

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH

CSP NO 463 OF 2017  
CSP NO 464 OF 2017  
CSP NO 465 OF 2017  
CSP NO 466 OF 2017  
CSP NO 477 OF 2017  
CSP NO 476 OF 2017

In the matter of the Companies Act, 2013;

AND

In the matter of Sections 230 to 232 of the Companies Act, 2013 read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016;

AND

In the matter of Scheme of Amalgamation of Haldiram Bakery Products Private Limited (Transferor Company 1), HaldiramKrishiUdyog Private Limited (Transferor Company 2), Maples Great Day Foods Private Limited (Transferor Company 3), Komal Foods Private Limited (Transferor Company 4) and Central Food Products (Nagpur) Private Limited (Transferor Company 5) with Haldiram Foods International Private Limited (Transferee Company) And their respective Shareholders.

Haldiram Bakery Products Private Limited .....Petitioner / Transferor Company 1

HaldiramKrishiUdyog Private Limited ..... Petitioner / Transferor Company 2

Maples Great Day Foods Private Limited ..... Petitioner / Transferor Company 3

Komal Foods Private Limited..... Petitioner / Transferor Company 4

Central Food Products (Nagpur) Private Limited.. Petitioner / Transferor Company 5

AND

Haldiram Foods International Private Limited...Petitioner / Transferee Company  
Judgment/Order delivered on 24th August 2017

Coram:

**Hon'bleB.S.V. PrakashKumar, Member (J)**

**Hon'bleV.Nallasenapathy, Member (T)**

For the Petitioner(s): **Mr. HemantSethi** i/b HemantSethi& Co for the Petitioners

Mr. S Ramakantha , Joint Director in the office of Regional  
Director

**Per:V.Nallasenapathy, Member (T)**

Order

1. Heard the learned counsel for the Petitioner Companies. None appears before this Tribunal either to oppose the Scheme or to contravene averments made in the Petition.
2. The sanction of this Tribunal is sought under section 230 to 232 of the Companies Act, 2013, to the Scheme of Amalgamation of Haldiram Bakery Products Private Limited (Transferor Company 1), Haldiram Krishi Udyog Private Limited (Transferor Company 2), Maples Great Day Foods Private Limited (Transferor Company 3), Komal Foods Private Limited (Transferor Company 4) and Central Food Products (Nagpur) Private Limited (Transferor Company 5) with Haldiram Foods International Private Limited (Transferee Company) And their respective Shareholders.
3. The learned Counsel for the Petitioners submit that the Transferor Company 1 is engaged in the business of production and sale of bakery, confectionery and packaged food products and run, manage and give franchisee to others for opening food outlets, food court and food stalls in India . the Transferor Company 2 is engaged in the business of business of cultivation and selling of various agricultural, sericultural, horticultural and floricultural products the Transferor Company 3 is engaged in the business of production and sale of bakery, confectionery and packaged food products and run, manage and give franchisee to others for opening food outlets, food court and food stalls in India. the Transferor Company 4 is engaged in the business of business of production and sale of bakery, confectionery, and all other kinds of processed or frozen foods, canned/ bottled or otherwise packed or not. the Transferor Company 5 is engaged in the business of production and sale of bakery, confectionery, and all other kinds of processed or frozen foods, canned/ bottled or otherwise packed or not. and the Transferee Company is engaged in the



business of production and sale of bakery, confectionery, and all other kinds of processed or frozen foods, canned/ bottled or otherwise packed or not.

4. The amalgamation of the Transferor Company with the Transferee Company would *inter alia* have the following benefits:
  - With a view to maintain a simple corporate structure, to take effect of synergy gains and eliminate duplicate corporate procedures it is desirable to merge and amalgamate all the undertakings of Transferor Companies 1 to 5 into Haldiram Foods International Private Limited ("Transferee Company") they belong to the same group wherein all the transferor companies are wholly owned subsidiaries of the transferee company. Also, the companies are in similar line of business hence the same will have an effect of providing benefit of large economies of scale. The amalgamation of all undertaking of Transferor Companies into the Transferee Company shall facilitate consolidation of all the undertakings in order to enable effective management and unified control of operations. Further, the amalgamation would create economies in administrative and managerial costs by consolidating operations and would substantially reduce duplication of administrative responsibilities and multiplicity of records and legal and regulatory compliances.
5. Petitioner Companies have approved the said Scheme by passing the board resolutions which are annexed to the respective Company Scheme Petitions.
6. The learned Counsel for the Petitioner Companies further states that the Petitioner Companies have complied with all the directions passed in Company Scheme Applications and that the Company Scheme Petition have been filed in consonance with the orders passed in respective Company Scheme Applications.
7. The learned Counsel for the Petitioner Companies further states that the

Petitioner Companies have complied with all requirements as per the directions of this Tribunal and they have filed necessary Affidavits of compliance in the Tribunal. Moreover, the Petitioner Companies through their Counsel undertakes to comply with all statutory requirements, if any, as required under the Companies Act, 2013 and the rules made there under. The said undertaking is accepted.

8. The Regional Director has filed his Report dated 22<sup>nd</sup> August, 2017 stating therein that save and except as stated in paragraph IV of the said Affidavit, it appears that the Scheme is not prejudicial to the interest of shareholders and public. In paragraph IV of the said Affidavit, the Regional Director has stated that:

- a. In addition to compliance of AS-14 (IND AS-103) the Transferee Company shall pass such accounting entries which are necessary in connection with the scheme to comply with other applicable Accounting Standards such as AS-5 (IND AS-8) etc;*
- b. As per existing practice the Petitioner Companies are required to serve Notice for the Scheme of Arrangements to the Income Tax Department for their comments. It appears that the company vide letter dated 17<sup>th</sup> January 2017 has served a copy company scheme application No. 173 to 177 & 272 of 2017 along with relevant orders etc further the Regional Director has also issued a reminder dated 17<sup>th</sup> August 2017 to IT Department.*
- c. In view of observation of ROC Mumbai, mentioned at para 11 Honorable Tribunal may kindly direct the companies involved in the*



*scheme to file Solvency Certificate with the Registrar of Companies, Mumbai u/s 233(1)(e) read with section 233(12) of the Companies Act, 2013 as pass appropriate orders as deem fit.*

*d. Regarding Clause 14 of the Scheme it is submitted that the surplus if any arising out of the scheme shall be credited to Capital Reserve and deficit if any arising out of the same shall be debited to Goodwill Account and will not be adjusted against any other Account of the Transferee Company.*

*e. As per Part-A (1.12) Definitions clause of the Scheme (For the purpose of this Scheme and for Income Tax Act 1961) the "Appointed Date" means the 1<sup>st</sup> day of April 2016 or such other dates as may be approved by the Honorable High Court. In this regards, it is submitted in terms of provisions of Section 232(6) of Companies Act 2013 it should be 1<sup>st</sup> April 2016.*

9. Insofar as observations made in paragraph IV (a) the Transferee Company undertakes to pass such accounting entries which are necessary in connection with the scheme to comply with other applicable Accounting Standards such as AS-5 (IND AS-8).

10. Insofar as observations made in paragraph IV (b) of the Report of Regional Director, the Petitioners through their Counsel undertakes to comply with all applicable provisions of the Income Tax Act and all tax issues arising out of the Scheme of Amalgamation will be met and answered in accordance with law.

11. In so far as observations made in paragraph IV (c) of the Report of Regional

Director the Petitioner Companies have duly submitted the report to Registrar of Companies Mumbai and Regional Director on August 08, 2017.

12. In so far as observations made in paragraph IV (d) of the Report of Regional Director the Petitioner Companies undertake to submit the undertaking stating that difference between the amount of share capital issued and the amount of share capital of the Transferor Companies shall be adjusted in reserves in the financial statements of the Transferee Company in compliance with AS-14 (IND AS-103) .

13. In so far as observations made in paragraph IV (e) of the Report of Regional Director the Petitioner Companies undertakes that the Appointed date is 1<sup>st</sup> April 2016.

14. The observations made by the Regional Director have been explained by the Petitioner Companies in paragraphs 9 to 13 above. The clarifications and undertakings given by the Petitioner Companies are hereby accepted.

15. The Registrar of Companies, Mumbai has filed his Report dated 25<sup>th</sup> July 2017 wherein they have mentioned the company to submit the Solvency certificate u/s 233(1)(e) read with section 233(12) of the Companies Act, 2013.

16. In so far as observations made by the Registrar of Companies, Mumbai Petitioner Companies have duly submitted the Solvency certificate on August 08, 2017.

17. The Official Liquidator has filed his report dated 17<sup>th</sup> July, 2017 stating therein that on the perusal of the Chartered Accountant report and specifically the



questionnaire relating to the same and the Petition it is noticed that the affairs of the Transferor Company have been conducted in a proper manner.

18. From the material on record, the Scheme appears to be fair and reasonable and is not in violation of any provisions of law and is not contrary to public policy. None of the parties concerned have come forward to oppose the Scheme.

19. Since all the requisite statutory compliances have been fulfilled, Company Scheme Petition No. 463, 464, 465 to 466 & 477 & 476 OF 2017 of 2017. filed by the Transferee Company is made absolute in terms of prayer clause (a) to (c) of the Petition.

20. The Petitioner Companies to lodge a copy of this order and the Scheme duly certified by the Deputy Director. National Company Law Tribunal, Mumbai Bench, with the concerned Superintendent of Stamps for the purpose of adjudication of stamp duty payable, if any, on the same within 60 days from the date of receipt of the order.

21. Petitioner Companies are directed to file a certified copy of this order along with a copy of the Scheme with the concerned Registrar of companies, electronically along with E -form INC 28 in addition to the physical copy, within 30 days from the date of issuance of the order by the Registry.

22. The Petitioner Companies to pay costs of Rs. 25,000/- each to the Regional Director, Western Region, Mumbai and the Transferor Companies to pay cost of Rs. 25,000/- <sup>each</sup> to the Official Liquidator, High Court, Bombay. The costs to be paid within four weeks from the date of receipt of Order.

23. All authorities concerned to act on a certified copy of this order along with Scheme duly certified by the Deputy Director, National Company Law Tribunal, Mumbai Bench.

Sd/-

**V. Nallasenapathy, Member (T)**

Sd/-

**B.S.V. Prakash Kumar, Member (J)**