

APIS INDIA LIMITED

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AIL/CS/2022-23/296

Date: January 24, 2023

To,
The Secretary,
BSE Ltd.,
Phiroze Jeejeebhoy Towers,
Dalal Street,
Mumbai – 400 001
BSE scrip code: 506166

Sub: Disclosure in terms of Regulation 30 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 regarding Intimation of sanction of Composite Scheme of Arrangement among Apis Natural Products Private Limited (Transferor Company-1), Modern Herbals Private Limited (Transferor Company-2) and Apis India Limited (Transferee Company) by the Hon'ble National Company Law Tribunal, New Delhi Bench under Sections 230 -232 and Sections 66 and other applicable provisions of the Companies Act, 2013.

Dear Sir,

This is in furtherance to the Observation Letter DCS/AMAL/DS/R37/1578/2019-20 dated September 18, 2019 regarding Comprehensive Scheme of Amalgamation of APIS Natural Products Private Limited ('APIS Natural') and Modern Herbals Private Limited ('Modern Herbals') with APIS India Limited ('APIS India' or the 'Company'), and their respective shareholders and creditors (hereinafter referred to as the 'Scheme'), under Sections 230 to 232 read with Section 66 and other applicable provisions, if any, of the Companies Act, 2013, including any statutory modification(s) thereto or re-enactment(s) thereof, placed before them ('the Scheme').

We wish to inform you that the NCLT has pronounced the order on January 16, 2023 (copy of order received by email dated January 23, 2023) granting sanction to the Scheme. The copy of the Order is enclosed herewith for your information and records.

As per the disclosure requirements of Regulation 30 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, read with Clause 1.2 of Annexure I of SEBI Circular No. CIR/CFD/CMD/4/2015 dated 09th September, 2015, following are the requisite disclosures in relation to the Scheme:

- a) Name of the entities forming part of the amalgamation and details in brief such as, size, turnover etc.:

Particulars	APIS Natural	Modern Herbals	APIS India
Turnover as on 1 April, 2019 (INR crores)	-	-	224.71
Net Worth as on 1 April, 2019 (INR crores)	0.68	0.86	74.00

- b) Whether the transaction would fall within related party transactions? If yes, whether the same is done at "arms' length":

The transaction envisaged in the Scheme, i.e. merger of APIS Natural and Modern Herbals with APIS India, would fall within the meaning of "Related Party Transactions" as provided in Regulation 2(zc) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015. The Board of Directors of the Company, based on the:

(i). Share Entitlement Report dated May 29, 2019 issued by Jain Gandharv & Associates, registered valuer, having IBBI Registration Number IBBI/RV/06/2018/10079; and

(ii). Fairness Opinion dated May 29, 2019 issued by D&A Financial Services (P) Limited, a SEBI Registered (Category –Merchant Banker, providing the fairness opinion on the Share Entitlement Report and as per the report received from the Audit Committee recommending the draft Scheme, approved the Share Swap Ratio mentioned in point (e) below.

- c) Area of business of the entity(ies):

1. APIS Natural - APIS Natural is engaged in the business of honey processing activities.
2. Modern Herbals - Modern Herbals is engaged in the business of manufacture, buyer, sellers, and dealers in herb products, pure herb honey dry fruit activities.
3. APIS India - APIS India engaged in the business of rearing and hiving honey bees for the purpose of production of honey & honey related products. Further, APIS India is also engaged in the business of trading of Green Tea, Jam, Pickles, Dates & Preserves.

- d) Rationale for amalgamation/ merger:

The Comprehensive Scheme of Amalgamation has been envisaged to consolidate the operations of the group. Both the Transferor Companies i.e. APIS Natural and Modern Herbals hold shares in APIS India and constitute the Promoter Group of APIS India Limited. APIS Natural holds 59,220 equity shares, constituting 1.07% of the paid-up equity share capital and Modern Herbals holds 1,43,820 equity shares, constituting 2.61% of paid-up equity share capital. Pursuant to the proposed amalgamation of APIS Natural and Modern Herbals with APIS India, the consolidated assets and funds would vest in a single entity.

The amalgamation would help the management to achieve greater integration and better financial strength. It would have greater efficiency in cash management, unfettered access to cash flow generated by the combined businesses which can be deployed more efficiently to fund organic and inorganic growth opportunities.

This amalgamation would not only lead to simplification of the shareholding structure and reduction of shareholding tiers but also demonstrate the promoter group's direct commitment to and engagement with APIS India.

There would be no change in the promoter shareholding of APIS India. The promoters would continue to hold the same percentage of shares in APIS India, pre and post the amalgamation of APIS Natural and Modern Herbals with APIS India.

All costs, charges, taxes including duties, levies and all other expenses, if any, arising out of or incurred in connection with and for implementing this Scheme and matters incidental thereto shall be borne by the Promoters and/or APIS Natural and Modern Herbals. No cost, charges, taxes pertaining to the Scheme shall be borne by APIS India.

Further, the Scheme also provides that Promoters shall indemnify APIS India and keep APIS India indemnified for any contingent liabilities and obligations including all demands, claims, suits, proceedings and the like which may be made or instituted by any third party(ies) including governmental authorities on APIS India and are directly relatable to APIS Natural and Modern Herbals or which may devolve on APIS India on account of this amalgamation.

- e) In case of cash consideration – amount or otherwise share exchange ratio:
- i. 59,220 (Fifty Nine Thousand Two Hundred Twenty) fully paid up Equity Shares of the face value of Rs. 10/- (Rupees Ten) each credited as fully paid up in the share capital of APIS India in the proportion of the number of equity shares held by the shareholders in APIS Natural Private Limited.
 - ii. 143,820 (One Lakh Forty Three Thousand Eight Hundred Twenty) fully paid up Equity Shares of the face value of Rs. 10/- (Rupees Ten) each credited as fully paid up in the share capital of APIS India in the proportion of the number of equity shares held by the shareholders in Modern Herbals Private Limited.
- f) Brief details of change in shareholding pattern (if any) of the Company:

<u>Category</u>	<u>Number of shares and % of voting rights pre-amalgamation as on 31.03.2019</u>		<u>Number of shares and % of voting rights post-amalgamation as on 31.03.2019</u>	
	<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>
Promoter and Promoter Group	41,17,199	74.72	41,17,199	74.72
Public	13,92,877	25.28	13,92,877	25.28
TOTAL	55,100,76	100	55,100,76	100

This is for your information, records.

Yours Sincerely

For APIS India Limited

AMIT

ANAND

Amit Anand

(Managing Director)

DIN: 00951321

Investor email: mail@apisindia.com

Encl: a/a

Vikas Agarwal

From: Anil Kumar <courtofficerb5-nd@nclt.gov.in>
Sent: 23 January 2023 16:04
To: vikas cs; sushrut1910@gmail.com; kunalsharmalawyer@gmail.com;
khanzehra@gmail.com; aryabobby9540@gmail.com
Subject: Compliance order APIS Natural Products Pvt Ltd V/s Modern Herbals Pvt Ltd in CP-CAA/26/ND/2022
Attachments: 2. APIS Natural Products.pdf

Sir,

I am directed to attached herewith a copy of order dated 16.01.2023 passed by NCLT New Delhi Bench of Court No. 5 in the matter of APIS Natural Products Pvt Ltd V/s Modern Herbals Pvt Ltd in CP-CAA/26/ND/2022 for your information and necessary compliance.

It is, further requested, if you want to obtain a certified copy of order free of cost, may apply to NCLT within 7 days.

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Thanks and regards

Anil Kumar
For Court Officer
NCLT New Delhi Bench
Court-V,



FREE OF COST COPY

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI
BENCH-V

C.P.(CAA)/26/(ND)2022

IN

C.A.(CAA)/67/(ND)2020

(Under Section 230-232 of the Companies Act, 2013 read with read with the Company (Compromises, Arrangements and Amalgamations) Rules, 2016)

In the Matter of Scheme of Arrangement

1. APIS NATURAL PRODUCTS PRIVATE LIMITED

(CIN:U15139PB1997PTC020686)

Registered Office: Village Bhoglanear, New Grain Market,
Rajpura Town, District Patiala, Punjab 140401.

**...Transferor Company /
Petitioner Company-1**

AND

2. MODERN HERBALS PRIVATE LIMITED

(CIN:U24239DL2000PTC103411)

Registered Office: 18/32, East Patel Nagar
New Delhi- 110008

**... Transferor Company /
Petitioner Company-**

WITH

3.APIS INDIA LIMITED

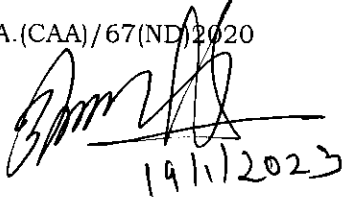
(CIN- L51900DL1983PLC164048)

Registered office:18/32, East Patel Nagar,
New Delhi 110008.

**... Resulting Company/
Petitioner Company**

Coram:

C.P.(CAA)/26(ND)2022
IN
C.A.(CAA)/67(ND)2020


19/1/2023



JUSTICE TELAPROLU RAJANI, HON'BLE MEMBER (JUDICIAL)
SHRI RAHUL BHATNAGAR, HON'BLE MEMBER (TECHNICAL)

**Counsel for PCA Abhishek Nahta along with Adv
Petitioner/Applicant:** Rishabh Sachdeva, Advocate
Counsel for RD Ms. Swechcha Mishra, Advocate
Counsel for OL Ms. Hemlata Rawat, Advocate
Counsel for Income Tax Department Mr. Kunal Sharma & Ms. Zehra Khan,
Advocates.

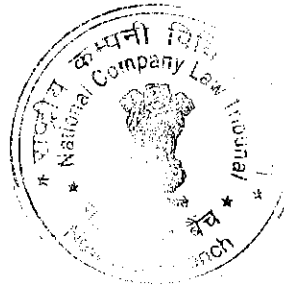
ORDER

PER:SH. RAHUL BHATNAGAR, MEMBER (TECHNICAL)

Date:16.01.2023

1.This petition has been filed jointly by M/s. APIS Natural Products Private Limited ('Petitioner No.1 Company') and M/s. Modern Herbals Private Limited ('Petitioner No.2 Company') with M/s. APIS India Limited ('Petitioner No.3 Company') under Sections 230 to 232 of the Companies Act, 2013 read with the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, and the National Company Law Tribunal Rules, 2016, for the purpose of the approval of the proposed Scheme of Amalgamation between APIS Natural Products Private Limited and

C.P.(CAA)/26(ND)2022
IN
C.A.(CAA)/67(ND)2020

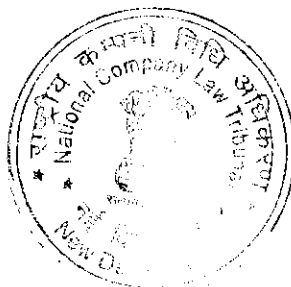


Modern Herbals Private Limited (Transferor Company No. 1 and Transferor Company No. 2' respectively) with APIS India Limited (Transferee Company). The copy of the Scheme of Amalgamation (hereinafter referred as the "Scheme"), has been placed on record.

2.The Transferor Company No. 1 i.e., M/s. Apis Natural Products Private Limited (CIN:U15139PB1997PTC020686) was incorporated under the provisions of the Companies Act, 1956 on 18.11.1997, presently having its registered office situated at Village Bhoglan near New Grain Market, Rajpura Town, District Patiala, Punjab 140401. The registered office of the Transferor Company No.1 is situated in Punjab, however, the Hon'ble Principal Bench vide order dated 24.09.2019 has allowed the Transferor Company No.1 namely APIS Natural Products Private Limited to file a consolidated petition along with Transferor Company No.2 and Transferee Company in NCLT, Delhi.. Therefore, this Tribunal has jurisdiction with respect of Transferor Company No.1.

3.The Transferor Company 2 i.e., M/s. Modern Herbals Private Limited (CIN:U24239DL2000PTC103411)was incorporated under the provisions

C.P.(CAA)/26(ND)2022
IN
C.A.(CAA)/67(ND)2020



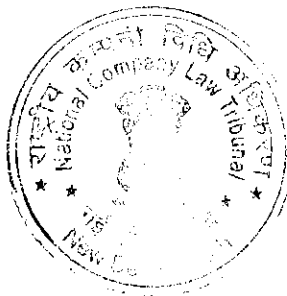
of the Companies Act, 1956 on 24.01.2000, presently having its registered office situated at 31/9, East Patel Nagar, New Delhi-110008. The registered office of the Transferor Company-2 is under the jurisdiction of this Tribunal.

4.The Transferee Company i.e., M/s. APIS INDIA LIMITED(CIN-L51900DL1983PLC164048) was incorporated under the provisions of the Companies Act,1956 on 22.03.1983, presently having its registered office situated at 18/32, East Patel Nagar, New Delhi 110008. The registered office of the Transferee Company is under the jurisdiction of this Tribunal.

5.The Petitioner Companies submit that the proposed scheme of amalgamation of the Transferor Company No.1 and Transferor Company No.2 with Transferee Company would have the following benefits: -

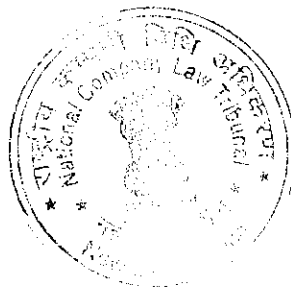
a. This Comprehensive Scheme of Amalgamation (hereinafter called the Scheme') has been propounded under Sections 230 to 232 read with Section 66 and other relevant provisions of the Companies Act, 2013, for the amalgamation of APIS Natural and

C.P.(CAA)/26(ND)2022
IN
C.A.(CAA)/67(ND)2020



Modern Herbals with APIS India and for matters consequential, supplemental and/or otherwise integrally connected therewith.

- b. This Comprehensive Scheme of Amalgamation has been envisaged to consolidate the operations of the group. Both the Amalgamating Companies i.e. APIS Natural and Modern Herbals hold shares in APIS India and constitute the Promoter Group of APIS India. APIS Natural holds 59,220 equity shares, constituting 1.07% of the paid-up equity share capital and Modern Herbals holds 1,43,820 equity shares, constituting 2.61% of paid-up equity share capital. Pursuant to the proposed amalgamation of APIS Natural and Modern Herbals with APIS India, the consolidated assets and funds would vest in a single entity.
- c. The amalgamation would help the management to achieve greater integration and better financial strength. It would have greater efficiency in cash management, unfettered access to cash flow generated by the combined businesses which can be deployed more efficiently to fund organic and inorganic growth opportunities. This amalgamation would not only lead to simplification of the shareholding structure and reduction of shareholding tiers but also demonstrate the promoter group's direct commitment to and engagement with APIS India. There would be no change in the promoter shareholding of APIS India. The promoters would continue to hold the same percentage of shares in APIS India, pre and post the amalgamation of APIS Natural and Modern Herbals with APIS India.
- d. All costs, charges, taxes including duties, levies and all other expenses, if any, arising out of or incurred in connection with and for implementing this Scheme and matters incidental thereto shall be borne by the Promoters and/or APIS Natural and Modern Herbals. No cost, charges, taxes pertaining to the Scheme shall be borne by APIS India. Further, the Scheme also provides that Promoters shall indemnify APIS India and keep



APIS India indemnified for any contingent liabilities and obligations including all demands, claims, suits, proceedings and the like which may be made or instituted by any third party(ies) including governmental authorities on APIS India and are directly relatable to APIS Natural and Modern Herbals or which may devolve on APIS India on account of this amalgamation.

6. The appointed date as fixed for the proposed scheme of Amalgamation means April 01, 2019 or such other date as may be directed by any appropriate authority being the date with effect from which this scheme shall be deemed to be effective.

7. A perusal of the petition discloses that the first motion application bearing CA (CAA)/67/ND/2020 was jointly filed by the Petitioner Companies. Based on the averments made in the said application the Tribunal vide order dated 22.12.2021, as modified by order dated 07.01.2022 had given the following directions:-

- i) With respect to the Transferor Company No.1, the requirement of convening the meeting of equity shareholders, secured creditors and unsecured creditors was dispensed with.
- ii) With respect to the Transferor Company No.2, the requirement of convening the meeting of equity shareholders, secured creditors and unsecured creditors was dispensed with.

C.P.(CAA)/26(ND)2022
IN
C.A.(CAA)/67(ND)2020



- iii) With respect to the Transferee Company, the requirement of convening the meeting of equity shareholders, preference shareholders and unsecured creditors was dispensed with. Further, the meeting of secured creditors of the Transferee company was directed to be convened for the purpose of considering and if thought fit, approving with or without modifications, the proposed scheme of amalgamation.
- iv) Further, the petitioner companies were directed to issue individual notices to the (i) Regional Director, Ministry of Corporate Affairs, (ii) Registrar of Companies, NCT of Delhi and Haryana, (iii) concerned income tax department, (iv) official liquidator and such other sectoral regulators who may have significant bearing on the operation of the company.

8. The Petitioner Companies have jointly filed an affidavit of compliance of all the directions of this Tribunal order dated 22.12.2021 as modified by order dated 07.01.2022 on 08.02.2022 in respect of notice of the meeting to the secured creditors of the transferee company, publication of notice of meeting dated 25.01.2022 and proof of service to the Regional Director, Ministry of Corporate Affairs, Registrar of Companies, NCT of Delhi and Haryana and the concerned income tax department.

C.P.(CAA)/26(ND)2022
IN
C.A.(CAA)/67(ND)2020



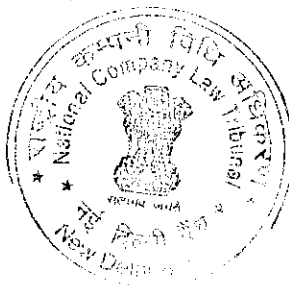
9. The chairman of the meeting of secured creditors of the Transferee Company, Mr. Rajeev Kumar, Advocate had filed chairperson report dated 25.02.2022 along with scrutinizer report for the meeting of secured creditors of transferee company held on 25.02.2022 at 11 a.m. through Video conferencing. In the report it is submitted that a total of 3(three) secured creditors had joined the meeting and had cast their respective votes through postal ballot wherein 100% of the secured creditors who had cast their valid votes, had voted in the favor of resolution of approving the proposed scheme of amalgamation.
10. The Petitioner Companies have filed affidavit of service and publication dated 18.05.2022 affirming that notice of hearing was duly advertised in "Rozana Spokesman"(Punjabi) and "Business Standard"(English) in Punjab Edition on 12.05.2022 where registered office of Transferor Company No.1 was situated. Further, the notice of hearing was duly advertised in "Business Standard"(English) and "Business Standard"(English) in Punjab on 06.04.2022 in New Delhi Edition where registered office of Transferor Company No.2 and Transferee Company were situated.

C.P.(CAA)/26(ND)2022
IN
C.A.(CAA)/67(ND)2020

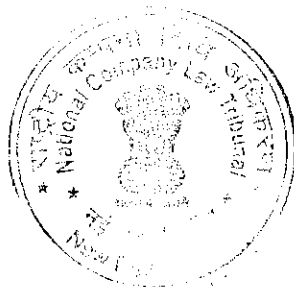


11. Pursuant to the Publication in the daily newspapers, for listing of the matter before this Bench, no objector has appeared before us.
12. Pursuant to the notice issued, Regional Director and Official Liquidator and concerned Income Tax Department have filed their respective report and participated in the proceedings.
13. The Regional Director, Northern Region, Ministry of Corporate Affairs has filed its report dated 19.07.2022 wherein the following objections were raised by the Regional Director, Northern Region, Ministry of Corporate Affairs. The petitioner companies had filed supplementary affidavit dated 20.07.2022 in response to the observations of the Regional Director and the same are summarized herein below:-

Ob ser vat ion	Observations of RD vide report dated 19.07.2022	Reply on Behalf of Petitioner Companies vide affidavit dated 20.07.2022
11(a)	As per MCA General Circular No. 9/2019 dated 21.08.2019, if the appointed date is significantly ante-dated beyond a Year from the date of filing, the justification for the same would have to be specifically brought out in the scheme and	It is submitted that the Appointed Date as contemplated in the Scheme is in compliance with the requirements of circular no. 9/2019 dated 21.08.2019 issued by the Ministry of Corporate Affairs. As per the aforesaid Circular, where the 'appointed



	<p>it should not be against public interest. In this case, the appointed date is 01.04.2019. However, the justification of the same being significantly antedated in terms of the above circular is not clearly brought out.</p>	<p>date' is chosen as a specific calendar date, it cannot precede the date of filing of the application for scheme of merger amalgamation in NCLT by more than an year. The first motion application was filed by the Petitioner Companies before the Tribunal, New Delhi bench, on 13 March, 2020, and therefore, the proposed Appointed Date of 1 April, 2019 is not antedated.</p>
<p>11 (b)</p>	<p>As per the financial statement for F.Y.2019-20 & 20-21, the Transferor Company-1 has the quantum of investment which is more than the 50% of the total assets of the company. Also, income from the financial assets is more than 50% of the total income. Therefore, it appears that the Transferor Company-1 is operating as NBFC, however, it is not registered as NBFC with the RBI.</p>	<p>It is submitted that to qualify as an NBFC, a company's financial assets should constitute more than 50 per cent of the total assets and income from financial assets should constitute more than 50 per cent of the gross income (Principal Business Criteria test). The Transferor Company 1 has investments, intangible assets, cash in hand & bank balances, as well as Fixed Deposits as on 31 March, 2020 and 31 March, 2021.</p> <p>As per RBI notification no. RBI/2011-12/446 dated 15 March 2012, investments in fixed deposits are not treated as a financial asset as it not an activity mentioned in the definition of a financial institution. Accordingly, fixed deposits have not been considered as financial assets in the above working. Following the same principle, cash and bank balances are not considered as a</p>



		<p>financial asset as they are maintained for the day to day operations of the company and do not comprise of any investment activity. Further, Transferor Company I only holds investments in APIS India Limited (Transferee Company), which is a group company as Transferor Company 1 is a disclosed promoter of APIS India Limited. Therefore, even if Transferor Company 1 is construed as a financial company, it would be in the nature of a Core Investment Company since it only holds investments in group company, and does not hold any market investment.</p>
<p>c)</p>	<p>As per the financial statement for F.Y.2019-20 &20-21, the Transferor Company-2 has the quantum of investment which is more than the 50% of the total assets of the company. Also, income from the financial assets is more than 50% of the total income. Therefore, it appears that the Transferor Company-2 is operating as NBFC, however, it is not registered as NBFC with the RBI.</p>	<p>It is submitted that to qualify as an NBFC, a company's financial assets should constitute more than 50 per cent of the total assets and income from financial assets should constitute more than 50 per cent of the gross income (Principal Business Criteria test). Transferor Company 2 has investments, loans and advances, tangible assets, cash in hand & bank balances, as well as Fixed Deposits as on 31 March, 2020 and 31 March, 2021. As per RBI notification no. RBI/2011-12/446 dated 15 March 2012, investments in fixed deposits are not treated as a financial assets</p>



		<p>as it not an activity mentioned in the definition of a financial institution. Accordingly, fixed deposits have not been considered as financial assets in the above working. Following the same principle, cash and bank balances are not considered as a financial asset as they are maintained for the day to day operations of the company and do not comprise of any investment activity. Further, Transferor Company 2 only holds investments in APIS India Limited (Transferee Company), which is a group company as Transferor Company 2 is a disclosed promoter of AP (S India Limited. Therefore, even if Transferor Company 2 is construed as a financial company, it would be in the nature of a Core Investment Company since it only holds investments in group company, and does not hold any market investment.</p>
d	<p>As per the balance sheet of the as on 31.03.2021, secured loan of the transferee company is amounting to Rs. 693.78 lacs. However, as per the charges detail in the MCA-21 portal secured loan as on 31.03.2021 is amounting to Rs.9167.16 lacs. The applicant may be asked to clarify the same.</p>	<p>It is submitted that the total amount of loan sanctioned for the Transferee Company as on 31 March, 2021 is INR 9167.16 Lacs, as appearing in the charges details on MCA-21 portal. Out of the said sanctioned limit, loan of INR 693.78 Lacs has been availed by the Transferee Company, which has been duly disclosed in the financial statements as at 31.03.2021.</p>



e)	As per the record available with the MCA-21 portal, Transferor Company-1 is showing Rs. 6900.00 Lacs as corporate Guarantee. However, no details of such corporate guarantee is disclosed in the financial statements as at 31.03.2021. The applicant may be asked to clarify the same.	It is submitted that as per Accounting Standard 29 (Provisions, Contingent Liabilities and Contingent Assets), a contingent liability, i.e. the corporate guarantee, is not required to be disclosed in the financials if the possibility of invocation of the corporate guarantee is remote.
f)	As per the record available with the MCA-21 portal, Transferor Company-2 is showing Rs. 6900.00 Lacs as corporate guarantee. However, no details of such corporate guarantee is disclosed in the financial statements as at 31.03.2021. The applicant may be asked to clarify the same.	Accordingly, corporate guarantee amounting to INR 6900 Lacs has not been disclosed in the financials of Transferor Company No. 1 and Transferor Company No. 2 since no outflow of resources of Transferor Company No. 1 and Transferor Company No. 2 is anticipated in near future because the corporate guarantee is a secondary guarantee provided by the promoter companies in respect of the loan taken by the Transferee Company. The primary guarantee is the stock of the company and its other fixed assets, such as land & building, plant & machinery, etc. Further, it is submitted that Transferor Company No.1 and Transferor Company No. 2 are closely held promoter companies in which there is no public shareholding, therefore, non-disclosure of the aforesaid corporate guarantee entails no harm to the public. Further, as mentioned in fifth and sixth point in para 11 of the



		Report of the Regional Director, the companies have duly submitted details of such corporate guarantee with MCA and is available on the MCA-21 portal.
g)	The Transferee company may kindly be directed to comply with the provisions of Section 232(3)(I) of the Companies Act, 2013 in regard to fee payable of its revised Authorized Share Capital.	It is submitted that the Transferee Company shall comply with the provisions of Section 232(3)(i) of the Companies Act 2013 and the fees, if any, paid by the Transferor Companies on its authorised capital shall be set-off against any fees payable by the Transferee Company on its authorised capital subsequent to the amalgamation.

14. From the perusal of the above submissions of Regional director and the clarifications and undertaking given by the petitioner companies and on hearing the parties, we are satisfied that the observations of the Regional Director raised in its report dated 19.07.2022 were satisfactorily answered by the Petitioner Companies.

15. The Income Tax Department has submitted its report dated 14.09.2022 wherein it was submitted that certain demands against the petitioner companies were pending. Further, it was submitted that the income tax

C.P.(CAA)/26(ND)2022
IN
C.A.(CAA)/67(ND)2020

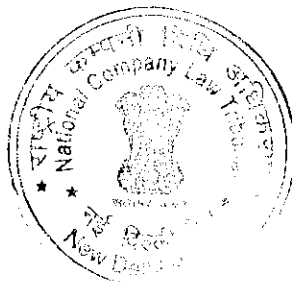


department has no objections to the proposed scheme of amalgamation being approved by this Tribunal, subject to the extant demand is paid.

16. The Official Liquidator, Delhi High Court has filed its report dated 26.05.2022, wherein no specific objection has been raised against the approval of the Scheme. It has been submitted in the report that the Official Liquidator has not received any complaint against the proposed Scheme from any shareholders, unsecured creditors or other stakeholders interested in the Scheme in any manner and that the affairs of the Transferor company No.2 do not appear to have been conducted in a manner prejudicial to the interest of its members or to the public interest under the provisions of the Companies Act, 1956/ Companies Act, 2013.

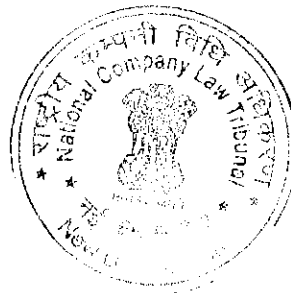
17. The Official Liquidator, High Court of Punjab and Haryana has filed its report dated 23.05.2022, wherein no specific objection has been raised against the approval of the Scheme, however, certain observations which are of factual nature are raised in the report. On a perusal of the Official Liquidator, High Court of Punjab and Haryana report dated 23.05.2022, it seems that the operative part of the schemes were noted in the report for the consideration of this Tribunal, which were considered by this Tribunal.

C.P.(CAA)/26(ND)2022
IN
C.A.(CAA)/67(ND)2020



18. The Petitioner Companies in compliance of this Tribunal's order dated 01.07.2022, had filed a joint affidavit dated 08.07.2022 wherein all the petitioner companies had filed their respective last three year's Income Tax Return (ITR) i.e., A.Y. 19-20, A.Y. 20-21 and A.Y. 2021-22. Further, the Petitioner Company No.3/ Transferee Company undertakes that the tax liability if any, that may arise on account of pending demands on the Petitioner Companies, as per the order of the Income Tax Authority either of the Transferor Company No.1, Transferor Company No.2 or Transferee Company shall be borne and paid by the Transferee Company/Petitioner Company No.3 after the approval of the proposed scheme of amalgamation.
19. Considering the submissions of the Petitioner Companies and further, the undertakings of the Petitioner Company No.3 with respect to the payment of all the income tax dues of the Petitioner Companies, we find no impediment in approving the present scheme of amalgamation.
20. In this petition it has also been affirmed that no proceeding for inspection, inquiry or investigation under the provisions of the Companies Act, 2013 or under provisions of Companies Act, 1956 is pending against the Petitioner Companies.

C.P.(CAA)/26(ND)2022
IN
C.A.(CAA)/67(ND)2020



21. Certificates of Statutory auditor of the petitioner company, has been placed on record, to the effect that Accounting Treatment proposed in the Scheme of Amalgamation is in conformity with the Accounting Standard notified by the Central Government as specified under the provisions of Section 133 of the Companies Act, 2013 read with Rule 7 of the Companies Accounts Rules, 2014 and Companies (Accounting Standards) Amendment Rules, 2016, and other generally accepted accounting principles in accordance with the Companies Act, 2013, as applicable.
22. The shareholders of the petitioner companies are the best judges of their interest, fully conversant with market trends, and therefore, their decision should not be interfered with by the Tribunal for the reason that it is not a part of the judicial function to examine entrepreneurial activities and their commercial decisions. It is well settled that the Tribunal evaluating the Scheme, of which sanction is sought under Section 230-232 of the Companies Act of 2013, will not ordinarily interfere with the corporate decisions of companies approved by shareholders and creditors.
23. It has also been affirmed in the petition that the Scheme is in the interest of both the Petitioner Companies, including their shareholders, creditors,

C.P.(CAA)/26(ND)2022
IN
C.A.(CAA)/67(ND)2020

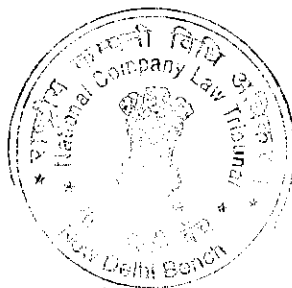


employees and all concerned. In view of the foregoing, upon considering the approval accorded by the members and creditors of the Petitioner companies to the proposed Scheme, there appears to be no impediment in sanctioning the present Scheme.

24. Consequently, sanction is hereby granted to the Scheme under Section 230 to 232 of the Companies Act, 2013.

- (i) The Petitioners shall however remain bound to comply with the statutory requirements in accordance with the law.
- (ii) Notwithstanding the above, if there is any deficiency found or, violation committed, qua any enactment, statutory rule or regulation, the sanction granted by this court to the scheme will not come in the way of action being taken in accordance with the law, against the concerned persons, directors and officials of the petitioners.
- (iii) While approving the Scheme as above, we further clarify that this order should not be construed as an order in any way granting exemption from payment of stamp duty, taxes or any other charges if any, and payment in accordance with law or in respect to any permission/compliance with any other requirement which may be specifically required under any law.
- (iv) The appointment date as proposed in the Scheme of Arrangement i.e., April 01, 2019 by the petitioner company is confirmed by this Tribunal.

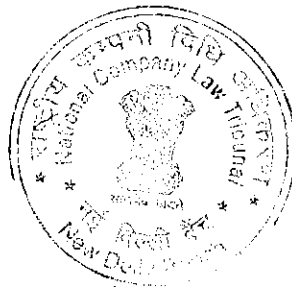
C.P.(CAA)/26(ND)2022
IN
C.A.(CAA)/67(ND)2020



25. This Tribunal do further order:-

- a) That the Transferor Companies shall stand dissolved without following the process of winding-up; and
- b) That all the property, rights and powers of all the Transferor Companies, be transferred without further act or deed, to the transferee company and accordingly the same shall, pursuant to Section 232 of the Companies Act, 2013, be transferred to and vest in the transferee company; and
- c) That all the liabilities and duties of all the Transferor Companies, be transferred without further act or deed, to the transferee company and accordingly the same shall, pursuant to Section 232 of the Act, be transferred to and become the liabilities and duties of the transferee company; and
- d) That all proceedings now pending by or against the Transferor Companies, be continued by or against the transferee company; and
- e) That all the employees of the Transferor Companies in service, on the date immediately preceding the date on which the scheme takes effect, i.e. the effective date, shall become the employees of the transferee company on such date, without any break or interruption in service and upon terms and condition not less favorable than those subsisting in the concerned Transferor Companies on the said date; and
- f) That Petitioner companies shall, within thirty days of the date of the receipt of this order, cause a certified copy of this order to be

C.P.(CAA)/26(ND)2022
IN
C.A.(CAA)/67(ND)2020



delivered to the Registrar of Companies for registration and on such certified copy being so delivered all the Transferor Companies shall be dissolved and the Registrar of Companies shall place all documents relating to all the Transferor Companies registered with him on the file, kept by him in relation to the transferee company and the files relating to all the petitioner companies shall be consolidated accordingly; and

- g) That any person interested shall be at liberty to apply to the Tribunal in the above matter for any directions that may be necessary.

30. The petition stands disposed of in the above terms.

Let copy of the order be served to the parties.

Sd/-

(SHRI RAHUL BHATNAGAR)
MEMBER (T)

Sd/-

(JUSTICE TELAPROLU RAJANI)
MEMBER (J)



C.P.(CAA)/26(ND)2022
IN
C.A.(CAA)/67(ND)2020

Rahul
79/01/2023
SECRETARY
NCLT
NEW DELHI