

IN THE NATIONAL COMPANY LAW TRIBUNAL,

MUMBAI BENCH

CA (CAA) NO. 707 OF 2018

In the matter of Sections 230 to 232
and other applicable provisions of the
Companies Act 2013

And

In the matter of the scheme of
amalgamation of Sterlite Power Grid
Ventures Limited with Sterlite Power
Transmission Limited and their
Respective Shareholders

Sterlite Power Grid Ventures Limited

A company incorporated under the Companies
Act 2013 having CIN U33120PN2014PLC172393,
and having its Registered Office at 4th Floor,
Godrej Millennium 9, Koregaon Road, Pune,
Maharashtra 411 001 India

**...First Applicant Company/
Transferor Company**

Sterlite Power Transmission Limited

A company incorporated under the Companies
Act 2013 having CIN U74120PN2015PLC156643,
and having its Registered Office at 4th Floor,
Godrej Millennium 9, Koregaon Road, Pune,
Maharashtra 411 001 India

**...Second Applicant Company/
Transferee Company
Order Dated 14.09.2018**

CORAM:

Hon'ble Shri B.S.V. Prakash Kumar, Member (Judicial)
Hon'ble Shri Ravikumar Duraisamy, Member (Technical)

For the Petitioner: Mr. Janak Dwarkadas, Senior Advocate, Mr. Gaurav
Joshi, Senior Advocate, Mr. Peshwan Jehangir, Mr.
Himanshu Vidhani, Ms. Sraddha Kedia i/b Khaitan &
Co, Advocates



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Per Ravikumar Duraisamy, Member

ORDER

1. The Counsel for the Applicant Companies states that the present Scheme is for Amalgamation of Sterlite Power Grid Ventures Limited ("**First Applicant Company/ Transferor Company**") with Sterlite Power Transmission Limited ("**Second Applicant Company/ Transferee Company**") and their respective shareholders ("**Scheme**").
2. A meeting of the Equity Shareholders of the First Applicant Company be convened and held at 4th Floor, Godrej Millennium 9, Koregaon Road, Pune on 15th October, 2018 at 10:00 AM, for the purpose of considering, and, if thought fit, approving, with or without modification(s), the proposed Scheme of Amalgamation.
3. At least 30 (Thirty) clear days before the said meeting of the Equity Shareholders of the First Applicant Company to be held as aforesaid, a notice convening the said meeting at the place, day, date and time aforesaid, together with a copy of the Scheme, a copy of the Explanatory Statement required to be sent under Section 230(3) of the Companies Act, 2013 read with Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 notified on 14th December, 2016 and the prescribed Form of Proxy, shall be sent by Registered Post Acknowledgement Due or by Air Mail or by Courier or by Speed Post or by Hand Delivery to each of the Equity Shareholders of the First Applicant Company at their respective registered or last known addresses or by e-mail to the registered e-mail address of the Equity Shareholders as per the records of the First Applicant Company.
4. At least 30 (Thirty) clear days before the meeting of the Equity Shareholders of the First Applicant Company to be held as aforesaid, a notice convening the said meeting, at the place, date and time aforesaid be published once each in 'Business Standard' in English and 'Punya Nagari' in Marathi, both circulated in Pune, and stating that copies of the Scheme of Amalgamation and the statements required to be furnished pursuant to Section 230 (3) of the Companies Act, 2013 read with Rule 7 of Companies (Compromises, Arrangements and Amalgamations) Rule, 2016 and that the Form of Proxy can be



obtained free of charge at the registered office of the First Applicant Company as aforesaid.

5. The First Applicant Company undertakes to:
- (i) Issue notice convening meeting of the equity shareholders 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 Companies Act, 2013;
 - (iii) Issue Form of Proxy as per Form No. MGT-11 (Rule 19) of the Companies (Management and Administration) Rules, 2014; and
 - (iv) Advertise the notice convening meeting as per Form No. CAA.2 (Rule 7) of the Companies (Compromises, Arrangements, and Amalgamations) Rules, 2016.

The undertaking is accepted.

6. Mr. Pravin Agarwal, Chairman of the First Applicant Company, failing whom Ms. Kriti Narula Company Secretary of the First Applicant Company is appointed as the Chairperson for the meeting of the Equity Shareholders of the First Applicant Company.
7. Mr. Kuldeep Ruchandani, Company Secretary, KPRC & Associates, is hereby appointed as Scrutinizer of the meeting of Equity Shareholders of the First Applicant Company/ Transferor Company.
8. The Chairperson appointed for the aforesaid meeting of the First Applicant Company shall issue notice of the Meeting of the Equity Shareholders referred to above. The Chairperson shall have all powers under the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 in relation to the conduct of the meeting 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).
9. The quorum for the aforesaid meeting of the Equity Shareholders of the First Applicant Company shall be as prescribed under Section 103 of the Companies Act, 2013.

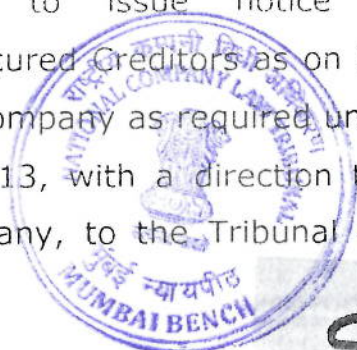


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10. The voting shall be allowed on the proposed Scheme by voting in person and by proxy. The voting by proxy or authorised representative, in case of a body corporate be permitted, provided that a proxy in the prescribed form/ authorization duly signed by the person entitled to attend and vote at the meeting is filed with the First Applicant Company at its registered office at 4th Floor, Godrej Millennium 9, Koregaon Road, Pune, Maharashtra 411 001 India, not later than, 48 (Forty Eight) hours before the aforesaid meeting, as required under Rule 10 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
11. The value and number of the shares of each member 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 of the Meeting shall determine the value for the purpose of the aforesaid meeting and his decision in that behalf would be final.
12. The Chairperson shall file an affidavit not less than 7 (Seven) days before the date fixed for the holding of the meeting of the First Applicant Company and do report to this Tribunal that the direction regarding the issue of notices and advertisements have been duly complied with as per Rule 12 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
13. The Chairperson shall report to this Tribunal, the result of the aforesaid meeting within 10 (Ten) days of the conclusion of the said Meeting of the Equity Shareholders of the First Applicant Company, and the said report shall be verified by his Affidavit as per Rule 14 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
14. A meeting of the Equity Shareholders of the Transferee Company/ Second Applicant Company is not required to be convened in view of the fact that the Transferor Company/First Applicant Company is a wholly owned subsidiary of the Transferee Company and the facts in the present case are similar to the facts in *CSA No. 243 of 2017 in the matter of Housing Development Finance Corporation Limited*, therefore the Transferee Company is not required to hold or convene the meeting of the equity shareholders. The Transferee Company has

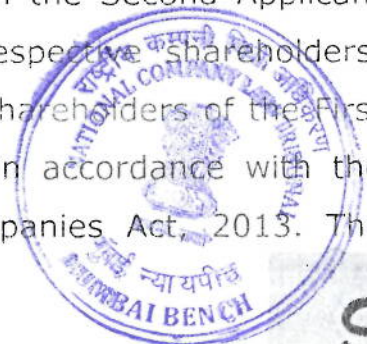
clarified that it will file the petition and comply with the provisions of service of notices upon all Regulatory Authorities.

15. The Learned Counsel for the First Applicant Company had submitted that since the Scheme is an amalgamation of the First Applicant Company/ Transferor Company with the Second Applicant Company/ Transferee Company and their respective shareholders, and therefore, only a meeting of the Equity Shareholders of the First Applicant Company is proposed to be held in accordance with the provisions of Section 230(1)(b) of the Companies Act, 2013. The interest of the sole Preference Shareholder of the First Applicant Company will not be adversely affected by the proposed Scheme. Further, the sole Preference Shareholder of the First Applicant Company has filed its consent affidavit whereby it has given its unconditional approval to the Scheme, including any amendment/modification/alteration made therein as may be considered necessary by/ found acceptable to the Board of Directors of the companies involved or as may be directed/ approved by the shareholders and creditors of the companies involved or any concerned statutory/regulatory/judicial or quasi-judicial authority or any tribunal including the National Company Law Tribunal or any affected person and has also granted approval for dispensation from convening and holding the meeting of preference shareholders of the Applicant for considering and approving the Scheme. The said consent Affidavit is annexed as Exhibit A-1 to the Additional Affidavit dated 3rd September 2018 filed by the First Applicant Company with this Tribunal.
16. The Learned Counsel for the First Applicant Company had submitted that since the Scheme is an amalgamation of the First Applicant Company/ Transferor Company with the Second Applicant Company/ Transferee Company and their respective shareholders, and therefore, only a meeting of the Equity Shareholders of the First Applicant Company is proposed to be held in accordance with the provisions of Section 230(1)(b) of the Companies Act, 2013. The Bench hereby directs the First Applicant Company to issue notice by post/courier/email/ hand-delivery to the Secured Creditors as on 31st August 2018, if any, of the First Applicant Company as required under Section 230 (3) of the Companies Act, 2013, with a direction that they may submit their representations, if any, to the Tribunal and



copy of such representations shall simultaneously be served upon the First Applicant Company.

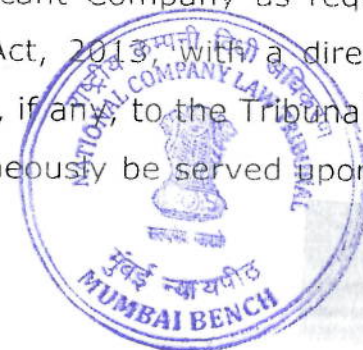
17. The Learned Counsel for the First Applicant Company had submitted that since the Scheme is an amalgamation of the First Applicant Company/Transferor Company with the Second Applicant Company/Transferee Company and their respective shareholders, and therefore, only a meeting of the Equity Shareholders of the First Applicant Company is proposed to be held in accordance with the provisions of Section 230(1)(b) of the Companies Act, 2013. The Bench hereby directs the First Applicant Company to issue notice by post/courier/email/hand-delivery to the Debenture Holders as on 31st August 2018, of the First Applicant Company as required under Section 230 (3) of the Companies Act, 2013, with a direction that they may submit their representations, if any, to the Tribunal and copy of such representations shall simultaneously be served upon the First Applicant Company.
18. The Learned Counsel for the First Applicant Company had submitted that since the Scheme is an amalgamation of the First Applicant Company/Transferor Company with the Second Applicant Company/Transferee Company and their respective shareholders, and therefore, only a meeting of the Equity Shareholders of the First Applicant Company is proposed to be held in accordance with the provisions of Section 230(1)(b) of the Companies Act, 2013. The Bench hereby directs the First Applicant Company to issue notice of the Equity Shareholders meeting by post/ courier/ email/ hand-delivery to all its Unsecured Creditors as on 31st August 2018 of the First Applicant Company as required under Section 230(3) of the Companies Act, 2013, with a direction that they may submit their representations, if any, to the Tribunal and copy of such representations shall simultaneously be served upon the First Applicant Company.
19. The Learned Counsel for the Second Applicant Company had submitted that since the Scheme is an amalgamation of the First Applicant Company/ Transferor Company with the Second Applicant Company/ Transferee Company and their respective shareholders, and therefore, only a meeting of the Equity Shareholders of the First Applicant Company is proposed to be held in accordance with the provisions of Section 230(1)(b) of the Companies Act, 2013. The



Bench hereby directs the Second Applicant Company to issue notice by post/courier/email/hand-delivery to all its Preference Shareholders as on 31st August, 2018 of the Second Applicant Company as required under Section 230(3) of the Companies Act, 2013, with a direction that they may submit their representations, if any, to the Tribunal and copy of such representations shall simultaneously be served upon the Second Applicant Company. The Second Applicant Company is directed to obtain the consent affidavit of its sole preference shareholder.

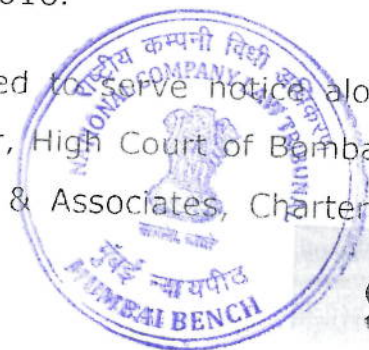
20. The Learned Counsel for the Second Applicant Company had submitted that since the Scheme is an amalgamation of the First Applicant Company/ Transferor Company with the Second Applicant Company/ Transferee Company and their respective shareholders, and therefore, only a meeting of the Equity Shareholders of the First Applicant Company is proposed to be held in accordance with the provisions of Section 230(1)(b) of the Companies Act, 2013. The Bench hereby directs the Second Applicant Company to issue notice by post/courier/email/hand-delivery to all its Secured Creditors as on 31st August 2018 of the Second Applicant Company as required under Section 230(3) of the Companies Act, 2013, with a direction that they may submit their representations, if any, to the Tribunal and copy of such representations shall simultaneously be served upon the Second Applicant Company.

21. The Learned Counsel for the Second Applicant Company had submitted that since the Scheme is an amalgamation of the First Applicant Company/ Transferor Company with the Second Applicant Company/ Transferee Company and their respective shareholders, and therefore, only a meeting of the Equity Shareholders of the First Applicant Company is proposed to be held in accordance with the provisions of Section 230(1)(b) of the Companies Act, 2013. The Bench hereby directs the Second Applicant Company to issue notice by post/courier/email/hand-delivery to all its Unsecured Creditors as on 31st August 2018 of the Second Applicant Company as required under Section 230(3) of the Companies Act, 2013, with a direction that they may submit their representations, if any, to the Tribunal and copy of such representations shall simultaneously be served upon the Second Applicant Company.



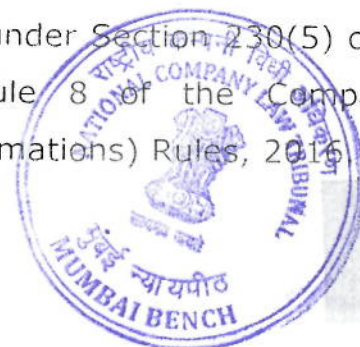
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22. The Learned Counsel for the Second Applicant Company had submitted that as on 5th September 2018, there are no debenture holders of the Second Applicant Company and therefore the question of convening the meeting of the debenture holders of the Second Applicant Company does not arise.
23. The Applicant Companies to serve notices upon the Regional Director, Western Region, Ministry of Corporate Affairs, pursuant to Section 230(5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from the Regional Director within 30 (Thirty) days of the date of receipt of the notice, it will be presumed that the Regional Director and/or Central Government has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements, and Amalgamations) Rules, 2016.
24. The Applicant Companies to serve notices upon the concerned Registrar of Companies, pursuant to Section 230(5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from the concerned Registrar of Companies within 30 (Thirty) days of the date of receipt of the notice, it will be presumed that the concerned Registrar of Companies has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements, and Amalgamations) Rules, 2016.
25. The Applicant Companies to serve notices upon the Income Tax Authorities, within whose jurisdiction the Applicant Companies assessments are made, pursuant to Section 230 (5) of the Companies Act, 2013, as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from the said Income Tax Authority within 30 (Thirty) days of the date of receipt of the notice, it will be presumed that the said Income Tax Authority has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements, and Amalgamations) Rules, 2016.
26. The First Applicant Company is also directed to serve notice along with copy of Scheme upon Official Liquidator, High Court of Bombay. The Tribunal is appointing M/s PM Agarwal & Associates, Chartered



Accountants, with consolidated remuneration of Rs. 2,00,000/- for their services to assist the Official Liquidator to file his representation. If no response is received by the concerned Tribunal from Official Liquidator within 30 (Thirty) days it will be presumed that Official Liquidator, High Court, Bombay has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamation) Rules, 2016.

27. The Applicant Companies to serve notices upon the Securities and Exchange Board of India, pursuant to Section 230(5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from the Securities and Exchange Board of India within 30 (Thirty) days of the date of receipt of the notice, it will be presumed that the Securities and Exchange Board of India has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements, and Amalgamations) Rules, 2016.
28. The Applicant Companies to serve notices upon the BSE Limited, pursuant to Section 230(5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from the BSE Limited within 30 (Thirty) days of the date of receipt of the notice, it will be presumed that the BSE Limited has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements, and Amalgamations) Rules, 2016. Further, the First Applicant Company has already intimated BSE Limited *vide* its letter dated 30th May 2018, issued under the SEBI (Listing Obligation and Disclosure Requirements) Regulations, 2015, that the Board of Directors of the Company have at its meeting held on 30th May 2018 approved the scheme of amalgamation of the First Applicant Company with the Second Applicant Company.
29. The Learned Counsel of the Applicant Companies submitted that apart from the above mentioned authorities, no other sectoral authority/regulators is required to be issued notice under Section 230(5) of the Companies Act, 2013, and as per Rule 8 of the Companies (Compromises, Arrangements, and Amalgamations) Rules, 2016



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30. The Applicant Companies to file an Affidavit of Service of the directions given by the Tribunal not less than 7 (Seven) days before the date fixed for holding of the meetings and report to the Tribunal that the directions regarding the issue of notices has been duly complied with.

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RAVIKUMAR DURAISAMY
MEMBER (TECHNICAL)

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B.S.V. PRAKASH KUMAR
MEMBER (JUDICIAL)



Certified True Copy
Copy Issued "free of cost"
On 25.09.2018


Assistant Registrar

National Company Law Tribunal Mumbai Bench

