



BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH -II
KOLKATA

C.A. (CAA) NO. 110/KB/2022

In the matter of:

An application under section 230-232 of the Companies Act, 2013 read with Rule 15 Companies (Compromise, Arrangement and Amalgamation) Rules, 2016.

And

In the matter of:

Tata Coffee Limited, a company incorporated under the provisions of Companies Act, 1913, and having registered office at Pollibetta, Kodagu, Karnataka- 571215.

...Transferor Company/Demerged Company

And

In the matter of:

TCPL Beverages & Foods Limited, a company incorporated under the provisions of Companies Act, 2013 and having its registered office at Kirloskar Business Park, Block C, 3rd and 4th Floor, New Airport Road, Hebbal, Bangalore, Karnataka – 560024.

...Resulting Company No. 1

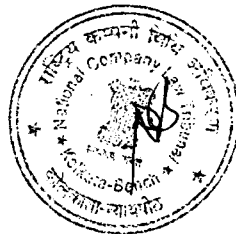
And

In the matter of:

Tata Consumer Products Limited, a company incorporated under the provisions of Companies Act, 1956 and having its registered office at 1, Bishop Lefroy Road Kolkata - 700020, West Bengal.

...Resulting Company No. 2/Transferee Company

And



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Tata Consumer Products Ltd.
C.A. (CAA) NO. 110/KB/2022

In the matter of:

1. Tata Coffee Limited ... Transferor Company/Demerged Company
2. TCPL Beverages & Foods Limited ... Resulting Company No. 1
3. Tata Consumer Products Limited ... Resulting Company No. 2/
Transferee Company/
Applicant Company

Coram:

Shri Rohit Kapoor, Member (Judicial)

Shri Satya Ranjan Prasad, Member (Technical)

For the applicant:

1. Mr. Sharan A Kukreja, Advocate
2. Mr. Souvik Mazumdar, Advocate
3. Mr. Sourojit Dasgupta, Advocate

Date of Hearing: 18/08/2022

Date of Pronouncement: 07/09/2022

ORDER

Per: Rohit Kapoor, Member (Judicial)

1. This is an application (“**Company Application**”) filed by Tata Consumer Products Limited (hereinafter referred to as “**Applicant Company**”) under Sections 230 to 232 of the Companies Act, 2013 read with relevant rules, with the object of ultimately obtaining sanction of this Tribunal to the proposed Composite Scheme of Arrangement (hereinafter referred to as the “**Scheme**”) whereby the Plantation Business (as defined in the Scheme) of the Transferor Company, i.e., Tata Coffee Limited (hereinafter referred to as “**TCL**”) will be demerged into Resulting Company No. 1, i.e., TCPL Beverages & Foods Limited (hereinafter referred to as “**TBFL**”), followed by the amalgamation of the Remaining Business (as defined in the Scheme) of TCL with the Applicant Company. A copy of





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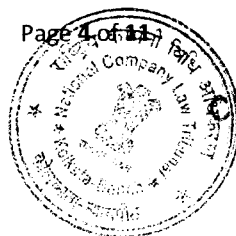
- the Scheme has been annexed with the Company Application and marked as **Annexure A**.
2. It is stated in the Company Application that the Applicant Company is engaged in the business of manufacturing, marketing, distribution and/ or sales of consumer products, with offerings across food and beverage categories which includes tea, coffee, water and ready-to-drink beverages, salt, pulses, spices and ready-to-eat products and is also engaged in the business of out-of-home retail which includes concept and premium cafes.
 3. TCL is presently engaged in the plantation business of cultivation, curing and processing of coffee, tea, pepper, and allied plantation products and in manufacture and sale of instant, soluble coffee powders and branded coffee products.
 4. The main objects of TBFL include, *inter alia*, to carry on the business of manufacturing, trading, producing, cultivating and selling beverages and foods of all kind and of cultivating coffee, tea, etc.
 5. It is further stated that the equity shares of the Applicant Company are listed on National Stock Exchange of India Limited (“NSE”), BSE Limited (“BSE”) and the Calcutta Stock Exchange Limited (“CSE”) and its global depository receipts are listed on the London Stock Exchange and the Luxembourg Stock Exchange.
 6. It is further stated in the Company Application that the benefits of the said Scheme are, *inter alia*, as follows:
 - a. Dedicated and specialized management focus on the specific needs of the respective businesses;
 - b. Having one listed company for consumer and related businesses and convergence of minority interests from TCL into the Applicant Company;



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- c. Benefit to all the stakeholders of TCL, the Applicant Company and TBFL, leading to opportunity for growth and value creation in the long run and maximizing the value and returns to the shareholders; and
- d. Unified approach on customer engagement, distribution and supply chain management would lead to operational and financial efficiencies in all these functions.
7. It is stated that the said Scheme provides for:
- a. as a first step, the demerger of the Demerged Undertaking (as defined in the Scheme) (comprising of the Plantation Business (as defined in the Scheme)) of TCL into TBFL and in consideration, the consequent issuance of equity shares by the Applicant Company (as the holding company of TBFL) to all the shareholders of TCL (other than the Applicant Company) in accordance with the Share Entitlement Ratio (as defined in the Scheme), pursuant to the provisions of Section 2(19AA) read with Section 2(41A) and other relevant provisions of the Income Tax Act, 1961;
- b. as a second step, followed immediately by the amalgamation of Remaining Business (as defined in the Scheme) of TCL with the Applicant Company and in consideration, the consequent issuance of equity shares by the Applicant Company to all the shareholders of TCL (other than the Applicant Company) in accordance with the Share Exchange Ratio (as defined in the Scheme), pursuant to the provisions of Section 2(1B) and other relevant provisions of the Income Tax Act, 1961; and
- c. various other matters consequential or otherwise integrally connected therewith;
8. It is further stated that the Board of Directors of the Applicant Company, TCL and TBFL, at their respective board meetings, held on March 29, 2022, have passed their respective resolutions approving the draft Scheme,



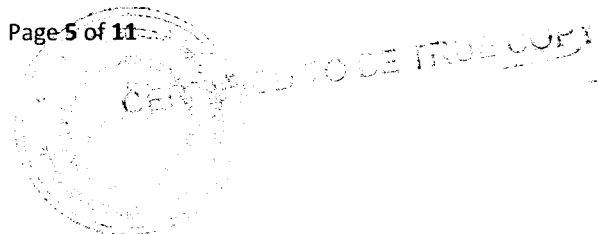
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- subject to the approval of regulatory authorities and this Tribunal. Copies of the board resolutions of the Applicant Company, TCL and TBFL, dated March 29, 2022, are annexed with the Company Application and marked as **Annexures B, S and AB**, respectively.
9. It is further submitted that a similar first motion petition has been filed before the Bengaluru Bench of this Tribunal for the dispensation/convening of meetings of shareholders and creditors of TCL and TBFL in light of their registered offices being situated within the territorial jurisdiction of the Bengaluru Bench of this Tribunal.
10. It is further stated that the said Scheme is in no manner prejudicial to the interest of the secured and the unsecured creditors of the Applicant Company. Neither is any compromise proposed with any of the secured or unsecured creditors of the Applicant Company nor is there any liability of the said secured or unsecured creditors of the Applicant Company that is proposed to be reduced or extinguished. It is further stated that the said Scheme does not contemplate any variation in the rights of the secured and unsecured creditors of the Applicant Company in any manner whatsoever.
11. It is further stated that the certificate issued by the chartered accountants regarding the details of pending investigations in relation to the Applicant Company under the Companies Act, 2013, is annexed with the Company Application and marked as **Annexure AR**.
12. It is further stated that the report dated March 29, 2022 determining the Share Entitlement Ratio and the Share Exchange Ratio, which shall be issued and allotted to the equity shareholders of TCL by the Applicant Company for implementation of the terms of the said Scheme, has been issued jointly by independent chartered accountants, namely, SSPA & Co., Independent Chartered Accountants &, Registered Valuer and PwC Business Consulting Services LLP, Registered Valuers, and such





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recommendations have been accepted by the board of directors of the respective companies. The report is annexed with the Company Application and marked as **Annexure AE**. An addendum dated April 27, 2022 to the aforesaid valuation report was also provided and the same has been annexed with the Company Application and marked as **Annexure AF**.

13. It is further stated that a fairness opinion dated March 29, 2022 has been issued to the Applicant Company by Kotak Mahindra Capital Company Limited, a SEBI Registered Category I Merchant Banker with regards to the Share Entitlement Ratio and the Share Exchange Ratio. The fairness opinion is annexed with the Company Application and marked as **Annexure AG**.

14. It is further stated that the statutory auditor of the Applicant Company has certified that the accounting treatment proposed in the said Scheme is in conformity with the accounting standards prescribed under Section 133 of the Companies Act, 2013. The certificate issued by the statutory auditor dated March 29, 2022, is annexed with the Company Application and marked as **Annexure AJ**.

15. It is stated in the Company Application that the Applicant Company has 8,24,844 (Eight Lakh Twenty-Four Thousand Eight Hundred and Forty-Four) equity shareholders as on March 31, 2022. The certificates of chartered accountant of the Applicant Company which provides its shareholding pattern is annexed with the Company Application and marked as **Annexures G**.

16. It is stated that the Applicant Company has no secured creditors. The certificate of chartered accountant stating that the number of secured creditors of the Applicant Company is NIL, is annexed with the Company



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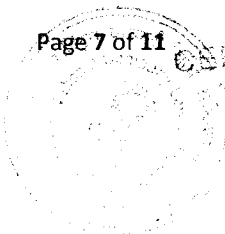


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Application and marked as **Annexure H**. The Applicant Company has 1,470 (One Thousand, Four Hundred and Seventy) unsecured creditors as on March 31, 2022. The certificate of chartered accountant of the Applicant Company regarding the unsecured creditors and the consent affidavits from 247 (Two Hundred and Forty Seven) unsecured creditors constituting 92.30% in value, are annexed with the Company Application and marked as **Annexures "I" and "J-1" to "J-247"**, respectively.

17. The Ld. Counsel for the Applicant Company submits that it is necessary for convening the meeting of the equity shareholders of the Applicant Company to seek their approval to the Scheme and moreover, the Applicant Company is a listed company. In view of the continued impact of COVID-19, the said meeting may be conducted through video conferencing or other audio- visual means as allowed by the Ministry of Corporate Affairs.
18. The Ld. Counsel for the Applicant Company further submits that that the convening and holding of the meetings of the secured and unsecured creditors of the Applicant Company, may be dispensed with, in view of (a) there being no secured creditors of Applicant Company, and (b) the affidavits of consent from the unsecured creditors of the Applicant Company constituting 92.30% in value, approving the Scheme, having been obtained. The Ld. Counsel for the Applicant Company further submits that the present Scheme is in no manner prejudicial to the interests of the shareholders and creditors of the Applicant Company (as averred in paragraph 45 of the Company Application).
19. Heard the Ld. Counsels appearing for the Applicant Company and having perused the Company Application along with the documents annexed to the same including the said Scheme, the following orders are passed herein:





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- a. In view of there being no secured creditors of the Applicant Company, the dispensation of the meeting of the secured creditors of the Applicant Company does not arise.
- b. In view of 247 unsecured creditors of the Applicant Company constituting 92.30% in value having provided their consent to the Scheme, the meeting of the unsecured creditors of the Applicant Company is hereby dispensed with.
- c. In view of the fact that no consent affidavits have been filed by the equity shareholders of the Applicant Company, a separate meeting of the equity shareholders of the Applicant Company shall be convened on 13 October, 2022 and shall be conducted through video-conference/other audio visual means. The approval of the shareholders for the proposed Scheme may be sought through remote e-voting facility.
- d. **Mr. Shaunak Mitra, Mobile No 7001019808**, is hereby appointed by this Tribunal as the Chairperson for the meeting of the shareholders of Applicant Company. That the Chairperson shall be paid a consolidated remuneration of Rs. 1,00,000/- (Rupees One Lakh only).
- e. **Ms. Neha Somani, Mobile No. 9051441471**, is hereby appointed by this Tribunal as the Scrutinizer for the meeting of the shareholders of Applicant Company. That the scrutinizer shall be paid a consolidated remuneration of Rs. 75,000/- (Rupees Seventy Five Thousand only).
- f. That the quorum for the meeting of the shareholders shall be 1000 equity shareholders. If the quorum is not present within 30 (Thirty) minutes of the meeting, then the equity shareholders present shall



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constitute the quorum and the Chairperson appointed by this Tribunal shall proceed to conduct the meeting.

- g. That the Chairperson appointed by this Tribunal shall submit his report to the Tribunal within four weeks from the conclusion of the meetings.
- h. That at least 30 (Thirty) days before the date of the equity shareholders meetings, an advertisement convening the same and stating that copies of the said Scheme and the statement required to be furnished pursuant to Section 230 of the Companies Act, 2013 read with the Companies (Compromises, Arrangements and Amalgamation) Rules, 2016 can be obtained free of charge at the registered office of the Applicant Company, is to be published once in English newspaper “**Business Standard**” Kolkata Edition and once in Bengali newspaper “**Aajkal**” in Kolkata edition as per the requirements of Section 230 of the Companies Act, 2013 and Rule 7 of the Companies (Compromises, Arrangements and Amalgamation) Rules, 2016.
- i. That in addition, at least 30 (Thirty) days before the meetings to be held as aforesaid, a notice convening the said meetings mentioning therein the place (deemed venue being the registered office of the Applicant Company), date and time as aforesaid together with a copy of the said Scheme, the statement disclosing necessary details required to be sent under the Companies Act, 2013 read with the Companies (Compromises, Arrangements and Amalgamation) Rules, 2016 is to be sent by registered post or speed post or by email or by hand through special messenger or by courier addressed to each of the equity shareholders of the Applicant Company as per applicable rules at their respective last known addresses.





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j. The Applicant Company shall serve notice to the following authorities, viz.:

- i. Central Government, through Regional Director, Eastern Region, Ministry of Corporate Affairs, Kolkata;
- ii. Income Tax Department of the Office having jurisdiction over the Applicant Company;
- iii. Registrar of Companies, Kolkata, West Bengal;
- iv. Official Liquidator, High Court of Calcutta;
- v. Reserve Bank of India;
- vi. Securities and Exchange Board of India;
- vii. BSE Limited;
- viii. National Stock Exchange of India Limited;
- ix. The Calcutta Stock Exchange Limited;

by sending the same by hand delivery through special messenger or by registered post or speed post and by email within two weeks from the date of receiving this order. The notice shall specify that representation, if any, should be filed before this Tribunal within 30 (thirty) days from the date of receipt of the notice with a copy of such representation being simultaneously sent to the advocates of the said Applicant Company. If no such representation is received by the Tribunal within such period, it shall be presumed that such authorities have no representation to make on the said Scheme. Such notice shall be sent pursuant to Section 230(5) of the Companies Act, 2013 read with Rule 8(2) of the Companies (Compromises, Arrangements and Amalgamations) Rules 2016 in Form No. CAA3 of the said Rules with necessary variations, incorporating the directions herein.





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k. If consent affidavits / letters of the members annexed with the Company Application are found to be false / dubious at any stage, then necessary action for committing fraud under Section 447 and 448 of the Companies Act, 2013 shall be initiated against the Applicant Company and all its directors for punishment under Section 449 of the Companies Act , 2013.


20. The Company Application being CA (CAA) No. 110/KB/2022 is disposed of accordingly.

21. Connected company petition be filed within a period of four weeks from the date of filing of the report of the Chairperson on the equity shareholders meeting held.

22. There shall be no order as to costs.

23. Urgent certified copy of this order, if applied for, be issued upon compliance with all requisite formalities.


Satya Ranjan Prasad
Member (Technical)

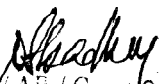

Rohit Kapoor
Member (Judicial)

Order signed on the 07th day of September 2022.

Zia

No. 1061/2022
Date of Presentation
of application for Copy. 09/09/2022
No. of Pages. Eleven pages
Copying Fee. 5/-
Registration & Postage Fee. 0
Total ₹. 5/-
Date of Receipt of
Record of Copy. 12/09/2022
Date of Preparation of Copy. 12/09/2022
Date of Deliver of Copy. 12/09/2022

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