

**IN THE HON'BLE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

CA(CAA)/No.14/230/HDB/2017

Under Section 230 r/w 232 of the Companies Act, 1956

In the matter of

1. Simhapuri Agro Products Private Limited
6-3-569/2, First Floor, Rockdale,
Somajiguda,
Hyderabad – 500 082.
Telangana.

... Applicant No.1/Transferor Company No.1

2. Kottu Oil Private Limited,
H.No.8-3-224/1/B 402, Vishnu Classic,
Madhura Nagar,
Hyderabad – 500 038.
Telangana.

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

... Applicant No.2/Transferee Company No.2

And

3. 3F Oil Palm Agrotech Private Limited,
6-3-569/2, First Floor, Rockdale,
Somajiguda,
Hyderabad – 500 082.
Telangana.

... Applicant No.3/Transferee Company

Order delivered on: 05.05.2017

CORAM:

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

For Applicants : Mr. P. Anil Mukherji, Advocate

For Official Liquidator : Mr. J. Srinadh Reddy, Advocate

Per: **Rajeswara Rao Vittanala, Member (Judicial)**

ORDER

1. The present Company Application bearing CA(CAA) No.14/230/HDB/2017, is filed by Simhapuri Agro Products Private Limited (Transferor Company No.1) along with Kottu Oil Private Limited (Transferor Company No.2) and 3F Oil

Palm Agrotech Private Limited (Transferee Company), under Sections 230 read with 232 and other applicable provisions of the Companies Act, 2013, by inter-alia seeking the following reliefs:-

- i) To dispense with the meetings of the Equity Shareholders, Secured Creditors and Unsecured Creditors of the 1st Applicant Company/Transferor Company No.1.
- ii) To dispense with the meetings of the Equity Shareholders of the 2nd Applicant Company/Transferor Company No.2.
- iii) To dispense with the meetings of the Equity Shareholders, Secured Creditors and Unsecured Creditors of the 3rd Applicant Company/Transferor Company No.3.

2. Brief facts, leading to the filing of present case are, as follows:

I) In respect of 1st Applicant/1st Transferor Company:

- (a) Simhapuri Agro Products Private Limited, the Transferor Company No.1, was incorporated as a Private Limited Company on 14.10.1993, under the Companies Act, 1956 having its Registered Office situated at 6-3-569/2, First Floor, Rockdale, Somajiguda, Hyderabad – 500 082.

- (b) The Authorised, issued, subscribed and paid up share capital as on 31.03.2016 is detailed below:

	In Rupees
Authorised Share Capital	
27,50,000 Equity Shares of Rs.10/- each	2,75,00,000
Issued, Subscribed and Paid-up Share Capital	
7,50,200 Equity Shares of Rs.10/- each fully paid up	75,02,000

Subsequent to the above date and till date of filing the Scheme, there has been no change in the issue, subscribed and paid up capital of the First Applicant Company.



- (c) The main objects of Company as set out in its Memorandum, in brief, are to plant, cultivate, produce, raise, process, preserve, sell, cut, market all types or Agricultural and Horticultural crops including food grains, oil palms and seeds, Vegetables, flouri culture, sugar, fibre, tobacco, other commercial crops and teak wood, etc.

II) In respect of 2nd Applicant/2nd Transferor Company:

- (a) Kottu Oil Private Limited, the Transferor Company No.2 herein, was incorporated as a Private Limited Company on 14.11.2011, under the Companies Act, 1956 and having its Registered Office situated at H.No.8-3-224/1/B, 402, Vishnu Classic, Madhura Nagar, Hyderabad – 500 038.
- (b) The Authorised, issued, subscribed and paid up share capital as on 31.03.2016 is detailed below:

	In Rupees
Authorised Share Capital	
10,000 Equity Shares of Rs.10/- each	1,00,000
Issued, Subscribed and Paid-up Share Capital	
10,000 Equity Shares of Rs.10/- each fully paid up	1,00,000



Subsequent to the above date and till date of filing the Scheme, there has been no change in the issue, subscribed and paid up capital of the First Applicant Company.

- (c) The main objects of Company, as set out in its Memorandum, in brief, are to carry on the business manufacturers, buyers, sellers, importers, exporters, brokers, stockists, distributors, agents, processors, extractors, job workers, traders, and/or otherwise deal in all types of oils and by products thereof either by crushing or by chemical or any other process from palm oil seeds, til seeds, coconuts, groundnut seeds, rice bran, all types of oil cakes, cotton seeds, soyabean seeds, vanaspati, ghee,, sunflower seeds, copra mahua seeds or any other nut or seed or from all kinds of ingredients or from other oil bearing substances including petroleum, natural gas and to carry on the business as farmers, cultivators, developers, growers of all types of nurseries and plantations of oil palm, seeds, nuts and substances etc.

III) In respect of 3rd Applicant/Transferee Company:

(a) 3F Oil Palm Agrotech Private Limited, the Transferee Company, was incorporated as a Private Limited Company on 20.07.2010, under the Companies Act, 1956 having its Registered Office situated at 6-3-569/2, First Floor, Rockdale, Somajiguda, Hyderabad – 500 082.

(b) The Authorised, issued, subscribed and paid up share capital as on 31.03.2016 is detailed below:

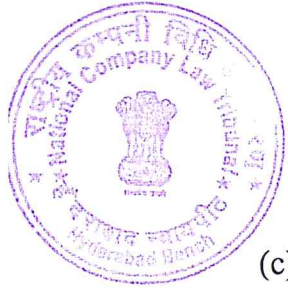
	In Rupees
Authorised Share Capital	
1,20,00,000 Equity Shares of Rs.10/- each	12,00,00,000
Issued, Subscribed and Paid-up Share Capital	
1,00,10,000 Equity Shares of Rs.10/- each fully paid up	10,01,00,000

Subsequent to the above date and till date of filing the Scheme, there has been no change in the issue, subscribed and paid up capital of the First Applicant Company.

(c) The main objects of Company as set out in its Memorandum, in brief, are to acquire, takeover, promote, establish and carry on all or any of the businesses of oil seed growers, seed-crushers, and other cereal millers, manufacture of oil from oil palm produce and other seeds, other call cakes and oil extraction by crushing or by chemical or any other processes etc.

3. The Applicant Companies propose the Scheme of Amalgamation for the following reasons:

(i) Reduction of multiplicity of legal and regulatory compliances, reduction in overheads including administrative, managerial and other expenditure;



- (ii) Greater integration, financial strength and flexibility for the Transferee Company, which will improve the financial position of the Transferee Company;
 - (iii) Greater efficiency in cash management of the Transferee Company, and unfettered access to cash flow generated by the combined business which can be deployed more efficiently to fund growth opportunities, to further improve shareholder's value;
 - (iv) Improved organizational capability and leadership, arising from the pooling of human capital that has the diverse skills, talent and vast experience to compete successfully in an increasingly regulated and competitive industry;
 - (v) Benefit of operational synergies to the combined entity in areas such as raw material sourcing, product placement, marketing and sale promotions initiatives, freight optimization and logistics; and
 - (vi) Greater leverage in operations planning and process optimization and enhanced flexibility in product offerings.
4. It is further stated that the Board of Directors of the Applicant Companies in their respective Board Meetings held on 30.01.2017 approved the Scheme of Amalgamation, subject to the approval of their shareholders, creditors and of Hon'ble Tribunal.
5. It is stated that no Investigation or Proceedings have been instituted or/are pending in relation to the Applicant Companies.
6. It is further stated that the 1st Applicant Company/Transferor Company No.1 and the 2nd Applicant/Transferor Company No.2 are wholly owned subsidiaries of the 3rd Applicant/Transferee Company. The 3rd Applicant Company/Transferee Company and its nominee i.e. Mr. Sanjay Goenka have given their consent affidavits. The shareholders have given their consent to the Scheme of Amalgamation by way of affidavits. Hence, the 1st Applicant Company/Transferor Company No.1 and 2nd Applicant Company/Transferor



Company No.2 prayed the Tribunal to dispense with meeting of the Equity Shareholders as the same is not required.

7. It is also stated that the 3rd Applicant Company/Transferee Company is wholly owned subsidiary of the 3F Industries Limited. 3F Industries Limited and its nominee i.e. Mr. Sanjay Goenka have given their consent affidavits. The shareholders have given their consent to the Scheme of Amalgamation by way of affidavits.
8. **Secured/Unsecured Creditors of the 1st Applicant Company/Transferor Company No.1:**

The 1st Applicant/Transferor Company No.1 has 1 (One) Secured Creditor i.e. Axis Bank as on 20.02.2017. As far as the rights of Secured Creditor of the 1st Applicant/Transferor Company No.1 is concerned, it will not be affected by the proposed Scheme of Amalgamation since post Scheme, the assets of the Transferor Company No.1 will be sufficient to discharge its liabilities and further, it is also does not involve any compromise or arrangement with any creditors of the Transferor Company No.1. The Secured Creditor i.e. Axis Bank vide their letter dated 25.04.2017 addressed to the Company has given their consent to the Scheme of Amalgamation.



The 1st Applicant/Transferor Company No.1 has no Unsecured Creditors except in the nature of Trade Creditors and the rights of Trade Creditors will not be effected by the proposed Scheme of Amalgamation since post scheme, the assets of the Transferor Company No.1 will be sufficient to discharge its liabilities and further, it is also does not involve any compromise or arrangement with any creditors of the Transferor Company No.1.

Hence, the 1st Applicant Company/Transferor Company No.1 prayed the Tribunal to dispense with meeting of Secured/Unsecured Creditors as the same is not required.

9. Secured/Unsecured Creditors of the 2nd Applicant Company/Transferor Company No.2:

The 2nd Applicant/Transferor Company No.2 has no Secured Creditors/Unsecured Creditors as on 20.02.2017.

Hence, the 2nd Applicant Company/Transferor Company No.2 prayed the Tribunal to dispense with meeting of Secured/Unsecured Creditors as the same is not required.

10. Secured/Unsecured Creditors of the 3rd Applicant Company/Transferee Company:

The 3rd Applicant/Transferee Company has 1 (One) Secured Creditor i.e. Axis Bank as on 20.02.2017. As far as the rights of Secured Creditor of the 3rd Applicant/Transferee Company is concerned, it will not be affected by the proposed Scheme of Amalgamation since post Scheme, the assets of the Transferee Company will be sufficient to discharge its liabilities and further, it is also does not involve any compromise or arrangement with any creditors of the Transferee Company. The Secured Creditor i.e. Axis Bank vide their letter dated 25.04.2017 addressed to the Company has given their consent to the Scheme of Amalgamation.

The 3rd Applicant/Transferee Company has no Unsecured Creditors except in the nature of Trade Creditors and the rights of Trade Creditors will not be effected by the proposed Scheme of Amalgamation since post scheme, the assets of the Transferor Company No.1 will be sufficient to discharge its liabilities and further, it is also does not involve any compromise or arrangement with any creditors of the Transferor Company No.1.

Hence, the 3rd Applicant Company/Transferee Company prayed the Tribunal to dispense with meeting of Secured/Unsecured Creditors as the same is not required.



11. I have heard Mr. P. Anil Mukherji, Counsel for the applicants, Shri J. Srinadh Reddy, Counsel for Official Liquidator and have carefully perused all material papers placed on record and the relevant provisions of Companies Act, 2013, with relevant Rules.
12. As stated supra, all the Equity Shareholders of the Applicant Companies have given their consent to the Scheme of Amalgamation by way of Affidavits. Further, the Secured Creditor of the 1st Applicant Company and 3rd Applicant Company i.e. Axis Bank has given its consent to the Scheme of Amalgamation by way of Affidavits. The 2nd Applicant Company have no Secured Creditors. Further, the 1st Applicant Company and 3rd Applicant Company have no Unsecured Creditors except in the nature of Trade Creditors and the Applicant Companies have stated that the rights of the Trade Creditors will not be affected by the proposed Scheme of Amalgamation since post Scheme, the assets of the 1st Applicant Company and 3rd Applicant Company will be sufficient to discharge its liabilities further and further it does not involve any compromise or arrangement with any creditors of the above Companies.
13. I have carefully examined the terms and objects of Scheme of Amalgamation in question and all consents given by all persons as mentioned above. The scheme is initiated for overall benefits of its shareholders, creditors and all interested parties. The Companies, have complied with all requisite conditions as per law, to claim dispensation of conducting meeting of Shareholders and Creditors and the Scheme is not against public interest and public policy. Therefore, I am of the considered view that it would not serve any purpose to again order to hold meetings of Shareholders and creditors. In the interest of ease of doing business, it would just, proper and expedient to allow the application as prayed for.



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

- a) Dispensed with meetings of Equity Shareholders and Secured/Unsecured Creditors of the 1st Applicant Company/Transferor Company No.1 for consideration of the Scheme of Amalgamation.
- b) Dispensed with meetings of Equity Shareholders and Secured/Unsecured Creditors of the 2nd Applicant Company/Transferor Company No.2 for consideration of the Scheme of Amalgamation.
- c) Dispensed with meetings of Equity Shareholders and Secured/Unsecured Creditors of the 3rd Applicant Company/Transferee Company for consideration of the Scheme of Amalgamation.
- d) The Applicant Companies are directed to communicate this Order to the Registrar of Companies, Hyderabad, Regional Director, Income Tax Department and all other concerned authorities within three weeks from the date of receipt of copy of this order.



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

Sd/-
RAJESWARA RAO VITTANALA

*Order received by the
Registry on 20/7/2017*

V. Annapoorna
V. ANNAPOORNA
Asst. DIRECTOR
NCLT, HYDERABAD.