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**IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH**

CA(CAA) No.98/NCLT/AHM/2017

In the matter of :-

1. Rajratan Global Wire Limited,
a Company incorporated under the
provisions of the companies Act,1956 and
having its registered office at "Rajratan
House" 11/2, Meera Path, Dhenu Market,
Indore-452003 M.P.

.....
Applicant
(Transferee Company)

And

2. Cee Cee Engineering Industries
Private Limited,
a Company incorporated under the
provisions of the companies Act,1956
and having its registered office at
"Rajratan House" 11/2, Meera Path,
Dhenu Market, Indore-452003 M.P.

.....
Applicant
(Transferor Company)

Order delivered on 14th September, 2017

Coram: Hon'ble Sri Bikki Raveendra Babu, Member (J)

Appearance:

Ms. Manju Mundra, PCS for the Applicant Companies.

ORDER

1. This Joint Application is filed by Rajratan Global Wire Limited (herein referred to as Applicant Transferee Company or "Transferee Company" or "RGWL") and Cee Cee Engineering Industries Private Limited (herein referred to as Applicant Transferor Company or "Transferor Company" or "CCEIPL") (Collectively known as the "Applicant Companies") under the



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provisions of sections 230-232 read with other relevant provisions of the Companies Act, 2013 seeking Directions for the purpose of convening and holding meetings or dispensation of meetings in respect of the Scheme of Amalgamation between CCEIPL and RGWL and their respective shareholders and creditors (referred as "Scheme").

2. The CCEIPL is wholly owned subsidiary of the RGWL. The Applicant Transferee Company Rajratan Global Wire Limited is a public company limited by shares, whose shares are listed at BSE Limited and it holds 100% paid up equity share capital of the Transferor Company.

3. According to the Applicant Companies in order to consolidate and effectively manage the Transferor Company and the Transferee Company in a single entity which will provide several benefits including synergy, economies of scale, attain efficiency and cost-effectiveness, the management of the Applicant Companies have proposed the amalgamation of the Transferor Company and thereby consolidating the commercial activities of that company.

4. The Registered Offices of both the Applicant Companies are situated in Indore in the State of Madhya Pradesh. Therefore, this Tribunal has the territorial jurisdiction to entertain this application filed jointly by both the Companies involved in the Scheme of Amalgamation.

5. The Applicability of Section 233 of the Companies Act, 2013 is also not attracted in view of the fact that the Transferee Company is a Listed Company having wide shareholders and that the Applicant Companies opted for option provided under section 233(14) of the Act.



6. In this Application the applicant Companies have prayed to-

- a) dispense with the meeting of the equity shareholders of the Applicant Transferor Company for the purpose of considering and, if thought fit, approving with or without modification(s), the Scheme of Amalgamation between CCEIPL and RGWL and their respective shareholders and creditors in view of the consent Affidavits to the Scheme given by the sole equity shareholder of the CCEIPL.
- b) dispense with the meeting of the Unsecured Creditors of the Applicant Transferor Company for the purpose of considering and, if thought fit, approving with or without modification(s), the Scheme of Amalgamation between CCEIPL and RGWL and their respective shareholders and creditors in view of the consent Affidavits to the Scheme given by all the Unsecured Creditors of the CCEIPL.
- c) Pass such other and further orders or directions as deemed fit and expedient.

7. Heard learned PCS Ms. Manju Mundra for the Applicant Companies. Perused the joint Application and the supporting Affidavits of Applicant Companies and the annexures annexed thereto.

8. The proposed Scheme provides for the amalgamation of the CCEIPL which is wholly owned subsidiary of the Transferee Company RGWL. They choose to exercise their option provided under the provisions of Section 233(14) of the Companies Act, 2013.



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9. The CCEIPL in its Board meeting held on 3rd November, 2016 approved the proposed Scheme and the Board resolution is annexed as Annexure "K" to the application. The CCEIPL filed certified Audited Financial Statements as on 31st March, 2017.

10. The Board of Directors of RGWL approved the proposed Scheme at its meeting held on 3rd November, 2016 and the Board resolution is annexed as Annexure "J" to the Application.

11. The applicant transferee company has stated that vide SEBI Notification No. SEBI/LAD/NRO/GN/ 2016-17/029 dated 15-02-2017, the observation letter of the BSE limited is not required in the case of amalgamation of wholly owned subsidiary; only the Scheme is to be disclosed to the concerned Stock Exchange. Accordingly, RGWL has filed a certified true copy of the letter sent to BSE disclosing the Scheme vide Annexure "L". Applicant Companies also filed certified true copy of the Certificate on Accounting Treatment issued by the then Statutory Auditors M/s Fadnis and Gupte, Chartered Accountant, Indore. The RGWL filed its Audited Financial Statements as on 31st March, 2017 and unaudited Financial Statements as on 30th June, 2017.

12. It is stated in the application that no investigation has been instituted or is pending in relation to the Companies under Chapter XIV of the Act or under the corresponding provisions of Sections 235 to 251 of the Companies Act, 1956.

13. It is also stated that no winding up proceedings have been filed or are pending against the Applicant Companies under the Act or the corresponding provisions of the Companies Act, 1956.

14. It is also stated in the Application that there will not be any implications which adversely affect the Competition in the



Industry and, hence, the Applicant Companies need not comply with any of the provisions of the Competition Act, 2002. Therefore, no notice of meetings to the Competition Commission of India is required.

15. The whole equity shares of Transferor Company are held by the Transferee Company. The Chartered Accountant certified about it. The consent Affidavit of the Holding Company combined with the nominee has been filed vide Annexure "U". In view of the fact that Transferor Company is the wholly owned subsidiary of the Transferee Company and also considering the Consent Affidavit given by the Holding Company, the meeting of the Equity Shareholders of the Transferor Company to consider and, if thought fit, to approve the proposed Scheme, with or without modifications, is dispensed with.

16. Coming to the Unsecured Creditors of Transferor Company, there are only 2 Unsecured Creditors of the Value of Rs. 44.25 crores, as per the list at Annexure "Y". The consent Affidavits of both the Unsecured Creditors have been filed vide Annexure "Z". In view of the fact that all the Unsecured Creditors gave consent Affidavits, the meeting of the Unsecured Creditors of the Transferor Company to consider and, if thought fit, to approve the proposed Scheme, with or without modifications, is dispensed with.

17. It is stated that there are no Secured Creditors of the Transferor Company. The certificate of the Chartered Accountant vide Annexure "U" shows that there are no Secured Creditors as on 30th June, 2017. Therefore, it is held that there is no need to convene the meeting of the Secured Creditors of the Transferor Company.



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18. Having considered the facts and the entire material on record, this Tribunal passes the following orders;

- (i) The meeting of the Equity Shareholders of Transferor Company is dispensed with.
- (ii) The meeting of the Unsecured Creditors of Transferor Company is dispensed with.
- (iii) There is no need to hold meeting of Secured Creditors of the Transferor Company.
- (iv) A Meeting of the Equity Shareholders of the Applicant Transferee Company shall be convened and held on Monday the 20th day of November, 2017 at 2.00 p.m. at 'Rajratan House' 11/2 Meera Path Dhenu Market, Indore. Madhya Pradesh-452003, for the purpose of considering and, if thought fit, approving with or without modifications the Proposed Scheme.
- (v) A Meeting of the all the Unsecured Creditors of the Applicant Transferee Company, shall be convened and held on Monday the 20th day of November, 2017 at 2.30 p.m. or soon after the conclusion of meeting of equity shareholders of the Transferee Company at 'Rajratan House' 11/2 Meera Path, Dhenu Market, Indore. Madhya Pradesh-452003, for the purpose of considering and, if thought fit, approving with or without modifications the Proposed Scheme. The unsecured creditors with credit value of less than Rs. 2 lacs are not required to be given notice of the meeting and other related matters.
- (vi) A Meeting of the Secured Creditors of the Applicant Transferee Company shall be convened and held on Monday the 20th day of November, 2017 at 3.00 p.m. or soon after the conclusion of meeting of Unsecured Creditors of the Transferee Company at 'Rajratan House' 11/2 Meera Path,



Dhenu Market, Indore. Madhya Pradesh-452003, for the purpose of considering and, if thought fit, approving with or without modifications the Proposed Scheme.

- (vii) In view of Section 230(4) and Section 232 (1) of the Companies Act, 2013 read with Rules 5 and 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 and Rules 20 and 22 of the Companies (Management and Administration) Rules, 2014 the Applicant Transferee Company is required to provide facility of Postal Ballot and e-voting to its shareholders. Accordingly, voting by equity shareholders of the Applicant Transferee Company to the Scheme shall be carried out through by (i) postal ballot (ii) remote e-voting; and (ii) ballot or polling paper at the venue of the meeting of the Equity shareholders to be held on Monday the 20th day of November, 2017 at 2.00 p.m. In the case of meetings of Unsecured Creditors and Secured Creditors voting shall be carried out through ballot or polling paper.
- (viii) At least one month before 20.11.2017; i.e., the date of the aforesaid meetings, an advertisement about convening of said meetings indicating the day, date, place and time, as aforesaid, shall be published in English Daily, "Times of India", Indore Edition, and a 'Hindi' translation thereof in "Chautha Sansar", Indore Edition. The publication shall indicate the time within which copies of the Scheme shall be made available to the concerned persons free of charge from the Registered Office of the Applicant Transferee 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 and the prescribed form of proxy can be obtained free of charge from the Registered Office of the Applicant Transferee Company in accordance with Second Proviso to sub-section (3) of



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Section 230 and Rule 7 of the Companies (CAA) Rules, 2016.

- (ix) At least one month before 20.11.2017, i.e. the date of the aforesaid meeting of equity shareholders, a Notice in Form No. CAA. 2 convening the said meeting indicating the day, date, place and time aforesaid, containing instructions with regard to postal ballot and e-voting together with a copy of the Scheme, a copy of the Statement required to be furnished pursuant to Section 102 of the Act read with Sections 230 to 232 of the Act and Rule 6 of the Companies (CAA) Rules, 2016 and the prescribed form of proxy shall be sent to each of the equity shareholders of the Applicant Transferee Company at their respective registered or last known addresses either by Registered Post or Speed Post/ Airmail or by Courier or e-mail. The notices shall be sent to the Equity Shareholders of the Transferee Company with reference to the list of persons appearing on the record of the Transferee Company and its Register as on 06-10-2017, being the cut-off date as prescribed under Rule 20 of the Companies (Management and Administration) Rules, 2014, The aforesaid cut-off date would be the date determining the eligibility to vote by the Equity Shareholders.
- (x) In addition, at least one month before the date of the aforesaid meetings of the Unsecured Creditors and Secured Creditors of the Transferee Company to be held as aforesaid, a Notice convening the said Meeting indicating the day, date, place and time, as aforesaid, together with a copy of the Scheme, a copy of the Statement required to be furnished pursuant to section 102 of the Act read with Sections 230 to 232 and Rule 6 of the Companies (CAA) Rules, 2016 and the prescribed form of proxy shall be sent to each of the Secured Creditors and Unsecured Creditors of the Applicant Transferee Company at their respective registered or last known addresses either by Registered Post



or Speed Post/ Airmail or by Courier or by email or by hand. The notices shall also be sent to the Secured Creditors and Unsecured Creditors of the Transferee Company with reference to the list of persons appearing on the record of the Transferee Company as on 30-06-2017.

- (xi) Mr. Manish Jain, Advocate, residing at C-586 LGF, Defence Colony, New Delhi, Mobile no. 9891422415 shall be the Chairman of the meetings of the Equity shareholders, Secured Creditors and Unsecured Creditors of RGWL including for any adjournment or adjournments thereof.
- (xii) Mr. Palash Jain, a practising Company Secretary is appointed as the scrutinizer for the meeting of the Equity shareholders of RGWL including for conducting the e-voting process and for the meeting of the Secured Creditors and Unsecured Creditors of the Transferee Company.
- (xiii) The chairman or chairperson, appointed for the aforesaid Meeting, shall issue the advertisements and send out the Notices of the Meetings referred to above. The chairman/chairperson is free to avail the services of the Applicant Transferee Company or any agency for carrying out the aforesaid directions.
- (xiv) The Chairman or Chairperson shall have all powers under the Articles of Association of the Applicant Transferee 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 Meeting, 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 sense of the Meeting of Equity Shareholders by (i) Postal Ballot (ii) remote e-Voting; and (ii) ballot or polling paper at the venue of the Meeting of the Equity




Shareholders, and for the Secured and Unsecured Creditors by Polling Paper/Ballot.

- (xv) The quorum for the meetings of the Equity Shareholders of the Applicant Transferee Company shall be fifteen (15) persons, each present in person. The quorum for the Meetings of the Secured Creditors of the Applicant Transferee Company shall be two (2) persons, each present in person. The quorum for the meetings of the Unsecured Creditors of the Applicant Transferor Company shall be two (2) persons, each present in person.
- (xvi) Voting by Proxy/Authorised Representative is permitted, provided that the proxy in the prescribed Form/Authorisation duly signed by the person entitled to attend and vote at the aforesaid Meetings is filed with the Applicant Transferee Company at its Registered office at 'Rajratan House' 11/2 Meera Path, Dhenu Market, Indore. Madhya Pradesh-452003 not later than 48 hours before the Meetings, vide Rule 10 of Companies (CAA) Rules, 2016 read with Section 105 of the Act.
- (xvii) The number and value of equity shares of the Equity Shareholders or the value of the debts of the Secured Creditors and Unsecured Creditors, as the case may be, shall be in accordance with the records or registers of the Applicant Transferee Company and where the entries in the records or registers are disputed, the chairman of the meetings shall determine the number or value, as the case may be, for the purposes of the meetings.
- (xviii) The chairman/chairperson to file an Affidavit not less than 7 (seven) days before the date fixed for the holding of the meetings and to report to this Tribunal that the directions regarding issuance of notices and advertisement of the meetings have been duly complied with as per Rule 12 of the Companies (CAA) Rules, 2016.



- (xix) It is further ordered that the chairman or chairperson shall report to this Tribunal on the result of the Meeting in form No.CAA.4 verified by his Affidavit, as per Rule 14 of the Companies (CAA) Rules, 2016 in Form No. CAA. 4 within 7 (seven) days of the meetings.
- (xx) In compliance of Sub-section (5) of Section 230 of the Act and Rule 8 of the Companies (CAA) Rules, 2016, the Applicant Transferor Company and Transferee Company shall send a Notice of Meeting under sub-section (3) of Section 230 read with Rule 6 of the Rules in Form No. CAA. 3 along with a copy of the Scheme of Amalgamation, the Explanatory Statement and the disclosures mentioned under Rule 6 to (1) the Central Government through the Regional Director, North Western Region, (2) the Registrar of Companies, (3) the Income-Tax Authorities, (4) the Reserve Bank of India, (5) Securities and Exchange Board of India, (6) The BSE Limited and (7) The Official Liquidator (only in the case of the transferor company) stating that 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. The said Notices shall be sent forthwith after notices are sent to the Members or Creditors of the Applicant Transferee Company by Registered Post or by Hand Delivery at the offices of the authorities as required by sub-rule (2) of Rule 8 of the Rules. The aforesaid authorities, who desire to make any representation under sub-section (5) of Section 230 shall send the same to this Tribunal within a period of 30 (thirty) 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 Scheme of Amalgamation.



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19. This Company Application is disposed of accordingly.

Signature: *B. Raveendra Babu* 19.7.17
[Bikki Raveendra Babu, Member (J)]

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Certified as True Copy of Original

Date: 14/9/17
Place: Ahmedabad

for *Km Navin*
Asstt. Registrar
NCLT Ahmedabad Bench
Ahmedabad