

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV**

CA (CAA)/03/MB-IV/2024

*In the matter of the Companies
Act, 2013;*

AND

In the matter of

*Sections 230 to Section 232 of the
Companies Act, 2013 and other
applicable provisions of the
Companies Act, 2013*

read with Companies

*(Compromises, Arrangements and
Amalgamation) Rules, 2016;*

AND

*In the matter of
The Scheme of Arrangement
Between*

***Sterlite Power Transmission
Limited***

("Demerged Company")

and

Sterlite Grid 5 Limited

("Resulting Company")

*And their respective
Shareholders and Creditors.*

Sterlite Power Transmission
Limited

[CIN: U74120PN2015PLC156643] ... First Applicant Company/
Demerged Company

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV

CA (CAA)/03/MB-IV/2024

Sterlite Grid 5 Limited ... Second Applicant Company/
[CIN: U29190PN2016PLC209044] Resulting Company

Order delivered on **28.03.2024**

Coram:

Smt. Anu Jagmohan Singh
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances :

For the Applicant(s) : Mr. Gaurav Joshi, Sr. Counsel a/w Mr. Haabil Vahanvaty, Mr. Mehul Shah, Mr. Peshwan Jehangir, Mr. Aman Yagnik, Mr. Amit Panwar, Mr. Jash Shah and Ms. Dhruvi Dharia i/b Khaitan & Co, Advocates for the Applicant Companies and Mr. Ashok Ganesan and Ms. Nikita Gupta, representatives of the Applicant Companies.

ORDER

1. Heard the Ld. Counsel for the Applicant Companies.
2. The Applicant Companies have proposed the Scheme of arrangement between Sterlite Power Transmission Limited ("First Applicant Company / Demerged Company") and Sterlite Grid 5 Limited ("Second Applicant Company / Resulting Company") and their respective Shareholders and Creditors under Section 232 read with Section 230 and other applicable provisions of the Companies Act, 2013.

3. The said Scheme *inter alia* provides for:
 - I. demerger, transfer and vesting of the Demerged Undertaking the First Applicant Company into the Second Applicant Company on a going concern basis, and discharge of consideration, in form of shares, by the Second Applicant Company to the shareholders of the First Applicant Company, in accordance with the provisions of Section 2(19AA) of the Income-Tax Act, 1961; and
 - II. reduction and cancellation of the entire pre-scheme share capital of the Second Applicant Company.
4. The registered offices of the Applicant Companies are situated in Pune, Maharashtra and hence the subject matter of the captioned Company Scheme Application is within the jurisdiction of this National Company Law Tribunal, Mumbai Bench.
5. The Learned Counsel for the Applicant Companies submits that the Second Applicant Company is a wholly owned subsidiary of the First Applicant Company. As consideration for the Scheme and for the demerger of the Demerged Undertaking (as defined in the Scheme) from the First Applicant Company into the Second Applicant Company, the Second Applicant Company shall issue and allot on a proportionate basis to each shareholder of the First Applicant Company whose name is recorded in the register of members and records of the depository as members of the First Applicant Company as on the Record Date as under:

“1 (One) Resulting Company New Equity Shares for every 1 (One) fully paid-up equity share of face value of INR 2 (Indian Rupees Two only) each of the Demerged Company.”

6. That the Board Resolutions passed by the Board of Directors of the First Applicant Company and the Second Applicant Company in their respective meetings held on 28th September 2023 and 03rd October 2023 *inter alia* unanimously approved the Scheme. Subsequently, the captioned Company Scheme Application has been filed. The Appointed Date is the opening business hours of January 1, 2023 or such other date as may be agreed between the Applicant Companies. The Effective Date means the day on which all conditions precedent set forth in Clause 20 (Conditions Precedent) of the Scheme are fulfilled.
7. The Learned Counsel for the Applicant Companies submits that the circumstances, reasons and grounds that have necessitated / justified the Scheme. Some of the major benefits which would accrue from the Scheme are briefly stated below:
 1. *“The Demerged Company and the Resulting Company are part of the same promoter group.*

The Demerged Company proposes to demerge and transfer the Demerged Undertaking from the Demerged Company to the Resulting Company and in consideration thereof, the Resulting Company will issue their equity shares to the shareholders of the Demerged Company.

2. *The said demerger will enable the Parties to concentrate its resources and managerial bandwidth entirely to such businesses which would enable focused strategy, better coordination and cohesiveness in their working and assist in standardization of its business processes as may be prevalent to the specific businesses. The proposed restructuring pursuant to the said Scheme is expected, inter alia, to result in following benefits for the Parties:*

- (i) unlocking the value of the Demerged Undertaking for the shareholders of the Demerged Company;*
- (ii) attracting investors and providing better flexibility in accessing capital;*
- (iii) segregating different businesses having different risk and return profiles, and providing investors with better flexibility to select investments which best suit their investment strategies and risk profile;*
- (iv) effective utilisation of cash flows of different businesses and limiting restrictions arising out of different terms of different lenders for different businesses;*
- (v) enabling focused growth strategy for each of the businesses for exploiting opportunities specific to each business;*
- (vi) greater visibility on performance of each of the businesses;*
- (vii) operational efficiency; and*
- (viii) focused management approach for pursuing the growth in the respective business verticals and de-*

risk the businesses from each other.

The Scheme is, therefore, in the interests of the shareholders, creditors and all other stakeholders of each of the Parties.”

8. The Learned Counsel for the First Applicant Company submits that as on 6th October 2023, the First Applicant Company has 1,05,432 Equity Shareholders holding 12,24,22,479 fully paid-up equity shares of INR 2 each of the First Applicant Company. It is directed that in so far as the Equity Shareholders of the First Applicant Company are concerned, a meeting of the Equity Shareholders be convened on or before 20.05.2024, through physical meeting/ video conferencing/ other audio-visual means, for the purpose of considering, and, if thought fit, approving, with or without modification(s), the proposed Scheme, wherein the Equity Shareholders of the First Applicant Company will be able to cast their votes electronically. In addition to the above, the First Applicant Company shall provide facility of remote e-voting to its Equity Shareholders to cast their vote.
9. That there are 7 Equity shareholders, holding 2,50,000 equity shares of INR 2 each of the Second Applicant Company as on 6th October 2023. It is submitted that all the Equity Shareholders of the Second Applicant Company have given their consent in the form of affidavits approving the proposed Scheme and dispensing the requirement for convening and holding the meeting of the Equity Shareholders for approving the Scheme. In view of

consent terms, the meeting of the Equity Shareholders is hereby dispensed with.

10. The Learned Counsel submits that the Applicant Companies do not have any Preference Shareholders. Accordingly, the requirement for convening and holding the meeting of the Preference Shareholders of the Applicant Companies does not arise.
11. The Learned Counsel for the First Applicant Company submits that as on 31st August 2023, there is 1 Secured Creditor of the First Applicant Company having an outstanding amount of INR 8,89,55,566. It is directed that in so far as the Secured Creditor of the First Applicant Company is concerned a meeting of the Secured Creditor be convened on or before 20.05.2024, through physical meeting/ video conferencing or other audio-visual means, for the purpose of considering, and, if thought fit, approving, with or without modification(s), the proposed Scheme, wherein the Secured Creditor of the First Applicant Company will be able to cast its vote electronically.
12. The Learned Counsel submits that the Second Applicant Company does not have any Secured Creditors. Accordingly, the requirement of convening and holding the meeting of the Secured Creditors of the Second Applicant Company does not arise.
13. That there are 985 Unsecured Creditors of the First Applicant Company having an outstanding amount of INR

17,26,05,67,278, as on 31st August 2023. It is directed that in so far as the Unsecured Creditors of the First Applicant Company are concerned a meeting of the Unsecured Creditors be convened on or before 20.05.2024, through physical meeting/ through video conferencing or other audio-visual means, for the purpose of considering, and, if thought fit, approving, with or without modification(s), the proposed Scheme, wherein the Unsecured Creditors of the First Applicant Company will be able to cast their votes electronically. In addition to the above, the First Applicant Company shall provide facility of remote e-voting to its Unsecured Creditor to cast their vote.

14. That there are 2 Unsecured Creditors of the Second Applicant Company having an outstanding amount of Rs. 1,22,04,44,414/-, as on 31st August 2023. It is submitted that the Second Applicant Company has obtained a consent affidavit of 1 of its Unsecured Creditors having more than 90% in value of the total outstanding amount, approving the Scheme. The Second Applicant Company is directed to issue notice by Speed Post-AD/ Registered Post and through email to the other Unsecured Creditor whose consent has not been obtained, with a direction that such Unsecured Creditor may submit their representation, if any, to the Tribunal within 30 (thirty days) of receipt of such notice. Copy of any such representation shall simultaneously be served upon the Second Applicant Company. If no such representation is received, it will be presumed that the said Unsecured

Creditor has no objection to the Scheme. Accordingly, the requirement to convene and hold a meeting of the Unsecured Creditors of the Second Applicant Company is dispensed with.

15. In terms of the meetings to be convened of Equity Shareholders, Secured Creditor and Unsecured Creditors of the First Applicant Company it is hereby directed as under:

- i. At least 30 (Thirty) days before the meetings of the Equity Shareholders, Secured Creditor and Unsecured Creditors of the First Applicant Company, notice convening the said meetings at the day, date and time as fixed, together with a copy of the Scheme, a copy of the Explanatory Statement required to be sent under Section 230(3) of the Act read with Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, shall be sent to the Equity Shareholders, Secured Creditor and Unsecured Creditors of the First Applicant Company, respectively by electronic mail to their registered e-mail address, as per the records available with the First Applicant Company/ Depositories. The First Applicant Company shall ensure that the Equity Shareholders, Secured Creditor and Unsecured Creditors of the First Applicant Company whose e-mail address' are not available with the First Applicant Company, shall be served notices of the meetings through Speed Post/ Registered Post.

- ii. At least 30 (Thirty) days before the meetings of the Equity Shareholders, Secured Creditor and Unsecured Creditors of the First Applicant Company, notices convening the said meetings, at the date and time fixed be published each in '**Business Standard**' in English and '**Navshakti**' in Marathi having circulation in Maharashtra, stating that copies of the Scheme and the said statement required to be furnished pursuant to Section 230(3) of the Act can be obtained free of charge from the registered office of the First Applicant Company, or by email the First Applicant Company at secretarial.grid@sterlite.com.

16. The First Applicant Company shall:

- i. Issue notices convening meetings of the Equity Shareholders, Secured Creditor and Unsecured Creditors of the First Applicant Company as per Form No CAA.2 (Rule 6) of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016;
- ii. Issue statement containing all the particulars as per Section 230 of the Act;
- iii. Advertise the notice convening meeting as per Form No. CAA.2 (Rule 7) of the Companies (Compromises, Arrangements, and Amalgamations) Rules, 2016; and
- iv. Publish the notices convening the meetings of the Equity Shareholders, Secured Creditor and Unsecured Creditors of the First Applicant Company

on the website of the First Applicant Company.

17. Mr. M. Juneja, DG, Corporate Affairs, (DGCoA) (Rtd.) having mobile No. 9818666793, 7982550654 and E-mail: mmjuneja@gmail.com is hereby appointed as the Chairperson for the meeting of the Equity Shareholders of the First Applicant Company.
18. The Chairperson shall be paid a sum of Rs. 1,50,000/- for holding/ conducting meetings of the Equity Shareholders of the First Applicant Company. The payments to the Chairperson shall be paid by the First Applicant Company.
19. Mr. Shiva Kumar MD, SBBJ Bank (Rtd.) having Mobile No.9920174895, E-mail: shiva78901@gmail.com is hereby appointed as the Chairperson for the meeting of the Secured Creditor and Unsecured Creditors of the First Applicant Company.
20. The Chairperson shall be paid a sum of Rs. 1,50,000/- for holding/ conducting meetings of the Secured/ Unsecured Creditors of the First Applicant Company. The payments to the Chairperson shall be paid by the First Applicant Company.
21. Ms. Mehak Gupta of M/s. Mehak Gupta & Associates, failing her, Mr. Akhil Chadha of M/s. Akhil Chadha & Associates, is hereby appointed as a Scrutinizer for the meetings of Equity Shareholders, Secured Creditor and Unsecured Creditors of the First Applicant Company.

22. The Chairpersons appointed for the aforesaid meetings shall issue notices of the respective meetings of the Equity Shareholders, Secured Creditor and Unsecured Creditors of the First Applicant Company. The Chairpersons shall have all powers under the Act read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, as may be applicable for the meetings of Equity Shareholders, Secured Creditor and Unsecured Creditors, respectively, to be convened and held through video conferencing or other audio-visual mode, in relation to the conduct of the meetings including for deciding procedural questions that may arise at the meeting or at any adjournment thereof or any other matter including, any amendment to the Scheme or resolution, if any, proposed at the meetings by any Equity Shareholder(s), or the Secured Creditor or the Unsecured Creditors, as the case may be.
23. The quorum for the aforesaid meetings of the Equity Shareholders and the Unsecured Creditors of the First Applicant Company shall be as prescribed under Section 103(1) of the Act and would include Equity Shareholders and Unsecured Creditors present through video conferencing and/or other audio-visual means, as the case may be. If the quorum is not present within half an hour from the time appointed for the holding of the meeting, the members present shall be the quorum and the meeting shall be held.

24. The quorum for the Secured Creditor of the First Applicant Company shall be 1 Secured Creditor (*in number*). In the event the Secured Creditor does not attend the meeting scheduled, the meeting will be adjourned by half hour. If the Secured Creditor attends within the said half hour the meeting will be held. However, if the Secured Creditor fails to attend the meeting, the First Applicant Company shall issue notice to the said Secured Creditor by Registered Post-AD/ Speed Post and through email inviting representations, if any, to be filed before this Tribunal with a copy to the First Applicant Company within 30 (thirty) days from the date of receipt of such notice failing which, it shall be presumed that the said Secured Creditor has no objection to the proposed Scheme.
25. The value and number of the equity 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 Chairperson appointed for the said meeting of the Equity Shareholders of the First Applicant Company shall determine the same and his decision in that behalf would be final.
26. The value and number of the Secured Creditor and Unsecured Creditors shall be in accordance with the books/ records maintained by the First Applicant Company and where the entries in the books/ records are disputed, the Chairperson of the meeting shall determine

the value and number for the purpose of the aforesaid meeting and his decision in that behalf would be final.

27. The voting for the meetings of the Equity Shareholders, Secured Creditor and Unsecured Creditors of the First Applicant Company on the proposed Scheme shall be allowed electronically at the respective meetings and through remote e-voting by Equity Shareholders, Secured Creditor and Unsecured Creditors, as the case may be, or by their respective authorized representative(s). The voting by authorized representative, in case of a body corporate be permitted, provided that the authorization duly signed by the person entitled to attend and vote at the meetings is filed with the First Applicant Company, in physical at its registered office or by electronic mode, at least 48 (Forty-Eight) hours before the aforesaid meetings, as required under Rule 10 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
28. The Chairperson shall report to this Hon'ble Tribunal, the result of the aforesaid meetings within 7 days of the conclusion of the said meetings of the Equity Shareholders, Secured Creditor and Unsecured Creditors of the First Applicant Company, and the said report shall be verified by his undertaking as per Rule 14 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

29. The Applicant Companies are directed to comply with all the Rules and Regulations of the Companies Act/ Rules regarding holding of meetings of the Shareholder(s) and Secured and Unsecured Creditor(s).
30. The Applicant Companies are directed to serve notices along with a copy of the Scheme under the provisions of Section 230 (5) of the Companies Act, 2013 and Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, upon the –
- a. Central Government through the office of Regional Director (Western region), Mumbai.
 - b. Jurisdictional Registrar of Companies, Maharashtra, Mumbai.
 - c. Income Tax Department of the First Applicant Company at Deputy Commissioner of Income-tax, Circle -5, PMT Building, Shankar Seth Road, Swargate, Pune – 411 037 and Income Tax Department of the Second Applicant Company at Deputy Commissioner of Income-tax, Circle -22(2), C.R. Building, Delhi – 110 002;
 - d. The Nodal Authority in the Income Tax Department having jurisdiction over such authority i.e., Pr. CCIT, Mumbai and Pr. CCIT, Pune;

- e. Jurisdictional GST Authority(s) (proper officer), within whose jurisdiction such companies are assessed to tax under GST law;
- f. Ministry of Corporate Affairs;
- g. Reserve Bank of India; and
- h. Any other Sectoral/ Regulatory Authorities relevant to the Applicant Companies or their business.

The Notice shall be served through by Registered Post-AD/Speed Post and through email along with copy of scheme and state that *“If no response is received by the Tribunal from the concerned Authorities within 30 days of the date of receipt of the notice it will be presumed that the concerned Authorities has no objection to the proposed Scheme”*. It is clarified that notice service through courier shall be taken on record only in cases where it is supported with Proof of Delivery having acknowledgement of the notice.

31. The Applicant Companies will submit –

- i. Details of Corporate Guarantee, Performance Guarantee and Other Contingent Liabilities, if any.
- ii. List of pending IBC cases, if any, along with all other litigation pending against the Applicant Companies having material impact on the proposed Scheme.

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV

CA (CAA)/03/MB-IV/2024

- iii. The Applicant Companies shall submit details of all Letters of Credit sanctioned and utilized as well as Margin Money details; if any.
32. The Applicant Companies to file Affidavits of Service, with the Registry proving service upon the regulatory authorities as stated above, and report to this Tribunal that the directions have been duly complied with.

Sd/-
Anu Jagmohan Singh
Member (Technical)

/Dubey/

Sd/-
Kishore Vemulapalli
Member (Judicial)