

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH  
KOLKATA**

C.A. (CAA) NO. 73/KB/2024

*An application under Sections 230-232 of the Companies Act, 2013 read with Companies  
(Compromises, Arrangement and Amalgamations) Rules, 2016.*

**In the matter of:**

1. UMANG DAIRIES LIMITED, (CIN: L15111UP1992PLC014942) a company incorporated under Companies Act, 1956 and having its registered office at Gajraula Hasanpur Road, 3 KM Stone, District Jyotiba Phuley Nagar, Uttar Pradesh- 244 235.  
... Demerged Company/ Amalgamating  
Company/Applicant Company 1/
2. PANCHMAHAL PORPERTIES LIMITED, (CIN: U74899UP1995PLC189056) a company incorporated under the Companies Act, 2013 and having its registered office at 3 KM Stone, Hasanpur Road, Gajraula, Hasanpur, Jyotiba Phule Nagar, Uttar Pradesh- 244 235.  
... Resulting Company 1/ Applicant Company 2
3. BENGAL & ASSAM COMPANY LIMITED, (CIN: L67120WB1947PLC221402) a company incorporated under the Companies Act, 2013 and having its registered office at 7, Council House Street, Kolkata West Bengal - 700 001, within the aforesaid jurisdiction.  
...Amalgamated Company  
Resulting Company 2/ Applicant  
Company 3

**In the matter of:**

1. Umang Dairies Limited ]Demerged Company / Amalgamating Company
2. Panchmahal Properties Limited ] Resulting Company 1

3. Bengal & Assam Company Limited ]Amalgamated Company / Resulting  
Company 2

... Applicant Companies

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

**Coram:**

**Bidisha Banerjee : Member (Judicial)**

**Balraj Joshi : Member (Technical)**

**Counsel on Record for the Petitioner(s):**

1. Mr. Vikram Wadehra ] For the Petitioners
2. Mr. Mayukh Roy
3. Mr. Aasia Hasan
4. Mr. Mayank Shah
5. Mr. Pathik Chaudhary

**ORDER**

**Per: Bidisha Banerjee, Member (Judicial)**

1. The instant application has been filed by the Applicant Companies in the first stage of the proceedings under Sections 230 to 232 of the Companies Act, 2013 (“Act”) for orders and directions with regard to meetings of shareholders and creditors in connection with the Scheme of Arrangement of Umang Dairies Limited, the Applicant Company 1 [hereinafter referred to as the (“Demerged Company” / “Amalgamating Company”), Panchmahal Properties Limited, the Applicant Company 2 (hereinafter referred to as the “Resulting Company 1”) and Bengal & Assam Company Limited, Applicant Company 3 (hereinafter referred to as the “Amalgamated Company” / “Resulting Company 2”) read with the relevant rules, whereby and whereunder the Dairy Business Undertaking of Umang Dairies Limited (“Demerged Company”) is to be demerged and vested into Panchmahal Properties Limited (“Resulting Company 1”)

on a going concern basis. Thereafter, giving effect to the aforesaid demerger, amalgamation of Umang Dairies Limited (“**Amalgamating Company**”) into Bengal & Assam Company Limited (“**Amalgamated Company**” / “**Resulting Company 2**”). The detailed terms and conditions are stated in the said Scheme of Arrangement (**hereinafter referred to as the “Scheme”**), which has been annexed to the Application and marked as **Annexure “7”**.

2. It is submitted by the Ld. Counsel appearing for the Applicants that the equity shares of the Applicant Company 1 are listed on the BSE Limited (“**BSE**”) and the National Stock Exchange of India Limited (“**NSE**”) (“**Stock Exchanges**”). The equity shares of Applicant Company 3 Company are listed on BSE Limited (“**BSE**”) and Applicant Company 2 is a wholly owned subsidiary of Amalgamated Company / Resulting Company 2 / Applicant Company 3.

Further, the Applicant Company 3 have the following classes of shareholders and creditors-

- (a) Equity shareholder as on 23.02.2024 – 20,872 Equity shareholders
  - (b) Preference shareholders as on 23.02.2024 – 1 Preference shareholder
  - (c) Secured Creditors as on 31.01.2024 – Nil / No Secured Creditors
  - (d) Unsecured Creditors as on 31.01.2024 – 17 Unsecured Creditors amounting to INR 4,788.02 Lakhs.
3. Ld. Counsel for the Amalgamated Company / Resulting Company 2 submits that the Preference Shareholder of the Amalgamated Company / Resulting Company 2 have considered the said Scheme and have given its consent in the form of affidavit consenting to the Scheme and provided its no-objection to dispense with convening of the meeting of the preference shareholders of the Amalgamated Company / Resulting Company 2. The Amalgamated Company / Resulting Company 2 have Nil Secured Creditors. The Amalgamated Company / Resulting Company 2 has obtained the written consent of over 90% of the Unsecured Creditors by way of affidavit for dispensation of the meeting of the unsecured creditors.  
**(Copy to that effect has been annexed as Annexure-13, Page Nos.1114-1130).**

4. Applicants submitted that the Board of Directors of the Applicant Companies have at their respective Board Meetings by a resolution passed unanimously approved the said Scheme of Arrangement which are annexed as Page Nos.1039-1056.
5. The certificate under proviso to Section 230(7) certifying that the accounting treatment proposed in the Scheme of Amalgamation is in conformity with the Accounting Standards as prescribed under Section 133 of the Companies Act, 2013 is annexed to the application as Annexure A-14– at page nos. 1131-1142. Valuation Report dated 18<sup>th</sup> June, 2023 prepared by Mr. Niranjan Kumar, (IBBI Registered Valuer No.IBBI/RV/06/2018/10137) is annexed as Annexure-16 at pages -1147-1168.
6. Directions are sought accordingly for:
  - a) dispensing with meetings of the Preference Shareholder of the Amalgamated Company / Resulting Company 2 who has already given its consent to the Scheme in form of affidavits consenting to the Scheme and provided its no-objection to dispense with convening of the meeting of the preference shareholders and the Secured Creditors and Unsecured Creditors of the Amalgamated Company / Resulting Company 2 since there are Nil / No Secured Creditors of the Amalgamated Company / Resulting Company 2 and consent of over 90% of Unsecured Creditors in value by way of affidavit consenting to the Scheme and provided its no-objection for dispensation of the meeting of the unsecured creditors have been obtained, and;
  - b) convening of the meetings of the Equity Shareholders of the Amalgamated Company / Resulting Company 2 to consider the Scheme under Section 230 (1) [read with Section 232 (1)] of the Act.
7. Upon perusing the records and documents in the instant proceedings and considering the submissions made on behalf of the Applicants, we allow the instant application and make the following orders:-
  - a. Meetings Dispensed:
    - i. Meeting of the Preference Shareholders of the Amalgamated Company / Resulting Company 2 are hereby dispensed with, in view of the consent given by the only Preference Shareholder of the Amalgamated Company/ Resulting Company 2.

- ii. In view of the fact that there are No / Nil Secured Creditors of the Amalgamated Company / Resulting Company 2, the question of holding meeting of the Secured Creditors of the Amalgamated Company / Resulting Company 2 does not arise.
- iii. Meeting of the Unsecured Creditors of the Amalgamated Company / Resulting Company 2 is dispensed with in view of the fact that 96.62%, i.e. more than 90% of the Unsecured Creditor(s) in value of the Amalgamated Company / Resulting Company 2 have given their written consent to the Scheme.

**b. Meeting Directed:**

- i. i. There shall be a Meeting of the equity shareholders of the Amalgamated Company / Resulting Company 2 for the purpose of considering and if thought fit, approving with or without modification(s), the Scheme. The said meeting shall be **convened on Friday, 27<sup>th</sup> September 2024 at 3:30 pm.**
- c. Mode of meeting: The meeting, as above, shall be convened and held virtually via video conferencing or other audio-visual mode (“**Virtual Mode**”), subject to the directions and matters dealt with herein, such meeting shall be held in accordance with the framework provided therefor in the Companies Act, 2013.
- d. Advertisement: At least 30 (Thirty) clear days before the meeting(s) to be held as aforesaid an advertisement of the notice of meeting(s) be published once each in ‘**Financial Express**’ in English and ‘**Aajkaal**’ in Bengali as per Rule 7 of the Companies (Compromise, Arrangements and Amalgamations) Rules 2016.
- e. Individual Notices: At least 30 (thirty) clear days before the date of the meeting(s) to be held, as aforesaid, notices convening the said meeting(s), along with all documents required to be sent with the same, including a copy of the said Scheme, statement prescribed under the provisions of the Act disclosing necessary details

shall be sent only through electronic mode to those Members whose email addresses are registered with the Company/Depository Participants, in accordance with the Virtual Meeting Circulars. The said notice along with accompanying documents shall also be posted on the website of the Amalgamated Company <https://www.bengalassam.com>. Additionally, hard copies of the notice and accompanying documents shall be provided by the Amalgamated Company to any Equity Shareholders who request the same. Since the meeting is being held through Virtual Mode, Proxy Form, Attendance Slip and Route Map are not required to be annexed to the notice convening the said meeting.

f. **Chairperson of the Meeting:**

**Mr. Surya Kanta Satapathy**, Mob: 6372765184 is appointed as Chairperson of the meeting . He/she shall be paid a consolidated remuneration of Rs. 75000/- [Rupees Seventy five thousand only] for acting as a Chairperson of the meeting as directed herein.

g. **Scrutinizer: Mr. Rohit Keshri Adv.**, Mob No. 9681670966 shall be appointed as the Scrutinizer of the meetings to be held, as aforesaid. He shall be paid a consolidated amount of Rs. 65000/- [**Rupees Sixty five thousand** ] for acting as Scrutinizer of the meeting.

h. **Quorum and Attendance:** The quorum for the said meeting of Ordinary Shareholders of the Demerged Company shall be 30 Ordinary Shareholders present at the meeting in accordance with the Act and the Virtual Meeting Circulars. Attendance at such meeting shall be recorded through electronic mode. In case the quorum of any meeting is not present within half an hour from the time appointed for the meeting, members present in the meeting after half an hour shall constitute the quorum and proceedings of the meeting shall take place.

i. **Mode of Voting:** Voting in the meeting held in Virtual Mode shall be by e-voting only.

- j. **Cut-off date**: The cut-off date for determining the eligibility to vote and value of votes shall be on 20<sup>th</sup> September, 2024 for the meeting of Equity Shareholders of the Amalgamated Company / Resulting Company 2. The value of the votes cast shall be reckoned and scrutinized with reference to the said dates.
- k. **Voting procedure**: Subject to the directions and matters dealt with herein, the procedure for voting by e-voting and conduct of voting, in so far as the same is prescribed by the Ministry of Corporate Affairs (“MCA”) for holding general meetings through e-voting *vide* General circular Nos. 14/2020 dated April 8, 2020, 17/2020 dated April 13, 2020, 22/2020 dated June 15, 2020, 33/2020 dated September 28, 2020, 39/2020 dated December 31, 2020, 10/2021 dated June 23, 2021, 20/2021 dated December 8, 2021, 3/2022 dated May 5, 2022, 11/2022 dated December 28, 2022, and 9/2023 dated September 25, 2023 (collectively “MCA Circulars”) and Companies (Management & Administration) Rules, 2014 (“the said Rules”), and the forms thereunder shall be followed with such variations as required in the circumstances and in relation to the resolution for approval of the Scheme. Remote E-voting shall begin on 24<sup>th</sup> September, 2024, 10:00 A.M. (IST) and ends on 26<sup>th</sup> September, 2024, 5:00 P.M.(IST).
- l. Members who have voted through Remote e-Voting will be eligible to attend the meeting. However, they will not be eligible to vote at the Meeting.

Only those members, who are present in the meeting through VC/OAVM facility and have not cast their vote on the Resolutions through remote e-Voting and are otherwise not barred from doing so, shall be eligible to vote through e-Voting system available during the meeting.

If any Votes are cast by the Members through the e-voting available during the meeting and if the same Shareholders have not participated in the meeting through VC/OAVM facility, then the votes cast by such Members shall be considered invalid as the facility of e-voting during the meeting is available only to the Members attending the meeting.

- m. Institutional/Corporate Members (i.e. other than individuals, HUF, NRI, etc.) are required to send a scanned copy (PDF/ JPG Format) of their respective Board or

Governing Body's Board Resolution/Authorization etc., authorising their representatives to attend the meeting through VC/OAVM on their behalf and to vote through Remote E-voting.

- n. That the Chairperson appointed for the said meeting(s) or any person authorised by the Chairperson do issue and send the notices of the aforesaid meeting(s). Further, the Chairperson shall have all other powers under the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 read with the other applicable rules and provisions in relation to conduct of the meeting(s), including for deciding procedural questions that may arise at the meeting or at any adjournment thereof, or any other matter relating to the meeting(s), including an amendment to the Scheme, if any proposed by any person(s).
- o. **Scrutinizer's Report / Declaration of Results**: The votes cast shall be Scrutinized by the Scrutinizer. Votes cast in all the modes shall be consolidated. The Scrutinizer shall prepare and submit the respective reports on the meeting(s) along with all papers relating to the voting to the Chairperson of the meeting(s) within 48 hours of the conclusion of the meeting(s). The Chairperson shall declare the results of the meetings after submission of the reports of the Scrutinizer. The declaration of results by the Chairperson shall be displayed on the Notice Board of the Amalgamated Company/ Resulting Company 2 at its registered office and its head office as well as corporate office, if any, and shall also be posted on the website, if any, of the Amalgamated Company/ Resulting Company 2.

Further, such declaration of results shall also be posted on the website of the Agency providing the facility for e-voting. In addition to the aforesaid, all other requirements with regard to publication and communication of Scrutinizer's report and Chairperson's declaration of results, as prescribed under the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 should also be complied with.

- p. The value of each shareholder shall be in accordance with the books and records of the Amalgamated Company/ Resulting Company 2 and, where entries in the books are disputed, the chairperson shall determine the value for purposes of the said meeting(s).



- q. The resolution for approval of the Scheme of Arrangement put to a meeting shall, if passed by a the participating shareholders by majority in number representing three-fourths in value of the respective shareholders casting their votes, as aforesaid, shall be deemed to have been duly passed on the date of such meeting under Section 230(1) read with Section 232(1) of the Companies Act, 2013.
- r. The Chairperson do report to this Tribunal the results of the said meeting(s) within four weeks from the date of the conclusion of the said meeting(s). Such report shall be in Form No. CAA4 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, verified by affidavit.
8. Let the notice be served by the Applicant Company 3 as per the requirement of sub-section (5) of Section 230 of the Companies Act, 2013 along with a copy of the Scheme and statement disclosing necessary details on:-
- i. Central Government, through Regional Director, Eastern Region, Ministry of Corporate Affairs, Kolkata;
  - ii. Reserve Bank of India, through Regional Director, Department of Non-Banking Supervision;
  - iii. Registrar of Companies, West Bengal;
  - iv. Official Liquidator, High Court, Calcutta;
  - v. BSE Limited;
  - vi. National Stock Exchange of India Limited;
  - vii. Concerned Income Tax Assessing Officer along with the Chief Commissioner of Income Tax with PAN Numbers of the Applicant Companies having jurisdiction over the Applicant Companies by sending the same by hand delivery or by registered post or speed post or e-mail;
  - viii. Jurisdictional GST authorities as applicable.
9. The Applicant to file an affidavit proving service of notices of meeting(s) and publication of advertisement and compliance of all directions contained herein at least a week before the meeting(s) to be held.
10. If consent affidavits/letters of the members and unsecured creditors annexed with the application are found to be false/dubious at any stage, then necessary actions for

committing fraud under Section 447 and 448 of the Companies Act, 2013 shall be initiated against the Amalgamated Company/ Resulting Company 2 and all its directors for punishment under Section 449 of the Companies Act, 2013.

11. The application being **C.A. (CAA) No. 73/KB/2024** is allowed and disposed off accordingly.
12. Certified copies of this Order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

**Balraj Joshi**  
**Member (Technical)**

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

Order dated 26.07.2024.

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