

**NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI**

ORDER SHEET OF THE HEARING ON 17th MAY, 2024, 10:30 A.M.

CA (CAA)/1/GB/2024

**Present: 1. Hon'ble Member (Judicial), Shri H.V. Subba Rao
2. Hon'ble Member (Technical), Shri Satya Ranjan Prasad**

In the Matter of	Limbuguri Tea Estate Pvt. Ltd. (Demerged Company) And Purvi Discovery Pvt. Ltd. (Transferee Company)
Under Section	U/s 230-232 of Companies Act, 2013

For Petitioner (s) : Mr. B. Lal Patni, CS

For Respondent (s) :

ORDER

Order pronounced in the open court *vide* separate order, in the result the above
CA (CAA)/1/GB/2024 is **allowed**.

Detailed order follows.

Sd/-
Satya Ranjan Prasad
Member (Technical)

Sd/-
H.V. Subba Rao
Member (Judicial)

**NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI
CA (CAA) No. 1/GB/2024**

In the Matter of:

An application under Section 230(1) read with Section 232(1) of the Companies Act, 2013 read with the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 for sanction of Scheme of Arrangement;

-And-

In the Matter of:

LIMBUGURI TEA ESTATE PRIVATE LIMITED, a company incorporated under the Companies Act, 1956 and being a Company within the meaning of the Companies Act, 2013; and having its registered office at Jalannagar, Dibrugarh-786005, Assam;

.... **Transferor / Demerged Company/ Applicant Company No. 1**

-And-

PURVI DISCOVERY PRIVATE LIMITED, a company incorporated under the Companies Act, 1956; and having its registered office at Jalannagar, Dibrugarh-786005, Assam.

.... **Transferee Company/ Applicant Company No. 2**

Coram:

Shri H. V. Subba Rao : Member (Judicial)

Shri Satya Ranjan Prasad : Member (Technical)

Appearances (through video conferencing):

For Applicant : Mr. Babu Lal Patni, PCS

**Order reserved on: 14.05.2024
Order pronounced on: 17.05.2024**

ORDER

1. This instant application has been filed in the first stage of the proceedings under Section 230(1) read with Section 232(1) of the Companies Act, 2013 (“Act”) for dispensation of meetings of shareholders and Secured Creditors and Convening of Meeting of Unsecured Creditors in connection with the Scheme of Demerger of Tourism Division of Limbuguri Tea Estate Private Limited being the Applicant Company No. 1/ Demerged Company and Purvi Discovery Private Limited being the Applicant Company No. 2/ Transferee Company whereby and where under the Tourism Division of the Demerged Company is proposed to be transferred to the Transferee Company from the Appointed Date i.e. 01.04.2024 in the manner and on the terms and conditions stated in the said Scheme of Demerger (“Scheme”).
2. The Applicant Companies are within the jurisdiction of this Tribunal. The terms and conditions of the demerger are fully stated in the Scheme. A copy of the Scheme has been annexed with the Application and marked as “Annexure- E”.
3. It is submitted that all the Applicant Companies belong to the same management group. The said scheme of Demerger has been proposed to enable the Demerged Company to concentrate on its core business activities i.e. manufacturing and selling of tea. It will broad base the present business of Transferee Company. The Demerger would lead to more efficient utilization of capital for future growth of both the Companies and would lead to a distinct synergistic advantages and economies of scale. The Demerger would lead to optimum utilization of resources including manpower of all the Companies, matter focus on distinct activities and to broad base the present business.
4. It is stated in the Application mainly to the effect that:
 - 4.1 The Board of Directors of the Applicant Companies at their respective Board Meetings, held on 06.11.2023 approved and resolved to carry out the said Scheme of Demerger. The copies of the resolution passed by the Applicant Companies are annexed with the Company Application and marked as “Annexure- L”.
 - 4.2 The valuation report of the Companies has been carried out and approved by Mr. Manish Gadia, a Registered Valuer and is bonafide and reasonable. A

- copy of the valuation report has been annexed with the Application and marked as Annexure "F".
- 4.3 There are no investigations or proceedings pending under the Companies Act, 2013 against any of the Applicant Companies.
- 4.4 None of the Directors of the Applicant Companies have any material interest in the said Scheme of Arrangement of Demerger except as Directors and Shareholders in general and the extent of which will appear from the Register of Director's Shareholding maintained by the respective Companies.
- 4.5 The Applicant Companies have also affirmed affidavits as required in terms of Section 230(2) of the Companies Act, 2013.
- 4.6 The share of the Applicant Companies are not listed. The Applicant Companies have prepared list of shareholders as on 30.09.2023. All the shareholders of the Applicant Companies have given their consent to the Scheme through Affidavits. List of shareholders duly certified by the Auditors along with individual affidavits are annexed with the Application and marked as Annexure "G".
- 4.7 The Applicant Companies have prepared list of creditors as on 30.09.2023 for the purpose of approval of the Scheme. The Applicant Company No. 1 has only 1 (one) Secured Creditor i.e. Punjab National Bank who has given its consent *vide* letter dated 07.03.2024. Applicant Company No.2 has no Secured Creditors. The Applicant Company No. 1 has 39 Unsecured Creditors and the Applicant Company No. 2 has 15 Unsecured Creditors. List of Creditors duly certified by the Auditors has annexed with the Application and marked as Annexure "H".
- 4.8 The accounting treatment, proposed in the Scheme of Arrangement for Demerger in clause 3.2 is in conformity with the Accounting Standards prescribed under section 133 of the Companies Act. A certificate under section 230 (7) confirming the same is provided by Ladia & Associates Chartered Accountants. A copy of the certificate has been annexed with the Application and marked as Annexure "J".

5. Directions are sought accordingly for dispensing with meetings of the classes of Equity Shareholders and Secured Creditors of the Applicant Companies and necessary directions for convening separate meetings of Unsecured Creditors of both the Applicant Companies in terms of Section 230(1) & (9) [read with Section 232(1)] of the Act.
6. Upon perusing the records and documents in the instant proceedings and considering the submissions made on behalf of the Applicant Companies, we allow the instant application and make the following orders:-
 - 6.1 In view of the consent affidavits given by the shareholders of the Applicant Companies, meeting of the Equity Shareholders of the Applicant Companies are dispensed with under Section 230(1) & (9) [read with Section 232(1)] of the Companies Act, 2013.
 - 6.2 In view of the fact that the only Secured Creditor of **Applicant Company No.1- Limbuguri Tea Estate Private Limited /Transferor Company/Demerged Company** has given its NOC for the Scheme of Demerger, the convening and holding of the meeting of Secured Creditor is dispensed with.
 - 6.3 In view of the fact that there are NIL Secured Creditor of **the Applicant Company No.2 - Purvi Discovery Private Limited /Transferee Company**, the requirement of convening and holding separate meeting of the Secured Creditor of the Transferee Company does not arise.
 - 6.4 The Meeting of the Unsecured Creditors of the **Applicant Company No.1 Limbuguri Tea Estate Private Limited /Transferor Company/Demerged Company** be convened and held at the registered office at Jalannagar, Dibrugarh- 786005, Assam, India on Monday, the 01.07.2024 at 10:00 A.M. for the purpose of considering the proposed Scheme of Demerger of Tourism Division of Limbuguri Tea Estate Private Limited (Demerged Company) with Purvi Discovery Private Limited (Transferee Company).
 - 6.5 The Meeting of the Unsecured Creditors of the **Applicant Company No.2 - Purvi Discovery Private Limited /Transferee Company** be convened and held at the registered office at Jalannagar, Dibrugarh- 786005, Assam, India

on Monday, 01.07.2024 at 11:30 A.M. for the purpose of considering the proposed Scheme of Demerger of Tourism Division of Limbuguri Tea Estate Private Limited (Demerged Company) with Purvi Discovery Private Limited (Transferee Company).

- 6.6 At least 30 clear days before the Meetings of the Unsecured Creditors of the Applicant Companies to be held as aforesaid, a Notice convening the said Meeting at the place, day and time aforesaid, together with a copy of the Scheme, a copy of the Explanatory Statement required to be sent under Section 230 of the Companies Act, 2013 and the prescribed Form of Proxy, shall be sent by registered post or by air mail or by courier or by speed post or by hand delivery to each of the Unsecured Creditors of the Applicant Companies at their respective registered or last known addresses or by e-mail to the registered e-mail address of the Unsecured Creditors as per the records of the Applicant Companies.
- 6.7 At least 30 clear days before the Meetings of the Unsecured Creditors of the Applicant Companies to be held as aforesaid, a Notice convening the said Meeting at the place, day and time aforesaid and stating that copies of the Scheme of Demerger and the statement required to be furnished pursuant to Section 230 of the Companies Act, 2013 and that the form of Proxy can be obtained free of charge at the registered office of the Applicant Companies as aforesaid and shall also be published once each The Sentinel, Guwahati in English Edition and in Dainik Assam in Assamese Edition.
- 6.8 The Applicant Companies undertake to:
- a) Issue Notice convening Meeting of the Unsecured Creditors as per Form No. CAA.2 (Rule 6) of Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
 - b) Issue Statement containing all the particulars as per Section 230 of the Companies Act, 2013.
 - c) Issue Form of Proxy as per Form No. MGT-11 (Rule 19) of the Companies (Management and Administration) Rules, 2014; and

d) Advertise the Notice convening Meeting as per Form No. CAA.2 (Rule 7) the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

The undertakings are accepted

- 6.9 As proposed, Mr. Deepak Ladia, FCA Practising Chartered Accountants is appointed as Chairperson for the meetings of the Unsecured Creditors of both the Applicant Companies. The Scrutinizer for both the Meetings shall be Mr. Subhash Mal Nahata, FCA Practising Chartered Accountants and the remuneration of Chairman and Scrutiniser shall respectively be Rs.1,00,000/- and Rs. 60,000/- to be paid by the Applicant Companies.
- 6.10 The Chairperson appointed for the aforesaid Meeting(s) to issue the Notices of the Meeting(s) referred to above. The said Chairperson shall have all powers under the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 in relation to the conduct of the Meeting(s), including for deciding procedural questions that may arise or at any adjournment thereof or any other matter including an amendment to the Scheme or resolution, if any, proposed at the Meeting(s) by any person(s).
- 6.11 The quorum for the aforesaid Meeting(s) of the Unsecured Creditors shall be as prescribed under Section 103 of the Companies Act, 2013.
- 6.12 In case if the Quorum as noted above is not present at the Meeting(s), then the Meeting(s) shall be adjourned by half an hour, and thereafter the persons present and voting shall be deemed to constitute the quorum. For the purpose of quorum valid proxies shall also be considered, if the proxy in the prescribed form, duly signed by the persons entitled to attend and vote at the Meeting is filed with the registered office of the Applicant Companies at least 48 hours before the Meeting(s).
- 6.13 The voting by proxy or Counsel in case of body corporate be permitted, provided that a proxy in the prescribed form/ authorization duly signed by the person entitled to attend and vote at the Meeting(s), is filed with the Applicant Companies at its Registered Office, not later than 48 hours before the aforesaid Meeting(s) as required under Rule 10 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

- 6.14 The value and number of the votes of each creditor shall be in accordance with the books/ register of the Applicant Companies and where the entries in the books/ register are disputed, the Chairperson of the Meeting(s) shall determine the value for the purpose of the aforesaid Meeting(s) and his decision in that behalf would be final.
- 6.15 The Chairperson of the Meeting(s) of all the Applicant Companies to report to this Tribunal, the result of the Meeting(s) within seven days of the conclusion of the Meeting(s), and the said report shall be filed as per Form CAA 4 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
- 6.16 The Applicant Companies are directed to issue Notice to all their Unsecured Creditors to whom the amount is due and payable, as on 30th September, 2023. The Notice shall be sent via Courier/ Air Mail/ Registered Post/ Speed Post/ Hand Delivery/ Email as required under Section 230(3) of the Companies Act, 2013 with a direction that they may submit their representations, if any, to the Tribunal and copy of such representations shall simultaneously be served upon the Applicant Companies. It shall be the duty of the Applicant Companies to ensure that every creditor is put on notice as regards the present Scheme.
- 6.17 Let notice be served jointly by the Applicant Companies, as per the requirements of sub-section (5) of Section 230 of the Companies Act, 2013, along with the copy of the Scheme of Amalgamation and the statement disclosing necessary details, on the Regional Director, North-Eastern Region, Ministry of Corporate Affairs, Guwahati; Registrar of Companies, North-Eastern Region, Guwahati; Reserve Bank of India, Guwahati, if required; Official Liquidator, High Court Guwahati; Income Tax Department having jurisdiction over the Applicant Companies and such other relevant sectoral regulators/authorities and other relevant authorities, if applicable, which are likely to be affected by the proposed Scheme, by sending the same by hand delivery through Special Messenger or by Registered Post or by Speed Post, within seven days from the date of receipt of this order and for filing their

- representation, if any on the Application, within 30 days from the date of receipt of the said notice.
- 6.18 The Applicant Companies are further directed to send notice through E-mail also and file copy of such mails along with an affidavit. The notice shall specify that representation, if any, should be filed before this Tribunal within 30 days of the date of receipt of the notice with a copy of such representation being sent simultaneously to the Applicant and/or its Counsel, in advance.
- 6.19 Objections, if any, to the Scheme contemplated by the authorities to whom notice has been given on or before the date of hearing fixed herein may be filed, failing which it will be considered by this Tribunal that there is no objection to the approval of the Scheme of Amalgamation on the part of the authorities, subject to other conditions being applicable under the Companies Act, 2013 and relevant rules made thereunder.
7. The Applicant Companies shall file an affidavit of service with the Registry in regard to the directions given in this Order to report to this Tribunal that the directions regarding the issuance of notices have been duly complied with.
8. The Application being **Company Application CA (CAA) No. 1/GB/2024 is allowed and disposed of accordingly.**
9. Urgent Certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

Sd/-

(Satya Ranjan Prasad)
Member (Technical)

Sd/-

(H. V. Subba Rao)
Member (Judicial)

Signed this on 17th day of May 2024