

NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH

ITEM NO :2

CA NO. 31/2021 IN
CP NO.228/ALD/2020,
CA NO.192/ALD/2020

ATTENDENCE - CUM-ORDER SHEET OF THE HEARING OF ALLAHABAD BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 14.07.2021 AT 10:30 AM THROUGH VIDEO CONFERENCING.

NAME OF THE COMPANY : NAINI TISSUES LTD WITH NAINI PAPERS LTD

SECTION : RULE 154 OF NCLT RULES

PRESENT : HON'BLE MR. JUSTICE (RETD.) RAJESH DAYAL KHARE, MEMBER (J)

COUNSEL FOR APPLICANT : VINAY SHUKLA, HIMANSHU GUPTA, ANKIT KUMAR SINGH

COUNSEL FOR RESPONDENT :

The matter was taken through Video Conferencing.

Heard Sh. Ankit Kumar Singh, Ld. Counsel for the Applicant who has filed the present Application being CA No. 31/2021 in CP No. 228/ALD/2020 for correction of the order dated 15.02.2021.

Accordingly, the Application allowed, necessary corrections made in the order dated 15.02.2021.

Application disposed of.

Dated : 14.07.2021


JUSTICE RAJESH DAYAL KHARE
(MEMBER JUDICIAL)

Typed by :
Shubham Kr. Singh
(PS)

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

**Company Petition No. CP (CAA) 228/ALD of 2020
Connected with
Company Application No. CA (CAA) No. 192/ALD of 2020
(Under Section 230 & 232 of the Companies Act, 2013).**

IN THE MATTER OF COMPANIES ACT, 2013

AND

IN THE MATTER OF SCHEME OF AMALGAMATION OF:

1. **Naini Tissues Limited (CIN: U21011UR2002PLC027071)**, a closely held public limited company incorporated under the provisions of Companies Act, 1956 and having its registered office at Station Road, Opposite RadheyShyam Building, Kashipur Udham Singh Nagar - 244713, Uttarakhand

..... Petitioner Company No. 1/Transferor Company

AND

2. **Naini Papers Limited (CIN: U21090UR1995PLC033469)**, a closely held public limited company incorporated under the Companies Act, 1956 and having its registered office at Station Road, Opposite RadheyShyam Building, Kashipur - 244713, Uttarakhand

..... Petitioner Company No. 2/Transferee Company

ORDER DELIVERED ON : 15.02.2020

CORAM:

Hon'ble Mr. Justice (Retd.) Rajesh Dayal Khare, Member, Judicial

**For the Applicant Companies : Vinay Shukla, Adv alongwith
Ankit Singh, PCS , Himanshu Gupta, Adv and
Raghav, Adv**

For Central Government : Mr. Kuldeep Singh, AOL

Per se: Mr. Justice (Retd.) Rajesh Dayal Khare, Member (Judicial)

ORDER

1. The present Petition is filed by Petitioner Companies under Sections 230 to 232 of the Companies Act, 2013 read with Rules framed thereunder, as in force from time to time, for the sanction of the

*20 Connected with order dated 14.7.21
passed in Company Appn. No. CA 319/2021
A.K. Khare
14/7/21*

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proposed Scheme of Amalgamation of Naini Tissues Limited with Naini Papers Limited and their respective Shareholders and Creditors (**hereinafter referred to as "Scheme" or "Scheme of Amalgamation"**).

(A copy of the Scheme has been annexed and marked as Annexure P-1 to the Company Petition No. 228/ALD of 2020 from Page No. 38 to 64).

2. The proposed Scheme of Amalgamation has previously been approved by the Board of Directors of the Transferor Company and the Transferee Company in the respective meetings held on 18th March, 2020.

3. The factual position of the Authorized, Issued, Subscribed and Paid up share Capital of both the Petitioner Companies are described well in the present Company Petition, which are being reproduced hereunder:

a. *The Authorised Share Capital of the Transferor Company is ₹17,00,00,000/- divided into 1,70,00,000 Equity Shares of ₹10 each aggregating ₹17,00,00,000. The Present Issued, Subscribed and Paid-up Capital of the Company is ₹17,00,00,000 divided into 1,70,00,000 Equity Shares of ₹10 each aggregating ₹17,00,00,000.*

b. *The Authorised Share Capital of the Transferee Company is ₹20,00,00,000 divided into 2,00,00,000 Equity Shares of ₹10 each aggregating ₹20,00,00,000. The present Issued, Subscribed and Paid-up Share Capital of the Company is ₹15,00,00,000 divided into 1,50,00,000 Equity Shares of ₹10 each aggregating ₹15,00,00,000.*

4. The Rationale of the proposed Scheme of Amalgamation is elaborately described in the present Company Petition which may be summarized as under:

a. *Both the Transferor Company and the Transferee Company are closely held public limited companies under common management and control. The proposed amalgamation of the Transferor Company with the*

— Sd —

Transferee Company would result in business synergy, consolidation of these Group Companies and pooling of their resources into a single entity.

- b. The proposed Scheme of Amalgamation would result in pooling of physical, financial and human resource of these Companies for the most beneficial utilization of these factors in the combined entity.*
- c. The proposed Scheme of Amalgamation will result in usual economies of a centralized and a large company including elimination of duplicate work, reduction in overheads, better and more productive utilization of financial, human and other resource and enhancement of overall business efficiency. The proposed Scheme will enable these Companies to combine their managerial and operating strength, to build a wider capital and financial base and to promote and secure overall growth.*
- d. The proposed amalgamation will result in significant reduction in multiplicity of legal and regulatory compliances and will enhance the management efficiency.*
- e. The proposed Scheme would enhance the shareholders' value of the Transferor Company and the Transferee Company.*
- f. The said Scheme of Amalgamation will have beneficial impact on Transferor Company and the Transferee Company, their shareholders, employees and other stakeholders and all concerned.*
- g. The Scheme of Amalgamation is proposed for the aforesaid reasons. The Board of Directors and Management of the Transferor Company and the Transferee Company is of the opinion that the proposed Scheme is in the best interest of these Companies and their stakeholders.*

5. The Petitioners have stated that the accounting treatment proposed in the Scheme of Amalgamation is in conformity with the accounting standards prescribed under Section 133 of the Companies Act, 2013. ***(Certificates from the respective Statutory Auditor of the Petitioner Company are annexed and marked as Annexure P/10 to the Company Petition No. 228/ALD of 2020 from Page no. 221 to 224).***

6. It has also been stated in the Petition that none of the Directors of the Petitioner Companies have any material interest in the Scheme, save as except to the extent of shareholding in the abovementioned Petitioner Companies.

7. 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 both the Petitioner Companies and their Shareholders,

— Sd —

Secured Creditors and Un-secured Creditors as a whole and is also just and equitable.

8. It is also submitted that the Board of Directors of the Petitioner Transferor Company and the Transferee Company have determined the share exchange ratio as under:
- a. *The Transferee Company will issue 149 (One Hundred and Forty Nine) Equity Shares of ₹10 each, credited as fully paid up, for every 100 (One hundred) Equity Shares of ₹10 each held in the Transferor Company.*
9. The Petitioner Companies have also annexed the valuation and share exchange ratio report dated 18th March, 2020 given by Sh. Devinder Arora, IBBI Registered Valuer having registration no. **IBBI/RV/05/2019/10557** for valuation of shares, securities and other financial Assets for determination of share exchange ratio.
10. A perusal of the present Petition discloses that initially the Petitioner Companies had filed a Company Application No. 192/ALD of 2020 seeking directions of this Tribunal to dispense with the requirement of convening the meetings of Equity Shareholders, and Un-secured Creditors of the Transferor Company and Equity Shareholders, Secured and Un-secured Creditor of the Transferee Company. Accordingly, this Tribunal *vide* its order dated 08th October, 2020, allowed the above mentioned prayers, by dispensing the meeting of the Equity Shareholders, and Un-secured Creditors of the Transferor Company and Equity Shareholders, Secured and Un-secured Creditor of the Transferee Company.
11. That this Tribunal *vide* its order dated 12th November, 2020, directed to issue notice of hearing in respect of present Company Petition to

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the Statutory Authorities and also to make paper publication in this respect in **English Newspaper“Hindustan Times”,and Hindi Newspaper-“Amar Ujala”** widely circulated over the area where the registered office of the Petitioner companies is situated.

12. In compliance thereof, the Petitioner Companies have filed Affidavit of service and publication, confirming that notices have been duly published in **English Newspaper“Hindustan Times”,and Hindi Newspaper-“Amar Ujala”**.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, Uttarakhand, Dehradun; **(c)**The Official Liquidator, Uttarakhand, Dehradun;and**(d)** the Income Tax Department.
13. In response to the above stated notice, the Regional Director has filed his report/affidavit dated 02thFebruary, 2021, along with the report of the Registrar of Companies. The Regional Director, in Para 5 of his Report, has submitted that the Appointed Date of the proposed scheme of amalgamation is 01.04.2020; and that as per Clause 2.1.2.(xiv) the proposed scheme of amalgamation provided for protection of the interest of the employees and employee benefits of the Transferor Company.The Learned Regional Director, in his Report, has not made any major observation in his report.
14. The Official Liquidator has also filed his report and no objection has been raised by him to the proposed Scheme of Amalgamation.
15. The Income Tax Department has also issued 'No Objection' Letters with respect to both the Petitioner Companies remarking that the

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said scheme of amalgamation has not been drawn to avail any tax benefits.

16. I have gone through the reports of the Ld. Regional Director (Northern Region), Ministry of Corporate Affairs, New Delhi, the Official Liquidator, Uttarakhand and the Income Tax Department. After perusing the same, I am of the view that the sanction of the present Scheme is not against public policy, nor it would be prejudicial to the public interest at large.
17. In addition to above, all the statutory compliance either seems to have been complied with or further undertaken for making compliances by Petitioner Companies. Therefore, the present Company Petition deserves to be allowed in terms of its Prayer clause. In the result, the Scheme of Amalgamation annexed to Company Petition is duly approved and hereby sanctioned.
18. In the result, the proposed Scheme of Amalgamation which is annexed to the Company Petition stand approved and sanctioned and all the business, undertakings, assets, properties, investments, capital and liabilities of the Transferor Company, of whatsoever nature and kind and wherever situated, stands transferred to the Transferee Company and Petitioner Companies are required to act upon as per terms and condition of the sanctioned Scheme and the same to be binding on its Shareholders, Secured Creditors and Unsecured Creditors of the above named Petitioner Companies and also on the Petitioner Companies with effect from the Appointed date, i.e., **1st day of April, 2020.**

— Sd —

19. While approving the Scheme 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 is applicable), taxes (including Income Tax, GST or any other charges, if any are 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. Also, the Transferor Company shall stand dissolved without undergoing the process of winding up.
20. The Petitioner Companies shall within thirty (30) days of the date of the receipt of this order cause a certified copy of this order to be delivered to the Registrar of Companies for registration.
21. All concerned regulatory authorities to act on a copy of this order annexed with the Scheme duly authenticated by the Assistant Registrar, National Company Law Tribunal, Allahabad Bench.
22. Any person interested shall be at liberty to apply before this Tribunal in the above matter for such directions as may be necessary.
23. Accordingly, the present Company Petition bearing **CP (CAA) 228/ALD of 2020** is allowed and petition is accordingly, stands disposed of.

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JUSTICE RAJESH DAYAL KHARE
MEMBER (J)

Date: 15.02.2020²⁰²¹

Swati Gupta
(LRA)

@ Comdtd n/c n/c dated 14-7-21
Filed in Comdtdn Appln. No. CA 319/2021.
K. Gupta
14/7/21