

**OOIN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, (COURT NO.-II)
KOLKATA**

C.A. (CAA) No.12/KB/2024

An application under Section 230(1) read with Section 232(1) of the Companies Act, 2013 read with the Companies (Compromises, Arrangements and Amalgamations) Rules,2016, and other applicable provisions of the law.

IN THE MATTER OF:

A Scheme of Amalgamation of (First Motion):

JDM Commercial Private Limited, a company incorporated under the Companies Act, 1956 and being a Company within the meaning of the Companies Act, 2013, having Corporate Identification No. U52100WB2010PTC146772 and its registered office at Diamond Heritage, 16 Strand Road, 10th Floor, Room No.1012, Kolkata-700001.

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

And

P.K. Agri Link Private Limited, a company incorporated under the Companies Act, 1956 and being a Company within the meaning of the Companies Act, 2013, having Corporate Identification No. U15312WB2008PTC126633 and its registered office at VILL-ISWARPUR, PO-AHMEDPUR, DIST-BIRBHUM, AHMEDPUR-731201.

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

And

P.K. Cereals Private Limited, a company incorporated under the Companies Act, 1956 and being a Company within the meaning of the Companies Act, 2013, having Corporate Identification No. U15312WB1989PTC047131 and its registered office at VILL-ISWARPUR, PO-AHMEDPUR, DIST-BIRBHUM, AHMEDPUR-731201.

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

And

Reliable Advertising Private Limited, a company incorporated under the Companies Act, 1956 and being a Company within the meaning of the Companies Act, 2013, having Corporate Identification No.

U22130WB1997PTC086067 and its registered office at VILL-ISWARPUR, PO-AHMEDPUR, DIST-BIRBHUM, AHMEDPUR-731201.

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

And

Shri Jatadhari Rice Mill Private Limited, a company incorporated under the Companies Act, 1956 and being a Company within the meaning of the Companies Act, 2013, having Corporate Identification No. U15312WB2009PTC135394 and its registered office at VILL-ISWARPUR, PO-AHMEDPUR, DIST-BIRBHUM, AHMEDPUR-731201.

.... **Transferor Company No. 5/Applicant Company No. 5**

And

Halder Venture Limited, a company incorporated under the Companies Act, 1956 and being a Company within the meaning of the Companies Act, 2013, having Corporate Identification No. L74210WB1982PLC035117 and its registered office at DIAMOND HERITAGE, 16 STRAND ROAD, 10TH FLOOR, ROOM NO.-1012, KOLKATA-700001.

.... **Transferee Company/Applicant Company No. 6**

IN THE MATTER OF:

- 1) JDM Commercial Private Limited.
- 2) P.K. Agri Link Private Limited.
- 3) P.K. Cereals Private Limited.
- 4) Reliable Advertising Private Limited.
- 5) Shri Jatadhari Rice Mill Private Limited.
- 6) Halder Venture Limited.**

.... **Applicants**

Date of Pronouncement: 01.05.2024

Coram:

Smt.Bidisha Banerjee, Member (Judicial)

Shri. Arvind Devanathan, Member (Technical)

Appearances (via Hybrid Mode):

Ms. Manju Bhuteria

For the applicant

ORDER

Per: Bidisha Banerjee, Member (Judicial)

1. The court convened through hybrid mode. The instant application has been filed in the first stage of the proceedings under Section 230(1) read with Section 232(1) of the Companies Act, 2013 (“**Act**”) for orders and directions with regard to meetings of shareholders and creditors in connection with the Scheme of Amalgamation of the following Transferor Companies:

SL. No.	Name of the Companies
Transferor Company Number 1/Applicant Company No. 1	JDM Commercial Private Limited
Transferor Company Number 2/Applicant Company No. 2	P.K. Agri Link Private Limited
Transferor Company Number 3/Applicant Company No. 3	P.K. Cereals Private Limited
Transferor Company Number 4/Applicant Company No. 4	Reliable Advertising Private Limited
Transferor Company Number 5/Applicant Company No. 5	Shri Jatadhari Rice Mill Private Limited

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with **Halder Venture Limited**, being the Applicant Company No.6 above named ("**Transferee Company**") whereby and whereunder the Transferor Companies are proposed to be amalgamated with the Transferee Company from the **Appointed Date**, viz. **1st June 2022** in the manner and on the terms and conditions stated in the said Scheme of Amalgamation ("**Scheme**").

The Copy of the said **Scheme of Amalgamation** is annexed to the Company Application being – **Annexure –M**, in Volume IV on **Page No(s). 521-577**.

2. The Board of Directors of the Applicant Companies at their Board Meetings, held on 20th July 2022 approved and resolved to carry out the said Scheme of Amalgamation. The copies of the resolution passed by the applicant companies are annexed with the Company Petition being- **Annexure- O** in Volume IV on **Page No(s). 581-605**.
3. Further, the applicants have the following classes of shareholders and creditors:

SL. No.	Name of the Applicant Companies	Equity Shareholders	Secured Creditors	Un Secured Creditors
1.	JDM Commercial Private Limited	2	Nil	2
2.	P.K. Agri Link Private Limited	10	4	167
3.	P.K. Cereals Private Limited	6	1	54
4.	Reliable Advertising Private Limited	2	Nil	3

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5.	Shri Jatadhari Rice Mill Private Limited	7	4	104
6.	Halder Venture Limited	1731	2	46

4. It is submitted by Ld. Counsel appearing for the Applicant(s) that the Transferee Company / Applicant No. 6 is a Listed Company and its shares are listed on BSE.
5. It is submitted by Ld. Counsel appearing for the Applicant(s) that BSE Limited acting SEBI have, vide their letter DCS / AMAL/ TL / R37/3006/2023-2024 dated 19-12-2023 addressed to the Company have conveyed their observations and comments on the proposed Scheme. Copy of the said letter of BSE Ltd is annexed to the Company Application being **Annexure – N** in Volume IV on **Page No(s). 578 to 580.**
6. It is submitted by Ld. Counsel appearing for the Applicant(s) that the Valuation Report dated 20th July 2022 recommending the Swap Ratio has been prepared by OMNIFIN VALUATION SERVICES (OPC) PRIVATE LIMITED, IBBI Registered Valuer. A copy of the said Report is annexed to the Company Application marked – **Annexure – P** in Volume IV on **Page No(s). 606 to 634.**
7. It is submitted by Ld. Counsel appearing for the Applicant(s) that the statutory auditors of the Transferee Company / Applicant No 6 have by their certificate dated 30-05-2023 confirmed 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 and Rules made there under. A copy of the said Certificate issued by the Statutory Auditor of the Transferee Company / Applicant No.6 is annexed to the Company Application marked – **Annexure – T** in Volume VI on **Page No 827.**

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8. It is submitted by Ld. counsel appearing for the Applicant(s) that, the Auditors Certificate , the Affidavit of Consents, the calculation of percentage of consents are as below :

PARTICULARS	NO.(s)	% OF CONSENT	AFFIDAVIT OF CONSENT PAGE NO
Equity shareholders			
Transferor Company No.1 / Applicant No.1	2	100	Vol iv 636 to 644
Transferor Company No.2 / Applicant No.2	10	100	Vol v 647 to 696
Transferor Company No.3 / Applicant No.3	6	100	Vol v 698 to 727
Transferor Company No.4 / Applicant No.4	2	100	Vol v 729 to 742
Transferor Company No.5 / Applicant No.5	7	100	Vol v 744 to 774
Transferee Company/Applicant No.6	1731	Nil	Meeting To be convened
Secured creditors			
Transferor Company No.1 / Applicant No.1	Nil	N.A	N.A
Transferor Company No.2 / Applicant No.2	4	Nil	Meeting To be convened
Transferor Company No.3 / Applicant No.3	1	100	Vol vi Page no 806 to 811
Transferor Company No.4 / Applicant No.4	Nil	N.A	N.A
Transferor Company No.5 / Applicant No.5	4	Nil	Meeting To be convened
Transferee company/Applicant no.6	2	Nil	Meeting To be convened
Unsecured Creditors			
Transferor Company No.1 / Applicant No.1	2	97.98	Vol Vi

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Transferor Company No. 2 / Applicant No.2	167	NIL	Meeting To Be Convened
Transferor Company No. 3 /Applicant No. 3	54	NIL	Meeting To Be Convened
Transferor Company No.4 / Applicant No.4	3	99.83	Vol Vi Page No 814 To 817
Transferor Company No.5 / Applicant No.5	104	NIL	Meeting To Be Convened
Transferee Company / Applicant No.6	46	NIL	Meeting To Be Convened

9. Upon perusing the records and documents in the instant proceedings and considering the submissions made on behalf of the Applicant(s), we allow the instant application and make the following orders:-

a. Meetings dispensed:

Equity Shareholders

Meeting of Equity Shareholders of the Transferor Companies being Applicant No.1 to Applicant No.5 for considering the Scheme are dispensed with in view of shareholder representing 100% in value of shares of Applicant No.1 to Applicant No.5 having respectively given their consent to the Scheme by way of affidavits without seeking modification(s).

Secured Creditors

Meeting of Secured Creditors of Applicant No.3 for considering the Scheme are dispensed with in view of Secured Creditors representing 100% in value of Secured Debt of Applicant No.3 having given their consent to the Scheme by way of affidavits without seeking modification(s).

Unsecured Creditors

Meeting of Unsecured Creditors of Applicant No.1 for considering the Scheme are dispensed with in view of consent by Unsecured Creditors representing 97.98% in value of Unsecured Debt of Applicant No.1 having respectively given their consent to the Scheme by way of affidavits without seeking modification(s).

Meeting of Unsecured Creditors of Applicant No.4 for considering the Scheme are dispensed with in view of consent by Unsecured Creditors representing 99.83% in value of Unsecured Debt of Applicant No.4 having respectively given their consent to the Scheme by way of affidavits without seeking modification(s).

b. No requirement of Meetings

Secured Creditors

No requirement of Meeting of Secured Creditors of Applicant No.1 and Applicant No.4 – NIL Creditors duly verified by auditors certificate.

c. Meetings to be held

Equity Shareholders

Meetings of Equity Shareholders of Transferee Company / Applicant No.1 .

Secured Creditors

Meetings of Secured Creditors of Applicant No.2 , Applicant No.5 and Applicant No.6 .

Unsecured Creditors

Meetings of Unsecured Creditors of Applicant No.2 , Applicant No.3 , Applicant No.5 and Applicant No.6 .

d. Meetings date and time

Equity Shareholders

Meeting of Equity Shareholders of Applicant No.6 to be convened and held Virtually on **14th June 2024 at 10:00 A.M.**, for considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of Amalgamation.

Secured Creditors

Meeting of Secured Creditors of Applicant No.2 to be convened and held Physically on **14th June 2024 at 01:00 P.M.**, for considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of Amalgamation.

Meeting of Secured Creditors of Applicant No.5 to be convened and held Physically on **14th June 2024 at 01:00 P.M.**, for considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of Amalgamation.

Meeting of Secured Creditors of Applicant No.6 to be convened and held Physically on **14th June 2024 at 01:00 P.M.**, for considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of Amalgamation.

Unsecured Creditors

Meeting of Unsecured Creditors of Applicant No.2 to be convened and held Physically on **15th June 2024 at 10.00A.M.**, for considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of Amalgamation.

Meeting of Unsecured Creditors of Applicant No.3 to be convened and held Physically on **15th June 2024 at 10.00A.M.**, for considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of Amalgamation.

Meeting of Unsecured Creditors of Applicant No.5 to be convened and held Physically on **15th June 2024 at 10.00A.M.**,

for considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of Amalgamation.

Meeting of Unsecured Creditors of Applicant No.6 to be convened and held Physically on **15th June 2024 at 10.00A.M**, for considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of Amalgamation.

e. **Mode of Meetings:**

Equity Shareholders

Meeting of Equity Shareholders of Applicant No.6 to be convened and held Virtually only.

Secured Creditors

Meeting of Secured Creditors of Applicant No.2 to be convened and held Physically.

Meeting of Secured Creditors of Applicant No.5 to be convened and held Physically.

Meeting of Secured Creditors of Applicant No.6 to be convened and held Physically.

Unsecured Creditors

Meeting of Unsecured Creditors of Applicant No.2 to be convened and held Physically.

Meeting of Unsecured Creditors of Applicant No.3 to be convened and held Physically.

Meeting of Unsecured Creditors of Applicant No.5 to be convened and held Physically.

Meeting of Unsecured Creditors of Applicant No.6 to be convened and held Physically.

f. **Venue of Meetings:**

Equity Shareholders

As the meeting of the Equity Shareholders of Applicant No.6 will be held virtually, no separate venue will be required. The

Registered Office of the Applicant No.6 will be treated as the venue of the meeting.

Secured Creditors

Meeting of Secured Creditors of Applicant No.2, Applicant No.5, and Applicant No.6 will be held at **Diamond Heritage, 16 Strand Road, 10th Floor, Room No- 1012 Kolkata-700001.**

Unsecured Creditors

Meeting of Unsecured Creditors of Applicant No.2 , Applicant No.3, Applicant No. 5 and Applicant No. 6 will be held at **Auditorium of Bengal National Chamber of Commerce and Industry at 01st Floor, 23 Sir R.N. Mukherjee Road , Kolkata-700001.**

g. Cut-off date:

The cut-off date for **dispatch of notice to**

- a) the Equity Shareholders of Applicant No 6 shall be as per list drawn on 24-05-2024.
- b) the **Secured Creditors of Applicant No.2 , Applicant No.5 and Applicant No.6** shall be as per list drawn on 24-05-2024 .
- c) the **Unsecured Creditors of Applicant No.2 , Applicant No.3, Applicant No.5 and Applicant No.6** shall be as per list drawn on 24-05-2024.

The cut-off date for **VALUE OF VOTES to**

- a) the Equity Shareholders of Applicant No 6 shall be as per list drawn on 24-05-2024.
- b) the **Secured Creditors of Applicant No.2 , Applicant No.5 and Applicant No.6** shall be as per list drawn on 24-05-2024.
- c) the **Unsecured Creditors of Applicant No.2 , Applicant No.3, Applicant No.5 and Applicant No.6** shall be as per list drawn on 24-05-2024.

- h. **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 the “**Financial Express**” in English and Bengali translation thereof in “**AAJKAL**” as per Rule 7 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
- i. **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 and the prescribed form of proxy, shall be sent to all as per Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, **by post or courier or email or through personal messenger at their respective or last known addresses**. The said notices along with accompanying documents shall also be posted on the websites of **Applicant No.6**.
- j. **Chairperson :**
Sneha Khaitan, (Email Id: snehakhaitan90@gmail.com; Contact No. 9903069745) is appointed as the Chairperson of the meeting(s) to be held, as aforesaid. The Chairperson shall be paid a consolidated sum of **Rs. 80,000/-** for conducting the aforesaid meeting(s) as Chairperson.
- k. **Scrutinizer:**
Sudeshna Chanda,(Email Id: chandasudeshna990@gmail.com; Contact No. 8240221391) is appointed as the Scrutinizer of the meeting(s)

to be held, as aforesaid. The Scrutinizer shall be paid a consolidated sum of **Rs. 60,000/-** for acting as Scrutinizer.

1. **Quorum and Attendance:**

The quorum for the said meeting (s) shall be as laid down in Section 103 of the Companies Act, 2013.

Equity Shareholders

- i. In the event no quorum is present at the said meeting(s) within 30 minutes from commencement of meeting then in such event the Equity Share holders who have logged in and joined the meeting shall constitute the quorum.

Secured Creditors

- ii. In the event no quorum is present at the said meeting(s) within 30 minutes from commencement of meeting then in such event the Secured Creditors who are present at the meeting shall constitute the quorum.

Unsecured Creditors

- iii. In the event no quorum is present at the said meeting(s) within 30 minutes from commencement of meeting then in such event the Unsecured Creditors who are present at the meeting shall constitute the quorum.

The attendance of such persons shall be recorded in the minutes of the meetings.

m. **Mode of Voting:**

- a) For **Equity Shareholders**

The Equity Shareholders of Applicant No.6 shall vote on the resolution through remote e-voting and the Company will make arrangements for the same with registered service provider.

- b) For **Secured Creditors**

The Secured Creditors of Applicant No.2, Applicant No.5 and Applicant No.6 shall vote on the resolution through Ballot Paper or Polling Paper at the venue of the

meeting and the Company will make arrangements for the same.

c) For **Unsecured Creditors**

The Unsecured Creditors of Applicant No.2, Applicant No.3, Applicant No.5 and Applicant No. 6 shall vote on the resolution through Ballot Paper or Polling Paper at the venue of the meeting and the Company will make arrangements for the same.

n. **Proxies & Board Resolutions:**

a) **For Equity Shareholders**

Since the meeting is conducted virtually no proxies will be allowed as notice and e-voting details will be sent to the registered email-id of the shareholders only. In case of a Body Corporate, being an Equity Shareholder of Applicant No.6 opting to vote on the resolution, through its Authorized Representative, such Body Corporate may do so provided a certified copy of the resolution of its Board of Directors or other governing body authorizing such representative to vote on the resolution on its behalf is deposited at the registered office of the Applicant No.6 not later than forty-eight hours before the time for holding the meeting.

b) **For Secured Creditors**

No proxies in the case of Secured Creditors of **Applicant No.2, Applicant No. 5 and Applicant No.6** as all Secured Creditors being Banks .

c) **For Unsecured Creditors**

Voting shall be allowed on the proposed Scheme by proxy at the meeting of the **Unsecured Creditors of Applicant No.2, Applicant No.3, Applicant No.5 and Applicant**

No. 6 provided that the proxies are in the prescribed form duly signed by the persons(s) entitled to attend and vote at the meeting is filed with the **Applicant No.2, Applicant No.3, Applicant No.5 and Applicant No.6** at its Registered Office not later than forty-eight hours before the meeting. In case of a Body Corporate, being a **Unsecured Creditors of Applicant No.2, Applicant No.3, Applicant No.5 and Applicant No.6** opting to attend and vote at the meeting, as aforesaid, through its authorized representative, such Body Corporate may do so provided a certified copy of the resolution of its Board of Directors or other governing body authorizing such representative to attend and vote at the meeting on its behalf is deposited at the registered office of the **Applicant No.2, Applicant No.3, Applicant No.5 and Applicant No.6** not later than forty-eight hours before the time for holding the meeting.

- o. That the Chairperson appointed for the said meeting(s) or any person authorized by the Chairperson do issue and send the notices of the aforesaid meeting(s).
- p. The votes cast shall be scrutinized by the Scrutinizer. 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 3 days from the conclusion of the meeting(s). The Chairperson shall declare the results of the meetings after submission of the reports of the Scrutinizer.
- q. The resolution for approval of the Scheme put to a meeting shall, if passed by a majority in number representing three-fourths in value of the Equity Shareholder / Secured Creditors / Unsecured Creditors casting their votes, as aforesaid, shall be

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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 report to this Tribunal the results of the said meeting(s) within seven days 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.
10. Notice under Section 230(5) of the Companies Act, 2013 along with all accompanying documents, including a copy of the aforesaid Scheme and statement under the provisions of the Companies Act, 2013 shall also be served on the :
- a. Regional Director, Eastern Region, Ministry of Corporate Affairs, Kolkata;
 - b. Registrar of Companies, West Bengal, Kolkata.
 - c. Official Liquidator; High Court Calcutta
 - d. Income Tax Department having jurisdiction over the Applicant(s)
 - e. To the BSE Ltd., in the manner and as per directions contained in their order
 - f. Any other statutory authorities

by sending the same by hand delivery through special messenger or by post and also by email within two weeks from the date of receiving this order. The notice shall specify that representation, if any, should be filed before this Tribunal within 30 days from the date of receipt of the notice with a copy of such representation being simultaneously sent to the Counsel of the said Applicant(s). 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 of Amalgamation. Such notice shall be sent pursuant to Section 230(5)

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of the Companies Act, 2013 read with Rule 8(2) of the Companies (Compromises, Arrangements and Amalgamations) Rules 2016 in Form No. CAA3 of the said Rules with necessary variations, incorporating the directions herein.

11. The Applicant(s) to file an affidavit proving service of notice and compliance of all directions contained herein at least a week before the meeting(s) to be held.
12. The application being **Company Application CA (CAA) No. 14/ KB / 2024** is disposed of accordingly.
13. 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)

Order Signed on the 1st Day of May 2024

A.S. LRA