagar Gujarat 382355 to consider and, if thought fit, approving with or without modifications of the proposed Scheme.
- vi. The meeting of the Unsecured Creditors of the Applicant Demerged Company as per the list of the unsecured creditors on the 31st March 2021 shall be convened and held

on the 26th day of October 2021 at 4:30 P.M. in case of a physical meeting at the Registered Office of the Demerged Company at Unit No. PO5-02D, 5th Floor Tower A WTC Gift City Gandhinagar Gujarat 382355 to consider and, if thought fit, approving with or without modifications of the proposed Scheme.

- vii. The Applicant Demerged Company is a listed public limited company, is governed by the SEBI circular no. CFD/DIL3/CIR/2017/21 dated 10th of March, 2017, and is required to provide the facility of e-voting to its shareholders.
- viii. In view of the recent circulars of the Ministry of Corporate Affairs; viz. Circular No. 14 of 2020 dated 8th April 2020, Circular No. 17 of 2020 dated 13th April 2020 and Circular No. 20 of 2020 dated 5th May 2020, the meetings of Equity Shareholders and Unsecured creditors of the Applicant Resulting Company shall be convened and conducted through video conferencing or other Audio Visual Means or other means as may be permitted under law. The Applicant Demerged Company shall appoint agencies as mandated by law.
- ix. At least one month before the date of the aforesaid meeting, an advertisement about the convening of the said meeting, indicating the day, date, place and time, as aforesaid, shall be published in "**Financial Express**" English daily, Ahmedabad Edition and a Gujarati translation thereof in Financial Express, Ahmedabad Edition. The publication shall indicate the time within which copies of the scheme shall be made available to the concerned persons free of



charge from the registered office of the Applicant Demerged Company. The publication shall also indicate that the statement required to be furnished according to Section 102 of the Act read with Sections 230 to 232 of the Act and the prescribed form of proxy can be obtained free of charge at the registered office of the Applicant Demerged Company under the second proviso to sub-section (3) of Section 230 and Rule 7 of the Companies (CAA) Rules, 2016.

- x. In addition, at least one month before the date of the meeting of the Equity Shareholders and Unsecured Creditors to be held as aforesaid, a notice of convening the said meeting, indicating the day, date, place and time, as aforesaid, together with a copy of the scheme, a copy of statement required to be furnished according to Section 102 of the Act read with Sections 230 to 232 and Rule 6 of the Companies (CAA) Rules, shall be sent to each of the Equity Shareholders and Unsecured Creditors of the Applicant Demerged Company at their respective registered or last known addresses either by Registered post or Speed Post/Airmail or E-Mail or by Courier or by Hand Delivery. The Notices shall be sent to the Equity Shareholders and Unsecured Creditors of the Applicant Demerged Company regarding the list of the persons appearing on the record of the Applicant Demerged Company as on 31st March 2021. However, the shareholders who are members on the record date fixed by the company will only be entitled to vote at the equity shareholders meeting.
- xi. Ms. Jaini Jain, Practicing Company Secretary, having Membership No. ACS52715 shall be the Chairman of the

aforesaid meetings of the equity shareholders and unsecured creditors of the Applicant Demerged Company to be held on 26th October 2021 and in respect of any adjournment thereof.

- xii. CS, Insiya Nalawala, Practicing Company Secretary, Membership No. A57573 is appointed as the Scrutinizer for the aforesaid meetings of the Equity Shareholders and Unsecured Creditors of the Applicant Demerged Company.
- xiii. The Chairman appointed for the aforesaid meetings shall issue the advertisements and send out the notices of the meeting referred to above. The Chairman/Chairperson is free to avail the services of the Applicant Demerged Company or any agency for carrying out the aforesaid directions.
- xiv. The Chairman or Chairperson shall have all powers under the Articles of Association of the Applicant Demerged Company and also under the Rules in relation to the conduct of meetings, including for deciding any procedural questions that may arise at the meetings or adjournment(s) to the aforesaid scheme or resolution, if any, proposed at the aforesaid meeting by any person(s) and to ascertain the decision of the sense of the meeting of the Unsecured Creditors by polling paper/ballot.
- xv. It is however clarified that in view of para A (x) of the MCA Circular No. 14/2020 dated 8th April 2020, that in case of meeting through video conference or other audio visual means, the voting through Proxy shall not be permitted.



However, voting through Authorized Representative is permitted.

- xvi. The quorum for the meeting of the Equity Shareholders and Unsecured Creditors shall be as per the provisions of Section 230(6) of the Companies Act, 2013. Further, if the quorum is not present within half-an hour from the time appointed for holding a meeting of the Applicant Demerged Company present shall be the quorum.
- xvii. The value of the Unsecured Creditors, as the case may be, shall be in accordance with the records or registers of the Applicant Demerged Company as on 31st March 2021 and where the entries in the records or registers are disputed, the Chairman of the meeting shall determine the number or value, as the case may be for purposes of the meeting.
- xviii. The Chairman to file an affidavit of not less than 7(seven) days before the date fixed for the holding of the meetings and to report to this Tribunal that the directions regarding issuance of notices and advertisement of the meeting have been duly complied with as per Rule 12 of the Companies (CAA) Rules, 2016.
- xix. It is further ordered that the Chairman shall report to this Tribunal on the result of the meeting in Form No.CAA.4, verified by his affidavit, as per Rule 14 of the Companies (CAA) Rules, 2016 within seven days.

16. In compliance with sub-section (5) of Section 230 and Rule 8 of the Companies (Compromises, Arrangements and

Amalgamations) Rules, 2016, the Applicant Companies shall send a notice of meeting in Form No.CAA.3 along with disclosures mentioned under Rule 6, to (i) the Central Government through the Regional Director, North Western Region, (ii) the Registrar of Companies, Gujarat, (iii) concerned Income Tax authorities (iv) Official Liquidator (For Demerged Company) (v) BSE (For Demerged Company) (vi) SEBI (For Demerged Company) and (vii) RBI (For Demerged Company), stating that representations, if any, to be made by them shall be made within a period of 30 days from the date of receipt of such notice, failing which it shall be presumed that they have no objection to make on the proposed Scheme. The said notices shall be sent forthwith by registered post or by speed post or by courier or by hand delivery or by an email at the office of the authority as required by sub-rule (2) of Rule 8 of the Companies (CAA) Rules, 2016. The aforesaid authorities, who desire to make any representation under sub-section (5) of Section 230, shall send the same to the Tribunal within a period of 30 days from the date of receipt of such notice, failing which it will be deemed that they have no representation to make on the proposed scheme of arrangement.

17. With the above directions, CA(CAA) No. 64 of 2021 is allowed and stands disposed of accordingly.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Sapna


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT – 2

ITEM No3
IA/11(AHM)2021
in
C.A.(CAA)/64(AHM)2021

Order under Section 230-232

IN THE MATTER OF:

Amrapali Industries Ltd
Amrapali Asset Reconstruction Company Pvt Ltd

.....Applicant

.....Respondent

Order delivered on 16.11.2021

Coram:

Dr. Deepti Mukesh, Hon'ble Member(J)
Kaushalendra Kumar Singh, Hon'ble Member(T)

PRESENT:

For the Applicant : Mr. Yuvraj Thakore Adv.
For the Respondent :

ORDER

Application is filed by Applicant Company seeking the modification of the order to the extent of change of date and holding for a meeting of demerged company of equity shareholders and unsecured creditors. The learned counsel states that as per the order dated 13.09.2021, the date of holding the meeting was 26.10.2021, but since there are around 5000 shareholders and the service of notice could not be completed, hence, change in date is required to complete the process. Learned counsel states that the next date of meeting now is proposed to be on 27.10.2021, accordingly the directions may be passed. Considering the submission made in Para 15 (v) of the order dated 13.09.2021, proposed meeting were be held on 26.10.2021 at 3.00 pm which now is allowed to be held on 27th December 2021. Para15 (vi) also mention the meeting of the unsecured creditors to be held on 26th October 2021 at 4.30 pm

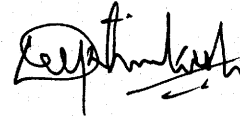
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which now will be held on 27th December 2021. The time and venue of meeting will remain same.

Application is allowed in terms of above order and disposed of.



**KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)**



**DR. DEEPTI MUKESH
MEMBER (JUDICIAL)**