

IN THE NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH - I

CA (CAA) No. 274/MB/2021

In the matter of the Companies Act, 2013

And

In the matter of Section 230 and 232 of the  
Companies Act, 2013

And

Other applicable provisions of the Companies Act,  
2013

In the matter of Scheme of Amalgamation of  
Veeral Additives Private Limited

(Transferor Company)

And

Vinati Organics Limited

(Transferee Company)

**Veeral Additives Private Limited**

CIN : U24100MH2007PTC174331

... First Applicant Company/Transferor Company

**Vinati Organics Limited**

CIN: L24116MH1989PLC052224

...Second Applicant Company/Transferee Company

Order pronounced on 16.12.2022



**Coram:**

Hon'ble Member (Judicial) : Justice P. N. Deshmukh (Retd.)

Hon'ble Member (Technical) : Mr. Shyam Babu Gautam

Appearances (via videoconferencing):

For the Applicants : Senior Counsel Zal Andhyarujina,  
a/w Counsel Karan Bhide i/b. Adv.  
Deepshikha Ughade.

**ORDER**

*Per: Shyam Babu Gautam, Member (Technical)*

1. The Senior Advocate appearing for the Applicant Companies states that the present Scheme is for Amalgamation of Veeral Additives Private Limited (Transferor Company/ First Applicant Company) with and into Vinati Organics Limited (Transferee Company/ Second Applicant Company) and their respective shareholders. Learned Senior Advocate for the Applicant Companies states that the Scheme inter alia provides for amalgamation of the Transferor Company with and into the Transferee Company with effect from the Appointed Date (as defined in the scheme), and the consequent dissolution without winding up of the Transferor Company. Learned Senior Advocate states that the Applicant Companies are associate/group company.
2. Ld. Sr. Advocate states that the Appointed Date in the Scheme is 1<sup>st</sup> April 2021.
3. Ld. Senior Advocate states that the Transferee Company/ Second Applicant Company has its equity shares listed on BSE Limited ("BSE") and National Stock Exchange Limited ("NSE"). BSE and NSE by their separate letters both dated 5<sup>th</sup>



October, 2021 have respectively given their "no adverse observation/ no-objection" to the proposed Scheme.

4. Ld Senior Advocate states that the First Applicant Company is proposing to start manufacturing of specialty chemicals which is used as a stabilizer in the plastic component in order to increase its wear and tear capacity. The First Applicant Company is currently setting up its manufacturing plant and once the construction will be completed the First Applicant Company will be engaged in manufacturing of Antioxidants (AO's)- AO 1010, AO 1076, AO 168. The First Applicant Company has not yet started its commercial production. The Transferee Company/ Second Applicant Company is engaged in the business of manufacturing, refining, treating, selling, importing organic chemicals.
5. Learned Senior Advocate for the Applicant Companies further submits that the rationale for the Scheme is as follows:

*"3. RATIONALE AND PURPOSE OF THE SCHEME*

*3.1 Amalgamating Companies are engaged in the similar line of business. The amalgamation will ensure creation of a combined entity hosting products under the Transferee Company thereby resulting in on-time supplies, efficiency of management and maximizing value for the shareholders.*



3.2 *The Amalgamating Companies believe that the financial, managerial and technical resources, personnel, capabilities, skills, expertise and technologies of each of the Amalgamating Companies pooled in the merged entity, will lead to optimum use of infrastructure, cost reduction and efficiencies, productivity gains and logistic advantages and reduction of administrative and operational costs, thereby significantly contributing to the future growth and maximizing shareholder value.*

3.3 *The proposed amalgamation would be in the best interest of the Amalgamating Companies and their respective shareholders, employees, creditors, customers and the other stakeholders as the proposed amalgamation will yield advantages as set out inter alia, below:*

- a) *realising benefits of greater synergies between their businesses, yield beneficial results and pool financial resources as well as managerial technical;*
- b) *distribution and marketing resources of each other in the interest of maximizing value to their shareholders and the other stakeholders;*
- c) *integrated value chain to enhance degree of vertical integration in the products segment;*
- d) *greater efficiency in cash and debt management and unfettered access to cash flow generated by the combined businesses, which*



*can be deployed more efficiently, to maximize shareholders value and better debt management;*

e) *pooling of resources, creating better synergies, optimal utilization of resources, centralization of inventory and greater economies of scale*

3.4 *Simplification of management structure, elimination of duplication and multiplicity of compliance requirements, rationalization of administrative expenses, better administration and cost reduction (including reduction in administrative and other common costs);*

3.5 *Efficient tax planning at the combined entity level;*

3.6 *Adoption of improved safety, environment and sustainability practices owing to a centralized committee at combines level to provide focused approach towards safety, environment and sustainability practices resulting in overall improvement; and*

3.7 *Create value for the stakeholders including the respective shareholders, customers, lenders and employees.*

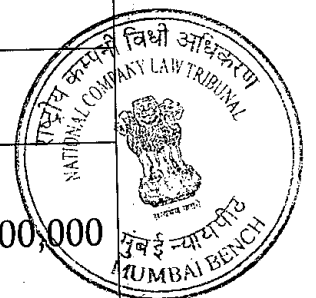
3.8 *As a result, the Board of Directors of the Applicant Companies have formulated this Scheme for the amalgamation of the Transferor Company as a going concern into and with the Transferee Company pursuant to Section 230-232 and other relevant provisions of the Act and in accordance with Section 2(1B) of the IT Act (on a going concern basis) and other Applicable Law.*



3.9 *The Scheme will not in any manner be prejudicial to the interests of the concerned shareholders and creditors or general public at large.*"

6. Learned Senior Advocate for Applicant Companies states that the Board of Directors of the First Applicant Company in the meeting held on 2<sup>nd</sup> February 2021, approved the Scheme. The certified copy of the Board Resolution approving the Scheme by the First Applicant Company is annexed and marked as "**Exhibit J**" to the Company Scheme Application. Learned Senior Advocate further states that the Board of Directors of the Second Applicant Company in the meeting held on 2<sup>nd</sup> February 2021, approved the Scheme. Learned Senior Advocate for Applicant Companies further state that the Board of Directors of Second Applicant Company in the meeting held on 8<sup>th</sup> September 2021, approved the revised Scheme. The certified copy of the Board Resolution approving the Scheme is annexed and marked as "**Exhibit K**" to the Company Scheme Application.
7. The authorized, subscribed and paid-up capital of the Transferor Company/ First Applicant Company as on June 30, 2021 is as provided hereinbelow:

Particulars	(Amount in Rs.)
<b>Authorised Share Capital:</b>	
<b>Equity Shares:</b>	450,000,000



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45,000,000 Equity Shares of Rs. 10 each	
<b>TOTAL</b>	450,000,000
<b>Issued, Subscribed and Paid-up Capital:</b>	
<b>Equity Shares:</b> 45,000,000 Equity Shares of 10 each	450,000,000
<b>TOTAL</b>	450,000,000

8. The authorized, issued, subscribed and paid- up share capital of the Transferee Comoany/ Second Applicant Company as on June 30, 2021 is as mentioned hereinbelow:

Particulars	(Amount in Rs.)
<b>Authorised Share Capital:</b>	
<b>Equity Shares:</b> 150,000,000 Equity Shares of Rs. 1 each	150,000,000
<b>TOTAL</b>	150,000,000
<b>Issued, Subscribed and Paid-up Capital:</b>	
<b>Equity Shares:</b> 102,782,050 Equity Shares of Rs. 1 each	102,782,050



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<b>TOTAL</b>	102,782,050
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9. Learned Senior Advocate for the Applicant Companies submits that the First Applicant Company has 2 equity shareholders, a list whereof is produced as Exhibit Q to the captioned Company Scheme Application. He submits that the convening and holding the meeting of the Equity Shareholders of the First Applicant Company for considering proposed Scheme of Amalgamation of Veeral Additives Private Limited (Transferor Company) and Vinati Organics Limited (Transferee Company) and their respective shareholders be dispensed with in view of Consent Affidavits dated 26.02.2022 obtained from the 2 Equity Shareholders of the First Applicant Company approving the Scheme and which are filed with this Tribunal separately on 03.03.2022. Accordingly, in view of the aforesaid consent affidavits of the equity shareholders of the First Applicant Company, the meeting of the equity shareholders of the First Applicant Company, for the purpose of considering and if thought fit, approving with or without modification(s), the proposed Scheme, is hereby dispensed with.
10. Ld Senior Advocate further submits that there are no secured creditors in the First Applicant Company. The certificate in this regard is produced at *Exhibit "S"* of the captioned joint Company Scheme Application. Accordingly, the question of conducting any meeting of the secured creditors of the First Applicant Company, therefore, does not arise.





11. Ld Senior Advocate submits that under the Scheme no arrangement or compromise is offered to any of the unsecured creditors of the First Applicant Company in respect of their claims and no liability of the unsecured creditors is being reduced or extinguished under the Scheme. In this regard, the learned Senior Advocate submits that the scheme is an arrangement between the Applicant Companies and their respective shareholders as contemplated u/s. 230(1)(b) and not in accordance with the provision of section 230(1)(a) of the Companies Act, 2013, as there is no compromise and/or arrangement with the creditor and as no sacrifice is called for by the creditors, it is submitted that therefore meeting of the Unsecured Creditors of the First Applicant company is not required to be convened. The Senior Advocate relies upon the following judgments/orders of the National Company Law Appellate Tribunal, the co-ordinate benches of this Tribunal and that of the High Courts, i.e. (i) DLF Phase – IV Commercial Developers Limited and Ors.; (ii) Dr. Naresh Trehan & Associates Health Services Private Limited and Anr.; (iii) HDFC Ergo Health Insurance Limited and Anr.; (iv) Sodexo Facilities Management Services India Private Limited and Ors.; (v) Satlon Enterprise Private Limited and Anr.; (vi) Brahmi Tracks Management Services Private Limited and Ors.; (vii) JB Designers Private Limited and Anr.; (viii) Ansal Properties & Industries Limited and Anr. [ILR (1977) I Delhi 444]; (ix) Union of India and Ors. vs Ambalal Sarabhai Enterprises Limited [(1984) 55 Comp Cas 623]; (x) Bengal Tea Industries Limited and Ors. vs Union of India [MANU/WB/0451/1987]; (xi) Nav



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Chrome Limited and Anr. [(1997) 89 Comp Cas 285]; (xii) *Re.* ICICI Bank Limited; (xiii) *Re.* Gujarat Bottling Company Private Limited; (xiv) *Re.* Cadila Healthcare Limited; (xv) *Re.* Rajnidhi Finance Limited.

12. In light of the submissions made by the learned Senior Advocate and as recorded in the above paragraphs, the convening and holding of the meetings of the unsecured creditors of the First Applicant Company are dispensed with in lieu of undertaking to issuance of individual notice to each unsecured creditor of the First Applicant Company as on 30.09.2021 stating therein that they may submit the representation in relation to the scheme, if any, to this Hon'ble Tribunal within 30 days of receipt of the said notice and copy of the representation simultaneously be served upon the Second Applicant Company
13. In the joint Company Scheme Application, the Transferee Company/Second Applicant Company, has prayed for holding the meeting of the equity shareholders of the Second Applicant Company, through Video Conferencing/ Other Audio-Visual Means ("VC/OAVM"), for the purpose of considering and, if thought fit, approving with or without modification(s), the Scheme and for issuing appropriate directions incidental for holding of such meeting.
14. Accordingly, this Bench hereby directs that a meeting of the equity shareholders of the Second Applicant Company be convened and held through VC/OAVM/Physical meeting, on



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28.02.2023 for the purpose of considering and, if thought fit, approving with or without modification(s) the proposed Scheme.

15. In light of the circulars issued by the Ministry of Corporate Affairs ("MCA Circulars"), it is directed that the voting by the equity shareholders of the Transferee Company/Second Applicant Company to the Scheme, shall be carried out through remote e-voting and e-voting at the time of the VC/OAVM convened meeting.
16. At least 1 (one) month before VC/OAVM meeting, an advertisement about convening of the said meeting, indicating the day, the date and time, shall be published in Free Press Journal in English language and Marathi translation thereof in Navshakti. The publication shall indicate time within which the copies of the Scheme shall be made available to the concerned persons free of charge from the registered office of the Second Applicant Company. The publication shall also indicate that the statement required to be furnished pursuant to Section 102 of the Act read with Section 230-232 of the Act can be obtained free of charge at the registered office of the Second Applicant Company or at the office of its Advocates, Ms. Deepshika Ughade., 1<sup>st</sup> Floor, Sethna Building, 55 M. K. Road, Mumbai 400 002, in accordance with second proviso to sub-section (3) of Section 230 of the Act and Rule 7 of the Companies (Compromises Arrangements and Amalgamations) Rules, 2016 (hereinafter referred to as the "Rules").



17. At least one month before the aforesaid meeting of the equity shareholders, a notice convening the said meeting, indicating the day, the date and time aforesaid containing instructions with regard to remote e-voting and e-voting at the time of VC/OAVM meeting, together with a copy of the Scheme, a copy of the statement required to be furnished pursuant to Section 102 of the Act read with the provisions of Sections 230 – 232 of the Act and Rule 6 of the Rules, shall be sent (i) through electronic mode to those equity shareholders of the Transferee Company/Amalgamating Company whose email IDs are registered with the Registrar and Transfer Agent/depositories/Transferee Company/Amalgamating Company; and (ii) through Registered Post or Speed Post or by Courier, physically, to those equity shareholders, on their respective registered or last known addresses, whose email IDs are not registered. The notice shall be sent to those equity shareholders of the Second Applicant Company whose names appear in the register of members/list of beneficial owners on 24<sup>th</sup> January, 2023 (the "Record Date"), The equity shareholders of the Second Applicant Company holding shares either in physical form or in a dematerialized form, as on the Record Date, would be entitled to cast their vote by remote e-voting and e-voting at the VC/OAVM meeting.

18. Vinod Saraf, Chairman of the Second Applicant Company, and failing him, Vinati Saraf Mutreja Managing Director and CEO of the Second Applicant Company, shall be the Chairman of the aforesaid meeting of the Equity Shareholders of the Second



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Applicant Company including for any adjournment or adjournments thereof.

19. Mr. Vijay Kumar Mishra, Company Secretaries (VKM & Associate), is appointed as Scrutinizer for the meeting of the equity shareholders of the Second Applicant Company and his fees fixed of Rs. 25000/- (Rupees Twenty Five Thousand only) excluding taxes.
20. The Chairman appointed for the aforesaid meeting shall issue the advertisements and send out the notices of the meeting referred to above. The Chairman is free to avail the services of the Second Applicant Company or any agency for carrying out the aforesaid directions. The Chairman of the meeting shall have all powers under the Articles of Association of the Transferee Company/Second Applicant Company and also under the Rules in relation to conduct of meeting, including for deciding any procedural questions that may arise at the meeting or at adjournment or adjournments thereof proposed at the said meeting, amendment(s) to the aforesaid Scheme or resolution, if any, proposed at the aforesaid meeting by any person(s) and also procedural questions in respect of proposed amendment(s) to the aforesaid Scheme or resolution, if any, and to ascertain the outcome of the meeting of the equity shareholders by remote e-voting and e-voting at the VC/OAVM meeting.



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21. The quorum for the meeting of the equity shareholders shall be as prescribed under Section 103 of the Companies Act, 2013. Equity shareholders attending the meeting through VC/OAVM shall be counted for the purpose of reckoning the quorum under Section 103 of the Act.
22. Remote e-voting and e-voting at the VC/OAVM meeting by the Authorised Representative shall be permitted provided that the resolution/authorisation, etc. authorizing its representative to attend the meeting is duly signed by the person entitled to attend and vote at the aforesaid meeting and the same is sent to the Transferee Company/Second Applicant Company through electronic mode. Since the meeting would be held through VC/OAVM, the facility for appointment of proxies will not be available.
23. The number and value of the equity shares of the equity shareholders, shall be in accordance with the records or registers of the Second Applicant Company and where the entries in the records or registers are disputed, the Chairman of the meeting shall determine the number or value, as the case may be, for purposes of the meeting and his decision in that behalf shall be final.
24. Chairman to file an affidavit not less than seven (7) days before the date fixed for the holding of the meeting and do report to this Tribunal that the directions regarding the issue of notices and the

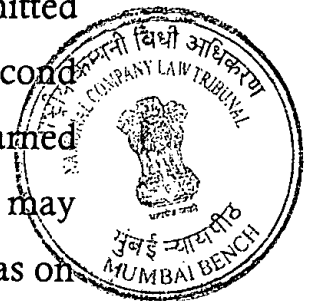


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advertisement of the meeting, have been duly complied with as per Rule 12 of the Rules.

25. It is further ordered that the Chairman shall report to this Tribunal on the result of the said meeting in Form No. CAA.4, verified by his affidavit as per Rule 14 of the Rules in Form No. CAA.4 within 7 (seven) days after the conclusion of the meeting. The report of Chairman shall be filed before this Tribunal by the Chairman himself.
26. In so far as Secured Creditors of the Second Applicant Company is concerned, Learned Senior Advocate for the Applicant Companies submits that there are 4 secured creditors of the Second Applicant Company having an aggregate principal outstanding of Rs. 10,89,28,000/- (Rupees Ten Crore Eighty-Nine Lakhs Twenty-Eight Thousand Only) as on 30.09.2021. The Learned Senior Advocate for the Applicant Companies further submits that the scheme is an arrangement between the Applicant companies and their respective shareholders as contemplated u/s. 230(1)(b) and not in accordance with the provision of section 230(1)(a) of the Companies Act, 2013, as there is no compromise and/or arrangement with the creditor and as no sacrifice is called for by the creditors, it is submitted that therefore meeting of the secured creditor of the Second Applicant company is not required to be convened. The Learned Senior Advocate for the Applicant companies submits that it may be allowed to issue individual notice to its secured creditor as on 30.09.2021 stating therein that they may submit the



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representation in relation to the scheme, if any, to this Hon'ble Tribunal within 30 days of receipt of the said notice and copy of the representation simultaneously be served upon the Second Applicant Company.

27. In view of the submissions made, this Bench dispenses with meetings of the Secured Creditors of the Second Applicant Company However, subject to an undertaking by the Second Applicant Company to furnish "no objections/consent letters" from its 4 (four) secured creditors (a list of the names of the secured creditors are as set out in Annexure to the Additional Affidavit dated 28<sup>th</sup> February 2022 filed by the Second Applicant Company the meeting of secured creditors of the Second Applicant Company is hereby dispensed with.
28. In so far as Unsecured Creditors of the Second Applicant Company is concerned the Learned Senior Advocate for the Applicant Companies submits that the scheme is an arrangement between the Applicant Companies and their respective shareholders as contemplated u/s. 230(1)(b) and not in accordance with the provision of section 230(1)(a) of the Companies Act, 2013, as there is no compromise and/or arrangement with the creditor and as no sacrifice is called for by the creditors, it is submitted that therefore meeting of the Unsecured Creditors of the Second Applicant company is not required to be convened. Upon the scheme coming into effect the Second Applicant Company will be in sound financial health and will be able to discharge the liabilities towards all the creditors in





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the ordinary course of business and the scheme and the rights and interest of the unsecured creditors of the Second Applicant Company will not be prejudicially affected. The Learned Senior Advocate submits that it may be allowed to issue individual notice to its Unsecured Creditors as on 30.09.2021 stating therein that they may submit the representation in relation to the scheme, if any, to this Hon'ble Tribunal within 30 days of receipt of the said notice and copy of the representation simultaneously be served upon the Second Applicant Company.

29. In view of the submissions made, this Bench dispenses with meetings of the Unsecured Creditors of the Second Applicant Company. However, it hereby directs the Second Applicant Company to issue notice to all its Unsecured Creditors under Section 230(3) of the Companies Act, 2013 with a direction that they may submit their representations, if any, to the Tribunal and copy of such representations shall simultaneously be served upon the Second Applicant Company.
30. The Applicant Companies shall serve notice in the prescribed form on:-
- (a) Central Government, through Regional Director
  - (b) Registrar of Companies, Maharashtra, Mumbai;
  - (c) The Income Tax Authorities within whose jurisdiction the Applicant Companies assessed to tax, clearly indicating the PAN of the Applicant Company concerned;
  - (d) Goods & service Tax Authorities
  - (e) Reserve Bank of India;



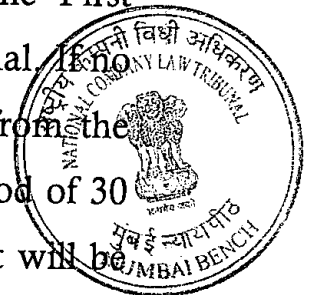
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- (f) Security Exchange Board of India;
- (g) BSE Limited (For Second Applicant Company)
- (h) National Stock Exchange of India Limited (For Second Applicant Company)
- (i) other sectoral regulators

pursuant to Section 230(5) of the Companies Act, 2013 and as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from such Authorities, within a period of 30 (Thirty) days from the date of receipt of such notice, it will be presumed that such authorities have no representation/objection to the Scheme.

31. Additionally, the Applicant Companies shall serve notice upon the Official Liquidator, High Court, Bombay pursuant to Section 230(5) of the Companies Act, 2013 read with rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. The Tribunal hereby appoints Dr. Shardul D. Shah, Chartered Accountant having their office at 101-B/101-C, Jolly Bhawan No. 2, New Marine Lines Mumbai – 400020 Contact No. 022-624733/9820287625 with the remuneration of Rs.3,50,000/- and applicable taxes to assist the Official Liquidator to scrutinise the books of accounts of the First Applicant Company and submit its report to the Tribunal. If no representation/objection is received by the Tribunal from the Official Liquidator, High Court, Bombay within a period of 30 (Thirty) days from the date of receipt of such notice, it will be



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presumed that the Official Liquidator has no objection to the proposed Scheme.

32. The Applicant Companies shall host the notices on their respective websites, if any.
33. The Applicant Companies shall file a compliance report with this Tribunal that the direction contained in this Order including regarding issue of notices and procuring no-objection or consent of secured creditors of Transferee Company, have been duly complied with.
34. Ordered Accordingly.

Sd/-

**SHYAM BABU GAUTAM**  
Member (Technical)  
16.12.2022  
SAM

Sd/-

**JUSTICE P. N. DESHMUKH**  
Member (Judicial)

Certified True Copy \_\_\_\_\_  
Date of Application 19/12/2022  
Number of Pages 19  
Fees Paid Rs. 95/-  
Applicant's fee for collection copy on 19/12/22  
Copy prepared on 19/12/2022  
Copy issued on 19/12/2022

*P. S. Sonawale*  
Deputy Registrar 19/12/2022  
National Company Law Tribunal, Mumbai Bench

