

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH  
KOLKATA

Coram : Shri Vijai Pratap Singh  
Hon'ble Member(J)  
&  
Shri Jinan K.R  
Hon'ble Member(J)

**T.P. No.134/KB/2017 connected to C.P.NO .1090/2016**

**In the matter of:**

Sections 230-232 of the Companies Act , 2013 ( erstwhile  
Sections 391 (2) and 394 of Companies Act , 1956) ;  
-And-

**In the matter of:**

The Companies (Compromises, Arrangements and Amalgamations  
Rules), 2016  
-And-

**In the matter of**

**GLOBAL ACQUA PRIVATE LIMITED**, a Company incorporated  
under the provisions of the Companies Act, 1956 having its  
Registered Office at 6, Alipore Park Road, Kolkata-700027;

...**Transferee Company**

-And-

**In the matter of**

**DANKUNI FOOD PRODUCTS PRIVATE LIMITED**,  
a Company incorporated under the provisions of the Companies  
Act, 1956 having its Registered Office at 6, Alipore Park Road,  
Kolkata-700027;

...**Transferor Company No 1**

-And-

**In the matter of**

**DANKUNI ACQUA PRIVATE LIMITED**, a Company incorporated under the provisions of the Companies Act, 1956 having its Registered Office at 6, Alipore Park Road, Kolkata-700027

**...Transferor Company No 2**

-And-

1. GLOBAL ACQUA PRIVATE LIMITED;
2. DANKUNI FOOD PRODUCTS PRIVATE LIMITED;
3. DANKUNI ACQUA PRIVATE LIMITED;

**.....PETITIONERS**

**Counsels on Record:**

- |                                  |                       |
|----------------------------------|-----------------------|
| 1. Ms. Manju Bhuteria , Advocate | ] For the Petitioners |
| 2. Mr. N. Gurumurthy, FCA        | ]                     |

**Date of pronouncing the order: 09/11/2017**

**ORDER**

**Per Shri V.P.Singh, Member(J):**

This Petition has been filed jointly by the petitioners, namely, Dankuni Food Products Private Ltd. and Dankuni Acqua Private Ltd (hereinafter referred to as the "Transferor Companies") and Global Acqua Private Limited (hereinafter referred to as the "Transferee Company") for obtaining sanction of this Tribunal regarding Scheme of Amalgamation of the transferor companies with the transferee company.

The object of this Petition is to obtain sanction of the Tribunal to a Scheme of Amalgamation of Dankuni Food Products Private Limited and Dankuni Acqua Private Limited with Global Acqua Private Limited, where all the assets, properties, rights and claims whatsoever of the Transferor Companies and their entire undertakings together with all rights and obligations relating thereto are proposed to be transferred to and vested in

the Transferee Company on the terms and conditions fully stated in the Scheme of Amalgamation. A copy whereof has been annexed and marked with letter "A" to this petition.

It is observed from the records that an affidavit has been affirmed containing certificates from the statutory auditors of the petitioner companies certifying their creditors as on September 30, 2017. It has also been submitted by the petitioner companies that there are no secured creditors in the Petitioner Company Nos. 2 and 3. The petitioners have submitted before the Tribunal that order may be passed by this Tribunal to enable holding of meetings of the unsecured creditors of all the petitioner companies and the secured creditors of the petitioner company no. 1.

It is also observed that by an order dated 28<sup>th</sup> November, 2016 in CA No.794 of 2016, the Hon'ble High Court at Calcutta dispensed with the meetings of the shareholders of the petitioner companies, in view of the written consent given by all the shareholders of the applicants.

This Petition filed by the Petitioner Companies before this Tribunal for sanction of the scheme is a transferred petition from the Hon'ble High Court. Now, it appears that no consent has been obtained from the creditors regarding dispensation of holding of the meetings and the petitioners have agreed to hold the meetings of the creditors, the following orders are passed herein by this Tribunal.

- I. That a meeting of secured creditors of the Petitioner Company No. 1 shall be convened and held on 27<sup>th</sup> December, 2017 at 6, Alipore Park Road, Kolkata-700027 for the purpose of considering and if thought, approving with or without modification the proposed Scheme of Amalgamation.

- II. That a meeting of unsecured creditors of the Petitioner Company No. 1 shall be convened and held on 27<sup>th</sup> December, 2017 at 1.30 P.M at 6, Alipore Park Road, Kolkata-700027 for the purpose of considering and if thought, approving with or without modification the proposed Scheme of Amalgamation.
- III. That a meeting of unsecured creditors of the Petitioner Company No.2 shall be convened and held on 27<sup>th</sup> December, 2017 at 3.30 P.M at 6, Alipore Park Road, Kolkata-700027 for the purpose of considering and, if thought, approving with or without modification the proposed Scheme of Amalgamation.
- IV. That a meeting of unsecured creditors off the Petitioner Company, the applicant No.3 shall be convened and held on 27<sup>th</sup> December, 2017 at 4.00 P.M at 6, Alipore Park Road, Kolkata-700027 for the purpose of considering and if thought, approving with or without modification the proposed Scheme of Amalgamation.
- V. Let notice be served as per requirements of sub-section (5) of section 230 of the Companies Act, 2013 along with all the documents including a copy of the Scheme and the Statement disclosing necessary details on the Income-Tax department as also the Official Liquidator having jurisdiction over the transferor and transferee companies and such other relevant sectoral regulators/ authorities, if applicable, which are likely to be affected by the proposed scheme, by sending the same by hand delivery through Special Messenger or by registered post or speed post within 7 days from the date of this order for filing their representation, if any,

on the petition within 30 days from the date of notice. The petitioner is to file affidavit within 7 days regarding service of notice. The petitioner is further directed to send notice through e-mail also and filed copies of the mails along with an affidavit. 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 petitioners and/or their Advocates. 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 Amalgamation.

- VI. That at least 30 clear days before the date of the said meetings of the secured and unsecured creditors of the petitioner companies, an advertisement convening the same and stating that copies of the Scheme of Amalgamation and the statement containing necessary details required to be furnished pursuant to section 230 of the Companies Act, 2013 read with Companies (Compromises, Arrangements & Amalgamations) Rules, 2016 and prescribed form of proxy can be obtained free of charge at the Registered office of the respective Petitioner Companies, be inserted once in the **English newspaper "Business Standard" and in Bengali newspaper "Aajkal"** as per requirements of section 230 of the Companies Act, 2013 in Form no CAA2 of the Companies (Compromises, Arrangements & Amalgamations) Rules, 2016.
- VII. That in addition, at least 30 (thirty) clear days before the meeting of the secured and unsecured creditors of the Petitioner Companies to be held as aforesaid, a notice convening the said meetings at the place and time as aforesaid together with a copy of

the said scheme, the statement disclosing necessary details and the prescribed form of proxy be sent by Registered Post or Speed Post with Acknowledgement Due Card or by hand through personal Messenger addressed to each of the creditors of the concerned petitioner companies at their respective or last known addresses.

- VIII. That Sri Raja Ram Banerjee (Mob. No.9830189403) shall be the chairperson to the said meetings of the secured and unsecured creditors to be held at the aforesaid address at the aforesaid time(s).
- IX. The consolidated remuneration of the Chairperson for conducting the said meetings of the creditors is fixed at Rs.50,000/-
- X. The quorum for the meetings of the secured and unsecured creditors be fixed in accordance with Section 103 of the Companies Act, 2013 present either in person or by proxy.
- XI. That voting by proxy be permitted, provided that a proxy in the prescribed form duly signed by the person(s) entitled to attend and vote at the meetings, is filed with the respective petitioner company at their Registered Office not later than forty eight hours before the meetings. The Chairperson shall have the power to adjourn the meetings, if necessary and to conduct the procedure for the adjourned meetings as deemed necessary.
- XII. That the Chairperson(s) do report to this Court the results of the said meetings of the creditors of the concerned petitioner companies within two weeks from the date of the conclusion of the respective meetings and his report shall be in Form No CAA4

pursuant to Rule 13(2) and 14 of the Companies (Compromises, Arrangements & Amalgamations) Rules, 2016, verified by his affidavit.

XIII. That the petition being T.P. No. 134 of 2017 connected with C.P NO.1090 of 2016 is directed to be listed for final hearing on January 19, 2018.

XIV. The parties and Chairperson shall act on the order.

Urgent certified copies of this order, if applied for, be supplied to the parties upon compliances of all requisite formalities.

Sd/-

(Jinan K.R)  
Member (J)

Sd/-

(V.P. Singh)  
Member (J)

Dated, this the 9<sup>th</sup> day of November, 2017