

IN THE NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH, MUMBAI

C.A. (CAA) 1011/MB/2020

In the matter of the Companies Act, 2013;
AND

In the matter of Sections 230 to 232 and
other applicable provisions of the Companies
Act, 2013;

AND

In the matter of Scheme of Amalgamation of
Suremi Trading Private Limited ('Suremi' or
'the Transferor Company 1') And Sushripada
Investments Private Limited ('Sushripada' or
'the Transferor Company 2') With NOCIL
Limited ('NOCIL' or 'the Transferee Company')
and their respective Shareholders

Suremi Trading Private Limited

[CIN: U65990MH1978PTC020335]

... First Applicant Company /
Transferor Company 1

Sushripada Investments Private Limited

[CIN: U65990MH1974PTC017275]

... Second Applicant Company /
Transferor Company 2

NOCIL Limited

[CIN: L99999MH1961PLC012003]

... Third Applicant Company /
Transferee Company

(Hereinafter collectively referred to as "Applicant Companies")



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Order pronounced on: 7th July, 2020

Coram:

Shri Rajasekhar V.K. : Member (Judicial)
Shri V. Nallasenapathy : Member (Technical)

Appearances (via video-conferencing)

For the Petitioners : Mr Hemant Sethi i/b. Hemant
Sethi & Co., Advocates

ORDER

Per: Rajasekhar V.K., Member (Judicial)

1. The Court convened through video-conferencing today.
2. The Counsel for the Applicant Companies submits that the present Scheme is a Scheme of Amalgamation of Suremi Trading Private Limited ('Suremi' or 'the Transferor Company 1' or 'First Applicant Company') and Sushripada Investments Private Limited ('Sushripada' or 'the Transferor Company 2' or 'Second Applicant Company') with NOCIL Limited ('NOCIL' or 'the Transferee Company' or 'Third Applicant Company') and their respective Shareholders ('Scheme') under the provisions of Sections 230 to 232 of the Companies Act, 2013.
3. The Counsel for the Applicant Companies submits that the First Applicant Company is a promoter holding company of the Third Applicant Company and is engaged primarily in trading of fabrics like textiles, plastics, jute, wool, silk, canvas, and other fibers, etc. and holds investments in securities. The Second



Applicant Company is a promoter holding company of the Third Applicant Company and is engaged primarily in trading of fabrics like textiles, plastics, jute, wool, silk, canvas, and other fibers, etc. and holds investments in securities. The Third Applicant Company is engaged primarily in business of manufacturing of and dealers in rubber chemicals, chemical compounds and chemical products.

4. The Counsel for the Applicant Companies submits that the amalgamation of the Transferor Company 1 and the Transferor Company 2 with the Transferee Company would result in the following benefits:
 - Ensuring a streamlined group structure by reducing the number of legal entities in the group structure;
 - Reducing the multiplicity of legal and regulatory compliances required at present;
 - Eliminating duplicative communication and coordination efforts across multiple entities; and
 - Rationalizing costs by eliminating multiple record keeping and administrative functions.
5. The Counsel for the Applicant Companies further submits that the Scheme has been approved by the board of directors of the Applicant Companies vide board resolutions dated 30th January 2020 and the Appointed Date of the Scheme is fixed as 1st October 2020.
6. The Counsel for the Applicant Companies submits that in the First Applicant Company there are 4 (Four) Equity shareholders and 2 (two) Preference Shareholders. All the Equity



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shareholders and Preference Shareholders have given their consent affidavits which are annexed as 'Annexure - L (Colly)' to the Application.

7. The Counsel for the Applicant Companies submits that in the Second Applicant Company there are 3 (Three) Equity shareholders and 2 (two) Preference Shareholders. All the Equity shareholders and Preference Shareholders have given their consent affidavits which are annexed as 'Annexure - O (Colly)' to the Application.
8. In view of the fact that the Equity Shareholders and Preference Shareholders of the First Applicant Company and Second Applicant Company have given their consent to the Scheme by way of affidavits, the meetings of the Equity Shareholders and Preference Shareholders of the First Applicant Company and Second Applicant Company are hereby dispensed with.
9. This Bench directs conduct of meetings of shareholders of the Third Applicant Company as follows:-
 - (a) That the meeting of the Equity Shareholders of the Third Applicant Company i.e. the Transferee Company be convened and held on 15th September, 2020 at 11.00 a.m. for the purpose of considering and, if thought fit, approving with or without modification(s) the proposed Scheme of Amalgamation of Suremi Trading Private Limited and Sushripada Investments Private Limited with NOCIL Limited and their respective shareholders through video conferencing or other audio visual means mode, as per applicable operating procedures mentioned in Circular



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No.14/2020 dated 8th April 2020 read with Circular No.17/2020 dated 13th April 2020 issued by the Ministry of Corporate Affairs (*MCA Circulars*), with necessary modifications as stated herein or as may be required, and not in physical presence of shareholders, as the same in the current COVID-19 environment related social distancing norms shall not be possible.

- (b) That there are no secured creditors in the First Applicant Company, Second Applicant Company and Third Applicant Company and accordingly the question of sending notices does not arise.
- (c) That the present Scheme is an arrangement between the Applicant Companies and their respective shareholders as contemplated under section 230(1)(b) of the Companies Act, 2013 as there is no compromise or arrangement with or diminution of liability of any of the unsecured creditors. Therefore, while no meeting of the unsecured creditors is necessary, this Tribunal hereby directs that notice be given to all the Unsecured Creditors of the First Applicant Company, to all the Unsecured Creditors of the Second Applicant Company and to the Unsecured Creditors of the Third Applicant Company having an outstanding balance above INR 10,00,000/- (Indian Rupees Ten Lakhs Only), enclosing a copy of the Scheme, with instructions that they may submit their representations, if any, to the Tribunal within a period of 30 (thirty) days from the date of receipt of such notice, and copy of such representations shall simultaneously be served upon the



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Applicant Companies. In view of the Covid-19 pandemic, notice to creditors be given by email to all the creditors at their respective registered e-mail address as per the records of the Applicant Companies. It shall be the responsibility of the Applicant Companies to ensure that every creditor is put on notice regarding the Scheme, so that they may take an informed decision thereon.

- (d) The Third Applicant Company being a listed public limited company, is governed by the SEBI circular no. CFD/DIL3/CIR/2017/21 dated 10th March, 2017 and is required to provide the facility of e-voting to its shareholders. Accordingly, voting by the Equity Shareholders of the Third Applicant Company to the Scheme shall be carried out through e-voting, indicating the day, the date, and the time as aforesaid.

10. This Bench further issues directions with regard to notices as follows:-

- (a) That at least 30 (thirty) days before the said Meeting of the Equity Shareholders of the Third Applicant Company to be held as aforesaid, a Notice convening the said Meeting at the day, date and time as aforesaid, together with a copy of the Scheme, a copy of Explanatory Statement disclosing all material facts as required under Section 230(3) of the Companies Act, 2013 read with Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rule, 2016 notified on 14th December, 2016 shall be sent by email to those Equity Shareholders whose email addresses are duly registered



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with the Third Applicant Company, addressed to each of the shareholders, at their last known email addresses as per the records of the respective companies.

- (b) That at least 30 (thirty) days before the said Meeting of the Equity Shareholders of the Third Applicant Company to be held as aforesaid, a Notice convening the said Meeting at the day, date and time as aforesaid be published once each in '*Business Standard*' in English and '*Navshakti*' in Marathi, both having wide circulation in the State of Maharashtra, and stating that copies of the Scheme and the said statement required to be furnished pursuant to section 230 (3) of the Companies Act, 2013 can be obtained free of charge by emailing the Third Applicant Company at investorcare@nocil.com.

11. This Bench hereby appoints Chairpersons for the meetings aforesaid, as follows:-

- (a) That Mr. Hrishikesh A. Mafatlal, Executive Chairman of the Third Applicant Company, and failing him, Mr. D.N. Mungale Director of the Third Applicant Company, and failing him, Mr. Priyavrata H. Mafatlal, Director of the Third Applicant Company shall be the Chairman of the aforesaid meeting of the Equity Shareholders of the Third Applicant Company to be held on 15th September, 2020 at 11.00 a.m. or any adjournment or adjournments thereof.
- (b) That the Chairperson appointed for the aforesaid meeting of the Equity Shareholders of the Third Applicant



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Company to issue the notices of the meeting referred to above. The said Chairperson shall have all powers pursuant to sections 230 and 232 of the Companies Act, 2013 read with other applicable provisions of the Companies Act, 2013, the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, Companies (Management and Administration) Rules, 2014 and MCA Circulars, to the extent necessary and applicable, in relation to the conduct of the meeting including for deciding procedural questions that may arise at the meeting or at any adjournment thereof or any other matter including, an amendment to the Scheme or resolution, if any, proposed at the meeting by any person(s).

- (c) That the quorum of the aforesaid Meeting of the Equity Shareholders of the Third Applicant Company shall be as prescribed under Section 103 of the Companies Act, 2013.
- (d) That the value and number of the shares of each Shareholder shall be in accordance with the books / registers of the Third Applicant Company or depository records and where the entries in the books / register / depository records are disputed, the Chairperson of the meeting shall determine the value for the purpose of the aforesaid meeting and his/her decision in that behalf would be final.



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- (e) That the Chairperson shall file a compliance report not less than 7 (Seven) days before the date fixed for the holding of the meeting of the Equity Shareholders of the Third Applicant Company and report to this Tribunal that the directions regarding the issue of notices and advertisements have been duly complied with as per Rule 12 of Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
- (f) That the Chairperson shall report to this Tribunal, the result of the aforesaid meeting within seven days of the conclusion of the said meeting of the Equity Shareholders of the Third Applicant Company, and the said report shall be verified by his undertaking.
- (g) That Mr. Makarand Joshi, Practicing Company Secretary (CP No.:3662 / Membership No. FCS -5533), partner of Makarand M. Joshi & Co, Company Secretaries, is hereby appointed as Scrutinizer of the meeting of the Equity Shareholders of the Third Applicant Company. The fee of the professional appointed as Scrutinizer for the meeting of the Equity shareholders of the Third Applicant Company shall be Rs. 25,000/- excluding applicable taxes.

12. The Applicant Companies to serve notice of the present Application along with its enclosures on – (i) Central Government through the office of Regional Director (Western Region) Ministry of Corporate Affairs, Mumbai; (ii) Registrar of Companies, Maharashtra, Mumbai; (iii) Income Tax Authority



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within whose jurisdiction the respective Applicant Companies are assessed to tax, clearly indicating the PAN of the concerned company (PAN of the First Applicant Company: AAACS5620B , PAN of the Second Applicant Company : AA ECS8020R and PAN of the Third Applicant Company : AAACN4412E);(iv) Bombay Stock Exchange (BSE) Limited; (v) National Stock Exchange (NSE) of India Limited and (v) Securities Exchange Board of India (SEBI), pursuant to section 230(5) of the Companies Act, 2013 and rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from such authorities within 30 (thirty) days of the date of receipt of the notice, it will be presumed that they have no objection to the proposed Scheme.

13. Additionally, First Applicant Company and Second Applicant Company are also directed to serve notice along with a copy of the Scheme upon the Official Liquidator pursuant to section 230(5) of the Companies 2013 and as per rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. The Tribunal hereby appoints M/s.Rani Maheshwari & Co. [Address: 16, Kirti Building, 2nd Floor, 31 - Dr. V. B. Gandhi Marg, Fort, Mumbai 400 023; Contact: 9819692795/22843103; Email: ranimaheshwary@hotmail.com], Chartered Accountants, to assist the Official Liquidator to scrutinize the books of accounts of the First Applicant Company and Second Applicant Company for the last five years and submit their report to the Tribunal. The First Applicant Company and Second Applicant Company shall pay fees of ₹75,000/- (Rupees Seventy Five Thousand Only) to the Chartered Accountant for this purpose. If no



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response is received by the Tribunal from the Official Liquidator within a period of thirty days from the date of the receipt of such notice it will be presumed that the Official Liquidator has no objection to the proposed Scheme.

14. The Applicant Companies shall file compliance report with the registry in regard to the directions given in this Order in lieu of customary affidavit of service, due to lockdown situation prevailing now, proving dispatch of notices to the Equity Shareholders of the Third Applicant Company, relevant Unsecured Creditors of the Applicant Companies and service of notice to the regulatory authorities as stated above and do report to this Tribunal that the directions regarding the issue of notices have been duly complied with.
15. With a view to avoid any conflict arising out from those shareholders and/or creditors, whose email addresses are not available with the Applicant Companies or who have not received notice convening meeting or notice seeking representations, as the case may be, due to non-functionality of delivery or post services in current COVID-19 environment, the Applicant Companies shall host such notices on its website. Nevertheless, it shall be the responsibility of the Applicant Company concerned to ensure that every creditor is put on notice as regards the Scheme. Objections, if any, will be considered at the time of final hearing of the Scheme.
16. Pronounced today in open Court. File to be consigned to records.



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Sd/-

V. Nallasenapathy
Member (Technical)

Sd/-

Rajasekhar V.K.
Member (Judicial)

Certified True Copy
Copy Issued "free of cost"
On 20/07/2020



Assistant Registrar

National Company Law Tribunal Mumbai Bench

