

**IN THE NATIONAL COMPANY LAW
TRIBUNAL KOLKATA BENCH, COURT-II**

**C.P. (CAA) No.44/KB/2024
Connected with
C.A.(CAA) No.224/KB/2023**

***A petition 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:

A Scheme of Amalgamation of (Final Motion):

TULSYAN VENTURE PRIVATE LIMITED, a company within the meaning of the Companies Act, 2013 having its CIN: U27300WB2010PTC154601 and having its registered office at 5A, Robinson Street, Kolkata-700017 in the State of West Bengal.

.....Applicant No.1/Transferor Company
No.1

-And-

TULSYAN ENTERPRISE PRIVATE LIMITED, a company within the meaning of the Companies Act, 2013 having its CIN: U51420WB1989PTC047708 and having its registered office at 5A, Robinson Street, Kolkata-700017 in the State of West Bengal.

.....Applicant No.2/Transferor Company
No.2

-And-

G.L. FINANCE PRIVATE LIMITED, a company within the meaning of the

NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH, COURT-II

C.P.(CAA) No.44/KB/2024
Connected with
C.A.(CAA) No.224/KB/2023

Companies Act, 2013 having its CIN: U67120WB1990PTC048327 and having its registered office at 5A, Robinson Street, Kolkata-700017 in the State of West Bengal.

.....Applicant No.3/Transferor Company
No.3

-And-

SIMPLEX COMMERCIAL PRIVATE LIMITED, a company within the meaning of the Companies Act, 2013 having its CIN: U51109WB2008PTC123526 and having its registered office at 5A, Robinson Street, Kolkata-700017 in the State of West Bengal.

.....Applicant No.4/Transferor Company
No.4

-With-

G.L. & SONS (M & P) PVT.LTD., a company within the meaning of Companies Act, 2013 having CIN: U27209WB1968PTC027347 and having its registered office at 5A, Robinson Street, Kolkata-700017 in the State of West Bengal.

.....**Applicant** **No.5/Transferee**
Company

In the matter of:

- 1) Tulsyan Venture Private Limited
- 2) Tulsyan Enterprise Private Limited
- 3) G.L. FinancePrivateLimited
- 4) Simplex Commercial Private Limited
- 5) G.L. & Sons (M &P) Pvt. Ltd

...Applicants

Date of Pronouncing the Order: 26.07.2024

Coram:

Smt. Bidhisha Banerjee :Member (Judicial)

Shri D. Arvind :Member (Technical)

Counsel on Record for the Petitioner(s):

- Mr.Sandip Kumar Kejriwal (PCS)

For Regional Director, Eastern Region, MCA

- Mr. Alok Tandon, Joint Director, Eastern Region

ORDER

Per: D. Arvind, Member (Technical)

- 1) The instant petition has been filed under Section 230 read with Section 232 of the Companies Act, 2013 (“**Act**”) for sanction of the Scheme of Amalgamation of **Tulsyan Venture Private Limited** being the Applicant No.1 above named (“Transferor Company” or “Applicant No.1”) ,**Tulsyan Enterprise Private Limited** being the Applicant No.2 above named (“Transferor Company” or “Applicant No. 2”), **G.L. Finance Private Limited** being the Applicant No.3 above named (“Transferor Company” or “Applicant No. 3”), **Simplex Commercial Private Limited** being the Applicant No.4 above named (“Transferor Company” or “Applicant No. 4”), with **G.L. & Sons (M&P) Pvt.Ltd.** being the Applicant No. 5 above named (“Transferee Company” or “ApplicantNo.5”)where by and where under the Transferor Companies are proposed to be amalgamated with the Transferee Company from the Appointed Date, viz**1st day of April, 2023** 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.The Counsel for the Petitioners submit as follows:
 - (a) The Scheme was approved unanimously by the respective Board

of Directors of the Petitioner Companies at their meetings held on 12.12.2023.

(b) The circumstances which justify and/ or have necessitated the Scheme and the benefits of the same are interalia as follows:-

- i. All the Transferor Companies and the Transferee Company are engaged in similar kind of businesses.
- ii. The Scheme of Amalgamation has been proposed to consolidate the group structure and provide advantages of synergies in business activities.
- iii. The business of the Transferor Companies and the Transferee Company can be combined and carried forward conveniently with the combined strength of all the Petitioner Companies.
- iv. The amalgamation will enable the amalgamated company to broad base their business activities under the roof of the Transferee Company.
- v. The amalgamation will result in unusual economies of scale including reduction in over head expenses relating to management and administration in better and more productive utilization of various resources and the business of the companies can be conveniently and advantageously combined together and in general business of the Companies concerned will be carried on more economically and profitably under the said Scheme of Amalgamation.
- vi. 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 Companies concerned. The aforesaid Scheme of Amalgamation will also enable the undertakings and business of the said Petitioner Companies to obtain greater facilities possessed and enjoyed by one large company compared with a number of small companies for raising capital, securing and conducting trade on favourable terms and other benefits.

- vii. The said Scheme of Amalgamation will contribute in furthering and fulfilling the objects of the companies concerned and in the growth and development of these businesses.
 - viii. The said Scheme of Amalgamation will strengthen and consolidate the position of the amalgamated company and will enable the amalgamated company to increase its profitability.
 - ix. The said Scheme of Amalgamation will enable the undertakings concerned to pool their resources and to expand their activities.
 - x. The said Scheme of Amalgamation will enable the Companies concerned to rationalize and streamline their management, business and finances and to eliminate duplication of work to their common advantages.
 - xi. The said Scheme of Amalgamation will have beneficial results for the Companies concerned, their shareholders, employees and all concerned.
- (c) The Statutory Auditors of the Transferor Companies and the Transferee Company have by their certificates dated 12.12.2023 confirmed that the accounting treatment in the Scheme is in

conformity with the accounting standards prescribed under Section 133 of the Companies Act, 2013.

(d) No proceedings are pending under Sections 210 to 227 of the Companies Act, 2013 against the Petitioners.

(e) 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 report thereon of Ms. Nikita, Registered Valuer.

(f) The shares of none of the Petitioner Companies are not listed on any stock exchanges.

(g) By an order dated 24.01.2024 in Company Application **C.A.(CAA)No. 224/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:

i. Meeting dispensed:

Meetings of the Equity Shareholders, Secured Creditors and Unsecured Creditors of all the Applicant Companies are dispensed under sub-section

(1) Of Section 230 read with sub-section (1) of Section 232 of the Act.

ii. Meeting to be held:

No meeting is required to be held.

(h) Consequently, the Petitioners presented the instant petition for sanction of the Scheme. By an order dated 11.03.2024, the instant petition was admitted by this Tribunal and fixed for hearing on 22.04.2024 upon issuance of notices to the Statutory/Sectoral

NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH, COURT-II

C.P.(CAA) No.44/KB/2024
Connected with
C.A.(CAA) No.224/KB/2023

Authorities and advertisement of the date of hearing. In compliance with the said order, the Petitioner(s) have duly served such notices on the following authorities:

Name of the Regulatory Authority	Date of Service	
	Hand Delivery	Mail
Regional Director, Eastern Region, Ministry of Corporate Affairs	22.03.2024	22.03.2024
Registrar of Companies, West Bengal	22.03.2024	22.03.2024
Official Liquidator, High Court, Kolkata	22.03.2024	22.03.2024
Income Tax Office, G.L. & Sons (M &P) Pvt Ltd	27.03.2024	22.03.2024
Income Tax Office, Tulsyan Venture Pvt Ltd	27.03.2024	22.03.2024
Income Tax Office, Tulsyan Enterprise Pvt Ltd	27.03.2024	22.03.2024
Income Tax Office, G.L. Finance Pvt Ltd	27.03.2024	22.03.2024
Income Tax Office, Simplex Commercial Pvt Ltd	27.03.2024	22.03.2024
Reserve Bank of India	22.03.2024	22.03.2024
Goods and Service Tax Department(GST), G.L. & Sons (M & P) Pvt. Ltd	27.03.2024	22.03.2024
Goods and Services Tax Department (GST), Tulsyan Venture Pvt. Ltd.	27.03.2024	22.03.2024
Goods and Service Tax Department (GST), Tulsyan Enterprise Pvt. Ltd., G.L. Finance Pvt. Ltd. and Simplex Commercial Pvt. Ltd.	GST Not Applicable, Declaration has been given by the Petitioner Companies	
Original copy of News Paper Advertisement in Financial Express (English daily) and Aajkaal (Bengali daily)	22.03.2024	

The Petitioners have also published advertisements in two news papers viz. newspapers “**The Financial Express**” in English Language and “**Aajkaal**” in Bengali Language on 22nd March, 2024. An affidavit of service in this regard has also been filed by them on 09.04.2024.

- (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) Pursuant to the said advertisements and notices, the Regional Director, Ministry of Corporate Affairs, Kolkata and the Official Liquidator, High Court, Kolkata have filed their representations before this Tribunal.
- 4) The Official Liquidator has filed a Report dated **22.05.2024** wherein it has been stated that *on the basis of the information submitted by the Petitioner Companies, the Official Liquidator is of the view that the affairs of the Transferor Companies do not appear to have been conducted in a manner prejudicial to the interests of its members or to public interest as per the provisions of the Companies Act, 2013. Further, the Official Liquidator stated that the Tribunal may be pleased to pass such further order or orders as maybe deem fit and proper in the matter.*
- 5) The Regional Director, Eastern Region, Ministry of Corporate Affairs (MCA), Kolkata vide his affidavit filed dated 19.04.2024 has reported certain observations in respect whereof the Petitioner Companies have filed their rejoinder dated 07.05.2024. The said observations and the reply thereof are given under neath:

➤ **Query stated at Para 2(b) of the Regional Director's Report:**

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.

Reply to Para No. 2(b) of the Rejoinder:

The Petitioners hereby state that the list/ details of Assets to be transferred from the Transferor Companies to the Transferee Company upon sanctioning of the proposed Scheme will be submitted after sanctioning of the Scheme by the Hon'ble Tribunal.

➤ **Query stated at Para 2(c) of the Regional Director's Report:**

The Petitioner Company should undertake to comply with the provisions of Section 232(3)(i) of the Companies Act, 2013 through appropriate affirmations.

Reply to Para No.2(c) of the Rejoinder:

The Petitioners hereby undertake to comply with the provisions of Section 232(3) (i) of the Companies Act, 2013.

➤ **Query stated at Para 2(d) of the Regional Director's Report:**

The Transferee Company should be directed to pay applicable stamp duty on the transfer of the immovable properties from the Transferor Companies to it.

Reply to Reply to Para No. 2(d) of the Rejoinder:

The Petitioners hereby state that the Transferee Company shall, if applicable, pay the required stamp duty upon transfer of the immovable properties from the Transferor Companies to it.

➤ **Query stated at Para 2(e) of the Regional Director's Report:**

The Hon'ble Tribunal may direct the Petitioners to file an affidavit to extent that the scheme enclosed to the Company Application and Company Petition are one and same and there is no discrepancy.

Reply to Para No. 2(e) of the Rejoinder:

The Petitioners state that the Scheme enclosed to the Company Application and Company Petition is one and the same and that there is no discrepancy, or no change is made.

➤ **Query stated at Para 2(f) of the Regional Director's Report:**

As per instructions of the Ministry of Corporate Affairs, New Delhi,

a copy of the scheme was forwarded to Income Tax Department on 13.02.2024 for their views/observation in the matter.

Reply to Para No.3(f)oftheRejoinder:

It is hereby submitted that the observation pointed out by the Regional Director in Para 2(f) of his affidavit is a matter of fact and the Petitioners have nothing to comment on it.

6) Heard submissions made by the Ld. Counsel/ Authorized Representative appearing for the Petitioners and Mr. Alok Tandon, JD appearing for the office of the Regional Director, MCA. 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 be and is hereby sanctioned by this Tribunal with Appointed date as **01stApril, 2023**("Appointed Date") and shall be binding on **Tulsyan Venture Private Limited** being the Applicant No. 1 above named ("Transferor Company" or "Applicant No. 1"), **Tulsyan Enterprise Private Limited** being the Applicant No.2 above named ("Transferor Company" or "Applicant No.2"),**G.L. Finance Private Limited** being the Applicant No. 3 above named ("Transferor Company" or "Applicant No. 3"), **Simplex Commercial Private Limited** being the Applicant No. 4 above named ("Transferor Company" or "Applicant No. 4"), with **G.L. & Sons (M&P) Pvt. Ltd.** Being the Applicant No.5 above named ("Transferee Company" or "Applicant No. 5") and their respective shareholders and creditors and all concerned;

(b) All the property, rights and powers of the Transferor Companies, including those described in the Schedule of Assets here in, be transferred from the said Appointed Date, without further actor deed, to the Transferee Company and, accordingly, the same shall pursuant to Section 232 (4) of the Companies Act, 2013, be

transferred to and vest in the Transferee Company for all the estate and interest of the Transferor Company there in but subject never the less to all charges now affecting the same, as provided in the Scheme;

- (c) All the debts, liabilities, duties and obligations of the Transferor Companies be transferred from the said Appointed Date, without further act or deed to the Transferee Company and, accordingly, the same shall pursuant to Section 232 (4) of the Companies Act, 2013, be transferred to and become the debts, liabilities, duties and obligations of the Transferee Company.
- (d) The employees of the Transferor Companies shall be engaged by the Transferee Company, as provided in the Scheme.
- (e) All proceedings and/or suits and/or appeals now pending by or against the Transferor Companies be continued by or against the Transferee Company, as provided in the Scheme.
- (f) The Transferee Company do without further application issue and allot to the shareholders of the Transferor Companies, the shares in the Transferee Company to which they are entitled in terms of the Scheme.
- (g) Leave is granted to the Petitioner(s) to file the Schedule of Assets & liabilities of the Transferor Companies in the form as prescribed in the Schedule to Form No.CAA7 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 or as applicable, within three weeks from the date of receiving a copy of this order.
- (h) The Transferor Companies and the Transferee Company shall each within thirty days of the date of the receipt of this order, cause a certified copy thereof to be delivered to the Registrar of Companies for registration and on such certified copies being so

NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH, COURT-II

C.P.(CAA) No.44/KB/2024
Connected with
C.A.(CAA) No.224/KB/2023

delivered, the Transferor Company shall be dissolved without winding up.

- (i) Any person/authority aggrieved shall be at liberty to apply to this Tribunal in the above matter for any directions that maybe necessary.
- 7) The Petitioner(s) shall supply a legible printout of the Scheme and schedule of assets in acceptable form to the Registry and the Registry will append such printout, after verification, to the certified copy of the order.
- 8) 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.
- 9) **Company Petition (CAA) No.44/KB/2024 is disposed of** accordingly.
- 10) Certified copy of this order, if applied, be supplied to the parties, subject to compliance with all requisite formalities.

D. Arvind
Member(Technical)

Bidisha Banerjee
Member(Judicial)

Signed on this 26th Day of July, 2024.

NKS(LRA)