

IN THE NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH
COURT NO. 1

ITEM No.303
CA(CAA)/4(MP)2022

Proceedings under Section 230-232

IN THE MATTER OF:

Prataap Snacks Ltd

.....Applicant

Order delivered on 01/07/2022

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Kaushalendra Kumar Singh Hon'ble Member(T)

PRESENT:

For the Applicant :
For the Respondent :

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open Court vide separate sheet.

-Sd-

**KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)**

-Sd-

**MADAN B. GOSAVI
MEMBER (JUDICIAL)**

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
INDORE BENCH**

CA(CAA)/4/IND/2022

*[An Application filed under Section 230-232 of the Companies Act, 2013
for (compromise, arrangements, and amalgamations)]*

In the matter of:

M/S Pratap Snacks Limited

CIN: L15311MP2009PLC021746

A public limited Company incorporated
under the provisions of the Companies Act, 1956,
having its registered office at:

Khasra No. 378/2,
Nemawar Road, Near Makrand House,
Palda, Indore,
Madhya Pradesh- 45 2020

..... Applicant/Transferee Company

M/S Avadh Snacks Private Limited

CIN: U15132GJ2017PTC098837

A private limited Company incorporated
Under the provisions of the Companies Act, 2013,
Having its registered address at:

R.S. No. 123/P3,
New R.S. No. 128,
Ind. Plot No. 1,
Nikava, Jamnagar,
Gujarat- 36 1162

..... Non-Applicant/Transferor Company 1

M/s Red Rotopack Private Limited

CIN: U25199GJ2015PTC085423

A private limited Company incorporated
Under the provisions of the Companies Act, 2013,
Having its registered address at:

Survey No. 128, Plot No. 3,
Opp. Supertech,
Nikava, Kalawad,
Gujarat- 36 1162

..... Non-Applicant/Transferor Company 2

**Order Reserved on: 03.06.2022
Order Pronounced on: 01.07.2022**

Coram: Madan B. Gosavi, Member (Judicial)
Kaushalendra Kumar Singh, Member (Technical)

Appearance:

Learned PCS Ms. Manju Mundra appeared for the Applicant Companies.

ORDER

1. This application is filed by the applicant company under Section 230-232 of the Companies Act, 2013, namely **M/s Pratap Snacks Limited (Transferee Company)** for dispensation of the meeting of Secured Creditors of Transferee Company. Further, the Applicant Company prayed for a direction to convene the meetings of Equity Shareholders and Unsecured Creditors of Transferee Company for considering and approving with or without modification, a composite scheme of amalgamation.

2. Registered office of the Applicant Company is situated in the State of Madhya Pradesh and is under the jurisdiction of the National Company Law Tribunal, Bench at Indore. Applicant Transferee Company is a public limited company having CIN: L15311MP2009PLC021746, incorporated under the Companies Act, 1956 and its registered address is at Khasra No. 378/2, Nemawar Road, Near Makrand House, Palda, Indore, MP- 452020. Transferee Company was incorporated as a private limited company on 23.03.2009 as Pratap Snacks Private Limited which was converted into a public limited company on 19.09.2016. The equity shares of the Transferee Company are listed at the Bombay Stock Exchange Limited (BSE) and the National Stock Exchange of India Limited (NSE). The Transferor Company is primarily engaged in the business of manufacture, producer, processors, stockiest of, and dealers in processed foods, vegetables, fruits, including tinned vegetables and snacks prepared from any type of vegetable, fruit, cereals, wheat, rice, and allied products including potato chips, potato wafers, potato fingers puffs, various namkins and to run cold storage for storage of vegetables, fruits, food products.

3. Non-Applicant Transferor Company 1 is a private limited Company having CIN No: U15132GJ2017PTC098837, incorporated under the provisions of the Companies Act, 2013, having its registered address at R.S. No. 123/P3, New R.S. No. 128, Ind. Plot No. 1, Nikava, Jamnagar, Gujarat 361162. Transferor Company 1 is a subsidiary of Transferee Company. The Transferor Company 1 was incorporated on 25.08.2017. The Transferor Company 1 is carrying on business in India and abroad of manufacturing preserving reigning, packing, bottling, prepare, manipulate, treat, market, import, export, improve produce, process, prepare, buy, sell deal, in and carry on the manufacturing and trading in foods and beverages natural or flavored like snacks, Pellets, Frymus, Namkeen Farsan, Salted foods, wafers, Rise puff, nuts, peanuts, ground nuts and all types of food products Grain Products, vegetable Products and Pulse Products processed foods, protein, health and instant foods of all kind including baby and dietetic foods, cereals, beverages, cordials, tonics restratives and to carry on business in all natural artificial synthetic or chemical edible foods, jams, jelly, pickle, cider, chutney, marmaldaes, mayonnaise, mustard, deserts, flavors, condiments, pancakes, doughnuts, vinegar's, ketchup, sauces, juices, squashes, soups, powder (eatable), drinks carbonates and non-carbonated, gelatins, essences, ice creams, dairy products, fast food, frozen foods and other eatables, bakery products and confectionary items such as breads, biscuits, sweet, roti, pizza, papal, cakes, pastries, cookies, wafers, condoles, lemon, drops, chocolate, chewing gum, Toffees, lozenge, tinned, caned bottled, products, mil cream, butter, butter scotch, sauce, ghee, cheese, condensed milk, milk powder, skimmed milk food, baby food, infant foods, milk products, and milk preparation, soya milk products and preparation, soyabean based foods, protein foods, deistic product, health foods cereals products, wheat lakes poultry products, farm products, milk shakes, water ice products, yoghurt, mouth freshener.

4. Non-Applicant Transferor Company 2 is a private limited Company having CIN No: U25199GJ2015PTC085423, incorporated under the provisions of the Companies Act, 2013, having its registered address at

Survey No. 128, Plot No. 3, Opp. Supertech, Nikava, Kalawad, Gujarat-36 1162. The Transferor Company 2 was incorporated on 17.12.2015. Transferor Company 2 is a wholly-owned subsidiary of Transferor Company 1. The Transferor Company 2 is engaged in business of manufacture, process, buy, sell, import, export, or other wise deal in all kinds of card board packing, plastic, Roto Printing, polythene packing gunny bags, containers, bottlers, hollow wares, whether made of leather plastic, H.D.P., L.D.P., polypropylene, plastic, P.V.C. and other man-made fibrous materials and all types of Packing Solutions and to construct, erect, establish, take on hire, rent or lease factories for manufacturing and processing of packing articles and materials by mechanical, electrical or manual operations and to carry on business as manufacturers of dealers in, or as stockiest, importers and exporters of packing materials, cartons, containers, boxes, bags and cases made of paper boards, wood glass, plastic pump, cellulose films, polyethylene, rubber, tube metals, metal foils, gelatin, tin flexible, treated, laminated or other materials and to carry on the business of manufacturers and dealers in all kinds of packaging, packing requisites and cartons made or cardboard, strawboard, wool, glass or any other material, metal glass or plastic containers and also containers of any other materials and to carry on the business of manufacturers, traders, dealers, selling agents, buying, agents, exporters, importers, and commission agents of containers, bags sacks, packaging materials drums, and storing equipment of all kinds whether made of steel iron, wood, plastic, polythene, or any other materials and whether required for industrial, commercial, household, shipping or any other purpose.

5. Submissions made by the Applicant Company in its application and presented by the learned PCS are summarized here as under:

- i. The proposed scheme of amalgamation of the transferor companies with the transferee company in accordance with the scheme would enable all the companies to realize the benefits of greater synergies between their businesses. Further, it would make available to them financial resources, technology up-gradation, technological

resources as well as the managerial, technical, distribution, and marketing resources of each other in the interest of maximizing shareholder and stakeholder value as the Transferor Companies and Transferee Company's business activities are similar and complement each other.

ii. The Board of Directors of the Applicant Transferee Company in its Board Meeting held on 29.09.2021 passed a resolution for the preparation of proposed scheme of amalgamation as placed before the Board. The Applicant Transferee Company has filed its audited balance sheets, the same is placed on record.

iii. The accounting treatment proposed in the Scheme of Arrangement is in conformity with the accounting standards prescribed under Section 133 of the Companies Act, 2013. The Certificates from the respective Statutory Auditors of the Applicant Companies have been filed along with the Application.

iv. The Applicant Transferee Company being a listed public Company, a prior intimation to Stock Exchange and Security and Exchange Board of India through the designated stock exchange is a prerequisite. In the light of the SEBI circular, the Transferee Company has submitted the scheme along with the documents with BSE and NSE. NOC from NSE and BSE dated 05.04.2022 and the same is attached with the petition.

v. No investigation or proceedings against the Applicant Company under Section 201 to 226 of the Companies Act, 2013 as well as Sections 235 to 251 of the Companies Act, 1956, or the like are pending.

vi. The provisions of the Competition Act, 2002 are not applicable in the present case as the total value of the assets and turnover of the company is less than the threshold limit.

6. The Ld PCS of the applicant company submitted that as per the audit report placed on record by the applicant Company the details of Shareholders, Secured Creditors, and Un-Secured Creditors are as follows:

- i. The Transferee Company has 14,015 shareholders with the authorized share capital of Rs. 16,00,00,000/-, and Subscribed share capital of Rs. 11,72,65,180/- share value of Rs. 5/- each.
- ii. The Transferee Company does not have any Secured Creditors.
- iii. The Transferee Company has a total of 370 Unsecured Creditors.

7. The Ld. PCS in application contended with respect to the dispensation and convening of the meetings of the creditors and shareholders of the applicant company as under:

- i. This Tribunal may please to dispense with the meeting of Secured Creditors of Transferee Company as there are no secured creditors.
- ii. As far as the Equity Shareholders and Unsecured Creditors of Transferee Company are concerned, it is submitted that appropriate directions be given for holding and convening of meeting of the Equity Shareholders and Unsecured Creditors of the Transferee Company and for appointment of Chairman and Scrutinizers for the meeting.

8. On perusal of the record and submission made by the Ld PCS of the applicant, it is noted that there is no Secured Creditor in the Transferee Company as per the CA certificate. Further, there is no consent received from the Shareholders and Unsecured Creditors of the Transferee Company. Hence, the prayer of the counsel of the applicants is allowed. Accordingly, the meeting of Secured Creditors of the Transferee Company is dispensed and the meetings of the Shareholders and Unsecured Creditors of the Transferee company will have to be convened.

9. This Tribunal, therefore, directs to hold the meeting of shareholders of Transferee Company on 12.08.2022 at 11:30 AM, through video conference or other Audio-Visual means for the purpose of considering and, if thought fit, approving with or without modification(s) of the Scheme.

10. The meeting of the Unsecured Creditors of the Transferee Company shall be convened and held on 12.08.2022, at 04:30 PM through video conference or other Audio Visual Means for the purpose of considering and, if thought fit, approving with or without modifications the proposed Scheme.

11. At least one month before the date of aforesaid meetings, an advertisement about the convening of the said meeting, indicating the day, date, place, and time, as aforesaid, shall be published in English daily, i.e., **“Free Press”** and in Hindi daily, i.e., **“Dainik Bhaskar”** in their all editions within the State of Madhya Pradesh. The publication shall indicate the time within which copies of the scheme shall be made available to the concerned persons free of charge from the registered office of the Transferee Company. The publication shall also indicate that the statement required to be furnished according to the Section 102 of the Act read with Section 230 to 232 of the Act and the prescribed form of proxy can be obtained free of charge at the respective registered office of the Transferee Company in accordance with the second proviso to sub-section 3 of Section 230 and Rule 7 of the Companies (CAA) Rules, 2016.

12. At least one month before the date of the meeting to be held as aforesaid, a notice in Form No. CAA 2 convening the said meeting, indicating the day, date, place, and time aforesaid, together with a copy of the Scheme of Arrangement, a copy of the statement required to be furnished pursuant to Sections 230 and 232 read with Section 102 of the Companies Act, 2019, and Rule 6 of the Companies (CAA) Rules, 2016 shall be sent by Registered Post or Speed Post or Registered Post or by Courier or E-Mail or Hand Delivery, addressed to each of the Shareholders and Unsecured Creditors of the Transferee Company, as the case may be, at their respective registered or last known addresses or e-mail addresses as per the records of the Transferee Company.

13. Mr. Rajesh Chordia, Chartered Accountant having membership no. 074804 and in his absence Mr. Aditya Kumar Gupta, Chartered Accountant having membership no. 422218 shall be the Chairman/Chairperson of the

aforesaid meetings of Transferee Company to be held on 12.08.2022 and in respect of any adjournment thereof.

14. Mr. Palash Jain, Practicing Company Secretary is appointed as the Scrutinizer for the aforesaid meetings of the Transferee Company.

15. The Transferee Company will make suitable arrangements for the travel and stay of the Chairperson and the Scrutinizer.

16. The quorum for the meetings of the Transferee Company shall be as prescribed under Section 103 of the Companies Act, 2013.

17. It is further directed that the voting through a valid proxy has been dispensed by the Ministry of Corporate Affairs vide circular no. 14/2020 dated 08.04.2020, hence, meeting of members of shareholders and any class of creditors shall not be conducted or counted through proxy.

18. The Chairperson appointed for the aforesaid meetings shall issue the advertisements and send out the notices of the aforesaid meetings. The Chairperson is free to avail the services of the Transferee Company or any agency for carrying out the aforesaid directions. The Chairperson shall have all the powers under the Articles of Association of the Transferee Company and also under the Rules in relation to the conduct of the meetings, including to decide any procedural questions that may arise at the meetings or adjournment(s) to the aforesaid scheme or resolution, if any, proposed at the aforesaid meetings by any person(s) and to ascertain the decision of the sense of the meeting by ballot/polling paper.

19. The Chairperson to file an Affidavit not less than 7 (seven) days before the date fixed for the hearing of the meetings and to report to this Tribunal that the directions regarding issuance of notices and advertisement of the meetings have been duly complied with as per Rule 12 of the Companies (CAA) Rules, 2016.

20. It is further ordered that the Chairperson shall report to this Tribunal on the result of the meeting in Form No. CAA-4 along with an affidavit, as per Rule 14 of the Companies (CAA) Rules, 2016 within 7 (seven) working days from the date of conclusion of the aforesaid meetings.

21. In compliance with sub-section (5) of Section 230 and Rule 8 of the Companies (Compromises, Arrangements, and Amalgamations) Rules, 2016, the Transferee Company shall send a notice in Form No.CAA.3 along with disclosures mentioned under Rule 6 to, (i) the Central Government through the Regional Director, North-Western Region, (ii) the Registrar of Companies, Gwalior, (iii) the Income Tax Authorities concerned, and (iv) the Bombay Stock Exchange, stating that the representation, if any, to be made by them shall be made within a period of 30 days from the date of receipt of such notice, failing which it shall be presumed that they have no objection to make on the proposed scheme. The said notices shall be sent forthwith by registered post or by speed post or by courier or by hand delivery or by an e-mail at the office of the authority as required by sub-rule (2) of Rule 8 of the Companies (CAA) Rules, 2016. The aforesaid authorities, who desire to make any representations under subsection (5) of Section 230, shall send the same to the Tribunal within a period of 30 days from the date of receipt of such notice, failing which, it will be deemed that they have no representation to make on the proposed arrangement.

22. With the above directions, CA (CAA) No. 4 of 2022 is allowed and stands disposed of accordingly.

-Sd-

(Kaushalendra Kumar Singh)
Member (Technical)

-Sd-

(Madan B. Gosavi)
Member (Judicial)

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