

THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH

C.A(CAA)/202/MB-I/2023

In the matter of
The Companies Act, 2013
and
In the matter of
The Companies Act, 2013 (18 of 2013)
and
Section 230-232 of the Companies Act,
2013
and other applicable provisions of
The Companies Act, 2013 r/w
The Companies (Compromises,
Arrangements and Amalgamations) Rules,
2016;
In the matter of
Scheme of Merger by Absorption of
Canopy Finance Limited
(Transferor Company)
Purple Finance Limited
(Transferee Company)

Canopy Finance Limited
CIN: L65910MH1981PLC380399

...Applicant No.1/
Transferor Company

Purple Finance Limited
CIN: U67120MH1993PLC075037

...Applicant No.2/
Transferee Company

“Collectively referred as Applicant Companies”

THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH

C.A(CAA)/202/MB-I/2023

Order delivered on 04.10.2023

Coram:

Shri Prabhat Kumar
Hon'ble Member (Technical)

Justice Shri V.G. Bisht
Hon'ble Member (Judicial)

Appearances (through)

For the Petitioner(s) : Mr. Ahmed Chunawala i/b
Rajesh Shah & Co.

ORDER

Per: Justice V.G. Bisht, Member (Judicial)

1. The Transferor Companies and Transferee Company (collectively referred to as 'Applicant Companies') states that the present Scheme is a Scheme of Merger by Absorption of **Canopy Finance Limited**, (Transferor Company) by **Purple Finance Limited**, (Transferee Company) under section 232 r/w Section 230 of the Companies Act, 2013 ('Scheme').
2. The Applicant Companies states that the Board of Directors of the Transferor Company and Transferee Company in their respective meetings conducted on 15th November, 2022 for the Transferor Company and the Transferee Company have approved the Scheme.
3. The rationale for the proposed Scheme is as under:

- (a) CFL and PFL are largely engaged in the same line of business activities. The proposed merger will enable the integration of the business activities of the Transferor Company (“CFL) with the Transferee Company (“PFL”).
- (b) Economies of scale will play a bigger role as the consolidated entity’s operational efficiency will increase, which will in turn allow the merged entity to compete on a larger scale in the industry, thus benefiting the merged entity and the shareholders.
- (c) The combined Networth of both the entities will enable the merged entity with more negotiation power for debt finance considering its size and financial strength further the merged entity will have option of equity raising.
- (d) This merger will provide an opportunity to leverage assets and build a stronger sustainable business. It will provide an opportunity to fully leverage stronger networth capabilities, experience, expertise and infrastructure of both the companies thus increased ability for promotion of business activities as well as for fund raising as may be required for business development.
- (e) This merger will result in business synergy, pooling of physical, financial and human resource of these Companies for the most beneficial utilization of these resources in the combined entity.
- (f) The merger will result to synergic benefits, efficiency of operations and management, rapid growth of the entity, optimum utilization of its resources and optimization of the administrative and operative costs, in a value creation for the shareholders and stakeholders of both CFL and PFL as the combined amalgamated company will have improved efficiency,

market share, financial structure, larger cash flows and stronger consolidated revenue and profitability.

- (g) The Merger will result in significant reduction in multiplicity of legal and regulatory compliances which at present are required to be done separately by the Transferee Company as well as by the Transferor Company.
- (h) The merger of CFL with PFL would result in consolidation of business activities of both the companies and will facilitate effective management of investments and synergies in operation.
- (i) The Promoter of CFL and PFL will jointly control PFL.
- (j) There is no likelihood that any shareholder or creditor or employee of CFL and PFL would be prejudiced as a result of the Scheme. Thus, the merger is in the interest of the shareholders, creditors and all other stakeholders of the companies and is not prejudicial to the interests of the concerned shareholders, creditors or the public at large.

4. The Business Clause is as follows:

- i. The Applicant Company No.1 is a Non-Banking Financial Company registered with Reserve Bank of India having Registration Number N-13.02430 and is *inter-alia* engaged in the business of lending money or financing Industrial Enterprises by way of making loans and advances or by subscribing to their Capital Structure. They carry out all the objectives of a NBFC Company and is mainly dealing in lending loans and advances. The Company is a Non-Deposit Taking Company.

- ii. The Applicant Company No.2 intends to become a new age NBFC *inter-alia* currently engaged in the business of offering small secured business loans across India predominantly in tier III & tier IV cities. Purple Finance Limited with its superior technology platform aspires to simplify the existing processes in the mortgages segment and is confident of making a difference to the MSME borrowers with simplified funding options and timely loan disbursements.
5. The Authorised Share Capital of the Applicant Company No.1, as on the 31st day of March, 2023 is as under:

Particulars	Amount in (Rs.)
Authorised Capital	
1,50,00,000 Equity Shares of Rs.10/- each.	15,00,00,000
Total	15,00,00,000
Issued and Subscribed and Paid-up	
1,05,93,001 Equity Shares of Rs. 10/- each fully paid-up.	10,59,30,010
TOTAL	10,59,30,010

As on date there is no change in the capital structure of the Applicant Company No.1

6. That the convening and holding the meeting of the Equity Shareholders of the Applicant Company No.1 for the purpose of considering and, if thought fit, approving, with or without modification(s) the proposed Scheme of Merger by Absorption of CANOPY FINANCE LIMITED, the Transferor Company

by PURPLE FINANCE LIMITED, the Transferee Company shall be convened & held as may be decided by the Chairman.

7. The Share Capital of the Applicant Company No.2 as on the 31st day of March, 2023 is as under:

Particulars	Amount in (Rs.)
Authorised Capital	
3,56,00,000 Equity Shares of Rs.10/- each.	35,60,00,000
Total	35,60,00,000
Issued, Subscribed and Paid-up	
2,30,21,953 Equity Shares of Rs. 10/- each fully paid-up.	23,02,19,530
Total	23,02,19,530

As on date, there is no change in the capital structure of the Applicant Company No.2.

8. That the convening and holding the meeting of the Equity Shareholders of the Applicant Company No.2 for the purpose of considering and, if thought fit, approving, with or without modification(s) the proposed Scheme of Merger by Absorption of **Canopy Finance Limited**, the Transferor Company by **Purple Finance Limited**, the Transferee Company shall be convened & held as may be decided by the Chairman.
9. At least 30 clear days before the said meeting of the Equity Shareholders of all the Applicant Company No. 1 & 2 to be held as aforesaid, a notice convening the said Meeting at the place, day, date and time aforesaid, together with a copy of the Scheme, a copy of the Explanatory Statement required to be sent under

Section 230 of the Companies Act, 2013 and the prescribed form of proxy, shall be sent by registered post or by air mail or by courier or by speed post or by hand delivery or email to each of the Equity Shareholders of all the Applicant Company No. 1 & 2 at their respective registered or last known addresses or by e-mail to the registered e-mail address of the Equity Shareholders as per the records of the Applicant Company No.1 & 2 or can be obtained free of charge at the registered office of the Applicant Company as aforesaid. The Applicant Company No.1 & 2 shall publish the notice convening the meeting of Equity Shareholders in 'Business Standard' in English and 'Navshakti' in Marathi having circulation in the State of Maharashtra in which the registered office of the company is situated.

10. The Applicant Company No. 1 & 2 undertakes to:
 - i. Issue notice convening meeting of the Equity Shareholders as per Form No. CAA.2 (Rule 6) of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016
 - ii. issue statement containing all the particulars as per Section 230 of the Companies Act, 2013;
 - iii. Issue form of proxy as per Form No. MGT-11 (Rule 19) of the Companies (Management and Administration) Rules, 2014; and
 - iv. advertise the notice convening meeting as per Form No. CAA.2 (Rule 7) the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

11. That Shri Sushil Kumar Agarwal, Retd. IRS, Mob:- 9437545158, Email: sushilkumar1957@yahoo.com, shall be the Chairperson of the meeting of Equity Shareholders of the Applicant Company No. 1 and failing him, Mr. Aneish Kumaran Kumar, Non-Executive Independent Director (Member of Audit Committee) shall be the alternate Chairperson of the said meeting. The Applicant Company No.1 is directed to pay remuneration of Rs.0.75 Lakh plus GST, if applicable to the Chairman. The Scrutinizer for the meeting of the Applicant Company No. 1 shall be Mr. Nitesh Chaudhary, a Practicing Company Secretary having Membership Number: FCS 10010. The Applicant Company No.1 is directed to pay remuneration of Rs.0.30 Lakh plus GST, if applicable to the Scrutinizer.
12. That Shri Sushil Kumar Agarwal, Retd. IRS, Mob:- 9437545158, Email: sushilkumar1957@yahoo.com, failing him, Mr. Ajay Panday (Chairman of the Audit Committee) shall be the alternate Chairperson of the said meeting. The Applicant Company No.2 is directed to pay remuneration of Rs.0.75 Lakh plus GST, if applicable to the Chairman. The Scrutinizer for the meeting of the Applicant Company No. 2 shall be Mr. Hardik Darji, a Practicing Company Secretary having Membership Number: ACS 47700. The Applicant Company No.2 is directed to pay remuneration of Rs.0.30 Lakh plus GST, if applicable to the Scrutinizer.
13. The Chairperson appointed for the aforesaid Equity Shareholders of the Applicant Company No. 1 & 2 to issue the notices of the meeting referred to above. The said Chairperson shall have all powers under the Companies (Compromises,

Arrangements and Amalgamations) Rules, 2016 in relation to the conduct of the meeting(s), including for deciding procedural questions that may arise or at any adjournment thereof or any other matter including an amendment to the Scheme or resolution, if any, proposed at the meeting by any person(s).

14. The quorum for the aforesaid meeting of the Equity Shareholders of the Applicant Company No. 1 & 2 shall be as prescribed under Section 103 of the Companies Act, 2013.
15. The 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 meeting, is filed with all the Applicant Company No.1 & 2 at their respective Registered Office not later than, 48 hours before the aforesaid Equity Shareholders meeting as required under Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
16. The value and number of the shares of each member shall be in accordance with the books/ register of all the Applicant Company No. 1 & 2 or depository records and where the entries in the books / register / depository records are disputed, the Chairperson of the Meeting shall determine the value for the purpose of the aforesaid meeting and his decision in that behalf would be final.
17. The Chairperson to file an affidavit not less than seven 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 advertisement have been duly complied with as per Rule 12 of

the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

18. The Chairperson to report to this Tribunal, the result of the aforesaid meeting within thirty days of the conclusion of the meeting, as per Rule 14 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
19. That Counsel for all the Applicant Company No. 1 & 2 submits that since the Scheme is an amalgamation between the Applicant Company and their respective shareholders, only a meeting of the Equity Shareholders is proposed to be held in accordance with the provisions of Section 230(1)(b) of the Companies Act 2013.
20. That the counsel for the Applicant Companies submits that there are no Secured Creditors in the Applicant Company No. 1 mentioned in Para 23 of the Application.
21. That there is 1 (One) secured Creditors having value of Rs. 29,64,374.67/- (Rupees Twenty Nine Lacs Sixty Four Thousand Two Hundred Three Hundred Seventy Four and Sixty Seven paise only) as on 31st March, 2023. That Counsel for the Applicant Company No. 2 submits that since the scheme is an arrangement between the Applicant Company No.2 and their respective shareholders in accordance with the provisions of the Companies Act, 2013. This bench hereby directs the Applicant Company No.2 to issue notice to its Secured Creditors as required 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 Applicant Company No.2

22. That the counsel for the Applicant Companies submits that there are no Unsecured Creditors in the Applicant Company No. 1 mentioned in Para 25 of the Application.
23. That there are 54 (Fifty Four) Unsecured Creditors having value of Rs. 48,33,794.61/- (Rupees Forty Eight Lacs Thirty Three Thousand Seven Hundred Ninety Four and Sixty One paise only) as on 31st March, 2023. The Counsel for the Applicant Company No. 2 submits that so far as Unsecured Creditors of the Applicant Company No. 2 are concerned most of them are in the nature of loan/sundry/trade creditors for activities of the Applicant Company No. 2 and the scheme of amalgamation does not envisage any compromise or arrangement with the Unsecured Creditors of the Applicant Company No. 2 and hence they will in no way be affected by the Scheme of Amalgamation. It is further submitted that the Applicant Company No.2 is meeting the amounts payable to its creditors from its activities and upon the Scheme becoming effective, the Applicant Company No. 2 shall continue with its existence and shall accordingly continue to meet the liabilities of its unsecured creditors as they arise in the normal course. Hence, this bench hereby directs the Applicant Company No.2 to issue notice to its Unsecured Creditors as required 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 Applicant Company No.2.
24. The Consideration is as follows:

- i. Upon the Scheme coming into effect and without any further act or deed on the part of PFL, PFL will, in consideration of transfer and vesting of CFL into PFL in terms of this Scheme, issue and allot in aggregate 1,05,93,001 (One Crore Five Lacs Ninety-Three Thousand and One) Equity Shares of Rs. 10/- each (the “New Shares”) to the registered fully paid-up equity shareholders of CFL in the ratio of 1:1 i.e., 1 (one) equity share of Rs. 10/- each credited as fully paid up in PFL for every 1 (one) equity share of the Face value of Rs. 10/- each held by them in CFL (“New Shares Entitlement Ratio”). The New Shares will be issued in the New Shares Entitlement Ratio to registered fully paid-up equity shareholders of CFL whose names are recorded in the register of equity shareholders of CFL on the Record Date.
25. That the Applicant Companies are directed to serve notices along with copy of Scheme under the provisions of Section 230 (5) of the Companies Act, 2013 and Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 upon the-
- a. Central Government through the office of Regional Director, Western Region, Mumbai;
 - b. Jurisdictional Registrar of Companies;
 - c. Jurisdictional Income Tax Authority within whose jurisdiction; the Applicant Company’s assessment are made; and the Nodal Authority in the Income Tax Department having jurisdiction over such authority i.e. Pr. CCIT, Mumbai, Address:- 3 rd Floor, Aayakar Bhawan, Mahrishi

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Karve Road, Mumbai – 400 020, Phone No. 022-22017654
[E-mail: Mumbai.pccit@incometax.gov.in];

- d. Jurisdictional GST Authority(s) (proper officer), within whose jurisdiction such companies are assessed to tax under GST law;
 - e. Ministry of Corporate Affairs;
 - f. National Stock Exchange;
 - g. Bombay Stock Exchange,
 - h. Securities Exchange Board of India
 - i. Reserve Bank of India;
 - j. Calcutta Stock Exchange; and
 - k. Any other Sectoral/Regulatory Authorities relevant to the Petitioner Companies or their business.
26. The Transferor Companies are directed to serve intimations of the Scheme upon the Official Liquidator, pursuant to section 230(5) of the Companies Act, 2013 and Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
27. The Notice shall be served through by Registered Post-AD, Speed Post and email along with copy of Scheme and state that *“If no response is received by the Tribunal from the concerned Authorities within 30 days of the date of receipt of the notice it will be presumed that the concerned Authorities has no objection to the proposed Scheme”*. It is clarified that notice service through courier shall be taken on record only in cases where it is supported with Proof of Delivery having acknowledgement of the noticee.
28. The Applicant Companies will submit –
- i. Details of Corporate Guarantee, Performance

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- Guarantee and Other Contingent Liabilities, if any.
- ii. List of pending IBC cases, if any, along with all other litigation;
 - iii. pending against the Applicant Companies having material impact on the proposed Scheme.
 - iv. The Applicant Companies shall submit details of all Letters of Credit sanctioned and utilized as well as Margin Money details; if any.
29. The Applicant Companies to file an affidavit of service within 10 working days after serving to notice to all the regulatory authorities as stated above and do report to this Tribunal that the directions regarding the issue of notices have been duly complied with.
30. The Appointed Date is 1st October, 2022

Sd/-

Prabhat Kumar
Member (Technical)

Sd/-

Justice V.G. Bisht
Member (Judicial)