

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL  
ALLAHABAD BENCH, PRAYAGRAJ**

**CP (CAA) No.08/ALD/2022**  
(2<sup>nd</sup> Motion)

Under Sections 230-232 of the Companies Act, 2013 read with Section 66 of the Companies Act, 2013, the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, and other applicable provisions of the Companies Act, 2013

**In the matter of Scheme of Amalgamation of:**

**1. M/S LEGEND FINANCIAL CONSULTANCY PRIVATE**

**LIMITED**, a Company incorporated under the provisions of the Companies Act, 1956 having its registered office at 8<sup>th</sup> Floor,, Block-B, Vinayak Plaza, Maldahiya Crossing, Varanasi -221002

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

AND

**2. SAB COMPUTING PRIVATE LIMITED**, a company

incorporated under the provisions of the Companies Act, 1956 having its Registered Office at 8<sup>th</sup> Floor, Block-B, Vinayak Plaza, Maldahiya Crossing, Varanasi -221002

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

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AND

**3. M/S GANGA BAG UDYOG PRIVATE LIMITED**, a company incorporated under the provisions of the Companies Act, 1956 having its registered office at 8<sup>th</sup> Floor, Block-B, Vinayak Plaza, Maldahiya Crossing,, Varanasi, Uttar Pradesh 221002

..... **Petitioner Company No.3/Transferee Company**

**ORDER PRONOUNCED ON: 19<sup>th</sup> January, 2024**

**CORAM:**

**Shri Praveen Gupta : Member (Judicial)**

**Shri Ashish Verma : Member (Technical)**

**COUNSEL APPEARED THROUGH VIDEO CONFERENCING:**

Ms. Babita Jain, Adv. : *For the Petitioner Companies*

Sh. Ajeet Kumar Singh, AOL : *For the OL/RD (NR)*

Sh. Krishna Agarwal, Sr. SC : *For the IT Department*

Sh. Krishna Dev Vyas, Adv. : *For the RoC*

**ORDER**

1. The present Joint Company Petition is filed by the Petitioner Companies above named under Sections 230 & 232 of the Companies Act, 2013, the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, and other

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applicable provisions, if any, for sanction of the Scheme of Amalgamation (“Scheme” or “Scheme of Amalgamation”) of **LEGEND FINANCIAL CONSULTANCY PRIVATE LIMITED** (“Petitioner Company No. 1” or “Transferor Company”), and **SAB COMPUTING PRIVATE LIMITED** (“Petitioner Company No. 2” or “Transferor Company”) and **GANGA BAG UDYOG PRIVATE LIMITED** (“Petitioner Company No. 3” or “Transferee Company”)

2. The Petition has now come up for final hearing. The Ld. Counsel for the Petitioner Companies submits as follows:

- (i) The proposed ‘Scheme of Amalgamation’ has previously been approved by the Board of Directors of Petitioner Companies in their respective Board Meetings held on 5<sup>th</sup> April, 2021.
- (ii) The factual position of the Authorized, Issued, Subscribed and Paid-up Share Capital of the Petitioner Companies as on 31<sup>st</sup> March, 2021 is described in the present Company Petition.
- (iii) The rationale of the proposed Scheme of Amalgamation is elaborately described in the present Company Petition which may be summarized as under:

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- (i) The Transferor Company and the Transferee Companies are closely held private limited Group Companies under common management and control. Both the Companies are engaged in similar business activities. The proposed amalgamation of the Transferor Company with the Transferee Company would result in consolidation of both these Companies and pooling of their resources into a single entity.
- (ii) For the purpose of better, efficient and economical management, control and running of the businesses of the undertakings concerned and/or administrative convenience and to obtain advantages of economies of scale and to pool the resources for growth, development and diversification of the businesses of the company, the present scheme is proposed to amalgamate the Transferor Companies with the Transferee Company.
- (iii) The Amalgamation would provide economies in costs by combining the total business functions and

related operations and activities and will facilitate overall better working capital management and better administration of the Transferee Company.

- (iv) The Amalgamation would result in an optimum utilization of the resources, facilities, reserves, financials, managerial, technological, manpower and other resources which will be conducive to enhance the operational efficiencies in the Transferee Company.
- (v) The Amalgamation will result in improved shareholder value for all the petitioner company by way of improved financial structure and cash flows, increased asset base and stronger consolidated revenue and profitability.
- (vi) The Amalgamation would result in enhanced leveraging capability of the Transferee Company which in turn will allow the Transferee Company to undertake future expansion strategies and to tap bigger opportunities.

(vii) Consolidation of managerial expertise of the Company will facilitate greater focus and utilization of resources. Amalgamation will give additional strength to the operations and management of the Transferee Company.

(viii) The Amalgamation of the Transferor Companies with the Transferee Company will further result in various benefits including:

1. Simplified and streamlined business structure;
2. Greater size, scale and financial strength of the Transferee Company;
3. Focused risk management and human resource practices;
4. Lesser regulatory and procedural compliance;
5. Cost savings including savings in fees and duties payable on statutory and procedural compliance;
6. Duplication of administrative functions and multiple record-keeping will be reduced, thereby eliminating duplication of efforts and also resulting in reduced expenditure;

7. Better operational synergies;
  8. Improved borrowing powers.
3. The Petitioners have stated that the accounting treatment proposed in the Scheme of Amalgamation is in conformity with the Accounting Standards prescribed under Section 133 of the Companies Act, 2013 as certified by the respective Auditors of the Petitioner Companies.
  4. It has also been stated in the Petition that no proceedings under Sections 235 to 251 of the Companies Act, 1956 or under Sections 210 to 226 of the Companies Act, 2013 are pending against any of the Petitioner Companies.
  5. It has also been stated in the Petition that the Scheme is not prejudicial to the interest of the Shareholders and Creditors of the Petitioner Companies and the Petition is made *bona fide* and is in the interest of both the Petitioner Companies and their respective Shareholders and Creditors as a whole and is just and equitable.
  6. It has been stated that the Transferor Company and the Transferee Company are private limited closely held Group Companies under the common management and control.

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7. It is also submitted that valuation exercise has been carried out to determine the share swap ratio for the proposed Scheme of Amalgamation. CS Anil Kumar Dubey, FCS, LLB and the Registered Valuer in respect of Securities or Financial Assets, registered with the Insolvency and Bankruptcy Board of India (IBBI), has prepared the Report on Valuation of Shares and Share Exchange Ratio.

The following Share Exchange Ratio has been proposed for the proposed Scheme of Amalgamation:

- The Transferee Company to issue every Equity Shareholder in the "LEGEND" (Transferor Company 1) 140 (One Hundred Forty) Equity Share of Rs.10/- each credited as fully paid up in the Transferee Company for every 100 (One Hundred) Equity Shares of Rs.10/- each fully paid up and held by such shareholder in the "LEGEND".
- The Transferee Company to issue to every Equity Shareholder in the "SAB" (Transferor Company 2) 223 (Two Hundred Twenty-Three) Equity Shares of Rs.10/- each credited as fully paid up in the Transferee

Company for every 100 (One Hundred) Equity Shares of Rs.10/- each fully paid up and held by such shareholder in the "SAB".

- All the shares to be issued and allotted to the Shareholders of the Transferor Companies as aforesaid, shall rank pari passu subject to Clause 10(a) above in all respects with the existing Shares held by the Shareholders of the Transferee Company and shall be entitled to prorate dividend if any, from the Transfer Date.
- In issue and allotment of such shares, the fractional entitlements of shares to any Member of the Transferor Companies shall not be taken into account, but such than representing fractional entitlements shall be allotted to one Nominee of the Transferee Company upon trust, who will sell them and distribute their sale proceeds (less expenses, if any) to the shareholders of the Transferor Companies, who are entitled to such fractional shares.

8. A perusal of the present Petition discloses that initially the Petitioner Companies had filed a Company Application No. 26/ALD/2021 seeking directions of this Tribunal to dispense with the requirement of convening the meetings of the Equity Shareholders and Unsecured Creditors of the Transferor Company and the Transferee Company, for the purpose of considering and approving the Scheme of Amalgamation. None of the Petitioner Companies has any Secured Creditor. Accordingly, this Tribunal vide its order dated 24<sup>th</sup> January, 2022 (Date of pronouncement), allowed the above mentioned prayers, by dispensing with the requirement of convening the meetings of the Equity Shareholders and Un-secured Creditors of the Transferor Company and the Transferee Company, for the purpose of considering and approving the Scheme of Amalgamation. None of the Petitioner Companies has any Secured Creditor.
9. This Tribunal vide its order dated 12<sup>th</sup> April, 2022 directed to issue notice of the Company Application/Scheme of Amalgamation to the Statutory Authorities, viz., (a) the Central Government through the office of the Regional

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Director, Northern Region, Ministry of Corporate Affairs, New Delhi; (b) the Registrar of Companies, Uttar Pradesh, Ministry of Corporate Affairs, Kanpur; (c) The Official Liquidator, Uttar Pradesh, Allahabad; (d) the Income Tax Department.

10. This Tribunal further directed to issue notice of hearing in respect of present Company Petition to the Statutory Authorities and also to make paper publication in this respect in “Business Standard” (English and Hindi Edition) dated 21<sup>st</sup> April, 2022. Affidavit of Service and Newspaper Publication was filed Filing No 0902109001202022 dated 26.04.2022.
11. In compliance thereof, the Petitioner Companies have filed Affidavit of service and publication, confirming that notices have been duly published in “Business Standard” (English and Hindi Edition) on 21<sup>st</sup> April, 2022. The Petitioner Companies have also served notice of the Company Petition to (a) the Central Government through the office of the Regional Director, Northern Region, Ministry of Corporate Affairs, New Delhi; (b) the Registrar of Companies, Uttar Pradesh, Ministry of Corporate Affairs, Kanpur; (c) The

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Official Liquidator, Uttar Pradesh, Allahabad; (d) the Income Tax Department.

12. In response to the above stated notice, the Registrar of Companies, Ministry of Corporate Affairs, Kanpur, Uttar Pradesh has submitted its Report dated 19<sup>th</sup> May, 2022. No objection has been raised by the Registrar of Companies on the Scheme of Amalgamation.

13. In response to the above stated notice, the Regional Director, Northern Region, Ministry of Corporate Affairs, New Delhi has submitted its Report dated 11<sup>th</sup> July, 2022. The observations made by the Regional Director, Northern Region, Ministry of Corporate Affairs are as follows:

- i. "On examination of the balance sheet of the Transferor Company-1 as at 31.03.2021, the Company shown Rs. 10.18 crores under the head of Non-Current Investments without disclosing the details of the Investment viz. Name of the Body Corporate, Relation, if any etc. which articulates non-compliance of

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section 129 r/w schedule III of the Companies Act, 2013.

- ii. As per the financial statement of Transferor Company No. 2 for F.Y. 2020-21, It is observed that the company is having more than 50% of its Assets as Financial Assets and more than 50% of its total income are generated from the financial Activities, therefore, the company is required to be registered as a NBFC under section 45-IA of the RBI Act, 1934. In this regard, Hon'ble NCLT is prayed to direct the petitioner companies to clarify the same.”

14. In response to the observation of the Regional Director (Northern Region), the Petitioner Companies has filed the Reply Affidavit dated 24.08.2022. The petitioner companies made the following remarks in reply to the observations made by Regional Director:

- i. “With reference to the observation made by Regional Director vide point No. 10 (i) regarding observation of Balance sheet of Transferor

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company 1 the company has shown Rs. 10.18 Cr in Non-Current Investment. The company has made investment in Equity instruments in two companies i.e, ("Ganga. Bag Udyog Private Limited (Transferee Company) of Rs, 5,91,85,900 and on one M/s Shanti Gopal Concast Limited to the tune of Rs.4.27,10,565. The details of investments was not provided due to inadvertent error and major investment made by the Transferor Company no.1 in the Transferee Company and the same was disclosed and considered in the scheme of Amalgamation. There was no malafide intention of the Transferor Company No. 1 for hiding any facts. It is further pertinent to note that it is not material in nature and since it is a private limited (closely held) company no third party interest is being hampered and the details have been inadvertently left out.

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ii. With reference to the observation made by Regional Director at Paragraph No. 10 Sub-Paragraph No. "(ii)" save what what are matters of record rest all statements are denied and disputed.

It is denied and disputed that the Company has ever carried any NBFC activity. The main object of the Company is general trading business and other related activities and the same can be evident from the Memorandum of Association of the Company which is nowhere related with any financial activity. It is evident from the Balance sheet of the Company as on 31.03,2019, that the Company has no Revenue operation however the said Transferor company no. 2 has shown amount in "Other income" on account of one time transaction of sale of investment in shares of Fairdeal Financial Advisory Private Limited (now name changed to Jaidayal Polymers Private Limited) amounting to Rs. 28,817,20/- for the Financial year ended 31.03.2021 which is an one time Transaction and an isolated Income for the Transferor company. Further

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the Amalgamation of proposed transferor company is carrying on business in terms of the Scheme and the Transferee Company is engaged in business of manufacturers, processors papers pulps activities and combined Financials of merged entity does not fulfill the criteria of 45-IA of the Reserve Bank of India Act 1934.”

15. In response to the above stated notice, the Official Liquidator, Ministry of Corporate Affairs, Allahabad, Uttar Pradesh has also submitted his Report dated 30<sup>th</sup> May, 2022 wherein it has been stated that the Official Liquidator has no objection to the dissolution of the Petitioner Transferor Company without winding up pursuant to provisions of Sections 230 and 232 of the Companies Act, 2013 and other applicable sections and rules thereunder.

16. In response to the notices served, the Income Tax Department has furnished its Report dated 16<sup>th</sup> June, 2022 and 23<sup>rd</sup> November, 2022, in respect of the Petitioner Transferor Company and the Transferee Companies, respectively. The Income Tax Department has given its ‘No-objection’ to the proposed Scheme of Amalgamation.

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17. The Income Tax Department has filed a Report vide Diary No 2999 dated 24<sup>th</sup> November, 2023 whereby they have pointed out that in the main Petition the PAN no of the Transferee Company is wrongly mentioned, whereas the Correct PAN no as per the Record of Income Tax Department is AAACG8275G and they have also stated that there are some unpaid dues with respect to the transferee company.
18. The Petitioner Company has filed affidavit specifying the correct PAN no. along with Pan Card of the Transferee Company on 15<sup>th</sup> December, 2023 vide Diary no 3205. The Transferee Petitioner Company has filed Affidavit vide Receipt No 0902109001202022/11 dated 21.12.2023, wherein the Transferee Petitioner Company has undertaken to pay outstanding dues as raised by the Income Tax Department in its Reply subsequent to the sanction of the Scheme by this Tribunal. Hence, the interest of the Income Tax Department will be duly protected even after the approval of the Scheme of Amalgamation.
19. The Petitioner Companies have also filed Affidavit on 20<sup>th</sup> May, 2023 confirming that neither the Petitioner Companies

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nor their Legal Counsel has received any objection/representation from any person against the Petition or the proposed Scheme of Amalgamation in response to the publication of the notice of hearing of the present Petition in Newspapers.

20. We have gone through the reports/comments of the Ld. Registrar of Companies, Uttar Pradesh, Kanpur, Ld. Regional Director (Northern Region), Ministry of Corporate Affairs, New Delhi, Ld. Official Liquidator, Ministry of Corporate Affairs, Allahabad and the Income Tax Department and after perusing the same, we find that there appears to be no reservation to grant sanction to the Scheme and we are of the view that the sanction of the present Scheme is not against public policy, nor it would be prejudicial to the public interest at large.
21. In addition to above, all the statutory compliance seems to have been complied with by the Petitioner Companies, therefore, the present Company Petition deserves to be allowed in terms of its Prayer Clause.

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22. As a result, the proposed Scheme of Amalgamation, which is annexed to the Company Petition stands approved and sanctioned and the same shall be binding on all the Shareholders and Creditors of the above-named Petitioner Companies and also on the Petitioner Companies with effect from the Appointed Date, i.e., 1<sup>st</sup> day of April, 2021. The Petitioner Companies are required to act upon as per terms and conditions of the sanctioned Scheme of Amalgamation.
23. While approving the Scheme as above, it is clarified that this order should not be construed as, in any way, granting exemption from payment of stamp duty (if any, is applicable), taxes (including Income Tax, GST or any other charges, if any, are applicable) and payment in accordance with law or in respect to any permission / compliance with any other requirement which may be specifically required under any law.
24. **THIS TRIBUNAL DO FURTHER ORDER:**
- i. Upon the Scheme becoming effective, all the properties, right and interest of the Transferor Companies, Legend Financial Consultancy Private Limited, Sab Computing

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Private Limited be transferred to and vested in without further act or deed in Ganga Bag Udyog Private Limited and accordingly the same shall pursuant to Section 230 and Section 232 of the Companies Act, 2013 and read with Companies (Compromises, Arrangements and Amalgamation) Rules 2016 be transferred to and vested in Transferor Company Ganga Bag Udyog Private Limited for all the estate and interest of the Transferor Company therein but subject nevertheless to all charges now affecting the same; and

- ii. Upon the Scheme becoming effective, all the liabilities and duties of the Transferor Companies be transferred, without further act or deed, to the Transferee Company and accordingly the same shall pursuant to Sections 230 & 232 of the Companies Act, 2013, be transferred to and become the liabilities and duties of the Transferee Company; and
- iii. Upon the Scheme becoming effective, all the employees of the Transferor Companies, in service on the Effective Date, shall be transferred to and shall become the employees of

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the Transferee Company as provided in the Scheme of Amalgamation; and

- iv. Upon the Scheme becoming effective, all proceedings now pending by or against the Transferor Companies be continued by or against the Transferee Company; and
- v. Upon the Scheme finally coming into effect and in consideration of the transfer and vesting of all the said assets and liabilities of the Transferor Companies to the Transferee Company in terms of the Scheme, the Transferee Company shall, without any further application or deed, issue and allot Share(s) to the Shareholders of the Transferor Company in the following manner as provided in the Scheme of Amalgamation:

- The Transferee Company to issue every Equity Shareholder in the "LEGEND" (Transferor Company 1) 140 (One Hundred Forty) Equity Share of Rs.10/- each credited as fully paid up in the Transferee Company for every 100 (One Hundred) Equity Shares of Rs.10/- each fully paid

up and held by such shareholder in the "LEGEND".

- The Transferee Company to issue to every Equity Shareholder in the "SAB" (Transferor Company 2) 223 (Two Hundred Twenty-Three) Equity Shares of Rs.10/- each credited as fully paid up in the Transferee Company for every 100 (One Hundred) Equity Shares of Rs.10/- each fully paid up and held by such shareholder in the "SAB".

25. Liberty is granted to the Petitioners to file the Schedule of Assets.

26. The Petitioner Companies shall, within thirty days of the date of the receipt of this Order, cause a certified copy of this order to be delivered to the Registrar of Companies, Kanpur, for registration; and on such certified copy being so delivered, the Transferor Company shall stand dissolved without undergoing the process of winding up and the Registrar of Companies shall place all documents relating to the Transferor Company and registered with him on the file kept by him in relation to the Transferee Company and the

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files relating to the said two Companies shall be consolidated accordingly

27. The Petitioner Companies shall supply legible print outs of the Scheme and the Schedule of Assets in acceptable form to the Registry and the Registry will append such print outs, after verification, to the certified copy of the Order.
28. Certified copy of this Order be supplied, if applied for, subject to compliance with usual formalities.
29. That the Resulting Company shall deposit an amount of Rs.25,000/- (Rupees Twenty Five Thousand Only) in favour of “The Ministry of Corporate Affairs” within a period of four weeks from the date of receipt of the certified copy of this order and file affidavit of compliance thereof.
30. All the concerned Regulatory Authorities and other persons to act on a copy of this Order annexed with the Scheme duly authenticated by the Registrar, National Company Law Tribunal, Allahabad Bench.
31. Any person interested shall be at liberty to apply to the Tribunal in the above matter for any directions that may be necessary.

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32. Accordingly, the present Company Petition bearing CP (CAA) No. 8/ALD/2022 is allowed and stands disposed of.

*-Sd-*

**Ashish Verma**  
**Member (Technical)**

*-Sd-*

**Praveen Gupta**  
**Member (Judicial)**

**19<sup>th</sup> January, 2024**

**Aditi Kharbanda**  
**(LRA)**