

**THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ**

**CA (CAA) No. 11/ALD/2023
(First Motion)**

**Under Section 230 and 232 of
the Companies Act, 2013 read
with Companies (Compromises,
Arrangements &
Amalgamations) Rules, 2016
and other Applicable Provisions**

IN THE MATTER OF SCHEME OF AMALGAMATION OF:

RANILIA PROPERTIES PRIVATE LIMITED

Having its Registered Office at:

301, City Centre, The Mall, Kanpur- 208004 (U.P.),

PAN: AAACR5524K

CIN: U74899UP1987PTC040268

...Transferor Company/Applicant No. 1

And

BAKERS AGRI FOODS PRIVATE LIMITED

Having its Registered Office at:

301, City Centre, Kanpur- 208004 (U.P.),

PAN: AAACR69I6M

CIN: U15400UP1989PTC011106

.... Transferee Company/Applicant No. 2

Order delivered on: 2nd April, 2024

CORAM:

1. HON'BLE SHRI. PRAVEEN GUPTA, MEMBER (JUDICIAL)

2. HON'BLE SHRI ASHISH VERMA, MEMBER (TECHNICAL)

Present physically: -

For the Applicant Companies: Shri Anil Kumar, PCS

ORDER

1. This is a joint First Motion Application filed by Applicant Companies namely; Ranilia Properties Private Limited (for short hereinafter referred to as Transferor Company/Applicant No. 1) and Bakers Agri foods Private Limited (for short hereinafter referred to as Transferee Company/Applicant No. 2) under Section 230-232 of the Companies Act, 2013 (the Act) and other applicable provisions of the Act read with the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (the Rules) in relation to the Scheme of Amalgamation for the amalgamation between the Applicant Companies. The said Scheme is attached as **Annexure-1** of the Application.
2. The Applicant Companies have prayed for dispensing with the requirement for convening the meetings of the Equity

Shareholders of both the Transferor Company/Applicant No. 1 and Transferee Company/Applicant No. 2, dispensing with the requirement for convening the meetings of the Secured and Unsecured Creditors of the Transferee Company/Applicant No. 2, and since there being no Secured Creditors and Unsecured Creditors of the Transferor Company/Applicant No. 1, as such, no prayer for convening/dispensing the meeting of the Secured Creditors of the Transferor Company/Applicant No. 1 was sought.

3. The Transferor Company/Applicant No. 1 is primarily engaged in the business of building and contractors and a Real Estate Company. The main objects of the Transferor Company are set-out in the Memorandum of Association of the Company which is set out as **Annexure- 2** of the Application.
4. The Transferee Company/Applicant No. 2 has the primarily engaged in the business of manufacturing and trading of food products and confectionery items. The main objects of the Transferee Company are set-out in the Memorandum of Association of the Company which is set out as **Annexure- 5** of the Application.

5. It is submitted that the Registered Offices of the Applicant Companies are situated in the State of Uttar Pradesh and, therefore, both the Applicant Companies are under the territorial jurisdiction of this Bench.
6. The rationale for the Scheme of Amalgamation of Transferor Company/Applicant No.1 with the Transferee Company/Applicant Company No. 2 is to consolidate the Transferor Company with the Transferee Company and scale down the number of companies so as to create a large unified entity to achieve optimal and efficient utilization of resources, avoid overlap of compliance related costs and enhance operational and management efficiencies. Both the Transferor Company and the Transferee Company have been promoted by the same promoters and belong to the same group. The merger of the Transferor Company with the Transferee Company pursuant to this Scheme would have, inter-alia, the following benefits:
- i) The consolidation of the companies as a single entity will lead to efficient utilization of the capital and financial resources and will provide several benefits including streamlined group structure by reducing number of entities,

reducing the multiplicity of legal and regulatory compliances and rationalization of cost;

- ii) Lead to the creation of a larger unified entity with a wider and stronger capital and asset base, having greater capacity for conducting its operations more efficiently and competitively;
- iii) Result in reduction in fixed expenses, overheads, administrative and other expenditure of the group companies and eliminate multi-layer structure, managerial overlaps and cost duplication;
- iv) Consolidation of managerial expertise of the companies will facilitate greater focus and utilization of resources.
- v) Provide Exit Opportunity to the shareholders of the Transferor Company at a Fair Value of their equity shares.

7. It is stated that the Board of Directors of the Transferor Company/Applicant No.1 and Applicant Transferee Company/Applicant No. 2 in their meetings held on 28th February 2023 have considered and unanimously approved the Scheme of Amalgamation subject to sanctioning of the same by this Tribunal. The copies of the Board Resolutions of the Transferor Company/Applicant No.1 and Transferee

Company/Applicant No. 2 are attached as **Annexure- 8 and Annexure-9** respectively of the application.

8. The Appointed Date of the Scheme is 1st April, 2022 or such other date as this Tribunal either of its own or at the request of the respective Company may fix as mentioned in Part-I Clause 1(c) of the Scheme of Amalgamation which is attached as **Annexure-1** of the Application.
9. It is stated that the Transferor Company/Applicant No. 1 have filed the Audited Financial Statements as on 31st March, 2022 and the Provisional Financial Statement as on 30th September, 2022 which are attached as **Annexure-3 and Annexure-4** respectively of the application.
10. It is stated that the Applicant Transferee Company/Applicant No. 2 have filed the Audited Financial Statements as on 31st March, 2022 and the Provisional Financial Statement as on 30th September, 2022 which are attached as **Annexure-6 and Annexure-7** of the application.

11. It is submitted that no corporate debt restructuring is envisaged in the proposed Scheme of Amalgamation.
12. It is further submitted that in pursuance of the proviso to Section 230 (7) and Section 232 (3) of the Act, the Applicant Companies have filed the certificates dated 10th February, 2023 issued by the Statutory Auditors of the Applicant Companies certifying that the Scheme is in compliance with the Accounting Standards under Section 133 of the Act and the same are attached as **Annexure- 11 and Annexure-12** of the application.
13. It is further submitted by the Counsel for the Applicant Companies that the Valuation Report/Share Exchange Ratio Report dated 24th January, 2023 submitted by Mrs. Swati Chaturvedi, Registered Valuer with the Insolvency & Bankruptcy Board of India (Registration No. IBBI/RV/03/2019/12673) is attached as **Annexure-10**. As per the said Report, the Transferee Company/Applicant No.2 shall in consideration of the transfer and vesting of the assets and liabilities of the Transferor Company in the Transferee Company, the Transferee Company without any further application or deed shall –

“8 (Eight) Equity Shares of Rs. 10/- (Rupees Ten only) each shall be credited as fully paid-up in the ‘Transferee Company’ for every 1 (One) Equity Shares of Rs. 100/- (Rupees Hundred only) each fully paid up held in the ‘Transferor Company’.”

14. It is submitted by the learned authorized representative that the Scheme (**Annexure-1**) also takes care of the interests of the staff/workers and employees of the Applicant Companies, by virtue of Part-IV Clause 14.2 of the Scheme.
15. The Authorized Signatories of the Applicant Companies have deposed by way of affidavits that the Applicant Companies are not regulated by any sectoral regulators. The aforesaid affidavits of the Authorised Signatories are filed with the affidavit dated 12.12.2023 furnishing Additional information in support of Application.
16. It is deposed by the Authorised Signatories of the Applicant Companies that there are no inspection, inquiry, investigations or legal proceedings pending against the Applicant Companies under Section 210 to 227 of the Companies Act, 2013 and Section 235 to 251 of the Companies Act, 1956 and other applicable provisions of the

Companies Act, 1956/2013. The aforesaid affidavits of the Authorised Signatories are filed with the affidavit dated 12.12.2023 furnishing Additional information in support of Application.

17. The Applicant Companies have furnished the following documents:-
- i. Proposed Scheme of Amalgamation (**Annexure- 1** of the application).
 - ii. Certificate of Incorporation along with Memorandum and Articles of Association of the Applicant Companies (**Annexure-2 and Annexure- 5** respectively of the application).
 - iii. List of Equity Shareholders of the Transferor Company/Applicant No. 1 as on 10th February, 2023 (**Annexure- 13** of the application).
 - iv. List of Equity Shareholders of the Transferee Company/Applicant No. 2 as on 10th February, 2023(**Annexure- 15** of the application).
 - v. List of Creditors of the Transferee Company/Applicant No.2 as on 10th February, 2023 duly certified by M/s Agarwal Kasera & Co., Chartered Accountants, Statutory Auditors of the Company (**Annexure- 17** of the application).

- vi. Certificates of the Statutory Auditors of the Applicant Companies to the effect that the Accounting treatment proposed in the Scheme is in conformity with Section 133 of the Companies Act, 2013 (**Annexure- 11 and Annexure- 12** respectively of the application).
- vii. Audited Financial Statement as on 31st March, 2022 of the Transferor Company/Applicant No. 1 (**Annexure-3** of the application).
- viii. Provisional Financial Statement as on 30th September, 2022 of the Transferor Company/Applicant No. 1 (**Annexure-4** of the application).
- ix. Audited Financial Statements of the Transferee Company/Applicant No. 2 for the period ended 31st March, 2022 (**Annexure- 6** of the application).
- x. Provisional Financial Statement as on 30th September, 2022 of the Transferee Company/Applicant No. 1 (**Annexure- 7** of the application).
- xi. Affidavit with regard to the Sectoral Regulator of the Applicant Companies filed with the Affidavit dated 12.12.2023 furnishing Additional information in support of Application. (**Additional Affidavit dated 20/12/2023**).

xii. Report on Valuation of Shares and Share Exchange Ratio of the Registered Valuer for Securities and Financial Assets, dated 24th January, 2023 (**Annexure-10** of the application).

xiii. Affidavits stating that there are no legal proceedings against the Applicant Companies filed with the Affidavit dated 12.12.2023 furnishing Additional information in support of Application (**Additional Affidavit dated 20/12/2023**).

18. The Applicant Companies have furnished the details of the Equity Shareholders and Unsecured Creditors as follows:

Name of the Applicant Companies	Shareholders alongwith their consent on affidavit		Creditors along with their consents on affidavit			
	Equity Shareholders	Consents submitted on affidavit	Secured Creditors	Consents submitted on affidavit	Unsecured Creditors	Consents submitted on affidavit
Transferor Company/Applicant No.1	4(Four)	Affidavit received from all Equity Shareholders constituting 100% of the paid up share capital. Dispensation of the Meeting requested.	N.A.	N.A.	N.A.	N.A.
Transferee Company/Applicant No. 2	7(Seven)	Affidavit received from all Equity Shareholders constituting 100% of the paid up share capital. Dispensation of the Meeting requested.	2 (Two)	Affidavit received from one secured Creditor constituting 97.46 % of the total Value of Debt. Dispensation of the Meeting requested.	140 (One Hundred Forty)	Affidavit received from Thirty Four Unsecured Creditors constituting 91.20 % of the total Value of Debt. Dispensation of the Meeting requested.

19. Accordingly, the directions of this Bench in the present case are as under:-

- **In relation to Transferor Company/Applicant No. 1:**

- The meeting of the Equity Shareholders is dispensed owing to consent Affidavits filed by the all Equity Shareholders. The copy of said Affidavits is attached with the application;**(Annexure- 14)**

- There are no Secured and Unsecured Creditor so the Transferor Company/ Applicant No. 1, as such, no requirement for convening/dispensing the meeting of the Secured and Unsecured Creditors / Applicant No. 1 was sought.

- **In relation to Transferee Company/ Applicant No. 2:**

- The meeting of the Equity Shareholders is dispensed owing to consent Affidavits filed by the all Equity Shareholders. The copy of said Affidavits is attached with the application;**(Annexure- 16)**

- The meeting of the Secured and Unsecured Creditors is dispensed owing to consent Affidavits filed by 97.46% of the Secured Creditors and 91.20% of Unsecured Creditors. The copy of said Affidavits is attached with the application;
(Annexure- 18)

20. In view of the above, the first Motion Application stands allowed by giving liberty to the Applicant Companies to file Second motion Petition with a prayer that the Applicant Companies shall make specific prayer for sending notices to the (a) Central Government through Regional Director, Northern Region, Ministry of Corporate Affairs, New Delhi, (b) concerned Registrar of Companies (c) official Liquidator and (d) Income Tax Authorities by disclosing the PAN numbers of all the Applicant Companies in the title of the Second Motion Petition. The applicant companies shall also file separate affidavits stating the Sectoral regulators governing the respective companies while filling second motion petition.
21. The Company Petition for confirmation of the scheme is to be filed within the time period prescribed under the provisions of the Act and corresponding rules made thereunder.
22. That appropriate prayer would also be made in the second motion petition for publication in newspaper.
23. The application bearing Company Application CA (CAA) No.11/ALD/2023 is disposed of accordingly.

24. Certified Copy of this order, if applied or, be supplied to the parties, subject to compliance with all requisite formalities.

-Sd-

(Ashish Verma)
Member (Technical)

-Sd-

(Praveen Gupta)
Member (Judicial)

Date: 2nd April, 2024