

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

Company Application (CAA) No. 70/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):

Ultimate Commodities Private Limited, a company incorporated under the provisions of Companies Act 1956 and being a Company within the meaning of the Companies Act, 2013, having Corporate Identification No. U521109WB2006PTC111865 and its registered office at 213B, Park Street, Kolkata-700017.

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

And

Aptex Enterprises Private Limited, a company incorporated under the provisions of Companies Act 1956 and being a Company within the meaning of the Companies Act, 2013, having Corporate Identification No. U51909WB1993PTC058196 and its registered office 77/1B, Park Street, 1st Floor, Room No. 3 & 6, Kolkata-700016.

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

And

Priya Purnima Credits Private Limited, a company incorporated under the provisions of Companies Act 1956 and being a Company within the meaning of the Companies Act, 2013, having Corporate Identification No. U65999WB1993PTC059311 and its registered office at 213B, Park Street, Park Circus, Kolkata-700017.

.... Applicant Company No. 3/Transferee Company

IN THE MATTER OF:

1. Ultimate Commodities Private Limited.
2. Aptex Enterprises Private Limited.
3. **Priya Purnima Credits Private Limited.**

.... Applicants

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Date of Pronouncement: 22.04.2024

Coram:

Smt.Bidisha Banerjee, Member (Judicial)

Shri.D. Arvind, Member (Technical)

Appearances (via Hybrid Mode):

Mrs. Manju Bhuteria, Adv.

] For the applicants

Ms. Aisha Amin, Adv.

]

ORDER

Per: Bidisha Banerjee, Member (Judicial)

1. The court convened through a hybrid mode.
2. 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	Ultimate Commodities Private Limited
Transferor Company Number 2	Aptex Enterprises Private Limited.

with **Priya Purnima Credits Private Limited**, being the Applicant No. 3 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 April 2023** in the manner and on the terms and conditions stated in the said Scheme of Amalgamation ("**Scheme**").

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The Copy of the said **Scheme of Amalgamation** is annexed to the Company Petition being – **Annexure –G**, in Volume II at **Page No(s). 207-232**.

3. The Board of Directors of the Applicant Companies at their Board Meetings, held on 6th March 2024 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- H** in Volume II at **Page No(s). 233-235**.
4. The Transferee Company is a Non- Banking Finance Company (NBFC) duly registered with the Reserve Bank of India.
5. It is further submitted by the Ld. Counsel appearing for the Applicants that the shares of all the Applicants are not listed on the stock exchanges.
6. It is further submitted by the Ld. Counsel appearing for the Applicants that the Applicants have the following classes of shareholders and creditors:

Applicant No.	Equity Shareholders	Secured Creditors	Unsecured Creditors
Applicant No.1	10	Nil	Nil
Applicant No.2	20	Nil	5
Applicant No.3	20	Nil	5

7. Ld. Counsel appearing for the Applicants submits that the Equity Shareholders of all the Applicant Companies, have given their consent (100% in value) to the Scheme in writing by way of affidavits for the

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- approval of the proposed Scheme of Amalgamation. The list of equity shareholders duly certified by the Chartered Accountant along with the consent affidavit of the equity shareholders are annexed with the Company Petition being- **Annexure(s)-J, J1, and J2** in Volumes II and III at **Page No(s). 251-452.**
8. Ld. Counsel appearing for the Applicants submits that the Unsecured Creditors of all the Applicant Companies, have given their consent (100% in value) to the Scheme in writing by way of affidavits for the approval of the proposed Scheme of Amalgamation. The list of unsecured creditors duly certified by the Chartered Accountant along with the consent affidavit of the unsecured creditors are annexed with the Company Petition being- **Annexure(s)-K, K1 and K2** in Volumes III at **Page No(s). 453-581.**
9. The certificate by the Chartered Accountant in respect of the Transferee Company verifying conformity with Accounting Standard under Section 133 of the Companies Act 2013 is annexed with the Company Petition being- **Annexure-L** in Volume IV at **Page No. 582-583.**
10. The Ld. Counsel for the Applicants submits that the present Scheme is an amalgamation between the Applicant Companies and none of the members, shareholders, and creditors will be affected by the Scheme.
11. Directions are sought accordingly for dispensing meetings of all the Equity Shareholders, and the Unsecured Creditors of the Applicant Companies.
12. Heard the Ld. Counsel for the petitioners and 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) In view of the consents given through affidavit by all the equity shareholders, and the unsecured creditors of the Applicant Companies,

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the meeting of equity shareholders and the unsecured creditors are hereby dispensed with.

- b) The applicant to serve a 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:
- i. Regional Director, Eastern Region, Ministry of Corporate Affairs, Kolkata;
 - ii. Registrar of Companies, West Bengal, Kolkata with whom the Applicants are registered;
 - iii. Official Liquidator; High Court at Calcutta;
 - iv. Income Tax Department having jurisdiction over the Applicants.
 - v. Other sectoral regulators that are likely to be affected by the scheme.

These notices shall be sent by hand delivery through special messenger or by post and by email within two weeks from the date of receiving this order and 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 Applicants. 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) 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.

13. The Applicants 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.

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14. The application being **CA (CAA) No. 70/ KB / 2024** is **disposed of** accordingly.
15. 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)

Order signed on the 22nd day of April 2024

A.S. LRA