

NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH

COURT III

117. C.P. 135/2023

CORAM: MS. LAKSHMI GURUNG, MEMBER (J)
SH. CHARANJEET SINGH GULATI, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON **02.04.2024**

NAME OF THE PARTIES: Ferrero India Private Limited

Appearance:

For the Petitioner: Adv. Ahemad Chunawala

For the RD :Adv. Gaurav Jaiswal

SECTION 66(1) OF IBC, 2016

ORDER

HEARING THROUGH: VC AND PHYSICAL (HYBRID) MODE

1. We note that the buy back under Section 68 of Companies Act, 2013 was concluded on 14.12.2022. The above Company Petition has been filed under Section 66(1) of the Companies Act, 2013 on 15.05.2023 wherein losses are proposed to be adjusted from share capital as well as an amount of Rs. 176 crores is proposed to be paid to the shareholders as consideration for their shares.
2. According to the first proviso to Section 68 (2)(g), no offer of buy-back can be made within a period of one year reckoned from the date of closure of the proceeding offer of buy-back. Clearly, the present scheme proposing to pay Rs. 176 crores to the shareholders is within the cooling off period of buy-back.

3. Regional Director is directed to examine whether the present scheme under Section 66 is in violation of Section 68 and is permissible under the law and file revised report/opinion within 10 days. List on **14.05.2024**.

Sd/-
CHARANJEET SINGH GULATI
Member (Technical)
/RKS/

Sd/-
LAKSHMI GURUNG
Member (Judicial)