

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH, AT HYDERABAD**

CP (CAA) No.64/230/HDB/2017

U/s 232 Read with Section 230  
of the Companies Act, 2013

In the matter of

M/s. Sanzyme Private Limited  
Having its registered office at  
8-2-120/13/5, Plot No.13,  
Sagar Society Road No.2,  
Banjara Hills, Hyderabad – 34.  
Telangana

**CERTIFIED TO BE TRUE COPY  
OF THE ORIGINAL**

.. 1<sup>st</sup> Petitioner /  
Demerged Company

Versus

M/s. Sanzyme Biologics Private Limited  
Having its registered office at  
8-2-120/13/5, Plot No.13,  
Sagar Society Road No.2,  
Banjara Hills, Hyderabad – 34.  
Telangana

.. 2<sup>nd</sup> Petitioner /  
Resulting Company

Date of Order: 23.08.2017

CORAM:

Hon'ble Shri. Rajeswara Rao Vittanala, Member (Judicial)

Parties Present:

Counsels for the Petitioners : Mr. V.S.Raju & V.B.Raju  
Advocates

Counsel for Regional Director : Mr. B. Appa Rao, Central  
Govt. Standing Counsel

Per: Rajeswara Rao Vittanala, Member (Judicial)



## ORDER

1. The Joint Company Petition bearing CP (CAA) No. 64/230/HDB/2017 is filed by M/s. Sanzyme Private Limited (1<sup>st</sup> Petitioner / Demerged Company) and M/s Sansyme Biologics Private Limited (2<sup>nd</sup> Petitioner / Resulting Company) under Sections 232 R/w section 230 of the Companies Act, 2013, by inter-alia seeking to sanction scheme of Arrangement as per Annexure-G, so as to be binding on all the Equity Shareholders / Members, Creditors and employees of the Petitioner / Transferee Company etc.
2. The case was listed before this Bench on 7.3.2017, 19.5.2017, 19.7.2017, reserved on 28.7.2017.



Brief facts of case, which are relevant to the issue in question, are submitted as under:

- a. M/s. Sanzyme Private Limited (Demerged Company) is a Private Limited Company incorporated under the provisions of the Companies Act, 1956 on 05.08.1969. Its Registered Office is situated at 8-2-120/13/5, Plot No.13, Sagar Society Road No.2, Banjara Hills, Hyderabad – 34, Telangana.
- b. The objects of the 1<sup>st</sup> Petitioner / Demerged Company is to manufacture, Import, export, buy, sell, distribute and deal in enzymes, anti-tuberculosis agents, anti-hystamines, vitamins and their specialities and processors, producers, blenders, researchers purchasers, distributors, sellers, marketers, and dealers in food / diary / nutraceutical products, food supplements including various kinds of pre-mixes of tea, coffee, probiotic preparations.

- c. The Authorized Share Capital of the Demerged Company as on 31.03.2016 is Rs. 10,00,00,000/- divided into 9,90,000 Equity Shares of Rs.100/- each and 10,000 cumulative Redeemable Preference Shares of Rs.100/- each and the issued subscribed and paid up share capital of the 1<sup>st</sup> Petitioner / Demerged Company is Rs.8,52,99,200/- divided into 8,52,992 equity shares of Rs. 100/- each full paid up.
- d. M/s. Sanzyme Biologics Private Limited (2<sup>nd</sup> Petitioner / Resulting Company) is a Private Limited Company incorporated under the provisions of the Companies Act, 2013 on 16.09.2016. Its Registered Office is situated at 8-2-120/13/5, Plot No.13, Sagar Society Road No.2, Banjara Hills, Hyderabad – 34, Telangana.
- e. The objects of the 2<sup>nd</sup> Petitioner / Resulting Company is to carry on the business of manufacturing, producing, processing, preparing, refining, treating, developing, buying, selling, importing, exporting, distributing, marketing and generally dealing in all kinds and descriptions of biological products, microbes, probiotics, probiotic formulations, feed supplements bio-similars, bio-insecticides, biopesticides, bio-agricultural products, biologics, hormones, surfactants, biopharmaceutical products and to carry on the business of research, design, develop, prepare and supply of technical-know how, consultants, advisers in the field of manufacturing, importing and exporting of all kinds of probiotics, pharmaceuticals, ayurvedic and herbal drugs, chemicals, medical kits and equipment, and to deal in all kinds of machinery and equipment capable of being used to attain the above objects by any other organisation and to promote, encourage, initiate,





assist in all kinds of research and development work and to set up laboratories and other facilities etc.,

- f. The present authorized share capital of 2<sup>nd</sup> Petitioner / Resulting Company is Rs. 1,00,00,000/- divided into 10,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid up Share Capital of the 2<sup>nd</sup> Petitioner/Resulting Company is Rs. 1,00,000/- divided into 10,000 equity shares of Rs.10/- each fully paid up.

4. The Directors of both Demerged Company and Resulting Company are of the opinion that the proposed Arrangement will be for the benefit of both the Companies. The integration and consolidation of the fermentation business of the Demerged Company with the Resulting Company would have the following benefits:



- a) Both the divisions of the Demerged Company have significant potential of growth. The nature of risks, rewards and competition involved in each division are distinct from the other division of the Demerged Company. By transfer of the fermentation business, each business division gets the requisite management focus and autonomy to pursue the possibilities of expansion and growth.
- b) Each business division is capable of addressing independent business opportunities attracting different sets of investors, strategic partners, lenders and stake holders.
- c) The proposed transfer would enable the Resulting Company to focus on the fermentation business in a more professional manner and to create a more competitive business both in scale and operations. The Resulting Company would develop long-term corporate strategies and financial policies specifically with respect to the Fermentation Business Undertaking, thus

enabling better management and accelerated growth of the fermentation business.

- d) The proposed transfer would result in improving the operational efficiencies, optimising costs, revenues, capital and would have better access to different financing avenues, for both the Demerged Company and the Resulting Company and would result in improved shareholder value.

- 5 Hence, the Board of Directors of the Demerged Company at their meetings held on 21.11.2016 and 17.04.2017 and by the Board of Directors of the 2<sup>nd</sup> Petitioner / Resulting Company at their meeting held on 21.11.2016 and 30.03.2017 have approved the scheme of arrangement i.e. for transfer and Demerger of fermentation business of Demerged Company into Resulting Company with effect from 01.04.2017 subject to approval of the shareholders and confirmation by the Tribunal.



6. The following are brief terms of Scheme of Arrangement :
- a) **Transfer and Vesting of Fermentation business undertaking into Resulting Company.**

With effect from the Appointed Date i.e. 01.04.2017, the fermentation business Undertaking of Demerged Company shall be transferred to and vested in or be deemed to be transferred to and vested in the Resulting Company as a going concern with all the rights, title, interest or obligations of the Resulting Company with respect to fermentation business undertaking thereto.

- b) **Legal proceedings**

All suits, actions and proceedings of whatsoever nature by or against the fermentation business undertaking of Demerged Company on the Appointed Date and till the Effective Date shall be transferred to the name of the



Resulting Company and the same shall be continued and enforced by or against the Resulting Company, to the exclusion of the Demerged Company, as the case may be, etc.,

c) **Transferor Company Staff, Workmen and Employees**

All the staff, workmen and other employees in the service pertaining to Fermentation Division of Demerged Company immediately before the Appointed Date, under this Scheme shall become the staff, workmen and other employees of the Resulting Company, on the basis that their services shall have been continuous and shall not have been interrupted by reason of such transfer as if such transfer is effected under Section 25FF of the Industrial Disputes Act, 1947, etc.

d) **Saving of concluded transactions**

The transfer of Fermentation business undertaking under the scheme, the continuance of the effectiveness of contracts and deeds under the Scheme and legal proceedings by or against the Resulting Company under the scheme shall not affect any transaction or proceedings or contracts or deeds already concluded by the Demerged Company (a) on or before the Appointed Date and (b) after the Appointed Date till the Effective Date, to the end and intent that the Resulting Company accepts and adopts all acts, deeds and things done and executed by the Demerged Company in respect to fermentation division business thereto as done and executed on behalf of itself.

e) **Issue of shares by the Resulting Company to tribshareholders of Demerged Company.**

Upon the effectiveness of the Scheme, in consideration of the Demerger, the transfer and vesting of the Fermentation Business Undertaking/Demerged Undertaking in the



Resulting Company pursuant to the Scheme, the Resulting Company shall, without any further act or deed, issue and allot to each member of the Demerged Company whose name is recorded in the register of members of the Demerged Company on the Record Date or to their respective heirs, executors, administrators or other legal representatives or the successors-in-title as the case may be, equity shares in the Resulting Company in the ratio of 1 (one) equity share in the Resulting Company of the face value of Rs. 10/- (Rupees Ten) each credited as fully paid-up for every 1 (one) equity share of Rs. 100/- (Rupees One Hundred) each fully paid-up held by such member in the Demerged Company (the "Share Entitlement Ratio").



**g) Approvals**

The issue and allotment of new equity shares by the Resulting Company to the shareholders of the Demerged Company is an integral part of the Scheme and shall be deemed to have been carried out without any further act or deed and the approval of the shareholders of the Resulting Company to the Scheme shall be deemed to be due compliance of the provisions of Sections 42 and 62 and other relevant or applicable provisions of the Companies Act, 2013. Unless otherwise determined by the Board of Directors of the Demerged Company and the Resulting Company, allotment of shares shall be done within 60 days from the Effective Date. Approval of the Scheme by the shareholders of the Resulting Company shall be deemed to be due compliance of the provisions of Section 62 and other relevant & applicable provisions of the Companies Act, 2013 for the issue and allotment of equity shares by the Resulting Company to the shareholders of the Demerged Company, as provided in the Scheme.



h) **Accounting treatment**

All the assets and liabilities related to the Fermentation Business Undertaking/Demerged Undertaking as appearing in the books of accounts of the Demerged Company as on the Appointed Date shall stand transferred to and vested in the Resulting Company pursuant to the Scheme and shall be recorded by the Resulting Company at their book values as appearing in the books of the Demerged Company as on the Appointed Date. For determining the book values, any change in the value of assets on account of revaluation shall be ignored. The Resulting Company shall credit its share capital account with the aggregate face value of the new equity shares issued to the relevant shareholders of the Demerged Company. The inter-se loans and advances, if any, between the Resulting Company and the Demerged Company in relation to the Fermentation Business Undertaking/Demerged Undertaking appearing in the books of accounts of the respective companies shall stand cancelled. The differences between the value of assets and value of liabilities transferred pursuant to the Scheme as reduced by the share capital recorded in relevant clause of the Scheme, and after considering reduction of share capital and payment against such reduction as per relevant clause of the Scheme, shall be adjusted to/against the general reserve.

i) **Modifications/amendments to the Scheme**

The Demerged Company and the Resulting Company by their respective Boards may assent to any modifications/amendments to the Scheme or to any conditions or limitations that the NCLT and/or any other authority may deem fit to direct or impose or which may otherwise be considered necessary, desirable or appropriate by them (i.e. the Board). The Resulting





Company's Board be and is hereby authorized to take all such steps as may be necessary, desirable or proper to resolve any doubts, difficulties or questions whether by reason of any directive or orders of any other authorities or otherwise howsoever arising out of or under or by virtue of the Scheme and/or any matter concerned or connected therewith and to do all acts, deeds, matters and things and take all such steps as may be necessary, desirable or expedient for putting the Scheme into effect.

j) **Scheme conditional on approvals / sanctions**

The approval by the requisite majorities of the respective members and/or creditors (where applicable) of the Demerged Company and the Resulting Company, as required under the Companies Act, 2013 and the requisite orders of the NCLT referred to in relevant clause of the Scheme hereof being obtained. The sanction of the Scheme by the NCLT under Section 232 read with Section 230 and Section 66 of the Companies Act, 2013 and to the necessary order sanctioning the Scheme being filed with the Registrar of Companies, Andhra Pradesh & Telangana at Hyderabad.



7. Initially, the 1<sup>st</sup> Petitioner / Demerged Company and 2<sup>nd</sup> Petitioner / Resulting Company have filed a joint Company Application bearing C.A.(CAA) No. 11/230/HDB/2017 under Section 232 R/w Section 230 of the Companies Act, 2013 before this Bench, seeking directions to dispense with the meetings of the Shareholders and Secured Creditors and for convening the meeting of Unsecured / Trade Creditors of the 1<sup>st</sup> Petitioner / Demerged Company and by the 2<sup>nd</sup> Petitioner / Resulting Company for dispensation of meetings of the share holders and unsecured Creditors, consideration of the scheme of arrangement between M/s. Sanzyme Private

Limited (Demerged Company) and 2<sup>nd</sup> Petitioner / Resulting Company as detailed in the Scheme.

8. The said C.A (CAA) No. 11/230/HDB/2017 was disposed of by this Bench vide its Order dated 07.03.2017 dispensing with the conducting of meetings of the equity shareholders and convening the meeting of Unsecured / Trade Creditors of the 1<sup>st</sup> Petitioner / Demerged Company and dispensed with the meetings of Equity Shareholders and Unsecured Creditors in case of 2<sup>nd</sup> Petitioner / Resulting Company. As directed, meeting was duly convened and the scheme in question was approved with requisite majority of the Unsecured / Trade Creditors. The Chairperson had filed his report on 1<sup>st</sup> May, 2017. After fulfilling requisite conditions for sanction of scheme in question, the present petition is filed for sanction of the scheme.



9. I have heard, Mr. V.S.Raju and V.B.Raju, Learned Counsels for both the Petitioners and Mr. B. Appa Rao, Central Government Standing Counsel, and I have carefully perused all pleadings along with material papers filed in their support.
10. The Learned Counsel submitted that as per the directions of this Bench, the Petitioner got published in Newspaper advertisement of the "Notice of Petition" in English Daily (Business Standard – Hyderabad Edition (in English) and Telugu Daily (Andhra Jyoti – Hyderabad Edition (in Telugu) on 30.05.2017 and filed proof of the same before this Bench on 30.06.2017. In pursuance to said notification, no objections / oppositions were received about the scheme in question.
11. The Learned Counsel further submits that in pursuant to the Orders dated 19.05.2017 of this Tribunal; notices were issued



to the Registrar of Companies, Regional Director (SER), and The Income Tax Department.

12. The Regional Director (SER), Hyderabad has filed an affidavit dated 03.06.2017, by inter alia, stating that the Petitioner Companies involved in the proposed Scheme of Arrangement are regular in filing statutory returns, and no complaints, no investigations and no inspections are pending against them. Further, the Learned Counsel for the Petitioner also submitted that that the Petitioner Company has also served notice on the Income Tax Department twice on 21.03.2017 and 29.05.2017. However, no comments / objections of the Income Tax Department were received in response to the said notice till date. Further, the Counsel for Central Government submitted that the Tribunal can consider the case as per the merits and pass appropriate orders.



I have carefully gone through all the pleadings, Report of the Regional Director (SER) and also relevant provisions of Companies, 2013. I am convinced that the 1<sup>st</sup> Petitioner / Demerged Company and 2<sup>nd</sup> Petitioner / Resulting Company have complied with all statutory requirements as required under Section 230 & 232 and other relevant provisions of Companies Act, 2013, as detailed supra. The Board of Directors of the 1<sup>st</sup> Petitioner and 2<sup>nd</sup> Petitioner Companies at their respective meetings have duly considered the pros and cons of Scheme of Arrangement in question, after perusing various reports on the issue, and found it is advantageous and beneficial to the Company, its members, the Secured Creditors and all other concerned parties of the Company, and thus, it was approved. It is to be mentioned herein that the Scheme in question is not opposed by any authorities and the Petitioner Companies are admittedly followed all the rules / regulations of Companies Act as stated by Regional



Director. Hence, I am of considered view that the Joint Company Petition is deserved to be allowed as prayed for.

14. In the result, the C.P(CAA) No.64/230/HDB/2017 is allowed with the following directions:-

- a) Sanctioned the Scheme of Arrangement (enclosed at Page No. 208 to 230 of the Joint Petition) with appointed date as 01.04.2017, and it is ordered that the same is binding on all the Equity Shareholders / Members and Creditors (Secured & Unsecured) of both the Petitioner Companies.
- b) The Petitioner Companies are directed to take appropriate steps to submit the said scheme to Registrar of companies within 30 days from the date of receipt of Copy of this order.
- c) The Petitioner Companies are directed to issue newspaper publication with respect to approval of scheme of arrangement, in the same newspapers in which previous publications were issued in order to ensure transparency / dissemination of complete information to all concerned parties about the approval granted by the Tribunal for the Scheme as proposed.
- d) The Petitioner Companies are further directed to take all consequential and statutory steps required in pursuance of the approved Scheme of Arrangement under the Provisions of the Act.
- e) Liberty is granted to any party / parties, who are aggrieved by this order to seek any direction(s) by way of filing miscellaneous application in the present CP.



CERTIFIED TO BE TRUE COPY  
OF THE ORIGINAL

प्रमाणित प्रति  
CERTIFIED TRUE COPY

केस संख्या  
CASE NUMBER

निर्णय का तारीख  
DATE OF JUDGEMENT

प्रति तैयार किया गया तारीख  
COPY MADE READY ON

CP(CAA) No. 64/230/HDB/2017

23/08/2017

11/09/2017

RAJESWARA RAO VITTANALA  
MEMBER (JUDICIAL)

for Dy. Regr./Asst. Regr/Court Officer  
National Company Law Tribunal, Hyderabad Bench