

DIVISION BENCH
COURT - I

S-7

**NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA**

C.P.(CAA)/117(KB)2024
IN
C.A.(CAA)/15(KB)2024

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

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING ON 12TH JULY 2024

IN THE MATTER OF	PLANET COMMODITIES PRIVATE LIMITED
UNDER SECTION	SEC. 230-232 - SECOND MOTION

Appearances (via video conferencing/physically)

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

ORDER

1. Ld. Counsel for 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

Mishan Infrastructure Private Limited	Transferor Company No 1 / Petitioner No.1
Pratigya Fisheries Private Limited	Transferor Company No 2 / Petitioner No.2
Pratigya Milk Collection Private Limited	Transferor Company No 3 / Petitioner No.3
Pratigya Tea Trade Private Limited	Transferor Company No 4 / Petitioner No.4
Pratigya Tours & Travels Private Limited	Transferor Company No 5 / Petitioner No.5

With **Planet Commodities Private Limited - Transferee Company** / Petitioner No 6, 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 46 to 90.
3. It is submitted by Ld. counsel appearing for the Petitioner(s) that as per the Scheme the **Appointed Date is 01st April, 2023**.
 4. It is submitted by Ld. Counsel appearing for the Petitioner(s) that none of the Petitioner Companies involved in the Scheme are NBFC Company.
 5. It is submitted by Ld. counsel appearing for the Petitioner(s) that the list of equity shareholders of the Petitioner Companies as on 30TH November,2024 duly certified by the statutory auditor of the Company are all collectively annexed to the Company Petition marked – **Annexure – N** in VOL III at Page No 359 to 364.
 6. It is submitted by Ld. counsel appearing for the Petitioner(s) that NIL Secured Creditors and NIL Unsecured Creditors in respect of the Petitioner Companies as on 30TH November,2024 duly certified by the statutory auditor of the Company is annexed to the Company Petition marked – **Annexure – O** in VOL III at Page No 365 to 370.
 7. It is submitted by Ld. counsel appearing for the Petitioner (s) that a copy of the order dated 21ST May,2024 passed by this Tribunal in Company Application C.A(CAA) NO.15/KB/2024 is annexed to the Company Petition marked – **Annexure – P** in VOL III at Page No 371 to 378.
 8. It is submitted by Ld. counsel appearing for the Petitioner(s) that the Valuation Report dated 11TH 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 – Q** in VOL III at Page No 379 to 397.
 9. 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 15TH December,2023 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 – R** in VOL III at Page No 398 to 403.
 10. 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 20th December, 2023 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 – S** in VOL III at Page No 404 to 415.

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

PARTICULARS	AS ON 30 TH NOVEMBER, 2023			
	EQUITY SHARE HOLDERS	PREFERENCE SHARE HOLDERS	SECURED CREDITORS	UNSECURED CREDITORS
TRANSFEROR COMPANY NO 1 / PETITIONER NO.1	6	NIL	NIL	NIL
TRANSFEROR COMPANY NO 2 / PETITIONER NO.2	6	NIL	NIL	NIL
TRANSFEROR COMPANY NO 3 / PETITIONER NO.3	6	NIL	NIL	NIL
TRANSFEROR COMPANY NO 4 / PETITIONER NO.4	4	NIL	NIL	NIL
TRANSFEROR COMPANY NO 5 / PETITIONER NO.5	6	NIL	NIL	NIL
TRANSFEREE COMPANY / PETITIONER NO.6	9	NIL	NIL	NIL

12. It is submitted by Ld. counsel appearing for the Petitioner(s) that, by an order dated 21ST May,2024 passed in Company Application C.A(CAA) NO 15/ 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).

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.

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

c. **Meetings to be held**

No meeting is required to be held.

13. 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 21ST May,2024 passed in Company Application C.A(CAA) NO 15/ 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 T / VOLUME III

REGULATORY AUTHORITIES	DATE OF SERVICE	PAGE NO
THROUGH SPECIAL MESSENGER(HAND DELIVERY)		
Principal Commissioner of Income Tax – 2 / KOL	18-06-2024	436
Income Tax Officer – Ward 3(1) / KOL	18-06-2024	438
Deputy Commissioner of Income Tax – Circle 11(1)/ KOL	18-06-2024	440
Deputy Commissioner of Income Tax – Circle 11(1)/ KOL	18-06-2024	442
Income Tax Officer – Ward 11(1) / KOL	18-06-2024	444
Income Tax Officer – Ward 3(1) / KOL	18-06-2024	446
Deputy Commissioner of Income Tax – Circle 11(1)/ KOL	18-06-2024	448
Regional Director, Eastern Region	29-05-2024	450
Registrar of Companies, West Bengal	29-05-2024	452
Official Liquidator, High Court Calcutta	30-05-2024	454
BY ELECTRONIC MAIL		
Principal Commissioner of Income Tax – 2 / KOL	26-06-2024	437
Income Tax Officer – Ward 3(1) / KOL	27-06-2024	439
Deputy Commissioner of Income Tax – Circle 11(1)/ KOL	27-06-2024	441
Deputy Commissioner of Income Tax – Circle 11(1)/ KOL	27-06-2024	443
Income Tax Officer – Ward 11(1) / KOL	27-06-2024	445
Income Tax Officer – Ward 3(1) / KOL	27-06-2024	447
Deputy Commissioner of Income Tax – Circle 11(1)/ KOL	27-06-2024	449
Regional Director, Eastern Region	26-06-2024	451
Registrar of Companies, West Bengal	26-06-2024	453
Official Liquidator, High Court Calcutta	26-06-2024	455

An affidavit duly affirmed on 06th July, 2024 annexing the acknowledgements of affidavit has also been filed with the Registry of this Tribunal.

14. 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 **30TH AUGUST, 2024**.
15. 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”).

16. 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. CAA 3 of the CAA Rules with necessary variations, incorporating the directions herein.
17. 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.
18. 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.
19. Urgent Certified copy of this order, if applied or, be supplied to the parties, subject to compliance with all requisite formalities.

Balraj Joshi
Member (Technical)

Bidisha Banerjee
Member (Judicial)