

DIVISION BENCH
COURT - II

O-226

**NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA**

C.P.(CAA)/45(KB)2024
IN
C.A.(CAA)/188(KB)2023

**CORAM: 1. HON'BLE MEMBER(J), SMT. BIDISHA BANERJEE
2. HON'BLE MEMBER(T), SHRI D. ARVIND**

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING ON 22ND APRIL 2024

IN THE MATTER OF	UDYACHAL MERCHANDISE LIMITED
UNDER SECTION	SEC. 230-232 - SECOND MOTION

Appearance (via video conferencing/physically)

Mr. A.K. Jaishwal, CS] For the Applicant
Ms. J. Mondal, CS

ORDER

1. The instant application has been filed in the first stage of the proceedings under Section 230(1) read with Section 232(1) of the Companies Act, 2013 (“**Act**”) for orders and directions with regard to meetings of shareholders and creditors in connection with the Scheme of Amalgamation of Udyachal Merchandise Limited being the Petitioner No.1 above named (Transferor Company/ UML) with Swadeshi Commodities Private Limited being the Petitioner No.2 above named (Transferee Company/ SCPL), whereby and where under the Transferor Company is proposed to be amalgamated with the Transferee Company from the Appointed Date, **viz 01-April-2023**, in the manner and on the terms and conditions stated in the said Scheme of Amalgamation (“**Scheme**”).

2. By an order dated 24-January-2024 in Company Application (CAA) No.188/KB/2023, this Tribunal made the following directions with regard to meetings of shareholders and creditors under Section 230(1) read with Section 232(1) of the Act:-

(a) Meetings dispensed:

Equity Shareholders

Meeting of Equity Shareholders of the Applicant Companies for considering the Scheme are dispensed with in view of shareholder representing 100% in value of shares of Applicant Companies having respectively given their consent to the Scheme by way of affidavits.

Unsecured Creditors

Meeting of Unsecured Creditors of Applicant No. 1 for considering the Scheme are dispensed with in view of consent by Unsecured Creditors representing 100% in value of Unsecured Debt of Applicant No. 1 having respectively given their consent to the Scheme by way of affidavits.

Meeting of Unsecured Creditors of Applicant No. 2 for considering the Scheme are dispensed with in view of consent by Unsecured Creditors representing 100% in value of Unsecured Debt of Applicant No. 1 having respectively given their consent to the Scheme by way of affidavits

(b) No requirement of Meetings

Secured Creditors

No requirement of Meeting of Secured Creditors of Applicants Companies –NIL Creditors duly verified by Auditors certificates.

(c) Meetings to be held

No meetings are required to be held

3. Ld. Counsel appearing for the Petitioner(s) submits that the Petitioner(s) now seek admission of the instant petition presented by them for sanction of the Scheme.

4. The Learned Counsel for the Petitioner(s) further submits that in compliance with Section 230(5) of the Companies Act, 2013 and the said order dated 24-January-2024 made in Company Application (CAA) No. 188/KB/2023, notice along with all accompanying documents has already been served on the Statutory/Sectoral Authorities, as directed by the said order, including upon

S.No	Statutory/ Regulatory Authorities to whom Notice has been sent	Mode & Date of Service of Notice
1	Notice to the Regional Director, The Regional Director, Eastern Region Nizam Palace, IInd MSO Building, 3rd Floor, 234/4 AJC Bose Road, Kolkata – 700020	By Hand delivery: 05-February-2024 By Email: 03-February - 2024
2	Notice to the Registrar of Companies, The Registrar of Companies, Kolkata, West Bengal Nizam Palace, IInd MSO Building 2nd Floor, 234/4 AJC Bose Road Kolkata – 700020	By Hand delivery: 05-February-2024 By Email: 03-February - 2024
3	Notice to the Official Liquidator, 9, Old Post Office Street 5th Floor Kolkata- 700001	By Hand delivery: 05-February-2024 By Email: 03-February - 2024
4	Notice to the Income Tax Assessing Officer(s), having jurisdiction over the Applicant Companies	By Hand delivery: 05-February-2024 By Email: 03-February-2024 By Speed Post : 06-February-2024
5	Notice to Chief Commissioner of Income Tax within whose jurisdiction the assessments of the Applicant Companies are made	By Hand delivery: 05-February-2024 By Email: 03-February - 2024

An affidavit proving servicedated **12-February-2024**, as aforesaid, has been filed by thePetitioner on **13-February-2024**, and the same forms part of the instant Petition (**Annexure M; Pg.180-201**) filed with the Hon’ble NCLT on 06-March-2024;. The Authorities, as aforesaid, have not filed their representation sofar.

5. Upon perusing the records and documents in the instant proceedings and considering the submissions made on behalf of the Petitioner(s), we admit the instant petition and fix the next date of hearing **on 11.06.2024**.
6. At least 10 (ten) clear days before the said date fixed for hearing, the Petitioner(s) shall cause notice of hearing to be advertised in the **Financial Express** in English and **Dainik Statesman** in Bengali as per Rule 16(1) of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (“**CAA Rules**”).
7. Another notice pursuant to Section 230(5) of the Companies Act, 2013 along with accompanying documents, including the copies of the aforesaid Scheme and statement under the provisions of the Companies Act, 2013, as sent earlier, shall be served again on the aforesaid Statutory Authorities by sending the same to them by hand delivery through special messenger or by post within one week from the date of receiving this order. The notice shall specify the next date of hearing of the petition, as aforesaid, and state that representation, if any, and if not already filed, should be filed before this Tribunal no later than 7 (seven) days before the next date of hearing of the petition and a copy of such representation should be simultaneously sent to the Authorised Representative of the said Petitioner(s). If no such representation is received by the Tribunal within such period, it shall be presumed that such Authorities have no representation to make on the said Scheme. Such notice shall be sent in Form No. CAA3 of the CAA Rules with necessary variations, incorporating the directions herein.
8. The Petitioner(s) to file an affidavit confirming compliance of the abovementioned directions of this Tribunal, 3 (Three) days before the next date of hearing.
9. The Petitioner(s) may also file their rejoinder affidavit(s) dealing with the objections/ observations, if any, of the Authorities, 2 (Two) days before the next date of hearing.
10. Certified copy of the order may be issued, if applied for, upon compliance with all the requisite formalities.

D. Arvind
Member (Technical)

Bidisha Banerjee
Member (Judicial)