

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH, (COURT NO. – I)
KOLKATA

C.P (CAA)/190(KB)2024
IN
C.A (CAA) NO. 69/KB/2024

An Application under Section 230 to 232 of the Companies Act, 2013 read with Rule 11 of the National Company Law Tribunal Rules, 2016 and Companies (Compromises, Arrangements and Amalgamations) Rules 2016;

In the matter of:

A Scheme of Arrangement of (Second Motion):

- 1) **BHUVEE STENOVATE PRIVATE LIMITED**, a company incorporated under the Companies Act, 1956 and having its registered office at Room No. 307, Swaika Centre, 4A Pollock Street, Kolkata 700001, West Bengal, within the aforesaid jurisdiction.

... THE FIRST PETITIONER COMPANY/DEMERGED COMPANY

AND

- 2) **LASER POWER & INFRA PRIVATE LIMITED**, a company incorporated under the Companies Act, 1956 and having its registered office at 4A, Pollock Street, 3rd Floor, Kolkata- 700001, West Bengal, within the aforesaid jurisdiction.

... THE SECOND PETITIONER COMPANY/ TRANSFEREE COMPANY-2

In the matter of:

- 1) **BHUVEE STENOVATE PRIVATE LIMITED**
- 2) **LASER POWER & INFRA PRIVATE LIMITED**

...Petitioner Companies

Date of pronouncing the order: 02.01.2025

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CORAM:

Smt. Bidisha Banerjee Member (Judicial)
Shri D. Arvind Member (Technical)

Appearances (via Video Conferencing/Physical)

Ms. Manju Bhuteria, Adv.] For the Petitioners
Ms. Tanvi Luhariwala, Adv.]
Mr. Supriyo Gole, Adv.]
Ms. Madhuj Barman, Adv.]

Mr. Alok Tandon, JD] From the Office of RD(ER), MCA

ORDER

Per: Bidisha Banerjee, Member (Judicial)

1. The Court convened through hybrid mode.
2. The instant petition has been filed in the second stage of the proceedings under Section 230 to 232 and other applicable provisions of the Companies Act, 2013 ("Act") for sanction of the Scheme of Arrangement between Bhuvée Stenovate Private Limited being the "Demerged Company" and Laser Power & Infra Private Limited and Suncity Metals and Tubes Private Limited, being the "Transferee Companies/Resulting Companies" whereby and whereunder the business of the demerged company is being proposed to be demerged into the Transferee Companies from the **Appointed date viz 1st April, 2023** in the manner and on the terms and conditions stated in the said Scheme of Arrangement ("**Scheme**"). The copy of the said Scheme is annexed to the Company Petition being- **Annexure-A at Page Nos. 36-66.**



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3. It is submitted by the Learned Counsel appearing for the Petitioner(s) that the Transferee Company-1 being Suncity Metals and Tubes Private Limited has its registered office in the State of Rajasthan and a separate application is being filed at the Hon'ble National Company Law Tribunal, Jaipur, Rajasthan for the sanctioning of scheme.
4. It is submitted by the Learned Counsel appearing for the Petitioner(s) that none of the Petitioner Companies involved in the Scheme are NBFC Companies or listed companies.
5. It is submitted by Learned Counsel appearing for the Petitioner(s) that the list of shareholders of the demerged company certified by the Auditor's Certificate is annexed to the Company Petition as **Annexure – E in VOL I at Page No 168 to 171**, that there are nil secured creditor of the demerged company certified by the Auditor's Certificate which is annexed to the Company Petition as **Annexure – F in VOL I at Page No 172 to 174** and that the list of unsecured creditors of the demerged company certified by the Auditor's Certificate is annexed to the Company Petition as **Annexure – G in VOL I at Page No 175 to 178**.
6. It is submitted by Learned Counsel appearing for the Petitioner(s) that the list of shareholders of the Transferee company-2 certified by the Auditor's Certificate is annexed to the Company Petition as **Annexure – K in VOL II at Page No 306 to 309**, the list of secured creditors of the Transferee company-2 certified by the Auditor's Certificate which is annexed to the Company Petition as **Annexure – L in VOL II at Page No 310 to 312** and that the list of unsecured creditors of the Transferee company-2 certified by the Auditor's Certificate is annexed to the Company Petition as **Annexure – M in VOL II at Page No 313 to 347**.



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7. It is submitted by Learned Counsel appearing for the Petitioner(s) that the Valuation Report from registered valuer determining share entitlement ratio is annexed to the Company Petition as **Annexure – R in VOL II at Page No 365 to 375.**
8. It is submitted by Learned Counsel appearing for the Petitioner(s) that the statutory auditors of the Petitioner Companies have all by certificates dated March 21, 2024 for the Petitioner Companies No. 1 and certificate dated March 20, 2024 for the Petitioner Company No. 2 have confirmed that the Accounting Treatment proposed in the Scheme is in conformity with the Accounting Standards as prescribed under Section 133 of the Companies Act, 2013 and Rules made there under and the said Certificates of the Petitioner Companies are annexed to the Company Petition as **Annexure – P in VOL II at Page No. 355 to 359** and **Annexure – Q in VOL II at Page No. 360 to 364.**
9. It is submitted by Learned Counsel appearing for the Petitioner(s) that the Board of Directors of the Petitioner Companies have at their respective meetings held on March 16, 2024 passed resolution adopting the proposed Scheme of Arrangement and the said extracts of the resolutions, are annexed to the Company Petition as **Annexure – N in VOL II at Page No. 348 to 350** for the Petitioner No. 1 and as **Annexure – O in VOL II at Page No. 351 to 354** for the Petitioner No. 2.
10. By Order dated June 25, 2024 passed in Company Application (CAA) No. 69/KB/2024, (**Annexure-S at pages 376-387 of the petition**) this Tribunal made the following directions with regard to meetings of shareholders and creditors of the petitioner companies:

“Upon perusing the records and documents in the instant proceedings and considering the submissions made on behalf of the Applicants, we allow the instant application and make the following orders:



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- a. **Meetings Dispensed:** *In view of the fact that the equity shareholders of the Demerged Company have given their consent by way of affidavit to the proposed Scheme of Arrangement, the meeting of the equity shareholders of the Demerged Company is hereby dispensed with. In view of the fact that the equity shareholders of the Transferee Company-2 have given their consent by way of affidavit to the proposed Scheme of Arrangement, the meeting of the equity shareholders of the Transferee Company-2 is hereby dispensed with.*
- b. **Meetings to be Held:** *Meeting of the unsecured creditors of the Demerged Company; Meeting of the secured creditors of the Transferee Company-2; and Meeting of the unsecured creditors of the Transferee Company-2. The said meetings shall be convened and held within 45 days of the issue of this order or any adjourned dates thereof during normal business hours for the purpose of considering, and, if though fit, approving, with or without modification(s), the proposed Scheme, in compliance with the applicable provisions of the Companies Act, 2013 and the Companies (Management and Administration) Rules, 2014, read with applicable circulars issued by Ministry of Corporate Affairs from time to time."*

11. It is submitted by Ld. counsel appearing for the Petitioner(s) that, the meeting of the unsecured creditors of Demerged Company as directed by this Bench vide its order dated June 25, 2024 passed in C.A(CAA) NO. 69 of 2024 was duly convened and held on September 6, 2024 under the supervision of the Chairperson and Scrutinizer appointed by this Tribunal.

12. It is submitted by Ld. counsel appearing for the Petitioner(s) that, the meeting of the secured creditors of Transferee Company-2 as directed by this Bench vide its order dated June 25, 2024 passed in C.A(CAA) NO. 69 of 2024 was duly convened and held on September 7, 2024 under the supervision of the Chairperson and Scrutinizer appointed by this Tribunal.



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13. It is submitted by Ld. counsel appearing for the Petitioner(s) that, the meeting of the unsecured creditors of Transferee Company-2 as directed by this Bench vide its order dated June 25, 2024 passed in C.A(CAA) NO. 69 of 2024 was duly convened and held on September 7, 2024 under the supervision of the Chairperson and Scrutinizer appointed by this Tribunal.
14. It is submitted by Ld. Counsel appearing for the Petitioner(s) that the chairperson has filed its report, wherein it has been mentioned that the unsecured creditors of the Demerged Company and secured and unsecured creditors of the Transferee Company-2 have passed the resolution thereby approving the Scheme of Arrangement with requisite majority. The Chairperson's Report including the Scrutinizer's Report and Minutes of the NCLT convened meetings of the unsecured creditors of the Demerged Company and secured and unsecured creditors of the Transferee Company-2 is annexed to the Petition being- **Annexure-T at Page Nos. 388-450.**
15. The Petition has now come up for final hearing. Learned Counsel for the Petitioners submit that the circumstances which justify and/or have necessitated the Scheme and the benefits of the same are, inter alia, as follows:
- Petitioner no. 1 was incorporated on 7th November 2007, having its registered office at Kolkata, West Bengal. It is engaged in the business of manufacturing and trading of steel products. Due to financial distress, insufficiency of funds and continuing default in repayment of borrowing, Hon'ble National Company Law Tribunal ('NCLT'), Kolkata Bench, passed an order for initiation of Corporate Insolvency Resolution Process ('CIRP') against petitioner no. 1 on 12th March 2019 upon petition preferred by corporate creditors.
 - In compliance with the Insolvency and Bankruptcy Code, 2016 ('IBC') and in accordance with the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016, the Liquidator invited offers for the sale of petitioner



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no. 1 on going concern basis. Thereafter, vide the order dated 16th June 2022 passed by Hon'ble NCLT (and subsequently upheld by Hon'ble National Company Law Appellate Tribunal vide order dated 25th January 2023) confirmed the sale by private treaty in favour of the highest bidder, i.e., Laser Solar LLP, being the higher bidder in the auction process.

- c. Petitioner no. 1 is engaged in manufacturing and sale of i) Kitchen Appliances which includes tableware, cookware, cutlery, bakeware and manufacturing and ii) manufacturing and sale of Sink and related accessories.
- d. Since the inception of CIRP, the business operations of Petitioner no. 1 have been impacted significantly with an almost negligible amount of manufacturing and sales operations over the last 5 years. Additionally, most of the plant & machinery items have remained idle on account of loss of business opportunities and lack of trust and creditworthiness among the suppliers and bankers.
- e. Considering the above bottlenecks, steps have been taken by new management to revive the business operations to reach optimum utilization of assets. However, considering the experience from the acquisition of Petitioner no. 1 till date, Management of Petitioner no. 1 feels that it would take a significant amount of time to revive the business operations of the company even after additional infusion of funds. Further, till the business operations are revived, the existing plant & machinery would have reached their useful life leading to further erosion of net worth and losses for stakeholders.
- f. Accordingly, in line with the object of IBC i.e. to revive the entity and / or its business operations and to ensure the optimum utilization of existing factory building, plant & machinery and various other assets of Petitioner no. 1, the management has agreed to undertake the demerger of existing business of



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Petitioner no. 1 in such a manner that each group entity / promoters, would be able to contribute towards expansion of business by optimum utilization of existing assets through internal corporate reorganization in the form of demerger of identified business undertakings of Petitioner no. 1, as follows:-

- Laser Solar LLP is owned by the promoters of Suncity Metals And Tubes Private Limited and Laser Power & Infra Private Limited.
- Suncity Metals And Tubes Private Limited is an established business entity having stainless steel manufacturing facilities in Rajasthan and Gujarat. One of the existing product lines of Suncity Metals And Tubes Private Limited is manufacturing stainless steel circle and stainless-steel sheet packets. Both these products are primarily used for manufacturing kitchen utensils and sinks. Accordingly, demerger of Demerged Undertaking 1 as described in the scheme, being more synergistic to existing manufacturing operations of Suncity, would result into forward extension / integration of existing business of Suncity and also give significant boost to the kitchen utensils and sink manufacturing business of petitioner no. 1.
- On the other hand, Laser Power & Infra Private Limited is, *inter alia*, engaged in the business of manufacturing cables, conductors, rods, wires and other power transmission and distribution equipment for domestic and international markets wherein steel, iron and other metals are key raw material / ingredients. Further, Laser Power & Infra Private Limited is having business presence in Kolkata for decades, with its own sales & marketing team, skilled employees, access to capital and banking facilities etc., is contemplating to diversify its business operations through expansion and making investments into various sectors.



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- Accordingly, it is contemplated to perform demerger of Demerged Undertaking 2 of petitioner no. 1 as described in the scheme into Laser Power & Infra Private Limited. This would help better utilization of machinery, utilization of common pool of resources, access to capital and credit line from suppliers for expansion of business in Kolkata.
 - Bhuvée shall continue to undertake certain manufacturing and trading activities.
- g. Management considers that demerger of business units into these companies would ensure better utilization of existing assets and resources.
- h. The combination of demerged undertakings and the transferee companies is a strategic fit for serving the existing market and for catering to additional volume linked to new customers.
- i. It would result into enhanced competitive strength, achieve cost reduction, efficiencies and productivity gains by pooling the technologies and resources of Suncity, Laser Power and petitioner no. 1, thereby significantly contributing to future growth and maximization of shareholder value, in line with the intent of IBC, by revival of the transferor company and / or its business.
- j. The scheme will also enable petitioner no. 1 and the resulting companies to focus and enhance its respective businesses by streamlining operations and its management structure, ensuring better and more efficient management control.
16. It is submitted by the Learned Counsel for the Petitioners that there are no proceedings are pending under Sections 210 to 227 of the Companies Act, 2013 against the Petitioner(s).
17. Consequently, the Petitioner(s) presented the instant Petition for sanction of the Scheme. By an order dated October 23, 2024 the instant Petition was admitted by this



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Tribunal and fixed for hearing on December 6, 2024 upon issuance of notices to the Statutory / Sectoral Authorities and advertisement by newspaper publication.

18. In compliance with the said order dated October 23, 2024, the Petitioner(s) have duly served such notices on the Regulatory Authorities viz

Sl. No.	Name of statutory authorities	Date of service
1.	The Regional Director, Eastern Region, Ministry of Corporate Affairs	12 th November, 2024
2.	The Registrar of Companies, West Bengal	12 th November, 2024
3.	The Official Liquidator, High Court, Calcutta	12 th November, 2024
4.	Income Tax authorities having jurisdiction over Petitioner Companies	12 th November, 2024
5.	Goods and Service Tax authorities having jurisdiction over Petitioner Companies	12 th November, 2024

19. In compliance with the said order dated October 23, 2024, the Petitioner(s) have also advertised the notice of hearing on November 19, 2024 in the English daily 'Business Standard' and Bengali daily 'Aajkal'.

20. Separate Affidavit of compliance duly affirmed on November 28, 2024 have also been filed by the petitioner companies with the Registry.



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21. All statutory formalities requisite for obtaining sanction of the Scheme have been duly complied with by the Petitioners. The Scheme has been made bona fide and is in the interest of all concerned.
22. Pursuant to the said advertisements and notices the Official Liquidator, High Court Calcutta (OL), Regional Director, Ministry of Corporate Affairs, Kolkata (“RD”), have filed their representations before this Tribunal.
23. The Official Liquidator has filed his report dated December 3, 2024 and concluded as under:-

Para 7

That the Official Liquidator has not received any complaint against the proposed Scheme of Amalgamation from any person/party interested in the Scheme in any manner till the date of filing of this Report.

Para 9

That the Official Liquidator on the basis of information submitted by the Petitioner Companies is of the view that the affairs of the aforesaid Transferor Company do not appear to have been conducted in a manner prejudicial to the interest of its members or to public interest as per the provisions of the Companies Act, 1956 / the Companies Act, 2013 whichever is applicable

24. The RD has filed his reply affidavit dated November 28, 2024 (“RD affidavit”) which has been dealt with by the Petitioner(s) by their Rejoinder affidavit dated December 5, 2024 (“Rejoinder”). The observations of the RD and responses of the Petitioner(s) are extracted as under:



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RD affidavit-

(a) It is submitted that the Transferee company No. 1 i.e. Suncity Metals and Tubes Private Limited is registered in the State of Rajasthan which is not within the jurisdiction of this Deponent. Hence this Deponent has no comment on it. Therefore, the instant representation of the Central Government is in respect of the Transferor Company and Transferee Company No. 2 only.

(b) That it is submitted that on the examination of report of the Registrar of Companies, West Bengal, it appears that no complaint and/or representation has been received against the proposed Scheme of Amalgamation. Further, the Transferor Company and Transferee Company No. 2 are up-dated in filing their Financial Statements and Annual Returns for the financial year ended 31/03/2024.

(c) The Petitioner Companies should be directed to provide list/details of Assets, if any, to be transferred/demerged from the Transferor/Demerged Company to the Transferee Company upon sanctioning of the proposed Scheme.

(d) The proposed Scheme is a Composite Scheme of Arrangement. The Scheme provides for the transfer by way of a demerger of the Demerged Undertaking 1 of the Transferor Company (Bhuvée Stenovate Private Limited) to the Transferee Company No. 1 (Suncity Metals And Tubes Private Limited) and further the transfer by way of a demerger of the Demerged Undertaking 2 of the Transferor Company (Bhuvée Stenovate Private Limited) to the Transferee Company No. 2 (Laser Power & Infra Private Limited) and the consequent issue of Redeemable, non-participating, non-cumulative Preference Shares by the respective Transferee Company to the Shareholders of Transferor Company.

(e) That the Petitioner company should undertake to comply with the provisions of section 232(3)(i) of the Companies Act, 2013 whenever applicable on each stage of consolidation of Authorized Share Capital of the respective Transferor Companies with the Transferee Company through appropriate affirmation.



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(f) *That the Transferee Company should be directed to pay applicable stamp duty on the transfer/demerge of the immovable properties from the Transferor/Demerged Company to it.*

(g) *The Hon'ble Tribunal may kindly direct the Petitioners to file an affidavit to the extent that the Scheme enclosed to the Company Application and Company Petition are one and same and there is no discrepancy or no change is made.*

(h) *It is submitted that as per instructions of the Ministry of Corporate Affairs, New Delhi, a copy of the scheme was forwarded to the Income Tax Department on 22/08/2024 for their views observation in the matter. However, the report of the Income Tax Department is still awaited."*

Rejoinder-

A. With reference to Paragraph No. 2(a) of the said affidavit, it is stated that a separate petition has been duly filed being CP (CAA) No. 07/230-232/JPR of 2024 in CA (CAA) No. 03/230-232/JPR of 2024 with respect to Suncity Metals and Tubes Private Limited before the Hon'ble NCLT, Jaipur Bench. The final hearing of the said petition has been concluded and the matter is currently reserved for Order. Accordingly, the said petition does not have any bearing on the instant proceedings.

B. With reference to Paragraph No. 2(b) of the said affidavit, we say that it is evident from the said paragraph under reference that no complaint and/or representation has been received against the proposed Scheme of Arrangement and that Financial Statements and Annual Returns of the petitioner companies are up-to date.

C. With reference to Paragraph No. 2(c) of the said affidavit, we say that the petitioner companies hereby undertake to submit the list/details of Assets, if any, to be transferred/demerged from the Transferor/ Demerged Company to the Transferee Company upon sanctioning of the proposed Scheme before this Hon'ble Tribunal.



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D. With reference to Paragraph No. 2(d) of the said affidavit, we say that the contents of the said paragraph are a matter of record and does not merit any response.

E. With reference to Paragraph No. 2(e) of the said affidavit, we say that section 232(3)(i) of the Companies Act, 2013 is not applicable in the present case as there is no dissolution of the Transferor Company / Demerged Company.

F. With reference to Paragraph No. 2(f) of the said affidavit, we say that the petitioner companies hereby undertake to pay any stamp duty, if applicable under the statute upon the proposed scheme being confirmed and sanctioned by this Hon'ble Tribunal.

G. With reference to Paragraph No. 2(g) of the said affidavit, the petitioner companies hereby confirm, re-verify and re-affirm that the proposed scheme enclosed to the company application and company petition filed by the petitioner companies before this Hon'ble Tribunal are one and the same and there is no discrepancy, or no change is made.

H. With reference to Paragraph No. 2(h) of the said affidavit, we say that the petitioner companies have already served notice along-with necessary documents and disclosures to the Income Tax Department on 12th November 2024 through a notice dated 11th November 2024. The same has been duly annexed to the affidavit of service filed by the petitioner companies. It is stated that till date the petitioner companies have not received any objection from the Income Tax Department.

25. Heard submissions made by the Learned Counsel appearing for the Petitioner, submissions made for RD who submits that the office of the RD has no objection if the scheme is sanctioned. This statement was taken on record on the date of hearing, Upon perusing the records and documents in the instant proceedings and considering the submissions, we allow the Petition and make the following orders:

a) The proposed Scheme of Arrangement, being Annexure 'A' to the Petition is sanctioned by this Tribunal so as to be binding with effect from the Appointed



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Date, April 1, 2023 on all the shareholders and creditors of the Petitioners and also on the Petitioners and all concerned.

- b) The Demerged Business Undertaking-2 including all its assets, properties, rights and powers of the Demerged Company is transferred to and shall vest without any further act or deed in the Petitioner no. 2.
- c) All the debts, liabilities, duties and obligations of the Demerged Undertaking-2 is transferred without any further act or deed to the Petitioner no. 2 and accordingly is transferred to and becomes the debts, liabilities, duties and obligations of the Petitioner no. 2.
- d) All proceedings and/or suits and/or appeals now pending by or against the Demerged undertaking-2 in relation to the Demerged Business Undertaking-2 shall be continued by or against the Petitioner no. 2.
- e) The Petitioner no. 2, without further application, shall allot to such members of the Demerged Company, shares in the Petitioner no. 2 to which they are entitled to under the said Scheme of Arrangement.
- f) Leave is granted to the Petitioners to file the Schedule of Assets within 60 days from the date of the order to be made herein.
- g) The Petitioners, within 30 days of this order shall cause a certified copy of this order to be delivered to the Registrar of Companies, West Bengal for registration.
- h) Any person interested shall be at liberty to apply to this Tribunal for any direction that may be necessary.

26. The Petitioners shall supply a legible computerized print out of the Scheme and the Schedule of Assets in acceptable form to the department and the department will append such computerized print out upon verification, to the certified copy of the order without insisting on a hand written copy thereof.



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27. Accordingly, C.P (CAA)/190(KB)2024 connected with C.A (CAA) NO. 69/KB/2024 stands disposed of.
28. Urgent certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

Sd/-
D. Arvind
Member (Technical)

Sd/-
Bidisha Banerjee
Member (Judicial)

This Order signed on 02.01.2025.

A.D[steno]



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No. *HA NO-93/2025*
Date of Presentation
of application for Copy *13/01/2025*
No. of Pages *Sixteen Pages*
Copying Fee *5/-*
Registration & Postage Fee.....
Total ₹ *100/-*
Date of Receipt &
Record of Copy *14/01/2025*
Date of Preparation of Copy *14/01/2025*
Date of Deliver of Copy *14/01/2025*

[Signature]
JR/DR/AR/Court Officer
National Company Law Tribunal
Kolkata Bench