

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT NO. II
KOLKATA**

COMPANY PETITION (CAA) NO. 22/ KB / 2023
connected with
COMPANY APPLICATION (CAA) NO. 120/(KB)/2022

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 (Second Motion):

ADESH BROKING HOUSE PRIVATE LIMITED, a company existing within the meaning of the Companies Act, 2013, bearing CIN: U93000OR2005PTC026002 and having its registered office at OCL Approach Road, PO & PS: Rajgangpur Orissa Sundargarh 770017, in the state of Orissa.

...Non-Petitioner/Transferor Company

And

GAUTAM DEALERS PRIVATE LIMITED, a company registered and existing within the meaning of the Companies Act, 2013, bearing CIN: U51101WB2010PTC146485, having its registered office at 63, Radha Bazar Street, 3rd Floor, Room No.B-9, Kolkata 700001, West Bengal.

... Transferor Company No. 1

And

KARTIK VANIJYA PRIVATE LIMITED, a company existing within the meaning of the Companies Act, 2013, bearing CIN: U51101WB2010PTC146485 and having its registered office at 63, Radha Bazar Street 3RD Floor, room no. 29 Kolkata 700001, in the state of West Bengal.

...Transferor Company No. 2

And

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RUPAK TRADING PRIVATE LIMITED , a company existing within the meaning of the Companies Act, 2013, bearing CIN: U52321WB1996PTC076999 and having its registered office at Vostok House, KB-21, 3rd Floor, Salt Lake City, Sector -III, Kolkata 700098, in the state of West Bengal.

IN THE MATTER OF:

- 1. ADESH BROKING HOUSE PRIVATE LIMITED**
- 2. GAUTAM DEALERS PRIVATE LIMITED**
- 3. KARTIK VANIJYA PRIVATE LIMITED**
- 4. RUPAK TRADING PRIVATE LIMITED**

... Petitioner Companies

Date of Pronouncement of Order: May 01, 2024

CORAM:

SMT. BIDISHA BANERJEE, HON'BLE MEMBER (JUDICIAL).

SHRI. D. ARVIND, HON'BLE MEMBER (TECHNICAL).

Appearance:

Ms. Aparajit Rao, Adv | Petitioner

Mr. Sanwal Tibrewal, Adv.

Mr. Alok Tandon, Joint Director, Joint Director] For RD(ER), MCA

ORDER

Per: Bidisha Banerjee, Member (Judicial):

- 1. This Court is convened through hybrid mode.**

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2. This is a petition filed by the Petitioner Companies, namely Gautam Dealers Private Limited, Kartik Vanijya Private Limited (hereinafter referred to as "the Transferor Companies") in relation to the proposed Scheme of Amalgamation of the Transferor Companies with **Rupak Trading Private Limited** (hereinafter referred to as the "Transferee Company") under Section 230(1) and Section 232 of the Companies Act, 2013 read with the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 [Companies (CAA) Rules, 2016] whereby and where under the Transferor Company is proposed to be amalgamated with the Transferee Company from the Appointed Date, viz 1 Day of April, 2021 in the manner and on the terms and conditions stated in the said Scheme of Amalgamation ("Scheme"). The aforesaid Scheme of Amalgamation is annexed as Annexure "A-1" at Page 42 to 72 to the Petition.
3. The Ld. Counsels for the Petitioners would submit that the **Board Resolution** dated May 05 ,2022 has been passed by the Board of Directors of all the Petitioner Companies affirming the Scheme of Amalgamation. The Copies of the said **Resolution** are annexed to the Company Petition being **Annexure - A-16** (for "PIL") at Page No.: 285-288 in Volume II.
4. By an **Order** dated **28/10/2022** in **Company Application (CAA) No. 120/(KB)/2022**, this Tribunal made the following directions :

*“11. The Applicant/transferor Companies No 2 and 3 or its counsels on record shall individually send notice to **(i) Central Government, through the Regional Director, Eastern Region at Nizam, Palace, MSO Building, 3rd Floor, 234/4 AJC Bose***

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*Road, Kolkata 700020 **(ii) Official Liquidator**, Kolkata, at 9 Old Post Office Street, 4th and 5th floor, Kolkata 700 001**(iii) Reserve Bank of India**, 15 N S Road, Kolkata 700 001 and **(iv) the concerned Income Tax Authority** having jurisdiction over the Applicant/ transferor Company No 2 and 3 along with copies of required documents and disclosures required under the provisions of Section 230(5) of the Companies Act,2013 in Form No.CAA.3 of the Companies (CAA) Rules, 2016 with necessary variations incorporating the directions therein, by sending the same by hand delivery through special messenger, by post & email within two weeks from the date of receiving of this order. The notice shall specify that representation, if any, should be filed before this Tribunal within 30 days of the date of receipt of the notice with a copy of such representation being sent simultaneously to the applicants and/or their counsels on record. If no such representation is received by the Tribunal within the said period, it shall be presumed that such authorities have no representation to make on the Scheme of Amalgamation. Notices shall also be issued to other Sectoral Regulators as applicable.”*

5. The Learned Authorised Representative for the Petitioners further submits that in compliance with Section 230(5) of the Companies Act, 2013 and the said order dated **28/10/2022** made in **Company Application (CAA) No. 120/KB/2022**, notice along with all accompanying documents has already been served on the Statutory/Sectoral Authorities, as directed by the said order, including upon: The Copy of Affidavit of service filed before this Adjudicating

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Authority evidencing service upon the authorities **annexed at A-20** at Page No. 309-316 in **Volume II** of the petition.

6. Upon perusing the records and documents in the instant proceedings and considering the submissions made on behalf of the Petitioners, we admit the instant petition and fix the next date of hearing on **11th June 2024**.
7. At least 10 (ten) clear days before the said date fixed for hearing, the Petitioners shall cause notice of hearing to be advertised in the **Business Standards** in English language and **Ananda Bazar Patrika** in Bengali language as per Rule 16(1) of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (“CAA Rules”).
8. Another notice pursuant to Section 230(5) of the Companies Act, 2013 along with accompanying documents, including the copies of the aforesaid Scheme and statement under the provisions of the Companies Act, 2013, as sent earlier, shall be served again on the
 - i. The Regional Director, Eastern Region, Ministry of Corporate Affairs, Kolkata;
 - ii. Registrar of Companies, Kolkata;
 - iii. Income Tax Department having jurisdiction over the Petitioners;
 - iv. The Reserve Bank of India;
 - v. Any other statutory authorities (if any),

by sending the same to them by hand delivery through special messenger, by speed post and through email within one week from the date of receiving this order. The notice shall specify the next date of hearing of the petition, as aforesaid, and state that representation, if any, should be filed before this Adjudicating Authority no later than 7 (seven)

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days before the next date of hearing of the petition and a copy of such representation should be simultaneously sent to the Authorised Representative of the said Petitioners. If no such representation is received by the Tribunal within such period, it shall be presumed that such Authorities have no representation to make on the said Scheme. Such notice shall be sent in Form No. CAA3 of the CAA Rules with necessary variations, incorporating the directions herein.

9. The Petitioners to file an affidavit confirming compliance of the abovementioned directions of this Tribunal, 3 (Three) days before the next date of hearing.
10. The Petitioners may also file their rejoinder affidavits dealing with the objections/ observations, if any, of the Authorities, 2 (Two) days before the next date of hearing.
11. Urgent Certified copy of the order may be issued, if applied for, upon compliance with all the requisite formalities.

**D. Arvind
Member (Technical)**

**Bidisha Banerjee,
Member (Judicial)**

The Order signed on this the 1st Day of May 2024

V. Tiwari (LRA)