

NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH

COURT III

6. C.A.(CAA)/43/MB/2023

CORAM: SHRI H. V. SUBBA RAO, MEMBER (J)
MS. MADHU SINHA, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON **22.06.2023**

NAME OF THE PARTIES: Asher Foods Private Limited
SECTION 230-232, 234 OF COMPANIES ACT, 2013

ORDER

Adv. Poonam Somani appearing for the petitioner is present.

Heard the counsel appearing for the petitioner. The above petition is **allowed**.

Detailed order would follow:

Sd/-
MADHU SINHA
Member (Technical)
//RKS//

Sd/-
H. V. SUBBA RAO
Member (Judicial)

IN THE NATIONAL COMPANY LAW TRIBUNAL MUMBAI
COURT-III

CA(CAA) /43/MB/2023

In the matter of the Companies Act, 2013;

AND

In the matter of Sections 230 and 232 and other applicable provisions of the Companies Act, 2013 and Rules framed thereunder as in force from time to time;

AND

In the matter of Scheme of Amalgamation, of Asher Foods Private Limited, the transferor company; with Abhidev Consultancy Services Private Limited, the transferee company.

ASHER FOODS PRIVATE LIMITED

[CIN: U15499MH2001PTC337137]

Having its registered office at: Room No. 11,
1st floor, Indu Chamber 349/353, Samuel Street,
Vadgadi, Masjid Bunder Mumbai,

..... **Transferor Company**

ABHIDEV CONSULTANCY SERVICES PRIVATE LIMITED,

[CIN: U67190MH2007PTC172021]

Having its registered office at: 11, Indu Chambers,
1st Floor, 349/353 Samuel Street, Vadgadi,

Masjid Bunder Mumbai,

..... **Transferee Company**

Order date: 22.06.2023

Coram:

Shri H.V. Subba Rao , Hon'ble Member (Judicial)

Ms. Madhu Sinha, Hon'ble Member (Technical)

Appearances (Physically Present):

For the Applicant(s):

Mrs. Poonam Somani from Somani & Associates, Practising Company Secretaries.

ORDER

1. This Court is convened by physically today 22nd June, 2023.
2. The Learned Authorised Representative for the Applicants states that the present application is for a Scheme of Amalgamation of Asher Foods Private Limited, the Transferor Company with Abhidev Consultancy Services Private Limited, the Transferee Company and their respective Shareholders.
3. The Learned Authorised Representative for the Applicants states that the Board of Directors of the respective Applicant Companies at their Board Meetings held on 28th December, 2022 approved the Scheme.
4. The Learned Authorized Representative for the Applicants states that appointed date of Scheme of Amalgamation is 1st April, 2022.
5. The Learned Authorised Representative for the Applicants states that the Transferor Company is presently not engaged in any significant business activities. The Transferee Company is engaged in the business of Advisory and Consultancy services related to Strategy and Fund Raising.
6. The Rationale for the Scheme of Amalgamation are as under:

- (i) Ensuring a streamlined group of structure by reducing the number of legal entities in the group structure, resulting in the ease of management;
 - (ii) Reducing the multiplicity of legal and regulatory compliances required at present carried out separately by the Transferor Companies and the transferee Company and promote Organizational efficiencies with achievement of greater economies of scale;
 - (iii) Eliminating duplicative communication and coordination efforts across multiple entities;
 - (iv) Cost savings are expected to flow from more focused operational efforts, rationalization, standardisation and simplification of business processes, and the elimination of duplication, and rationalization of administrative expenses;
 - (v) Leverage combined assets and build a strong sustainable business by enabling optimal utilization of existing resources and provide an opportunity to fully leverage assets, capabilities, experience and infrastructure of the transferor companies;
 - (vi) The amalgamation will result in the formation of a stronger company with a larger capital and asset base and enable the combined business to be pursued more conveniently and advantageously. The amalgamation will have beneficial results for the amalgamating companies, their stakeholders and all concerned.
7. The Transferor Company has 2 equity shareholders. Both of them have given their consent to the Scheme by way of

consent Affidavits. In view of this, the meeting of the equity shareholders of the Transferor Company is dispensed with.

8. The Transferee Company has 3 equity shareholders. All of them have given their consent to the Scheme by way of Consent Affidavits. In view of this, the meeting of the equity shareholders of the Transferee Company is dispensed with.
9. The Learned Authorised Representative submits that there are no Secured Creditor in the Transferor Company and in the Transferee Company.
10. The Learned Authorised Representative submits that there are 2 (Two) Unsecured Creditors in the Transferor Company with a total outstanding of Rs. 89,400/- (Rupees Eighty-Nine Thousand and Four Hundred Only) as on 30.09.2022. The details of the same have been at para 26 of the Application at page 25. The Learned Authorised representative further submits out of Rs. 89,400/-, unsecured creditor amounting Rs. 11,800/- have been paid off by the Transferor Company and the management has filed a declaration to that effect. As far as remaining unsecured creditor amounting Rs. 77,600/- is concerned, they have given consent to the Scheme and the same is placed as Exhibit J-1 at page no. 187-189 of the Application. In view of this the meeting of the unsecured creditors of Transferor Company is dispensed with.
11. The Learned Authorised Representative further submits that the Transferee Company has 3 (Three) Unsecured Creditors with a total outstanding of Rs. 1,00,365/- (Rs. One Lac Three Hundred and Sixty-Five Only) as on

30.09.2022. The details of the same have been placed at para 26 of the Application at page 25. The Learned Authorised representative further submits the said unsecured creditors have been paid off by the Transferee Company and the management has filed a declaration to that effect that all the creditors have been paid off which is annexed as Exhibit I-2 (page No.180-186). In view of this the meeting of the unsecured creditors of Transferee Company is dispensed with.

12. The Applicant Companies to serve the notice of the present Application complete with enclosures on – (1) the Regional Director, Western Region, Ministry of Corporate Affairs, Mumbai, (2) Registrar of Companies, Mumbai, pursuant to Section 230(5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from such authorities within 30 days of the date of receipt of the notice it will be presumed that they have no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
13. The Applicant Companies to serve notice upon the Official Liquidator pursuant to Section 230(5) of the Companies Act, 2013. This tribunal is appointing M/s M.B. AGRAWAL & CO. having registered office at 204, Mhatre Pen Building, Senapati Bapat Marg, Dadar (W), Mumbai, Mobile No. 9833922574 (email: mbaandco@yahoo.co.in) to assist the Official Liquidator to scrutinize the books of accounts of the said Transferor company for the last 5 years and submit its representation/report to the

tribunal. The aforesaid companies shall pay fees of Rs. 2,00,000/- for this purpose if no response is received by this Tribunal from Official Liquidator within 30 days it may be presumed that Official Liquidator has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

14. The Applicant Companies to serve the notice of the present Application complete with enclosures on the Income Tax Authorities within whose jurisdiction the respective applicant companies are assessed to tax clearly indicating PAN of the concerned Company, pursuant to Section 230(5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

Name of Company	PAN
Transferor Company (Asher Foods Private Limited)	AADCA3246L
Transferee Company (Abhidev Consultancy Services Private Limited)	AAGCA4019C

If no response is received by the Tribunal from such authorities within 30 days of the date of receipt of the notice it will be presumed that they have no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

15. The Applicant Companies to file affidavit of service within 10 working days from the last of the compliances as stated in above paragraphs are made and do report to this Tribunal that the directions regarding the issue of

notices have been duly complied with.

16. The appointed date of Scheme of Amalgamation is 1st April, 2022.
17. Order accordingly.

Sd/-
MADHU SINHA
MEMBER (TECHNICAL)

Sd/-
H.V. SUBBA RAO
MEMBER (JUDICIAL)