

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV**

CA (CAA)/271/MB-IV/2023

*In the matter of the Companies
Act, 2013;*

AND

In the matter of

*Sections 230 to Section 232 of the
Companies Act, 2013 and other
applicable provisions of the
Companies Act, 2013*

read with Companies

*(Compromises, Arrangements and
Amalgamation) Rules, 2016;*

AND

*In the matter of
The Scheme of Arrangement
Between*

***Siro Clinpharm Private
Limited***

("Demerged Company")

And

Siro Clintech Private Limited

("Resulting Company No. 1")

And

***Siro Medical Writing Private
Limited***

("Resulting Company No. 2")

*And their respective
Shareholders.*

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Siro Clinpharm Private Limited
[CIN: U24230MH2000PTC125061] ... Applicant Company No. 1/
Demerged Company

Siro Clintech Private Limited ... Applicant Company No. 2/
[CIN: U73200MH2022PTC388316] Resulting Company No. 1

Siro medical writing Private
Limited ... Applicant Company No. 3/
[CIN: U72900MH2022PTC388105] Resulting Company No. 2

Order delivered on **07.02.2024**

Coram:

Smt. Anu Jagmohan Singh
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances :

For the Applicant(s) : Mr. Ahmed Chunawala, i/b
Rajesh Shah & Co,
Advocates.

ORDER

1. Heard the Ld. Authorised for the Applicant Companies.
2. Learned Counsel for the Demerged Company and Resulting Company (collectively referred to as 'Applicant Companies') states that the present Scheme is a Scheme of Arrangement between Siro Clinpharm Private Limited, the Demerged Company with Siro Clintech Private Limited, the Resulting Company No. 1 and Siro Medical Writing Private Limited, the Resulting Company No. 2 under section 232 read with Section 230 of the Companies Act, 2013 ('Scheme') and other applicable sections of the Companies Act.

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3. That the Board of Directors of the Applicant Companies in their respective meetings conducted on 26th September, 2023 for the Demerged Company and the Resulting Company No. 1 and the Resulting Company No. 2 have approved the Scheme of Arrangement. The Appointed Date fixed under the Scheme is April 1, 2023.

4. That the Applicant Company No.1 is engaged in the business to organize, sponsor, promote, establish, undertake, conduct or help to carry-on scientific and clinical research in the fields of medical, pharmaceutical, natural and applied science, biotechnology, herbal medicines, in the development of basic drugs and formulations, new drug delivery systems and in the development of diagnostic reagents and chemicals, in life saving healthcare products in all forms, the Applicant Company No. 2 is to engage inter alia, in the business of providing clinical research on commercial basis, projects, services and conducting all kinds of human clinical trials and the Applicant Company No. 3 is to engage inter-alia in the business of quality assurance activities, data management, statistical analysis, medical analytics, medical report writing, medical data review and related consulting services and medical writing related to the preparation, review and communication of medical, scientific and health information including research reports, patient information and regulatory documents.

5. The **Rationale** for the proposed Scheme is as under:

- i. Siro inter alia has two distinct business undertakings viz., (i) Clinical Operations Business and (ii) Medical Writing Business. Both these undertakings have a different strategy, industry specific risks and operate in different markets. The nature and competition involved in each of the businesses is distinct from the others and consequently each business or undertaking is capable of attracting different set of investors, partners, lenders and other stakeholders.
- ii. The Demerger of the Demerged Undertaking 1 viz., Clinical Operations Business of the Demerged Company and vesting of the same in the Resulting Company 1 and Demerger of the Demerged Undertaking 2 viz., Medical Writing Business of the Demerged Company and vesting of the same in the Resulting Company 2 will enable enhanced focus and efficiencies to the Demerged Company and Resulting Company 1 and Resulting Company 2 in exploiting opportunities in their respective businesses.
- iii. The Demerger of the Demerged Undertaking 1 and Demerged Undertaking 2 shall result in simplification, focused management attention, administrative and organizational efficiency.
- iv. The Demerger of the Demerged Undertaking 1 and Demerged Undertaking 2 will enable the Demerged Company and Resulting Company 1 and Resulting Company 2 in operating as separate businesses which

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are capable of providing independent services to third parties.

- v. The Demerger of the Demerged Undertaking 1 and Demerged Undertaking 2 will enable the Demerged Company and Resulting Company 1 and Resulting Company 2 to attract different sets of investors, strategic partners, lenders and other stakeholders having a specific interest in the respective businesses.
 - vi. The Demerger of the Demerged Undertaking 1 and Demerged Undertaking 2 will enable the Demerged Company and Resulting Company 1 and Resulting Company 2 in unlocking the value of respective businesses for the shareholders of the Demerged Company, Resulting Company 1 and the Resulting Company 2.
 - vii. The Scheme is in the interest of all the three companies, their respective Shareholders, Creditors and Employees.
6. The Authorised Share Capital of the Applicant Company No.1, as on the 31st day of March, 2023 is as under:

Particulars	Amount
Authorised Capital	
20,00,000 Equity Shares of Rs.10/- each.	2,00,00,000
23,00,000 Preference Shares of Rs.100/- each	23,00,00,000
Total	25,00,00,000
Issued and Subscribed and Paid-up	
60,970 Equity Shares of Rs. 10/- each fully paid-up.	6,09,700
TOTAL	6,09,700

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As on date there is no change in the capital structure of the Applicant Company No.1

7. The Share Capital of the Applicant Company No.2 as on the 31st day of March, 2023 is as under:

Particulars	Amount
Authorised Capital	
1,50,000 Equity Shares of Rs.10/- each.	15,00,000
Total	15,00,000
Issued, Subscribed and Paid-up	
10,000 Equity Shares of Rs.10/- each fully paid-up.	1,00,000
Total	1,00,000

As on date, there is no change in the capital structure of the Applicant Company No.2.

8. The Share Capital of the Applicant Company No.3 as on the 31st day of March, 2023 is as under.

Particulars	Amount
Authorised Capital	
1,50,000 Equity Shares of Rs.10/- each.	15,00,000
1,20,00,000 Preference Shares of Rs.10/- each	12,00,00,000
Total	12,15,00,000
Issued, Subscribed and Paid-up	
5,000 Equity Shares of Rs.10/- each fully paid-up.	50,000
1,20,00,000 0.01% Compulsory Convertible Preference Shares of Rs.10/- each	12,00,00,000
Total	12,00,50,000

As on date, there is no change in the capital structure of the Applicant Company No.3

9. That there are 2 (Two) Equity Shareholders in the Applicant Company No.1, there are 2 (Two) Equity Shareholders in the Applicant Company No. 2 and there are 2 (Two) Equity Shareholders and Sole Preference Shareholders in the Applicant Company No. 3. That the convening and holding the meeting of the Equity Shareholders of the Applicant Company No.1, 2 & 3 and the Preference Shareholders of the Applicant Company No. 3 for the purpose of considering and, if thought fit, approving, with or without modification(s) the proposed Scheme of Arrangement between the Applicant Companies, the Applicant Companies is dispensed with in view of the Consent Affidavits given by all the Equity Shareholders of the Applicant Company No.1, 2 & 3 and Sole Preference Shareholder of the Applicant Company No. 3.
10. That there are 2 (Two) Secured Creditors having value of Rs. 3,08,60,636/- as on 30th September, 2023 in the Applicant Company 1. That the convening and holding the meeting of the Secured Creditors of the Applicant Company No.1 for the purpose of considering and, if thought fit, approving, with or without modification(s) the proposed Scheme of Arrangement between the Applicant Companies, the Resulting Company 2 is dispensed with in view of the consent affidavits given by both the Secured Creditors of the Applicant Company No.1.

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11. That the counsel for the Applicant Companies submits that there are no Secured Creditors in the Applicant Company No. 2 & 3 mentioned in Para 32 & 33 of the Company Scheme Application vide Chartered Accountant Certificate dated 20th October, 2023.

12. That there are 68 (Sixty Eight) Unsecured Creditors having value of Rs. 1,94,96,929/- as on 30th September, 2023 of the Applicant Company No. 1. The Counsel for the Applicant Company No. 1 submits that as on 1st November, 2023 the company had paid Rs. Rs.1,51,00,549/- and the same has been confirmed by the Chartered Accountant vide its Certificate dated 1st November, 2023. So far as Unsecured Creditors of the Applicant Company No. 1 are concerned most of them are in the nature of loan/sundry/trade creditors for activities of the Applicant Company No. 1 and the scheme of arrangement does not envisage any compromise or arrangement with the Unsecured Creditors of the Applicant Company No. 1 and hence they will in no way be affected by the Scheme of Arrangement. It is further submitted that the Applicant Company No.1 is meeting the amounts payable to its creditors from its activities and upon the Scheme becoming effective, the Applicant Company No. 1 shall continue with its existence and shall accordingly continue to meet the liabilities of its Unsecured Creditors as they arise in the normal course. The Applicant Company No. 1 submits that there is no arrangement with the creditors and they will be paid in ordinary course of business. Hence, this Bench hereby

directs the Applicant Company No.1 to issue notice to its remaining Unsecured Creditors as required under section 230 (3) of the Companies Act, 2013 with a direction that they may submit their representations, if any, to the Tribunal and copy of such representations shall simultaneously be served upon the Applicant Company No.1.

13. That there are 1 (One) Unsecured Creditors having value of Rs. 2,00,000/- in Applicant Company No. 2 and that there are 1 (One) Unsecured Creditors having value of Rs. 20,00,000/- as on 30th September, 2023 in Applicant Company No.3 as on 30th September, 2023. That the convening and holding the meeting of the Unsecured Creditors of the Applicant Company No. 2 and 3 for the purpose of considering and, if thought fit, approving, with or without modification(s) the proposed Scheme of Arrangement between the Applicant Companies, the Resulting Company 2 and 3 is dispensed with in view of the Consent Affidavits given by sole Unsecured Creditor of the Applicant Company No.2 and 3.
14. The **Consideration** is as follows:
 - i. Upon the Scheme becoming effective and in consideration of the demerger of Demerged Undertaking 1 in the Resulting Company 1 pursuant to provisions of this Scheme, the Resulting Company 1 shall, without any further act, deed, issue and allot to each member of the Demerged Company, whose

name is recorded in the register of members on the Record Date, in accordance with the terms of the Scheme and without any further application, act, deed, payment, consent, instrument or deed issue (a) 738 (Seven Hundred Thirty Eight) fully paid up equity shares of Rs.10/- each at par and (b) 156 (One Hundred Fifty Six) fully paid up 0.001% Redeemable Preference Shares (“**RPS 1**”) of Rs.10/- each at the premium of Rs.120 (One Hundred Twenty only) of the Resulting Company 1, credited as fully paid up for every 5 (Five) fully paid equity shares of Rs.10/- each held by such shareholder or his/ her/ its heirs, executors, administrators or successors in the Demerged Company (“**Share Entitlement Ratio**”).

- ii. Upon the Scheme becoming effective and in consideration of the demerger of Demerged Undertaking 2 in the Resulting Company 2 pursuant to provisions of this Scheme, the Resulting Company 2 shall, without any further act, deed, issue and allot to each member of the Demerged Company, whose name is recorded in the register of members on the Record Date, in accordance with the terms of the Scheme and without any further application, act, deed, payment, consent, instrument or deed issue 161 (One Hundred Sixty One) fully paid up 0.001% Redeemable Preference Shares (“**RPS 2**”) of Rs.10/- each at premium of Rs.155 (Rupees One Hundred Fifty-Five only) of the Resulting Company 2, credited as fully paid up for every 1 (One) fully paid equity

shares of Rs.10/- each held by such shareholder or his/ her/ its heirs, executors, administrators or successors in the Demerged Company (“**Share Entitlement Ratio**”).

15. The Applicant Companies are directed to serve notices along with a copy of the Scheme under the provisions of Section 230 (5) of the Companies Act, 2013 and Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, upon the –
- a. Central Government through the office of Regional Director (Western region), Mumbai.
 - b. Jurisdictional Registrar of Companies, Maharashtra, Mumbai.
 - c. Jurisdictional Income Tax Authority within whose jurisdiction the Applicant Company’s assessment are made; i.e The Applicant Company No. 1 PAN: AAEC8588A having address at The Income Tax Officer, CIRCLE 3 (3)(2), Aayakar Bhawan, Churchgate, Mumbai-400020 and the Applicant Company No. 2 PAN: ABJCS1451L having address at The Income Tax Officer, CIRCLE 3 (3), Aayakar Bhawan, Churchgate, Mumbai-400020 and the Applicant Company No. 3 PAN: ABJCS1180N having address at The Income Tax Officer, CIRCLE 3 (3), Aayakar Bhawan, Churchgate, Mumbai-400020; and the Nodal Authority in the Income Tax Department having jurisdiction over such authority i.e., Pr. CCIT, Mumbai, Address: - 3rd Floor, Aayakar Bhawan, Mahrishi Karve Road, Mumbai – 400 020,

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Phone No. 022-22017654 [E-mail:
Mumbai.pccit@incometax.gov.in];

- d. Jurisdictional GST Authority(s) (proper officer), within whose jurisdiction such companies are assessed to tax under GST law;
 - e. Ministry of Corporate Affairs; and
 - f. Any other Sectoral/ Regulatory Authorities relevant to the Applicant Companies or their business.
16. The Notice shall be served through by Registered Post-AD/Speed Post and through email along with copy of scheme and state that *“If no response is received by the Tribunal from the concerned Authorities/ Unsecured Creditors within 30 days of the date of receipt of the notice it will be presumed that the concerned Authorities has no objection to the proposed Scheme”*. It is clarified that notice service through courier shall be taken on record only in cases where it is supported with Proof of Delivery having acknowledgement of the noticee.
17. The Applicant Companies will submit –
- a. Details of Corporate Guarantee, Performance Guarantee and Other Contingent Liabilities, if any.
 - b. List of pending IBC cases, if any, along with all other litigation pending against the Applicant Companies having material impact on the proposed Scheme.
 - c. The Applicant Companies shall submit details of all Letters of Credit sanctioned and utilized as well as Margin Money details; if any.

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18. The Applicant Companies will file affidavit of service within 15 (fifteen) days from the last of the compliances as stated in above paragraphs are made and do report to this Tribunal that the directions regarding the issue of notices have been duly complied with.

Sd/-

Anu Jagmohan Singh
Member (Technical)

/Dubey/

Sd/-

Kishore Vemulapalli
Member (Judicial)