(2021) 01 NCLT CK 0050

In the National Company Law Tribunal

Case No : Company Petition No. (CAA) 550/MB-I Of 2019, 985/MB-I Of 2020

Sipra Engineers Private Limited And Anr. Vs

Date of Decision : 07-01-2021

Acts Referred:
Companies Act, 2013 — Section 230, 231, 232, 232(6)

Citation : (2021) 01 NCLT CK 0050

Hon'ble Judges : Janab Mohammed Ajmal, J;V. Nallasenapathy, Member (Technical)

Bench : Division Bench

Advocate : Hemant Sethi, Vidisha Poonja, Rupa Sutar

Final Decision : Allowed

Judgement

Sr.

No.

Para

No.

IV","RD Report /observations Dated 21st December,

2020",Response of the Petitioner Companies.,

(a),"In compliance of AS-14(IND AS-

103) the Petitioner Companies shall pass such

accounting entries which are necessary in

connection with the Scheme to

comply with other applicable Accounting

Standards such as AS-5 (IND AS-8) etc.","In so far as the observations made in paragraph

IV(a) of the Report of Regional Director is

concerned, the Petitioner Companies through their Counsel submit that the Petitioner Companies shall pass such accounting entries as may be necessary in connection with the Scheme to comply with the accounting standard AS-14 (IND AS 103 is not applicable to Petitioner Companies) and any other applicable accounting standards such as AS-5 (IND AS - 8 is not applicable to Petitioner Companies) to the extent applicable.",
,(b),"As per Definition of the Scheme, ""Appointed Date"" means the 1st April, 2020 or such other date as may be fixed or approved by the National Company Law Tribunal.
Effective Date"" means the last of the dates on which the conditions, sanctions, approvals or orders specified in Clause 16,18 and 19 of this Scheme have been fulfilled, obtained or waived.
â?? Company into effect to this Schemeâ?? or â?? effectiveness of this Schemeâ?? shall mean the Effective Date.
Further, the Petitioners may be asked to asked to comply with the requirements and clarified vide circular no. F.No. 7/12/2019/CL- I dated 21.08.2019 issued by the
Ministry of Corporate Affairs.","In so far as the observations made in paragraph IV(b) of the Report of Regional Director is concerned, the Petitioner Companies submit that the Appointed Date i.e. 1st April, 2020 has been clearly indicated in the Scheme in

accordance with provision of Section 232(6) of
the Companies Act, 2013 and the scheme shall
become effective from the Appointed Date.
The Petitioner Companies further submit that
they have already complied with the
requirements and clarification of circular no. F.
No. 7/12/2019/CL-I dated 21.08.2019 issued by
the Ministry of Corporate Affairs by clearly
specifying the Appointed Date in the Scheme
and hence the question of undertaking for
compliance to the requirements of the said
circular does not arise.
,(c),"ROC, Mumbai Report dated 27.11.2020 has
inter alia mentioned that there are no
prosecution, no technical scrutiny, no inquiry,
no inspection, no complaint are pending.
Further mentioned that:-
1. The Demerged Company has not attached
scheme with GNL-1 filed.
Petitioner Companies have to undertake to file
revised Form GNL-1 and submit the copy of the
form and challan.","In so far as the observations made in paragraph
IV(c) of the Report of Regional Director is
concerned, the
Petitioner Companies through their Counsel
submit that revised Form GNL-1 has been
submitted with the RoC for the First Petitioner
Company on 23 December 2020 bearing
SRN:R76964543 and for the Second Petitioner
Company on 23 December 2020 bearing

SRN:R76965128

therefore the question of undertaking

to file the same does not arise.

,(d),"As per clause 11 of the Scheme, staff workman

& employee, it is proposed that, all employees of

investment business division in employment of

such date shall become employees of resulting

company.

In this regards, the petitioner has kept the date

for identifying the employees vague which may

have impact on fate of employees of emerged

undertaking.

The Petitioner Company to undertake to ensure

that all the employees of the demerged division

shall be absorbed in the resulting company with

same salary and terms and conditions

of service or better terms and conditions.

Honâ??ble Tribunal may satisfy itself

regarding this before sanctioning the scheme.","In so far as the observations made in paragraph

IV(d) of the Report of Regional Director is

concerned, the Petitioner Companies through

their Counsel submits that Clause 11 of the

Scheme clarifies that on the Scheme coming

into effect all employees of the Demerged

undertaking in employment on such date and

desirous of continuing their employment shall

become employees of the resulting company

with effect from the effective date without any

interruption of services as a result of the transfer and on terms and conditions not less

favourable than those provided by the

Demerged Company as on the said date as if

they were in continuous service. Therefore, no

further undertaking to that effect is required.

,(e),"The Petitioner Company to place on records the

list of all assets. Giving full details of items to be

demerged, as also details of liabilities.","In so far as the observations made in paragraph

IV(e) of the Report of Regional Director is

concerned, the Petitioner Companies through

their Counsel submit that list of assets and

liabilities (with complete details and respective

valuation) to be Demerged is submitted with the

Office of Regional Director, Mumbai and is

hereby placed on record of this Tribunal.

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,,"(Amount in INR)

Particulars : Investments Business

Undertaking

I. Liabilities

(1) Non - current Liabilities:

(a) Other Long-Term Liabilities Nil

(2) Current Liabilities:

(a) Trade Payables

(b) Short Term Provisions 2,48,000

Total Liabilities 2,48,000

II. Assets

(1) Non â?" current Assets:

(a) Non â?" current Investments

(b) Long Term Loans &

Advances 60,57,39,000

(2) Current Assets:

(a) Inventory 00

(b) Trade Receivables 00

(c) Cash & Cash Equivalents 67,06,000

(d) Short-Term Loans & 13,53,000 Advances

Total Assets 61,37,98,000",