

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL  
SPECIAL BENCH**

**Coram: SHRI R. VARADHARAJAN, MEMBER (JUDICIAL)**

**SHRI S.K. MOHAPATRA, MEMBER (TECHNICAL)**

**CA (CAA)- 104/PB/2019**

**IN THE MATTER OF SECTIONS 230-232 OF THE COMPANIES ACT,  
2013**

**In the matter of:**

Sections 230-232 and other applicable provisions of the Companies Act, 2013 read with Companies (Compromises, Arrangements, and Arrangements) Rules, 2016.

**AND**

**In the matter of Scheme of Amalgamation**

**OF**

**DR. SHIKHAS NUTRI-HEALTH SYSTEMS PRIVATE LIMITED**

**(Transferor Company/Applicant Company-1)**

**WITH**

**NUTRIWEL HEALTH(INDIA) PRIVATE LIMITED.**

**(Transferee Company/ Applicant Company-2)**



**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL  
NEW DELHI BENCH III**

**Coram: SHRI R. VARADHARAJAN, MEMBER (JUDICIAL)  
SHRI S.K. MOHAPATRA, MEMBER (TECHNICAL)**

**CA (CAA)- 104/PB/2019**

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**(Transferor Company/Applicant Company-1)**

**WITH**

**NUTRIWEL HEALTH(INDIA) PRIVATE LIMITED.**

**(Transferee Company/ Applicant Company-2)**



**MEMO OF PARTIES**

DR. SHIKHAS NUTRI-HEALTH SYSTEMS PRIVATE LIMITED

[CIN: U74140DL2003PTC122625]

Company Incorporated under Companies Act, 1956

Having its registered office at:

FIRST FLOOR, PLOT NUMBER 227,

OKHLA INDUSTRIAL ESTATE, PHASE-III,

NEW DELHI- 110020

Through its authorized representative Director:

Dr. Shikha Nehru Sharma

..... TRANSFEROR COMPANY - (APPLICANT COMPANY-1)

NUTRIWEL HEALTH (INDIA) PRIVATE LIMITED

[CIN: U85190DL2009PTC188895]

Company Incorporated under Companies Act 1956

Having its registered office at:

FIRST FLOOR, PLOT NO. 227,

OKHLA INDUSTRIAL ESTATE, PHASE-III,

NEW DELHI-110020

Through its authorized representative and Director:

Dr. Shikha Nehru Sharma

...TRANSFEREE COMPANY - (APPLICANT COMPANY-2)

**For the Applicants: Mr. Mohit Chaurasia, Mr. Ashutosh Gupta,  
Mr. Gaurav Rana, Mr. Abhishek Aggarwal  
For [Mohit Chaurasia & Associates]  
(Advocates for the Applicants)**

SHIKHAS NUTRI HEALTH  
CA(CAA)-104 (PB)2019



## **ORDER**

**Delivered on: 29.07.2019**

1. This is an application filed by, Dr. Shikhas Nutri-Health Systems Private Limited (for brevity "Transferor Company"), jointly with Nutriwel Health (INDIA) Private Limited (for brevity "Transferee Company") jointly under section 230-232 of Companies Act, 2013, and its other applicable provisions read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 in relation to the Scheme of Arrangement by way of Amalgamation (hereinafter referred to as the "SCHEME" ) proposed between the applicants. The said Scheme is also annexed as Annexure "A-13" to the application. The applicants have preferred the instant application for the following purpose as is evident, inter alia, from the reliefs sought in the Application, namely:
  - a) To allow this application and approve and sanction the scheme of amalgamation proposed.
  - b) To pass directions as to dispensation of the meeting of the equity shareholders of the transferor company and the transferee company.



- c) To pass directions as to dispensation of the meeting of the unsecured creditors of the transferor company and the transferee company.
- d) To pass an order that in view of the prayers mentioned above, no notice for dispensing the meetings of the shareholders and creditors of the transferor company and the transferee company be published in English and hindi newspapers.
- e) Pass such other and further orders as this Hon'ble Tribunal may deem fit in the facts and circumstances of the case.

An affidavit in support of the above application sworn for and on behalf of the Transferor Company and for the Transferee Company by one Dr. Shikha Nehru Sharma has been filed, being a Director of the respective Companies along with the application and it is also represented that the registered offices of both the applicant companies are situated within the territorial jurisdiction of this Tribunal and falling within the domain of Registrar of Companies, NCT, New Delhi.

2. In relation to Dr Shikhas Nutri Health Systems Private Limited being the Transferor Company, in the Scheme marked as Annexure "A-13", it is represented that it has 2 Shareholders and all of them have given their consents by the way of affidavits in support of the scheme. It is further represented by the counsel for the Applicants that the Transferor



Company has 2 Unsecured Creditors and both of them have given their consents by the way of affidavits. It is also represented that the Transferor Company has no Secured Creditor as on 13.5.2019. In relation to the shareholders and unsecured creditors of the Transferor Company, it seeks for dispensing with holding of the meetings as consent has been placed on record in the form of affidavits and in respect of Secured Creditors, the transferor Company is having none and hence convening of meeting be dispensed with.

3. In relation to Nutriwel Health (INDIA) Private Limited being Transferee Company in the Scheme marked as Annexure "A-13", Learned Counsel represents that company is having 3 Shareholders. It is further represented by the counsel that the Transferee Company has "NIL" Secured and "4" Unsecured creditors, as on 13.5.2019. In relation to the shareholders, it seeks for dispensing with convening and holding of the meetings for the purpose of obtaining their approval to the proposed Scheme of Amalgamation in view of consent by way of affidavits having been obtained all of which also been placed on record. Similarly, in view of no Secured creditor and there being only four Unsecured Creditors who have also given their consent in the form of affidavit, their meetings be also dispensed with.

4. In relation to the territorial jurisdiction, Ld. Counsel for the applicant companies submit that since the registered office of the respective



companies fall within the purview of Registrar of Companies, NCT, New Delhi, and situated within Delhi, this Tribunal has the necessary territorial jurisdiction to entertain the joint application.

5. We have perused the joint application and the connected documents / papers filed therewith including the Scheme of Arrangement contemplated between the Applicant companies.
6. From the certificate of incorporation filed, it is evident that Transferor Company is a private limited company incorporated under the provisions of Companies Act, 1956 on 14.10.2003, with Registrar of Companies, New Delhi under the name and style of " Dr. Shikhas Nutri-Health Private Limited", with the Corporate Identity Number of the Transferor Company registered with the Registrar of Companies, NCT of Delhi & Haryana being U74140DL2003PTC122625.
7. The Authorized Share Capital of the Transferor Company is Rs. 15,00,000/- (Fifteen Lakhs Only) divided into 1,50,000 (One Lakh Fifty Thousand Only) Equity Shares of Rs.10/- (Rupees Ten only) each. The Paid-up Share Capital of the Transferor Company is Rs. 8,50,000/- (Rupees Eight Lakhs Fifty Thousand Only) divided into 85,000 (Eighty Five Thousand Only) Equity Shares of Rs.10/- (Rupees Ten only) each fully paid up.



8. From the certificate of incorporation filed, it is evident that the Transferee Company is a private limited company incorporated under the provisions of Companies Act, 2013 on 26<sup>th</sup> March 2009, vide CIN: U85190DL2009PTC188895 with Registrar of Companies, NCT of Delhi & Haryana under the name and style of " Nutriwel Health (India) Private Limited".
9. The Authorized Share Capital of the Transferee Company is Rs. 10,00,000/- (Rupees Ten Lakhs Only) divided into 1,00,000 (One Lakh only) equity Shares of Rs.10/- (Rupee Ten only) each and Rs 12,00,00,000(Rupees twelve crores only) divided into 1,20,00,000 (Rupees one crore Twenty Lakhs Only) compulsory convertible preference shares of Rs 10 each. The Paid-Up Share Capital of the Transferee Company as on date is Rs. 2,11,710/- (Rupees Two Lakh Eleven thousand Seven Hundred and Ten Only) divided into 21,171/- (Twenty One Thousand One Hundred and Seventy One Only) Equity Shares of Rs.10/- (Rupee Ten only) each fully paid up.
10. Both the applicants have filed their Memorandum and Articles of Association inter alia delineating their object clauses as well as their last available Audited Annual Accounts for the year ended 31.03.2019.
11. The Board of Directors of the Applicant companies vide meeting held on 22<sup>nd</sup> June 2019 respectively, have unanimously approved the proposed





Scheme of Amalgamation as contemplated above and copies of resolutions passed thereon have been placed on record by the companies.

12. The appointed date as specified in the Scheme is 1<sup>st</sup> April, 2019 subject to the directions of this Tribunal.

13. Taking into consideration the application filed jointly by the Applicant Companies and the documents filed therewith, this Tribunal propose to issue the following directions with respect to calling, convening and holding of the meetings of the Shareholders, Secured and Unsecured Creditors, or dispensing with the same as well as issue of notices including by way of paper publication as follows: -

**A) In relation to the Transferor Company:**

(i) With respect to shareholders:

Since it is represented by the Transferor Company that there are 2 shareholders in the Company whose consents by way of affidavits have been obtained and are placed on record, the necessity of convening and holding a meeting to consider and if thought fit, the approval of the scheme is dispensed with.

(ii) With respect to Secured Creditor:



Since it is represented by the Transferor Company that there is no Secured Creditor in the Company, the necessity of convening a meeting does not arise.

(iii) With respect to Unsecured Creditors:

Since it is represented by the Transferor Company that there are two Unsecured Creditors in the company, whose consents have been obtained by way of affidavits and are placed on record, the necessity of convening and holding a meeting to consider and if thought fit, the approval of the scheme is dispensed with.

**B) In relation to Transferee Company:**

(i) With respect to shareholders:

Since it is represented by the Transferee Company that there are 3 shareholders in the Company whose consents by way of affidavits have been obtained and are placed on record, the necessity of convening and holding a meeting to consider, the approval of the scheme is dispensed with.

(ii) With respect to Secured Creditor:

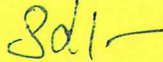


Since it is represented by the Transferee Company that there is no Secured Creditor in the Company, the necessity of convening a meeting does not arise.

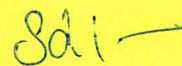
(iii) With respect to Unsecured Creditors:

Since it is represented by the Transferee Company that there are four Unsecured Creditors whose consent have been obtained and placed on record by the company, the necessity of convening a meeting does not arise.

The application stands allowed on the aforesaid terms. Let the petition for approval of the scheme of Amalgamation be filed within a period of seven days from the date of this order.

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(S.K. MOHAPATRA)  
MEMBER (TECHNICAL)

A handwritten signature in black ink, appearing to be 'Sd/-', is written over a yellow rectangular redaction box.

(R. VARADHARAJAN)  
MEMBER (JUDICIAL)

**U.D. Mehta/D**