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IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
DIVISION BENCH
COURT - 1

C.A.(CAA)/43(AHM)2023

Order under Sections 230-232 of the Companies Act, 2013

IN THE MATTER OF:

Vikram Thermo (India) Ltd
Vikram Aroma Ltd

.....Applicants

Order delivered on: 11/09/2023

Coram:

Mr. Shammi Khan, Hon'ble Member(J)
Mr. Kaushalendra Kumar Singh, Hon'ble Member(T)

Order under Rule 154 of NCLT Rules, 2016

1. This Tribunal is empowered under Rule 154(1) of NCLT Rules, 2016 to correct any error in its order. Following corrections are made by us *suo moto*.
2. On perusal of the order dated 11.09.2023, passed in C.A.(CAA)/43(AHM)2023, it is seen that date of meetings is inadvertently mentioned as 16th October, 2023 instead of 30th October, 2023. Further, with respect to newspaper publication in regional language, it is inadvertently stated that Gujarati translation thereof to be published in "Indian Express" instead of "Financial Express". We hereby rectify the said errors.
3. The rectified order be uploaded.

-Sd-

KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)

-Sd-

SHAMMI KHAN
MEMBER (JUDICIAL)



**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
DIVISION BENCH
COURT-1**

CA(CAA) No.43/230-232/NCLT/AHM/2023

[Application under Sections 230-232 and other applicable provisions of the Companies Act, 2013 read with Companies (Compromises, Arrangements, and Amalgamations) Rules, 2016]

Scheme of Arrangement in the nature of Demerger

of

Vikram Thermo (India) Limited
(Demerged Company)

with

Vikram Aroma Limited
(Resulting Company)

and

Their respective Shareholders and Creditors

In the matter of:

Vikram Thermo (India) Limited
(CIN:L24296GJ1994PLC021524)

A Company incorporated under the Companies Act, 1956 having its Registered Office at A/704-714, The Capital Science City Road, Ahmedabad, Gujarat-380 060

..... Demerged Company

With

Vikram Aroma Limited
(CIN:U24296GJ2021PLC121253)

A Company incorporated under the Companies Act, 1956 having its Registered Office at A/704-714, The Capital Science City Road, Ahmedabad, Gujarat-380 060

.....Resulting Company



Order Pronounced on: 11.09.2023

Coram: Mr. Shammi Khan-Member (Judicial)
Mr. Kaushalendra Kumar Singh-Member (Technical)

Appearance:

For the Applicant Companies: Mr. Pavan S. Godiawala, Advocate.

ORDER

1. The present application has been preferred under Sections 230 and 232 read with other relevant provisions of the Companies Act, 2013 (hereinafter referred to as the '**Act**') and Companies (Compromise, Arrangements and Amalgamations) Rules, 2016, seeking directions for convening and holding the meetings of the Equity Shareholders and Unsecured Creditors of the Demerged Company, seeking dispensation of meetings of Secured Creditor of the Demerged Company, Equity Shareholders and Unsecured Secured Creditors of the Resulting Company for the purpose of considering and if thought fit, approving, with or without modification(s), a **Scheme of Arrangement in the nature of Demerger** of M/s. Vikram Thermo (India) Limited (Demerged Company) with M/s. Vikram Aroma Limited (Resulting Company) and their respective shareholders and creditors (the Scheme) with effect from the Appointed Date, i.e. 01.07.2022, as mentioned in the Scheme. This Application was e-filed and physical copy thereof was filed on 21.07.2023.
2. An Affidavit has been sworn by Mr. Dhirajlal Patel on behalf of the Demerged Company who is the authorized signatory of the Demerged Company, and the same is annexed with the application. The above-named authorized representative for the Demerged Company has been authorized vide Board Resolution dated 17.09.2022 of Demerged Company.



3. An Affidavit has been sworn by Mr. Ankur Patel on behalf of the Resulting Company who is the authorized signatory of the Resulting Company, and the same is annexed with the application. The above-named authorized representative for the Resulting Company has been authorized vide Board Resolution dated 31.05.2022 of Resulting Company.

4. The averments made by the Applicant Companies are summarized as under: -

3.1 The Board of Directors of the Applicant Companies vide Board Resolutions dated 17.09.2022, have approved the Scheme of Arrangement. Copies of the aforesaid Board Resolutions are enclosed with the application as **Annexure-D**.

3.2 The proposed Scheme of Arrangement is annexed to the application as Annexure-C.

3.3 The registered offices of Applicant Companies are situated in the State of Gujarat, and are under the jurisdiction of the National Company Law Tribunal, Ahmedabad Bench.

3.4 The Demerged Company, i.e. Vikram Thermo (India) Limited, incorporated under the provisions of the Companies Act, 1956 and it is a listed company. It is engaged in the business:-

(i) The **"Transferred Business"**: As part of this business undertaking, primary activities mean - Manufacture of Aromatic chemical, Diphenyl oxide



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(used as perfumery stabilizer and for manufacture of Heat Transfer Fluid).

- (ii) The **"Remaining Business"**: As part of this business undertaking, primary activities means - Manufacture of Methacrylic/Ethyl acrylate based coating polymers for use by pharmaceutical companies.

Each of the aforementioned business of the Demerged Company have been nurtured and developed from a nascent stage and are currently at different stages of maturity, with different capital and operating requirements including risk and competition necessitating a demerger of these two businesses.

Under this scheme, it is proposed to demerge the Transferred Business of the Demerged Company, and all the estate, assets, rights, claims, title, interest, licenses, liabilities, employees, accretions and appurtenances of the Demerged Company pertaining to the Transferred Business ("Undertaking", as defined in Paragraph 1.8 of Part A of this scheme) and transfer it to the Resulting Company. The proposed demerger of the Undertaking envisaged in this scheme, is aimed at achieving the following business and commercial objectives and is expected to result in the following benefits for the Demerged Company and the Resulting Company:

- (i) Enhanced strategic flexibility to build a viable platform solely focusing on each of the business;



- (ii) Enable dedicated management focus, resources and skill-set allocation to each business, which will in turn accelerate growth and unlock significant value for the shareholders of the Demerged Company:
- (iii) Provide enhanced flexibility in the operation of each of the aforementioned businesses;
- (iv) Expanding the potential client/customer market for each business vertical:
- (v) Access to various sources of funds and investments, depending on individual risks and returns potential, for the sustained growth of both the businesses; and
- (vi) Unlock/ create value for the shareholders in the future

The Certificate of Incorporation, Memorandum and Articles of Association, inter alia, delineating their object clauses, along with its Audited Balance Sheet as on 31.03.2023 are enclosed to the application.

The authorised, issued, subscribed and paid-up capital of as on 31.03.2022 is as under:

Particulars	Amount (In Rs.)
Authorized Share Capital	
3,20,00,000 Equity Shares @ Rs.10 Each	32,00,00,000/-
Issued, Subscribed and Paid-up Share Capital	
3,13,57,850 Equity Shares @Rs.10 Each	31,35,78,500/-



The Demerged Company has 10,154 Equity Shareholders, 1 Secured Creditor and 94 Unsecured Creditors. The sole Secured Creditor has given consent to the **Scheme by way of a Letter.**

The Bombay Stock Exchange has given approval to the Scheme vide letter dated 31.05.2023.

Hence, it is seeking directions to hold and convene the meetings of the Equity Shareholders and the Unsecured Creditors.

- 3.5 The Resulting Company i.e., Vikram Aroma Limited incorporated under the provisions of the Companies Act, 1956 and it is a closely limited company.

The Certificate of Incorporation, Memorandum and Articles of Association, inter alia, delineating their object clauses, along with its Audited Balance Sheet as on 31.03.2023 are enclosed to the application.

The authorised, issued, subscribed and paid-up capital of as on 31.03.2022 is as under:



Particulars	Amount (In Rs.)
Authorized Share Capital	
40,00,000 Equity Shares @Rs.10 Each	4,00,00,000/-
Issued, Subscribed and Paid-up Share Capital	
70 Equity Shares @Rs.10 Each	700/-

The Resulting Company has 7 Equity Shareholders and 2 Unsecured Creditors and all the Equity Shareholders and the Unsecured Creditors have given their consent in writing, in the form of affidavits, in approval to the Scheme and for waiving their right to convene the meetings of the Equity Shareholders and the Unsecured Creditors. The consent Affidavits of all the Equity Shareholders and the Unsecured Creditors are enclosed to this Company Application.

The Resulting Company has no Secured Creditors as on 19.06.2023. The certificate from J.T. Shah & Co., Chartered Accountant, certified that there are no Secured Creditor, is produced at **Annexure-J** with the Application.

Hence, the Resulting Company is seeking dispensation of meetings of its Equity Shareholders and Unsecured Creditors.

3.6 The Certificates both dated 14.06.2023 issued by the Statutory Auditors to the effect that the accounting treatment contained in Clause 10 of the Scheme of is in conformity with the accounting standards prescribed under Section 133 of the Companies Act, 2013 read with the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, is produced on record.

3.7 The compliance affidavit dated 27.06.2023 under Section 230(2) of the Companies Act, 2013, is produced on record.



- 3.8 A copy of the Valuation Report dated 12.09.2022 for the proposed Resulting Company, obtained from Mr. Pinakin Shah, the Registered Valuer, Registration No. IBBI/RV/05/2019/10728, is placed on record.
- 3.9 No investigation or proceedings are pending against any of the applicant companies under Sections 210 to 226 of the Companies Act, 2013 and / or under Sections 235 to 251 of the Companies Act, 1956.
- 3.10 No winding up petition against the applicant companies is pending.
- 3.11 The activities of the applicant companies pursuant to the scheme shall not be violating the provisions of the Competition Act, 2002 and hence notice to the Competition Commission of India is not required.
- 3.12 None of the companies are non-banking financial institutions and hence notice to other authorities including RBI is not required.
- 3.13 The Demerged Company is a listed company and its shares are listed on Bombay Stock Exchange and there are no outsider shareholders.
- 3.14 The Scheme is beneficial to all the stakeholders and members and further no rights are even remotely affected either of the members, shareholders or creditors.



5. We have heard Ld. Counsel Mr. Pavan S. Godiawala, representing the Applicant Companies and perused the documents annexed with the application. The Demerged Company is a listed company and hence the meeting is required



to be conducted and directions are sought to convene the meeting of the equity shareholders and so also the Unsecured Creditors, for the purpose of considering and, if thought fit, approving, with or without modification(s), a Scheme of Arrangement in the nature of Demerger. **The Secured Creditor of the Demerged Company has given its No Objection to the Scheme by way of a Letter, not in an affidavit. Therefore, a meeting of the Secured Creditor of the Demerged Company is required.** It appears that the present application complies with all provisions of Sections 230-232 of the Companies Act and Rules provided thereunder. Hence, we allow the present application with the following directions:-

- (i) The Demerged Company is directed to convene and hold the meeting of its Equity Shareholders, Secured Creditor and the Unsecured Creditors.
 - (a) The meeting of the Equity Shareholders shall be convened on 30th October, 2023 Monday at 10:00 AM.
 - (b) The meeting of the Secured Creditor shall be convened on 30th October, 2023 Monday at 2:00 PM
 - (c) The meeting of the Unsecured Creditors shall be convened on 30th October, 2023 Monday at 4:00 PM
 - (d) The meetings of equity shareholders, unsecured creditors and secured creditor of the Demerged Company shall be convened through Video Conferencing subject to and in accordance with the provisions of the Companies (CAA) Rules, 2016 read



with MCA Circular number 14 of 2020 dated 08.04.2020 Circular Number 17 of 2020 dated 13.04.2020 and Circular No. 20 of 2020 dated 05.05.2020. The notice of the respective meetings shall be served upon the Equity Shareholders, Unsecured Creditors and Secured Creditor through email, and for participation at the meetings, scanned copies of attendance sheet, proxy forms, authorization letters etc. should be submitted to the company through e-mail, further in the notice the Demerged Company will provide details of email ID at which the attendance sheets, proxies and authorization letters are to be sent, the login details with password for attending the meeting through video conference, the email ID of the scrutinizer at which the ballot paper to be sent.

(ii) The meeting of the Equity Shareholders and the Unsecured Creditors of the Resulting Company is hereby dispensed with in view of their consent affidavits attached with the application.

(iii) Since there are no Secured Creditors in the Applicant Resulting Company, convening of meeting of the Secured Creditor does not arise at all.

(iv) At least one month before the date of the aforesaid meetings, an advertisement about convening of the said meetings, indicating the date, place and time as aforesaid, shall be published in English daily, "**Financial Express**", Ahmedabad Edition and a Gujarati translation



thereof in "**Financial Express**", Ahmedabad Edition. The publication shall indicate the time within which copies of the Scheme of Arrangement shall be made available to the concerned persons free of charge from the registered office of the Resulting Company. The publication shall also indicate that the statement required to be furnished pursuant to Section 102 of the Act read with Sections 230 to 232 of the Act can be obtained free of charge from the registered office of the Demerged Company at A/704-714, the Capital Science City Road, Ahmedabad-380 060, Gujarat.

- (v) In addition, at least one month before the date of the aforesaid meetings of the Equity Shareholders, Secured Creditor and Unsecured Creditors of the Demerged Company to be held as aforesaid, a notice convening the said meetings, indicating the day, date, place and time as aforesaid, together with a copy of the Scheme, a copy of the Explanatory Statement required to be furnished pursuant to Section 102 of the Act read with Sections 230 to 232 and Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, shall be sent to the Secured Creditor and each of the Equity Shareholders and Unsecured Creditors of the Demerged Company at their respective registered or last known addresses either by Registered Post or Speed Post / Airmail or E-Mail or by Courier or by Hand Delivery. The Notice shall be sent to the Equity Shareholders, Secured Creditor and Unsecured Creditors of the Demerged Company with reference to the list of the persons



appearing on the record of the Demerged Company as on 19-06-2023.

- (vi) Mr. Yuvraj Thakore, Advocate, shall be the Chairman/Chairperson of the aforesaid meetings to be held on 30th October, 2023 and in respect of any adjournment thereof.
- (vii) M/s. A Shah & Associates Company Secretary, Company Secretary is appointed as Scrutinizer for the aforesaid meetings.
- (viii) The Chairman or Chairperson appointed for the aforesaid meetings shall issue advertisement and send out the notice of the meetings referred to above. The Chairman / Chairperson is free to avail the services of Demerged Company or any agency for carrying out the aforesaid directions.
- (ix) The Chairman or Chairperson shall have all powers under the Articles of Association of Demerged Company and also under the Rules in relation to the conduct of meetings, including for deciding any procedural questions that may arise at the meetings or adjournment(s) thereof proposed at the said meetings, amendment(s) to the aforesaid scheme or resolutions, if any, proposed at the aforesaid meetings by any person(s) and to ascertain the decision of the meetings of the Equity Shareholders, Secured Creditor and Unsecured Creditors Demerged Company.
- (x) The quorum for the meeting of shareholders, secured



creditors and unsecured creditors will be determined by the Chairman in such a manner that members/creditors present in the meeting represent atleast 25% and 50% in value as a whole of the class of members/creditors respectively as the case may be.

In case, the quorum is not present within half an hour from the time appointed for holding the meeting, then the Chairman shall adjourn the meeting to the same day in the next week at the same time and place. The intimation about the adjourned meeting should be given to each member/creditors as the case may be through e-mail or by any other mode. If the quorum is still not present on such adjourned date, then the Chairman may furnish a report to that effect to NCLT within seven days thereafter.

- (xi) It is further directed that the provisional Accounting Statement of the Applicant Companies be also circulated along with the Notice of the aforesaid meetings in terms of Section 232(2)(e) of the Companies Act, 2013.
- (xii) The remote e-voting facility shall be provided to the Equity Shareholders, Secured Creditor and Unsecured Creditors of the Demerged Company and the cut-off date for the purpose of determining the eligibility of the Equity Shareholders, Secured Creditor and Unsecured Creditors to vote by electronic means shall be the latest practicable date which shall not be not less than 30 (Thirty) days before the date of the meetings and the procedure for voting through remote e-voting shall be in so far as the



same is prescribed by the Companies Act, 2013 read with the Companies (Management and Administration) Rules, 2014.

- (xiii) The meetings shall be held through video conferencing and voting shall be conducted through poll by e-voting facility and the Secured Creditor, Equity Shareholders and Unsecured Creditors present in person or by proxy shall be entitled to vote thereat. Subject to the directions and matters dealt with herein, the procedure for remote e-voting shall be in so far as the same is prescribed by the Companies Act, 2013 read with the Companies (Management and Administration) Rules, 2014, Secretarial Standards on General Meetings and the forms prescribed thereunder shall be followed with such variations as may be required in the circumstances and in relation to the resolution for approval of the Scheme of Arrangement.
- (xiv) The Chairperson shall be responsible to report the result of the meetings to the Tribunal in Form No. CAA-4, as per Rule 14 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 within 7 (Seven) days of the conclusion of the meetings. The Chairperson would be fully assisted by the Authorized Representative/Company Secretary of the Demerged Company and the Scrutinizer in preparing and finalizing the reports.
- (xv) All the aforesaid directions shall be complied with in accordance with the provisions of the Companies Act, 2013, and the Rules made thereunder, as applicable for



the proposed Scheme of Arrangement and any related or incidental matters, including but not limited to forms or formats as may be prescribed under the Rules, guidelines, standards, etc.

(xvi) We direct the applicants to pay a sum of Rs.50,000/- to the Chairman and a sum of Rs. 25,000/- to the Scrutinizer as their fees.

6. In compliance of sub-section (5) of Section 230 and Rule 8 of the Companies (CAA) Rules, 2016, the Applicant Companies shall send a notice of meeting under sub-section (3) of Section 230 read with Rule 6 of the Companies (CAA) Rules, 2016 in Form No. CAA.3 along with a copy of the Scheme of Amalgamation, explanatory statement and the disclosures mentioned under Rule 6 shall be sent to (i) the Central Government through the Regional Director, North Western Region, (ii) the Registrar of Companies, (iii) the Income Tax Department along with full details of assessing officer and PAN numbers of both the applicant companies and (iv) to the SEBI, stating that the representations, if any, to be made by them shall be made within a period of 30 days from the date of receipt of such notice, failing which it shall be presumed that they have no objection to make on the proposed Scheme of Demerger. The said notices shall be sent forthwith by registered post or by speed post or by courier or by hand delivery or by an email at the office of the authorities as required by sub-rule (2) of Rule 8 of the Companies (CAA) Rules, 2016. The aforesaid authorities, who desire to make any representation under sub-section (5) of Section 230, shall send the same to the Tribunal within a period of 30 days from the date of receipt of such notice, failing which it will be deemed that



they have no representation to make on the proposed arrangement.

7. The applicant companies shall file a compliance affidavit with the Registry with regard to the directions given in this order.
8. The application is allowed and disposed off in terms of the above directions
9. List the matter on 10.11.2023 before the Joint Registrar for filing Chairman's report.

-Sd-

KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)

Sudha-Steno

-Sd-

SHAMMI KHAN
MEMBER (JUDICIAL)



Prepared by _____
Signature Vinod
Date 20-9-2023

Certified to be True Copy of the Original
Dmya
20.9.23
Assistant Registrar
NCLT, Ahmedabad Bench
Ahmedabad