

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT- II)

C.A.(CAA)-113/ND/2022

IN THE MATTER OF SCHEME OF AMALGAMATION:

AMONGST

JTEKT FUJI KIKO AUTOMOTIVE INDIA LIMITED

... Applicant No.1 /Transferor Company

WITH

JTEKT INDIA LIMITED

... Applicant No.2 /Transferee Company

AND

THEIR RESPECTIVE SHAREHOLDERS AND CREDITORS

Order Delivered on: 20.03.2023

Section: 230 to 232 of the Companies Act, 2013

CORAM:

SH. ASHOK KUMAR BHARDWAJ, HON'BLE MEMBER (J)

SH. L. N. GUPTA, HON'BLE MEMBER (T)

PRESENT

For the Applicant : Adv. Anirudh Das, Adv. Rajarshi Roy

Certified True Copy
For JTEKT INDIA LIMITED

C.A.(CAA)113/ND/2022
JTEKT Fuji Kiko Automotive India Ltd. and JTEKT India Ltd.

Director Page 1 of 12

ORDER

PER: SHRI L. N. GUPTA, MEMBER (T)

The Applicant Companies have filed the present Application No. C.A.(CAA)113/ND/2022 under Sections 230-232 of the Companies Act, 2013 with prayer for the calling, convening, and holding of the meeting of Shareholders, Secured and Unsecured Creditors in relation to the Transferee Company, Dispensing the meeting of Shareholders of the Transferor Company and to convene the meeting of the Unsecured Creditors of the Transferor Company. The Applicant Companies further pray for the approval of the '**Scheme of Amalgamation**', which shall take effect from the Appointed Date of 01.04.2022.

2. JTEKT Fuji Kiko Automotive India Limited (hereinafter referred to as the "**Applicant No. 1 Transferor Company**") having CIN U35122DL2007PLC166496, is a private limited company incorporated on 01.08.2007 under the Companies Act, 2013. The registered office of the Transferor Company is situated at UGF-6 Indraprakash, 21 Barakhamba Road, New Delhi-110001. The Authorised Share Capital of the Company is Rs.12,00,00,000/- and the Paid-up share Capital of the company is Rs.10,00,00,000/-.

3. JTEKT India Limited (hereinafter referred to as the "**Applicant No. 2/Transferee Company**") having CIN L29113DL1984PLC018415, is



a private limited company incorporated on 14.06.1984 under the erstwhile Companies Act, 1956. The registered office of the Transferee Company is situated at UGF-6 Indraprakash, 21 Barakhamba Road, New Delhi-110001. The Authorised Share Capital of the Company is Rs.87,10,00,000/- and the Paid-up share Capital of the company is Rs.24,44,80,000/-.

4. The Application has been preferred by the Transferor and Transferee Companies jointly. Both the 'Transferor' and 'Transferee' Companies together are called '**Applicant Companies**' hereinafter. The Registered offices of both Companies being in Delhi, the territorial jurisdiction lies with this Bench.

5. It is seen from the record that the Board of Directors of the Applicant Companies vide separate meetings held on 06.07.2022 have approved the proposed 'Scheme of Amalgamation'.

6. It is stated by the Applicant Companies that the aforesaid Scheme of Amalgamation will result in the following advantages:

a) The Applicant/ Transferor Company is a joint venture between the Applicant/Transferee Company and Fuji Kiko Co. Ltd., Japan which is a wholly owned subsidiary of JTEKT Corporation, Japan. Apart from essentially being under one management, both the Applicant/ Transferor Company and the Applicant/ Transferee Company also have business and operational synergies. The Applicant/ Transferor Company is primarily engaged in making Columns / Column Parts which is in turn an input for



steering systems manufactured by the Applicant/ Transferee Company. The proposed consolidation will bring this entire value chain under one umbrella, driving sharper focus for smooth and efficient management of the value chain requirements with scale and agility;

- b) It will lead to cost savings owing to more focused operational efforts, rationalization, standardization and simplification of business processes, elimination of duplication and rationalization of administrative expenses;*
- c) It will help in achieving consolidation, greater integration and flexibility that will maximize overall shareholder's value and improve the competitive position and negotiating power of the combined entity;*
- d) It will improve organizational capability and leadership, arising from the pooling of human capital who have the diverse skills, talent and vast experience to compete successfully in an increasingly competitive industry;*
- e) It will result in reduction of multiplicity of entities, thereby reducing compliance cost of multiple entities viz., statutory filings, regulatory compliances, labour law / establishment related compliances.”*

7. The Applicant Companies had filed affidavits dated 08.12.2022 in compliance with Section 230(2)(a) of the Companies Act, 2013, submitting therein that no legal proceeding for inspection, inquiry, or investigation under the provisions of the Companies Act are pending against them.

8. Vide order dated 18.01.2023, this Tribunal directed the Applicant Companies to file the Affidavit, in complete compliance with Section 230(2) of the Companies Act, 2013. Accordingly, the Applicant



Companies in compliance with the said directions, have filed their separate Affidavits, and one such Affidavit is reproduced below:

AFFIDAVIT

I, Ashish Srivastava, Son of Shri Ram Narayan Srivastava, resident of M.I. 104, Hemant Vihar, Barra-2, Kanpur 208027 (U.P.) and presently at New Delhi, do hereby solemnly affirm and say as follows:

1. That I am the Constituted and Authorised Signatory of the Applicant / Transferee Company and am fully conversant with the facts and circumstances of the present case and am competent and authorised to depose the present affidavit on behalf of the Applicant / Transferee Company.
2. I state that the present affidavit is being filed in compliance to the orders dated 01.12.2022 and 18.01.2023, passed by this Hon'ble Tribunal.
3. I state that the Applicant / Transferee Company has placed on record all material facts relating to the Applicant / Transferee Company in the current Company Application bearing number C.A. (CAA) 113/ND/2022 ("Company Application").
4. I further state that the Applicant / Transferee Company has filed with the Company Application the latest audited accounts along with auditor report as on 31st March 2022 and the Limited Reviewed Financial Statements as on 30th September 2022.
5. I further state that as on 31st December 2022, there are no inquiry or investigation or other proceedings pending against the Applicant / Transferee Company under the provisions of the Companies Act, 2013 or the provisions of any other law which have a material adverse effect on the sanction of the Scheme by this Hon'ble Tribunal.



6. I state that the proposed Scheme of Amalgamation between the Applicant / Transferor Company and the Applicant / Transferee Company does not provide for reduction in share capital of the Applicant / Transferee Company.
7. I further state that the Scheme does not provide for corporate debt restructuring with respect to the Applicant / Transferee Company.
8. I state that in the above referenced Company Application, the Applicant / Transferee Company has prayed for the convening of the meetings of the Equity Shareholders, Secured Creditors and Unsecured Creditors of the Applicant / Transferee Company, through video conference or other audio-visual means ("VC/OAVM"), to consider the Scheme.
9. I state that the aforesaid meetings of the Equity Shareholders, Secured Creditors and Unsecured Creditors of the Applicant / Transferee Company be convened through VC/OAVM on Saturday, the 1st day of April, 2023 at 10:00 a.m., 2:00 p.m. and 3:00 p.m. respectively.
10. I further state and request that this Hon'ble Tribunal may be pleased to consider to appoint : -
- a. Mr. P. Nagesh, Senior Advocate (Mobile No. 9811156460) as Chairperson for the aforesaid meetings.
- b. Ms. Pooja Mahajan, Advocate (Mobile No. 9871902740), as Alternate Chairperson for the aforesaid meetings.
- Mr. Rajiv Adlakha, Company Secretary (Membership No. A8388), (Mobile No. 9810023612), as Scrutinizer for the aforesaid meetings.

11. The present Affidavit may be taken on record by this Hon'ble Tribunal.

DEPONENT



9. That the Applicant Companies have also placed on record the certificate from the statutory Auditors confirming that their Accounting standards are in conformity with the provision of section 133 of the Companies Act, 2013.

10. The Applicant Companies have filed their respective Memorandum of Association (MoAs) and Articles of Association (AoAs) and their audited Balance Sheets as on 31.03.2022 on record.

11. The Applicant Company-wise no. of Shareholders and Creditors and their consent through Affidavits are summarised overleaf:

Company	No. of Share holders	Percentage of Shareholders given Consent	No. of Secured Creditors	Percentage of Secured Creditors given Consent (in value)	No. of Unsecured Creditors	Percentage of Unsecured Creditors given Consent (in value)
JTEKT Fuji Kiko Automotive India Limited Applicant No.1 Company/ Transferor Company	8	100%	Nil	NA	139	Not obtained
JTEKT India Limited Applicant No.2/ Transferee Company	51,062	Not Obtained	2	Not Obtained	733	Not obtained



12. Since 100% Equity Shareholders of the Applicant Transferor Company have given their consent on affidavit, therefore, the requirement of convening their meeting is dispensed with.

13. There are no Secured Creditors in the Transferor Company hence, the question of convening their meeting does not arise.

14. There are 139 Unsecured Creditors in the Transferor Company whose consent has not been taken and the Applicant Companies, have prayed to convene their meeting. Further, Equity Shareholders, Secured Creditors, and Unsecured Creditors of the Transferee Company have not given their consents, therefore, **the meetings of the Unsecured Creditors of the Transferor Company and Equity Shareholders, Secured Creditors & Unsecured Creditors of the Transferee Company are ordered to be convened in the following manner:**

- i. Meeting of the Unsecured Creditors of Applicant No.1 Company (Transferor Company) shall be conducted through video conferencing.
- ii. As proposed by the Applicants, the details of the quorum, time, and date of the meeting of the Unsecured Creditors of the Applicant No.1/Transferor Company are fixed as follows:

Meeting	Time	Date of Meeting	Total No. Unsecured Creditors	Quorum of the Meeting
Unsecured Creditors	9:30 A.M	01.05.2023	139	25



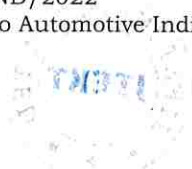
- iii. Meeting of the Equity Shareholders of Applicant No.2/Transferee Company shall be conducted through video conferencing.
- iv. As proposed by the Applicants, the details of the quorum, time, and date of the meeting of the Equity Shareholders of the Applicant No.2/Transferee Company are as follows:

Meeting	Time	Date of Meeting	Total No. Equity Shareholders	Quorum of the Meeting
Equity Shareholders	11:00 A.M	01.05.2023	51,062	5,200

- v. Meeting of the Secured Creditors of Applicant No. 2/Transferee Company shall be conducted through video conferencing.
- vi. As proposed by the Applicants, the details of the quorum, time, and date of the meeting of the Secured Creditors of the Applicant No. 2/Transferee Company are fixed as follows:

Meeting	Time	Date of Meeting	Total No. Secured Creditors	Quorum of the Meeting
Secured Creditors	12:30 P.M	01.05.2023	2	2

- vii. Meeting of the Unsecured Creditors of Applicant No.2/Transferee Company shall be conducted through video conferencing.
- viii. As proposed by the Applicants, the details of the quorum, time, and date of the meeting of the Unsecured Creditors of the Applicant No.2/Transferee Company are fixed as follows:



Meeting	Time	Date of Meeting	Total No. Unsecured Creditors	Quorum of the Meeting
Unsecured Creditors	02:30 P.M	01.05.2023	733	150

- ix. If the quorum is not complete at the time of any of the aforesaid meetings, the Chairman shall adjourn that meeting(s) by 30 minutes, and the shareholders/creditors, as the case may be, present after 30 minutes shall be deemed to constitute the quorum for the said meeting.
- x. As suggested by the Applicant, Sr. Adv. P. Nagesh, (Mobile No. 9811156460) is appointed as Chairman of the aforesaid meetings.
- xi. As suggested by the Applicant, Ms. Pooja Mahajan (Mobile No. 9871902740) is appointed as the Alternate Chairman of the aforesaid meetings.
- xii. As suggested by the Applicant, Mr. Rajiv Adlakha, Company Secretary (Membership No. A8388), (Mobile No. 9810023612) is appointed as Scrutiniser of the aforesaid meeting.
- xiii. The notice of the above-said meetings shall be sent by the Applicant Companies through registered post or courier and by e-mail 30 days in advance before the scheduled date of the meeting, indicating the day, date, place, and the time as aforesaid, together with the proposed Scheme, copy of the explanatory statement as required to be sent under the



Companies Act, 2013, the prescribed form of the proxy and any other document as may be prescribed under the Act or rules.

- xiv. The Applicant Companies shall publish an advertisement in the newspaper namely, "Business Standard" (English and Hindi, Delhi Edition) not less than 30 days before the aforesaid meetings.
- xv. Voting is allowed on the proposed Scheme through Video Conferencing.
- xvi. The Chairman shall submit his report regarding the result/outcome of the meetings within a period of 07 days of the date of the meetings with details of voting on the proposed Scheme.

15. That in accordance with Section 230(5) of the Companies Act, 2013, the Applicant Companies shall also serve the notice of this meeting to the following Authorities, namely:

- a) Central Government through Regional Director (Northern Region), Ministry of Corporate Affairs,
- b) Registrar of Companies (NCT of Delhi & Haryana), Ministry of Corporate Affairs,
- c) Official Liquidator, attached to the Delhi High Court;
- d) Security Exchange Board of India;
- e) Jurisdictional Income Tax Authorities;
- f) Such other Sectoral Regulatory Authorities, which govern the working of the Companies involved in the Scheme;

at least 30 days before the date fixed for the meeting.



16. The aforesaid Authorities are directed to raise objection/ representation, if any, within 30 days from the date of receipt of the notice. In the event of no objection or representation made within the stipulated timeframe, it shall be presumed that they do not have any objection.

17. The Chairman's Report shall be filed before this Tribunal within 7 days from the conclusion of this meeting.

18. **The Application is allowed in the aforesaid terms.**

Sd/-

(L. N. GUPTA)
MEMBER (T)

Sd/-

(ASHOK KUMAR BHARDWAJ)
MEMBER (J)



IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT - II)

Item No. 104
CA-(CAA)-113/ND/2022
New IA-117/2023

IN THE MATTER OF:

JTEKT Fuji Kiko Automotive India Ltd.
with JTEKT India Ltd.

... Applicant/Petitioner

Under Section: 230-232

Order delivered on 29.03.2023

CORAM:

SHRI. ASHOK KUMAR BHARDWAJ,
HON'BLE MEMBER (J)

SHRI. L. N. GUPTA,
HON'BLE MEMBER (T)

PRESENT:

For the Applicant : Adv. Anirudh Das in IA. No. 117/2023, Adv.
Aditya, Adv. Rajarishi Roy

For the Respondent :

ORDER

IA-117/2023: In view of the prayer made in the application and the submissions put forth by the Ld. Counsel for the Applicant, the IA stands **disposed of** with the direction that the date of the meeting of the unsecured creditors of the Applicant/Transferor Company and the Equity Shareholders, Secured Creditors, and Unsecured Creditors of the Applicant/Transferee Company would stand revised to 20.05.2023 (instead of 01.05.2023).

With this, the present IA stands disposed of.

—sd—

(L. N. GUPTA)
MEMBER (T)

—sd—
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(ASHOK KUMAR BHARDWAJ)
MEMBER (J)

Certified True Copy
For JTEKT INDIA LIMITED

Rajiv

Director