

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

ITEM No.308

Comp.Appl/19(AHM)2023 in C.A.(CAA)/57(AHM)2023

Orders under Section Rule 11 of NCLT Rule, 2016

IN THE MATTER OF:

Lyka Exports Limited
Lyka Labs Limited

.....Applicant

Order delivered on: 08/01/2024

Coram:

Mr. Shammi Khan, Hon'ble Member(J)
Mr. Sameer Kakar, Hon'ble Member(T)

PRESENT:

For the Applicant :
For the Respondent :

ORDER

The case is fixed for the pronouncement of the order. The order is pronounced in the open court, vide separate sheet.

-Sd-

SAMEER KAKAR
MEMBER (TECHNICAL)

-Sd-

SHAMMI KHAN
MEMBER (JUDICIAL)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
DIVISION BENCH
COURT NO.1**

**Com.App.19 of 2023
in
CA(CAA)/57(AHM)2023**

[Application under Rule 11 of National Company Law Tribunal Rules, 2016]

Memo of Parties

Lyka Exports Limited

(CIN: U51100GJ1992PTC023975)

Registered address at;

Plot No. C/4/10/B/2nd Floor,

Adarsh Industrial Complex

Opp. S B I Ankleshwar,

Bharuch-393002, Gujarat

..... Applicant Company No.1

Lyka Labs Limited

(CIN: L24230GJ1976PLC008738)

Registered address at;

4801/B & 4802/A,

G.I.D.C. Industrial Estate,

Ankleshwar-393002, Gujarat

..... Applicant Company No. 2

Order Pronounced on 08.01.2024

CORAM:

SHAMMI KHAN, MEMBER (JUDICIAL)

SAMEER KAKAR, MEMBER (TECHNICAL)

Appearance:

For the Applicant :Mr. Ravi Pahwa, Ld. Adv.

ORDER

1. This is a Company Application Viz., Com. App. 19 of 2023 in CA(CAA)/57(AHM)/2023 filed by the Applicant Companies, namely Lyka Exports Limited (Applicant Company No. 1) and Lyka Labs Limited (Applicant Company No. 2) under Rule 11 of National Company Law Tribunal Rules, 2016.
2. The Applicant Companies in this Comp. App. have sought for the following reliefs:-
 - i) That this Hon'ble Tribunal may be pleased to allow this application and rectify / modify the order dated 24.11.2023 passed in CA (CAA) No.57/NCLT/AHM/2023 to the extent as stated in Para 3 of this application, in the interest of justice;
 - ii) That this Hon'ble Tribunal may be pleased to grant such other and further reliefs as may be deemed fit and proper by this Hon'ble Tribunal, in the interest of justice.
3. The Applicant Companies had filed a joint Company Application before this Tribunal being CA (CAA) No.57 of 2023 and sought certain directions for the proposed Scheme of Amalgamation of Lyka Exports Limited (Applicant Company No.1) into Lyka Labs Limited

(Applicant Company No.2) and their respective shareholders and creditors. By an order dated 24.11.2023, this Tribunal had directed to convene and hold separate meetings of the Equity Shareholders, Secured Creditors and Unsecured Creditors of the Applicant Companies and further directed for issuance of notice to statutory / regulatory authorities.

4. It is stated that in the order dated 24.11.2023, there is a typographical error in mentioning the consideration pursuant to the Scheme, i.e.

“1 (One) equity share of the Transferee Company of the face value of INR 10 (Rupees Ten Only) each fully paid up, shall be issued and allotted for every 1 equity share of the Transferor Company of the face value of INR 10/- (Rupees Ten Only) each fully paid”

which is to be rectified as under:-

“23 (Twenty three) equity shares of the Transferee Company of the face value of INR 10 (Rupees Ten Only) each fully paid up, shall be issued and allotted for every 100 (Hundred) equity shares of the Transferor Company of the face value of INR 10/- (Rupees Ten Only) each fully paid”.

5. It is further stated that through oversight and inadvertence, the Applicants have not mentioned the details of Preference Shareholder(s) in the Company Application. It is stated that there are no Preference

Shareholders in Applicant Company No.1. In Applicant Company No.2, there is one (1) Preference Shareholder having value of Rs.1,08,57,000/- as on 30.06.2023. Copies of the certificate issued by the Chartered Accountant M/s. D. Kothary & Co., in respect of the Preference Shareholder(s) of the Applicant Companies have placed on record as Annexure-B & C respectively.

6. It is stated that Applicant Company No.2 did not obtain the consent of the Preference Shareholder, hence seeking direction for convening and holding the meeting of the Preference Shareholder.
7. It is represented that the registered offices of all the Applicant Companies are situated within the territorial jurisdiction of Registrar of Companies, Ahmedabad, Gujarat, which is falling under the jurisdiction of this Tribunal.
8. Heard Ld. Counsel for the Applicant Companies also gone through the records. It is observed that in Paragraph-15 in the order dated 24.11.2023, passed in CA (CAA) 57 of 2023, there is a typographical error. Hence, we rectify Paragraph-15 of the aforesaid order and it should be read as under:-

“23 (Twenty three) equity shares of the Transferee Company of the face value of INR 10 (Rupees Ten Only) each fully paid up, shall

be issued and allotted for every 100 (Hundred) equity shares of the Transferor Company of the face value of INR 10/- (Rupees Ten Only) each fully paid”.

9. Taking into consideration of the present application and the documents filed therewith, this Tribunal proposes to issue the following directions:-

A. In relation to the Transferor Company:

(i) With respect to Equity shareholders:

The meeting of Equity Shareholders of the Transferor Company shall be convened on 20th February, 2024 at 10:00 am.

(ii) With respect to Secured Creditors:

The meeting of Secured Creditors of the Transferor Company shall be convened on 20th February, 2024 at 12:00 noon.

(iii) With respect to Unsecured Creditors:

The meeting of Unsecured Creditors of the Transferor Company shall be convened on 20th February, 2024 at 2:00 pm.

B. In relation to the Transferee Company:

(i) With respect to Equity shareholders:

The meeting of Equity Shareholders of the Transferee Company shall be convened on 20th February, 2024 at 11:00 am.

(ii) **With respect to Secured Creditors:**

The meeting of Secured Creditors of the Transferee Company shall be convened on 20th February, 2024 at 3:00 pm.

(iii) **With respect to Unsecured Creditors:**

The meeting of Unsecured Creditors of the Transferee Company shall be convened on 20th February, 2024 at 4:00 pm.

(iv) **With respect to Preference Shareholder:**

The meeting of Preference Shareholder of the Transferee Company shall be convened on 20th February, 2024 at 5:00 pm.

10. The respective meetings of Applicant Companies shall be convened on 20th February, 2024 at 4801/B & 4802/A, GIDC Industrial Estate, Ankleshwar, Gujarat – 393002, for the purpose of considering and if thought fit, approving with or without modification, the Scheme of Amalgamation.

11. The quorum for the meeting of the Transferor Company and Transferee Company shall be as per section 103 of the Companies Act, 2013 as follows;

For the Transferor Company:

S.No	CLASS	QUORUM
1	EQUITY SHAREHOLDERS	250
2	SECURED CREDITORS	1
3	UNSECURED CREDITORS	3

For the Transferee Company:

S.No	CLASS	QUORUM
1	EQUITY SHAREHOLDERS	300
2	SECURED CREDITORS	1
3	UNSECURED CREDITORS	15
4	PREFERENCE SHAREHOLDER	1

12. Dr. Deepti Mukesh shall be the Chairperson of the meetings of Equity Shareholders, Secured Creditors and Unsecured Creditors of Applicant Companies, as referred hereinabove, to be held on 20th February, 2024 and in any adjourned meeting(s). Remuneration of Chairperson shall be Rs.1,50,000/- plus incidental expenses.
13. Ms. Hirva Dave, Advocate shall be appointed as Scrutinizer for the meetings of Equity Shareholders, Secured Creditors and Unsecured Creditors of both the Applicant Companies. Remuneration shall be Rs.75,000/- plus incidental expenses.

14. In case the quorum as noted above, for the above meeting of the Applicant Companies, is not present at the meeting, then the meeting shall be adjourned by half an hour, and thereafter the person(s) present and voting shall be deemed to constitute the quorum. For the purpose of computing the quorum, the valid proxies shall also be considered, if the proxy in the prescribed form, duly signed by the person entitled to attend and vote at the meeting, is filed with the registered office of the applicant companies at least 48 hours before the meeting. The Chairperson appointed herein along with the Scrutinizer shall ensure that the proxy registers are properly maintained. However, every endeavour should be made by the applicant companies to attain at least the quorum fixed, if not more in relation to approval of the scheme.
15. The meetings shall be conducted as per the applicable procedure prescribed under the MCA Circular MCA General Circular Nos. (i) 20/2020 dated 5th May, 2020 (AGM Circular), (ii) 14/2020, dated 08.04.2020 (EGM Circular-I) and (iii) 17/2020 dated 13.04.2020 (EGM Circular-II);
16. That individual notices of the above said meetings shall be sent by the Applicant Company through registered post or speed post or through courier or e-mail, 30 days

in advance before the scheduled date of the meeting, indicating the day, date, the place and the time as aforesaid, together with a copy of Scheme, copy of explanatory statement, required to be sent under the Companies Act, 2013 and the prescribed form of proxy shall also be sent along and in addition to the above any other documents as may be prescribed under the Act or rules may also be duly sent with the notice.

17. That the Applicant Companies shall publish advertisement with a gap of at least 30 clear days before the aforesaid meetings, indicating the day, date and the place and time as aforesaid, to be published in the English Daily "**Financial Express**" (**Gujarat Edition**), and "**Janadesh**" (**Gujarat Edition**) in Vernacular stating the copies of Scheme, the Explanatory Statement required to be furnished pursuant to Section 230 of the Companies Act, 2013 and the form of proxy shall be provided free of charge at the registered office of the respective Applicant Companies.
18. The Chairperson shall as afore stated be responsible for reporting the result of the meeting within a period of 3 days of the conclusion of the meeting with details of voting on the proposed scheme.

19. In compliance of sub-section (5) of Section 230 of the Act and Rule 8 of the Companies (CAA) Rules, 2016, the Applicant companies shall individually send notice to the concerned **(i) Regional Director, MCA (ii) Registrar of Companies Ahmedabad, (iii) Official Liquidator, and (iv) the Income Tax Authorities (v) BSE and NSE** as well as **other Sectoral Regulators** who may have significant bearing on the operation of the applicant companies or the Scheme *per se* along with copy of required documents and disclosures required under the provisions of Companies Act, 2013 read with Companies (Compromises, Arrangements, Amalgamations) Rules, 2016.
20. The Applicant Companies shall further furnish a copy of the Scheme free of charge within 1 day of any requisition for the Scheme made by every creditor or member of the applicant companies entitled to attend the meetings as aforesaid.
21. The Authorized Representative of the Applicant Companies shall furnish an affidavit of service of notice of meetings and publication of advertisement and compliance of all directions contained herein at least a week before the proposed meetings.

22. All the aforesaid directions are to be complied with strictly in accordance with the applicable law including forms and formats contained in the Companies (Compromises, Arrangements, Amalgamations) Rules, 2016 as well as the provisions of the Companies Act, 2013 by the Applicants.

23. The Com. App. 19 of 2023 stands **allowed** and **disposed off** on the aforesaid terms.

-Sd-

SAMEER KAKAR
MEMBER (TECHNICAL)

-Sd-

SHAMMI KHAN
MEMBER (JUDICIAL)

Swetambary