

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

CA(CAA) No. 43/230/HDB/2017

Date of order: 25.05.2017

M/s Venkatarama Chemicals Private Limited
36/A, Vengalrao Nagar,
Hyderabad -- 500 038.
Telangana.

.... Applicant /Transferor Company

Parties Present:

Counsel for the Applicant : Mr. V.S. Raju & Mr. V.B. Raju

CORAM:

Hon'ble Rajeswara Rao Vittanala, Member (Judicial)

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OF THE ORIGINAL**

ORDER

(As per Rajeswara Rao Vittanala, Member (Judicial))

- a) The present Company Application bearing CA(CAA)No.43/230/HDB/2017, is filed by M/s Venkatarama Chemicals Private Limited, under Section 230 read with 232 and other applicable provisions of the Companies Act, 2013 by, inter alia, seeking to dispense conducting a meeting of the equity shareholders of the Applicant/Transferor Company.



2. Brief facts of case, which are mentioned in the Company application, are as follows:

I. In the case of Transferor Company:

- a. M/s Venkatarama Chemicals Private Limited (hereinafter referred to as "Applicant/Transferor Company") was incorporated under the Companies Act, 1956, in the then State of Andhra Pradesh on 15.12.1981 as a Public Limited Company. Later on, the Company had converted itself into Private Limited Company and Fresh Certificate of Incorporation was issued by the Registrar of Companies, Andhra Pradesh on 18.10.2011 and its Corporate Identity No. is U24110TG1981PTC003322. The Registered Office of the Applicant/Transferor Company is situated at 36/A, Vengalrao Nagar, Hyderabad -- 500 038, Telangana.

- b. The main objects and nature of the Company as set out in the Memorandum of Association, in brief, are as under:-
- To manufacture, refine and prepare all classes and kinds of Chemicals such as Guanidine nitrite, Guanidine Hydrochloride, Guanidine sulphate and its other salts and all types of drugs, drug intermediates and Chemicals like oxalic acid.
 - To manufacture and or deal in the preparations of all types of Ayurvedic drugs and formulations, organic and inorganic fine chemicals.
 - It is engaged in the business of manufacturer of Bulk drugs, finished drugs and other chemicals etc.
- c) The authorized, issued, subscribed and paid-up share capital of the Transferor Company as on the date of incorporation i.e. 31st March, 2016 is as under:

Particulars	Rupees
Authorised Share Capital	
10,00,000 Equity Shares of Rs. 10/- each	1,00,00,000
Issued, Subscribed and Paid-up Share Capital	
3,25,800 Equity Shares of Rs.10/- each fully paid-up	32,58,000



Subsequent to the above date and till the date of filing the scheme, there has been no change in the issued, subscribed and paid up capital of the Applicant /Transferor Company.

II. In the case of Transferee Company:

- M/s Harika Drugs Private Limited (hereinafter referred to as "HDPL"/Transferee Company) was originally incorporated as a private limited company in the State of Karnataka on 13th September, 1985 under the Certificate of Incorporation No. 7147 of 1985-86. Later on the company had changed its registered from the State of Karnataka to then State of Andhra Pradesh and same was confirmed by the orders of Company Law Board Bench, Southern Region, Chennai vide its orders dated 19th September, 1989 and a fresh certificate of incorporation was issued by the Registrar of Companies, Andhra Pradesh on 19th October, 1989. Its Registered Office is

situated at 2nd Floor, Classic Arcade Czech Colony, Road No.1, Sanathnagar, Hyderabad – 500 018, Telangana.

b) The main objects and nature of the Company, as set out in the Memorandum of Association, in brief, are as under:-

- i) To carry on business of manufacture, buy, sell, import, export and generally deal in all types of chemicals, pharmaceuticals, drugs and intermediaries.
- ii) To carry on business of manufacture, buy sell, import, and export and generally deal in all types surgical, medical, pharmaceuticals, scientific equipment, appliances and accessories.
- iii) It is engaged in the business of manufacturer of Bulk drugs, finished drugs and other chemicals etc.

c) The authorized, issued, subscribed and paid-up share capital of the Transferee Company as on the date of incorporation i.e. 31st March, 2016 is as under:



Particulars	Rupees
Authorised Share Capital	
10,000 Equity Shares of Rs. 1000/- each	1,00,00,000
Issued, Subscribed and Paid-up Share Capital - 6,290 equity shares of Rs. 1000/- each, fully paid up Share	62,90,000

3. The proposed Scheme, in general, would have the following benefits:

- i. Raw materials will be available at a lesser prices by ordering large quantities, so that the cost of production will automatically reduce.
- ii. The merged company can borrow funds at a subsidized rate of interest as the turnover and asset base would be more after merging than individual companies. It will increase credit worthiness of the Company.
- iii. Businesses in the same sector or location can combine resources to reduce costs, eliminate duplicated facilities or departments and increase revenue etc.

4. In view of the various advantages of proposed scheme , the Board of Directors of the Applicant/Transferor Company, vide its meeting dated 27th February, 2017, approved the Scheme of Amalgamation of M/s Venkatarama Chemicals Private Limited with M/s Harika Drugs Private Limited and their respective Shareholders.
5. Prime salient/material features of the proposed Scheme, which will come into force from appointeddate, are as under:

a) Subject to the provisions of this Scheme as specified hereinafter and with effect from the Appointed Date, the entire business and undertakings of the Transferor Company including all the debts, liabilities, duties and obligations, including those arising on account of taxation laws and other allied laws, of the Transferor Company of every description and also including, without limitation, all the movable and immovable properties and other assets (whether tangible or intangible) of the Transferor Company comprising, , shall, under the provisions of Sections 391 to 394 of the Act, and pursuant to the orders of the NCLT sanctioning this Scheme and without any further act, instrument or deed, but subject to the charges affecting the same as on the Effective Date, be transferred and/or deemed to be transferred to and vested in the Transferee Company, so as to become the properties, assets, rights, business and undertaking(s) of the Transferee Company.



- b) The amalgamation of the Transferor Company with the Transferee Company, pursuant to and in accordance with this Scheme, shall take place with effect from the Appointed Date and shall be in accordance with Section 2(1B) of the Income-Tax Act, 1961. If any terms or a provision of Part B of this Scheme is/are inconsistent with the provisions of Section 2(1B) of the Income-tax Act, 1961, the provisions of Section 2(1B) the Income-tax Act, 1961, shall prevail and the Scheme shall stand modified to the extent necessary to comply with Section 2(1B) of the Income-tax Act, 1961. Such modifications will however, not affect the other parts of the Scheme.
- c) The Transferee Company without any further act or deed shall issue and allot 1 (One) equity share of Rs. 1000/- each fully paid to the members of "VCL" for every 38 (Thirty Eight) equity shares of Rs.10/- each held by such members in Transferor Company whose names are appearing in the register of members on the Record Date.

- d) The equity Shares to be issued and allotted pursuant to Clause 10(a) of the Scheme shall, in all respects, rank pari-passu with the existing equity shares of the Transferee Company, for dividend, voting power and all other benefits and in all respects with effect from the date of their allotment.
- e) No fractional certificates shall be issued by the transferee company in respect of fractional entitlements, if any, to which the members of the transferor company may be entitled on issue and allotment of the shares and of the transferee company as aforesaid any fractions arising there from shall be rounded off to nearest one.
- f) Transferee Company shall record the assets and liabilities of the Transferor Company transferred to Transferee Company pursuant to this Scheme, as determined by the Board of Directors of Transferee Company, and account for the amalgamation of the Transferor Company pursuant to the Scheme in accordance with the "Pooling of Interest Method" prescribed by Accounting Standard 14 notified by the Companies (Accounting Standards) Rules, 2006, as amended from time to time.
- g) The Transferee Company shall account for the amalgamation by incorporating the assets and liabilities of the Transferor Company at their existing carrying amounts. The excess or deficit between Consideration (equity shares and cash as per Clause 9) and the book value of net assets taken over shall be transferred to Goodwill or Capital Reserve Account.
- h) The Transferor Company shall stand dissolved, without going through the process of winding up.



- 6. It is stated that no investigation or proceedings have been instituted or are pending against the Applicant/Transferor Company and Transferee Company. The Transferor Company is an unlisted Company.
- 7. There are 2 (Two) Shareholders in the Applicant/Transferor Company and both have given their consent to the proposed scheme of Amalgamation by means of affidavits. A copy of the list of Equity Shareholders and the consent affidavits obtained from the said Equity Shareholders of the Applicant/Transferee Company is filed. It is stated that there are no Secured/Unsecured Creditors.

8. I have heard Mr. V.S. Raju and V.B. Raju, learned Counsels for the applicant/Transferor Company, have carefully perused all documents filed in support of various pleadings made in the Company application along with extant provisions of Company Law.
9. As stated supra, there are two shareholders of Transferor Company namely U. Amarnanath (92.84%) and Adusumilli Madhuri (7.16%) and they have given their consent to the proposed Scheme of Amalgamation by way of separate notarized affidavits and those are enclosed to the Company Application. Hence, there would no purpose to order to hold meeting of those shareholders and the Company is entitled for dispensation of holding their meeting of the equity shareholders of the Applicant/Transferor Company.
10. In view of the above facts and circumstances of the case, I am of convinced view that the proposed scheme is initiated for the best interest of both Companies and its shareholders, secured/unsecured and trade creditors, and all the relevant rules have been followed to seek directions as mentioned above and thus the Company is entitled for the relief as they sought for.
11. In the result, the Company application bearing CA(CAA)No.43/230/HDB/2017 is allowed by dispensing with the conducting of meeting of Equity Shareholders of Applicant/Transferor Company.

No order as to costs.

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Sd/-
Rajeswara Rao Vittanala
Member (Judicial)

V. Annapoorna
V. ANNA POORNA
Asst. DIRECTOR
NCLT, HYDRABAD - 68