

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, (COURT NO.-II)
KOLKATA**

Company Petition (CAA) No.173/KB/2023
Connected with
Company Application (CAA) No.96/KB/2023

*An application under Section 230(6) read with Section 232(3) of the
Companies Act, 2013 read with the Companies(Compromises,
Arrangements and Amalgamations) Rules,2016, and other applicable
provisions of the law.*

IN THE MATTER OF:

A Scheme of Amalgamation of (Final Motion):

The Tinplate Company of India Limited, a company incorporated under the Companies Act, 1956 and being a Company within the meaning of the Companies Act, 2013, having Corporate Identification No. L28112WB1920PLC003606 and its registered office at 4, Bankshall Street, Kolkata-700001.

.... **Transferor Company / Petitioner Company**

And

Tata Steel Limited, a company incorporated under the Companies Act, 1956 and being a Company within the meaning of the Companies Act, 2013, having Corporate Identification No. L27100MH1907PLC000260 and its registered office at Bombay House, 24, Homi Mody Street, Fort, Mumbai 400001.

.... **Transferee Company**

IN THE MATTER OF:

1. The Tinplate Company Private Limited.

.... **Petitioner**

Date of Pronouncement: 01.01.2024

Coram:

Smt.Bidisha Banerjee, Member (Judicial)

Shri. D.Arvind, Member (Technical)

IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, (COURT NO.-II)
KOLKATA

C.P.(CAA) No. 173/KB/2023
connected with
C.A.(CAA) No.96/KB/2023

Appearances (via Hybrid Mode):

Mr. Ratnanko Banerji, Sr. Adv.
Mr. Soorjya Ganguli, Adv.
Ms. Pooja Chakraborti, Adv.
Ms. Kiran Sharma, Adv.
Ms. Akshita Bohra, Adv.
Mr. Aritra Deb, Adv.
Ms. Devanshi Prasad, Adv.

Mr. Alok Tandon, JD

] For the applicants
] For RD's office

ORDER

Per: Bidisha Banerjee, Member (Judicial)

1. The court convened through hybrid mode.
2. The instant petition has been filed under Section 230(6) read with Section 232(3) of the Companies Act, 2013 (“Act”) for sanction of the Scheme of Amalgamation of The Tinplate Company of India Limited being the Petitioner Company/ Transferor Company with **Tata Steel Limited** being the **Transferee Company** whereby and whereunder the Transferor Company are proposed to be amalgamated with the Transferee Company from the Appointed Date, viz. 1st April 2022 in the manner and on the terms and conditions stated in the said Scheme of Amalgamation (“Scheme”).

The Copy of the said **Scheme of Amalgamation** is annexed to the Company Petition being – **Annexure –A, in Volume-I on Page No(s). 55-92.**

3. This Petition has now come up for a final hearing. Ld. Counsel for the Applicants submits as follows: -
 - (a) The Scheme was approved by the respective Board of Directors of the Petitioner Companies at their meetings held on 22nd September 2022 respectively.

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, (COURT NO.-II)
KOLKATA**

C.P.(CAA) No. 173/KB/2023
connected with
C.A.(CAA) No.96/KB/2023

The copies of the resolution passed by the applicant companies are annexed with the Company Petition being – **Annexure(s)-K, L**, in **Volume-V on Page No(s). 974-998**.

- (b) The circumstances which justify and have necessitated the Scheme and the benefits of the same are, inter alia, as follows: -
- i. The Transferee Company is one of the leading global steel companies, with over 100 (hundred) years of experience in the steel sector and is a pioneer of steel manufacturing in India. The Transferor Company/Petitioner Company, which is a subsidiary company of the Transferee Company, is in the business of manufacturing tinplate and tinplate related products which is a value-added product of hot rolled coil.
 - ii. The amalgamation will consolidate the business of the Transferor Company/Petitioner Company and Transferee Company which will result in focused growth, operational efficiencies, and business synergies. In addition, resulting corporate holding structure will bring enhanced agility to business ecosystem of the merged entity.
 - iii. The Transferor Company/Petitioner Company and the Transferee Company believe that the resources of the merged entity can be pooled to unlock the opportunity for creating shareholder value. The Transferor Company/Petitioner Company and the Transferee Company envisage being able to share best practices, cross-functional learnings, and utilize each other's facilities in a more efficient manner. Further, the marketing and distribution network of both entities can be collaborated.
 - iv. The Scheme is in the best interests of the shareholders, employees and the creditors of each of the Transferor Company/Petitioner Company and the Transferee Company.
 - v. The Transferee Company has filed a Company Petition being C.P.(CAA)/209/MB/2023 before the Hon'ble National Company

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, (COURT NO.-II)
KOLKATA**

C.P.(CAA) No. 173/KB/2023
connected with
C.A.(CAA) No.96/KB/2023

Law Tribunal, Mumbai Bench. Such company petition has been allowed and the Scheme has been sanctioned vide order dated October 20, 2023.

- vi. The share exchange ratio in consideration for the amalgamation has been fixed on a fair and reasonable basis and on the basis of the Valuation Reports dated September 22, 2022 by Deloitte Touche Tohmatsu India LLP and dated September 22, 2022 by Rashmi Shah, Registered Valuer (Registration No. IBBI/RV/06/2018/10240), both addressed to the Transferor Company/Petitioner Company, and Valuation Report dated September 22, 2022, by Vikrant Jain, Registered Valuer (Registration No. IBBI/RV/05/2018/10204) addressed to the Transferee Company.
- vii. Further, RBSA Capital Advisors LLP, having SEBI Registration No. INM000011724, through Fairness Opinion dated September 22, 2022 addressed to the Transferor Company/Petitioner Company and Ernst & Young Merchant Banking Services LLP, having SEBI Registration No. INM000010700, through Fairness Opinion dated September 22, 2022 addressed to the Transferee Company, have also confirmed that the share exchange ratio is fair and proper.
- viii. The Auditors of the Transferor Company/Petitioner Company and the Transferee Company have confirmed that the accounting treatment in the proposed Scheme of Amalgamation is in conformity with the accounting standards prescribed under Section 133 of the Act which is annexed with the Company Petition being- **Annexure- N in Volume(s)-V, VI at Page No(s).1013-1052.**
- ix. The shares of the Transferor Company/Petitioner Company are listed on Bombay Stock Exchange Limited (**BSE**) and National Stock Exchange of India Limited (**NSE**). The Transferor

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, (COURT NO.-II)
KOLKATA**

C.P.(CAA) No. 173/KB/2023
connected with
C.A.(CAA) No.96/KB/2023

Company/Petitioner Company had filed the Scheme of Amalgamation with BSE and NSE under Regulation 37 of the Securities and Exchange Board of India (**SEBI**) (Listing Obligations and Disclosure Requirements) Regulations, 2015 (“**LODR Regulations**”) for their approval along with various other documents and also displayed the same on their website and addressed all queries on the said documents. The Complaints Report required to be filed in terms of SEBI Master Circular SEBI/HO/CFD/POD-2/P/CIR/2023/93 dated June 20, 2023 (as amended from time to time) read with Regulation 37 of the LODR Regulations was also duly filed by the Transferor Company/Petitioner Company. BSE and NSE, by their respective letters dated March 31, 2023, have since confirmed that they have ‘no adverse observation/no objection’ on the proposed Scheme of Amalgamation.

- x. The shares of the Transferee Company are listed on BSE and NSE. The Transferee Company had filed the Scheme of Amalgamation with BSE and NSE under Regulation 37 of the LODR Regulations for their approval along with various other documents and also displayed the same on their website and addressed all queries on the said documents. The Complaints Report required to be filed in terms of SEBI Master Circular SEBI/HO/CFD/POD-2/P/CIR/2023/93 dated June 20, 2023 (as amended from time to time) read with Regulation 37 of the LODR Regulations was also duly filed by the Transferee Company. BSE and NSE, by their respective letters dated March 31, 2023, have since confirmed that they have ‘no adverse observation/no objection’ on the proposed Scheme of Amalgamation.

4. No proceedings are pending under Sections 210 to 227 of the Companies Act, 2013 against the Petitioners.

IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, (COURT NO.-II)
KOLKATA

C.P.(CAA) No. 173/KB/2023
connected with
C.A.(CAA) No.96/KB/2023

5. By an Order dated July 28, 2023 passed in Company Application C.A. (CAA) No. 96/KB/2023, this Tribunal made the following directions with regard to meetings of shareholders and creditors under Section 230(1) of the Act:-

(a) Meetings dispensed:

Secured Creditors

Meeting of the Secured Creditors of the Transferor Company/Petitioner Company were dispensed with in view of there being NIL Secured Creditors of the Transferor Company/Petitioner Company.

Unsecured Creditors

Meeting of the Unsecured Creditors of the Transferor Company/Petitioner Company were dispensed with in view of the consent given by the Unsecured Creditors of the Transferor Company/Petitioner Company, constituting more than 90% of the outstanding debt, to the Scheme of Amalgamation by way of affidavits.

(b) Meetings to be held:

Meeting of Equity Shareholders of the Transferor Company/Petitioner Company ('**Meeting**') was directed to be convened on August 31, 2023 at 4:30 p.m. through video conferencing ('**VC**') and/or other audio-visual mode ('**OAVM**') for the purposes of considering and if thought fit, approving with or without modification, the Scheme of Amalgamation and other procedural directions including directions for appointment of a Chairperson and Scrutinizer for holding the Meeting, publications, and issuance of notices to relevant Statutory Authorities.

6. Pursuant to the said Order dated July 28, 2023, Ms. Aditi Jhunjunwala, the Chairperson appointed by this Tribunal caused the Transferor Company/Petitioner Company to serve a copy of the notice of the

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, (COURT NO.-II)
KOLKATA**

C.P.(CAA) No. 173/KB/2023
connected with
C.A.(CAA) No.96/KB/2023

Meeting in Form No. CAA2 (Rule 6) of the CAA Rules along with a copy of the Scheme and the explanatory statement under Section 230(3) and 102 and other applicable provisions of the Act through email dated July 30, 2023 upon 80,705 equity shareholders, as on the cut-off date as per SEBI Guidelines, at their respective last known email addresses through National Securities Depository Limited and hard copy through courier dated August 18, 2023 upon 13 (thirteen) equity shareholder as requested by such equity shareholder.

7. The notice of the Meeting was also advertised, as directed by the said Order dated July 28, 2023, in the “**Business Standard**”, English newspaper and in “**Aajkal**”, Bengali newspaper on July 31, 2023, and also uploaded on the websites of the Transferor Company/Petitioner Company, the NSE and the BSE on July 30, 2023.
8. The Transferor Company/Petitioner Company has also served the notice under Section 230(5) of the Act along with explanatory statement and a copy of the Company Application C.A. (CAA) No. 96/KB/2023 including the Scheme of Amalgamation upon (1) the Central Government (through Regional Director, Eastern Region, Ministry of Corporate Affairs), (2) Registrar of Companies, Kolkata, West Bengal, (3) the Official Liquidator, High Court, Calcutta, (4) BSE, (5) NSE, (6) SEBI, (7) the Deputy Commissioner of Income Tax, Kolkata, and (8) the Principal Commissioner of Income Tax – 1, Kolkata, through email dated August 2, 2023 and speed post dated August 2, 2023.
9. Affidavit of Compliance was filed on August 22, 2023 by the Transferor Company/Petitioner Company evidencing service of notice of the Meeting and publication of advertisements and compliance of all directions contained in the said Order dated July 28, 2023.
10. Meeting of the equity shareholders of the Transferor Company/Petitioner Company was held on August 31, 2023 at 4:30 p.m. (IST) through VC/OAVM in compliance of the direction of this Tribunal. The equity shareholders of the Transferor Company/Petitioner

IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, (COURT NO.-II)
KOLKATA

C.P.(CAA) No. 173/KB/2023
connected with
C.A.(CAA) No.96/KB/2023

Company had the facility and option of voting on the resolution for approval of the Scheme by casting their votes through remote e-voting system prior to and e-voting during the Meeting. The voting rights of the equity shareholders were reckoned in proportion to their respective share of the paid-up equity share capital of the Transferor Company/Petitioner Company as on July 31, 2023 (“**Cut-Off Date for e-voting**”). The equity shareholders of the Transferor Company/Petitioner Company holding shares on the said Cut-Off Date for e-voting were entitled to vote.

11. In terms of the said Order dated July 28, 2023, Ms. Aditi Jhunjhunwala, Chairperson appointed by this Tribunal for the Meeting of the equity shareholders of the Transferor Company/Petitioner Company has filed her report on September 11, 2023 along with her affidavit verifying the same before this Tribunal. (**Annexure JJ at pages 1738 to 1788 of the Petition**).
12. Thereafter, the Transferor Company/Petitioner Company filed the instant Company Petition being C.P. (CAA) No. 173/KB/2023 for sanctioning the Scheme of Amalgamation. This Tribunal heard the Ld. Counsel for the Transferor Company/Petitioner Company and passed Order dated October 13, 2023 whereby this Tribunal directed the Transferor Company/Petitioner Company to serve notice under Section 230(5) of the Act along with all the accompanying documents, including a copy of the aforesaid Company Petition with the Scheme of Amalgamation annexed thereto, and explanatory statement under the applicable provisions of the Act upon the Statutory Authorities by sending the same by hand delivery or through special messenger, by speed post/courier and by email.
13. In the aforesaid Order dated October 13, 2023, this Hon’ble Tribunal also directed the Transferor Company/Petitioner Company to publish the advertisement of the hearing of the aforesaid company petition in

IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, (COURT NO.-II)
KOLKATA

C.P.(CAA) No. 173/KB/2023
connected with
C.A.(CAA) No.96/KB/2023

“**Dainik Statesman**” Bengali daily newspaper in vernacular language (Bengali) and in the “**Statesman**”, English newspaper in English as per Rule 16(1) of the CAA Rules.

14. The Ld. Counsel for the Transferor Company/Petitioner Company submits that in compliance of the Order dated October 13, 2023, notice under Section 230(5) of the Act along with all accompanying documents, including a copy of the aforesaid Company Petition with the Scheme of Amalgamation annexed thereto and explanatory statement under the applicable provisions of the Act have been served upon the (1) Regional Director- Eastern Region, Ministry of Corporate Affairs; (2) Registrar of Companies, Kolkata, West Bengal; (3) the BSE; (4) the NSE; (5) SEBI; (6) Income Tax Department having jurisdiction over the Transferor Company/Petitioner Company; and (7) the Official Liquidator, High Court at Calcutta through email dated October 25, 2023 and through speed post dated October 27, 2023.
15. The Ld. Counsel for the Transferor Company/Petitioner Company submits that as the Order dated October 13, 2023 was made available later on the website of this Tribunal, a copy of such order was subsequently served upon the (1) Regional Director- Eastern Region, Ministry of Corporate Affairs; (2) Registrar of Companies, Kolkata, West Bengal; (3) the BSE; (4) the NSE; (5) SEBI; (6) Income Tax Department having jurisdiction over the Transferor Company/Petitioner Company; and (7) the Official Liquidator, High Court at Calcutta through email dated October 31, 2023 and through speed post dated October 31, 2023.
16. The Transferor Company/Petitioner Company has caused the publication of the advertisement of the hearing as directed by this Tribunal in “**Dainik Statesmen**” Bengali daily newspaper in vernacular language (Bengali) and in the “**Statesmen**”, English newspaper in English on November 2, 2023, in compliance of Order dated October

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, (COURT NO.-II)
KOLKATA**

C.P.(CAA) No. 173/KB/2023
connected with
C.A.(CAA) No.96/KB/2023

13, 2023.

17. The Transferor Company/Petitioner Company has also duly filed Affidavit of Compliance on November 16, 2023 in respect of compliance of all directions contained in the said Order dated October 13, 2023.
18. An affidavit has been filed by the Joint Director, Regional Director's All statutory formalities requisite for obtaining sanction of the Scheme have been duly complied with by the Petitioners. The Scheme has been made bona fide and is in the interest of all concerned.
19. Pursuant to the said advertisements and notices, the Regional Director, Ministry of Corporate Affairs, Kolkata("RD"), Income Tax Department and the Official Liquidator, High Court of Calcutta("OL") have filed their representations before this Tribunal.
20. The first observation has been filed by the Official Liquidator has filed his report dated 03rd March 2023 and concluded as under: -

"8. That the Official Liquidator has not received any complaint against the proposed Scheme of Amalgamation from any person/party interested in the Scheme in any manner till the date of filing of this Report.

9. That the report of Official Liquidator is based upon the documents/ reply submitted by the Petitioner Companies. Balance Sheet, Memorandum and Article of Association, and other documents furnished by the Petitioner Companies has not been enclosed with the report as the same are already on records of National Company Law Tribunal.

10. That the Official Liquidator on the basis of information submitted by the Petitioner Companies is of the view that the affairs of the aforesaid Transferor Company do not appear to have been conducted in a manner prejudicial to the interest of its

IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, (COURT NO.-II)
KOLKATA

C.P.(CAA) No. 173/KB/2023
connected with
C.A.(CAA) No.96/KB/2023

members or to public interest as per the provisions of the Companies Act, 1956/the Companies Act, 2013 whichever is applicable.

21. The first observation has been filed by the Income Tax Authority being the Deputy Commissioner of Income Tax, Kolkata dated November 1, 2023 addressed to this Tribunal with a copy addressed to the Advocate of the Transferor Company/Petitioner Company. The Transferor Company/Petitioner Company has filed its response to the abovementioned observations of the Deputy Commissioner of Income Tax, Kolkata by way of an affidavit dated November 9, 2023. It has been submitted by the Transferor Company/Petitioner Company in the affidavit dated November 9, 2023, that it is settled law that confirmation of the Scheme of Amalgamation would not mean that this Tribunal is ruling out the legitimate interest of the Income Tax authorities, if any, to recover the lawful dues payable by the Transferor Company/Petitioner Company, as they can proceed against the Transferee Company in accordance with law, if any amount is found due and payable. In this regard, reliance has been placed upon Clause 12.2.6 (a) of the Scheme of Amalgamation i.e., Transfer of Legal and other Proceedings, which provides that *“any pending suits/appeals, all legal or other proceedings including before any statutory or quasi-judicial or tribunal or other proceedings of whatsoever nature relating to the Transferor Company, whether pending on the Effective Date or which may be instituted any time in the future, if such proceedings are capable of being continued by or against the Transferee Company, shall not abate, be discontinued or in any way prejudicially be affected by reason of this amalgamation of the Undertaking or because of the provisions contained in this Scheme. The proceedings shall continue by or against the Transferee Company in the same manner and to the same extent as they would have been continued, prosecuted and/or enforced by or against the Transferor*

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, (COURT NO.-II)
KOLKATA**

C.P.(CAA) No. 173/KB/2023
connected with
C.A.(CAA) No.96/KB/2023

Company, if this Scheme had not been implemented. ” Clause 12.2.7(d) of the Scheme of Amalgamation i.e. Taxation related provisions provides that “...All tax assessment proceedings/appeals of whatsoever nature by or against the Transferor Company pending and/or arising at the Appointed Date and relating to the Transferor Company shall be continued and/or enforced until the Effective Date by the Transferor Company. In the event of the Transferor Company failing to continue or enforce any proceeding/appeal, the same may be continue or enforced by the Transferee Company, at the cost of the Transferee Company. As and from the Effective Date, the tax proceedings shall be continued and enforced by or against the Transferee Company in the same manner and to the same extent as would or might have been continued and enforced by or against the Transferor Company.”

22. Therefore, it has been submitted that the Income Tax authorities are free to pursue their existing claims, if any, against the Transferee Company, and there is no reason why the Scheme of Amalgamation should not be sanctioned.
23. The Official Liquidator has filed his report dated 4th October 2023 and concluded as under: -

“8. That the Official Liquidator has not received any complaint against the proposed Scheme of Amalgamation from any person/party interested in the Scheme in any manner till the date of filing of this Report.

9. That the report of Official Liquidator is based upon the documents/ reply submitted by the petitioner company. The Balance Sheets, Memorandum and Articles of Association, and other documents furnished by the petitioner company has not been enclosed with the report as the same are already on records of National Company Law Tribunal.

IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, (COURT NO.-II)
KOLKATA

C.P.(CAA) No. 173/KB/2023
connected with
C.A.(CAA) No.96/KB/2023

10. That the Official Liquidator on the basis of information submitted by the Petitioner Company is of the view that the affairs of the aforesaid Petitioner Companies do not appear to have been conducted in a manner prejudicial to the interest of its members or to public interest as per the provisions of the Companies Act, 1956/the Companies Act, 2013 whichever is applicable.

24. An affidavit has been filed by the Joint Director, Regional Director's Office, Eastern Region, Ministry of Corporate Affairs ('RD') dated November 14, 2023 ('RD Affidavit') before this Tribunal with a copy marked to the Transferor Company/Petitioner Company. The observations of the RD have been dealt with by the Transferor Company/Petitioner Company by their Affidavit-in-Rejoinder dated November 20, 2023 ('Rejoinder'). The observations made in the RD affidavit and the corresponding response of the Transferor Company/Petitioner Company are summarized as under: -

A. Paragraph 2(a) of the RD Affidavit

That it is submitted that Transferee Company Tata Steel Limited is registered in the State of Maharashtra under the registry of ROC, Mumbai, which is not under the jurisdiction of this Deponent. Hence this Deponent has not comment on it.

Response as per Paragraph 4(a) of Rejoinder

It is stated and submitted that the contents of paragraph 1 and paragraph 2(a) of the Reply are matters of record.

B. Paragraph 2(b) of the RD Affidavit

That it is submitted that on examination of report of the Registrar of Companies, West Bengal, it appears that no complaint and/or representation has been received against the proposed Scheme of Amalgamation. Further, the Petitioner Transferor Company is

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, (COURT NO.-II)
KOLKATA**

C.P.(CAA) No. 173/KB/2023
connected with
C.A.(CAA) No.96/KB/2023

updated in filing their Financial Statements and Annual Returns for the financial year 31/03/2022. The ROC, West Bengal further reported therein, inter alia, that the Transferor Company, The Tinplate Company of India Limited has (4) four active charges.

Response as per Paragraph 4(b), 4(c) and 4(d) of Rejoinder

With regard to the contents of paragraph 2(b) of the Reply, it is stated and submitted that the Registrar of Companies, West Bengal has not provided any objection to the sanction of the proposed Scheme of Amalgamation. With regard to the contents of the Report of the Registrar of Companies, West Bengal dated September 22, 2023 (annexed as Annexure I to the Reply) it has been stated therein that no prosecution is pending against the Transferor Company/Petitioner Company. With regard to filing of Financial Statements and Annual Returns, it is submitted that the Transferor Company/Petitioner Company has filed its Balance Sheet in Form AOC 4 XBRL and Annual Return in Form MGT 7 for the financial year ended on March 31, 2023. Therefore, the Transferor Company/Petitioner is updated in filing their Financial Statements and Annual Returns.

With regard to the 4 (four) active charges of the Transferor Company/Petitioner Company, it is stated that all the charges have been satisfied by the Transferor Company/Petitioner Company. The details of the Charge IDs and their respective dates of satisfaction are mentioned below:

Sl. No.	Charge ID	Date of Satisfaction
1.	10054261	October 18, 2023
2.	80058137	November 1, 2023
3.	80027099	October 30, 2023
4.	100552341	October 18, 2023

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, (COURT NO.-II)
KOLKATA**

C.P.(CAA) No. 173/KB/2023
connected with
C.A.(CAA) No.96/KB/2023

In any case, the Scheme of Amalgamation provides that upon the Scheme of Amalgamation becoming effective, all the *liabilities/encumbrances* of the Transferor Company/Petitioner Company would stand transferred to the Transferee Company. The relevant clauses of the Scheme of Amalgamation are reproduced hereunder for ready reference of this Hon'ble Tribunal:

“9. DEFINITIONS

Clause 9.1

(k) “Encumbrance” means without limitation (i) any options, claim, pre-emptive right, easement, limitation, attachment, restraint, mortgage, charge (whether fixed or floating), pledge, lien, hypothecation, assignment, deed of trust, title retention, security interest or other encumbrance or interest of any kind securing, or conferring any priority of payment in respect of any obligation of any person, including any right granted by a transaction which, in legal terms, is not the granting of security but which has an economic or financial effect similar to the granting of security under Applicable Law, including any option or right of pre-emption, public right, common right, easement rights, any attachment, restriction on use, transfer, receipt of income or exercise of any other attribute of ownership, right of set-off and/ or any other interest held by a third party; (ii) any voting agreement, conditional sale contracts, interest, option, right of first offer or transfer restriction; (iii) any adverse claim as to title, possession or use; and/ or (iv) any agreement, conditional or otherwise, to create any of the foregoing and the terms “Encumbered”, “Encumber” shall be construed accordingly;”

“PART II: Amalgamation of the Transferor Company along with the undertaking into and with the Transferee Company:

Clause 12. TRANSFER AND VESTING

IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, (COURT NO.-II)
KOLKATA

C.P.(CAA) No. 173/KB/2023
connected with
C.A.(CAA) No.96/KB/2023

12.1 With effect from the Appointed Date, upon this Scheme becoming effective, and subject to the provisions of this Scheme, the Transferor Company along with all its assets, liabilities, contracts, employees, licenses, consents, permits, records, approvals, etc., comprising the Undertaking shall, pursuant to the provisions of the Act and any other Applicable Law without any further act, instrument or deed, be and stand transferred to and vested in and/or be deemed to have been and stand transferred to and vested in the Transferee Company as a going concern, so as to become, as and from the Appointed Date, the estate, assets, rights, title, interests and authorities of the Transferee Company, by virtue of and in the manner provided in this Scheme.”

“Clause 12.2.3 Transfer of Encumbrances

- a. the transfer and vesting of movable and immovable properties as stated above, shall be subject to Encumbrances, if any, affecting the same;*
- b. all Encumbrances, if any, existing prior to the Effective Date over the assets of the Transferor Company which secure or relate to any liability, shall, after the Effective Date, without any further act, instrument or deed, continue to be related and attached to such assets or any part thereof to which they related or were attached prior to the Effective Date and as are transferred to the Transferee Company. Provided that if any of the assets of the Transferor Company have not been Encumbered in respect of the liabilities, such assets shall remain unencumbered and the existing Encumbrance referred to above shall not be extended to and shall not operate over such assets. Further, such Encumbrances shall not relate or attach to any of the other assets of the Transferee Company. The absence of any formal amendment which may be required by a lender or trustee or any third party shall not affect the operation of the foregoing provisions of this Scheme;*

IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, (COURT NO.-II)
KOLKATA

C.P.(CAA) No. 173/KB/2023
connected with
C.A.(CAA) No.96/KB/2023

c. the existing Encumbrances over the other assets and properties of the Transferee Company or any part thereof which relate to the liabilities and obligations of the Transferee Company prior to the Effective Date shall continue to relate to such assets and properties and shall not extend to or attach to any of the assets and properties of the Transferor Company transferred to and vested in the Transferee Company by virtue of the Scheme; and

d. any reference in any security documents or arrangements (to which the Transferor Company is a party) to the Transferor Company and its assets and properties, shall be construed as a reference to the Transferee Company and the assets and properties of the Transferor Company transferred to the Transferee Company by virtue of this Scheme. Without prejudice to the foregoing provisions, the Transferor Company and the Transferee Company may execute any instruments or documents or do all the acts and deeds as may be considered appropriate, including the filing of necessary particulars and/or modification(s) of charge(s), with the Registrar of Companies to give formal effect to the above provisions, if required;" (emphasis supplied).

It is therefore most humbly submitted that the Transferee Company shall comply with applicable provisions of the Companies Act, 2013 in order to give effect to the modification of charges, if any, in its own name. It is also stated and submitted that upon the approval of the Scheme of Amalgamation, none of the stakeholder's interest shall be adversely affected. Hence there is no reason why the instant Scheme of Amalgamation should not be approved.

C. Paragraph 2(c) of the RD Affidavit

That it is submitted that Transferor Company namely The Tinplate Company of India Limited is listed on the Bombay Stock Exchange Limited (BSE) and the, National Stock Exchange of India (NSE). The

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, (COURT NO.-II)
KOLKATA**

C.P.(CAA) No. 173/KB/2023
connected with
C.A.(CAA) No.96/KB/2023

BSE vide its letter No. DCS/AMAL/TL/IP/2709/2022-23 dated 31.03.2023 issued its 'No adverse observations' to the proposed Scheme of Amalgamation. Further the NSE has also vide its letters No NSE/LIST/32885 dated 31.03.2023 and letter no. NSE/LIST/32878 dated 31.03.2023 issued its 'Observation Letter', which, inter alia, stated and conveyed the 'No Objection' of the NSE in terms of Regulation 94 of SEBI (LODR) Regulation, 2015 so as to enable the Company to file the draft Scheme with Hon'ble NCLT. Further, as per said letters, the validity of the said 'Observation Letters' shall be six months from 31st March 2023. However, the Exchanges reserves its rights to raise objections at any stage if the information submitted to the Exchange is found to be incomplete/incorrect/misleading/false or for any contravention of Rules, Bye-Laws and Regulation of the Exchange, Listing Regulation, Guidelines/Regulations issued by Statutory Authorities.

Response as per Paragraph 4(e) of Rejoinder

With regard to the contents of paragraph 2(c) of the Reply, it is stated and submitted that the same is matter of record.

D. Paragraph 2(d) of the RD Affidavit

The Petitioner Company should be directed to provide list/details of Assets, if any, to be transferred from the Transferor Companies to the Transferee Company upon sanctioning of the proposed Scheme.

Response as per Paragraph 4(f) of Rejoinder

With regard to the contents of paragraph 2(d) of the Reply, it is stated and submitted that all the assets of the Transferor Company/Petitioner Company will be transferred to the Transferee Company. A schedule of assets to be transferred from the Transferor Company/Petitioner Company to the Transferee Company upon sanctioning of the Scheme of Amalgamation.

E. Paragraph 2(e) of the RD Affidavit

IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, (COURT NO.-II)
KOLKATA

C.P.(CAA) No. 173/KB/2023
connected with
C.A.(CAA) No.96/KB/2023

That the Petitioner company should undertake to comply with the provisions of section 232(3)(i) of the Companies Act, 2013 through appropriate affirmation.

Response as per Paragraph 4(g) of Rejoinder

With regard to the contents of paragraph 2(e) of the Reply, it is stated and submitted that the Transferee Company shall comply with the provisions prescribed under Section 232(3)(i) of the Act as applicable.

F. Paragraph 2(f) of the RD Affidavit

That the Transferee Company should be directed to pay applicable stamp duty on the transfer of the immovable properties from the Transferor Companies to it.

Response as per Paragraph 4(h) of Rejoinder

With regards to the contents of paragraph 2(f) of the Reply, it is stated and submitted that if any stamp duty is payable in course of implementation of the proposed Scheme of Amalgamation upon receipt of approval of this Hon'ble Tribunal, the Transferee Company shall pay the same.

G. Paragraph 2(g) of the RD Affidavit

The Hon'ble Tribunal may kindly direct the Petitioners to file an affidavit to the extent that the Scheme enclosed to the Company Application and Company Petition are one and same and there is no discrepancy or no change is made.

Response as per Paragraph 4(i) of Rejoinder

With regard to the contents of paragraph 2(g) of the Reply, it is stated and submitted that the Scheme of Amalgamation enclosed with the Company Application and Company Petition are one and the same and that there is no discrepancy, and no change is made.

H. Paragraph 2(h) of the RD Affidavit

IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, (COURT NO.-II)
KOLKATA

C.P.(CAA) No. 173/KB/2023
connected with
C.A.(CAA) No.96/KB/2023

It is submitted that as per instructions of the Ministry of Corporate Affairs, New Delhi, a copy of the scheme was forwarded to the Income Tax Department on 14/09/2023 for their views/observation in the matter. However, the authority has no report in the said matter and the same is still awaited.

Response as per Paragraph 4(j) of Rejoinder

With regard to the contents of paragraph 2(h) of the Reply, it is stated and submitted that, the Advocate on Record of the Transferor Company/Petitioner Company had received representation dated November 1, 2023 from the Deputy Commissioner of Income Tax, Circle 1(1), Kolkata ('DCIT') addressed to this Hon'ble Tribunal with a copy marked to the Advocate of the Transferor Company/Petitioner Company with certain observations in regard to the instant Scheme of Amalgamation (hereinafter referred to as 'DCIT Representation').

25. Heard submissions made by the Ld. Counsel appearing for the Petitioner and the representative of RD(ER). Upon perusing the records and documents in the instant we allow the petition and make the following orders: -

- (a) That the Scheme of Amalgamation as mentioned in the Petition being Annexure "A" hereto is sanctioned by the Tribunal with the appointed date fixed as **1st April 2022** and shall be binding on The Tinsplate Company of India Limited herein referred to as Transferor Companies), Tata Steel Limited herein referred to as Transferee Company) and all their shareholders, secured creditors and unsecured creditors, and all concerned;

Transfer of Assets

- a. All the properties, rights and interests of The Tinsplate Company of India Limited be transferred to and vested in Tata Steel Limited without further act or deed and accordingly the same shall pursuant

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, (COURT NO.-II)
KOLKATA**

C.P.(CAA) No. 173/KB/2023
connected with
C.A.(CAA) No.96/KB/2023

to Section 232 of the Companies Act, 2013 read with Companies (Compromises, Arrangements and Amalgamation) Rules, 2016 be transferred to and vested in Tata Steel Limited for all the estate and interest of The Tinsplate Company of India Limited therein but subject, nevertheless, to all charges now affecting the same, in accordance with the Scheme of Amalgamation;

Transfer of Liabilities

- b. All the liabilities and duties of The Tinsplate Company of India Limited be transferred without further act or deed to Tata Steel Limited and accordingly, the same shall pursuant to Section 232 of the Companies Act, 2013 read with Companies (Compromises, Arrangements and Amalgamation) Rules, 2016 be transferred to and become the liabilities and duties of Tata Steel Limited, in accordance with the Scheme of Amalgamation;

Transfer of Legal Proceedings

- c. All the proceedings and/or suit appeals now pending by or against The Tinsplate Company of India Limited, if any, shall be continued by or against Tata Steel Limited;

Filing of Schedule of Assets

- d. The schedule of assets in respect of The Tinsplate Company of India Limited be filed within a period of 60 (sixty) days from the date of the order made herein;
- e. The Tinsplate Company of India Limited and Tata Steel Limited shall within 30 (thirty) days after the date of obtaining the certified copy of the order to be made herein cause certified copies of this order to be delivered to the jurisdictional Registrar of Companies, for registration respectively;
- f. The Tinsplate Company of India Limited shall stand dissolved without winding up in accordance with the Scheme of Amalgamation;

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, (COURT NO.-II)
KOLKATA**

C.P.(CAA) No. 173/KB/2023
connected with
C.A.(CAA) No.96/KB/2023

- g. All concerned authorities to act on certified copy of this order along with the sanctioned Scheme of Amalgamation; and
- h. The Transferor Company/Petitioner Company shall be at liberty to apply to this Tribunal in the above matter for any direction that may be necessary.
26. The Petitioners shall supply legible print out of the scheme and schedule of assets in acceptable form to the registry and the registry will upon verification, append such printout, to the certified copy of the order.
27. **Company Petition (CAA) No.173 /KB/2023** connected with **Company Application (CAA) No.96/KB/2023** is **disposed of** accordingly.
28. Certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(D.Arvind)
Member (Technical)

(Bidisha Banerjee)
Member (Judicial)

Order signed on the 1st day of January of 2024

A.S. LRA