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IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT – 2

ITEM No.301 - CA(CAA)/16(AHM)2024

Order under Sections 230 to 232 of Co.Act, 2013

IN THE MATTER OF:

Torrent Power Limited
Torrent Green Energy Private Limited

.....Applicants

Order delivered on: 15/05/2024

Coram:

Mrs. Chitra Hankare, Hon'ble Member(J)
Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

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

Sd/-

DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

Sd/-

CHITRA HANKARE
MEMBER (JUDICIAL)



**IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
DIVISION BENCH
COURT-II**

CA(CAA)/16(AHM)2024

[Application under Sections 230-232 and other applicable provisions of the Companies Act, 2013 read with Rule-3 of the Companies (Compromises, Arrangements, and Amalgamations) Rules, 2016]

MEMO OF PARTIES

Torrent Power Limited
(CIN:L31200GJ2004PLC044068)
A company incorporated under the
Companies Act, 1956 and having
its registered office at "Samanvay",
600 Tapovan, Ambawadi,
Ahmedabad-380 015, Gujarat

.... Applicant No.1/
Transferor Company

Torrent Green Energy Private
Limited
(CIN: U35105GJ2023PTC143527)
A company incorporated under the
Companies Act, 2013 and having
its registered office at "Samanvay",
600 Tapovan, Ambawadi,
Ahmedabad-380 015, Gujarat

.... Applicant No.2/
Transferee Company

Order Pronounced on: 15.05.2024

**Coram: Mrs. Chitra Hankare, Member(J)
Dr. Velamur G Venkata Chalapathy, Member(T)**



Appearance:

For Applicants : Mrs. Swati Soparkar, Advocate.

JUDGMENT

1. This is a joint Company Application Viz., CA(CAA)/16(AHM)2024 filed by the Applicant Companies, namely Torrent Power Limited (Transferor Company) and Torrent Green Energy Private Limited (Transferee Company) under Sections 230-232 and other applicable provisions of the Companies Act, 2013 (hereinafter referred to as the 'Act') read with Rule-3 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (hereinafter referred to as the 'Rules') in relation to the Scheme of Arrangement (hereinafter referred to as the "Scheme") proposed by the Applicant Companies.
2. The Appointed Date as specified in the Scheme is 01.04.2024. This application is filed on 01.04.2024. It is represented that the registered offices of the Applicant Companies are situated within the territorial jurisdiction of Registrar of Companies, Ahmedabad, Gujarat, which is falling under the jurisdiction of this Tribunal. It is submitted that the Scheme of Arrangement involves transfer and vesting of the Renewable Power Undertakings from Torrent Power Limited to Torrent Green Energy Private Limited as a going concern on Slump Sale basis with effect from Appointed Date under Sections 230 to 232 and other applicable provisions of the Act.



3. The Board of Directors of the Applicant Companies have approved the Scheme of Arrangement through Board Resolutions dated 10.08.2023 passed in their respective Board Meetings. Affidavits in support of the above joint application were sworn by Mr. Saurabh Mashruwala, authorised representative of Torrent Power Limited and Mr. Rahul Shah, authorized representative of the Torren Green Energy Private Limited. The above-named authorised representatives for the Applicant Companies have been authorised vide Board Resolutions dated 10.08.2023 of the Applicant Companies. The Applicant Transferor Company had submitted the proposed Scheme for obtaining necessary approval from the Securities and Exchange Board of India ("SEBI") through the two Stock Exchanges with BSE Limited as the designated stock exchange.
4. Torrent Power Limited (Transferor Company)
 - (i) From the certificate of incorporation filed, it is evident that the Transferor Company is a listed public limited Company, incorporated under the Companies Act, 1956 and its registered office is situated in Ahmedabad in the State of Gujarat. It is, inter alia, engaged in the business of electricity generation, transmission and distribution with operations in the States of Gujarat, Maharashtra, Uttar Pradesh and Karnataka. It is submitted that during the Financial Year ended on 31.03.2023, on Stand Alone basis, the Transferor Company had total income of Rs.19,270.86 crores. The net profit was to the tune of Rs.2,103.72 crores. It had Total Reserves of Rs.10,539.05



crores. Whereas on consolidated basis, the total income was Rs.26,075.97 crores and net profit was Rs.2,164.67 crores.

- (ii) The Equity Shares are listed on the National Stock Exchange of India Limited and BSE Limited. It has no outstanding employee stock options.
- (iii) The details of the share capital as on 30.06.2023 is as under:

Particulars	Rs.
Authorised Share Capital	
437,00,00,000 Equity Shares of Rs.10 each	4370,00,00,000
Total	4370,00,00,000
Issued, Subscribed and Paid-up Share Capital	
48,06,16,784 fully paid-up Equity Shares of Rs.10 each	480,61,67,840
Total	480,61,67,840

- (iv) There are 1,39,060 (One Lakh Thirty Nine Thousand and Sixty) Equity Shareholders. The Chartered Accountant has certified the number and value of the equity shareholders.
- (v) There are 7 (Seven) Secured Creditors and total value of Secured Debt is Rs.12,630.84 Crores (Rupees Twelve Thousand Six Hundred Thirty Crores and Eighty Four Lakhs Only) as on 29.02.2024. All these Secured Creditors had provided their approval letters as a prerequisite by concerned Stock Exchanges and



Securities and Exchange Board of India and copy of the letters have been submitted to them. The Chartered Accountant has certified the number and value of the Secured Creditors.

- (vi) There are 1336 (One Thousand Three Hundred and Thirty Six) Unsecured Creditors in considering the company and the total value of unsecured debt is Rs. 957.75 Crores. However, in the the Renewable Power Undertakings, there are only 12 (Twelve) Unsecured Creditors and have the total value of the unsecured debt at Rs.10.42 Crores (Rupees Ten Crores and Forty Two Lakhs Only) as on 29.02.2024. The Net Worth Certificate of the Applicant Transferor Company is placed on record to show that the company has the excess of the value of its Assets over the value of its liabilities to the extent of Rs.12,170.46 Crores in Pre Scheme scenario and Rs. 11,206.96 crores in Post Scheme scenario as at 31.12.2023. In view of the same, the rights and interest of the unsecured creditors of the Transferor Company as a whole shall not be affected in any manner. It is submitted that these i.e. 12 unsecured creditors of Renewable Power Undertakings of the Transferor Company, whose rights shall undergo a change and it would be material to obtain their approval to the Scheme. The summary statement of the Unsecured Creditors of Torrent Power Limited as certified by a Chartered Accountant and List of Unsecured Creditors of the Renewable Energy Undertakings are also annexed at



Annexure O-1 and O-2 at Page nos. 885 to 887. The Chartered Accountant has certified the number and value of the Unsecured Creditors.

- (vii) Applicant Company No.1/Transferor Company is seeking directions for convening and holding meetings of its Equity Shareholders through Video Conferencing or other Audio Visual Modes. Further, it is seeking dispensation of meeting of its Secured Creditors in view of their Consent Letters and seeking directions for convening and holding meeting of its unsecured creditors of only Renewable Power Undertaking through physical mode.

Alternately, the Transferor Company is seeking directions for convening and holding meetings of its Secured Creditors and all the Unsecured Creditors through physical mode.

5. Torrent Green Energy Private Limited (Transferee Company)

- (i) From the certificate of incorporation filed, it is evident that the Transferee Company is a private limited company incorporated under the Companies Act, 2013 on 02.08.2023 and its registered office is situated in Ahmedabad in the State of Gujarat. It is incorporated with the object of inter-alia setting up and operating solar, wind, hybrid, pump hydro storage, green hydrogen and other forms of renewable and green energy projects, upon the present scheme being sanctioned by this Tribunal.



- (ii) The Equity Shares are not listed on Stock Exchanges. It is a wholly owned subsidiary of Torrent Power Limited.
- (iii) The details of the share capital as on 08.08.2023 is as under:

Particulars	Rs.
Authorized Share Capital	
50,000 Equity Shares of Rs.10 each	5,00,000
Total	5,00,000
Issued, Subscribed and Paid-up Share Capital	
50,000 Equity Shares of Rs. 10 each	5,00,000
Total	5,00,000

- (iv) There are 2 (Two) Equity Shareholders and both the Equity Shareholders have given their consent by way of affidavit. The Chartered Accountant has certified the number and value of both the Equity Shareholders.
- (v) There is no Secured Creditor. The Chartered Accountant has certified that there nil Secured Creditor.
- (vi) There are 3 (Three) Unsecured Creditors and all the Unsecured Creditors have given their consent by way of affidavits. The Chartered Accountant has certified the number and value of all the Unsecured Creditors.
- (vii) Applicant Company No.2/Transferee Company is seeking dispensation of meetings of its Equity Shareholders and Unsecured Creditors. Since, there is no Secured Creditor of



the said Applicant Company, the meeting is not necessary to be convened.

6. The Statutory Auditors of the Applicant Companies have examined the Scheme in terms of provisions of Sections 230 to 232 of Companies Act, 2013 and the rules made thereunder and certified that the Accounting Standards are in compliance with Section 133 of the Companies Act, 2013.
7. The Valuation Report is provided by Mr. Sujal A. Shah, partner of SSPA & Co. Registered Valuers dated 09.08.2023 recommends the Value of the Renewable Power Undertakings for the proposed Transfer under the slump sale of the said undertaking of TPL to TGEL, the Applicant Transferee Company under the present Scheme. The Fairness Opinion is provided by M/s Vivro Financial Services Private Limited, Category 1 Merchant Banker dated 09.08.2023 confirms the said Valuation of the Renewable Power Undertakings to be fair.
8. The Applicant Companies submitted that no proceedings/investigation pending against any of the Applicant Companies under Section 210-217, 219, 220, 223, 224, 225, 226 & 227 of the Companies Act, 2013 and / or Sections 235 to 251 of the Companies Act, 1956 and the like. There are no winding up petitions and no proceedings under the Insolvency and Bankruptcy Act are pending against any of the Applicant Companies.



9. It is submitted that Torrent Power Limited is a listed public limited company and the Equity Shares are listed on BSE Limited and National Stock Exchange of India Limited. It had submitted the proposed Scheme for obtaining necessary approval from the Securities and Exchange Board of India ("SEBI") through the two Stock Exchanges with BSE Limited as the designated stock exchange. The approvals in form of letters dated 04.03.2024 were received from BSE Limited and National Stock Exchange of India Limited respectively.
10. It is submitted that the Directors of both the Applicant Companies may be deemed to be concerned and / or interested in the Scheme only to the extent of their shareholding in the Applicant Companies, or to the extent the said Directors are common Directors in the Applicant Companies, or to the extent the said Directors are the partners, directors members of the companies, firms, association of persons, bodies corporate and / or beneficiary of trust, that hold shares in any of the Applicant Companies. The Torrent Green Energy Private Limited, being the wholly owned subsidiary of the Torrent Power Limited, no shares are held by any of the Directors.
11. It is submitted that notice to Competition Commission of India, and other sectoral Regulators etc. is not required as there is no specific compliance needed.
12. Transferee Company has filed Unaudited Financial Results for the quarter ended i.e. 30.09.2023 to 31.12.2023 and nine



month ended i.e. December 31, 2023, which are approved by Board meeting held on 24.01.2024.

13. Heard Ld. Counsel for the applicant companies and perused the record. On perusal of the record, it is found that secured creditors of the Transferor Company have given their consent in letter(s) but the same are not found on Affidavit. The alternate prayer is made for convening meeting of Secured Creditors. Further it is prayed for convening of meeting of unsecured creditors of only Renewable Power Undertaking, whose rights are likely to be affected.

However, the company has alternatively prayed for direction to convene and hold meeting of all its unsecured creditors.

14. Taking into consideration the company application and the documents filed therewith as well as the position of law, this Tribunal propose to issue the following order:

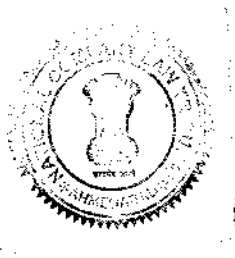
ORDER

- i) Company Application i.e. CA(CAA)16/(AHM)2024, is allowed.
- ii) In respect of Applicant Company No.1/Transferor Company
 - a) Transferor Company is directed to convene and hold meeting of its Equity Shareholders through through Video Conferencing ("VC")/Other Audio Visual Means ("OAVM) on 18.07.2024 at 10.00



a.m.

- b) Transferor Company is directed to convene meeting of its Secured Creditors through physical mode on 18.07.2024 at 12.00 Noon, shall be held at Registered office of Torrent Power Limited at 'Samanvay', 600, Tapovan, Ambawadi, Ahmedabad-380015 in the state of Gujarat
 - c) Transferor Company is directed to convene meeting of its Unsecured Creditors of only Renewable Power Undertaking through physical mode on 18.07.2024 at 3.00 p.m. shall be held at Registered Office of Torrent Power Limited at 'Samanvay', 600, Tapovan, Ambawadi, Ahmedabad-380015.
- iii) In respect of Applicant Company No.2/Transferee Company
- a) Meetings of Equity Shareholders and Unsecured Creditors of the Transferee Company are hereby dispensed with, in view of their consent affidavits.
 - b) Since there is no Secured Creditor in the Transferee Company, the question of convening/holding the meeting does not arise.
- v) In light of the MCA Circulars, it is directed that the



voting of Equity Shareholders shall be carried out through remote e-voting and e-voting during the time of the VC/OAVM convened meetings; In case of physically convened meetings of secured and unsecured creditors, voting shall be carried out by Ballots/ Polling Papers.

- vi) At least 1 (one) month before the aforesaid meetings, advertisements about convening of the aforesaid meetings, indicating the day, the date and time, shall be published in English Daily, 'Indian Express' (Gujarat Editions) in English language and Gujarati translation thereof in 'Financial Express' (Gujarat Editions). The publication shall indicate the time within which the copy of the Scheme shall be made available to the concerned persons free of charge from the registered office of the Transferor Company. The publication shall also indicate that the statement required to be furnished pursuant to Section 102 of the Act read with Sections 230-232 of the Act can be obtained free of charge at the registered office of the Transferor Company in accordance with second proviso to sub-section (3) of Section 230 of the Act and Rule 7 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016;
- vii) At least one month before the date of the aforesaid meetings, respective notices convening the said meetings, indicating the day, the date and time 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 the provisions of Sections 230 - 232 of the Act and Rule 6 of the Rules, shall be sent to each of the equity shareholders/ secured creditors and only unsecured creditors of the Renewable Power Undertakings of the Transferor Company at their respective registered or last known addresses either by Registered Post or Speed Post or by Courier or e-mail or through hand delivery. The notices shall be sent to the equity shareholders/ secured creditors and only unsecured creditors of the Renewable Power Undertakings of the Transferor Company with reference to the list of the persons appearing on the record of the Transferor Company as on 30th April 2024.

- viii) Mr. Mahesh C. Gupta, Independent Practicing Company Secretary, shall be the Chairperson and in his absence Mr. Sparsh M. Gupta, Independent Practicing Company Secretary, is appointed as the alternate Chairperson of the aforesaid meetings including for any adjournment or adjournments thereof;
- ix) Mr. Rajesh Parekh, Independent Practicing Company Secretary, shall act as the scrutinizer of the aforesaid meetings.
- x) The quorum for the meeting of the Equity Shareholders shall be as per Section 103(1)(a)(iii) of the Companies



Act, 2013.

- xi) The quorum for all the Secured Creditors of the Transferor Company and only Unsecured Creditors of Renewable Power Undertaking of the Transferor Company will be determined by the Chairman in such a manner that members/creditors present in the meetings represent at least 25% in number and 50% in value of all the Secured Creditors of Transferor Company and only Unsecured creditors of Renewable Power Undertaking of Transferor Company respectively as the case may be.

In case, the quorum is not present within half an hour from the time appointed for holding the meetings, then the Chairman shall adjourn the meetings to the same day in the next week at the same time and place. The intimation about the adjourned meetings should be given to each members/creditors as the case may be through e-mail or by any other mode. If the quorum is still not present on such adjourned date, then the Chairman may furnish a report to that effect to NCLT within seven days thereafter.

- xii) The Chairman appointed for the aforesaid meetings shall issue the advertisements and send out the notices of the meetings referred to above. The Chairman is free to avail the services of the Transferor Company or any agency for carrying out the aforesaid directions. The Chairman of the meetings shall have all powers under



the Articles of Association of the Transferor Company and also under the Rules in relation to conduct of meetings, including for deciding any procedural questions that may arise at the meetings or at adjournment or adjournments thereof proposed at the said meetings, amendments to the aforesaid Scheme or resolution, if any, proposed at the aforesaid meetings by any person(s) and also procedural questions in respect of proposed amendments) to the aforesaid Scheme or resolution, if any, and to ascertain the outcome of the aforesaid meetings by poll i.e remote e-voting and e-voting during the VC/OAVM meeting of the Equity Shareholders;]

- xiii) Remote e-voting and e-voting at the VC/OAVM meeting of the Equity Shareholders by the Authorised Representative shall be permitted provided that the resolution/authorization, etc. authorizing its representative to attend the meeting is duly signed by the person entitled to attend and vote at the meeting and the same is sent to the Transferor Company through electronic mode. Since the meeting of the Equity Shareholders would be held through VC/OAVM, the facility for appointment of proxies will not be available;
- xiv) The number and value of the equity shares of the equity shareholders, the number and value of the debts of all the secured creditors and value of debts of only



unsecured creditors of Renewable Power Undertaking of the Transferor Company, shall be in accordance with the records or registers of the applicant companies and where the entries in the records or registers are disputed, the Chairman of the meetings of the equity shareholders, secured creditors and only unsecured creditors of the Renewable Power Undertaking of the Transferor Company shall determine the number or value, as the case may be, for purposes of the meetings and his decision in that behalf shall be final;

- xv) Chairman to file an affidavit not less than seven (7) days before the date fixed for the holding of the aforesaid meetings and report to this Tribunal that the directions regarding the issue of notices and the advertisement of the meetings, have been duly complied with as per Rule 12 of the Rules;
- xvi) It is further ordered that the Chairman shall report to this Tribunal on the result of the said meetings in Form No. CAA.4, verified by his affidavit as per Rule 14 of the Rules in Form No. CAA.4 within 7 (seven) days after the conclusion of the meetings. The reports of Chairman for the Transferor Company shall be filed before this Tribunal by the Chairman himself.
- xvii) We direct the Applicant Companies to pay a sum of Rs.50,000/- to the Chairman (or in his absence to the substitute mentioned in the order) and a sum of Rs.25,000/- to the Scrutinizer as their fees.



- xviii) In compliance of sub-section (5) of Section 230 and Rule 8 of the Companies (CAA) Rules, 2016, the Applicant Companies shall send a notice under sub-section (3) of Section 230 read with Rule 6 of the Companies (CAA) Rules, 2016 in Form No. CAA.3 along with a copy of the Scheme of Arrangement, explanatory statement and the disclosures mentioned under Rule 6 shall be sent to (i) the Central Government through Regional Director, North-Western Region; (ii) the Registrar of Companies, Gujarat, (iii) BSE Limited; (iv) National Stock Exchange of India Limited; (v) The Securities and Exchange Board of India; (vi) Reserve Bank of India and (vii) Income Tax Department along with full details of the Assessing Officer and PAN number of the applicant companies, with copy also to the Principal Chief Commissioner of Income Tax office, to such other sectoral regulatory authorities who may govern the working of the applicant companies, stating that representations, if any, to be made by them shall be made within a period of 30 (Thirty) 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 aforesaid authorities who desire to make any representation under Section 230(5) of the Act, shall send the same to the 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 arrangement.



- xix The applicant companies shall file a compliance affidavit with the Registry with regard to the directions given in this order.

15. Company Application, CA (CAA)16/(AHM)2024, is disposed of.

Sd/-

DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

Sd/-

CHITRA HANKARE
MEMBER (JUDICIAL)

SS



Prepared by Rohit
Signature Rohit
Date 17/5/24

