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NATIONAL COMPANY LAW TRIBUNAL
BENCH AT GUWAHATI

CA (C.A.A.)/09 /GB/ 2018

Under Sections 230 to 232 read with Section 66 and other applicable provisions of the Companies Act, 2013;

In the matter of:

- 1) Greenply Industries LimitedFirst Applicant Company
- 2) Greenpanel Industries LimitedSecond Applicant Company

Order delivered on 12th December, 2018

Coram:

Present: Hon'ble Mr. Justice P.K. Saikia, Member (J)

For the applicant companies : Mr. Hemant Sethi, Advocate
Mr. Palash Moni Talukdar, Advocate

ORDER

1. The Counsel for the Applicants submits that the present Scheme is a Composite Scheme of Arrangement between Greenply Industries Limited (“**Demerged Company**”) and Greenpanel Industries Limited (“**Resulting Company**”) and their respective Shareholders and Creditors. The Second Applicant Company is 100% subsidiary of the First Applicant Company.
2. The Counsel for the Applicants further submit that the First Applicant Company is, *inter-alia*, engaged in the business of manufacturing, marketing and trading of Plywood, Medium Density Fibre Boards (MDF), Pre-Laminated MDF, Wood Floors, Block-boards, Decorative Veneers, Veneers, Doors and allied products. The Second Applicant Company, being newly incorporated, is *inter alia* authorized by its Memorandum of Association to do business comprising of manufacturing, marketing and trading of Medium Density Fibre Boards (MDF), Pre-Laminated MDF, Wood Floors, Plywood, Decorative Veneers, Doors and allied products.



3. The proposed demerger of the Demerged Undertaking envisaged in the 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 businesses.*
 - (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 strategic 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 for the rapid growth of both the businesses.*
 - (vi) *Therefore, in view of the potential growth and profitability prospects, the Board of Directors of the Companies have proposed a business reorganisation for demerger of the Demerged Undertaking of the Demerged Company and vesting of the same with the Resulting Company under this Scheme under the provisions of Section 230 to 232 read with Section 66 and other applicable provisions of the Act.*
 - (vii) *This Scheme is expected to be in the beneficial interest of the shareholders and creditors of both the Companies. This Scheme is not expected to be in any manner prejudicial to the interest of the concerned members, creditors, employees or general public at large.*
4. The meeting of the Equity Shareholders of the First Applicant Company be convened and held at its Registered Office at Makum Road, Tinsukia-786125, Assam on 4th day of February, 2019 at 10:00 a.m. for the purpose of considering and, if thought fit, approving with or without modification(s) the Composite Scheme of Arrangement between Greenply Industries Limited (“Demerged Company”) and Greenpanel Industries Limited (“Resulting Company”) and their respective Shareholders and Creditors.
5. The First Applicant Company shall also give an option to the shareholders to vote through E-voting.
6. The meeting of the Creditors of the First Applicant Company be convened and held at its Registered Office at Makum Road, Tinsukia-786125, Assam on 4th day of February, 2019 at



11:30 a.m. for the purpose of considering and, if thought fit, approving with or without modification(s) the Composite Scheme of Arrangement between Greenply Industries Limited (“Demerged Company”) and Greenpanel Industries Limited (“Resulting Company”) and their respective Shareholders and Creditors.

7. That atleast one month before the said Meetings of the Equity Shareholders and Creditors of the First Applicant Company to be held as aforesaid, a notice convening the said Meetings at the place, date and time as aforesaid, together with a copy of the Scheme, a copy of statement disclosing all material facts as required under Section 230(3) of the Companies Act 2013 read with Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rule, 2016 notified on 14th December 2016 and circular issued by the SEBI on March 10, 2017 bearing no. CFD/DIL3/CIR/2017/21 (as amended from time to time) and the prescribed Form of Proxy, shall be sent by Hand delivery / Courier / Registered Post / Speed Post or through Email (to those shareholders and Creditors whose email addresses are duly registered with the First Applicant Company for the purpose of receiving such notices by email), addressed to each of the Equity Shareholders and Creditors of the First Applicant Company, at their last known address or email addresses as per the records of the First Applicant Company.
8. That atleast one month before the meetings of the Equity Shareholders and Creditors of the First Applicant Company to be held as aforesaid, a notice convening the said Meetings, indicating the place, date and time of meetings as aforesaid be published and stating that copies of the Scheme and the statement required to be furnished pursuant to Section 230(3) of the Companies Act, 2013 read with Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rule, 2016 and circular issued by the SEBI on March 10, 2017 bearing no. CFD/DIL3/CIR/2017/21 (as amended from time to time) and the Form of Proxy can be obtained free of charge at the Registered Office of the First Applicant Company as aforesaid and / or at the office of its Advocates, at M/s. OMINIRA ASSOCIATES LLP, C/O R.N. Phukan, House No.19, Satya Sai Campus, Opp. Jor Pukhuri, UzanBazar, Guwahati-781001.



9. That the Notice of the Meetings of the Equity Shareholders and Creditors shall be advertised in two local newspapers viz. "Assam Tribune" in English language and translation thereof in "Dainik Janambhumi" in Assamese Language, circulated in the State of Assam and also in "Business Standard" (All English Edition) not less than 30 days before the date fixed for the meetings.
10. That Mr. Shiv Prakash Mittal, Executive Chairman of the First Applicant Company and failing him Mr. Susil Kumar Pal, Independent Director of the First Applicant Company shall be the Chairman of the aforesaid meetings of the Equity Shareholders and Creditors of the First Applicant Company to be held at its Registered Office at Makum Road, Tinsukia-786125, Assam, India, on 4th day of February, 2019 at 10:00 a.m. and 11:30 a.m. respectively or any adjournment or adjournments thereof.
11. That the Chairman appointed for the aforesaid meetings of the Equity Shareholders and Creditors of the First Applicant Company to issue the advertisements and send out the notices of the meetings referred to above. The said Chairman shall have all powers as per Articles of Association and also under the Companies Act, 2013 in relation to the conduct of the meetings, including for deciding procedural questions that may arise or at any adjournment thereof or any other matter including an amendment to the Scheme or resolution, if any, proposed at the meeting by any person(s).
12. That the quorum of the aforesaid meeting of the Equity Shareholders shall be as prescribed under Section 103 of the Companies Act, 2013. The Quorum fixed for the meeting of Creditors will be 5 Creditors present in person or through proxy.
13. In case if the Quorum as noted above is not present at the meetings, then the meetings shall be adjourned by half-an-hour, and thereafter the persons present and voting shall be deemed to constitute the quorum. For the purpose of quorum, valid proxies will also be considered, if the proxy in the prescribed form, duly signed by the persons entitled to attend and vote at the meeting is filed with the Registered Office of the First Applicant company atleast 48 hours before the meetings.

14. That voting by proxy be permitted, provided that a proxy in the prescribed form duly signed by the person entitled to attend and vote at the meetings, are filed with the First Applicant Company at its Registered Office at Makum Road, Tinsukia 786125, Assam not later than 48 hours before the aforesaid meetings.
15. That the value and number of the shares of each Equity Shareholder shall be in accordance with the books / register of the First Applicant Company or depository records and where the entries in the books / register / depository records are disputed, the Chairman of the Meeting shall determine the value for the purpose of the aforesaid meetings and his decision in that behalf would be final.
16. That the value of the Creditors shall be in accordance with the books of Account of the First Applicant Company and where the amount is disputed, the Chairman of the Meetings shall determine the value for the purpose of the aforesaid meeting and his decision in that behalf would be final.
17. That Dilip Kumar Sarawagi, of DKS & Co. (ACS 13020 C.P. NO. 3090), Practicing Company Secretaries, is hereby appointed as Scrutinizers of the aforesaid meetings of the Equity shareholders and Creditors of the First Applicant Company proposed to be held at its Registered Office at Makum Road, Tinsukia-786125, Assam, India, on 4th day of February, 2019 at 10:00 a.m. and 11:30 a.m. respectively and his remuneration is fixed as Rs. 25,000/- excluding taxes, for each meetings of Equity Shareholders and Creditors.
18. That the Chairman of the aforesaid meetings to report to this Tribunal, the results of the aforesaid meetings within thirty days of the conclusion of the meetings.
19. That the meeting of the Equity Shareholders of the Second Applicant Company for the purpose of considering and, if thought fit, approving with or without modification(s) the Composite Scheme of Arrangement between Greenply Industries Limited ("Demerged Company") and Greenpanel Industries Limited ("Resulting Company") and their respective Shareholders and

Creditors is dispensed with in view of consent affidavits given by all the Equity Shareholders of the Second Applicant Company as per their Original Consent Affidavits annexed as Annexures P1 to P7 to the Company Application.

20. That the meeting of the Creditor of the Second Applicant Company for the purpose of considering and, if thought fit, approving with or without modification(s) the Composite Scheme of Arrangement between Greenply Industries Limited (“Demerged Company”) and Greenpanel Industries Limited (“Resulting Company”) and their respective Shareholders and Creditors is dispensed with in view of consent affidavit given by the Sole Creditor of the Second Applicant Company as per their Original Consent Affidavit annexed as Annexure- O to the Company Application.


21. The First Applicant Company is directed to serve notices along with copy of scheme upon:-
(i) concerned Income Tax Authority within whose jurisdiction the First Applicant Company’s assessments are made i.e. ACIT Circle- Tinsukia, AAYAKAR BHAWAN, Bordoloi Nagar, TINSUKIA (ASSAM) PIN: 786125, having PAN NO: AAACG7284R (ii) the Central Government through the office of the Regional Director, Ministry of Corporate Affairs, Eastern Region, Shillong, (iii) Registrar of Companies, Ministry of Corporate Affairs, Shillong, (iv) BSE Limited (BSE) (vi) National Stock Exchange of India Limited (NSE), with a direction that they may submit their representations, if any, within a period of thirty (30) days from the date of receipt of such notice to the Tribunal and copy of such representations shall simultaneously be served upon the First Applicant Company, failing which, it shall be presumed that the authorities have no representations to make on the proposals.

22. The Second Applicant Company is directed to serve notices along with copy of scheme upon:-
(i) concerned Income Tax Authority within whose jurisdiction the Applicant Company’s assessments are made i.e. ACIT Circle- Tinsukia, AAYAKAR BHAWAN, Bordoloi Nagar, TINSUKIA (ASSAM) PIN: 786125, having PAN NO: AAHCG1211B (ii) the Central Government through the office of the Regional Director, Ministry of Corporate Affairs, Eastern



Region, Shillong, (iii) Registrar of Companies, Ministry of Corporate Affairs, Shillong, with a direction that they may submit their representations, if any, within a period of thirty (30) days from the date of receipt of such notice to the Tribunal and copy of such representations shall simultaneously be served upon the Second Applicant Company, failing which, it shall be presumed that the authorities have no representations to make on the proposals.

23. The First Applicant Company to file affidavit of service in the Registry proving dispatch of notices to the Shareholders and Creditors, publication of notices in newspapers and service of notices to the regulatory authorities and do report to this Tribunal that the directions regarding the issue of notices have been duly complied with .
24. The Second Applicant Company to file affidavit of service in the Registry proving dispatch of notices to the regulatory authorities and do report to this Tribunal that the directions regarding the issue of notices have been duly complied.
25. Certified copies of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.


Member (Judicial)

National Company Law Tribunal
Guwahati Bench, Guwahati

Ashish



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National Company Law Tribunal
Guwahati Bench

Dy. No.: 1007/NCUT/GWB

Date: 21/12/18