(2020) 07 NCLT CK 0125

In the National Company Law Tribunal

Case No : Company Application No. 225, 226/CAA Of 2020

Raag Technologies And Services Private Limited — APPELLANT

Vs

Rangan Manufacturing Services Private Limited — RESPONDENT

Date of Decision : 01-07-2020

Acts Referred:
Companies Act, 2013 — Section 133, 230, 230(3), 230(5), 230(9), 231, 232

Citation : (2020) 07 NCLT CK 0125

Hon'ble Judges : Sucharitha R., J;S. Vijayaraghavan, Member (Technical)

Bench : Division Bench

Advocate : P. Sriram

Final Decision : Allowed

Judgement

Sucharitha R., J

Under consideration are two Company Application Nos. CA/225/CAA/2020 and CA/226/CAA/2020 filed under Section 230 to 232 of the Companies Act, 2013 r/w the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. The instant applications have been filed in respect of Scheme of Arrangement (Demerger) by virtue of which M/s. Raag Technologies and Eervices Private Limited (hereinafter referred to as 'Demerged Company') and M/s. Rangan Manufacturing Services Private Limited (hereinafter referred to as 'Resulting Company').

The Applicant Companies in this Company Application has sought for the following reliefs:

A. M/s. Raag Technologies and Services Private Limited

i) For dispensing with convening, holding and conducting of the meeting of Equity Shareholders, Secured Creditors and unsecured Creditors of Applicant/Demerged Company.

ii) For convening, holding and conducting of the meeting of the Unsecured Trade

Creditors of Applicant/Demerged Company and fix the date, time, place, quorum and appointment of Chairman for the meeting; and

B. M/s. Rangan Manufacturing Services Private Limited

i) For dispensing with convening, holding and conducting of the meeting of Equity Shareholders, Secured Creditor, Unsecured Creditor and Unsecured Trade Creditor of Applicant/Resulting Company.

1. M/s. Raag Technologies and Services Private Limited -Demerged Company

i) The Demerged Company viz., M/s. Raag Technologies and Services Private Limited, is Private Limited Company, it was incorporated on 01.05.2008, under the Companies Act, 1956. The Demerged Company has 2 (Two) Equity Shareholders as on 30.11.2019. The list of Equity Shareholders is placed at page 97 of the typed set, certified by M/s. A. K. Lunawath & Associates, Chartered Accountants filed as Annexure-8 with the Application. The consent affidavits given by all the 2 (Two) equity shareholders are placed at pages 98 to 103 of the typed set filed with the Application, wherein it has been deposed that they do support the Scheme Arrangement and consent to dispense with convening, holding and conducting the meeting of Equity shareholders. Since all the requirements under law have been fulfilled, the meetings of the equity shareholders of the Demerged Company is allowed to be dispensed with.

ii) There is 1 (One) Secured Creditor namely, Indusind Bank Limited in relation to the Demerged Company as on 30.11.2019. The certificate issued by M/s. A. K. Lunawath & Associates, Chartered Accountant is placed at page 104 of the typed set filed as Annexure-10 with the Application. The Financial Creditor has given the consent affidavit which is placed at page 105-106 of the typed set filed as Annexure-11 with the Application. The value of the consenting secured credit of Rs. 4,63,04,385/-.

iii) There are 3 (Three) Unsecured Creditors in relation to the Demerged Company as on 30.11.2019. The list of Unsecured Creditors is placed at page 107 of the typed set, certified by M/s. A. K. Lunawath & Associates, Chartered Accountants filed as Annexure-12 with the Application. The consent affidavits which are placed at page 108-116 of the typed set filed as Annexure-13 with the Application. The value of the consenting unsecured credit of Rs. 1,80,28,941/-. Therefore, the meeting of the Secured Creditor and unsecured creditors is allowed to be dispensed with under clause (9) of the Section 230 of the Companies Act, 2013.

iv) There are 119 (One Hundred and Nineteen) Unsecured Trade Creditors in relation to the Demerged Company as on 30.11.2019. The list of Unsecured Creditors is placed at page 118-120 of the typed set, certified by M/s. A. K. Lunawath & Associates, Chartered Accountants filed as Annexure-14 with the Application.

v) This Bench appoints Mr. Narasimhan Raghavan - Director or in his absence Mr.

Krishna Chandrashekar - Director as Chairman for conducting the meeting of Unsecured Trade Creditors on 11.08.2020 at 10:30 A.M at Old No.35/8, New No.33/8, BR Complex, 2nd Floor, C.P.Ramaswamy Road, Alwarpet, Chennai-600018 in the State of Tamil Nadu. The quorum for meeting of the Unsecured Trade Creditors shall be 20 in number and constituting 25% or more of the Unsecured Trade Credit or such a number which is mentioned in the application, whichever is higher. In case, the said quorum is not present at fixed time for meeting, the meeting shall be adjourned by half an hour and thereafter, the persons present for voting shall be deemed to constitute the quorum. The notices in respect of the above meetings of unsecured creditors have to be sent at least not less than 30 days prior to date fixed for meeting. The services of notice shall be effected by speed post/through electronic means, to the e-mail address of the members which are available with the Demerged Company. The Chairman for the meeting shall submit a report on the unsecured Trade Creditors meeting with 7 days of the holding of such a meeting.

2. M/s. Rangan Manufacturing Services Private Limited - (Resulting Company)

i) The Resulting Company viz., M/s. Rangan Manufacturing Services Private Limited, is a Private Limited Company, it was incorporated on 07.11.2019, under the Companies Act, 2013. The Resulting Company has 3 (Three) Equity Shareholders as on 30.11.2019. The list of Equity Shareholders is placed at page 72 of the typed set, certified by M/s. A. K. Lunawath & Associates, Chartered Accountants filed as Annexure-6 with the Application. The consent affidavits given by all the 3 (Three) equity shareholders are placed at pages 73 to 78 of the typed set filed as Annexure-7 with the Application, wherein it has been deposed that they do support the Scheme Arrangement and consent to dispense with convening, holding and conducting the meeting of Equity shareholders. Since all the requirements under law have been fulfilled, the meetings of the equity shareholders of the Resulting Company is allowed to be dispensed with.

ii) There is no Secured Creditor, Unsecured Creditor or Unsecured Trade Creditor in relation to the Resulting Company and Certificate issued by certified to this effect by M/s. A. K. Lunawath & Associates, Chartered Accountants is placed at pages 79, 80 & 81 filed as Annexure-8,9 &10 with the Application. The Resulting Company that there are "NIL" Secured Creditor, Unsecured Creditor and Unsecured Trade Creditor and hence the necessity of convening a meeting does not arise.

3. The Applicant Companies have filed their respective Memorandum and Articles of Association inter alia delineating their object clauses. The Demerged Company and Resulting Company have filed their last available Audited Annual Accounts for the year ended 31.03.2019 and the Supplementary Financial Statements as on30.11.2019.

4. The Board of Directors of the Demerged Company and the Resulting Company vide individual meetings held on 12th November, 2019 have unanimously

approved the proposed Scheme of Arrangement (Demerger) as contemplated above and copies of resolutions passed thereon have been placed on record by the companies.

5. The Appointed date as specified in the Scheme is 7th November, 2019 subject to the directions of this Tribunal.

6. The Statutory Auditors of both the Applicant Companies have examined the Scheme in terms of provisions of Sec. 232 of Companies Act, 2013 and the rules made thereunder and certified that the Accounting Standards are in compliance with Section 133 of the Companies Act, 2013.

7. Taking into consideration the applications filed by the Demerged Company and Resulting Companies in relation to the Scheme of Arrangement (Demerger), this Bench hereby directs in term of Clause (5) of Section 230 and Sub-section (3) of the Companies Act, 2013 to issue notices to the Regional Director, Ministry of Corporate Affairs, ROC concerned, Income Tax Authorities and such other sectorial regulators or authorities, if necessary. In case the scheme is exempted under the Competition Act, 2002, an Affidavit to this effect is to be given. Otherwise, notice to CCI may also be issued. Since the Applicant Companies are Private Limited Companies, there is no need to issue notices to SEBI and to the Stock Exchanges. The authorities are directed to make objections / representations, if any, within 30 days from the date of receipt of notice. In case no objections / representations are received within the stipulated time it shall be deemed that they do not have any objections.

8. The Demerged and Resulting Companies are directed to make separate publication of notices in newspapers one in English The Business Standard (English All edition) and another in vernacular Makkal Kural (Tamil All edition) having wide circulation in the State of Tamil Nadu, not less than 30 days before the date(s) fixed for the meeting. The Demerged and Resulting Companies are directed to place the notice on their website, if any, and also place the same on the notice board at the registered office of the Applicant Companies. The Demerged and Resulting Companies are also directed to send private notices to the authorities by way of speed post and file proof of sending and effecting service of notices along with the paper publication by way of an Affidavit at the time of filing Petition(s). The Registry is also directed to display the notice on the notice board of the NCLT, Chennai.

9. The Petition(s) may be presented after two weeks from the date of filing the reports by the Chairman of the meetings.

