

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**KOLKATA BENCH, COURT NO II**  
**Company Petition (CAA) No. 20/ KB /2024**  
**Connected with**  
**Company Application (CAA) No. 156/ KB /2023**

*Application under section 230 read with section 232 of the  
Companies Act, 2013, read with the Companies (Compromises,  
Arrangements and Amalgamations) Rules, 2016, and other  
applicable provisions of law.*

**In the matter of:**

**In the Scheme of Amalgamation (Final Motion)**

Park Agro Chem Private Limited having its Corporate Identification Number U74999WB1992PTC054207, a Company incorporated under the provisions of the Companies Act, 1956 and having its Registered Office at 59, Bentinck Street, 1<sup>st</sup> Floor, Kolkata - 700069, in the State of West Bengal;

**Transferor Company No. 1 / Petitioner No 1**

**-And-**

In the Matter of:

Vaishali Rasayans Private Limited having its Corporate Identification Number U55101WB1993PTC058457, a Company incorporated under the provisions of the Companies Act, 1956 and having its Registered Office at 59, Bentinck Street, 1<sup>st</sup> Floor, Kolkata – 700 069, in the State of West Bengal;

**Transferor Company No. 2 / Petitioner No 2**

**-And-**

In the Matter of:

Estelle Securities Private Limited having its Corporate Identification Number U65990WB2020PTC236640, a Company incorporated under the provision of the Companies Act, 2013 and having its Registered Office at 59, Bentinck Street, 1<sup>st</sup> Floor, Kolkata – 700 069, in the State of West Bengal;

**Transferee Company / Petitioner No 3**

IN THE NATIONAL COMPANY LAW TRIBUNAL

KOLKATA BENCH, COURT NO II

Company Petition (CAA) No. 20/ KB /2024  
Connected with  
Company Application (CAA) No. 156/ KB /2023

IN THE MATTER OF:

1. PARK AGRO CHEM PRIVATE LIMITED
2. VAISHALI RASAYANS PRIVATE LIMITED
3. ESTELLE SECURITIES PRIVATE LIMITED

..... PETITIONERS

**Date of pronouncing the order: 26 / 07 / 2024**

**Coram:**

**Smt. Bidisha Banerjee** : **Member (Judicial)**  
**Shri D. Arvind** : **Member (Technical)**

**For the Petitions** : 1. Mr. Amitabh Shukla, Advocate  
2. Prakash Chandra Pandey, Advocate

RD(ER), Kolkata

Mr. Channakeshava, JD

**ORDER**

**Arvind Devanathan , Member (Technical)**

1. The instant application has been filed under Section 230(6) of the Companies Act, 2013 ("Act") for sanction of the **Scheme of Amalgamation** of

PARK AGRO CHEM PRIVATE LIMITED	Transferor Company No. 1/ Petitioner No.1
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IN THE NATIONAL COMPANY LAW TRIBUNAL

KOLKATA BENCH, COURT NO II

Company Petition (CAA) No. 20/ KB /2024  
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Company Application (CAA) No. 156/ KB /2023

VAISHALI LIMITED	RASAYANS	PRIVAT	Transferor Company No. 2 / Petitioner No.2
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with Estelle Securities Private Limited Transferee Company /  
Petitioner No. 3 from the **Appointed Date, 01st April,2022** in the  
manner and on the terms and conditions stated in the said **Scheme of  
Amalgamation** (“Scheme”).

2. The Petition has now come up for final hearing. Counsel for the  
Petitioners submit as follows:-
- (a) The appointed date as per the Scheme is 1<sup>st</sup> April, 2022.
  - (b) The Scheme was approved by the Board of Directors of Petitioner  
No. 1, 2 and 3 at their meeting held on 31<sup>st</sup> January, 2023 have  
approved the Composite Scheme of Amalgamation.
  - (c) The circumstances which justify and/or have necessitated the  
Composite Scheme of amalgamation and the benefits of the same  
are inter alia as follows:
    - (i) The amalgamation will enable the Transferee Companies  
to consolidate its line of business by restricting and  
reorganizing its business activities and Capital Structure;
    - (ii) The amalgamation will enable the amalgamated company  
to broad base their business activities under the roof of  
the Transferee Company;
    - (iii) The amalgamation will result in economy of scale  
including reduction in overhead expenses relating to  
management and administration in better and more  
productive utilization of various resources;

- (iv) The business of the Company can be conveniently and advantageously combined together and in general business of the Company concerned will be carried on more economically and profitably under the said Scheme;
- (v) The said Scheme of Amalgamation will enable the establishment of a larger company with larger resources and a larger capital base enabling further development of the business of the company concerned. The said Scheme will also enable the undertakings and business of the said applicant company to obtain greater facilities possessed and enjoyed by one large company compared with a number of small company for raising capital, securing and conducting trade on favorable terms and other benefits;
- (vi) The said Scheme will contribute in furthering and fulfilling the objects of the Company concerned and in the growth and development of these businesses;
- (vii) The said Scheme will strengthen and consolidate the position of the amalgamated company and will enable the amalgamated company to increase its profitability;
- (viii) The said Scheme will enable the undertakings concerned to pool their resources and to expand their activities;
- (ix) The said Scheme will enable the Company concerned to rationalize and streamline their management, business and finances and to eliminate duplication of work to their common advantages;

- (x) The said Scheme will have beneficial results for the Company concerned, their shareholders, employees and all concerned.
- (d) The statutory Auditors of the Petitioner Companies have by their certificate dated 31<sup>st</sup> January, 2023 have confirmed that the accounting treatment in the Scheme is in conformity with the accounting standards prescribed under Section 133 of the Companies Act, 2013.
- (e) No proceedings are pending under Sections 210 to 227 of the Companies Act, 2013 against the Petitioners.
- (f) The exchange ratio of shares in consideration of the Amalgamation has been fixed on a fair and reasonable basis and on the basis of the Valuation Report dated 31<sup>st</sup> March, 2022 thereon of Vishnu K Tulsyan, an independent Chartered Accountant.
- (g) By an order dated 5<sup>th</sup> January, 2024 in Company Application (CAA) No. 156/KB/2023, this Tribunal made the following directions with regard to meetings of shareholders and creditors under Section 230(1) read with Section 232(1) of the Act: -  
**Meetings dispensed:** Meetings of the Equity Shareholders of the Petitioner No. 1, 2, and 3 are dispensed with under Section 230(1) read with Section 232(1) of the Act. No requirement of meeting of creditors of the Applicant Companies, as NIL creditors, duly verified by auditors' certificate.
- (h) Consequently, the Petitioners presented the instant petition for sanction of the Scheme. By an order dated 9<sup>th</sup> February, 2024

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the instant petition was admitted by this Tribunal and fixed for hearing on 14<sup>th</sup> March, 2024 upon issuance of notices to the Statutory/Sectoral Authorities and advertisement of date of hearing. In compliance with the said order dated 9<sup>th</sup> February, 2024, the petitioners have duly served such notices on the Regulatory Authorities viz

Authorities	By Hand/Speed Post	By Email
The Regional Director, Eastern Region, Ministry of Corporate Affairs	01.03.2024	04.03.2024
The Registrar of Companies, West Bengal	01.03.2024	04.03.2024
The Official Liquidator, High Court, Calcutta	01.03.2024	04.03.2024
Income Tax Authorities	01.03.2024	04.03.2024
Securities & Exchange Board of India	04.03.2024	04.03.2024
National Stock Exchange of India	04.03.2024	04.03.2024
Bombay Stock Exchange Limited	04.03.2024	04.03.2024
Competition Commission of India	04.03.2024	04.03.2024
Paper publication	02.03.2024	
Affidavit of compliance filed with the Registry	14.03.2024	

- (i) All statutory formalities requisite for obtaining sanction of the Scheme have been duly complied with by the Petitioners. The Scheme has been made bonafide and is in the interest of all concerned.

3. The Official Liquidator has filed his report dated 11<sup>th</sup> March, 2024 and stated that the affairs of the Transferor Companies do not appear to have been conducted in a manner prejudicial to the interest of its members or to public interest as per provisions of the Companies Act 1956, the Companies Act, 2013, whichever is applicable.
4. The Regional Director , Eastern Region, Ministry of Corporate Affairs at Kolkata has filed his reply affidavit dated 15<sup>th</sup> April,2024 (“RD Affidavit”) which has been dealt with by the Petitioners by their Rejoinder affidavit dated 15<sup>th</sup> May,2024 (“Rejoinder”) . The observations of the Regional Director and responses of the Petitioners are summarized as under:-

**Observation of the Regional Director in Paragraph 2(a) and 2(b) of RD Affidavit:**

That it is submitted to the examination 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. All the petitioner Companies are updated in filing their Financial Statements and annual Returns for the financial year ended 31/03/2023.

It is submitted that as per Scheme of Amalgamation, the main objects of the Transferee Company, Estelle Securities Private Limited are, inter alia, to carry on business as Shares and Stock brokers for subscribing to and for the sale and purchase or deal in securities and Foreign Exchange(s), to provide services or facilities of every description provided by shares, Stock brokers, Shares and Stock jobbers, Share

Dealers, Investment, Depository Participants under Depository Act, Foreign Exchange Dealer and Fund Manager to promote formation mobilization and placement of Shares or Loan Capital. The name of the Transferee Company i.e. Estelle Securities Private Limited itself suggests the same regarding its main activities. Further, the company was incorporated with a view to do stock broking business and they have already obtained the membership of NSE, BSE and CDSL. In view of the above and since the Company is already registered as member of NSE, BSE and CDSL, in terms of the SEBI circular/guidelines, the Company is required to obtain prior approval from the concerned Stock Exchange(s) for change in status or constitution which, inter alia, includes amalgamation, demerger, consolidation or any other kind of corporate restructuring. Hon'ble Tribunal may peruse the same and issue order as deemed fit and proper.

**Response of the Petitioners contained in Paragraph 3 of the Rejoinder:**

With regard to the observation made by the Central Government in paragraph 2(b) of the said affidavit, I say that the Transferee Company namely, Estelle Securities Private Limited was incorporated with a view to do Stock Broking business and had obtained the membership of NSE and BSE. I say that the Transferee company in terms of circular/guidelines issued by the SEBI applied before the NSE and BSE and sought prior approval before the filing of the amalgamation. I say that the NSE and BSE by their letters dated 17<sup>th</sup> March, 2023 and 26<sup>th</sup> May, 2023 respectively granted their prior approval to the proposed scheme of application. The copies of the said approval letters



dated 17<sup>th</sup> March, 2023 and 26<sup>th</sup> May,2023 are annexed herewith and marked as Annexure-X, collectively.

**Observation of the Regional Director in Paragraph 2(c) of RD Affidavit:**

The appointed Date stated in the Scheme is 1<sup>st</sup> April, 2022. All the Petitioner Companies have already filed Financial Statements for the year ended 31/03/2023. In terms of the circular No. 09/2019 dated 21.08.2019 of the Ministry of Corporate Affairs, “where the ‘appointed date’ is chosen is chosen as a specific calendar date, it may precede the date of filing of the application for scheme of merger/amalgamation in NCLT. However, if the appointed date is significantly ante dated beyond a year from the date of filing, the justification for the same would have to be specifically brought out in the scheme and it should not be against public interest”. It is not ascertainable from the documents provided by the Applicant whether the application for the scheme was filed before Hon’ble Tribunal within a year from the said Appointed Date. If the application for the scheme was filed with the Hon’ble Tribunal after more than one year from the appointed date, Hon’ble Tribunal may kindly direct the Applicant to bring out the justification for the Appointed Date being more than one year before the date of filing of the Application for the scheme, in accordance with the said Circular.

**Response of the Petitioners contained in Paragraph 4 of the Rejoinder:**

With regard to observation made by the Central Government in paragraph 2(c) of the said affidavit, I say that initially the petitioner companies filed an application under section 233 of Companies Act, 2013 before the Regional Director seeking approval of the proposed scheme of amalgamation of Park Agro Chem Private Limited and Vaishali Rasayans Private Limited with Estelle Securities Private Limited as all the companies are under the ambit of "SMALL COMPANY". The joint Director by his letter dated 30.05.2023 informed the petitioner that as Estelle Securities Private Limited is a SEBI registered Market Intermediary for Stock Broking and Depositories, the application under section 233 of Companies Act, 2013 is not maintainable and the same was disposed of as returned with liberty to file fresh. This fact was brought to the notice of the Hon'ble Tribunal in the first application i.e. CA(CAA) 156 of 2023 at pages 221-222. That CA(CAA) 156 of 2023 was filed on 23<sup>rd</sup> July, 2023 and the Appointed Date in the scheme of Amalgamation is 1<sup>st</sup> April, 2022. The petitioners have already filed Financial Statements for the year ended on 31/03/2023. It will be evident therefrom that there no substantial changes in the accounts of the companies. It is stated that the Hon'ble Tribunal may be pleased to change and/or vary the Appointed Date in terms of the Circular no. 09/2019 dated 21.09.2019 of the Ministry of Corporate Affairs and the Appointed Date may be treated as 01.04.2023 instead of 01.04.2022.

**Observation of the Regional Director in Paragraph 2(d) of RD Affidavit:**

The Petitioner Companies 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 of the Petitioners contained in Paragraph 5 of the Rejoinder:**

With regard to observation made by the Central Government in paragraph 2(d) of the said affidavit, I say that the list/details of Assets of the Transferor companies shall be filed upon sanctioning of the proposed Scheme by the Hon'ble Tribunal within such time as stipulated therein.

**Observation of the Regional Director in Paragraph 2(e) of RD Affidavit:**

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 of the Petitioners contained in Paragraph 6 of the Rejoinder:**

With regard to observation made by the Central Government in paragraph 2(d) of the said affidavit, I say that the list/details of Assets of the Transferor companies shall be filed upon sanctioning of the proposed Scheme by the Hon'ble Tribunal within such time as stipulated therein.

**Observation of the Regional Director in Paragraph 2(f) of 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 of the Petitioners contained in Paragraph 7 of the Rejoinder:**

With regard to observation made by the Central Government in paragraph 2(f) of the said affidavit, I say that there are no immovable properties of the Transferor companies and hence there is no transfer of the immovable properties.

**Observation of the Regional Director in Paragraph 2(g) of 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 the same and there is no discrepancy or no change is made.

**Response of the Petitioners contained in Paragraph 8 of the Rejoinder:**

With regard to observation made by the Central Government in paragraph 2(g) of the said affidavit, I say and declare that the Scheme enclosed to the Company Application and the Company Petition are one and same and there is no discrepancy or no change is made.

**Observation of the Regional Director in Paragraph 2(h) of RD Affidavit:**

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 05/02/2024 for their views/observations in the matter. But the income Tax Department has not forwarded their report till date. However, the same is still awaited. Hon'ble Tribunal may peruse the same and issue order as deemed fit and proper.

**Response of the Petitioners contained in Paragraph 9 of the Rejoinder:**

With regard to observation made by the Central Government in paragraph 2(h) of the said affidavit, I say that the Income Tax department has nothing adverse against the petitioner companies and non filing of any adverse report may be treated as their affirmation to the scheme of amalgamation.

5. Heard the submissions made by the Ld. Counsel appearing for the Petitioners and JD appearing for the RD(ER). Upon perusing the records and documents in the instant proceedings and considering the submissions , we allow the petition and make the following orders:-

a) The Scheme of Amalgamation mentioned in this Petition being Annexure "A" hereto be sanctioned by this Hon'ble Tribunal to be binding with effect from 1st day of April, 2023 (Appointed Date) on Park Agro Chem Private Limited and Vaishali Rasayans Private Limited with Estelle Securities Private Limited and their shareholders and all concerned;

b) All the properties, rights and interest of Park Agro Chem Private Limited and Vaishali Rasayans Private Limited be transferred to and vested in without further act or deed in Estelle Securities Private Limited and accordingly the same shall pursuant to Section 232 of the Companies Act, 2013 and read with Companies (Compromises, Arrangements and Amalgamation) Rules, 2016 be transferred to and vested in Estelle Securities Private Limited for all the estate and interest of Park Agro Chem Private Limited and Vaishali Rasayans Private Limited but subject nevertheless to all charges, now affecting the same;

c) All the liabilities and duties of Park Agro Chem Private Limited and Vaishali Rasayans Private Limited be transferred without further act or deed to Estelle Securities Private Limited and accordingly the same shall pursuant to Section 232 of the Companies Act, 2013 and read with Companies (Compromises, Arrangements and Amalgamation) Rules, 2016 be transferred to and become the liabilities and duties of Estelle Securities Private Limited;

d) That all the proceedings and/or suit appeals now pending by or against Park Agro Chem Private Limited and Vaishali Rasayans Private Limited shall be continued by or against Estelle Securities Private Limited;

e) The Transferee Company do issue and allot shares to the shareholders of Park Agro Chem Private Limited and Vaishali Rasayans Private Limited as envisaged in the said Scheme of

Amalgamation and for that, if necessary, to increase the authorized share capital;

f) The schedule of assets in respect of Park Agro Chem Private Limited and Vaishali Rasayans Private Limited be filed within a period of 60 days from the date of the order to be made herein;

g) The Transferor Companies namely Park Agro Chem Private Limited and Vaishali Rasayans Private Limited shall stand dissolved without winding up from the appointed date;

h) Estelle Securities Private Limited, Park Agro Chem Private Limited and Vaishali Rasayans Private Limited shall within 30 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 Registrar of Companies, West Bengal for registration and on such certified copies being so delivered , the Transferor Companies shall be dissolved without winding up, with effect from the date or last of the dates of filing of the certified copies of the order, as aforesaid (Effective Date) and the Registrar of Companies, West Bengal shall place all documents relating to the Transferor Companies and registered with him on the file kept by him in relation to the Transferee Company and the files relating to the said Companies shall be consolidated accordingly.

6. The Petitioners shall supply legible printout of the Scheme and Schedule of Assets and Liabilities in acceptable form to the

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department and the department will append such printout, upon verification to the certified copy of the order.

7. The Regional Director submitted has no objection if the scheme is approved by this Hon'ble Tribunal under section 230(6) of the companies Act 2013.
8. The **Company Petition C.P. (CAA) No. 20/KB/2024 connected with Company Application C.A.(CAA) No. 156/KB/2023** is disposed of accordingly.
9. Urgent Certified copy of this order, if applied or, be supplied to the parties, subject to compliance with all requisite formalities.

**D. Arvind**  
**Member (Technical)**

**(Bidisha Banerjee)**  
**Member (Judicial)**

**Signed on this, the 26<sup>th</sup> day of July, 2024.**

NKS(LRA)