(2022) 08 NCLT CK 0036

In the National Company Law Tribunal

Case No : CA(CAA) 48 /MB-IV/2022

Shri Rangji Realties Private Limited Vs

Date of Decision : 29-08-2022

Acts Referred:

Companies Act, 2013 — Section 230, 232
Companies (Compromises, Arrangements and Demergers) Rules, 2016 — Rule 8(2)

Citation : (2022) 08 NCLT CK 0036

Hon'ble Judges : Kishore Vemulapalli, Member (J);Manoj Kumar Dubey, Member (T)

Bench : Division Bench

Advocate : Ashish Lalpuria, Raveena Jain

Final Decision : Disposed Of

Judgement

Kishore Vemulapalli, Member (Judicial)

1. The Bench is convened by videoconference today.

2. All the Applicant Companies are engaged in business of development of Real Estate, Investment and Advisory Services. All the Applicant Companies are situated in Mumbai.

3. The Learned Authorized Representative for the Applicant Companies states that the present Composite Scheme is in the nature of:

a) Amalgamation of Shri Rangji Realties Private Limited, The Amalgamating Company 1 With Capri Global Holdings Private Limited, The Amalgamated Company 1 And;

b) Amalgamation of Capri Global Advisory Services Private Limited, The Amalgamating Company 2 And Budhinath Advisory Services Private Limited, The Amalgamating Company 3 And Sarvasiddhanta Properties Private Limited, The Amalgamating Company 4 And Money Matters Properties Private Limited, The Amalgamating Company 5 And Capri Global Resources Private Limited, The Amalgamating Company 6 With Capri Global Holdings Private Limited, The

Amalgamated Company 2 Under Sections 230 To 232 Of The Companies Act, 2013 ('Scheme').

4. The Learned Authorized Representative for the Applicant Companies state that the Amalgamated Company 1 / Amalgamated Company 2 other subsidiary, known as Capri Global Assets Reconstruction Private Limited ('CGARPL') has received an in-principle approval from the Reserve Bank of India ('RBI') on 9th November, 2021 to set up an Asset Reconstruction ('ARC') under Section 3 of the SARFAESI Act, 2002. Further, this in-principle approval is valid for a period of six months from the date of grant of in-principle approval and subject to certain additional conditions mentioned in Para 2 of the approval letter which the Promoter Group has to meet before the expiry of six months. One of the conditions given at Para 2 (IV) states that the Promoter Group has to expedite and complete the process of its proposed merger and consolidation of group entities in order to minimize the cross holdings and simplify the group structure. Hence, the present Composite Scheme of Amalgamation is being proposed to comply with one of the conditions of in-principle approval of RBI to set up an ARC in CGARPL. Further, the amalgamation in the present Composite Scheme will result in simplification, focused management, streamlining and optimization of the group structure and efficient administration. The amalgamation in the present Composite Scheme shall be in the interest of all concerned stakeholders, including shareholders, creditors, employees, and general public, inter alia, for the following reasons:

a) Consolidation of the business operations by way of amalgamation would lead to a more efficient utilization of resources and reduce administrative time and costs of managing multiple entities.

b) Greater efficiency in cash management and unfettered access to cash flow generated by the combined business which can be deployed more efficiently to fund growth opportunities.

c) The Composite Scheme is expected to enable pooling of resources resulting in more productive utilization of the said resources and cost and operational efficiencies which would be beneficial for all stakeholders.

d) Cost savings are expected to flow from more focused operational efforts, rationalization and standardization of administrative expenses.

e) There is no adverse impact of the Composite Scheme on the directors, key managerial personnel, promoters, non- promoters, shareholders, creditors, vendors and employees. The Composite Scheme would be in the best interest of the Stakeholders.

5. Consideration:

a) Part II of the Composite Scheme:

The Learned Authorized Representative of the Applicant Companies submits that the shares of the Amalgamating Company 1 and the Amalgamated Company 1 are held by the same shareholder i.e. J J R Family Trust. Therefore, J J R Family Trust is the common shareholder of the Amalgamating Company 1 and the Amalgamated Company 1. Therefore, no shares are to be issued for the amalgamation of the Amalgamating Company 1 with the Amalgamated Company 1. Further, 100% Equity Shareholders of the Amalgamating Company 1 and Amalgamated Company 1 have given their Consent on Affidavits agreeing to the Composite Scheme, which are annexed as Exhibit "H-1(c)" (Pages 771-773) and Exhibit "H-7(c)" (Pages 904-906) to the Company Application.

b) Part III of the Composite Scheme:

The Learned Authorized Representative of the Applicant Companies submits that subsequent to the amalgamation of the Amalgamating Company 1 into the Amalgamated Company 1, the entire Equity share capital of the Amalgamating Company 2 is held by the Amalgamated Company 2 and the Shareholder of the Amalgamated Company 2 i.e. J J R Family Trust and the entire Preference share Capital of the Amalgamating Company 2 is held by the Amalgamated Company 2. Also, 100% Equity Shareholders and Preference Shareholders of the Amalgamating Company 2 have given its Consent on Affidavit agreeing to the Composite Scheme, which is annexed as Exhibit "H-2(c)" (Pages 778-795) to the Company Application.

The Learned Authorized Representative of the Applicant Companies submits that the entire Equity share capital of the Amalgamating Company 3 is held by the Amalgamating Company 2, the Amalgamating Company 5, the Amalgamated Company 2 and the Shareholder of the Amalgamated Company 2, i.e J J R Family Trust and that 100% Equity Shareholders of the Amalgamating Company 3 have given their Consent on Affidavits agreeing to the Composite Scheme, which are annexed as Exhibit "H-3(c)" (Pages 800-817) to the Company Application.

The Learned Authorized Representative of the Applicant Companies submits that the entire Equity share capital of the Amalgamating Company 4 is held by the Amalgamating Company 2, the Amalgamated Company 2 and the Shareholder of the Amalgamated Company 2 i.e. J J R Family Trust and that 100% Equity Shareholders of the Amalgamating Company 4 have given their Consent on Affidavits agreeing to the Composite Scheme, which are annexed as Exhibit "H-4(c)" (Pages 830-842) to the Company Application.

The Learned Authorized Representative of the Applicant Companies submits that the entire Equity share capital of the Amalgamating Company 5 is held by the Amalgamating Company 2, the Amalgamated Company 2 and the Shareholder of the Amalgamated Company 2 i.e. J J R Family Trust and the 100% Equity Shareholders of the Amalgamating Company 5 has given their Consent on Affidavits agreeing to the Composite Scheme, which is annexed as Exhibit "H-5(c)" (Pages 878-890) to the Company Application.

The Learned Authorized Representative of the Applicant Companies submits that the entire Equity share capital of the Amalgamating Company 6 is held by the Amalgamated Company 2 and that 100% Equity Shareholders of the Amalgamating Company 6 have given their Consent on Affidavits agreeing to the Composite Scheme, which are annexed as Exhibit "H-6(c)" (Pages 895-899) to the Company Application.

The Learned Authorized Representative of the Applicant Companies submits that Shareholder of the Amalgamated Company 2 i.e. J J R Family Trust holds, directly or indirectly, all the shares of the Part III Amalgamating Companies. Therefore, the Shareholder of the Amalgamated Company 2 i.e. J J R Family Trust is the ultimate beneficial shareholder of all the Part III Amalgamating Companies. Hence, no shares are to be issued as consideration for amalgamation of Part III Amalgamating Companies with the Amalgamated Company 2 and that 100% Equity Shareholders of the Amalgamated Company 2 have given their Consent on Affidavits agreeing to the Composite Scheme, which are annexed as Exhibit "H-7(c)" (Pages 904-906) to the Company Application.

6. The Authorized, Issued, Subscribed and Paid-up Share Capital of the Applicant Company No.1 as on 31st March 2021 is as under:

Particulars

Amount (in

Rs.)

Authorized Share Capital

20,00,000 Equity Shares of Rs.

10/-each

2,00,00,000/-

Total

2,00,00,000/-

Issued, Subscribed and Paid-up Share Capital

3,60,000 Equity Shares of Rs. 10/- each, fully paid-up

36,00,000/-

Total

36,00,000/-

7. The Authorized, Issued, Subscribed and Paid-up Share Capital of the Applicant Company No.2 as on 31st March 2021 is as under:

Particulars

Amount (in Rs.)

Authorized Share Capital

15,00,000 Equity Shares of Rs.

15,00,00,000/-

100/-each, fully paid-up

3,00,000 5% Non-Cumulative

3,00,00,000/-

Redeemable/Optional Convertible

Preference Shares of Rs.100 each.

Total

18,00,00,000/-

Issued, Subscribed and paid up share capital;

14,46,400 Equity Shares of

14,46,40,000/-

Rs.100/- each, fully paid-up.

2,80,000 5% Non-Cumulative

Redeemable/Optional Convertible

2,80,00,000/-

Preference Shares of Rs.100 each

Total

17,26,40,000/-

As on date ,the Authorized, Issued, Subscribed and Paid-up Share Capital of the Applicant Company No.2 as on 20th January 2022 is as under:

Particulars

Amount (in Rs.)

Authorized Share Capital;

30,62,000 Equity Shares of

30,62,00,000/-

Rs.100/- each, fully paid-up.

3,00,000 5% Non-Cumulative

3,00,00,000/-

Redeemable/Optional

Convertible Preference Shares of Rs.100 each.

Total

33,62,00,000/-

Issued, Subscribed and paid up share capital;

14,46,400 Equity Shares of

14,46,40,000/-

Rs.100/- each, fully paid-up.

2,80,000 5% Non-Cumulative

2,80,00,000/-

Redeemable/Optional

Convertible Preference Shares of

Rs.100 each

Total

17,26,40,000/-

8. The Authorized, Issued, Subscribed and Paid-up Share Capital of the Applicant Company No.3 as on 31st March 2021 is as under:

Particulars

Amount

(in Rs.)

Authorized Share Capital

17,50,000 Equity Shares of Rs.10/- each, fully paid-up

1,75,00,000/-

Total

1,75,00,000/-

Issued, Subscribed and

paid up share capital;

17,50,000 Equity Shares of Rs.10/- each, fully paid-up

1,75,00,000/-

Total

1,75,00,000/-

9. The Authorized, Issued, Subscribed and Paid-up Share Capital of the Applicant Company No.4 as on 31st March 2021 is as under:

Particulars

Amount (in Rs.)

Authorized Share Capital

50,000 Equity Shares of

Rs.10/- each, fully paid-up

5,00,000/-

Total

5,00,000/-

Issued, Subscribed and paid up share capital;

20,000 Equity Shares of Rs. 10/- each, fully paid-up

2,00,000/-

Total

2,00,000/-

10. The Authorized, Issued, Subscribed and Paid-up Share Capital of the Applicant Company No.5 as on 31st March 2021 is as under:

Particulars

Amount (in Rs.)

Authorized Share Capital

30,50,000 Equity Shares of

Rs.10/- each, fully paid-up

3,05,00,000/-

Total

3,05,00,000/-

Issued, Subscribed and paid up share capital;

30,50,000 Equity Shares of

Rs.10/- each, fully paid-up

3,05,00,000/-

Total

3,05,00,000/-

As on date, the Authorized, Issued, Subscribed and Paid-up Share Capital of the Applicant Company No.5 as on 20th January 2022 is as under:

Particulars

Amount (in Rs.)

Authorized Share Capital

1,10,00,000 Equity Shares of Rs.10/- each, fully paid- up

11,00,00,000/-

Total

11,00,00,000/-

Issued, Subscribed and paid up share capital;

1,06,75,000 Equity Shares of Rs. 10/- each, fully paid-

up

10,67,50,000/-

Total

10,67,50,000/-

11. The Authorized, Issued, Subscribed and Paid-up Share Capital of the Applicant Company No.6 as on 31st March 2021 is as under:

Particulars

Amount

(in Rs.)

Authorized Share Capital

20,00,000 Equity Shares of

Rs.10/- each, fully paid-up

2,00,00,000/-

Total

2,00,00,000/-

Issued, Subscribed and paid up share capital;

11,05,000 Equity Shares of

Rs. 10/- each, fully paid-up

1,10,50,000/-

Total

1,10,50,000/-

12. The Authorized, Issued, Subscribed and Paid-up Share Capital of the Amalgamated Company No.1/Amalgamated Company No.2 as on 31st March, 2021is as under:

Particulars

Amount

(in Rs.)

Authorized Share Capital

i) 3,00,000 Equity Shares of Rs.10/- each

ii) 2,55,00,000 5%

Non-Cumulative Redeemable/Option al Convertible Preference Shares of Rs.10 each

30,00,000/-

25,50,00,000/-

Total

25,80,00,000/-

Issued, Subscribed and paid up share capital;

3,00,000 Equity Shares of

Rs. 10/- each, fully paid-up

30,00,000/-

As on date, the Authorized, Issued, Subscribed and Paid-up Share Capital of the Amalgamated Company No.1/Amalgamated Company No.2 as on 20th January 2022 is as under:

Particulars

Amount (in Rs.)

Authorized Share Capital;

23,00,000 Equity Shares of

2,30,00,000/-

Rs.10/- each, fully paid-up.

2,55,00,000 5% Non-Cumulative

25,50,00,000/-

Redeemable/Optional Convertible

Preference Shares of Rs.10 each.

Total

27,80,00,000/-

Issued, Subscribed and Paid-up Share Capital

3,00,000 Equity Shares of Rs. 10/- each, fully paid-up

30,00,000/-

Total

30,00,000/-

13. The Financial details/summary of the First Applicant Company/Transferor Company No.1 as on 31.01.2022 is as under:

Year

Net worth in Rs.

Total Revenue in Rs.

Profit /(Loss) in Rs.

2019-2020

19,17,10,568

51,19,440

32,95,103

2020-2021

19,24,51,299

14,01,625

7,40,731

2021-2022

up to 31.01.2022

21,47,45,354

3,53,67,726

2,22,94,055

14. The financial details/summary of the Second Applicant Company/ Transferor Company No.2 as on 31.01.2022 is as under:

Year

Net worth in Rs.

Total Revenue

in Rs.

Profit /(Loss) in Rs.

2019-2020

62,55,931

7,98,196

4,77,088

2020-2021

57,91,486

20,36,511

15,37,126

2021-2022

up to 31.01.2022

10,22,44,46,259

412,67,66,633

300,61,07,526

15. The financial details/summary of the Third Applicant Company/ Transferor Company No.3 as on 31.01.2022 is as under:

Year

Net worth in Rs.

Total Revenue

in Rs.

Profit /(Loss) in Rs.

2019-2020

6,52,427.84

1,92,96,493

1,39,53,723

2020-2021

6,82,712.76

55,99,280

30,28,492

2021-2022

up to 31.01.2022

72,87,92,074

5,55,02,538

4,60,79,310

16. The financial details/summary of the Fourth Applicant Company/ Transferor Company No.4 as on 31.01.2022 is as under:

Year

Net worth in Rs.

Total Revenue in Rs.

Profit /(Loss) in Rs.

2019-2020

-331.71

NIL

(37,273)

2020-2021

1027.50

1,80,002

1,35,922

2021-2022

up to 31.01.2022

10,25,293

NIL

(2,200)

17. The financial details/summary of the Fifth Applicant Company/ Transferor Company No.5 as on 31.01.2022 is as under:

Year

Net worth in Rs.

Total Revenue in Rs.

Profit /(Loss) in Rs.

2019-2020

1,23,413

27,799

24,927

2020-2021

1,30,098.09

8,34,709

6,68,509

2021-2022

up to 31.01.2022

21,08,66,900

70,75,424

45,18,811

18. The financial details/summary of the Sixth Applicant Company/ Transferor Company No.6 as on 31.01.2022 is as under:

Year

Net worth in Rs.

Total Revenue

in Rs.

Profit /(Loss) in Rs.

2019-2020

3,56,547

NIL

(1,29,691)

2020-2021

2,50,287

NIL

(1,06,260)

2021-2022

up to 31.01.2022

5,44,708

NIL

2,94,421

19. The financial details/summary of the Amalgamated Company No.1/ Amalgamated Company No.2 as on 31.01.2022 is as under:

Year

Net worth in Rs.

Total Revenue in Rs.

Profit /(Loss) in Rs.

2019-2020

33,14,541

11,73,479

8,48,893

2020-2021

84,52,991

54,70,626

39,18,442

2021-2022

up to 31.01.2022

1537,51,70,306

793,73,37,803

636,23,83,967

20. The Learned Authorized Representative for the Applicant Companies states that the Board of Directors of the Applicant Companies have approved the Composite Scheme of Amalgamation in their respective meetings conducted on

24th January, 2022.

21. The Learned Authorized Representative for the Applicant Companies state that the Appointed Date of the Composite Scheme of Amalgamation is 1st April, 2022.

22. The Appointed Date of Part II Amalgamation is 1st April, 2022 and Appointed Date of Part III Amalgamation is 1st April, 2022.

23. The Learned Authorized Representative of the Applicant Companies submits that the Equity Shareholders of the Applicant Companies have given their Consent on Affidavits and the details thereof are as under:

Details of Applicant Companies

No of Equity Shares

Amount of Equity Share Capital

Percentage of Consent obtained

Exhibit and Page No in Company Application

Amalgamating

3,60,000

36,00,000

100%

Exhibit

Company 1

H-1(c)

Pages

771-773

Amalgamating

14,46,400

14,46,40,000

100%

Exhibit

Company 2

H-2(c)

Pages

778-795

Amalgamating

17,50,000

1,75,00,000

100%

Exhibit

Company 3

H-3(c)

Pages

800-817

Amalgamating

20,000

2,00,000

100%

Exhibit

Company 4

H-4(c)

Pages

830-842

Amalgamating

1,06,75,000

10,67,50,000

100%

Exhibit

Company 5

H-5(c)

Pages

878-890

Amalgamating

11,05,000

1,10,50,000

100%

Exhibit

Company 6

H-6(c)

Pages

895-899

Amalgamated

Company 1 /

3,00,000

30,00,000

100%

Exhibit

H-7(c)

Pages

904-906

Amalgamated

Company 2

In view of the fact that all the Equity Shareholders of all the Applicant Companies have filed their consent on affidavits, the meetings of the Equity Shareholders of the Applicant Companies are hereby dispensed with.

24. The Learned Authorized Representative of the Applicant Companies submits that the Preference Shareholder of the Amalgamating Company 2 has given their Consent on Affidavits and the details thereof are as under:

Details of

Applicant

Companies

No of

Preference

Shares

Amount

of Preference Share Capital

Percentage of Consent obtained

Exhibit and Page No in Company

Application

Amalgamating

2,80,000

2,80,00,000

100%

Exhibit

Company 2

H-2(c)

Pages

778-795

In view of the fact that the Preference Shareholder of the Amalgamating Company 2 has filed its consent on affidavit, the meeting of the Preference Shareholders of the Amalgamating Company 2 is hereby dispensed with. There are no preference shareholders in any other Applicant Company.

25. The Learned Authorized Representative of the Applicant Companies submit that there are No Foreign Shareholders in any of the Applicant Companies.

26. The Learned Authorized Representative of the Applicant Companies submit that there are No Secured Creditors in any of the Applicant Companies.

27. The Learned Authorized Representative of the Applicant Companies submit that there are No Unsecured Creditors in Amalgamating Company 1, Amalgamating Company 2, Amalgamating Company 5, Amalgamating Company 6 and Amalgamated Company 1/ Amalgamated Company 2. Therefore, the convening and holding meeting of the Unsecured Creditors of Amalgamating Company 1, Amalgamating Company 2, Amalgamating Company 5, Amalgamating Company 6 and Amalgamated Company / Amalgamated Company 2 is not required.

28. The Learned Authorized Representative of the Applicant Companies submits that there is 1 (One) Unsecured Creditor in the Amalgamating Company 3 having an outstanding balance of Rs. 20,00,00,000/- (Rupees Twenty Crores Only) and that the said Unsecured Creditor of the Amalgamating Company 3 has given their Consent on Affidavit agreeing to the Composite Scheme, which is annexed as Exhibit “H-3(f)” (Pages 821-825) to the Company Application. In view of the consent given, the meeting of the Unsecured Creditor of the Amalgamating

Company 3 is hereby dispensed with.

29. The Learned Authorized Representative of the Applicant Companies submits that there are 6 (Six) Unsecured Creditors in the Amalgamating Company 4 having an outstanding balance of Rs. 14,82,75,000/- (Rupees Fourteen Crores Eighty-Two Lakhs Seventy-Five Thousand Only) and that the said Unsecured Creditors of the Amalgamating Company 4 have given their Consent on Affidavit agreeing to the Composite Scheme, which is annexed as Exhibit "H-4(f)" (Pages 846-873) to the Company Application. In view of the consent given, the meeting of the Unsecured Creditors of the Amalgamating Company 4 is hereby dispensed with.

30. The Applicant Companies shall submit details of Corporate Guarantee, Performance Guarantee, Bank Guarantee and Contingent Liabilities; if any.

31. The Applicant Companies shall submit list of pending IBC cases, if any, along with all other litigation pending against the Applicant Companies having material impact on the proposed Scheme.

32. The Applicant Companies shall submit details of all Letters of Credit sanctioned and utilized as well as Margin Money details; if any.

33. The Applicant Companies are directed to serve notices by Registered -AD/ Speed Post & Hand Delivery also by E-mail (whose mail-Ids are available with the Applicant Companies) along with copy of Scheme upon:

(i) Income Tax Authorities with in whose jurisdiction the said Applicant Companies assessments are made;

Sr No

Name of the Company

PAN Number

Address of the

concerned Income Tax Authority

1.

Shri Rangji Realties Private Limited (Amalgamating

Company 1)

AAICS5225J

WARD 1(3)(1),

Mumbai

2.

Capri Global Advisory Services Private Limited (Amalgamating

Company

2)

AACCP2478C

CIRCLE 1(1)(1),

Mumbai

3.

Budhinath Advisory Services Private Limited

(Amalgamating Co. 3)

AAECM8796Q

WARD 9(2)(1),

Mumbai

4.

Sarvasiddhanta Properties Private Limited (Amalgamating Company

4)

AASCS4753M

WARD 1(3)(1),

Mumbai

5.

Money Matters Properties Private Limited (Amalgamating Company 5)

AAECM9600P

WARD 1(2)(3),

Mumbai

6.

Capri Global Resources Private Limited (Amalgamating Company

6)

AAGCM4337D

WARD 1(2)(3),

Mumbai

7.

Capri Global Holdings Private Limited (Amalgamated Company 1

/ Amalgamated Company

2)

AABCM4155A

CIRCLE 1(1)(1),

Mumbai

(ii) Central Government through the office of Regional Director, Western region, Mumbai,

(iii) Registrar of Companies,

(iv) Office of the Principal Chief Commissioner (CGST & Central Excise), Mumbai Zone, under the Central Board of Indirect Taxes & Customs (CBIC).

(v) Real Estate Regulatory Authority;

(vi) Reserve Bank of India;

and to any other applicable Regulatory Authority with a direction that they may submit their representations, if any, if no response is received by the Tribunal from such authorities within 30 days of the date of receipt of the notice it will be presumed that they have no

objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

34. The Amalgamating Company 1/Amalgamating Company 2, Amalgamating Company 3, Amalgamating Company 4, Amalgamating Company 5 and Amalgamating Company 6 are also directed to serve intimations of the Composite Scheme upon Official Liquidator, pursuant to Section 230 (5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. The Tribunal is appointing Chartered Accountant, M/s R.N.MORE & ASSOCIATES, Email: Rnmoreassociates@gmail.com , Address: 101, Gulmohar CHSL, Aarey Cross Road, Near Rajastahn Hall, Goregaon (West) , Mumbai 400062 to assist the Official Liquidator to scrutinize the books of accounts of the said Amalgamating Company1/Amalgamating Company 2, Amalgamating Company 3, Amalgamating Company 4, Amalgamating Company 5 and Amalgamating Company 6 for the last 5 years and submit its representations / report to the Tribunal. The aforesaid Companies to pay fees of Rs. 2,00,000/- for this purpose. If no representation / response is received by the Tribunal from Official Liquidator, Bombay within a period of Thirty Days from the date of receipt of such notice, it will be presumed that Official Liquidator has no representation / objection to the proposed

Composite Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

35. The Applicant Companies shall host notices along with the copy of the Scheme on their respective websites, if any.

36. The Applicant Companies to file an affidavit of service within 10 working days after serving notice to all 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.

