

THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT-1

C.P. (CAA) 5/MB/2024
c/w
C.A.(CAA)236/MB/2023

In the matter of
The Companies Act, 2013
Section 232 r/w Section 230 of
The Companies Act, 2013 and other
applicable provisions of the Companies
Act, 2013 read with the Companies
(Compromises, Arrangements and
Amalgamations) Rules, 2016;
In the matter of
Scheme of Arrangement of

Sanofi India Limited

CIN: L24239MH1956PLC009794 ...Applicant Company 1
/Demerged Company

**Sanofi Consumer Healthcare India
Limited**

CIN: U21002MH2023PLC402652 ...Applicant Company 2
/Resulting Company

(“Collectively referred as Applicant Companies”)

Order delivered on 07.05.2024

Coram:

Shri Prabhat Kumar

Hon’ble Member (Technical)

Justice V.G. Bisht (Retd.)

Hon’ble Member (Judicial)

Appearances (through)

For the Applicant(s) : : Mr. Gaurav Joshi, Senior Counsel,
a/w Mr. Rohan Rajadhyaksha, Mr.
Anirudh Das, Mr. Ameya Gokhale, Ms.
Kriti Kalyani, Mr. Siddhant Marathe
i/b Shardul Amarchand Mangaldas &
Co.

ORDER

1. Heard learned counsels for the Petitioner Companies and the officer of the Regional Director, Western Region, Mumbai (“**Regional Director**”). No objector has come before this Tribunal to oppose the Scheme and nor has any party controverted any averments made in the Petition to the Scheme.
2. The present Scheme is of Arrangement under Section 232 r/w Section 230 of the Companies Act, 2013 and other Applicable provisions of the Companies Act, 2013 amongst **Sanofi India Limited** (“Applicant Company 1/ Demerged Company”) and **Sanofi Consumer Healthcare India Limited** (“Applicant/ Resulting Company”) and their respective shareholders and creditors (“**Scheme**”). It is submitted that the Scheme provides for the transfer and vesting of the Demerged Undertaking of the Applicant/Demerged Company, being the Consumer Healthcare Business Undertaking of the Applicant/ Demerged Company and its vesting in the Applicant/Resulting

Company.

3. The Counsel for the Petitioner Companies submits that the (i) Petitioner / Demerged Company is *inter alia*, engaged in the business of manufacturing, producing, processing, marketing, formulating, buying, trading, storing, packing, selling, distributing, importing, exporting, producing, consultancy and otherwise dealing in all variety of pharmaceuticals including drugs, chemicals, medical products and anti-biotics products; and (ii) Petitioner / Resulting Company has been incorporated to *inter-alia* carry on the business of manufacturing, producing, processing, marketing, formulating, buying, trading, storing, packing, selling, distributing, importing, exporting, providing consultancy and otherwise dealing in all kinds of varieties of pharmaceuticals, especially consumer healthcare products including drugs, chemicals, medicinal products and antibiotic products.
4. The Counsel for the Petitioner Companies submits that as set out in the Scheme, the proposed Composite Scheme of Arrangement / demerger would accomplish the following benefits –
 - (a) allow the Applicant/Demerged Company and the Applicant/Resulting Company to have independent and focused management as well as independently pursue different opportunities and strategies for the growth of each respective businesses aligned to specific market dynamics;

- (b) enable a different operating model for the consumer healthcare business under the Applicant/Resulting Company specific and fit for purpose for a fast-moving consumer healthcare company, which would lead to a greater ability to operate independently and positively shape the consumer healthcare environment;
 - (c) Allow for enhancement of the business models of both the Applicant/Demerging Company and the Applicant/Resulting Company;
 - (d) greater understanding and visibility of both the pharmaceutical and consumer healthcare businesses for the shareholder, investor, analyst community and other stakeholders;
 - (e) facilitate pursuit of scale and independent growth plans but also more focused management and stronger leverage of specific global resources within the group and flexibility in terms of providing liquidity for shareholders (following the listing of the equity shares of the Applicant/Resulting Company);
 - (f) de-risk both the businesses from each other and allow potential investors and other stakeholders the option of investing in both businesses; and
 - (g) unlock value for the shareholders of the Applicant/Demerged Company.
5. The Board of Directors of the Petitioner / Demerged

Company and Petitioner / Resulting Company in their respective Board Meetings conducted on 10th May 2023 and 24th May 2023, have approved the Scheme. The Appointed Date fixed under the Scheme is 1st June 2023, as per the order dated 24th November 2023 passed by this Tribunal in Interlocutory Application No.234 of 2023 in Company Scheme Application (CSA) NO. 236 /MB/ 2023.

6. The Petitioner Companies submits that by order dated 9th November 2023 passed by this Tribunal in Company Scheme Application C.A.(CAA) No. 236 /MB/ 2023, this Tribunal was, *inter alia*, pleased to dispense with the requirement of convening the meeting of the Equity Shareholders, of the Petitioner / Resulting Company. The Petitioner/ Resulting Company has no Secured and Unsecured Creditors.
7. In compliance with the order dated 9th November 2023, (i) notice of the meetings has been issued to all the Equity Shareholders and Unsecured Creditors of the Petitioner / Demerged Company and (ii) notice of the said meetings has been published in the newspapers, Business Standard (English) and Navshakti (Marathi). The Chairperson of the meeting of the Equity Shareholders of the Petitioner / Demerged Company has filed an Affidavit dated 29th November certifying issuance of notice and newspaper publication in compliance with the order dated 9th November 2023 of this Tribunal. The Chairperson of the meeting of the Unsecured Creditors of the Petitioner / Demerged Company has filed an Affidavit of Service dated 08th December 2023 certifying

issuance of notice and newspaper publication in compliance with the order dated 9th November 2023 of this Tribunal. Similarly, the Petitioner / Demerged Company and the Petitioner / Resulting Company have filed Affidavits dated 25th November 2023 certifying compliance with the order dated 9th November 2023.

8. In terms of the order dated 9th November 2023, the meetings of the Equity Shareholders and the Unsecured Creditors of the Petitioner / Demerged Company were duly convened on 18th December 2023. The Chairpersons and the Scrutinizers appointed for the said meetings by the Tribunal have filed their respective reports on 19th December 2023. As per the said reports, (i) 389 Equity Shareholders (which includes public shareholders) being the majority of the persons representing 98.48% in number and 99.9991% in value of the Equity Shareholders of the Petitioner / Demerged Company have approved the Scheme; and (ii) 41 Unsecured Creditors representing 100% in number and 88.75% in value of the Unsecured Debt of the Petitioner / Demerged Company have approved the Scheme. Thus, the Scheme stands approved with requisite statutory majority in terms of Section 230(6) of the Companies Act, 2013.
9. Vide order dated 9th November 2023, the Tribunal directed the Petitioner Companies to serve notices, pursuant to Section 230(5) of the Companies Act, 2013 (“**Companies Act**”) and as per the Rule 8 (Compromises, Arrangements and Amalgamations) Rules, 2016 upon the statutory/regulatory

Authorities and have filed Affidavits dated 25th November 2023 demonstrating service of the notices to the said authorities in compliance with the order dated 9th November 2023 of this Tribunal.

10. By order dated 16th January 2024, the present Petition was admitted by this Tribunal. By the said order, this Tribunal had directed the Petitioner Companies to publish the notice for final hearing at least 10 (ten) days before the date fixed for final hearing in the newspapers namely Business Standard (English) and Navshakti (Marathi) both having circulation in Mumbai as per Rule 16 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 and issue notices to the statutory/regulatory authorities.
11. The Petitioner / Demerged Company and the Petitioner / Resulting Company have published the notices in the newspapers namely Business Standard (English) and Navshakti (Marathi), and also filed its Affidavits dated 28th February 2024 recording the aforesaid compliances.
12. The Petitioner Companies have complied with all requirements as per directions of this Tribunal and they have made requisite filings to demonstrate compliance. Moreover, the Petitioner Companies undertake to comply with all statutory / regulatory requirements, if and to the extent applicable, as may be required under the Companies Act, 2013 and the Rules made thereunder. The said undertaking is accepted.

13. The Regional Director (Western Region), Ministry of Corporate Affairs, Mumbai, has filed his Report dated 04.03.2024 making certain observations (“**Report**”). The Petitioner Companies have submitted/undertaken that: -
- a. The Scheme does not provide for transfer or allocation of any part of the authorized share capital of the Petitioner/Demerged Company to the Petitioner/Resulting Company;
 - b. The Petitioner / Resulting Company undertakes that the listing of the equity shares of the Petitioner/ Resulting Company shall be applied for and implemented in accordance with the applicable rules and regulations of the Securities and Exchange Board of India;
 - c. The rights of the employees of the Petitioner/Demerged Company who shall be transferred to the Petitioner/Resulting Company are adequately protected under the Scheme;
 - d. All employees of Demerged Company pertaining to the Demerged Undertaking who are on its payrolls shall become the employees of the Resulting Company without any break or interruption;
 - e. Upon the Scheme being made effective, the Petitioner/Resulting Company shall account for the demerger in accordance with applicable accounting standards notified under Section 133 of the 2013 Act and shall pass such accounting entries which are necessary in connection with the Scheme, in order to comply with

applicable accounting standard including AS-5 or IND AS-8 etc. as may be applicable;

- f. The Petitioner/Resulting Company shall comply with the observations as set out in the communication dated 22nd September, 2023 issued by the BSE Limited and the National Stock Exchange of India Limited.
14. The Authorized Representative of the Regional Director, appeared and submits that their observations/ objections have been satisfactorily explained by the Petitioner Company and are acceptable to them. Hence, the Regional Director does not have any further objection to the proposed Scheme Company Petition.
15. This Tribunal has received a representation letter dated 12.04.2024 from Hoechst All India Representative's Committee calling for investigation and action on repeated slum sale and transfer of business of M/s Sanofi India Limited to various third parties. We have perused contents of said representation and we are of the considered view that present scheme does not entail transfer of any undertaking to a third party and this scheme contemplate continuous of employment with unbroken service period of all the workers and employees of the demerged undertaking. Ld. Counsel for the Petitioner Company relied upon the decision *Hindustan Lever Employee's Vs. Hindustan Lever Limited and others 1995 Supp (1) Supreme Court Cases 499* wherein the Hon'ble Supreme Court rejected the objection of workers of Tomco holding at Para 79 and 80 that

“79. We do not find that the amalgamation has caused any prejudice to the workers of TOMCO. The stand of the employees of HLL is equally incomprehensible. It has been stated that if the TOMCO employees continue to enjoy the terms and conditions of their service as before, then two classes of employees will come into existence, Terms and conditions of HLL employees were much worse than that of TOMCO employees. If there are two sets of terms and conditions under the same company, then a case of discrimination will arise against the HLL employees.

80. We do not find any substance in this contention. The TOMCO employees will continue to remain on the same terms and conditions as before. Because of this arrangement, it cannot be said that a prejudice has been caused to HLL employees. They will still be getting what they were getting earlier. TOMCO employees who were working under better terms and conditions, will continue to enjoy their old service conditions under the new management.”

16. The facts of the case are similar to the case in ***Hindustan Lever Employee’s Vs. Hindustan Lever Limited and others 1995 Supp (1) Supreme Court Cases 499***. In view of the facts of the case, we do not find any substance in the allegation of using this Petition to camouflage the unfair labour practices used to get rid of the unionized sales promotion employees who are member of the Applicant union, since this scheme provides for unbroken service to the employees/workers and does not contemplate any retrenchment whatsoever. Accordingly, no prejudice is being caused to the workers and employees.
17. From the material on record, the Scheme appears to be fair and

reasonable and does not violate of any provisions of law and is not contrary to public policy. All the assets and liabilities including taxes, duties and charges, if any, of the Demerged Undertaking of the Petitioner / Demerged Company, shall pursuant to Section 230 to 232 of the Companies Act, 2013, be transferred to and become the assets and liabilities of the Petitioner / Resulting Company.

18. Since all the requisite statutory compliances have been fulfilled, Company Scheme Petition (CSP) No.5 of 2024 in Company Scheme Application (CSA) No. 236 of 2023 filed by Petitioner Companies are made absolute in terms of prayer clause (iii) of the said Company Scheme Petition.
19. The creditors of undertaking, being demerged, shall be entitled to make claim against the resulting company as well as demerged company in relation to their debt up to the date of demerger. In case the resulting Company is made to pay the debt of such undertaking, it shall be entitled to seek reimbursement of the amount so paid from the Demerged Company.
20. The Income Tax Department will be at liberty to examine the aspect of any tax payable as a result of this scheme and, it shall be open to the income tax authorities to take necessary action as possible under the Income Tax Law.
21. The Scheme is sanctioned hereby, and the Appointed Date of the Scheme would be 1st June 2023.
22. The Petitioner Companies are directed to lodge a certified copy of this order along with a copy of the Scheme with the

concerned Registrar of Companies, electronically in E-Form INC-28 within 30 (thirty) days from the date of receipt of the Order, duly certified by the Registry of this Tribunal.

23. The Petitioner Companies are directed to lodge a certified copy of this order and the Scheme duly authenticated by the Deputy / Assistant Registrar of this Tribunal, with the concerned Superintendent of Stamps, for the purpose of adjudication of stamp duty, payable, if any, within 60 (sixty) working days from the date of receipt of certified copy of the Order from the Registry of this Tribunal.
24. All concerned regulatory authorities to act on a copy of this Order duly certified by the Deputy Registrar / Assistant Registrar of this Tribunal along with copy of the Scheme.
25. Any person interested is at liberty to apply this Tribunal in the above matters for any direction that may be necessary.
26. Any concerned Authorities are at liberty to approach this Tribunal for any further clarification as may be necessary.
27. Ordered accordingly. Company Scheme Petition (CSP) No.5 of 2024 is allowed and disposed-off.

Sd/-

Prabhat Kumar
Member (Technical)

Sd/-

Justice V.G. Bisht
Member (Judicial)