

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

**CA (CAA)/138/MB-IV/2023**

*In the matter of the Companies Act,  
2013;*

**AND**

*In the matter of*

*Sections 230 to Section 232 of the  
Companies Act, 2013 and other  
applicable provisions of the  
Companies Act, 2013*

*read with Companies*

*(Compromises, Arrangements and  
Amalgamation) Rules, 2016;*

**AND**

*In the matter of  
The Scheme of Amalgamation  
of*

**TRF Limited**

*("First Applicant Company")*

*With*

**Tata Steel Limited**

*("Second Applicant Company")*

*And their respective Shareholders.  
('Scheme' or 'the Scheme')*



**TRF Limited**

[CIN: L74210JH1962PLC000700]

... Non-Applicant Company/  
Transferor Company

**Tata Steel Limited**

[CIN: L27100MH1907PLC000260]

... Second Applicant Company/  
Transferee Company

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Order delivered on **02.08.2023**

*Coram:*

Mr. Prabhat Kumar  
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli  
Hon'ble Member (Judicial)

*Appearances :*

For the Applicant : Mr. Zal Andhyarujina, Ld. Sr.  
Counsel i/b. P&A Law Offices.

**ORDER**

***Per: Kishore Vemulapalli, Member (Judicial)***

1. Heard the Ld. Sr. Counsel for the Applicant Company.
2. That the proposed Scheme of Amalgamation provides for the amalgamation of TRF Limited ("**Transferor Company**") into and with Tata Steel Limited ("**Applicant Company/ Transferee Company**") and their respective Shareholders ("**Scheme**") under sections 232 read with Section 230 of the Companies Act, 2013, such that:
  - a. all the assets of the Transferor Company, shall become the property of the Transferee Company, by virtue of the amalgamation;
  - b. all the liabilities of the Transferor Company, shall become the liabilities of the Transferee Company, by virtue of the amalgamation;
  - c. transfer of the authorised share capital of the Transferor Company to the Transferee Company as provided in Part III of the Scheme, and consequential increase in the authorised share capital of the



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Transferee 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 Companies Act, 2013 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 Transferee 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.
3. That the Applicant Company/Transferee Company is situated in Maharashtra and within the territorial jurisdiction of this Tribunal. The registered office of the Transferor Company is situated in Jharkhand and hence, outside the aforesaid jurisdiction. The Transferor Company has filed a separate Company Scheme Application bearing no. CA(CAA)No.106 of 2023 in respect of the Scheme under Sections 230-232 of the Companies Act, 2013 before the Kolkata Bench of the Hon'ble National Company Law Tribunal on April 04, 2023.
4. Considering the background, circumstances, rationale and benefits of the Scheme, the proposed amalgamation is beneficial, advantageous and not prejudicial to the Shareholders, Creditors and other Stakeholders of the



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Applicant Company and is beneficial to the public at large.

5. The Ld. Senior Counsel for the Applicant Company submits that the Applicant Company has prayed for convening and holding a meeting of the Equity Shareholders of the Applicant Company, through Video Conferencing (“**VC**”) or Other Audio-Visual Means (“**OAVM**”) on September 18, 2023 or any adjourned dates thereof, for the purpose of considering and if thought fit, approving, with or without modification(s), the proposed Scheme and for issuing appropriate directions incidental for holding of such meeting.
6. Accordingly, this Bench hereby directs that a meeting of the Equity Shareholders of the Applicant Company be convened and held through VC/OAVM, on September 18, 2023 or any adjourned dates thereof, for the purpose of considering and if thought fit, approving, with or without modification(s), the proposed Scheme.
  - 6.1 In light of the circulars issued by the Ministry of Corporate Affairs (“MCA Circulars”), it is directed that the voting by the Equity Shareholders of the Applicant Company shall be carried out through remote e-voting and e-voting at the time of the VC/OAVM convened meeting.
  - 6.2 At least 30 (thirty) clear days before the aforesaid meeting of the Equity Shareholders of the Applicant Company be held as aforesaid, a notice convening the said meeting, indicating the date and time aforesaid,



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containing instructions with regard to remote e-voting and e-voting at the time of the VC/OAVM meeting, together with a copy of the Scheme, a copy of the Explanatory Statement required to be sent pursuant to Section 102 read with Sections 230-232 of the Companies Act, 2013, shall be sent through electronic mode to those Equity Shareholders whose email ID's are registered with the Registrar and Transfer Agent/ Depositories/ Applicant Company and hard copy of the said notice may be sent to those Shareholders who request for the same.

- 6.3 At least 30 (thirty) days before the aforesaid VC/OAVM meeting of the Equity Shareholders of the Applicant Company to be held as aforesaid, an advertisement about convening the said meeting, indicating the date and time aforesaid, shall be published in 'Business Standard' in English and 'Navshakti' in Marathi, both circulated in Maharashtra, for the Applicant Company. The publication shall indicate the time within which the copies of the Scheme shall be made available to the concerned persons free of charge from the registered office of the Applicant Company. The publication shall also indicate that the statement required to be furnished pursuant to Section 102 read with Section 230-232 of the Companies Act, 2013 can be obtained free of charge at the registered office of the Applicant Company in accordance with the second proviso to sub-section (3) of Section 230 of the Companies Act, 2013 and Rule 7 of the Companies (Compromises,



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Arrangements and Amalgamations) Rules, 2016.

- 6.4 The Chairman of the Audit Committee of the Transferee Company shall act as the Chairperson for the aforesaid meeting of the Equity Shareholders of the Applicant Company convened for consideration of present Scheme, and shall be paid remuneration, if any payable, as resolved by the Board.
- 6.5 The scrutinizer for the aforesaid meeting of the Applicant Company shall be Mr. P. N. Parikh (Membership No. FCS 327 and CP No. 1228), failing him, Ms. Jigyasa Ved (Membership No. FCS 6488 and CP No. 6018), failing her, Mr. Mitesh Dhabliwala (Membership No. FCS 8331 and CP No. 9511), of M/s Parikh & Associates, Practicing Company Secretaries.
- 6.6 The quorum for the aforesaid meeting of the Equity Shareholders of the Applicant Company shall be as prescribed under Section 103 of the Companies Act, 2013. Equity Shareholders attending the meeting through VC/OAVM shall be counted for the purpose of reckoning the quorum under Section 103 of the Companies Act, 2013. In case the required quorum as stated above is not present at the commencement of meeting, the meeting shall be adjourned by 30 (thirty) minutes and thereafter, the persons present shall be deemed to constitute the quorum.
- 6.7 The Chairperson appointed for the aforesaid meeting of the Equity Shareholders of the Applicant Company



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shall issue the advertisement and send out the notices of the meeting referred to above and shall have all powers as per the Articles of Association of the Applicant Company and also under the Companies Act, 2013 read with the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 in relation to the conduct of the meeting, including for deciding procedural questions that may arise at the meeting or at any adjournments thereof or any other matter including an amendment to the Scheme or resolution, if any, proposed at the aforesaid meeting by any person(s) and to ascertain the outcome of the meeting of the Equity Shareholders by remote e-voting and e-voting at the VC/OAVM meeting.

6.8 Remote e-voting and e-voting at the VC/OAVM meeting by the authorised representative in case of body corporate shall be permitted, provided that the resolution/ authorisation authorising its representative to attend the meeting is duly signed by the person entitled to attend and vote at the aforesaid meeting, is filed with the Applicant Company through electronic mode, not later than 48 hours before start of the aforesaid meeting as required under Rule 10 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.



6.9 The voting rights of the Equity Shareholders of the Applicant Company shall be in proportion to their share of the paid-up Equity Share Capital of the Applicant

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Company as on the cut-off date and as per the respective Register of Members of the Applicant Company. Further, where the entries in the books/register/ depository records are disputed, the Chairperson of the meeting shall determine the voting rights for the purposes of the meeting of Equity Shareholders and his decision in that behalf would be final.

- 7 The Chairperson shall report to this Tribunal, the result of the aforesaid meeting within 30 (thirty) days of the conclusion of the aforesaid meeting, and the said report shall be verified by his Affidavit as per Rule 14 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
- 8 Ld. Senior Counsel for the Applicant Company further submits that since the Scheme is an arrangement amongst the respective Shareholders of the Applicant Company and Transferor Company as contemplated under Section 230 (1) (b) of the Companies Act, 2013 and not in accordance with the provisions of Section 230 (1) (a) of the Companies Act, 2013, as there is no compromise and/or arrangement with the creditors. The Scheme does not envisage or contain any corporate debt restructuring. The creditors (including debenture holders) of the Applicant 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. The assets of the Applicant Company are in excess of and more than





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sufficient to meet all its external liabilities and the Scheme will not adversely affect the rights and interest of any of its creditors (including debenture holders) in any manner whatsoever. Pursuant to the amalgamation of the Transferor Company with the Applicant Company, the debt repayment capacity of the Applicant Company will not be adversely affected and that the post Scheme net worth of the Applicant Company will be positive basis the Net Worth Certificate annexed to the Company Scheme Application. Therefore, the Scheme and the amalgamation contemplated thereby will not adversely affect the interests of the creditors (including debenture holders) of the Applicant Company. The strength of the financial position of the Applicant Company has been set out in its Balance Sheet annexed to the Company Scheme Application. Therefore, the meeting of the Secured and Unsecured Creditors (including the Unsecured Debenture Holders of the Applicant Company) of the Applicant Company is not required to be convened and may be dispensed with.

- 9 The Ld. Senior Counsel for the Applicant Company further submits that the Applicant Company may be allowed to issue individual notices to each of its Secured and Unsecured Creditors (including the Unsecured Debenture Holders of the Applicant Company) as on December 31, 2022 having an outstanding amount of INR 25,00,000 (Indian Rupees Twenty Five Lakhs Only) and above, stating therein that they may submit their representations in relation to the Scheme, if any, to this



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Hon'ble Tribunal within 30 (thirty) days from the date of receipt of the said notice and a copy of such representation filed by the Secured and Unsecured Creditors (including the Unsecured Debenture Holders of the Applicant Company) shall simultaneously be served upon the Applicant Company. Further, as on the date of filing of this Company Scheme Application, the Applicant Company has not issued any Preference Shares. Accordingly, the question of convening and holding meeting of the Preference Shareholders of the Applicant Company does not arise.

- 10 Accordingly, this Bench hereby directs the Applicant Company to issue notices to all its Secured and Unsecured Creditors (including the Unsecured Debenture Holders of the Applicant Company) as on December 31, 2022 having an outstanding amount of INR 25,00,000 (Indian Rupees Twenty Five Lakhs Only) and above, through Registered Post-AD/ Speed Post/ hand delivery and email to all its Secured and Unsecured Creditors respectively and individually, with a direction that they may submit their representations, if any, to the Tribunal within 30 (thirty) days from the date of receipt of the said notice and copy of such representations shall simultaneously be served upon the Applicant Company. The Notice shall state that *"If no representation/ response is received by the Tribunal from Secured/ Unsecured Creditor(s), within a period of thirty days from the date of receipt of such notice, it will be presumed that Secured/ Unsecured Creditor(s) has no representation/ objection to*



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*the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016*". Further, the notice(s) to the Secured Creditors and Debenture Holder's Security Trustee shall also bring to their notice that the Clause 12.2.2 and 12.2.3 of the Scheme of Merger may effect the value of the residuary charge over assets of the amalgamated company, in case any of such Creditor holds a residuary charge over the assets of the Transferee Company.

- 11 As per proviso to Section 230 (3), notice to Equity Shareholders and Creditors (including Debenture Holders) shall also be placed on the website of the Applicant Company and the Applicant Company being a listed company these documents shall be sent to the SEBI and Stock Exchanges where the securities of these companies are listed, for placing on their website.
- 12 That the Applicant Company is directed to serve notices along with a copy of the 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:
  - 12.1 Central Government (through the office of Regional Director, Western Region, Mumbai;
  - 12.2 Jurisdictional Registrar of Companies;
  - 12.3 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



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authority i.e. Pr. CCIT Mumbai, Address:- 3<sup>rd</sup> Floor, Aayakar Bhawan, Mahrishi Karve Road, Mumbai – 400 020, Phone No. 022-22017654 [Email: [Mumbai.pccit@incometax.gov.in](mailto:Mumbai.pccit@incometax.gov.in)];

- 12.4 Securities and Exchange Board of India;
- 12.5 BSE Limited;
- 12.6 Jurisdictional GST Authority (proper officer), within whose jurisdiction such companies are assessed to tax under GST law;
- 12.7 Ministry of Corporate Affairs;
- 12.8 the National Stock Exchange of India Limited;
- 12.9 Any other Sectoral/ Regulatory Authorities relevant to the Applicant Company or its business.

The Notice shall be served through by Registered Post-AD/ Speed Post/ Hand Delivery 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.

- 13 In view of the averments made in paragraph 43 of the Company Scheme Application, serving of notice along with a copy of the Scheme on the Competition



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Commission of India, in terms of Section 230 (5) of the Companies Act, 2013, is not required.

14 This Bench finds that the Appointed Date is April 01, 2022 and this Petition has been filed on April 04, 2023. The Ld. Counsel apprised this Bench that the approval from BSE and NSE came on March 31, 2023, hence, this Petition could not be presented within one year from the appointed date. This Bench feels that the present Petition is in compliance with this circular No. F. No. 7/12/2019/CL-1 dated August 21, 2019 issued by the Ministry of Corporate Affairs.

15 The Ld. Senior Counsel for the Applicant Company took this Bench through the following relevant clauses of the Scheme, which have been considered by this Bench:

(a) Clause 12.1 of the Scheme states: *“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*



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*Company, by virtue of and In the manner provided in this Scheme.”*

(b) Clause 12.2.2(a) of the Scheme states: “*All secured and unsecured Liabilities howsoever arising, whether provided for or not in the books of accounts or disclosed in the balance sheet of the Transferor Company, shall be deemed to be the debts, liabilities, contingent liabilities, duties and obligations of every kind, nature and description of the Transferee Company and the Transferee Company undertakes to meet, discharge and satisfy the same in terms of their respective terms and conditions, If any. It is hereby clarified that it shall not be necessary to obtain the consent of any third party or any other person who is a party to any contract or arrangement by virtue of which such debts, liabilities, duties, and obligations have arisen, in order to give effect to the provisions of this Clause. Necessary modification, as may be required would be carried out to the debt instrument issued by the Transferor Company, if any”.*

(c) Clause 12.2.2 (b) of the Scheme states: “*All loans raised and used and all debts, duties, undertakings, liabilities and obligations incurred or undertaken by the Transferor Company after the Appointed Date and prior to the Effective Date shall also be deemed to have been raised, used, incurred or undertaken for and on behalf of the Transferee Company and, to the extent they are outstanding on the Effective Date, shall, upon the coming into effect of this Scheme,*



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*pursuant to the provisions of the Act and all other applicable provisions of Applicable Laws, without any further act, instrument or deed shall stand transferred to and vested in or be deemed to have been transferred to and vested in the Transferee Company and shall become the debt, duties, undertakings, liabilities and obligations of the Transferee Company which shall meet, discharge and satisfy the same.”*

- (d) Clause 12.2.4 (a) of the Scheme states: “All contracts, agreements, memoranda of undertakings, memoranda of agreement, memoranda of agreed points, letters of agreed points, bids, letters of intent, arrangements, undertakings whether written or otherwise, lease rights, deeds, bonds, understandings, insurance policies, applications, schemes and instruments of whatsoever nature to which the Transferor Company is a party, or to the benefit of which, the Transferor Company may be eligible/entitled, and which are subsisting and having effect immediately before the Effective Date, shall without any further act, instrument or deed continue in full force and effect on, against or in favour of the Transferee Company and may be enforced as fully and effectually as if, instead of the Transferor Company, the Transferee Company had been a party or beneficiary or obligor thereto or thereunder. If the Transferee Company enters into and/ or issues and/ or executes deeds, writings or confirmations or enters



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*into any tripartite arrangements, confirmations or novations, the Transferor Company may, if necessary, also be party to such documents in order to give formal effect to the provisions of this Scheme. If so required and permitted under the law. The Transferor Company may also execute deeds of confirmation in favour of any party to any contract or arrangement to which the Transferor Company is a party as may be necessary to be executed in order to give formal effect to the above provisions. In relation to the same, any procedural requirements required to be fulfilled solely by the Transferor Company (and not by any of its successors), shall be fulfilled by the Transferee Company as if it is the duly constituted attorney of the Transferor Company...”;*

- 16 The Applicant Company will submit:
- a. Details of Corporate Guarantee, Performance Guarantee and Other Contingent Liabilities, if any, in so far as it is not dealt with in the Scheme;
  - b. List of pending IBC cases, if any, along with all other litigation pending against the Applicant Company having material impact on the proposed Scheme; and
  - c. The Applicant Company shall submit details of all Letters of Credit sanctioned and utilized as well as Margin Money details; if any, in so far as it is not dealt with in the Scheme.





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17 The Applicant Company will file Affidavit of Service in the Registry with regard to the directions given in this Order and do report to this Tribunal that the directions regarding the issue of notices have been duly complied with.

Sd/-

**Prabhat Kumar**  
**Member (Technical)**

/Dubey/

Sd/-

**Kishore Vemulapalli**  
**Member (Judicial)**



Certified True Copy \_\_\_\_\_  
Date of Application 04/8/2023  
Number of Pages 17  
Fee Paid Rs. 85/-  
Applicant called for collection copy on 04/8/2023  
Copy prepared on 04/8/2023  
Copy issued on 04/8/2023

*[Signature]*  
Deputy Registrar

National Company Law Tribunal, Mumbai Bench