

**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH**

**C.A.(C.A.A.)/ 3748/MB/ 2019**

In the matter of the Companies Act, 2013;

AND

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

AND

In the matter of Composite Scheme of Arrangement and Amalgamation  
amongst Fairchem Speciality Limited (“Demerged/Transferee Company”)  
and Fairchem Organics Limited (“Resulting Company”) and Privi Organics  
India Limited (“Transferor Company”) and their respective Shareholders  
(“Scheme” or “Composite Scheme of Arrangement and Amalgamation”)

Fairchem Speciality Limited (Erstwhile }  
known as Adi Finechem Limited), a }  
company incorporated under the }  
provisions of the Companies Act, 1956 }  
having its registered office at Plot A-71, }  
TTC Industrial Estate, Thane Belapur }  
Road, Opp. Kopar Khairane Railway }  
Station, Navi Mumbai 400 709 }

}...First Applicant Company

(Demerged /Transferee Company)

Fairchem Organics Limited, a company }  
Incorporated under the provisions of }  
Of Companies Act, 2013 having its }  
Registered office at Plot A-71, }  
TTC Industrial Estate, Thane }  
Belapur Road, Near Kopar Khairane }  
Railway Station, Navi Mumbai }  
- 400 709 }

}.....Second Applicant Company  
(Resulting Company)

Privi Organics India Limited, a company }  
incorporated under the provisions of }  
the Companies Act, 2013 having its }  
registered office at ‘Privi House’ A-71 }  
TTC, Thane Belapur Road, Near }  
Kopar Khairane Railway Station, }  
Navi Mumbai 400 709. }

}.....Third Applicant Company  
(Transferor Company)

**Date of Hearing: 03.01.2020**

**Order Delivered on: 22.01.2020**

**Coram:**

Smt. Suchitra Kanuparthi, Hon'ble Member (J)

Shri. Chander Bhan Singh , Hon'ble Member (T)

**For the Applicant(s):** Mr. Hemant Sethi, Advocate i/b Hemant Sethi & Co.

**Per: Chandra Bhan Singh, Member (Technical)**

**Order**

1. The Counsel for the Applicants states that the present Scheme is a Composite Scheme of Arrangement and Amalgamation amongst Fairchem Speciality Limited (“Demerged/Transferee Company” or “FSL”) and Fairchem Organics Limited (“Resulting Company”) and Privi Organics India Limited (“Transferor Company” or “Privi Organics”) and their respective Shareholders for demerger of Demerged Undertaking of Fairchem Speciality Limited into Fairchem Organics Limited (‘Resulting Company’) and amalgamation of Privi Organics India Limited (‘Transferor Company’) with Fairchem Speciality Limited.
2. The Counsel for the Applicants submit that the First Applicant Company is engaged in the business of manufacturing, supplying and exporting of speciality oleo chemicals (natural source) and nutraceuticals (natural source) made from by-products generated from processing of crude vegetable oil refineries, including vegetable oil based fatty acid distillate and acid oils. The Second Applicant Company is authorized by its memorandum of association to inter alia carry on the business of processing by-products / waste products generated during refining of any kind of edible or non-edible vegetable oils and manufacture various kinds of fatty acids, nutraceuticals intermediates and / or their derivatives utilizing chemical, solvents, catalysts or physical process. The Second Applicant Company is an unlisted public company and the entire share capital of the Second Applicant Company is held by the First Applicant Company and its nominees. The Second Applicant Company has not yet commenced any business operations. The Third Applicant Company is in the business of development, manufacture and processing of aroma chemicals and to supply and export aroma chemicals which are used mainly in the flavor and fragrance industry.
3. The rationale for the Scheme is that current corporate structure of First Applicant Company comprises an operating business of manufacturing, supplying and exporting of speciality oleo chemicals and nutraceuticals and a business of developing, manufacturing, supplying, exporting aroma chemicals. The business of aroma chemicals is carried out through Privi Organics, a wholly owned subsidiary

of FSL. Both the businesses – that of oleo chemical and nutraceuticals; and aroma chemicals require different skill sets, business strategies, R&D support and capital assets. The nature of risk, competition, challenges, opportunities and business methods for both the businesses are distinctly different. Each of the varied businesses being carried out by FSL and by Privi Organics, the wholly owned subsidiary of FSL has significant potential for growth and profitability. However, as each business requires significantly different operating and financial strategies, their individual potential will be best realized if the businesses are operated separately and independently. It is proposed to consolidate the businesses carried on by FSL and through its wholly owned subsidiary into a single identified entity and segregate other businesses into another identified entity. This will create two niche, dedicated and focused business segments without any risk or overlap of one business over the other. Thus, the oleo chemical and nutraceutical business will be housed in a Demerged Undertaking and the business of aroma chemicals will be housed in FSL. To that effect, Privi Organics will be merged with FSL. The restructuring arrangement would enable greater/ enhanced focus of the management in each business of FSL and Demerged Undertaking which would facilitate the management of both FSL and the Demerged Undertaking to not only efficiently exploit opportunities for each of the businesses but also enhance efficiency in overall combined business including economies of scale, efficiency of operations which can be deployed more efficiently for the purpose of development of businesses of the respective entities and their growth opportunities, eliminate inter corporate dependencies, minimize the administrative compliances and to maximize shareholders value. The Scheme will create enhanced value for shareholders and allow a focused strategy and specialisation for sustained growth, which would be in the best interest of all the stakeholders and the persons connected with the aforesaid companies. The Scheme will not, in any manner, be prejudicial to the interests of the concerned shareholders and creditors or general public at large.

4. The Board of Directors of the First Applicant Company, the Second Applicant Company and the Third Applicant Company, in their respective Board meetings held on May 22, 2019 approved the proposed Composite Scheme of Arrangement and Amalgamation. Subsequent to change of registered office address of First Applicant Company and the observation letters received from BSE Limited and National Stock Exchange of India Limited, the authorized scheme committee of the First Applicant Company in its meeting held on September 24, 2019, of the Second Applicant Company in its meeting held on September 25, 2019 & of the Third Applicant Company in its meetings held on August 28, 2019 and on September 25,

2019 approved modification in the draft scheme in respect of change of address of the Registered Office of the First Applicant Company and incorporating observations of BSE Limited.

5. That the meeting of the Equity Shareholders of the First Applicant Company be convened and held at “Conference Hall, Ahmedabad Textile Mills’ Association, Ashram Road, Ahmedabad on February 25, 2020 at 4.30 P.M for the purpose of considering and, if thought fit, approving with or without modification(s) the proposed Composite Scheme of Arrangement and Amalgamation amongst Fairchem Speciality Limited (“Demerged/Transferee Company”) and Fairchem Organics Limited (“Resulting Company”) and Privi Organics India Limited (“Transferor Company”) and their respective Shareholders for demerger of Demerged Undertaking of Fairchem Speciality Limited into Fairchem Organics Limited ( ‘Resulting Company’) and amalgamation of Privi Organics India Limited ( ‘Transferor Company’) with Fairchem Speciality Limited.
6. That at least 30 days before the said Meeting of the Shareholders of the First Applicant Company to be held as aforesaid, a notice convening the said Meeting at the place, date and time as aforesaid, together with a copy of the Scheme, a copy of statement disclosing all material facts as required under Section 230(3) of the Companies Act 2013 read with Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rule, 2016 notified on 14<sup>th</sup> December 2016 and the prescribed Form of Proxy, shall be sent by Courier / Registered Post / Speed Post or through Email (to those shareholders whose email addresses are duly registered with the First Applicant Company for the purpose of receiving such notices by email), addressed to each of the Shareholders of the First Applicant Company, at their last known address or email addresses as per the records of the Applicant Company.
7. That at least one month before the meeting of the Shareholders of the First Applicant Company to be held as aforesaid, a notice convening the said Meeting, indicating the place, date and time of meeting as aforesaid be published and stating that copies of the Scheme and the statement required to be furnished pursuant to Section 230(3) of the Companies Act 2013 read with Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rule, 2016 and the Form of Proxy can be obtained free of charge at the Registered Office of the First Applicant Company as aforesaid and / or at the office of its Advocates, M/s Hemant Sethi &

Co., 309 New Bake House, Maharashtra chamber of Commerce Lane, Kala Ghoda, Fort, Mumbai 400001.

8. That the Notice of the Meeting shall be advertised in two local newspapers viz. "Business Standard" in English and "Maharashtra Times" in Marathi, both circulated in Mumbai not less 30 days before the date fixed for the meeting.
9. That Mr. Utkarsh Shah, Director of the First Applicant Company, and failing him, Mr. Nahoosh Jariwala, Managing , Director of the First Applicant Company shall be the Chairman of the aforesaid meeting of the Equity Shareholders of the First Applicant to be held on February 25, 2020 at 4.30 P.M or any adjournment or adjournments thereof.
10. That the Chairman appointed for the aforesaid Meeting to issue the advertisement and send out the notices of the Meeting referred to above. The said Chairman shall have all powers as per Articles of Association and also under the Companies Act 2013 in relation to the conduct of the meetings, including for deciding procedural questions that may arise or at any adjournment thereof or resolution, if any, proposed at the meetings by any person(s).
11. That the quorum of the aforesaid meeting of the Shareholders shall be as prescribed under Section 103 of the Companies Act, 2013.
12. That voting by proxy or authorized representative in case of body corporate be permitted, provided that a proxy in the prescribed form / authorization duly signed by the person entitled to attend and vote at the meetings, are filed with the First Applicant Company at its Registered Office at Plot A-71, TTC Industrial Estate, Thane Belapur Road, Opp.Kopar Khairane Railway Station, Navi Mumbai 400 709, not later than 48 hours before the aforesaid meeting.
13. That the value and number of the shares of each Equity Shareholder shall be in accordance with the books / register of the First Applicant Company or depository records and where the entries in the books / register / depository records are disputed, the Chairman of the Meeting shall determine the value for the purpose of the aforesaid meeting and his decision in that behalf would be final.
14. That Mr. Uday Dave Partner, M/s Parikh Dave & Associates, Practicing Company Secretary is hereby appointed as Scrutinizers of the meeting of the Equity

shareholders of the First Applicant Company proposed to be held on February 25, 2020 at 4.30 P.M and his remuneration is fixed as Rs. 30,000/- excluding taxes.

15. That the Chairman to file an affidavit not less than seven (7) days before the date fixed for the holding of the meeting and do report this Tribunal that the direction regarding the issue of notices and the advertisement have been duly complied with.
16. That the Chairman of the meeting to report to this Tribunal, the results of the aforesaid meeting within thirty days of the conclusion of the meetings.
17. The Counsel for the Second and Third Applicants submit that there are 7 Equity shareholders in the Second and Third Applicant Companies and all the seven Equity shareholders of the Second and Third Applicant Companies have given their consent affidavits. The same are annexed as Annexures S1 to S7 and annexures U1 to U7 to the Company Application.
18. In view of the fact that all the Equity Shareholders of the Second and Third Applicant Companies have given their consent affidavits, the meetings of the Equity shareholders of the Second and third Applicant Companies are hereby dispensed with.
19. The Counsel for the Applicants submit that since the Scheme is an arrangement between the Applicant Companies and their respective shareholders in accordance with the provisions of Section 230(1)(b) of the Companies Act, 2013 meetings of the creditors is not required to be held as there is no Compromise and/or Arrangement with the creditors as no sacrifice is called for and accordingly the meeting of the creditors be dispensed. This Bench hereby directs that the First and Third Applicant Companies to issue notices to all its Creditors to whom the amounts are due and payable as required under Section 230(3) of the Companies Act, 2013 by R.P.A.D./Speed Post/Email with a direction that they may submit their representations, if any, within a period of thirty (30) days from the date of receipt of such notice to the Tribunal and copy of such representations shall simultaneously be served upon the Applicant Companies, failing which, it shall be presumed that the authorities have no representations to make on the proposals.
20. The Counsel for the Applicants submit that there are no Creditors in the Second Applicant Company therefore the question of sending notices does not arise.
21. The Applicant Companies are hereby directed to serve notices along with copy of the Scheme upon the concerned Income tax authorities under whose jurisdiction the

assessments are made, through R.P.A.D./Speed Post/Email/hand delivery, with a direction that they may submit their representations, if any, within a period of thirty (30) days from the date of receipt of such notice to the Tribunal and copy of such representations shall simultaneously be served upon the Applicant Companies, failing which, it shall be presumed that the authorities have no representations to make on the proposals. The applicant companies having the following PAN numbers are directed to serve notices to the concerned Income Tax Authorities on following addresses:

- i. PAN AAACH5113Q of the First Applicant Company at Circle 2(1)(1), Ahemdabad, Near IOC Petrol Pump, Nr. Sachin Tower, B/h Aykar Vihar, 100 Ft Anandnagar Road, Vejalpur, Ahmedabad;
- ii. PAN AADCF6900E of the Second Applicant Company at ITO Ward 15(1)(2), Mumbai, Aaykar Bhavan, M.K.Road, Churchgate, Mumbai-400 020;
- iii. PAN – AAOCA5466H of the Third Applicant Company at Circle 15(2)(2), Mumbai, Aaykar Bhavan, M.K.Road, Churchgate, Mumbai-400 020; and

22. The Applicant Companies are further directed to serve notices along with copy of the Scheme upon the Central Government through (i) the office of Regional Director, Western region, Mumbai and (ii) concerned Registrar of Companies (iii) SEBI, (iv) BSE Limited and (v) National Stock Exchange of India Limited pursuant to Section 230(5) of the Companies Act, 2013, by R.P.A.D. / Speed Post / Email / Hand delivery, with a direction that they may submit their representations, if any, within a period of thirty days from the date of receipt of such notice to the Tribunal with copy of such representations shall simultaneously be served upon the Applicant Companies, failing which, it shall be presumed that the authorities have no representations to make on the proposals.

23. The Third Applicant Company is also directed to serve notice upon Official Liquidator, pursuant to section 230(5) of the Companies Act, 2013 and as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. The Tribunal is appointing M/s Jitendra Chablani, Chartered Accountant to assist the Official Liquidator to scrutinize the books of accounts of the said Transferor Companies for the last 3 years and submit its representation / report to the Tribunal. The Transferor Company to pay a consolidated fee of Rs. 2,00,000/- for this purpose. If no representation / response is received by the Tribunal from

Official Liquidator, Mumbai within a period of thirty days from the date of receipt of such notice, it will be presumed that Official Liquidator has no representation / objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

24. The Applicant Companies to file affidavit of service in the registry proving dispatch of notices to the Regulatory authorities and creditors and do report to this Tribunal that the directions regarding the issue of notices have been duly complied with.

**Sd/-**

**CHANDRA BHAN SINGH**  
**MEMBER (TECHNICAL)**

**Sd/-**

**SUCHITRA KANUPARTHI**  
**MEMBER (JUDICIAL)**

**Date: 22.01.2020**