

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

**C.P. (CAA)/53/MB/2024**

**IN**

**CA (CAA) 238/MB/2022**

*In the matter of*

*The Companies Act, 2013*

*Section 232 r/w Section 230 r/w*

*Section 8(10) 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 amalgamation of*

**Northstar Charitable Foundation'**

CIN: U91110MH1992NPL066940

**...Transferor Company 1/  
Petitioner Company 1**

**Venus Charitable Foundation**

CIN: U91110MH1992NPL066939

**...Transferor Company 2/  
Petitioner Company 2**

**Tristar Charitable Foundation'**

CIN: U91110MH1990PTC055084

**...Transferee Company 3/  
Petitioner Company 3**

*(“Collectively referred as Petitioner Companies”)*

***Order delivered on 19.07.2024***

***Coram:***

**Shri Prabhat Kumar**

Hon'ble Member (Technical)

**Justice V.G. Bisht (Retd.)**

Hon'ble Member (Judicial)

*Appearances*

For the Applicant(s) : Mr. Hemant Sethi a/w Mr. Jay  
Zaveri and Ms. Tavleen Saini i/b  
Crawford Bayley & Co., Advocate

For the Regional Director : Mr. Tushar Wagh, Deputy  
Director,

**ORDER**

1. Heard Authorized Representative for Petitioner Companies as well as Representative of the Regional Director, Western Region, Mumbai. No objector has come before this Tribunal to oppose the Scheme and nor has any party controverted any averments made in the Petitions, except otherwise stated hereunder.
2. The present Scheme of Amalgamation ('the Scheme') is sought under Sections 232 r/w Section 230 and other applicable provisions of the Companies Act 2013 (including any statutory modification or re-enactment or amendment thereof), as may be applicable, for the amalgamation of '**Northstar Charitable Foundation**' ('**First Transferor Company**') And '**Venus Charitable Foundation**' ('**Second Transferor Company**') With '**Tristar Charitable Foundation**' ('**Transferee Company**') And their respective Members.
3. The First Petitioner Company / First Transferor Company is engaged in the business of carrying out charitable activities *inter alia* relief of poverty, relief of distress caused by nature, relief towards education and medical health and promote, support, advance, assist, grants or payments of money or loans and advances towards relief of poverty, distress, education, medical etc.

4. The Second Petitioner Company / Second Transferor Company is engaged in the business of carrying out charitable activities *inter alia* relief of poverty, relief of distress caused by nature, relief towards education and medical health and promote, support, advance, assist, grants or payments of money or loans and advances towards relief of poverty, distress, education, medical etc.
5. The Third Petitioner Company / Transferee Company is engaged in the business of carrying out charitable activities *inter alia* relief of poverty, relief of distress caused by nature, relief towards education and medical health and promote, support, advance, assist, grants or payments of money or loans and advances towards relief of poverty, distress.
6. The rationale behind the scheme is as under:
  - (i) The Transferor Companies and the Transferee Company belongs to the Wadia group companies and were formed under section 25 of the erstwhile Companies Act, 1956 (now corresponding section 8 of the Act) and in order to consolidate and effectively manage the Transferor Companies and the Transferee Company in a single entity and to achieve *inter alia* economies of scale and efficiency, the amalgamation (merger by absorption) is being undertaken and the Transferee Company shall instead carry out the objects of the merged entities as the successor of the Transferor Companies.
  - (ii) The amalgamation (merger by absorption) of the Transferor Companies with the Transferee Company would *inter alia* have the following benefits:

- (iii) Simplification of the group structure for charitable companies of Wadia group as a result of the consolidation of the Transferor Companies and the Transferee Company;
  - (iv) Operational synergies to the combined entity such as rationalization of common programs, which can be put to the best advantage of the public at large;
  - (v) Consolidation of entities will result in significant reduction in the multiplicity of legal and regulatory compliances required at present to be carried out by the Transferor Companies and the Transferee Company.
7. The Petitioner Companies have approved the Scheme by passing the resolution in the respective Board Meeting held on 29<sup>th</sup> June 2022 and have approached the tribunal for sanction of the Scheme. The Appointed date of the Scheme is 1<sup>st</sup> day of April 2022.
8. The Petitioner Companies states that the Petition has been filed in consonance with the order dated 12<sup>th</sup> December 2023 passed by this Tribunal in C.A. (CAA)/238/230-232/MB/2022 and Petitioner Companies have complied with all the requirements as per the directions of this Tribunal and have filed necessary Affidavits of compliance with this Tribunal.
9. The Regional Director has filed his Report dated 03.07.2024 making certain observations and the Petitioner Companies have undertaken/made following submission that :
- (a) The Transferee Company shall file necessary application for rectification of CIN as appearing in the master data with the Registrar of Companies, Mumbai Maharashtra and, further

submits that the Transferee Company is a non-profit section 8 Company and was incorporated under section 25 of the erstwhile Companies Act, 1956 as a company limited by guarantee. The objects of the Transferee Company are similar to the objects of the Transferor Companies and, hence amalgamation of the Transferor Companies having same objects to that of the Transferee Company is permissible under section 8(10) of the Companies Act, 2013.

- (b) The Scheme annexed to the Company Scheme Application and Company Scheme Petition are one and the same and there are no discrepancies and/or any amendments/modifications made to the Scheme.
- (c) The Petitioner Companies submits that the scheme is in compliance with the provisions of the MCA Circular in respect of the Application to be filed within one year of the Appointed Date of the Scheme.
- (d) The Transferee Company will comply with Income Tax Provisions in relation to proceedings/claims under Income Tax Act against the Transferor Company.

10. Mr. Bhagwati Prasad, Additional Director for the Office of Regional Director (WR), Mumbai appeared on the date of hearing and submits that above explanations and clarifications given by the Petitioner Companies in rejoinder are satisfactory and they have no further objection to the Scheme.

11. The Official Liquidator, High Court, Bombay has filed his report dated 28<sup>th</sup> June 2024, *interalia* stating therein that the First Transferor Company and the Second Transferor Company have a negative net worth as per the financial statements as at 31<sup>st</sup> March 2023. In response to the observations made by the Official Liquidator, High Court, Bombay, the First Transferor Company / Second Transferor

Company has filed an Affidavit in Rejoinder dated 4<sup>th</sup> July 2024 and has clarified as follows:

- i. The negative net worth of the First and Second Transferor/Petitioner Companies will not in any way affect the interests of its members or creditors, if any as the amounts guaranteed by the members/shareholders of each of the Petitioner Companies are sufficient to meet all financial obligations. It is further submitted that the Tristar Charitable Foundation, the Transferee Company/Third Petitioner Company is financially sound and solvent to assume all financial obligations, if any of the First and Second Transferor Companies upon their amalgamation into the Transferee Company/Third Petitioner Company. The Petitioner Companies undertake to comply all the statutory requirements in this regard prescribed by the Companies Act, 2013.
12. We have perused the submissions made by the Petitioner Companies to the observations of the Official Liquidator and is of the considered view that the Transferee Company/Third Petitioner Company is financially sound and solvent to assume all financial obligations of the First and Second Transferor Companies upon their amalgamation into the Transferee Company.
13. All the assets and liabilities, if any and duties of the First Transferor Company and the Second Transferor Company, shall pursuant to section 232 of the Companies Act, 2013 be transferred to and become liabilities and duties of the Transferee Company.
14. From the material on record, the Scheme appears to be fair and reasonable and is not in violation of any provisions of law and is not contrary to public policy. Since all the requisite statutory compliances

have been fulfilled C.P. (CAA) / 53/230-232/MB/2024 is made absolute in terms of prayer clauses of the said Company Scheme Petition.

15. 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.
16. The Petitioner Companies are directed to file a copy of this Order along with a copy of the Scheme with the concerned Registrar of Companies, electronically along with E-Form INC-28 within 30 days from the date of receipt of the certified copy of Order by the Petitioner Companies.
17. The First Transferor Company and the Second Transferor Company shall stand dissolved, without being wound-up.
18. All concerned regulatory authorities to act on a copy of this Order along with Scheme duly certified by the Deputy Director or the Assistant Registrar, National Company Law Tribunal, Mumbai Bench.
19. The Scheme is hereby sanctioned with the Appointed Date of 1<sup>st</sup> day of April 2022.
20. Accordingly, C.P. (CAA)/53/230-232/MB/2024 is **allowed** and disposed-off. File to be consigned to records.

Sd/-

**Prabhat Kumar**  
Member (Technical)

Sd/-

**Justice V.G. Bisht**  
Member (Judicial)