

**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

CP (CAA) No. 92 /NCLT/AHM/2018 in
CA(CAA) No. 5/NCLT/AHM/2018


Coram: **Hon'ble Mr. HARIHAR PRAKASH CHATURVEDI, MEMBER JUDICIAL**
Hon'ble Ms. MANORAMA KUMARI, MEMBER JUDICIAL

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH
OF THE NATIONAL COMPANY LAW TRIBUNAL ON 10.09.2018**

Name of the Company: Alpa Laboratories Ltd.

Section of the Companies Act: Section 230-232 of the Companies Act, 2013

| <u>S.NO.</u> | <u>NAME (CAPITAL LETTERS)</u> | <u>DESIGNATION</u> | <u>REPRESENTATION</u> | <u>SIGNATURE</u> |
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| 1. | RITU SHAH FOR TRAKKAR | ADV | Petitioner |  |
| 2. | AND PAHWA | | | |

ORDER

Learned Senior Counsel Mr. Navin Pahwa with Advocate Ms. Ritu Shah is present for the Appellant.

The Order is pronounced in the open court, vide separate sheet


MANORAMA KUMARI
(MEMBER JUDICIAL)


HARIHAR PRAKASH CHATURVEDI
(MEMBER JUDICIAL)

Dated this the 10th day of September, 2018

**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH**

CP(CAA) No. 92/NCLT/AHM/2018

In the matter of

Alpa Laboratories Limited,

A Company incorporated under the
Provisions of the Companies Act, 1956,
Having its registered office at:
33/2, Pigdamber,
A.B. Road, Rau,
Indore - 453 446
Madhya Pradesh

Applicant Transferee Company

Order delivered on 10th September, 2018

**Coram: Hon'ble Mr. Harihar Prakash Chaturvedi, (Member Judicial)
Hon'ble Ms. Manorama Kumari, (Member Judicial)**

**Appearance: Advocate Ms. Ritu Shah for Thakkar & Pahwa is present
for the Applicant Company**

ORDER

[Per: Hon'ble Ms. Manorama Kumari, Member (Judicial)]

1. The instant petition under Sections 230-232 of the Companies Act, 2013 is filed seeking sanction of the proposed Scheme of Amalgamation of Norfolk Mercantile Private Limited with the Applicant Transferee Company Alpa Laboratories Limited. It is stated that registered office of Transferor Company viz. Norfolk Mercantile Private Limited is situated in Mumbai and accordingly, the Transferor Company has filed separate proceedings before the National Company Law Tribunal at Mumbai for sanctioning of the Scheme of Amalgamation of Norfolk Mercantile Private Limited with Alpa Laboratories Limited and their Respective Shareholders.

Manor

[Signature]

2. The Applicant Transferee Company had filed Company Application being CA (CAA) No. 5/NCLT/AHM/2018 before this Tribunal seeking directions to convene and hold meetings of Equity Shareholders, Secured Creditors and Unsecured Creditors of the Company for the purpose of considering and if thought fit, approving, with or without modifications, a Scheme of Amalgamation. By an order dated 2.2.2018 made in CA (CAA) No. 5/NCLT/AHM/2018, this Tribunal directed the Applicant Transferee Company to convene and hold meetings of Equity Shareholders, Secured Creditors and Unsecured Creditors of the Applicant Transferee Company on 6.3.2018. This Tribunal also directed the Applicant Transferee Company for issuance of notices to Regional Director, Registrar of Companies, Income Tax Authority, National Stock Exchange and Bombay Stock Exchange stating that the representation, if any, to be made by them, be made within a period of 30 days from the date of receipt of such notice. This Tribunal also directed the Applicant Transferee Company for publication of advertisement in English Daily "Business Standard" and Hindi Daily "Nai Duniya" having circulation in Bhopal.
3. Thereafter, the Applicant Transferee Company filed an I.A. No. 95/NCLT/AHM/2018 seeking modification of the order dated 2.2.2018 in CA (CAA) No.5/NCLT/AHM/2018 to the extent of modifying the name of the Chairman of the meetings and for extension of time by 4 weeks for holding the meetings.
4. By an order dated 21.3.2018, this Tribunal allowed the I.A. 95 of 2018 by appointing Ms. Heena Agarwal as Chairman of the meetings of the Equity Shareholders, Secured Creditors and Unsecured Creditors of the Applicant Transferor Company and fixed the date of meetings as 7.5.2018.
5. It is stated by the Applicant Transferee Company that in compliance of the directions contained in the order dated 2.2.2018, the Applicant Transferee Company sent notices to

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Regional Director, Registrar of Companies, Income Tax Authority National Stock Exchange and Bombay Stock Exchange. The Applicant Transferee Company filed an affidavit dated 25.4.2018 regarding service of notices upon statutory authorities. The Applicant Transferee Company also published advertisement in English daily "Business Standard" and Hindi Daily "Nai Duniya" having circulation in Bhopal on 5.4.2018. The Applicant Transferee Company also filed an affidavit dated 25.4.2018 regarding publication of advertisements about convening of the aforesaid meetings.

6. It is further submitted by the Applicant Transferee Company that apropos to the order dated 2.2.2018 read with order dated 21.3.2018, the meetings of Equity Shareholders, Secured Creditors and Unsecured Creditors of Applicant Transferee Company were held on 7.5.2018. As per the Common Chairman Report dated 9.5.2018, the Equity Shareholders, Secured Creditors and Unsecured Creditors present in the meeting, either in person or through proxy, after deliberations, approved the Scheme.
7. The Applicant Transferee Company further submitted that apropos to the order dated 2.2.2018, Regional Director filed his representation making five observations. The first observation is with regard to compliance u/s. 232(3)(i) of the Act. The second observation is in relation to Securities Premium Account. The third observation is in relation to compliance of FEMA and RBI Guidelines. The fourth observation is in relation to treatment of the employees of the Transferor Company. The fifth observation is in relation to a complaint filed by a shareholder for not providing the minutes/ records of AGM/EGM.
8. The Applicant Transferee Company, in response to the representation made by the Regional Director, filed an affidavit dated 12.7.2018 giving response to all the five observations. In response to the first observation, it is stated by the Applicant Transferee Company that the Applicant

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Transferee Company shall abide by the stipulations contained in Section 232(3)(i) of the Act and pay the requisite fees if liable. With regard to second observation, it is submitted by the Applicant Transferee Company that amounts of Securities Premium Account as appearing in Balance Sheets of the Petitioner Company are created from the fund raised through issue of securities in compliance with the applicable laws. It is further stated by the Applicant Transferee Company that the Applicant Transferee Company has also paid the applicable income tax and other legal dues on the said securities premium collection. The Applicant Transferee Company has further undertaken to pay further legal dues, if liable. With regard to third observation, it is submitted by the Applicant Transferee Company that the Applicant Transferee Company has complied with the provisions of the FEMA and RBI Guidelines. With regard to fourth observation, it is submitted by the Applicant Transferee Company that Clause 3.2.6 provides for the treatment of employees of the Transferor Company. With regard to fifth observation, it is submitted by the Applicant Transferee Company that the Transferor Company has provided all the documents which a shareholder is entitled under the provisions of the Companies Act.

9. It is submitted by the Applicant Transferee Company that no representations have been received from any other statutory authorities.
10. The Applicant Transferee Company thereafter filed the present petition being CP (CAA) No. 92/NCLT/AHM/2018 before this Tribunal seeking for the sanction of the Scheme.
11. This Tribunal, by an order dated 1.8.2018 admitted the aforesaid petition and directed the Applicant Transferee Company for issuance of notice to Regional Director, Registrar of Companies and Income Tax Officer informing the date of hearing as 23.08.2018. This Tribunal also directed publication of notice of hearing of the petition in English Daily


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“Business Standard” and Hindi Daily “Nai Duniya” having circulation in Bhopal not less than 10 days before the date fixed for hearing, calling for objections, if any, on or before the date of hearing.

12. The Applicant Transferee Company, pursuant to the order dated 1.8.2018 passed by this Tribunal, published the notice of hearing of the petition in the English daily “Business Standard” and Hindi Daily “Nai Duniya” having circulation in Bhopal on 7.8.2018. The Applicant Transferee Company also filed an affidavit to that effect on 13.8.2018. It is stated by the Applicant Transferee Company that no objection/representation is received from public. The notices in respect of hearing of Company Petition were served upon the Regional Director Registrar of Companies and Income Tax Officer on 10.8.2018 and the Applicant Transferee Company filed an affidavit to that effect on 13.8.2018.
13. It is stated by the Applicant Transferee Company that pursuant to the order dated 1.8.2018 passed by this Tribunal and issuance of notices to the Regional Director, Registrar of Companies and Income Tax Officer and publication of the notices in the local dailies, no representation is made by any of the aforesaid authorities.
14. Heard learned Senior Advocate, Mr. Navin Pahwa with Advocate Ms. Ritu Shah, for the Applicant Transferor Company and perused the documents annexed with the petition and those submitted during the proceedings.
15. Considering the entire facts and circumstances of the case and on perusal of the Scheme and the documents produced by the Applicant Transferee Company, it appears that the requirements of the provisions of Sections 230 and 232 of the Companies Act, 2013 are satisfied. The Scheme appears to be genuine, bonafide and in the interest of the shareholders and creditors.



16. In the result, the petition is allowed. The Scheme of Amalgamation as placed at Annexure-E to CP(CAA) No. 92/NCLT/AHM/2018 is hereby sanctioned, subject to sanction of the Scheme by the Hon'ble NCLT, Mumbai in C.P.(CAA)-127/230-232/(MB)/2018 and IA 31/2018. It is also declared that the same shall be binding on the Applicant Transferee Company namely, Alpa Laboratories Limited, its shareholders, creditors and all concerned under the Scheme.
17. Filing and issuance of drawn up orders are dispensed with. All concerned authorities to act on a copy of this order along with the Scheme duly authenticated by the Registrar of this Tribunal. The Registrar of this Tribunal shall issue the certified copy of this order along with the Scheme immediately.


Ms. Manorama Kumari,
Member (Judicial)


Harihar Prakash Chaturvedi,
Member (Judicial)