

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI
BENCH-III**

**Coram: SHRI R.VARADHARAJAN, MEMBER (JUDICIAL)
DR. V.K.SUBBURAJ, MEMBER (TECHNICAL)**

CA (CAA)-106/ND/2018

**IN THE MATTER OF SECTIONS 230-232 OF THE COMPANIES
ACT, 2013**

In the matter of:

Sections 230-232 and other relevant provisions of the Companies Act, 2013

AND

IN THE MATTER OF THE SCHEME OF AMALGAMATION BETWEEN DALMIA SUGAR VENTURES LIMITED ("TRANSFEROR COMPANY 1" OR "DALMIA SUGAR") AND SITA INVESTMENT COMPANY LIMITED ("TRANSFEROR COMPANY 2" OR "SITA") AND TIJORI CAPITAL PRIVATE LIMITED ("TRANSFEROR COMPANY 3" OR "TIJORI") AND DALMIA MINING AND SERVICES PRIVATE LIMITED ("TRANSFEREE COMPANY" OR "DALMIA MINING") AND THEIR RESPECTIVE SHAREHOLDERS AND CREDITORS;

DALMIA SUGAR VENTURES LIMITED

(APPLICANT COMPANY 1/ TRANSFEROR COMPANY 1)

TIJORI CAPITAL PRIVATE LIMITED

(APPLICANTCOMPANY 2/ TRANSFEROR COMPANY 3)

MEMO OF PARTIES:

DALMIA SUGAR VENTURES LIMITED,

A company incorporated under the Companies Act, 1956, and having its registered office at 11th floor, Hansalaya Building 15, Barakhamba Road, Delhi – 110001

Through its authorized signatory Mrs. LEENA RAWAL

Email: rawal.leena@dalmiabharat.com

Telephone: +91-9873356932

..APPLICANT COMPANY 1/ TRANSFEROR COMPANY 1

AND

SITA INVESTMENT COMPANY LIMITED,

A company incorporated under the Companies Act, 1956, and having its registered office at Dalmiapuram, District Tiruchirappalli, Tamil Nadu-621651

Through its authorized signatory Mr. Rakesh Kumar Agarwal,

Email: rkagrawal@dalmiadelhi.com

Telephone: + 91-9910250915

...TRANSFEROR COPMANY 2/ NON-APPLICANT COMPANY

AND

TIJORI CAPITAL PRIVATE LIMITED,

A company incorporated under the Companies Act, 2013, and having its registered office at 15-D, Atma Ram House No.1, Tolstoy Marg, New Delhi-110001

Through its Director Mrs. Leena Rawal

Email: rawal.leena@dalmiabharat.com

Telephone: +91 9873356932

...APPLICANT COMPANY 2/TRANSFEROR COMPANY 3

AND

DALMIA MINING AND SERVICES PRIVATE LIMITED,

A company incorporated under the Companies Act, 2013, And having its registered office at Dalmiapuram, Lalgudi, District Tiruchirappalli, Tamil Nadu-621651

Through its authorized signatory: Rakesh Kumar Agarwal

Email: rkagrawal@dalmiadelhi.com

Telephone: +91-9910250915

...TRANSFeree COMPANY/ NON-APPLICANT COMPANY

For the Applicants: Mr. Rajeev Kumar (Advocate)



ORDER

Delivered on: 11.09.2018

1. This is an application which is filed by the Applicant companies herein, Dalmia Sugar Ventures Limited (for brevity "Transferor Company 1") and Tijori Capital Private Limited (for brevity "Transferor Company 3") , jointly under section 230-232 of Companies Act, 2013, and other applicable provisions of the Companies Act, 2013 read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 in relation to the Scheme of Arrangement by way of Amalgamation (hereinafter referred to as the "SCHEME") proposed between the applicants. The said Scheme is also annexed as Annexure "A" to the application. The applicants above named have preferred the instant application in effect for the following purpose as evident inter alia from the reliefs sought for in the Application, namely:

- I. Appropriate order for dispensing with requirement for convening the meeting of the Equity Shareholders, Secured Creditors and Unsecured Creditors of the Applicant Companies and also to dispense with the requirement of issue and publication of notices for the same;



- II. Issuing direction for permitting the filling of application, petition, and other documents as may be required, for the purpose of sanctioning the proposed Scheme; and
- III. Passing such other and further orders as are deemed necessary in the facts and circumstances of the case.

2. An affidavit in support of the above application sworn for and on behalf of the Applicant Company 1 & 2 by one Ms. Leena Rawal being the Authorised Signatory of the applicant Companies along with the application has been filed and it is also represented that the registered office of the applicant company is situated within the territorial jurisdiction of this Tribunal and falling within Registrar of Companies, NCT, New Delhi.

3. In relation to Dalmia Sugar Ventures Limited being the Transferor Company 1, in the Scheme marked as Annexure "A", it is represented that it is having 7 Shareholders and all of them have given their respective consents by way of affidavit. It is further represented by the counsel for Applicants that the Transferor Company 1 has "NIL" Secured and Unsecured Creditors as on 30.05.2018. In relation to the Equity shareholders, Secured



Creditors and Unsecured Creditors of the Transferor Company 1, it seeks dispensation from convening and holding of the meetings in view of consent by way of affidavits having been obtained and the same has been placed on record.

4. In relation to Tijori Capital Private Limited being the Transferor Company 3, in the Scheme marked as Annexure "A", it is represented that it is having 2 Shareholders and all of them have given their respective consents by way of affidavit. It is further represented by the counsel for Applicants that the Transferor Company-3 has "NIL" Secured and Unsecured Creditors as on 30.05.2018. In relation to the Equity shareholders, Secured Creditors and Unsecured Creditors of the Transferor Company 3, it seeks dispensation from convening and holding of the meetings in view of consent by way of affidavits having been obtained and the same has been placed on record.

5. In relation to the territorial jurisdiction, Ld. Counsel for the applicant companies submit that since the registered office of the respective applicant company 1 & 2 (Transferor Company No.1 and Transferor Company No. 3) fall within the purview of



Registrar of Companies, NCT, New Delhi, this Tribunal has the necessary territorial jurisdiction to entertain the joint application.

6. We have perused the application and the connected documents / papers filed therewith including the Scheme of Arrangement contemplated between the Applicant companies.

7. From the certificate of incorporation filed, it is evident that Transferor Company 1 / Applicant Company 1 is a public limited company limited by shares incorporated in the state of Delhi on 13.08.2007 under the name and style of "Dalmia Sugar Ventures Limited", the Corporate Identity Number of the Transferor Company 1 / Applicant Company 1 registered with the Registrar of Companies, NCT of Delhi & Haryana is U24233DL2007PLC166943.

8. The Authorized Share Capital of the Transferor Company 1 / Applicant Company 1 is Rs. 1,00,00,000/- (Rupees One Crore Only) divided into 50,00,000 (Fifty Lac) Equity Shares of Rs.2/-



(Rupees Two only) each. The Issued , subscribed and Paid-up Share Capital of the Transferor Company is Rs. 5,00,000/- (Rupees Five Lacs Only) divided into 2,50,000 (Rupees Two Lac Fifty Thousand) Equity Shares of Rs.2/- (Rupees Two only) each.

9. From the certificate of incorporation filed, it is evident that Transferor Company 3 / Applicant Company 2 is a public limited company limited by shares incorporated in the state of Delhi on 13.07.2015 under the name and style of “Tijori Capital Private Limited”, the Corporate Identity Number of the Transferor Company 3 / Applicant Company 2 registered with the Registrar of Companies, NCT of Delhi & Haryana is U65923DL2015PTC283397.

10. The Authorized Share Capital of the Transferor Company 3 / Applicant Company 2 is Rs. 4,00,00,000/- (Rupees Four Crore Only) divided into 40,00,000 (Forty Lac) Equity Shares of Rs.10/- (Rupees Ten only) each. The Issued , subscribed and Paid-up Share Capital of the Transferor Company 3 is Rs. 2,00,00,000/-



(Rupees Two Crore Only) divided into 20,00,000 (Twenty Lac) Equity Shares of Rs.10/- (Rupees Ten only) each.

11. The Applicant Companies have filed their respective Memorandum and Articles of Association inter alia delineating their object clauses as well as Applicant Company 1 has filed its last available Audited Annual Accounts for the year ended 31.03.2018 and Applicant Company 2 has filed its Audited Annual Accounts for the year ended 31.03.2017 and un-audited financial statements for the year ended 31.03.2018.

12. The Board of Directors of the Applicant company vide meeting held on 31.05.2018, have unanimously approved the proposed Scheme of Amalgamation as contemplated above and copies of resolutions passed thereon have been placed on record by the companies.

13. That the Applicant Company has complied with the proviso to Section 230 (7) and Section 232 (3) by filing the certificate of the



Company's Auditor in relation to compliance with the Accounting Standards under section 133 of the Companies Act, 2013.

14. The appointed date as specified in the Scheme is 01.01.2018 subject to the directions of this Tribunal.
15. That the Applicant Company has complied with the proviso to Section 230 (7) and Section 232 (3) by filing the certificate of the Company's Auditor in relation to compliance with the Accounting Standards under section 133 of the Companies Act, 2013.
16. The Applicant companies have stated in the petition that no investigation proceedings are pending against them under Sections 206 to 229 or any other applicable provisions of the Companies Act, 2013.
17. Taking into consideration the application filed jointly by the Applicant Companies and the documents filed therewith, this Tribunal propose to issue the following directions with respect to calling, convening and holding of the meetings of the Equity



Shareholders, Secured and Unsecured Creditors, or dispensing with the same as well as issue of notices including by way of paper publication as follows:-

A) In relation to the Transferor Company 1/ Applicant

Company 1:

(i) With respect to Equity shareholders:

Since it is represented by the Transferor Company there are 7 Equity shareholders in the Company whose consents have been obtained by way of affidavits and are placed on record, the necessity of convening and holding a meeting to consider and if thought fit, the approval of the scheme is dispensed with.

(ii) With respect to Secured Creditor:

Since it is represented by the Transferor Company that there is no Secured Creditor in the Company, the necessity of convening a meeting does not arise.

(iii) With respect to Unsecured Creditors:



Since it is represented by the Transferor Company that there is no Unsecured Creditor in the Company, the necessity of convening a meeting does not arise.

B) In relation to the Transferor Company 3 / Applicant

Company 2:

(i) With respect to Equity shareholders:

Since it is represented by the Transferor Company there are 2 Equity shareholders in the Company whose consents have been obtained by way of affidavits and are placed on record, the necessity of convening and holding a meeting to consider and if thought fit, the approval of the scheme is dispensed with.

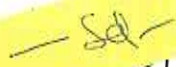
(ii) With respect to Secured Creditor:

Since it is represented by the Transferor Company that there is no Secured Creditor in the Company, the necessity of convening a meeting does not arise.

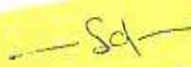
(iii) With respect to Unsecured Creditors:

Since it is represented by the Transferor Company that there is no Unsecured Creditor in the Company, the necessity of convening a meeting does not arise.

The application stands allowed on the aforesaid terms. Let the petition for approval of the scheme of Amalgamation be filed within a period of seven days from the date of this order.


11/9/2018
(Dr. V.K. SUBBURAJ)
MEMBER (TECHNICAL)

U.D Mehta/K


11.09.2018
(R. VARADHARAJAN)
MEMBER (JUDICIAL)