

**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

CA(CAA) No. 85 /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 31.08.2018**

Name of the Company: Celestys Pharmaceuticals Pvt 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.

2.

ORDER

None present for the Applicant.

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

Manorama

MANORAMA KUMARI
MEMBER JUDICIAL
Dated this the 31st day of August, 2018



HARIHAR PRAKASH CHATURVEDI
MEMBER JUDICIAL

**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH**

CA(CAA) No. 85/NCLT/AHM/2018

In the matter of

Celestys Pharmaceuticals Private limited

Having its registered office at:
A-44, Orchid Park, Near Anjani Tower,
Ramdevnagar, Satellite,
Ahmedabad 380015
Gujarat

.... Applicant Transferor Company

Order delivered on 31st August, 2018

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

Appearance: PCS Mr. Trivedi Niraj is present for the Applicant Company

ORDER

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

1. The instant Application is filed by the Applicant Transferor Company under sections 230-232 of the Companies Act, 2013 (hereinafter referred to as 'the Act') read with Companies (Compromise, Arrangement and Amalgamation) Rules, 2016 (herein after referred to as 'the Company Rules'). The Scheme of Arrangement is in the nature of merger of Celestys Pharmaceuticals Private Limited, the Applicant Transferor Company with FTF Pharma Private Limited, the Transferee Company ["Scheme" for short].

Manor

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2. The registered office of the Applicant Transferor Company is situated in the State of Gujarat and is thus under the jurisdiction of this Tribunal.
3. As on 31st March 2017, Issued, Subscribed and Paid up Share Capital of the Applicant Transferor Company is Rs. 6,50,00,200/- divided into 650,002 equity shares of Rs.100 /- each.
4. According to the Applicant Transferor Company, the present Scheme is proposed to consolidate the business in one entity, thereby resulting into strengthening the position of the combined entity by enabling it to combine and optimize the synergies of the two companies, which would be in the best interests of both the Companies and their respective shareholders. The management of these companies believes that merger will be more beneficial to the stakeholders, inter alia on account of the following grounds:
 - 4.1 Greater financial strength and flexibility for the combined entities, which would result in maximizing overall shareholders value and improve the economic and competitive position of the combined entity.
 - 4.2 Opportunities to strengthen leverage for raising resources to finance business needs and strengthen the financial position of the combined entity for future growth and expansion and to create a business structure, which is geared to take advantage of possible growth opportunities.
 - 4.3 Achieve greater efficiencies in operations with optimum utilization of resources. Increased cost savings are expected to flow from focused operation efforts, rationalization, standardization and simplification of business processes and optimum utilization of human resources.

Attorney

[Signature]

- 4.4 Reduction of overheads and other expenses, consolidation of businesses under one roof will facilitate administrative convenience on account of reduction in number of entities and reduced regulatory compliance thereof;
- 4.5 Additional thrust to the combined entity in terms of proximity of trading facilities enabling optimum use of the resources resulting in growth prospects and expansion plans.
- 4.6 Better financial, business and operational prospects including but not limited to efficient management of costs and improved administrative control of the combined entity.
- 4.7 Optimum usage of unutilized resources of the transfer company to achieve better strength in all respects.
5. The Board of Directors of the Applicant Transferor Company in their Board meeting held on 31st May, 2018 passed resolution approving the proposed Scheme placed before the Board of the Applicant Transferor Company. A Copy of the resolution of the Board of Directors dated 31st May, 2018 is annexed by the Applicant Transferor company with its application.
6. The Applicant Transferor Company has also filed its Audited Balance Sheet for the year ended 31st March, 2017 and Provisional / Management Certified Balance Sheet as on 31st March, 2018 annexed with its application as Annexure A-2. The Applicant Transferor Company has also filed certificate of the Auditors certifying compliance with section 133 of the Companies Act, 2013. A copy of certificate of the Auditor of the Applicant Transferor Company is placed as Annexure A-10 with its application.

Attorney

7. It is stated in the application of the Applicant Transferor Company that there are 3 (three) Equity Shareholders in Applicant Transferor Company and all the Equity Shareholders have given their consent letters approving the Scheme. A list of Equity Shareholders of the Applicant Transferor Company and their consent letters certified by the Practicing Company Secretary certifying that all the Equity Shareholders of the Applicant Transferor Company have given their confirmation consenting to the proposed Scheme are annexed as Annexure A-6. In view of the consent letters of all the Equity Shareholders, the meeting of Equity Shareholders for the purpose of considering and, if thought fit, approving the proposed Scheme with or without modification(s) deserves to be dispensed with and is hereby dispensed with.
8. Further, it is stated in the application of the Applicant Transferor Company that there is one Secured Creditor in the Applicant Transferor Company. The lone Secured Creditor is HDFC Bank. HDFC Bank, through its authorized signatory, Mr. Chintan Mistry has given their consent to the Scheme and the same is annexed as Annexure A-7 with the application. In view of the consent letter of the Secured Creditor, the meeting of Secured Creditors for the purpose of considering and, if thought fit, approving the proposed Scheme with or without modification(s) deserves to be dispensed with and is hereby dispensed with.
9. It is stated in the application that the Applicant Company is not a non-banking financial institution and hence, notice to RBI is not required. It is also stated that the activities of the Applicant Transferor Company shall not be violating the provisions of the Competition Act, 2002 and hence, no notice to Competition Commissions of India is required to be issued. It is

Attn:

further stated that there is no investigation instituted or pending in relation the Applicant Company under Section 210 of the Companies Act, 2013. The Applicant Company has also stated that no winding up proceedings have been filed or pending against the Applicant Transferor Company.


10. It is stated in the application of the Applicant Transferor Company that there is 1 (one) Unsecured Creditor in the Applicant Transferor Company. The Applicant Transferor Company has submitted affidavit of the lone Unsecured Creditor Mr. Jayantakumar Mandal, who happens to be the director in the Applicant Transferee Company, has submitted affidavit that he does not have any objection for the proposed Scheme of merger. The Applicant Transferor Company has annexed with the application, the affidavit of the lone Unsecured Creditor and the same is annexed as Annexure A-7. In view of the consent letter of the Unsecured Creditor, the meeting of Unsecured Creditors for the purpose of considering and, if thought fit, approving the proposed Scheme with or without modification(s) deserves to be dispensed with and is hereby dispensed with.
11. Heard the submissions made in this regard by Mr. Trivedi Niraj for the Applicant Transferor Company and perused the documents annexed with the application, this Tribunal passes the following order;
12. In compliance of sub-section (5) of Section 230 and Rule 8 of the Companies (CAA) Rules 2016, the Applicant Transferor Company shall send a notice in Form No. CAA.3 along with a copy of the Scheme of Arrangement, the explanatory statement and the disclosures mentioned under Rule 6 to (i) the Central Government through the Regional Director, North Western Region, (ii) the Registrar of Companies, (iii) Concerned Income Tax Authorities (iv)





(iv) the Official Liquidator concerned stating that representations, if any, to be made by them shall be made within a period of 30 days from the date of receipt of such notice, failing which it shall be presumed that they have no objection to make on the proposed Scheme. The said notice shall be sent by hand delivery through special messenger or by registered post or speed post within 10 days from the date of this order for filing their representation, if any, within 30 days from the date of notice. The notice shall specify that representation, if any, should be filed before this Tribunal within 30 days of the date of receipt of the notice with a copy of such representation being sent simultaneously to the Applicant Transferor Company and/or its advocate. If no such representation is received by the Tribunal within the said period, it shall be presumed that such authorities have no representation to make on the Scheme of Merger.

13. This Company Application is disposed of accordingly.


Ms. Manorama Kumari
Member (Judicial)


Harihar Prakash Chaturvedi
Member(Judicial)