

**THE NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, CHANDIGARH
(through web-based video conferencing platform)**

**CA No.43/2022
And
CA (CAA) No.44/Chd/Pb/2021
(1st Motion)**

**Under Sections 230 to 232 of the
Companies Act, 2013 read with
Companies (Compromises,
Arrangements and Amalgamations)
Rules, 2016**

IN THE MATTER OF SCHEME OF AMALGAMATION OF:

Triptuti Infrastructure Private Limited

with its registered office at

Sood's Niwas Ranbir Marg, Patiala, Punjab - 147001

PAN: AAECT7480N

CIN: U70101PB2011PTC049856

...Applicant Company No.1/Transferor Company

And

Milkfood Limited

with its registered office at

Bahadurgarh, District Patiala, Punjab - 147021

PAN: AAACM5913B

CIN: L15201PB1973PLC003746

...Applicant Company No.2/Transferee Company

And in the matter of:-

CA No.43/2022

Sudha Commercial Company Limited

Vs.

1. Triptuti Infrastructure Private Limited

2. Milkfood Limited

Under Rule 11 of the NCLT Rules, 2016

...Applicant/Intervener

...Respondents

Order delivered on: 13.05.2022

**Coram: HON'BLE MR. HARNAM SINGH THAKUR, MEMBER (JUDICIAL)
HON'BLE MR. SUBRATA KUMAR DASH, MEMBER (TECHNICAL)**

Present through Video Conferencing : -

For the Applicant Companies: 1. Mr. Anand Chhibbar, Senior Advocate
In CA (CAA) No.44/Chd/Pb/2021 2. Mr. SP Singh Chawla, Advocate
& Respondents in CA No.43/2022 3. Mr. Nikhil Chawla, Advocate

For the applicant in
CA No.43/2022 : 1. Mr. Nitin Kant Setia, Advocate
2. Mr. Sumer Singh Brar, Advocate

Per: Subrata Kumar Dash, Member (Technical)

ORDER

CA (CAA) No.44/Chd/Pb/2021

This is a joint First Motion Application filed by Applicant Companies namely; **Triputi Infrastructure Private Limited** (for short hereinafter referred to as Applicant Company No.1/Transferor Company) and **Milkfood Limited** (for short hereinafter referred to as Applicant Company No.2/Transferee Company) 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 Amalgamation between the Applicant Companies. The said Scheme is attached as Annexure A-7 to the Application.

2. The Applicant Companies have prayed for dispensing with the requirement for convening the meetings of the Equity Shareholders, Secured and Unsecured Creditors of Applicant Company No.1/Transferor Company. It is further prayed for the convening of the meetings of Equity Shareholders, Secured and Unsecured Creditors of Applicant Company No.2/Transferee Company.

3. The Applicant Company No.1/Transferor Company is presently engaged in the business to acquire by purchase, exchange, lease, hire or otherwise any estate, lands, buildings, plots or immovable property of any nature or any interest therein etc.

4. The Applicant Company No.2/Transferee Company is presently engaged in the business as manufacturers and/or processors and dealers in and importers and exporters of all varieties of milk, whole milk powder, skimmed milk powder, condensed milk, evaporated milk and dried milk etc.

5. It is submitted that the registered offices of the Applicant Companies are at Patiala, which is situated in the State of Punjab, and, therefore, both applicant companies are under the territorial jurisdiction of this Bench.

6. The rationale of the Scheme is given below:-

- (i) The amalgamation will result in better, efficient and economical management, achieve cost savings, pooling of resources and rationalisation of administrative expenses/services. The amalgamation will enable the Company to pool the brand, financial, commercial and other resources and considerable synergy of operations would be achieved and it will give value addition to the assets of the Company,
- (ii) With the enhanced capabilities and resources at its disposal, the Transferee Company will have greater flexibility and strength and will be able to compete more effectively as a combined entity.
- (iii) The Transferee Company as a consolidated entity after amalgamation will have better financial and business prospects. The Scheme would be beneficial to and in the best interest of the Shareholders & Creditors, if any, of the Transferor Company and the Transferee Company. The Scheme shall not in any manner be

prejudicial to the interests of concerned members/creditors or general public at large.

- (iv) It would be advantageous to combine the assets of the Transferor Company and the Transferee Company into a single Company. The amalgamation would provide beneficial synergy of operations from administrative point of view, and conserve administrative resources and cost overheads, and duplication of management efforts.

7. It is stated that the Board of Directors of the Applicant Company No.1/Transferor Company and Applicant Company No.2/Transferee Company in their meetings held on 05.10.2020 have considered and unanimously approved the Scheme of Amalgamation subject to sanctioning of the same by this Tribunal. The copies of the Board Resolutions of the Applicant Company No.1/Transferor Company and Applicant Company No.2/Transferee Company are attached as Annexure A-8 of the application.

8. The appointed date of the Scheme is 01.04.2020 as mentioned in Clause 2(ii) of the Scheme of Amalgamation which is attached as Annexure A-7 of the application.

9. It is stated that the Applicant Company No.1/Transferor Company and Applicant Company No.2/Transferee Company have filed the audited financial statements as on 31.03.2021 and 30.06.2021 as Annexure A-2 and Annexure A-5, respectively of the application. The Applicant Company No.1/Transferor Company and Applicant Company No.2/Transferee Company have also filed provisional financial statements as on 30.09.2021 as Annexure-1 of Diary No.01122/01 dated 09.12.2021.

10. It is submitted that there are no investigation proceedings are pending or instituted under Sections 235 to 251 of the Companies Act, 1956 and/or under Sections 206 to 229 of the Companies Act, 2013 against the Transferor and Transferee Companies and the Scheme of Amalgamation does not contemplate payment to any shareholder pursuant to the reduction of share capital of the Company as per Section 66 of the Companies Act, 2013.

11. It is further submitted that in pursuance of the proviso to Sec. 230 (7) and Section 232 (3) of the Act, the Applicant Companies has filed the certificate dated 05.10.2020 issued by statutory auditors certifying that the Scheme is in compliance with the Accounting Standards under Section 133 of the Act and the same are attached as Annexure A-21 of the application.

12. It is further submitted by the counsel for applicant companies that as per Valuation Report/Share Exchange Ratio Report dated 29.09.2022 submitted by Mr. Siddharth Gupta, Registered Valuer (S&FA) bearing registration No.IBBI/RV/05/2019/11261 is attached as Annexure A-16. The Share Exchange Ratio is given below:-

“69 (Sixty-Nine) equity shares of face value of INR 10 (Rupees Ten) each of Milkfood Limited (ML) to be issued against 1000 (One-Thousand) equity shares of face value of INR 10 (Rupees Ten) of Triputi Infrastructure Private Limited (TIPL).”

13. It is submitted by the learned counsel that the Scheme (Annexure A-7) also takes care of the interests of the staff/workers and employees of the Applicant Companies. By virtue of Clause 15.1, it is stated that upon the coming into effect of this Scheme all the staff, workmen, employees of the Transferor Company, if any, who are in its employment as on the Scheme coming into effect

shall become the staff, workmen, employees or other labour of the Transferee Company with effect from the Appointed Date without any break or interruption in service and on terms and conditions as to employment and remuneration not less favourable than those on which they are engaged or employed by the Transferor Company whereas there will be no effect on the employees of the Transferee Company.

14. It is stated that the Applicant Company No.2/Transferee Company is a public limited company having shares listed on BSE Ltd. and has received the observation letter dated 28.05.2021 from BSE Ltd. The copies of the same are attached as Annexure A-9 of the application.

15. The authorised signatory of both Applicant Companies have deposed by way of affidavit that both the applicant companies have no other specific sectoral regulators other than the Central Government through Regional Director, Registrar of Companies, Official Liquidator, Securities and Exchange Board of India, Bombay Stock Exchange and Income Tax Authorities and applicant companies are not registered under non-banking financial institution, so neither the approval of RBI is required nor any notices are required to be served upon them. It is further deposed by way of affidavit that the Applicant Companies are not a Section 8 Company under the Companies Act, 2013 and are private limited and public limited companies as defined under Section 2(68) and Section 2(71) of the Companies Act, 2013. The affidavit of the authorised signatory of both Applicant Companies is filed by Diary No.01122/3 dated 02.02.2022.

16. The Applicant Companies has furnished the following documents:-

- i. Proposed Scheme of Amalgamation (Annexure A-7 of the application).

- ii. List of Secured and Unsecured Creditors of Applicant Company No. 1 duly certified by the Statutory Auditors (Annexure A-12 of the application).
- iii. List of Secured and Unsecured Creditors of Applicant Company No.2 duly certified by the Statutory Auditors (Annexure A-14 and A-15 respectively of the application).
- iv. Certificates of Statutory Auditors to the effect that Accounting treatment proposed in the Scheme is inconformity with Section 133 of Companies Act, 2013 (Annexure A-21 of the application).
- v. Proposed Share Exchange Ratio (Annexure A-16 of the application).
- vi. Affidavit with regard to Sectoral Regulators of Applicant Companies (Diary No.01122/3 dated 02.02.2022 of the application).
- vii. Audited Financial Statement as on 31.03.2021 and 30.06.2021 of the Applicant Company No.1 and Applicant Company No.2 (Annexures A-2 and A-5 respectively of the application).
- viii. Provisional Financial Statements as on 30.09.2021 of the Applicant Company No.1 and Applicant Company No.2 (Annexure A-1 of Diary No.01122/01 dated 09.12.2021).

17. In the course of present proceedings, an intervention application CA No.43/2022 was filed by Diary No.00193 dated 09.02.2022, by Sudha Commercial Company Limited under Rule 11 of the NCLT Rules, 2016. The applicant therein had earlier filed CP 10/ND/2013 RT CP No.28/Chd/Pb/2016 titled as Sudha Commercial Company Limited Vs. Milkfood Limited & Ors. under Section 397, 398, 399, 403 of the Companies Act, 1956 wherein it had alleged

certain acts of oppression and mismanagement by the management of Non-Applicant Company No.2 and Non-Applicant Company No.1 was also contesting respondent in the said petition.

17.1 The applicant prayed this Tribunal to adjourn Company Application CA (CAA) No.44/Chd/Pb/2021 sine die till the time CP 10/ND/2013 RT CP No.28/Chd/Pb/2016 titled as *Sudha Commercial Company Limited Vs. Milkfood Limited & Ors.* is not finally decided on its merits.

17.1.1 In its application filed by Diary No.00193 dated 09.02.2022, the applicant has challenged the Valuation Report of Milkfood Limited and Triputi Infrastructure Pvt. Ltd.; the share exchange ratio and financial statement of accounts of Triputi Infrastructure Pvt. Ltd. It has further alleged that the valuation of the Brand has been done from a merchant banker at an inflated value of around Rs.33 Crores. It is also alleged that the Promoter Group by selling the Brand of Milkfood Limited at Rs.34 Crores as against its purchase value of Rs.14 Crores caused a loss of Rs.20 Crores to the Company. In view of these allegations, it is prayed that the allegations made in *CP 10/ND/2013 RT CP No.28/Chd/Pb/2016 titled as Sudha Commercial Company Limited Vs. Milkfood Limited & Ors.* be decided first and the application CA (CAA) No.44/Chd/Pb/2021 be adjourned sine die.

17.1.2 In its written submissions filed by Diary No.00193/2 dated 25.02.2022, the applicant reiterates that it is holding 10.01% shares in the Milkfood Limited and repeated the allegations of certain acts of oppression and mismanagement against the said company, also mentioned in the case titled *Sudha Commercial Company Limited Vs. Milkfood Limited & Ors.* In the

said case, Triputi Infrastructure Private Limited is also a contesting respondent and one of the acts of oppression and mismanagement alleged by the applicant in the aforementioned petition was the alienation of Brand Milkfood by Milkfood Limited to Triputi Infrastructure Private Limited for a paltry consideration of Rs.14 Crores.

17.2 Respondent No.2 has filed its reply by Diary No.00193/1 dated 28.02.2022 and further written submissions by Diary No.01122/4 dated 28.02.2022. In its reply, the primary objection taken by the respondent is that the issues raised by the Intervener cannot be taken up at the present first motion stage of the amalgamation proceedings because it is at this stage only the issues relating to notices to different stakeholders to allow them to vote on the Scheme is to be considered. The other issues like the objections raised by different authorities and stakeholders can be taken up subsequently during the second motion petition. In this context, the respondent has placed reliance on the ratio laid down by the Hon'ble Supreme Court of India in the matter of **Rainbow Denims Ltd. Versus Rama Petrochemicals Ltd. (2002) 10 Supreme Court Cases 498**, the relevant part of which is extracted below:-

“5. The appropriate time for the Company Judge to consider the Scheme is subsequent to approval thereof by the shareholders and creditors of the appellant Company. Therefore, the order of the learned Company Judge and the order under appeal must be set aside and liberty given to the appellant Company to move the High Court for directions for calling meetings of its shareholders and creditors for the purposes of considering and approving the scheme. Once that has been done, a further application will be required to be made before the learned Company Judge. That would be the appropriate time for the learned Company Judge to consider the scheme.”

17.2.1 It is further stated that in the present case, the applicant without having any locus standi has filed the present application without understanding and evaluating the benefit of the proposed Scheme of Amalgamation, which in a way if considered at this stage, will deprive the stakeholders of the Respondent No.2 to vote on the proposed Scheme.

17.2.2 The respondent No.2 i.e. Milkfood Limited has referred to Para 10 of its reply filed in *Company Petition No.10(ND)/2013 (RT CP No.28/Chd/Pb/2016) in the case of Sudha Commercial Company Limited Vs. Milk Food Limited and Ors.*, which reads as under:

“It is submitted that even otherwise the present petition is entirely infructuous inasmuch as there is common ground between the parties herein that the primary allegation in the present petition is that the Respondent No.1 Company has “sold” the brand Milkfood at an undervalue to the Respondent No.8 Company. By way of the present scheme of merger of the Respondent no.1 and Respondent No.8 Companies, admittedly the brand Milkfood shall come back to Respondent No.1 Company and as such nothing remains to be decided in the present petition and therefore the present petition is infructuous.”

17.2.3 It is further stated that the valuation of the Brand has gone up from Rs.14 Crores in the year 2013 to Rs.34 Crores at the time of the proposal for amalgamation due to the exponential growth in the financial position of the respondent Company. As a justification of the higher valuation, it is further stated that the sale of the Brand to Respondent No.1 Company was with various stipulations such as respondent No.1 Company was not allowed to assign or sell the brand to any other party and would further allow the respondent No.2 Company to use the brand without payment of any royalty. It is also mentioned that respondent No.2 Company has till date not paid any royalty to respondent No.1 Company.

17.2.4 In its compilation filed by Diary No.01122/05 dated 08.03.2022, the respondents have placed reliance on the ratio of the judgment of the NCLT, Chennai Bench in the matter of **Dalmia Refractories Limited and Ors. Vs. Dalmia Bharat Refractories Limited and Ors. in CA/322/CAA/2020 decided on 23.02.2021**. The relevant para reads as below:

“5.xx xx xx xx.. The learned counsel for the applicant companies relied on the judgments of the Hon’ble Supreme Court in the matter of Rainbow Denim Limited - Vs. Rama Petrochemicals Limited and the Hon’ble NCLAT in the matter of MEL Windmills Private Limited Vs. Mineral Enterprises Limited & Anr. wherein it was held that the appropriate time to be consider any objections is only subsequent to the meeting of the shareholders and creditors and their approval thereof. Hence, keeping in mind, the Judgements of Hon’ble Supreme Court and NCLAT, we are of the view that the objection raised by the shareholders of the Transferor Company-1 at the first motion stage is not maintainable. Since, it pertains only in relation to conduct/or dispensed with the meeting, the objection raised by the objectors at the first motion stage is not maintainable.”
(emphasis supplied)

17.2.5 The respondents have also placed reliance on the decision of the NCLT, Bengaluru Bench in the matter of **MEL Windmills Private Limited Vs. Mineral Enterprises Limited & Anr. in Company Appeal (AT) No.04 of 2019 decided on 27.05.2019**. The relevant part is extracted below for the sake of clarity:

“5.xxx xx xx xx xx... This is a sine qua non for proceeding further and any order of sanctioning or refusing to sanction such compromise or arrangement by the Tribunal would be without jurisdiction unless the Tribunal has dispensed with calling of such meeting of creditors/members in terms of Sub-Section (9). It is manifestly clear that at the stage of calling of meeting of creditors/members for consideration of the scheme of compromise or arrangement the Tribunal is not required to examine the merits of the scheme qua the proposed compromise/arrangement. Any such indulgence on the part of the Tribunal would fall foul of the provision engrafted in Section 230(1) of the Act and would be without jurisdiction.

6.xxx xx xx xx xx.. The mandate of law engrafted under Section 230(1) of the Act requiring the Tribunal to order calling of meeting of the creditors/members of the concerned companies not being complied with

and the mandatory provisions being observed in breach, the impugned order cannot be supported. The Tribunal, at the very threshold stage, was not required to venture into the merits of the proposed scheme of demerger which had to be examined only after obtaining the consent of creditors/members with requisite majority.”

17.3 The applicant in its compilation filed by Diary No.00193/3 dated 09.03.2022, has placed reliance on the decision of the Hon'ble Bombay High Court in the case of ***Bedrock Ltd. and Bedrock Ltd. in Company Petition No.469 of 1997 decided on 17.03.1998***, wherein it is stated that “32. *These principles have also been reiterated by the Supreme Court in Mafatlal's case (supra) to the effect that the proposed scheme should only be sanctioned if it is found to be not violative of any provision of law and is not contrary to public policy. For ascertaining the real purpose underlying the scheme the Court can pierce the veil of apparent corporate purpose underlying the scheme and can judiciously X-ray the scheme. Where the Court finds that the scheme is fraudulent and is intended for a purpose other than what it professes to be, it may be rejected even at the outset without calling a meeting of the Creditors. The Court does not function as a rubber stamp or Post Office and it is incumbent upon the Court to be satisfied that the scheme is genuine, bona fide and in the interest of creditors of the Company”.*

17.4 We have heard learned counsel for the applicant and learned Senior Counsel for the respondents and have carefully gone through the records.

17.5 Before going into the merits of this application, this Bench notes that the applicant itself had agreed to consider a Scheme of Merger as reflected in the following extracts from the order dated 04.03.2020 in the case of CP

No.10/(ND)/2013 RT CP No.28/Chd/Pb/2016 in Sudha Commercial Co. Ltd. Vs. Milkfood Limited and Ors. of this Adjudicating Authority:

“The learned counsel appearing for the respondent No.1 Company submits that the respondent No.1 Company is intending to formulate a scheme of merger of respondent No.8 with respondent No.1 Company and in such an event the prayers in the instant case becomes infructuous as the “brand” will come back to respondent No.1 again. However, seeks short accommodation to produce the Board Resolution and any other relevant documents thereto. Accordingly, list the CP on 24.03.2020.

2. The learned counsel appearing for the petitioner submits on instructions that if the respondent No.1 Company files any resolution as stated by them they will withdraw the CP and may not press CP with regard to other allegations also.” (emphasis supplied)

17.5.1 The issue falling for our consideration in the present application is whether in a first motion application the issues originally raised in an oppression and mismanagement application can be considered. It is trite law that the Chapter XV of the Companies Act, relating to Compromises, Arrangements, and Amalgamation is a self-contained Code. This Chapter provides opportunities to all stakeholders i.e. the Shareholders, Secured and Unsecured Creditors to vote on the proposed Scheme of Amalgamation. The applicant is a 10.01% Shareholder of the Non-Applicant No.2 Company i.e. Milkfood Limited. Admittedly, there are other stakeholders also and all of them have a right to vote on the proposed Scheme as it affects all the stakeholders. The issues raised by the applicant, therefore, may become relevant for consideration only during the second motion after the proposed Scheme of Amalgamation crosses the threshold level of the consents of Shareholders and Creditors as stipulated in Section 230-232 of the Act. In any case, being a shareholder, the applicant will also have an opportunity to vote on the

proposed Scheme after the notices are issued to shareholders and others during the first motion of Amalgamation proceedings in CA (CAA) No.44/Chd/Pb/2021. In the above circumstances, this Bench holds that the prayer made by the Intervener is not maintainable at this stage, and the CA No.43/2022 stands dismissed and disposed of accordingly.

18. In the application CA (CAA) No.44/Chd/Pb/2021, the Applicant Company No.1/Transferor Company i.e. Triputi Infrastructure Private Limited CIN: U70101PB2011PTC049856 is a private limited company incorporated under the Companies Act, 1956 on 29.09.2011. The certificate of incorporation along with the Memorandum and Articles of Association is attached as Annexure A-1 of the application. The details of the Share Capital Structure of the Applicant Company No.1/Transferor Company as on 31.03.2020 is given below:-

Particulars	Amount in (Rs.)
Authorised Share Capital	
1,45,00,000 Equity shares of Rs.10/- each	Rs.14,50,00,000/-
Total	Rs.14,50,00,000/-
Issued, Subscribed and Paid-up Share Capital	
1,40,10,000 Equity shares Rs.10/- each	Rs.14,01,00,000/-
Total	Rs.14,01,00,000/-

19. The Applicant Company No.2/Transferee Company i.e. Milkfood Limited CIN: L15201PB1973PLC003746 is a public limited company incorporated under the Companies Act, 1956 on 31.03.1973. The certificate of incorporation along with Memorandum and Articles of Association is attached as Annexure A-4 of the

application. The details of the Share Capital Structure of the Applicant Company No.2/Transferee Company as on 31.03.2020 is given below:-

Particulars	Amount in (Rs.)
Authorised Share Capital	
75,00,000 Equity shares of Rs.10/- each	Rs.7,50,00,000/-
50,000 Redeemable Preference Shares of Rs.100 each	Rs.50,00,000/-
Total	Rs.8,00,00,000/-
Issued, Subscribed and Paid-up Share Capital	
48,86,440 Equity shares Rs.10/- each	Rs.4,88,64,400/-
Less : Call in Arrear	Rs.19,000/-
Add: Amount paid on Forfeited Shares	Rs.7,000/-
Total	Rs.4,88,52,400/-

20. 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 No.1	2 (Two)	100% in value	Nil	NA	Nil	NA
Applicant Company No.2	4551 (Four Thousand Five Hundred Fifty-One)	Meeting sought	3 (Three)	Meeting sought	202 (Two Hundred Two)	Meeting sought

21. It is submitted that the list of equity shareholders of Applicant Company No.1/Transferor Company is attached as Annexure A-10 of the application. As per the list, there are 2 (Two) Equity Shareholders as on 11.06.2021 of the Applicant Company No.1/Transferor Company, and all the equity shareholders of

the Applicant Company No.1/Transferor Company have given their consent by way of affidavits to the proposed scheme and the same is attached as Annexure A-11 of the application. The list of Secured and Unsecured Creditors of Applicant Company No.1/Transferor Company duly certified by the statutory auditors are attached as Annexures A-12 of the application. As per the certificate dated 19.07.2021 issued by statutory auditors, there are Nil Secured Creditors and Nil Unsecured Creditors as on 30.06.2021.

22. It is further submitted that the list of equity shareholders of Applicant Company No.2/Transferee Company is attached as Annexure A-13 of the application. As per the list, there are 4,551 (Four thousand Five hundred Fifty One) Equity Shareholders of the Applicant Company No.2/Transferee Company which attached as Annexure- A-13 of the application. The list of Secured and Unsecured Creditors of Applicant Company No.2/Transferee Company duly certified by the statutory auditors are attached as Annexures A-14 and A-15, respectively of the application. As per the certificate dated 08.09.2021 issued by statutory auditors, there are 3 (Three) Secured Creditors and 202 (Two hundred and Two) Unsecured Creditors as on 30.06.2021.

23. Accordingly, the directions of this Bench in the present case are as under:-

I. In relation to Applicant Company No.1/Transferor Company:

- a. The meeting of the Equity Shareholders is dispensed with keeping in view the shareholding and ownership pattern of the company and the fact that the consent by way of affidavits has been received;

- b. Since, there are Nil Secured Creditors and Nil Unsecured Creditors in the Applicant Company No.1/Transferor Company. Therefore, there is no scope for any meeting.

II. In relation to Applicant Company No.2/Transferee Company:

- a. The meeting of the Equity Shareholders of the Applicant Company No.2/Transferee Company be convened as prayed for on 09.07.2022 at 2:30 PM through video conferencing with facility of remote e-voting, subject to notice of the meeting being issued. The quorum of the meeting of the Equity Shareholders shall be 1813 in number or 40% in value of the Equity Shareholders;
- b. The meeting of the Secured Creditors of the Applicant Company No.2/Transferee Company be convened as prayed for on 09.07.2022 at 10:30 AM through video conferencing with facility of remote e-voting, subject to notice of the meeting being issued. The quorum of the meeting of the Secured Creditors shall be 2 in number or 40% in value of the Secured Creditors;
- c. The meeting of the Unsecured Creditors of the Applicant Company No.2/Transferee Company be convened as prayed for on 09.07.2022 at 11:30 AM through video conferencing with facility of remote e-voting, subject to notice of the meeting being issued. The quorum of the meeting of the Unsecured Creditors shall be 81 in number or 40% in value of the Unsecured Creditors;

- III.** 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.

- IV.** Mr. Justice Ranjit Singh (Retd.), address: House No.1024, Sector-27B, Chandigarh, Mobile No.9899791094, email id:justice.ranjit@gmail.com, is appointed as the Chairperson for the meeting to be called under this order. An amount of ₹2,00,000/- (Rupees Two Lakhs Only) be paid for his services as the Chairperson.
- V.** Mr. Manuj Nagrath, Advocate, R/o House No.162, Sector-123, New Sunny Enclave, Kharar, Mohali - 140301, Mobile No.9417502808, e-mail id:advocate.mnagrath@gmail.com, is appointed as the Alternate Chairperson for the meeting to be called under this order. An amount of ₹1,50,000/- (Rupees One Lakh Fifty Thousand Only) be paid for his services as the Alternate Chairperson.
- VI.** Mr. P.D. Sharma, Practising Company Secretary, address: SCO 186-187, FF, Sector-17C, Chandigarh, Mobile No.9815435315, email id:sharmasarin.legal@gmail.com, is appointed as the Scrutinizer for the above meeting to be called under this order. An amount of ₹1,00,000/- (Rupees One Lakh Only) be paid for his services as the Scrutinizer.
- VII.** The fee of the Chairperson, Alternate Chairperson and Scrutinizer and other out of pocket expenses for them shall be borne by the Applicant Company No.2/Transferee Company.
- VIII.** It is further directed that individual notices of the said meetings shall be sent by Applicant Company No.2/Transferee Company through registered post or speed 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 as discussed in paras 12 of this order required to be sent under the Companies Act, 2013 and the applicable Rules and any other documents as may be prescribed under the Act shall also be duly sent with the notice.

- IX.** It is further directed that along with the notices, Applicant Company No.2/Transferee Company 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 amalgamation 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.
- X.** It is also directed that the provisional accounting statement of Applicant Company No.1/Transferor Company and Applicant Company No.2/Transferee Company as on 31.03.2022 or as on a subsequent date be also circulated for the aforesaid meeting in terms of Section 232 (2) (e) of the Act.
- XI.** That the Applicant Company No.2/Transferee Company shall publish advertisement with a gap of at least 30 clear days before the aforesaid meeting, indicating the day, date and place and the time of meeting as aforesaid, to be published in “Financial Express” (English) and “Jansatta” (Hindi) both in All India Edition; 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 No.2/Transferee Company shall also publish the notice on its website, if any.

- XII.** It shall be the responsibility of the Applicant Company No.2/Transferee Company 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.
- XIII.** 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 Company No.2/Transferee Company under the Act and the Rules framed thereunder.
- XIV.** The Scrutinizer's report will contain his/her findings on the compliance to the directions given in Para VII to XIII above.
- XV.** 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 Company No.2/Transferee Company and the Scrutinizer, who will assist the Hon'ble Chairperson and Alternate Chairperson in preparing and finalizing the report.

XVI. The Applicant Company No.2/Transferee Company 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 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) the Official Liquidator (attached to Punjab and Haryana High Court); (iv) Securities and Exchange Board of India (SEBI), (v) Bombay Stock Exchange Limited (B.S.E.), (vi) National Stock Exchange of India Limited (NSE), (vii) Food Safety and Standards Authority of India (FSSAI), and (viii) 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 Company No.2/Transferee Company, if any, stating that report on the same, if any, shall be sent to the 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 concerned companies, failing which it shall be presumed that they have no objection to the proposed Scheme.

XVII. The Applicant Company No.2/Transferee Company shall furnish a copy of the Scheme free of charge within one day of any requisition for the

Scheme made by any creditor or member/shareholder entitled to attend the meeting as aforesaid.

XVIII. The authorized representative of the Applicant Company No.2/Transferee Company 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.

XIX. 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 Company No.2/Transferee Company/Applicant Company No. 2.

24. 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/-
(Subrata Kumar Dash)
Member (Technical)

Sd/-
(Harnam Singh Thakur)
Member (Judicial)

May 13, 2022

AV