

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

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**CP (CAA) NO. 26/ALD/2023  
(2<sup>nd</sup> Motion)**

*Under Sections 230 and 232 and other applicable provisions of the Companies Act, 2013, read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016*

**IN THE MATTER OF SCHEME OF ARRANGEMENT OF:**

**1. Lohia Corp Limited (hereinafter referred as LCL)**, a Company incorporated under the Companies Act, 1956 having its Registered Office at D-3/A, Panki Industrial Estate, Kanpur – 208022, Uttar Pradesh having Corporate Identification Number U29263UP1981PLC005446 within the jurisdiction of this Tribunal ..... **Petitioner Transferor Company / Demerged Company**

**AND**

**2. Kanpur Packaging Machines Limited (hereinafter referred as KPML)**, a Company incorporated under the Companies Act, 2013 having its Registered Office at D-3/A, Panki Industrial Estate, Kanpur – 208022, Uttar Pradesh having Corporate Identification Number U28261UP2023PLC183476 within the jurisdiction of this Tribunal

..... **Petitioner Transferee Company / Resulting Company**

Order pronounced on 16<sup>th</sup> April, 2024

**CORAM:**

Shri Praveen Gupta : Member (Judicial)

Shri Ashish Verma : Member (Technical)

**PRESENT:**

Sh. S.K. Gupta with : For the Petitioner Companies  
Sh. Ankit Kr. Singh, PCS(s)

Sh. Krishna Dev Vyas, Adv. : For the ROC

Sh. Gaurav Mahajan, Sr. S.C. with : For the I.T. Deptt.  
Sh. Niraj Kumar Singh, Adv.

Sh. Ajit Kumar Singh, AOL : For the O.L. Alld/ RD (NR)

**ORDER**

1. The present Joint Company Petition is filed by the Petitioner Companies above named under Sections 230 to 232 and other applicable provisions of the Companies Act, 2013 read with the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, for sanction of the Scheme of Arrangement for Demerger of the 'Technical Textile Machinery Business' ('Demerged / Core Undertaking') of Lohia Corp Limited, ('Petitioner Transferor Company' / 'Demerged Company') along with all the estate, assets, liabilities, rights, title, claims, interest and authorities including accretions and appurtenances thereof and vesting the same as a going concern with Kanpur Packaging Machines Limited ('Petitioner

Transferee Company / Resulting Company’) (collectively referred to as the ‘Petitioner Companies’).

**2.** The Petition has now come up for final hearing. The Ld. Counsel for the Petitioner Companies submits as follows:

**(i)** The proposed ‘Scheme of Arrangement’ has previously been approved by the Board of Directors of the Petitioner Companies in their respective Board Meetings held on 21<sup>st</sup> August, 2023.

**(ii)** The factual position of the Authorized, Issued, Subscribed and Paid up Share Capital of the Petitioner Transferor / Demerged Company as per Audited Financial Statements as on 31<sup>st</sup> March, 2023 and of the Petitioner Transferee Company / Resulting Company as per the Provisional Financial Statements as on 20<sup>th</sup> August, 2023 is described in the present Company Petition.

**(iii)** The rationale of the proposed Scheme of Arrangement is elaborately described in the present Company Petition which may be summarized as under:

**2.1.** The Scheme of Arrangement provides for Demerger of 'Technical Textile Machinery Business' ('Demerged / Core Undertaking') of Lohia Corp Limited, ('Petitioner Transferor Company' / 'Demerged Company') and vesting it as a going concern with Kanpur Packaging Machines Limited ('Petitioner Transferee Company / Resulting Company') pursuant to Sections 230 to 232 and other applicable provisions of the Companies Act, 2013 and rules made thereunder.

### **Rationale for Demerger**

The rationale for the Scheme of Arrangement for Demerger of Technical Textile Machinery Business (**'Demerged / Core Undertaking'**) of the Petitioner Transferor Company / Demerged Company along with all the estate, assets, liabilities, rights, title, claims, interest and authorities including accretions and appurtenances thereof and vesting the same as a going concern with the Petitioner Transferee Company / Resulting Company is, inter alia, as follows:-

- (i)** The Demerged Company is primarily engaged in the business of manufacturing of Technical Textile Machinery Business (**'Demerged / Core Undertaking' more specifically defined**

**in Clause 1.7 of this Scheme)** in India and in overseas jurisdictions (including *via* direct exports and through overseas subsidiaries). LCL also acts as investment holding company for the group and holds other assets / properties;

**(ii)** Management believes that the nature of offerings and the risk and return profile of the Technical Textile Machinery Business of the Demerged Company, being its mainstay, wherein it operates as one of the prominent market / segment players, is different vis-à-vis the Other Business(es);

**(iii)** The demerger will allow the management to devise, implement and pursue independent business strategies for the Technical Textile Machinery Business. The Resulting Company housing Technical Textile Machinery Business with separate portfolios and service offerings would have wider scope for independent collaboration, investment opportunities and expansion;

**(iv)** Considering the above, the management intends to segregate its Technical Textile Machinery Business, so as to scale the operations, achieve economies of scale, and unlock the growth potential of Technical Textile Machinery Business;

(v) In order to achieve the aforementioned objective, it is envisaged that the Technical Textile Machinery Business of the Demerged Company should be demerged into the Resulting Company. It is expected that such restructuring will be beneficial for the Demerged Company, the Resulting Company and their respective shareholders and creditors, as it would result in concentrated focus on the Technical Textile Machinery Business by the Resulting Company and on the Non-Core Undertaking by the Demerged Company, consequently resulting into:-

- unlocking the value of independent businesses for the stakeholder.
- focused business approach to the respective line of business;
- enable strategic / financial investment in Core business; and
- benefit of financial resources, managerial, technical and marketing expertise.

**2.2** In consideration of the above mentioned business rationale and related benefits, this Scheme of Arrangement between Lohia Corp Limited and Kanpur Packaging Machines

Limited is propounded in accordance with the terms set out in the Scheme of Arrangement. The Board of Directors of the Petitioner Companies are of the opinion that the proposed Scheme is in the best interests of these Companies, their Shareholders and other Stakeholders.

**3.** The Petitioner Companies have stated that the accounting treatment proposed in the Scheme of Arrangement is in conformity with the Accounting Standards prescribed under Section 133 of the Companies Act, 2013 as certified by the respective Auditors of the Petitioner Companies.

**4.** It has also been stated in the Petition that no proceedings under Sections 235 to 251 of the Companies Act, 1956 or under Sections 210 to 226 of the Companies Act, 2013 are pending against any of the Petitioner Companies.

**5.** It has also been stated in the Petition that the Scheme is not prejudicial to the interest of the Shareholders and Creditors of the Petitioner Companies and the Petition is made *bona-fide* and is in the interest of all the Petitioner Companies and their respective Shareholders and Creditors as a whole and is just and equitable.

6. It has been stated that the Petitioner Companies are closely held Public Companies and their Equity Shares are not listed on any Stock Exchange. Further, the Petitioner Companies are under common management and control.

7. The Petitioner Companies have annexed the Share Exchange Ratio Report dated 21<sup>st</sup> August, 2023 given by Mr. Niranjana Kumar, a Registered Valuer for Securities and Financial Assets (Registration No. IBBI/RV/06/2018/10137) in respect of Securities or Financial Assets, registered with the Insolvency and Bankruptcy Board of India (IBBI). As per the said Report, the Petitioner Transferee Company / Resulting Company shall in consideration of the demerger of the 'Demerged Undertaking' shall, without any further act, instrument, deed or matter, issue and allot fully paid-up equity shares to eligible Equity Shareholders of the 'Petitioner Transferor Company / Demerged Company', as on the Record Date, or to their respective heirs, executors, administrators, or legal representatives, in the following manner:

*"1 (One) Equity share of KPML having face value of INR 1/- each fully paid up shall be issued for every 1 (One) Equity share of INR 1/- each fully paid up held in LCL".*



8. A perusal of the present Petition discloses that initially the Petitioner Companies had filed a Company Application CA(CAA) No. 22 / ALD / 2023 seeking directions of this Tribunal to dispense with the requirement of convening the meetings of Equity Shareholders of both the Petitioner Companies and of the Secured Creditors and Unsecured Creditors of the Petitioner Transferee Company / Resulting Company and to convene separate meetings of the Secured Creditors and Unsecured Creditors of the Petitioner Transferor Company / Demerged Company. Accordingly, this Tribunal vide its order dated 22<sup>nd</sup> September, 2023 allowed the above mentioned prayers and directed to convene separate meetings of both the Secured Creditors and Unsecured Creditors of the Petitioner Transferor Company / Demerged Company under the supervision of Mr. Rajesh Sharma, Former NCLT Member and a Chartered Accountant (Chairperson), Mr. Prakhar Saran Srivastava, Advocate (Co-Chairperson) and Ms. Shruti Srivastava, PCS (Scrutinizer) on **Saturday, 25<sup>th</sup> November, 2023 at 11.00 A.M. and 1.00 P.M.** respectively at the Head Office and Works of the Petitioner Transferor Company / Demerged Company at

Lohia Industrial Complex, Chaubepur, Kanpur – 209203 (Uttar Pradesh) for the purpose of considering and, if thought fit, approving, the proposed Scheme of Arrangement and dispensed with the requirement of convening meetings of Equity Shareholders of both the Petitioner Companies and Secured Creditors and Unsecured Creditors of the Petitioner Transferee Company / Resulting Company. This Tribunal further directed to issue notice of the Company Application along with Scheme of Arrangement and related documents to the Statutory Authorities, viz. (a) the Central Government through the office of the Regional Director (Northern Region), Ministry of Corporate Affairs, New Delhi (b) the Registrar of Companies, Uttar Pradesh, Kanpur; and (c) the Income-Tax Department having jurisdiction over the Petitioner Companies (d) Official Liquidator, Allahabad having jurisdiction over the Petitioner Companies.

- 9.** A perusal of the present Petition discloses that in pursuance of the directions contained in Order dated 22<sup>nd</sup> September, 2023, passed by this Tribunal in Company Application CA(CAA) No. 22 /ALD / 2023, separate meetings of the Secured Creditors and Unsecured Creditors of the Petitioner

Transferor Company / Demerged Company were duly convened and held on Saturday, 25<sup>th</sup> November, 2023 in physical mode at the Head Office and Works of the Petitioner Transferor Company / Demerged Company as per the following Schedule:

<b>Sl. No.</b>	<b>Particulars</b>	<b>Time</b>	<b>Mode of Voting</b>
<b>1.</b>	Secured Creditors of the Petitioner Transferor Company / Demerged Company.	11:00 A.M.	Poll conducted at the venue of the Meeting.
<b>2.</b>	Unsecured Creditors of the Petitioner Transferor Company / Demerged Company.	1:00 P.M.	Poll conducted at the venue of the Meeting.

The Scheme of Arrangement was considered and approved with requisite majority in the respective meetings of the Secured Creditors and Unsecured Creditors of the Petitioner Transferor Company / Demerged Company, without any modifications. The Chairperson appointed for the meetings has filed his Reports on 8<sup>th</sup> December, 2023 which have been enclosed as Annexure No. P-12 and P-13 with the Petition.

- 10.** Notice of the Company Application along with the Scheme of Arrangement and related documents was also given to the Statutory Authorities viz. (a) the Central Government through the office of the Regional Director (Northern Region), Ministry of Corporate Affairs, New Delhi (b) the Registrar of Companies, Uttar Pradesh, Kanpur (c) the Income-Tax Department having jurisdiction over the Petitioner Companies and (d) The Official Liquidator, Uttar Pradesh, Allahabad. The Petitioner Companies have filed Affidavit of Service of Company Application on 8<sup>th</sup> November, 2023.
- 11.** This Tribunal vide its order dated 21<sup>st</sup> December, 2023 directed to issue notice of hearing in respect of present Company Petition to the Statutory Authorities and also to make paper publication in this respect in “The Pioneer” (English) and “Rashtriya Sahara” (Hindi) newspapers having wide circulation in Kanpur in the State of Uttar Pradesh in which the Registered offices of the Petitioner Companies are situated.
- 12.** In compliance thereof, the Petitioner Companies on 4<sup>th</sup> January, 2024 filed an Affidavit of service and publication,

confirming that the notices have been duly published in “The Pioneer” (English) and “Rashtriya Sahara” (Hindi) newspaper having circulation in Kanpur in the State of Uttar Pradesh in which the Registered offices of the Petitioner Companies are situated. The Petitioner Companies have also served notice of the Company Petition to (a) the Central Government through the office of the Regional Director (Northern Region), Ministry of Corporate Affairs, New Delhi (b) the Registrar of Companies, Uttar Pradesh, Kanpur (c) the Income-Tax Department having jurisdiction over the Petitioner Companies (d) The Official Liquidator, Uttar Pradesh, Allahabad and (e) The Principal Chief Commissioner of Income-Tax, U.P. (East), Lucknow.

- 13.** In response to the above stated notice, the Registrar of Companies, Ministry of Corporate Affairs, Uttar Pradesh submitted its Report dated 9<sup>th</sup> January, 2024 to the Regional Director (Northern Region), Ministry of Corporate Affairs, New Delhi which did not contain any adverse observation or remark on the proposed Scheme of Arrangement.

- 14.** In response to the above stated notice, the Regional Director (Northern Region), Ministry of Corporate Affairs, New Delhi has filed his Representation Affidavit dated 6<sup>th</sup> February, 2024 (“RD affidavit”) which did not contain any adverse observation or remark on the proposed Scheme of Arrangement.
- 15.** In response to the above stated notice, the Official Liquidator, Ministry of Corporate Affairs, Allahabad at Prayagraj, Uttar Pradesh has stated before this Tribunal that in the case of a Demerger, there was no necessity to file the Report by the Official Liquidator as none of the Petitioner Companies is going to be dissolved under the Scheme.
- 16.** In response to the service of Notice of Company Petition, the Income-Tax Department filed its Representation Affidavit Dt. 28<sup>th</sup> February, 2024 in respect of the Petitioner Companies stating that no proceedings were pending against any of the Petitioner Companies. Further, there was no outstanding demand in respect of the Petitioner Transferee Company / Resulting Company and the status of demand against the

Petitioner Transferor Company / Demerged Company was reported as under:

<b>SI. No.</b>	<b>A.Y.</b>	<b>Outstanding demand as per ITBA (in Rs.)</b>	<b>Remarks</b>
1.	2016-17	11,97,74,944/-	A refund for A.Y. 2016-17 was issued to Assessee, After that a rectification order passed creating a demand of Rs. 15,12,77,685/- which was deposited by the Assessee as per challan dated 30.03.2021 but the credit of challan is not allowed by the System.
2.	2021-22	27,29,86,950/-	This demnd is reduced to nil vide manual order dated 22.12.2023 and same shall be uploaded on system as functionality will be available.
3.	2023-24	2,99,380/-	154 pending regarding correction of demand and functionality for rectification on ITBA is not available with the JAO for A.Y 2023-24.

**17.** The Petitioner Companies vide Affidavit dated 12<sup>th</sup> March, 2024 submitted that the above mentioned outstanding demand against the Petitioner Transferor Company / Demerged Company has been paid / adjusted as reported in the Remarks column of the Representation Affidavit which

due to unavailability of functionality for rectification could not be uploaded / updated on ITBA . The Petitioner Transferor Company / Demerged Company has also submitted relevant documents in support of settlement of outstanding demand. Further, despite settlement of demand as stated above , the Petitioner Companies have furnished an undertaking to the effect that all the legal proceedings of whatsoever nature by and against Petitioner Transferor Company / Demerged Company pertaining to the Demerged Undertaking , whether in relation to tax liabilities or other matters, pending or arising on and after the Appointed Date and relating to the period prior to the Appointed Date, shall not abate or be discontinued or be prejudicially affected by reason of the Scheme or by anything contained in the Scheme but shall be continued and enforced by or against the Petitioner Transferee Company / Resulting Company in the manner and to the same extent as would or might have been continued and enforced by or against Petitioner Transferor Company / Demerged Company.

- 18.** The representatives of the Central Government as well as the Income Tax Department present during the hearing while



agreeing to the submissions made by the Petitioner Companies conveyed no objection to the proposed Scheme of Arrangement.

- 19.** The Petitioner Companies on 16<sup>th</sup> February, 2024 have also filed an Affidavit confirming that neither the Petitioner Companies nor their Legal Counsel has received any objection / representation from any person against the Company Petition or the proposed Scheme of Arrangement in response to the publication of the notice of hearing of the present Company Petition in newspapers.
- 20.** We have gone through the reports of the Ld. Regional Director (Northern Region), Ministry of Corporate Affairs, New Delhi, Ld. Registrar of Companies, Uttar Pradesh, Kanpur, Income-Tax Department having jurisdiction over the Petitioner Companies and the statement made by the Official Liquidator, Allahabad and after perusing the same and hearing the submissions made by the Ld. Counsel representing the Petitioner Companies, we find that there appears to be no objection to grant sanction to the Scheme of Arrangement and we are of the view that the sanction of the

present Scheme of Arrangement is not against public policy, nor it would be prejudicial to the public interest at large.

**21.** In addition to above, all the statutory compliances seem to have been complied with by the Petitioner Companies, therefore, the present Company Petition deserves to be allowed in terms of its Prayer Clause.

**22.** As a result, the proposed Scheme of Arrangement, which is annexed to the Company Petition stands approved and sanctioned and the same shall be binding on all the Shareholders, Creditors and other Stakeholders of the above-named Petitioner Companies and also on the Petitioner Companies with effect from the 'Appointed Date' i.e. 1<sup>st</sup> April, 2024 or the Effective Date, whichever is earlier. The Petitioner Companies are required to act upon as per the terms and conditions of the sanctioned Scheme of Arrangement.

**23.** While approving the Scheme of Arrangement as above, it is clarified that this order should not be construed as, in any way, granting exemption from payment of stamp duty (if any, as applicable), taxes (including Income-Tax, GST or other charges, if any, as applicable) and payment in accordance

with law or in respect to any permission/compliance with any other requirement which may be specifically required under any law.

**24. THIS TRIBUNAL DO FURTHER ORDER:**

- i. Upon the Scheme becoming effective, all the property, rights and powers pertaining to the Technical Textile Machinery Business ('Demerged / Core Undertaking') of the Petitioner Transferor Company / Demerged Company specified in the Schedule annexed hereto be transferred, without any further act or deed, to the Petitioner Transferee Company / Resulting Company and accordingly, the same shall, pursuant to Sections 230 and 232 of the Companies Act, 2013, be transferred to and vested in the Petitioner Transferee Company / Resulting Company for all the estate and interest of the 'Demerged / Core Undertaking' of the Petitioner Transferor Company / Demerged Company therein but subject nevertheless to all charges now affecting the same; and
- ii. Upon the Scheme becoming effective, all the liabilities and duties pertaining to the 'Demerged / Core Undertaking' of

the Petitioner Transferor Company / Demerged Company be transferred, without further act or deed, to the Petitioner Transferee Company / Resulting Company and accordingly, the same shall pursuant to Sections 230 and 232 of the Companies Act, 2013, be transferred to and become the liabilities and duties of the Petitioner Transferee Company / Resulting Company; and

**iii.** Upon the Scheme becoming effective, all the employees of the ‘Demerged / Core Undertaking’ of the Petitioner Transferor Company / Demerged Company, in service on the Effective Date, shall be transferred to and shall become the employees of the Petitioner Transferee Company / Resulting Company as provided in the Scheme of Arrangement; and

**iv.** Upon the Scheme becoming effective, all proceedings now pending by or against pertaining to the ‘Demerged / Core Undertaking’ of the Petitioner Transferor Company / Demerged Company be continued by or against the Petitioner Transferee Company / Resulting Company.

v. Upon the coming into effect of the Scheme, and in consideration for the transfer of and vesting of properties, assets and liabilities of the 'Demerged / Core Undertaking' of the Petitioner Transferor Company / Demerged Company in the Petitioner Transferee Company / Resulting Company in terms of this Scheme, the Petitioner Transferee Company / Resulting Company shall, without any further act, instrument, deed or matter, issue and allot fully paid-up equity shares to eligible equity shareholders of the Petitioner Transferor Company / Demerged Company, as on the Record Date, or to their respective heirs, executors, administrators, or legal representatives, as per the Share Entitlement Ratio Report dated 21<sup>st</sup> August, 2023 issued by the Independent Registered Valuer(s) Mr. Niranjana Kumar, Registered Valuer, having IBBI registration No – IBBI/RV/06/2018/10137 in the following manner:

***“1 (One) Equity share of KPML having face value of INR 1/- each fully paid up shall be issued for every 1 (One) Equity share of INR 1/- each fully paid up held in LCL”***

- 25.** The Petitioner Companies shall within thirty days of the date of the receipt of certified copy of this Order cause a copy of this order delivered to the Registrar of Companies, Uttar Pradesh for registration.
- 26.** The Petitioner Companies shall supply legible print outs of the Scheme of Arrangement and the Schedule of Assets in acceptable form to the Registry and the Registry will append such print outs, after verification, to the certified copy of the Order.
- 27.** Certified copy of this Order be supplied, if applied for, subject to compliance with usual formalities.
- 28.** That the Resulting Company shall deposit an amount of Rs. 25,000/- (Rupees Twenty-Five Thousand Only) in favour of “The Ministry of Corporate Affairs” within a period of four weeks from the date of receipt of the certified copy of this order and file affidavit of compliance thereof.
- 29.** All the concerned Regulatory Authorities and other persons to act on a copy of this Order annexed with the Scheme of

Arrangement duly authenticated by the Registrar, National Company Law Tribunal, Allahabad Bench, Prayagraj.

**30.** Any person interested shall be at liberty to apply to the Tribunal in the above matter for any directions that may be necessary.

**31.** Accordingly, the present Company Petition bearing CP (CAA) No. 26 / ALD / 2023 is allowed and stands disposed of.

*-Sd-*

**(Ashish Verma)  
Member (Technical)**

*-Sd-*

**(Praveen Gupta)  
Member (Judicial)**

**Date: 16<sup>th</sup> April, 2024**