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Amrit Mahotsav

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH
CORPORATE BHAWAN, PLOT NO.4-B
GROUND FLOOR, SECTOR- 27-B, MADHYA MARG
CHANDIGARH-160019**

Ref: NCLT/Chd/Reg/ 1132

Dated: 5/12/23

CP (CAA) No. 67/Chd/Pb/2022

(2nd Motion)

U/s 230 to 232 of CA 2013

In the matter of:

Pritika Industries Ltd.,

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

And

Pritika Auto Industries Ltd.

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

To,

Pritika Industries Ltd.,
Regd. Office: Plot No. C-94,
Phase-VII, Industrial Focal Point,
S.A.S. Nagar, Mohali, Punjab – 160055.

Please find enclosed herewith a certified copy of order dated 04.12.2023 for your information and necessary action.


(Rattan Kaur)

Deputy Registrar

NCLT, Chandigarh Bench

R.G.

Encl: Copy of order.



**THE NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, CHANDIGARH**

**CP (CAA) No. 67/Chd/Pb/2022
(2nd Motion)**

**Under Sections 230 to 232 of the Companies
Act, 2013 read with Companies
(Compromise, Arrangements and
Amalgamations) Rules, 2016**

IN THE MATTER OF SCHEME OF ARRANGEMENT OF:

Pritika Industries Limited
with its registered office at
Plot No.C-94, Phase-VII,
Industrial Focal Point,
S.A.S. Nagar, Mohali, Punjab - 160055
PAN: AAACP9500B
CIN: U85100PB1997PLC038216

...Petitioner Company No. 1/Demerged Company

And

Pritika Auto Industries Limited
with its registered office at
Plot No.C-94, Phase-VII,
Industrial Focal Point,
S.A.S. Nagar, Mohali, Punjab - 160055
PAN: AAACH4698C
CIN: L45208PB1980PLC046738

...Petitioner Company No. 2/Resulting Company

Order delivered on: 04.12.2023

**Coram: HON'BLE MR. HARNAM SINGH THAKUR, MEMBER (JUDICIAL)
HON'BLE MR. SUBRATA KUMAR DASH, MEMBER (TECHNICAL)**

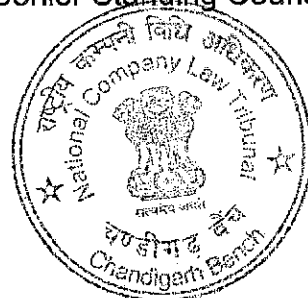
Present:

For the Petitioner Companies: Mr. Yashpal Gupta, Advocate
For Income Tax Department : Mr. Yogesh Putney, Senior Standing Counsel

Per: Harnam Singh Thakur, Member (Judicial)

Subrata Kumar Dash, Member (Technical)

CP (CAA) No. 67/Chd/Pb/2022
(2nd Motion)





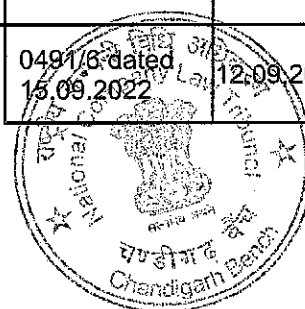
ORDER

This is a joint second motion company petition filed by the Petitioner-Companies, namely; **Pritika Industries Limited** (for short, hereinafter referred to as Petitioner Company No.1/Demerged Company) and **Pritika Auto Industries Limited** (for short hereinafter referred to as Petitioner Company No. 2/Resulting Company) under Sections 230-232 of Companies Act, 2013 (the Act).

2. The first motion application seeking directions for dispensing/convening with the requirement of the meetings of Equity Shareholders, Secured and Unsecured Creditors of the Applicant Companies was filed before this Tribunal vide Company Application No. CA (CAA) No.16/Chd/Pb/2022 and based on such application necessary directions were issued on 29.06.2022 and 08.07.2022. In the order dated 29.06.2022, the meetings of Equity Shareholders and Unsecured Creditors of Applicant Company No. 1/ Demerged Company were dispensed with for the reasons mentioned in the aforesaid order. It was further directed to convene the meeting of Secured Creditors of Applicant Company No. 1/ Demerged Company and Equity Shareholders, Secured and Unsecured Creditors of the Applicant Company No. 2 were to be convened on 10.09.2022.

3. In compliance of the directions issued by this Tribunal, the Chairperson, Alternate Chairperson and Scrutinizer were also appointed and they have filed their reports, on the following dates:

Sr. No.	Meeting of	Chairpersons /Alternate Chairperson/Scrutinizer	Chairperson's Report		
			Diary No. of Report	Date of Report	Date of meeting
1.	Secured Creditors of Applicant Company No. 1	Mr. Chetan Mittal, Senior Advocate Chairperson	0491/6 dated 15.09.2022	12.09.2022	10.09.2022





		Mr. Praveen Gupta, Advocate Alternate Chairperson Mr. Subhash Saini, Practising Company Secretary, Scrutinizer			
2.	Equity Shareholders of Applicant Company No. 2		0491/6 dated 15.09.2022	12.09.2022	10.09.2022
3.	Secured Creditors of Applicant Company No. 2		0491/6 dated 15.09.2022	12.09.2022	10.09.2022
4.	Unsecured Creditors of Applicant Company No. 2		0491/6 dated 15.09.2022	12.09.2022	10.09.2022

As per Scrutinizer's Reports (attached with Chairperson's Report), the Scheme of Arrangement was approved by 99.999% in case of Equity Shareholders and by 100% in case of Secured and Unsecured Creditors of Applicant Company No. 2 and by 100% in case of Secured Creditors of the Applicant Company No. 1.

4. The main objects, date of incorporation, authorized and paid-up share capital and the rationale of the Scheme have been mentioned in detail in the order dated 29.06.2022.

5. In the second motion proceedings, certain directions were issued by this Tribunal by order dated 22.10.2022 and the same were complied by the Petitioner Companies, by Diary No. 02336/01, dated 02.02.2023. In compliance of order dated 22.10.2022, the notices were advertised in "Financial Express" (English) and "Deshsewak" (Punjabi), both in Chandigarh Edition on 27.12.2022 and 28.12.2022. The original newspaper showing the publication of the advertisement was attached as Annexure -A and B of the aforesaid affidavit. It has also stated in the affidavit that copies of notices were served upon the a) Central Government through Regional





Director (Northern Region), Ministry of Corporate Affairs; New Delhi; (b) Concerned Registrar of Companies; (c) Securities and Exchange Board of India (SEBI); (d) Bombay Stock Exchange (BSE); (e) National Stock Exchange (NSE) and (f) Jurisdictional Income Tax Authorities through the Nodal Officer-Principal Commissioner of Income Tax, NWR, Aayakar Bhawan, Sector 17-E, Chandigarh by way of speed post. The original acknowledged receipts of notices served by speedpost are attached as Annexures C to M of the aforesaid respective affidavit.

6. It is deposed by way of affidavit by the Authorized Signatory of the Petitioner Companies that the Petitioner Companies have not received any representation/objection to the proposed Scheme as on the date of the affidavit. The aforesaid affidavits by the Petitioner Companies have been filed vide Diary No.02336/6 dated 06.03.2023.

7. In response to the abovementioned notices, the regulatory authorities have furnished their replies:

7.1. Registrar of Companies (RoC)/Regional Director (RD)

7.1.1. The Regional Director filed its reports by Diary No. 02336/2 dated 03.03.2023 wherein it is stated that no investigation/ inquiry proceedings under the Companies Act, 2013 are pending against the company. There is no violation under Section 383A/203 of the Companies Act, 1956/2013, as per the record available. There is no violation under Sections 295, 297, 299 & 301 of the Companies Act, 1956 (Section 184, 185, 188 and 189 of the Companies Act, 2013) as per record available with this office

7.1.2. As per Clause 29 of the ROC Report dated 13.02.2023, following observation was raised:





- i. "The Petitioner Company No. 1 has balance in Securities Premium Account of Rs. 31.32 lakhs as on 31.03.2022.
- ii. The petitioner Company no. 2 has Goodwill of Rs. 13.54 Crores on 31.03.2022.
- iii. The petitioner company no. 2 has invested Rs. 11.84 crores in 76,34,515 shares of Rs. 10 each as on 31.03.2022 in its subsidiary ie Pritika Engineering Components Private Limited.
- iv. The Petitioner Company no. 2 has deferred tax assets of Rs. 68.47 lakhs as on 31.03.2022.
- v. The petitioner Company no 2 has disputed income tax of R\$. 60.34 lakhs as on 31.03.2022".

7.1.3. Thus, no adverse observation can be inferred from the report of the Regional Director/Registrar of Companies in view of the detailed response through an affidavit filed by the Authorized Signatory of the Petitioner Companies, especially relying upon the judgments detailing the similar precedents and wherein the Schemes are allowed.

7.2. Income Tax Department

7.2.1. The Income Tax Department has filed its reports by Diary No.02336/03 dated 02.03.2023 and Dairy No.02336/4 dated 06.03.2023 wherein demand of Rs 6,47,680 is pending in the year 2020-21 and Rs. 17,40,619 is pending in the year 2019-2020 in respect of the Resulting Company/ Petitioner Company No. 2. Further, there is no pending assessment or penalty proceeding against the Demerged Company.

7.2.2. The response was filed by Authorised signatory of Petitioner Company to the reports vide Dairy No. 02336/5 dated 06.03.2023 wherein it is stated that the Scheme of Arrangement is neither prejudicial to the interests of the Revenue Department nor to the Public at large, the present Scheme takes care of all the liabilities of the





Petitioner Companies and the liabilities/legal proceedings of the Demerged Undertaking shall continue in the resulting company in view of Clause 7 and Clause 9 of the Scheme of Arrangement respectively consequent to approval of the Scheme. Further, any demand payable (if any) by the Resulting Company will be paid by the Resulting Company since none of the Company is going to be dissolved and thereby the Resulting Company will continue and keep on paying its liabilities, if any. All the requisite compliances have duly been made in this present Scheme of Arrangement/Company Petition even all the observations of the Statutory Authorities have duly been taken care of and in furtherance to the same none will be prejudiced with the approval of this Scheme of Arrangement.

7.2.3. Thus, no adverse observation can be inferred from the report of the Income Tax Department.

8. The petitioner companies have filed observation letters dated 14.01.2022 issued by the Bombay Stock Exchange and National Stock Exchange of India, wherein it has been stated that the petitions are filed before this Tribunal only after processing and communication of comments/observations on the draft scheme by SEBI/Stock Exchange. In the Observation Letters, several directions were mentioned for compliance by the petitioner companies. These compliances were to be made before the approval of the present proposal for arrangement. However, during the present proceedings, it was observed that no affidavit/undertaking has been submitted by the Resulting Company complying with the observations raised by the BSE and NSE. Therefore, the matter was relisted by Administrative Order dated 31.08.2023 and an undertaking by way of affidavit stating that necessary compliances have been made was filed by the petitioner. Subsequently, the petitioner was directed to serve the notice





under Section 230(5) through the BSE and NSE online system. The same was complied with and a compliance affidavit by Diary No. 2336/8 dated 14.09.2023 was filed. As no response was received from BSE and NSE even after a period of 30 days of uploading of such notice, it is presumed that the BSE/NSE have nothing more to state in the matter. As noted in the observation letter of BSE/NSE, the no objection in terms of Regulation 94 of SEBI (LODR) Regulations, 2015 has already been conveyed.

9. The certificate of the Statutory Auditors with respect to the Scheme between Petitioner Companies to the effect that the accounting treatment proposed in the Scheme is in compliance with applicable Indian Accounting Standards (Ind AS) as specified in Section 133 of the Act, read with rules thereunder and other Generally Accepted Accounting Principles was filed as Annexure –K and L of the Petition.

10. We have heard the learned counsel for Petitioner Companies and perused the record carefully.

11. In the context of the above discussion, the Scheme contemplated between the Petitioner Companies, appears to be prima facie in compliance with all the requirements stipulated under the relevant sections of the Companies Act, 2013 and since all the requisite statutory compliance have been fulfilled, this Tribunal sanctions the Scheme of Arrangement appended as Annexure - G with the petition.

12. Notwithstanding the submission that investigation is pending against the Petitioner Companies, if there is any deficiency found or, the violation committed qua any enactment, statutory rule or regulation, the sanction granted by this Tribunal will not come in the way of action being taken, albeit, in accordance with the law, against the concerned persons, directors and officials of the Petitioner Companies.





13. While approving the scheme as above, it is clarified that this order should not be construed as an order in any way granting exemption from payment of stamp duty, taxes or any other charges, if any, payment is due or required in accordance with law or in respect to any permission/compliance with any other requirement which may be specifically required under any law.

THIS TRIBUNAL DO FURTHER ORDER:

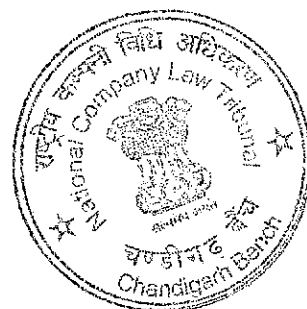
- i. That all the property, rights and powers of the Demerged Company pertaining to the Demerged Business be transferred, without further act or deed, to the Resulting Company and accordingly, the same shall pursuant to Sections 230 & 232 of the Act, be transferred to and vested in the Resulting Company for all the estate and interest of the Demerged Company pertaining to the Demerged Business but subject nevertheless to all charges now affecting the same; and
- ii. That all the liabilities and duties of the Demerged Company pertaining to the Demerged Business be transferred, without further act or deed, to the Resulting Company and accordingly the same shall pursuant to Sections 230 to 232 of the Act, be transferred to and become the liabilities and duties of the Resulting Company;
- iii. That all benefits, entitlements, incentives and concessions under incentive schemes and policies that the Demerged Company pertaining to the Demerged Business are entitled to include under Customs, Excise, Service Tax, VAT, Sales Tax, GST and Entry Tax and Income Tax laws, subsidy receivables from Government, grant from any governmental authorities, direct tax benefit/exemptions/deductions, shall, to the extent statutorily available and along with associated obligations, stand transferred to and be available to the





Resulting Company as if the Resulting Company was originally entitled to all such benefits, entitlements, incentives and concessions;

- iv. That all contracts of the Demerged Company pertaining to the Demerged Business which are subsisting or having effect immediately before the Effective Date, shall stand transferred to and vested in the Resulting Company and be in full force and effect in favour of the Resulting Company and may be enforced by or against it as fully and effectually as if, instead of the Demerged Company pertaining to the Demerged Business, the Resulting Company had been a party or beneficiary or obliged thereto;
- v. That all the employees of the Demerged Company pertaining to the Demerged Business shall be deemed to have become the employees and the staff of the Resulting Company with effect from the Appointed Date, and shall stand transferred to the Resulting Company without any interruption of service and on the terms and conditions no less favourable than those on which they are engaged by the Demerged Company pertaining to the Demerged Business, as on the Effective Date, including in relation to the level of remuneration and contractual and statutory benefits, incentive plans, terminal benefits, gratuity plans, provident plans and any other retirement benefits;
- vi. That the Appointed Date for the Scheme shall be 01.04.2021, as specified in the scheme.
- vii. That the proceedings, if any, now pending by or against the Demerged Company pertaining to the Demerged Business be continued by or against the Resulting Company;





- viii. That the Resulting Company shall, without further application, allot to the existing members of the Demerged Company shares of the Resulting Company to which they are entitled under the said Scheme;
- ix. That the fee, if any, paid by the Demerged Company pertaining to the Demerged Business on their authorized capital shall be set off against any fees payable by the Resulting Company on its authorized capital subsequent to the sanction of the 'Scheme';
- x. That the assessment under the Income Tax Act will be in accordance with the provisions of the Section 170 (2A) of the Income Tax Act, 1961;
- xi. That the Resulting Company shall further make the requisite payments of the differential fee (if any) for the enhancement of authorized capital of the Resulting Company; after setting off the fees paid by the Demerged Company ;
- xii. That the Petitioner Companies shall, within 30 days after the date of receipt of this order, cause a certified copy of this order to be delivered to the concerned Registrar of Companies for registration and
- xiii. That any person interested shall be at liberty to apply to this Tribunal in the above matter for any directions that may be necessary.
14. As per the aforesaid directions, formal orders in Form No. CAA-7 of Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, be issued after the filing of the Schedule of Properties within three weeks from the date of receiving a certified copy of this order by the petitioners.
15. All the concerned Regulatory Authorities are to act on a copy of this order annexed with the Scheme duly authenticated by the Registrar of this Bench.



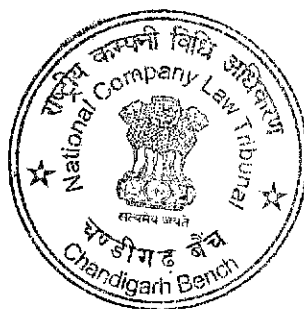


16. The Company Petition CP (CAA) No.67/Chd/Pb/2022 is allowed and disposed of accordingly.

Sd/-
(Subrata Kumar Dash)
Member (Technical)


December 04, 2023
PKA/TBG

Sd/-
(Harnam Singh Thakur)
Member (Judicial)



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DD / DR / AR / Court Officer
National Company Law Tribunal
Chandigarh Bench, Chandigarh