

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH : C-IV**

**C.P.(CAA)/209/MB/2023
c/w C.A.(CAA)/114/MB/2023**

*In the matter of
Sections 230 to 232, 234 of the Companies Act, 2013
and other applicable provisions of the Companies
Act, 2013*

AND

*In the matter of
Composite Scheme of Arrangement of*

Tata Steel Limited
[CIN: L27100MH1907PLC000260]

... Transferee Company/
Petitioner Company

The Tinsplate Company of India Limited
[CIN: L28112WB1920PLC003606]

... Transferor Company/
Non-Petitioner Company

Order pronounced on: 20.10.2023

Coram:

Ms. Anu Jagmohan Singh
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances:

For the Applicants

: Mr. Zal Andhyarujina, Ld. Sr.
Counsel a/w Mr. Shashank Gautam,
Mr. Vijay Purohit, Ms. Nikita Bangera,
Mr. Pratik Jhaveri, Mr. Alok Gokhale,
Ms. Saravna Vasanta, Ms. Ishani
Khanwilkar and Mr. Karan Bhide i/b
P&A Law Offices, Advocates.

For the Regional Director

: Mr. Tushar Wagh, Dy. Director, RD's
Office(WR).

ORDER

Per: Anu Jagmohan Singh, Member (Technical)

1. Heard the Ld. Sr. Counsel for the Petitioner Company and the Officer of the Regional Director, Western Region, Mumbai (“RD”). No objector has come before this Tribunal to oppose the Scheme nor has any party controverted any averments in the Petition.
2. The Petitioner Company has filed the Petition to obtain the sanction of this Tribunal to the Scheme of Amalgamation amongst Tata Steel Limited (“Petitioner/Transferee Company”) and The Tinsplate Company of India Limited (“Non-Petitioner/Transferor Company”) and their respective shareholders (“Scheme”) under sections 230-232 of the Companies Act, 2013 (“Act”) read with the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (“Rules”).
3. The Transferor Company has its registered office in the State of West Bengal and has filed a separate Company Scheme Application No. CA(CAA)96/KB/2023 before the National Company Law Tribunal, Kolkata Bench and is in the process of filing the Company Scheme Petition.
4. The Counsel submits that the Transferor Company is a listed subsidiary of the Petitioner Company and that the Petitioner Company holds equity shares constituting 74.96% of the equity share capital of the Transferor Company.

5. The Counsel for the Petitioner Company submits that the Petitioner Company is engaged in the business of manufacturing steel and offers a broad range of steel products including a portfolio of high value-added downstream products such as hot rolled, cold rolled and coated steel, rebars, wire rods, tubes and wires. The Petitioner Company also has a well-established distribution network.
6. The Counsel for the Petitioner Company submits that the Transferor Company is engaged in the business of manufacturing tinplate, tin free steel and other related products.
7. The Counsel for the Petitioner Company submits that the Scheme of Amalgamation provides for the amalgamation of the Transferor Company into and with the Petitioner Company, under Sections 230 to 232 and other relevant provisions of the Act, such that:
 - a. all the assets of the Transferor Company, shall become the property of the Petitioner Company, by virtue of the amalgamation;
 - b. all the liabilities of the Transferor Company, shall become the liabilities of the Petitioner Company, by virtue of the amalgamation;
 - c. transfer of the authorised share capital of the Transferor Company to the Petitioner Company as provided in Part III of the Scheme, and consequential increase in the authorised share capital of the Petitioner Company as provided in Part III of the Scheme;

- d. cancellation of all the issued share capital of the Transferor Company which shall be affected as a part of the Scheme and not in accordance with Section 66 of the Act and issue of New Shares, as provided in Clause 15.2 of the Scheme, to the Eligible Members (as provided in the Scheme) (other than the Petitioner Company) as per the approved valuation report, in accordance with Part II of the Scheme; and
 - e. dissolution of the Transferor Company, without being wound up.
8. The Counsel for the Petitioner Company submits that the background, circumstances, rationale and benefits of the Scheme are that:
- a. Consolidation of the business of the Transferor Company and Transferee Company, ensuring focused growth, operational efficiencies, and business synergies. The resulting corporate holding structure will bring enhanced agility to business ecosystem of the merged entity.
 - b. Enabling pooling of the resources of the merged entity to unlock the opportunity for creating shareholder value, share best practices, cross-functional learnings, and utilize each other's facilities in a more efficient manner.
 - c. This amalgamation will also result in collaboration of the marketing and distribution network of both entities.

9. The Counsel submits that the circumstances and/or grounds that have necessitated and/or justified the Scheme and the advantages thereof are *inter alia* as set out below:

- (i) The Petitioner 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, which is a subsidiary company of the Petitioner Company, is engaged in the manufacture of tinplate and tinplate related products which is a value-added product of hot rolled coil. The amalgamation will consolidate the business of the Transferor Company and Petitioner 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.
- (ii) The amalgamating companies believe that the resources of the merged entity can be pooled to unlock the opportunity for creating shareholder value. The amalgamating companies 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 of both entities can be collaborated.
- (iii) The Scheme would result in the following synergies:

- a. **Operational integration and better facility utilisation:** The proposed amalgamation will provide an opportunity for reduction of operational costs through transfer of intermediary products between the amalgamating companies, better order loads, synergies from sales and production planning across the business.
- b. **Operational efficiencies:** Centralized sourcing would result in procurement synergies and reduction in stores/ spare through common inventory management. The proposed amalgamation would also result in sharing of best practices, cross functional learnings, better utilisation of common facilities and greater efficiencies in debt and cash management.
- c. **Simplified structure and management efficiency:** In line with group level 5S strategy – simplification, synergy, scale, sustainability, and speed – proposed amalgamation will simplify group holding structure, improve agility to enable quicker decision making, eliminate administrative duplications, consequently reducing administrative costs of maintaining separate entities.
- d. **Faster execution of projects in pipeline:** The growth of the Transferor Company will be fast tracked by leveraging the Petitioner Company's technical expertise and financial resources.

- e. **Rationalization of logistics cost:** Clubbing of shipments and rationalizing warehouse/stockyard would significantly reduce logistics and distribution costs for the merged entity.
 - f. **Collaboration of Marketing and Sales:** The proposed Scheme will provide an opportunity to use marketing and sales network of Companies. Also with common credit management, the customers are expected to be benefitted from the channel financing from the combined entity.
 - g. **Sharing of best practices in sustainability, safety, health and environment:** Adoption of improved safety, environment and sustainability practices owing to a centralized committee at combined level to provide focused approach towards safety, environment and sustainability practices resulting in overall improvement. Further, overall technology maturity can be enhanced by the merged entity, through unfettered access to each other's information technology applications and systems.
10. The Board of Directors of the Petitioner Company and Transferor Company have approved the Scheme by passing their respective Board Resolutions both dated September 22, 2022, which are annexed to the Petition at Exhibit 31 and Exhibit 34, respectively.
11. The Learned Senior Counsel for the Petitioner Company further submits that the equity shares of the Petitioner Company and Transferor Company

are listed on the BSE Limited (“BSE”) and National Stock Exchange of India Limited (“NSE”) (collectively “Stock Exchanges”). The Stock Exchanges vide their letters dated March 31, 2023, have respectively provided their ‘Observation Letter’ to the Petitioner Company and Transferor Company, to file the Scheme with this Tribunal, pursuant to which the Petitioner Company has approached this Tribunal seeking its sanction to the Scheme.

12. The Learned Senior Counsel for the Petitioner Company submits that the Petition is filed in consonance with the order dated May 16, 2023, passed by this Tribunal in Company Scheme Application No. CA(CAA)/114/MB/2023.
13. The Learned Senior Counsel for the Petitioner Company submits that the Petition was admitted by this Tribunal vide order dated August 08, 2023. Further, the Petitioner Company has complied with all the requirements as per the directions of this Tribunal including *inter alia* issuing notices indicating the date of hearing and final disposal upon the regulatory authorities, persons who have filed representations in response to notices published by the Petitioner Company, secured lenders, publication of notice of the date of hearing and final disposal of this matter in the prescribed newspapers and hosting of the notice along with a copy of the Scheme on its website and has filed necessary Affidavit proving such compliance with this Tribunal. Moreover, the Petitioner Company undertakes to comply with the applicable statutory requirements, if any, as required under the Act and Rules made thereunder, as and when applicable. The said undertaking given by the Petitioner Company is accepted.

14. The RD has filed his report dated September 08, 2023 (“**Report**”) in respect of the Petitioner Company setting out his observations on the Scheme. In response to the observations made by the RD, the Petitioner Company has given necessary clarifications and undertakings by way of an affidavit dated September 09, 2023 and also served a copy of the affidavit upon the office of the RD. The observations made by the RD and the clarifications and undertakings given by the Petitioner Company are summarized in the table below:

Sr. No.	Para reference	Observations in the Report	Response of the Petitioner Company
	2. a)	<i>That on examination of the report of the Registrar of Companies, Mumbai dated 04.09.2023 for the Petitioner Transferee Company (Annexed as Annexure A-1) that the Petitioner Transferee Company falls within the jurisdiction of ROC, Mumbai. It is submitted that no representation regarding the proposed scheme of Arrangement has been received in the matter of the Petitioner Company. Further, the Petitioner Transferee Company has filed Financial Statements up to 31.03.2023.</i> <i>That the ROC Mumbai in his report dated</i>	<i>The observations are self-explanatory and do not require a response.</i>

	2. (a) (i)	<i>04.09.2023 has also stated that No Inquiry, Inspection, Investigations, Prosecutions, Technical Scrutiny and Complaint under CA, 2013 have been pending against the Petitioner Companies.</i>	
	2. (a) (ii) a) and b)	<i>Further ROC has mentioned as follows:- a) As per valuation report dated 22.09.2022 submitted by CA and FCA: Transferor Company is a subsidiary of the Transferee Company and transferee company holds 7,84,57,640 non-convertible redeemable preference shares of the Transferor company. Promoters & Promoter Group having shareholding of 74.96% and 33.92% shares in transferor and transferee company respectively. b) As per provisions of section 232(3)(i) of CA, 2013 where the transferor company is dissolved, the fee, if any, paid by the transferor company on its authorized capital shall be set off against any fees payable by the transferee</i>	<i>The Petitioner Company shall comply with the provisions of Section 232 (3) (i) of the Act, and undertakes to pay necessary fees, if so required in compliance with applicable law.</i>

		<p><i>company on its authorized capital shall be set off against any fees payable by the transferee company on its authorized capital subsequent to the amalgamation.</i></p> <p><i>Therefore, remaining fee, if any after setting off the fees already paid by the transferor company on its authorized capital, must be paid by the transferee company on the increased authorized capital subsequent to amalgamation.</i></p>	
	2. (a) (ii) c)	<p><i>Interest of the Creditors should be protected.</i></p>	<p>The Scheme does not envisage or contain any corporate debt restructuring. The creditors of the Petitioner Company are being paid in the normal course of business as per the agreed terms and are not called upon to make any sacrifices, hence their interests are not getting affected in any way. It is submitted that the assets of the Petitioner Company are in excess of and more than sufficient to meet all its</p>

			<p>external liabilities and the Scheme will not adversely affect the rights and interest of any of its creditors in any manner whatsoever. It is further submitted that pursuant to the amalgamation of the Transferor Company with the Petitioner Company, the debt repayment capacity of the Petitioner Company will not be adversely affected and that the post Scheme net worth of the Petitioner Company will be positive (refer to Net Worth Certificate¹ annexed at Exhibit 25 of the captioned Company Scheme Petition). Therefore, the Scheme and the amalgamation contemplated thereby will not adversely affect the interests of the creditors of the Petitioner Company.</p>
	2. b)	<i>Transferee company should undertake to comply with the provisions of section 232(3)(i) of the Companies Act, 2013</i>	The Petitioner Company shall comply with the provisions of Section 232 (3) (i) of Act and

		<i>through appropriate affirmation in respect of fees payable by Transferee Company for increase of share capital on account of merger of transfer of companies.</i>	undertakes to pay necessary fees, if so, required in compliance with applicable law.
	2. c)	<i>In compliance of Accounting Standard-14 or IND-AS 103, as may be applicable, the resultant company shall pass such accounting entries which are necessary in connection with the scheme to comply with other applicable Accounting Standards including AS-5 or IND AS-8 etc.</i>	The Petitioner Company being a listed entity, the Indian Accounting Standards (Ind AS), as notified under section 133 of the Act are applicable to the Petitioner Company and financials are being prepared in accordance with the IND AS. In compliance with the proviso of section 232(3) of the Act, a certificate from the statutory auditor has been obtained to certify that the proposed accounting treatment of the scheme is in compliance with the Indian Accounting Standards. In line with this, the Petitioner Company undertakes to pass such accounting entries in relation with the Scheme to

			comply with all applicable Indian Accounting Standards (Ind AS).
	2. d)	<i>The Hon'ble Tribunal may kindly direct the Petitioner Companies 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.</i>	The Scheme annexed to the Company Scheme Application No. CA(CAA)/114/2023 and Company Scheme Petition No. CP(CAA)209/2023 are one and the same and there is no discrepancy, or change made to the Scheme.
	2. e)	<i>The Petitioner Companies under provisions of section 230(5) of the Companies Act 2013 have to serve notices to concerned authorities which are likely to be affected by the Amalgamation or arrangement. Further, the approval of the scheme by the Hon'ble Tribunal may not deter such authorities to deal with any of the issues arising after giving effect to the scheme. The decision of such authorities shall be binding on the petitioner companies concerned.</i>	The Petitioner Company has served notices under Section 230 (5) of the Act to the concerned authorities, as directed by this Hon'ble Tribunal vide order dated May 16, 2023, passed in the captioned Company Scheme Application. The Petitioner Company has filed its affidavit-of-service proving compliance with the directions issued by the Hon'ble Tribunal in this regard.

		<p><i>As per Definition of the Scheme,</i></p> <p>"Appointed Date" means opening of business on April 1,2022, or such other date as may be determined by the Board of Directors of the concerned Companies or directed/ allowed by the Competent Authority;</p> <p>"Effective Date" means the date or last of the dates on which the certified copies of the order of the Competent Authority sanctioning the Scheme are filed by the Transferor Company and the Transferee Company with the Registrar of Companies, Kolkata and Registrar of Companies. Mumbai (whichever is later) after all the conditions and matters referred to in Clause 22 of the Scheme occur or have been fulfilled, obtained, or waived, as applicable.</p> <p>"Record Date" means the date to be mutually fixed by the Board of Directors of the Companies, for the purpose of determining the shareholders of the Transferor Company to whom New Shares would</p>	<p>The Petitioner Company is in compliance with the requirements of Circular No. F. No. 7/12/209/CL-1 dated August 21, 2019, issued by the Ministry of Corporate Affairs.</p>
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		<p><i>be allotted pursuant to this Scheme;</i></p> <p><i>It is submitted that the Petitioners may be asked to comply with the requirements as clarified vide circular no. F. No. 7/12/2019/CL-1 dated 21.08.2019 issued by the Ministry of Corporate Affairs.</i></p>	
	2. g)	<p><i>Petitioner Companies shall undertake to comply with the directions of the Income Tax Department & GST Department, if any.</i></p>	<p>The Petitioner Company undertakes to comply with the directions of the Income Tax Department & GST Department, if any, in accordance with applicable law.</p>
	2. h)	<p><i>Petitioner Companies shall undertake to comply with the directions of the concerned sectoral Regulatory, if any.</i></p>	<p>The Petitioner Company undertakes to comply with the directions of the concerned sectoral regulators, if any, in accordance with applicable law.</p>
	2. i)	<p><i>Petitioner Companies are listed companies hence Petitioner Companies shall undertake to comply with observations raised by NSE & BSE vide their letter</i></p>	<p>The Petitioner Company undertakes to comply with the observations made by the NSE and BSE vide their letters dated</p>

		<i>dated 31.03.2023 also comply with SEBI (LODR) Regulations, 2016.</i>	March 31, 2023 and the SEBI (Listing, Obligation and Disclosure Requirements) Regulations, 2016, as applicable.
		<i>THE TINPLATE COMPANY OF INDIA LTD, The Transferor Company is registered office at 4, BANKSHALL STREET, KOLKATA WB 700001 IN, which falls under jurisdiction of Hon'ble NCLT Kolkata Bench, hence Petitioner Companies shall undertake to obtain approval from Hon'ble NCLT Kolkata Bench.</i>	Under clause 22.1(e) of the Scheme, the Scheme is conditional and subject to receipt of approval from the relevant benches of this Hon'ble Tribunal under sections 230-232 of the Act.

15. Mr. Tushar Wagh, Dy. Director (WR), Mumbai, Maharashtra appeared on behalf of the Regional Director and submitted that their observations/objections have been satisfactorily explained by the Petitioner Company and are acceptable. Hence, the Regional Director does not have any further objection to the proposed Scheme Company Petition.
16. The Learned Senior Counsel for the Petitioner Company submits that the Petitioner Company has received certain representations from its creditors and from certain regulators pursuant to the notices issued in compliance with order dated May 16, 2023, passed by this Tribunal in Company Scheme Application No. CA(CAA)/114/MB/2023 and has filed appropriate replies by way of affidavits which are on record. Further, the Petitioner Company

has received representation from Deputy Commissioner of State Tax (Legal), Office of Commissioner of State Tax, Althino, Panaji-Goa, pursuant to the notices issued in compliance with the order dated August 08, 2023 passed by this Tribunal in Company Scheme Petition No. CP(CAA)209/MB/2023 and has filed appropriate reply by way of an affidavit which is on record.

17. From the material on record and after perusing the clarifications and submissions of the Petitioner Company to the Report filed by the RD, the Scheme appears to be fair and reasonable and is not violative of any provisions of law and is not contrary to public policy.
18. Since all the requisite statutory compliances have been fulfilled, the Petition filed by the Petitioner Company is made absolute in terms of prayer clauses (a) of the Company Scheme Petition.
19. In view of the above, the Scheme is hereby **sanctioned** with the 'Appointed Date' as **April 01, 2022**.
20. The Petitioner Company is directed to file a certified copy of this order along with a copy of the Scheme with the concerned Registrar of Companies, electronically along with e-Form INC-28, within 30 days from the date of receipt of the certified copy of this order along with the sanctioned Scheme from the Registry duly certified by the Deputy/Assistant Registrar of the National Company Law Tribunal, Mumbai Bench.

21. The Petitioner Company is directed to lodge a copy of this Order along with a copy of the Scheme duly certified by the Deputy/ Assistant Registrar of the National Company Law Tribunal, Mumbai Bench with the concerned Superintendent of Stamps, for the purpose of adjudication of stamp duty payable, if any, within 60 days of receipt of the certified copy of this order.
22. The Income Tax Department will be at liberty to examine the aspect of any tax payable as a result of this scheme and in case it is found that the scheme ultimately results in tax avoidance under the provisions of Income Tax Act, it shall be open to the income tax authorities to take necessary action as possible under the Income Tax Law.
23. All concerned authorities to act on the certified copy of this order along with the sanctioned Scheme, duly certified by the Deputy/Assistant Registrar of the National Company Law Tribunal, Mumbai Bench.
24. Petitioner Company is at liberty to apply to this Tribunal in this matter for any directions or modifications that may be necessary.
25. With the above directions, CP(CAA)-209(MB)/2023 c/w CA(CAA)-114(MB)/2023 is allowed and **disposed** of. File to be consigned to records.

Sd/-
Anu Jagmohan Singh
Member (Technical)

Sd/-
Kishore Vemulapalli
Member (Judicial)

20.10.2023/pvs/sj