

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, CHENNAI**

**TP (HC)/32 & 33/CAA/2017  
[CA 1048 & 1049 of 2016]**

**Under Section 391 to 394 of the Companies Act, 1956 and the  
corresponding sections 230 to 232 of the Companies Act, 2013**

**In the matter of Scheme of Amalgamation of**

**M/s. JAYAVERA FOODS PRIVATE LIMITED  
(U15110TN2016PTC110753)  
(Transferor Company)**

**With**

**M/s. VEANUS CORN PRODUCTS PRIVATE LIMITED  
(U15500TN2013PTC091983)  
(Transferee Company)**

Order delivered on: 18.12.2017

**Coram:**

**K. Anantha Padmanabha Swamy, Member (Judicial)**

**S. Vijayaraghavan, Member (Technical)**

For the Petitioner Companies: Shri S. Hari, Advocate

**ORDER**

**Per: K. ANANTHA PADMANABHA SWAMY, MEMBER (J)**

1. Under consideration are two Company Petitions filed before the Hon'ble Madras High Court under the provisions of the Companies Act, 1956 which stood transferred to this tribunal pursuant to the Companies (Transfer of Proceeding Proceedings) Rules, 2016 and renumbered as TCP/32&33/CAA/2017. The purpose of filing the petitions is to obtain the sanction to the Scheme of Amalgamation (hereinafter referred to as 'Scheme') by virtue of which M/s. Jayavera Foods Private Limited (hereinafter referred as 'Transferor Company') is proposed to be

amalgamated, merged and vested **with** M/s. Veanus Corn Products Private Limited (hereinafter referred as '**Transferee Company**') as a going concern.

2. The Authorised and issued, subscribed & paid up share capital of the Transferor and the Transferee Company are as under:

<b>Particulars</b>	<b>Authorized Capital</b>	<b>Issued &amp; paid-up Capital</b>	<b>Equity Share-holders</b>	<b>Secured Creditors</b>	<b>Unsecured Creditors</b>
Transferor Company	Rs. 3,00,80,000	Rs. 3,00,80,00	7	Nil	8
Transferee Company	Rs. 1,50,00,000	Rs. 1,10,39,300	6	1	1

3. Both the companies are Private Limited Companies having their registered office is situated at S.No. 274/C2C and 274/2CB, Pannur Village, Madharapakkam Village, Gummidipoondi Taluk, Thiruvallur, Chennai- 601202 IN and the Board of Directors of the Transferor Company and Transferee Company vide their resolutions dated 3<sup>rd</sup> day of September, 2016 respectively approved the said scheme of Amalgamation. Both the companies are engaged in the business of manufacturing, preserving, reigning, packing, bottling, prepare, manipulate, treat, market, import, export, improve, produce, process, prepare, buy, sell, deal in all etc.
4. The Hon'ble Madras High Court vide its order dated 12.11.2016 in CA No. 1048 of 2016 and CA No. 1049 of 2016 dispensed with the convening and holding of the meeting of the equity shareholders, secured

creditor and unsecured creditor of the both the Transferor and Transferee Companies and the same was noted by this Bench.

5. Shri S. Hari, the learned counsel appearing for the Companies submitted that the rational of the scheme is that the Transferee Company would be benefited from the said scheme of Amalgamation by integration of operations, simplification of business and better Administrative convenience and cost reduction, greater size, scale, integration and financial strength and operational synergies. Further, the activities carried out by both the companies and that they being the closely held companies with few common shareholders and creditors will provide additional business control and synergy. Further it has been submitted that no investigation proceedings are pending against the Companies under section 235 to 251A or any other provisions of the Companies Act, 1956 or corresponding provisions of the Companies Act, 2013.
6. To dispose of this petition as per the provisions of the Companies Act, 2013, the notices were issued to the statutory authorities as per the procedure prescribed. However, there were no objection to the scheme under reference.
7. The Regional Director, Southern Region (In short, '**RD**') in its Report Affidavit (for brevity, '**Report**') dated 06.09.2017 submitted that as per records of ROC, Chennai, the Transferor Company is regular in filing its statutory returns and no investigation is pending against the company. It



is further submitted that as per Clause 5.1 of the scheme, the employees of the transferor company will become the employee of the transferee company without any break. The RD further submitted that as per this bench order dated 21.4.2017 it has directed the companies to furnish the concerned affidavit of all the creditors, secured as well as the unsecured creditors. In this connection RD stated that the transferor company has maintained that it has no secured creditor and hence there is no creation of charge to be filed by the company. It has further been stated that there are some more charges subsisting against the Transferee Company. It has also been stated that as per clause 4.1 of the scheme Authorised Capital of the Transferor Company will be merged with the Transferee. The Transferee Company may be directed to file the amended MoA and AoA with the ROC, Chennai. The RD has decided not to make any objection to the Scheme and submitted that the petition may be disposed of on merits.

8. With regard to above observations made by the RD, the learned counsel filed an Affidavit for the petitioner companies for amendment of company petition para 6 to state that there is no secured creditor for the Transferee Company.
9. The Official Liquidator (In short, 'OL') in its report dated 9<sup>th</sup> August, 2017 submitted that M/s. Muthuram Associates, Chartered Accountants appointed on the order of the Hon'ble High Court, have scrutinized the

books and accounts of the Transferor Company. The Auditor observed that the Transferor Company has maintained and written up all the statutory books in accordance with normally accepted accounting principle and policies in accordance with the requirements of the Companies Act, 2013 and also the affairs of the company have not been conducted in a manner prejudicial to the interest of its members, creditors or to public interest.

10. The OL further submitted that under Clause 5.1 of Para-III of the proposed scheme, the interest of all employees in the service of the Transferor Company is safeguarded. As per Clause 3.1 of the said scheme, upon the scheme becoming effective and in consideration for the transfer of and vesting of the entire undertaking of the Transferor Company, the Transferee Company shall issue and allot 1 (One) shares of Rs. 10/- each for every 3(Three) equity share of Rs. 10/- held by the shareholders in the Transferor Company. The OL has submitted that the company petitions may be decided on merits.

11. Further perusal of the scheme shows that the accounting treatment is in conformity with the established accounting standards. In short, there is no apprehension that any of the creditors would lose or be prejudiced if the proposed scheme is sanctioned. The said Scheme of Amalgamation will not cast any additional burden on the stakeholders and also will not

prejudicially affect the interests of any class of the creditors in any manner. The Appointed date of the Scheme is 01.08.2016.

**12.** The Scheme does not require any modification and the said Scheme of Amalgamation appears to be fair and reasonable, not contrary to public policy and also not violative of any provisions of law. All the statutory compliances have been made under the Companies Act, 2013. Taking into consideration all the above, the Company Petition is allowed and the Scheme of Amalgamation annexed with the petition is hereby sanctioned which shall be binding on all the members, creditors and shareholders.

**13.** While approving the scheme as above, we further clarify that this order will not be construed as an order granting exemption from payment of stamp duty or taxes or any other charges, if payable, as per the relevant provisions of law or from any applicable permissions that may have to be obtained and compliances that may have to be made as per the mandate of law.

**14.** The Transferee Company is directed to file the amended MoA and AoA with RoC, Chennai as stated by the RD.

**15.** The transferor company shall be dissolved without winding up from the date of the filing of the certified copy of this order with the registrar of companies.

**16.** Upon receiving the certified copy of this order, the RoC, Chennai is directed to place all documents relating to the Transferor Company with



that of the Transferee Company and the files relating to the Transferor Company shall be consolidated with the files and records of the Transferee Company.

17. The Transferor Company is also directed to pay Rs. 50,000/- to M/s. Muthuram Associates., Chartered Accountants, the Auditor who investigated into the affairs of the Transferor Company within 15 days of passing of this order.

18. The Company to the said Scheme or other person interested, shall be at liberty to apply to this Bench for any direction that may be necessary with regard to the working of the said Scheme. The Petitioner Company to file with the Registrar of Companies the certified copy of this Order within 30 days of the receipt of the order.

19. The Order of sanction to this Scheme shall be prepared by the Registry as per the format provided under the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 as has been notified on 14<sup>th</sup> December, 2016.

20. Accordingly, the Scheme stands sanctioned and the Company Petition Nos. 32 & 33/ CAA/2017 stand disposed of.



**S. Vijayaraghavan**  
**Member (Technical)**



**K. Anantha Padmanabha Swamy**  
**Member (Judicial)**