

**THE NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH (COURT-II), CHANDIGARH**

**CA (CAA) No.14/Chd/Pb/2023
(1st Motion)**

**Under Sections 230 to 232 read
with applicable provisions of the
Companies Act, 2013**

IN THE MATTER OF SCHEME OF ARRANGEMENT OF:

Khanna Paper Mills Ltd.

with its registered office at
B-26, Infocity-I, Sector 34,
Gurgaon, Haryana- 122002
PAN: AAACK1375K
CIN: U74110HR1985PLC054735

...Applicant Company No.1/Demerged Company

And

Khanna Fiber Private Ltd.

with its registered office at
A-50, D.R. Enclave Ajnala Road,
Amritsar, Punjab-143001
PAN: AAJCK8739J
CIN: U21000PB2022PTC057193

...Applicant Company No.2/Resulting Company No. 1

Grownd Realty Private Ltd.

with its registered office at
A-50, D.R. Enclave Ajnala Road,
Amritsar, Punjab-143001
PAN: AAKCG1237A
CIN: U70109PB2022PTC057192

...Applicant Company No.3/Resulting Company No. 2

Order delivered on: 05.12.2023

Coram: HON'BLE DR. P.S.N. PRASAD , MEMBER (JUDICIAL)
HON'BLE MR. UMESH KUMAR SHUKLA, MEMBER (TECHNICAL)

Present: -

For the Applicant Companies: Mr. Vaibhav Sharma with Ms. Salina Chalana,
Advocates
For the Income Tax Department: Mr. Jagdeep Singh, proxy counsel for Mr.
Saurabh Kapoor, Senior Standing Counsel.

Per: Dr. P.S.N. Prasad , Member (Judicial)
Mr. Umesh Kumar Shukla, Member (Technical)

ORDER

This is a joint First Motion Application filed by Applicant Companies namely; **Khanna Paper Mills Ltd.** (for short hereinafter referred to as Applicant Company 1/Demerged Company) and **Khanna Fiber Private Ltd** (for short hereinafter referred to as Applicant Company 2/ Resulting Company 1) and **Grownd Realty Private Ltd.** (for short hereinafter referred to as Applicant Company 3/ Resulting Company 2) under Section 230-232 of the Companies Act, 2013 (the Act) and other applicable provisions of the Act read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (the Rules) in relation to the Scheme of Arrangement between the Applicant Companies. The said Scheme is attached as Annexure A-1 of the Application.

2. It is submitted that the registered office of the Applicant Company 1/Demerged Company is at B-26, Infocity-I, Sector 34, Gurgaon, which is situated in the State of Haryana and, therefore, it is under the territorial jurisdiction of this Bench. Further, it is submitted that the registered offices of the Applicant Company 2 and Applicant

Company 3 are at A-50, D.R. Enclave Ajnala Road Amritsar, which is situated in the State of Punjab and therefore, it is under the territorial jurisdiction of this Bench.

3. The Applicant Companies have prayed for Dispensing with requirement for convening the meeting of Secured Creditors of Applicant Company 1/Demerged Company and also to dispense with the requirement of issue and publication of notices since the Secured Creditors of the Applicant Company 1/Demerged Company (comprising 96.9% in value and 8 in number) have given their consent to the Scheme and towards dispensing with their meetings.

4. It is further prayed to issue directions for convening the meetings of the unsecured creditors of Applicant Company 1/Demerged company and also the requirement of publication of notices for the same and requirement to give individual notices to the unsecured creditors of the Applicant company 1/ Demerged company through courier or speed post or registered post, in Form CAA 2 of the Companies (Compromise, Arrangement and Amalgamations) Rules, 2016.

5. The Applicant Company 1/Demerged Company is presently engaged in the business of manufacturing of all varieties of pulp, paper, board, writing and printing paper, specialty papers, all varieties of boards and papers and board products, art paper, newsprint, drawing paper, filter paper, greases insulation paper, craft paper, cheque paper, absorbent paper, decorative laminate paper, coated paper, head boards, soft boards, particle boards, simplex, duplex and triple boards and to carry on the business of re-using, re-cycling, trading and dealing in all kinds of waste paper and to carry on any other business that is customarily, usually and conveniently carried on therewith.

6. The Applicant Company 2/Resulting Company 1 has set out its main objects to carry on the business of manufacturers, buyers, sellers, importers, exporters of and dealers in all kinds and classes of paper, board and pulp including writing paper, paper boards, printing paper, news printing paper, absorbent paper, wrapping paper, tissue paper, cover paper, blotting paper, filter paper, antique paper, ivory finish paper, coated paper, art paper, bank or bond paper, badami, brown or buff paper, bible paper, cartridge paper, cloth lined paper, azurelaid paper, creamlaid wove paper, glassing, waxed paper, greaseproof paper, gummed paper, handmade paper, parchment paper, drawing paper, craft paper, manila paper, envelop paper, tracing paper, vellum paper, water proof paper, carbon paper, sensitised paper, chemically treated paper, carbon paper, litmus paper, wall designer paper, photographic paper, glass paper, emery paper, pasteboard, cardboard, straw board, pulp board, leather board, mill board, corrugated board, box board, cartons, paper bags, paper boxes, post cards, visiting cards, waste paper and all kinds of paper whatsoever, soda pulp, mechanical pulp, sulphite pulp and all kinds of articles in the manufacture of which in any form, paper, board, or pulp is used, and also to deal in or manufacture any other articles or things of a character similar or analogous to the foregoing or any of them or connected therewith.

7. The Applicant Company 3/Resulting Company 2 has set out its main objects as follows:

1. To purchase, acquire, take on lease or in exchange or in any other lawful manner any area, land, building, flats, offices, residential society, structures and to turn the same into account, develop the same and dispose of or maintain the same and to build townships, markets or other buildings residential and commercial or conveniences thereon.

2. To sale or otherwise dispose certain lands, houses, buildings and hereditaments known as the estate or otherwise and to acquire by purchase, exchange or otherwise either for and estate in fee simple or for any less estate, whether immediate or reversionary, and whether vested or contingent, any other lands tenements and hereditaments of any tenure, whether subject or to any charges or in cumbrances and to hold or to sell, let alienate, mortgage, charge or otherwise deal with all or any such lands, tenements or hereditaments.
 3. To carry on the business as developers, builders and commission agent and for that purpose to purchase, acquire, own process, buy, sell, re-sell and to traffic in land structures and estates other immovable properties whether commercial or residential and to develop cooperatives, residential societies, housing schemes, township.
8. The purpose and rationale of the Scheme as pleaded by the applicant companies is reproduced below:
- i. The arrangement would enable focused management orientation to the core business activities due to individual specialization and leadership vision, which would provide greater visibility on the performance of the said businesses.*
 - ii. Attribution of appropriate risk and valuation to different business undertakings based on their respective risk return profile and cash flows;*
 - iii. Unlocking the value of the Demerged Undertakings for the shareholders of the Demerged Company. The Scheme is in the interest of all the companies and will help in modernization, growth, and expansion of the businesses.*

- iv. *Independent collaboration and expansion as the respective company can attract different sets of strategic partners, lenders, investors, and other stakeholders having a specific interest in the respective businesses.*
- v. *The Board of Directors of all the companies are of the opinion that the above Arrangement would result in benefit to the shareholders, creditors, employees, and other stakeholders of all the companies and all concerned, and the Scheme shall not in any manner be prejudicial to the interest of concerned shareholders or creditors or general public at large.*

9. It is stated that the Board of Directors of the Applicant Company 1/Demerged Company at their Board meeting held on 11.03.2023 approved and adopted the scheme subject to the approval of the shareholders and creditors and the sanctioning of the same by this Tribunal. The certified true copy of the Board Resolution dated 11.03.2023 approving the scheme is attached at Annexure A-4 of the application.

10. It is further stated that the Board of Directors of the Applicant Company 2/Resulting Company 1 at their Board meeting held on 11.03.2023 approved and adopted the scheme subject to the approval of the equity shareholders of the Applicant Company 2/ Resulting Company 1 and the sanctioning of the same by this Tribunal. The certified true copy of the Board Resolution dated 11.03.2023 approving the scheme is attached at Annexure A-10 of the application.

11. It is stated that the Board of Directors of the Applicant Company 3/ Resulting Company 2 at their Board meeting held on 11.03.2023 approved and adopted the scheme subject to the approval of the equity shareholders of the Applicant Company 3/ Resulting Company 2 and the sanctioning of the same by this Tribunal. The

certified true copy of the Board Resolution dated 11.03.2023 approving the scheme is attached at Annexure A-16 of the application.

12. The scheme refers to the appointed date, as the effective date mentioned in the Clause 1.1.9 of Scheme of Arrangement, which is attached at Annexure-A-1 of the application and does not set any specific date. The effective date under the said clause is defined as: *Effective Date means last of the dates on which the certified copy of the Order(s) passed by the Hon'ble National Company Law Tribunal, sanctioning the scheme of arrangement, are filed by the Companies with the concerned Registrar of the Companies, Ministry of Corporate Affairs. Any references in this scheme to the "date of coming into effect of this scheme" or "effectiveness of the Scheme" or "Scheme taking effect" shall mean the Effective Date.*

13. It is stated that the Applicant Company 1/Demerged Company has filed the audited financial statements for the years ended 31.3.2020, 31.3.2021, 31.3.2022 and the provisional financial statement for the period ending 31.12.2022 of the Applicant Company 1/Demerged Company, which are annexed at Annexure A-3 (Colly), of the application.

14. It is stated that the Applicant Company 2/Resulting Company 1 has filed the provisional financial statements for the period ending 31.12.2022 which are attached at Annexure-A-9 (Colly), of the application.

15. It is stated that the Applicant Company 3/Resulting Company 2 has filed the provisional financial statements for the period ending 31.12.2022, which are attached at Annexure-A-15 (Colly), of the application.

16. It is submitted that the certificate issued by the statutory auditors, confirming the compliance of the accounting treatment for the Applicant Company 1/Demerged Company, Applicant Company 2/Resulting Company 1 and Applicant Company 3/Resulting Company 2 have been annexed at Annexures A-7(Colly), A-13(Colly) and A-19(Colly) respectively.

17. It is further submitted that as per Fairness Report/ Share Exchange Ratio Report dated 10.03.2023 issued by CA. Prateek Mittal, Registered Valuer bearing registration No. IBBI/RV/05/2018/10021 is attached as Annexure-A-20. The Share Exchange Ratio is given below:

“In consideration for the Proposed Demerger, the Management has proposed the following share entitlement ratio ("Share Entitlement Ratio") for the demerger of respective businesses

For demerger of commodity trading business from KPML to KFPL

1 equity share of face value of INR 10 (Ten) each, of such class as may be determined by the Board of Directors of KFPL for every 106 equity shares held in KPML by the shareholders of KPML on the record date.

For demerger of hospitality business from KPML to GRPL

1 equity share of a face value of INR 10 (Ten) each, of such class as may be determined by the Board of Directors of GRPL for every 106 equity shares held in KPML by the shareholders of KPML on the record date.”

18. The authorised signatories of Applicant Companies have deposed by way of affidavits that none of the Applicant Companies are regulated by any sectoral regulators. The affidavits of the authorised signatories are attached at Annexure-A-

22 of the application. The Scheme (Annexure-A-1) refers to the services and benefits of employees of the Applicant Companies, by virtue of Clause 2.6 of the Scheme.

19. The Application in Para 41-42 has pointed out that there are no proceeding pending Inquiry or investigation under section 206 to 229 of the Companies Act, 2013 against the Applicant Company 2/Resulting Company 1 and Applicant Company 3/Resulting Company 2, and it also refers to the Affidavit annexed at Annexure A-22 enlisting the proceedings pending against Applicant Company 1. It is proposed at para 2.4 and 3.4 of the Scheme that upon the scheme becoming effective and with effect from the appointed date all litigation, arbitration and other proceedings in relation to Demerged Undertaking 1 and shall be transferred/dealt by Applicant Company 2/Resulting Company 1 and Applicant Company 3/Resulting Company 2 and remaining shall be continued and enforced by or against the Demerged Company.

20. The Applicant Companies has furnished the following documents:

- Proposed Scheme of Arrangement (Annexure-A.1 of the application).
- Certificate of Incorporation along with Memorandum and Articles of Association of the Applicant Companies (Annexure-A.2 respectively of the application).
- List of Equity Shareholders of the Applicant Company 1/Demerged Company as on 10.03.2023 duly certified by the Statutory Auditors (Annexure- A.5 of the application).
- Consent Affidavits of Equity Shareholders of the Applicant Company 1/Demerged Company (Annexure A-5 of the application).

- Consent Affidavits of Equity Shareholders of the Applicant Company 2/Resulting Company 1 (Annexure A-11 of the application).
- Consent Affidavits of Equity Shareholders of the Applicant Company 3/Resulting Company 2 (Annexure A-17 of the application).
- List of Secured Creditors as well as unsecured creditors of the Applicant Company 1/Demerged Company as on 28.02.2023 certified by the Chartered Accountant along with their consent affidavits. (Annexure A-6 of the application).
- List of Unsecured Creditors of the Applicant Company 2/Resulting Company 1 as on 28.02.2023 certified by the Chartered Accountant along with their consent affidavits. (Annexure A-12 of the application).
- List of Unsecured Creditors of the Applicant Company 3/Resulting Company 2 as on 28.02.2023 certified by the Chartered Accountant along with their consent affidavits. (Annexure A-17 of the application).
- Certificates of Statutory Auditors of Applicant Company 1/Demerged Company confirming the compliance of the accounting treatment is annexed as Annexure-A-7 of the application.
- Audited Financial Statement for the years ending 31.03.2020, 31.03.2021, 31.03.2022 and the provisional statement for period ending 31.12.2022 of the Applicant Company 1/Demerged Company (Annexure-A-3 of the application).
- Provisional Financial Statements for the period ended on 31.12.2022 of the Applicant Company 2/Resulting Company 1 (Annexure-A-14 of the application).

- Provisional Financial Statements for the period ended on 31.12.2022 of the Applicant Company 3/Resulting Company 2 (Annexure-A-15 of the application).
- Affidavit certifying that the Applicant Companies are not regulated by Sectoral Regulators (Annexures-A-22 of the application).
- Fairness Report/ Share Exchange Ratio Report (Annexure-A-20 of the application).

21. The Applicant Companies have furnished the details of the Shareholders, Secured Creditors and Unsecured Creditors as follow:

Name of the Applicant Companies	Shareholders along with their consent on affidavit		Creditors along with their consents on affidavit			
	Equity Shareholders	Consents submitted on affidavit	Secured Creditors	Consents submitted on affidavit	Unsecured Creditors	Consents submitted on affidavit
Applicant Company 1/ Demerged Company	7	4 in number 99.999% in value (Annexure A-5)	10	8 in number 96.9% in value	544	N/A meeting to be convened
Applicant Company 2/ Resulting Company 1	2	2 in number 100% in value (Annexure A-11)	0	N/A	1	1 in number 100% in value
Applicant Company 3/ Resulting Company 2	2	2 in number 100% in value (Annexure A-17)	0	N/A	1	1 in number 100% in value

22. Accordingly, the directions of this Bench in the present case are as under:
- I. The Applicant companies have not mentioned the effective date of the scheme. Therefore, this tribunal hereby prescribes the effective date of scheme as 01.04.2023.
 - II. The meeting of the Equity Shareholders of all Applicant companies is dispensed with keeping in view the shareholding and ownership pattern and the fact that the consent by way of affidavits has been received; and requirement of issue and publication of notices is also being dispensed with for the same since 99.99% of equity shareholders of Applicant Company 1/ Demerged Company and 100% of equity shareholders of Applicant Company 2/ Resulting Company 1 and Applicant Company 3/ Resulting Company 2 have given their consent to the scheme.
 - III. The meeting of the Secured Creditors and the requirement of issue and publication of notices of the Applicant Company 2/ Resulting Company 1 and Applicant Company 3/ Resulting Company 2 is being dispensed with since there are no secured creditors of Applicant Company 2/ Resulting Company 1 and Applicant Company 3/ Resulting Company 2.
 - IV. The meeting of the Unsecured Creditors and issue and publication of notices of the Applicant Company 2/ Resulting Company 1 and Applicant Company 3/ Resulting Company 2 is dispensed with since unsecured creditors of Applicant Company 2/ Resulting Company 1 (comprising 100% in value and 1 in number) and Applicant Company 3/ Resulting Company 2 (comprising 100% in value and 1 in number) have given their consent to the scheme and towards dispensing with their meeting.

- V. The requirement for convening the meeting of Secured Creditors of Applicant Company 1/ Demerged Company and the requirement of issue and publication of notices is dispensed with since the Secured Creditors of the Applicant Company 1/Demerged Company (comprising 96.9% in value and 8 in number) have given their consent to the Scheme and towards dispensing with their meetings.
- VI. The meetings of the unsecured creditors of Applicant Company 1/ Demerged Company be convened, as prayed for, on such Date, Time and Venue either personally/ physically or through video conferencing with facility of remote e-voting, as may be decided by the Chairperson with the consent of alternate Chairperson and Scrutiniser subject to individual notice of the meeting being issued. The quorum of the meeting of the Unsecured Creditors shall be 218 in number or 40% in value of the Unsecured Creditors, whichever is higher;
- VII. In case the required quorum as noted above for the meetings is not present at the commencement of the meeting, the meeting shall be adjourned by 30 minutes and thereafter the persons present and voting shall be deemed to constitute the quorum.
- VIII. Mr. Vishav Bharti Gupta, Advocate, address: 404, GH 14, Mansa Devi Complex, Sector 5, Panchkula, Haryana, Mobile No. 9463407704, email: vbgupta404@gmail.com, is appointed as the Chairperson for the meeting to be called under this order. An amount of Rs.2,00,000/- (Rupees Two Lakh Only) be paid for his services as the Chairperson.

- IX. Mr. Sumit Batra, PCS, Office 3393, 3rd Floor, South Patel Nagar, Delhi-08, Opp. Jaypee Siddharth Hotel, Mobile No. 9873428930, e-mail id: skbatrapcs@gmail.com is appointed as the Alternate Chairperson for the meeting to be called under this order. An amount of Rs.1,50,000/- (Rupees One Lakh Fifty Thousand only) be paid for his services as the Alternate Chairperson.
- X. Mr. Kushagra Goyal, PCS, Address: #314, Old Housing Board Colony, Sector-13, Urban Estate, Karnal, Haryana-132001 Mobile No. 9811097574, email fca.kushagraoyal@gmail.com, is appointed as the Scrutinizer for the meeting to be called under this order. An amount of Rs.1,00,000/- (Rupees One Lakh Only) be paid for his services as the Scrutinizer.
- XI. The fee of the Chairperson, Alternate Chairperson and Scrutinizer and other out of pocket expenses for them shall be borne by the Applicant Companies jointly.
- XII. The Applicant company 1/ Demerged company is required to serve the notices to the unsecured creditors of the Applicant company 1/ Demerged company as discussed in Para VI above, through courier or speed post or registered post, or through courier or e-mail, 30 days in advance before the schedule date of meeting, indicating the day, date, the place and time as aforesaid, together with a copy of the Scheme, copy of explanatory statement with Valuation Report and any other documents as may be prescribed under the Act shall also be duly sent with the notice as per the list of creditors as on the date of passing of this Order in the same manner

as the notices shall be served to various authorities as per Section 230(5) of the Companies Act, 2013 read with Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

- XIII. It is directed that the audited accounting statement of Applicant Companies as on 31.03.2023 and the provisional accounting statement on a subsequent date in terms of Section 232 (2) (e) of the Act be also circulated for the aforesaid meeting.
- XIV. It is also directed that along with the notices, Applicant Companies shall also send, statements explaining the effect of the scheme on the creditors, key managerial personnel, promoters and non-promoter members etc. along with effect of the scheme of arrangement on any material interests of the Directors of the Company or the debenture trustees, if any, as provided under sub-section (3) of Section 230 of the Act.
- XV. That the Applicant Companies shall publish advertisement with a gap of at least 30 days before the aforesaid meeting, indicating the day, date and place and the time of meeting as aforesaid, in newspapers having wide circulation in Punjab and Haryana, where the registered Office of the applicant companies are situated namely "Financial Express" (English), "The Tribune" (Punjabi) and "Dainik Bhaskar (Hindi). It be stated in the advertisement that the copies of "Scheme", the Explanatory Statement required to be published pursuant to Section 230 to 232 of the Act. The Applicant Company 2/Resulting Company 1 shall also publish the notice on its website, if any.

- XVI. It shall be the responsibility of the Applicant Companies to ensure that the notices are sent under the signature and supervision of the authorized representative of the company on the basis of Board resolutions and that they shall file their affidavits in the Tribunal at least ten days before the date fixed for the meeting.
- XVII. Voting shall be allowed on the “Scheme” through electronic means which will remain open for a period as mandated under Clause 8.3 of Secretarial Standards on General Meetings to the Applicant Companies under the Act and the Rules framed thereunder.
- XVIII. The Scrutinizer’s report will contain his/her findings on the compliance to the directions given in Para XII to XVII above.
- XIX. The Chairperson shall be responsible to report the result of the meeting to the Tribunal in Form No. CAA-4, as per Rule 14 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 within 7 (seven) days of the conclusion of the meeting. The Chairperson would be fully assisted by the authorized representative/ Company Secretary of the Applicant Companies and the Scrutinizer, who will assist the Hon’ble Chairperson and Alternate Chairperson in preparing and finalizing the report.
- XX. The Applicant Companies shall individually and in compliance of sub-section (5) of Section 230 of the Act and Rule 8 of Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 send notices in Form No. CAA-3 along with copy of the Scheme, Explanatory Statement, Accounting Statements as referred to para XII above and the

disclosures mentioned in Rule 6 of the “Rules” to (i) Central Government through the Regional Director (Northern Region), Ministry of Corporate Affairs, New Delhi (ii) Registrar of Companies, Punjab and Chandigarh (iii) Registrar of Companies (Haryana); (iv) the Official Liquidator (attached to Punjab and Haryana High Court); (v) Income Tax Department through the Nodal Officer – Principal Commissioner of Income Tax, NWR, Aayakar Bhawan, Sector 17-E, Chandigarh by mentioning the PAN number of the Applicant Companies; and to such other Sectoral Regulator(s) governing the business of the Applicant Companies, if any, stating that report on the same, if any, shall be sent to this Tribunal within a period of 30 days from the date of receipt of such notice and copy of such report shall be simultaneously sent to the applicant companies, failing which it shall be presumed that they have no objection to the proposed Scheme.

- XXI. The Applicant Companies shall furnish a copy of the copy of the Scheme, Explanatory Statement, Accounting Statements as referred to para XIII above and the disclosures mentioned in Rule 6 of the “Rules” free of charge within one day of any requisition for the Scheme made by any creditor or member/shareholder.
- XXII. The authorized representative of the Applicant Companies shall furnish an affidavit of service of notice of meeting and publication of advertisement and compliance of all directions contained herein at least a week before the proposed meeting.
- XXIII. All the aforesaid directions are to be complied with strictly in accordance with the applicable laws including forms and formats contained in the

Rules as well as the provisions of the Companies Act, 2013 by the Applicant Companies.

23. With the aforesaid directions, this First Motion Application stands disposed of. A copy of this order be supplied to the learned counsel for the Applicant Companies who in turn shall supply a copy of the same to the Chairperson, Alternate Chairperson and the Scrutinizer immediately.

-Sd-

(Umesh Kumar Shukla)
Member (Technical)

December 5, 2023

VVC

-Sd-

(Dr. P.S.N. Prasad)
Member (Judicial)