

**NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA**

C.P.(CAA)/111(KB)2024
IN
C.A.(CAA)/36(KB)2024

**CORAM: 1. HON'BLE MEMBER(J), SMT. BIDISHA BANERJEE
2. HON'BLE MEMBER(T), SHRI D. ARVIND**

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING ON 09TH JULY 2024

IN THE MATTER OF	HARIOM SPINNING MILLS LT
UNDER SECTION	SEC. 230-232 - SECOND MOTION

Appearance (via video conferencing/physically)

Ms. Manju Bhuteria, Adv.] For the Petitioner
Ms. Aisha Amin, Adv.]

ORDER

1. Ld. Counsel appearing on behalf of the petitioner present.
2. The instant Company Petition has been filed in the second stage of the proceedings under Section 230(6) read with Section 232(3) of the Companies Act, 2013 ("Act") for sanction and confirmation of the Scheme of Amalgamation of: -

Hi Rise Merchants Private Limited	Transferor Company No 1 / Petitioner No. 1
Kanchan Trade & Commerce Private Limited	Transferor Company No 2/ Petitioner No. 2
Sitaram Savitri Polymers Private Limited	Transferor Company No 3/ Petitioner No. 3

With Hariom Spinning Mills Limited - Transferee Company / Petitioner No 4, from the **Appointed Date 01st April, 2023** as defined in the Scheme, in the manner and on the terms and conditions stated in the said **Scheme of Amalgamation**("Scheme"). A copy of the said Scheme is annexed to the Company Petition marked – **Annexure – A** in VOL I at Page No 40 to 89.

3. It is submitted by Ld. counsel appearing for the Petitioner(s) that as per the Scheme the **Appointed Date 01st April, 2023**.
4. It is submitted by Ld. Counsel appearing for the Petitioner(s) that the Petitioner No 1 and Petitioner No 2 are NBFC Companies duly Registered with Reserve Bank of India are holding valid Certificate of Registration issued by the said Bank. **It is**

further submitted that upon coming into effect of the Scheme the said Companies shall cease to be NBFC Companies and the Transferee Company shall surrender the said Certificate of Registration issued by the Bank to the said Companies.

5. It is submitted by Ld. counsel appearing for the Petitioner(s) that the Board of Directors of the Petitioner Companies have at their respective meeting held on 05TH January,2024 have passed resolution adopting the proposed Scheme of Amalgamation A copy of the Resolution passed by the Board of Directors of the Petitioner Companies are all collectively annexed to the Company Petition marked – **Annexure – N** in VOL III at Page No 393 to 396.
6. It is submitted by Ld. counsel appearing for the Petitioner(s) that the Valuation Report dated 30TH December, 2023 recommending the Swap Ratio has been prepared by CA Mukesh Banka, IBBI Registered Valuer. A copy of the said Report is annexed to the Company Petition marked – **Annexure – M** in VOL III at Page No 378 to 392.
7. It is submitted by Ld. counsel appearing for the Petitioner(s) that the statutory auditors of the Petitioner Companies have all by their certificate dated 10-01-2024 confirmed that the Accounting Treatment proposed in the Scheme of Amalgamation is in conformity with the Accounting Standards as prescribed under Section 133 of the Companies Act, 2013 and Rules made there under. A copy of the said Certificate issued by Statutory Auditor of the Petitioner Companies are all collectively annexed to the Company Petition marked – **Annexure – O** in VOL III at Page No 397 to 404.
8. It is submitted by Ld. counsel appearing for the Petitioner(s) that a copy of the order passed by this Bench in Company Application C.A(CAA) NO 36 / KB / 2024 on 12th March,2024 is annexed to the Company Petition marked – **Annexure – L** in VOL III at Page No 369 to 377.
9. It is submitted by Ld. counsel appearing for the Petitioner(s) that the list of equity shareholders of the Petitioner Companies as on 31st December,2023 duly certified by the statutory auditor of the Company are all collectively annexed to the Company Petition marked – **Annexure – J** in VOL III at Page No 361 to 364.
10. It is submitted by Ld. counsel appearing for the Petitioner(s) that NIL Secured Creditors in respect of the Petitioner Companies as on 31st December, 2023 duly certified by the statutory auditor of the Company is annexed to the Company Petition marked – **Annexure – K** in VOL III at Page No 365 to 368.
11. It is submitted by Ld. counsel appearing for the Petitioner(s) that NIL Unsecured Creditors in respect of the Petitioner No 1 and Petitioner No 3 as on 31st

December,2023 duly certified by the statutory auditor of the Company is annexed to the Company Petition marked – **Annexure – K** in VOL III at Page No 365 and Page No 367.

12. It is submitted by Ld. counsel appearing for the Petitioner(s) that the list of Unsecured Creditors in respect of the Petitioner No 2 and Petitioner No 4 as on 31st December,2023 duly certified by the statutory auditor of the Company are all collectively annexed to the Company Petition marked – **Annexure – K** in VOL III at Page No 366 and Page No 368.

13. It is submitted by Ld. counsel appearing for the Petitioner(s) that, the Petitioner(s) have the following classes of shareholders and creditors: -

PARTICULARS	EQUITY SHARE HOLDERS 31-12-2023	PREFERENC E SHARE HOLDERS	SECURED CREDITORS 31-10-2023	UNSECURED CREDITORS 31-10-2023
TRANSFEROR COMPANY NO 1 / PETITIONER NO. 1	12	NIL	NIL	NIL
TRANSFEROR COMPANY NO 2 / PETITIONER NO. 2	10	NIL	NIL	1
TRANSFEROR COMPANY NO 3 / PETITIONER NO. 3	8	NIL	NIL	NIL
TRANSFeree COMPANY / PETITIONER NO. 4	8	NIL	NIL	1

14. It is submitted by Ld. counsel appearing for the Petitioner(s) that, by an order dated 12TH March, 2024 in Company Application No. C.A (CAA) NO. 36/KB/2024 this Tribunal made the following directions with regard to meetings of shareholders and creditors under Section 230(1) of the Act: -

a. Meetings dispensed:

Equity Shareholders

Meeting of Equity Shareholders of the Petitioner Companies for considering the Scheme are dispensed with in view of shareholder representing 100% in value of shares of Petitioner Companies having respectively given their consent to the Scheme by way of affidavits without seeking modification(s).

Unsecured Creditors

Meeting of Unsecured Creditors of Petitioner No 2 for considering the Scheme are dispensed with in view of consent by Unsecured Creditors representing 100% in value of Unsecured Debt of Petitioner No 2 having

respectively given their consent to the Scheme by way of affidavits without seeking modification(s).

Meeting of Unsecured Creditors of Petitioner No 4 for considering the Scheme are dispensed with in view of consent by Unsecured Creditors representing 100% in value of Unsecured Debt of Petitioner No 4 having respectively given their consent to the Scheme by way of affidavits without seeking modification(s).

b. No requirement of Meetings

Secured Creditors

No requirement of Meeting of Secured Creditors of Petitioner Companies – NIL Creditors duly verified by auditor’s certificate.

Unsecured Creditors

No requirement of Meeting of Unsecured Creditors of Petitioner No 1 and Petitioner No 3 – NIL Creditors duly verified by auditor’s certificate.

15. The Learned Counsel for the Petitioner(s) further submits that in compliance with Section 230(5) of the Companies Act, 2013 and the said order dated 12TH March, 2024, in Company Application No. C.A (CAA) NO. 36/KB/2024 notice along with all accompanying documents has already been served on the Statutory / Sectoral Authorities, as directed by the said order as below:

COMPANY PETITION – ANNEXURE P / VOLUME III

REGULATORY AUTHORITIES	DATE OF SERVICE	PAGE NO
THROUGH SPECIAL MESSENGER(HAND DELIVERY)		
Principal Commissioner of Income Tax – 1 / KOL	18-03-2024	422
Income Tax Officer – Ward 12 (1) / KOL	18-03-2024	423
Income Tax Officer – Ward 2(1) / KOL	18-03-2024	424
Income Tax Officer – Ward 2(1) / KOL	18-03-2024	425
Income Tax Officer – Ward 2(1) / KOL	18-03-2024	426
Regional Director , Eastern Region	18-03-2024	432
Registrar of Companies , West Bengal	18-03-2024	434
Reserve Bank of India	18-03-2024	436
Official Liquidator , High Court Calcutta	18-03-2024	437
BY ELECTRONIC MAIL		
Principal Commissioner of Income Tax – 1 / KOL	04-04-2024	427
Income Tax Officer – Ward 2(1) / KOL	04-04-2024	428
Income Tax Officer – Ward 2(1) / KOL	04-04-2024	429
Income Tax Officer – Ward 2(1) / KOL	04-04-2024	430
Income Tax Officer – Ward 12 (1) / KOL	04-04-2024	431
Regional Director , Eastern Region	04-04-2024	433

16. Upon perusing the records and documents in the instant proceedings and considering the submissions made on behalf of the Petitioner(s), we admit the instant petition and fix the next date of hearing on **09th AUGUST, 2024**.
17. At least 10 (ten) clear days before the said date fixed for hearing, the Petitioner(s) shall cause notice of hearing to be advertised in the **BUSINESS STANDARD** in English and Bengali translation thereof in **AAJKAL** in Kolkata Edition as per Rule 16(1) of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (“CAA Rules”).
18. Another notice pursuant to Section 230(5) of the Companies Act, 2013 along with accompanying documents, including the copies of the aforesaid Scheme and statement under the provisions of the Companies Act, 2013, as sent earlier, shall be served again on the aforesaid Statutory Authorities by sending the same to them ***by hand delivery through special messenger or by speed post and also by email*** within one week from the date of receiving this order. The notice shall specify the next date of hearing of the petition, as aforesaid, and state that representation, if any, and if not already filed, should be filed before this Tribunal no later than 7 (seven) days before the next date of hearing of the petition and a copy of such representation should be simultaneously sent to the Authorised Representative of the said Petitioner(s). 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 in Form No. CAA3 of the CAA Rules with necessary variations, incorporating the directions herein.
19. The Petitioner(s) to file an affidavit confirming compliance of the abovementioned directions of this Tribunal, 3 (Three) days before the next date of hearing.
20. The Petitioner(s) may also file their rejoinder affidavit(s) dealing with the objections/ observations, if any, of the Authorities, 2 (Two) days before the next date of hearing.
21. Urgent Certified copy of this order, if applied or, be supplied to the parties, subject to compliance with all requisite formalities.

D. Arvind
Member (Technical)

Bidisha Banerjee
Member (Judicial)