

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

CP. (CAA) NO. 61/230/HDB/2017

U/s 230 and 232 of the Companies Act, 2013

In the matter of

Sangam Books (India) Private Limited
3-6-747/1/A & 3-6-754/1
Himayat Nagar,
Hyderabad – 500 029,
Telangana

Transferor /Petitioner Company

Versus

**CERTIFIED TO BE TRUE COPY
OF THE ORIGINAL**

The Agricultural Development Commercial Credit
& Industrial Investment Company Private Ltd
3-6-747/1/A & 3-6-754/1
Himayat Nagar Hyderabad – 500029

Transferee Company

Date of order: 18.07.2017

CORAM

Hon'ble Shri Rajeswara Rao Vittanala, Member (J)

Parties present

Counsels for the Transferor/
Petitioner Company

: Shri L.V.V. Iyer, Advocate
along with Shri Vivek Ganesh,
Advocate

Counsel for Official Liquidator

Shri J. Srinadh Reddy,
Advocate

Per: Rajeswara Rao Vittanala, Member (J)



ORDER

1. The present Company Petition bearing CP (CAA) No. 61/230/HDB/2017 is filed by Sangam Books (India) Private Limited (herein after referred to as Transferor / Petitioner Company) under Section 230 and 232 of the Companies Act, 2013, by inter-alia, seeking directions to sanction the Scheme of Arrangement with the Agricultural Development Commercial Credit and Industrial Investment Company Private Limited (Transferee Company) as proved by Board of Directors of Sangam (Books) Private Limited held on 29th September, 2016 etc.
2. Heard Shri L.V.V. Iyer, Learned Counsel along with Shri Vivek Ganesh, Learned Counsel for the Transferor / Petitioner Company and Shri J. Srinadh Reddy, Learned Counsel for the Official Liquidator.
3. Brief facts, of the case, which are relevant to the issue in question, as stated in the Company Petition are submitted as under:-
 - (a) Initially, the Petitioner / Transferor Company has filed Company Application No. 1603/ 2016 before the Hon'ble High Court for dispensing with the convening of meeting of the equity shareholders, and that of the unsecured creditor of the Petitioner Company for consideration of the proposed scheme of amalgamation of Petitioner / Transferor Company with the Agricultural Development Commercial Credit and Industrial Investment Company Private Limited (Transferee Company) as detailed in the Scheme.
 - (b) The said company Application No. 1603 of 2016 was disposed of by Hon'ble High Court vide order dated 30.11.2016 dispensing with the holding of meeting of the



equity shareholders of the Applicant Company and dispensing with the meeting of the unsecured creditors of the Applicant Company for the purpose of considering the proposed Scheme of Arrangement. After fulfilling requisite conditions for sanction of scheme in question, the present Petition is filed before this Tribunal for sanction of the scheme.

(c) Details of the Petitioner / Transferor Company

Sangam Books (India) Private Limited, is a private company under Section 2(68) of Companies Act, 2013, which was originally incorporated under the Companies Act, 1956 on 9th February, 1981 in Madras and subsequently changed the place of its registered office to erstwhile State of Andhra Pradesh (presently Telangana) pursuant to the order of CLB in CP.No.124/17/SRB/83., dated 31.1.1984. Its registered office is situated at 3-6-747/1/A & 3-6-754/1, Himayat Nagar, Hyderabad Telangana – 500029, India.



The Capital Structure of the Petitioner Company as on 1st April, 2016 is as follows:

SHARE CAPITAL	Rs.
AUTHORISED CAPITAL: 50,000 Equity Shares of Rs. 10/- each	5,00,000
ISSUED, SUBSCRIBED AND PAID-UP CAPITAL: 15,400 Equity Shares of Rs. 10/- each, fully paid-up	1,54,000

(d) Details of the Transferee Company

The Agricultural Development Commercial Credit and Industrial Investment Company Private Limited hereinafter called the "Transferee Company", is a private company under Section 2(68) of the Companies Act, 2013 which

was originally incorporated under the Companies Act, 1956 on 9th September 1981 in Madras and which subsequently changed the place of its registered office to erstwhile State of Andhra Pradesh (presently Telangana) pursuant to the order of CLB in CP.No.122/17/SRB/83., dated 31.1.1984. Its Registered Office is situated at 3-6-747/1/A & 3-6-754/1, Himayat Nagar, Hyderabad – 500 029, Telangana.

SHARE CAPITAL	Rs.
AUTHORISED CAPITAL: 2,50,000 Equity Shares of Rs. 10/- each	25,00,000
ISSUED, SUBSCRIBED AND PAID-UP CAPITAL: 1,50,000 Equity Shares of Rs. 10/- each	15,00,000

(e) The main objects of Transferor Company are as follows:



1. To carry on all or any of the following trades in all or any of their branches, viz., the business of publishers, printers, booksellers, book-binders, lithographers, engravers, die-sinkers, print sellers, magazine and newspaper proprietors, journalists, advertisers and advertising agents, literary agents, paper makers, stationers, manufacturers. Dealers and proprietors in Audio-visual aids like films, cassette tapes, video tapes, slides and the like and manufacturers, and importers and exporters and dealers in all materials and things whatsoever used or employed for or in connection with any of such business.
2. To carry on the business of leasing and to finance, lease operations of purchasing, selling, hiring or letting on hire of plants and machinery and equipment that the company may think fit and to assist in subsidising or financing the sale and maintenance of any goods, articles or commodities upon any terms whatsoever and to purchase or otherwise deal in immovable and movable property including lands and buildings, plant

and machinery, equipment, automobile, computers and all commercial and industrial items and to lease or otherwise deal with them in any manner whatsoever including resale thereof regardless of whether the property purchased and leased be new and/or used.

3. To act as Agents for any persons or companies carrying on any of the businesses referred to in Clause (1) hereof, in India or abroad.
- (f) The rational for the Scheme of Arrangement has been summarised in the Scheme as under:

The proposed Scheme of Arrangement:

- a. It would enable to achieve higher long-term financial returns and inculcation of greater financial strength and flexibility than could be achieved by the companies individually;
- b. It would enable the Transferee Company to have diversified product portfolio which would enable it to manage risks in a better way;
- c. It would be beneficial for pooling of financial, managerial and technical resources, personnel capabilities, skills, expertise and technologies of the merging companies leading to increased competitive strength; and
- d. It would simplify management structure, leading to better administration and a reduction in costs from more focused operational efforts, rationalization, standardization and simplification of business processes, and the elimination of duplication, and rationalization of administrative expenses.



- (g) The Board of Directors of the Transferor / Petitioner Company has, in its meeting held on 29th September 2016, passed a resolution approving the Scheme of Arrangement in question.
- (h) The following are brief terms of Scheme of Arrangement
- (1) The Appointed Date for the purpose of this Scheme means 01.04.2016 or such other date as may be fixed by the National Company Law Tribunal.
 - (2) The Scheme of Arrangement envisages amalgamation of Sangam Books (India) Private Limited, the Transferor Company with The Agricultural Development Commercial Credit and Industrial Investment Company Private Limited, the Transferee Company pursuant to Sections 230 and 232 of the Companies Act, 2013 (the corresponding Sections 391 and 394(1) of the Companies Act, 1956 reflected in the Scheme having been superceded) in the manner provided for in the Scheme.
 - (3) The assets and properties of the Transferor Company shall include the entire businesses and all rights, privileges, powers and authorities and all properties, movable or immovable, real, corporeal or incorporeal, leasehold or otherwise, in possession or reversion, present or contingent of whatever nature and where so ever situated, including fixed assets, if any, capital works in progress, current assets, investment of all kind, approvals, permissions, consents, exemptions, registrations, no-objection certificates and certifications, permits, quotas, rights, entitlements, tenancies, roof rights, trademarks, service marks, know-how, technical know-how, trade names, descriptions, trading style, franchises, labels, label



designs, colour schemes, utility models, holograms, bar codes, designs, patents, copyrights, privileges and any rights, title or interest in intellectual property rights, benefits of security arrangements, contracts, agreements and all other rights including lease rights, licenses including those relating to trademarks, or service marks, easements, advantages, exemptions, benefits, powers and facilities of every kind, nature and description whatsoever of the Transferor Company or to which the Transferor Company is entitled including right to use of telephones, telex, facsimile connections and installations, electricity, power lines, communication lines and other services, reserves, deposits, provisions, funds, subsidies, grants, tax credits, and any accretions or additions arising to any of the foregoing on and after the Appointed Date and all the debts, liabilities, duties, responsibilities and obligations of the Transferor Company including all its obligations of whatsoever kind and liabilities which have arisen or accrued on or after the Appointed Date.

- (4) With effect from the Appointed Date and upon the Scheme becoming effective, all the assets and properties, both movable and immovable, investments, rights, title and interests, comprised in the Undertaking of the Transferor Company shall pursuant to the Scheme being sanctioned by the Court under 230(6) of the Companies Act, 2013 (the corresponding Section of the Companies Act, 1956 reflected in the Scheme having been superceded) and without any further act or deed be transferred to, and vested in, or deemed to have been transferred to, and vested in, the Transferee Company so as to become as and from the Appointed Date, the estate,



assets, rights, title and interests of the Transferee Company subject to Clause 3.2 of the Scheme in relation to charges thereon in favour of bank(s).

- (5) With effect from the Appointed Date and upon the Scheme becoming effective, all rights and licenses relating to trademarks, know-how, technical know-how, trade names, descriptions, trading style, franchises, labels, label designs, colour schemes, utility models, holograms, bar codes, copyrights, privileges and any rights, title or interest in intellectual property rights (including applications submitted to the registration authorities on or before the Effective Date by the Transferor Company), tenancies, if any, with the consent of the landlord wherever necessary, powers, facilities of every kind and description of whatsoever nature in relation to the Undertaking of the Transferor Company to which the Transferor Company is a party or to the benefit of which the Transferor Company may be entitled/eligible and which are subsisting or have effect immediately before the Appointed Date, shall be in full force and effect on, or against, or in favour of, the Transferee Company as the case may be, and may be enforced as fully and effectually as if, instead of the Transferor Company, the Transferee Company had been a party or beneficiary or obligee thereto.
- (6) On and from the Appointed Date and upon the Scheme becoming effective, all suits, actions and other legal proceedings by or against each of the Transferor Company under any statute or otherwise, whether pending, or arising, before the Appointed Date shall be continued and enforced by or against the Transferee Company.



(7) All debts, outstanding and receivables of the Transferor Company shall accordingly, on and from the Appointed Date and upon the Scheme becoming effective, stand transferred to and vested in the Transferee Company without any notice or other intimation to the debtors (though the Transferee Company may, if it deems appropriate, give notice to the debtors that the debts stand transferred and vested in the Transferee Company) and the debtors shall be obliged to make payment to the Transferee Company after the Effective Date.



(8) With effect from the Appointed Date and upon the Scheme becoming effective, all debts (whether secured or unsecured), liabilities (including contingent liabilities, whether disclosed or undisclosed), taxes, duties and obligations of every kind, nature and description of the Transferor Company along with any charge, encumbrance, lien or security thereon shall also be vested and stand transferred to and be deemed to be and stand vested in the Transferee Company without any further act, or instrument or deed pursuant to the Scheme being sanctioned by the High Court (NCLT) under Section 230(6) of the Companies Act, 2013 so as to become the debts, liabilities, duties and obligations of the Transferee Company from the Appointed Date and further that it shall not be necessary to obtain the consent of any third party or other person who is a party to any contract or arrangement by virtue of which such debts, liabilities, duties and obligations have arisen in order to give effect to the provisions of this clause.

(9) All permanent employees, if any, of the Transferor Company as on the Effective Date shall as from such date, become employees of the Transferee Company

in accordance with clause 6 of the Scheme, without any further act or deed to be done by the Transferor Company or the Transferee Company.

- (10) All taxes (including, without limitation, income tax, wealth tax, sales tax, excise duty, customs duty, service tax, VAT etc) paid or payable by the Transferor Company in respect of the operations and /or the profits of the Transferor Company before the Appointed Date, shall be on account of the Transferor Company and, in so far as it relates to the tax payment (including, without limitation, income tax, minimum alternate tax, dividend distribution tax, wealth tax, sales tax, excise duty, customs duty, service tax, VAT etc.), whether by way of deduction at source, advance tax or otherwise howsoever, by the Transferor Company in respect of the profits or activities or operation of the Transferor Company with effect from the Appointed Date, the same shall be deemed to be the corresponding item paid by the Transferee Company and, shall, in all proceedings, be dealt with accordingly.



- (11) Intercompany loans, investments and other balances and obligations, if any, between the Transferor Company and the Transferee Company on the Appointed Date shall stand cancelled and extinguished and corresponding effect shall be given in the books of the Transferee Company for the reduction of any assets or liabilities, as the case may be.
- (12) Amalgamation of the Transferor Company with the Transferee Company shall be accounted for in accordance with "Pooling of Interest Method" of accounting as per Accounting Standard – 14.

(13) Upon the Scheme becoming effective and in consideration of the amalgamation, including the transfer and vesting of the Undertaking of the Transferor Company with the Transferee Company pursuant to Part II of the Scheme, the Transferee Company shall, without any further application, act or deed and without requirement of any payment, issue and allot to each shareholder of the Transferor Company other than the Transferee Company, whose name is recorded in the Register of Members of the Transferor Company, on a record date to be fixed by the Board of the Transferee Company, in the exchange ratio of 1 : 1 on the basis of fairness opinion dated 26th September, 2016 rendered by M/s Subbarao Vamanan & Co. Chartered Accountants, Secunderabad, as under:



1 (one) equity share of Rs.10/- (Rupees ten only) each in the share capital of the Transferee Company credited as fully paid up for every 1 (one) equity share of Rs.10/-(Rupees ten only) each fully paid up held by such equity shareholder in the share capital of the Transferor Company, such that the aggregate equity shares to be issued and allotted by the Transferee Company pursuant to the entitlement ratio shall not exceed 3,300 equity shares of Rs.10/-(Rupees ten only) each. The 12,100 equity shares held by the Transferee Company in the equity share capital of the Transferor Company shall be cancelled and no equity shares shall be issued in lieu thereof by the Transferee Company.

(14) The equity shares to be issued and allotted by the Transferee Company in terms of sub-clause 11.1 and 11.2 of the Scheme shall rank pari passu in all

respects with the existing equity shares of the Transferee Company.

- (15) Upon the Scheme becoming effective, the authorized capital of the Transferor Company shall stand added to and clubbed with the authorized capital of the Transferee Company without payment of any fees or stamp duty and memorandum and articles of association of the Transferee Company (relating to authorised share capital) shall without any further act, instrument or deed, be and stand altered, modified and amended, and the consent of the shareholders to the Scheme shall be deemed to be sufficient for the purpose of effecting this amendment, and no further resolution(s) under Section 13, 14, 61 or any other applicable provisions of the Companies Act, 2013 would be required to be separately passed, as the case may be, and for this purpose the stamp duty and fees paid on the authorised share capital of the Transferor Company to the extent transferred and clubbed pursuant to clause 12 of the Scheme shall be utilised and applied to the increased authorised share capital of Transferee Company and there would be no requirement for any other further payment of stamp duty and / or fee by the Transferee Company for increase in the authorised share capital to that extent. Pursuant to the Scheme becoming effective and in terms of clause 12 thereof, the authorised share capital of Transferee Company will be as under:

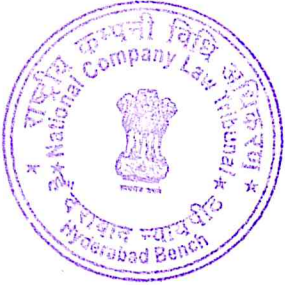


SHARE CAPITAL	Rs.
AUTHORISED CAPITAL 3,00,000 Equity Shares of Rs.10/- each	30,00,000

- (16) With effect from the Effective Date, the Transferor Company shall stand dissolved without being wound up.
- (17) The auditors of the Petitioner Company have in their certificate dated 5th April 2017 confirmed that the accounting treatment proposed in the Scheme of Arrangement is in conformity with the accounting standards prescribed under Section 133 of the Companies Act, 2013.
- (i) The Scheme does not propose any arrangement with the creditors of the Petitioner Company. The Petitioner Company has no secured creditors as on 30th September 2016 and has only one unsecured creditor, namely Orient Blackswan Private Limited, with an outstanding amount of Rs. 13,94,811.13/- as on 30th September 2016. The Transferor / Petitioner Company has obtained the 'No Objection' from the sole unsecured creditor. The status of the secured and unsecured creditors as on 30th September 2016 duly certified by M/s. Subbarao Vamanan & Co, Auditors of the Petitioner Company vide Certificate dated 24th October 2016, and the 'No Objection' from the sole unsecured creditor of the Petitioner Company were submitted as an exhibit to Company Application 1603 of 2016 before the Hon'ble High Court of Judicature at Hyderabad for the State of Telangana and for the State of Andhra Pradesh.
- (j) The position of the creditors of the Petitioner Company (if any) will not be adversely affected by the Scheme of Arrangement. The assets of the Transferee Company are sufficient to meet all the liabilities of the Transferor / Petitioner Company. The financial position of the Transferee Company will continue to remain strong and in light of the benefits flowing from the Amalgamation as



stated in paragraph 4.3 of the Company Petition, shall be strengthened by the vesting of the assets of the Petitioner Company under the Scheme of Arrangement and, accordingly, there is no likelihood that any creditor of the Petitioner Company would lose or be prejudiced as a result of the Scheme being implemented since no sacrifice or waiver is called for from them nor their rights sought to be modified in any manner. The Transferee Company would be able to meet the liabilities as they arise in the ordinary course of business. Hence, the rights and interests of the shareholders and creditors of the Petitioner Company and the Transferee Company will not be prejudicially affected by the Scheme.



- (k) The Scheme of Arrangement required the approval of requisite majority of the equity shareholders of the Petitioner Company.
- (l) There are eleven equity shareholders in the Petitioner Company as on 30.09.2016 as per the list of Shareholders as certified by M/s. Subbarao Vamanan & Co., Chartered Accountants. Ten equity shareholders having 97% shareholding in the share capital of the Petitioner Company have given their written irrevocable and unqualified consent to the proposed Scheme of Arrangement by way of separate affidavits positively affirming their consent and absolute support to the proposed Scheme. The individual consent affidavits of the Shareholders have been submitted as an exhibit to Company Application. No. 1603 of 2016 before the Hon'ble High Court of Judicature at Hyderabad for the State of Telangana and for the State of Andhra Pradesh.
- (m) The Petitioner Company submitted that it had filed a Company Application in the Hon'ble High Court which was allotted No. 1603 of 2016 praying, inter alia, for a direction

to dispense with the convening of meeting of the equity shareholders and that of the unsecured creditor of the Petitioner Company. In view of consents of the unsecured creditor and the affidavits from the shareholders respectively the Hon'ble High Court on 30th November 2016, ordered the Company Application in terms of the prayers listed therein.

(n) The Petitioner submitted that no investigation proceedings in relation to the Petitioner Company under Sections 235 to 251 of the Companies Act, 1956 or the corresponding Sections 210 to 227 of the Companies Act, 2013 are pending against the Petitioner Company.

(o) It was submitted that the Petitioner Company has not received any objection to the Scheme of Arrangement in response to the public notice of the same given vide newspaper advertisements.

4. The Regional Director, South Eastern Region, has filed an affidavit dated 2nd June 2017 by inter alia submitting that the Transferor Company and the Transferee Company involved in the Scheme of Arrangement have submitted proof of service of notices on other Statutory authorities/Sectoral Regulators as required under Sub-Section (5) of Section 230 of the Companies Act 2013 and rules thereunder .Further it was submitted that the Transferor and the Transferee Companies are regular in filing the statutory returns and no complaints, no investigations and no inspections are pending against the Petitioner Company and that the Tribunal may dispose of the Petition on merits.

5. The Deputy Official Liquidator, High Court of Judicature at Hyderabad, has filed a report dated 28th June 2017, by confirming all material averments made in the petition and thus concluded that the affairs of the Petitioner Company appears to



have not been conducted in a manner prejudicial to the interests of members or to public interest. It was observed in the report that as per the audited Balance Sheet of Petitioner Company dated 31.03.2016, they paid Trade Payables, of which all except Rs.4,69,665/-. It was submitted on behalf of the Petitioner Company that the aforesaid amount has subsequently been reduced by payment to Rs.3,29,665/- which amount is being maintained as provision to meet costs which will be pooled in the accounts of the Transferee Company upon sanction of the Scheme of Amalgamation and that they would be paid by the Transferee Company as and when they come up for payment.



6. Shri Vivek Ganesh, Learned Counsel for the Petitioner Company has filed an affidavit by way of evidence dated 22.05.2017, inter-alia submitting that they have caused notification of the Company Petition in the business standard in Hyderabad Edition in English and also in Nava Telangana in Hyderabad dated 20.5.2017 in Telugu and the copies of the notification are annexed to the affidavit. He has also stated that he has served a copy of the Company Petition to the Additional Commissioner of Income Tax. Sangam Books (India) Private Limited (Petitioner Company) can be dissolved without winding up with effect from the date as per the Scheme of Arrangement. The Learned Counsel submitted that no objection has been received from any party.

7. As stated supra, the Companies involved in the case have initiated the proposed Scheme of Amalgamation, after duly analysing the pros and cons of the issue. Accordingly, the Board of Directors of the Companies involved have duly approved the Scheme of Amalgamation vide their respective resolution dated 29th September 2016. The Companies have also taken all steps to get acceptance of the Scheme in question by way of suitable affidavits giving their no objection to it. The

Scheme of Amalgamation in question prima facie shows that it is for the benefit of all the Companies involved and Stakeholders and is not against public any interest and against law. The Companies have also followed all requisite pre-conditions for granting dispensation of holding meetings of Equity Shareholders of the respective Companies. Hence, it is a fit case to allow the prayer as prayed for in the Petition.

8. In the result, the Company application bearing no. CP (CAA) No. 61/230/HDB/2017 is disposed of with the following directions:-

- (a) Sanctioned the Scheme of Arrangement as proposed and it is ordered that the same is binding on all the Equity Shareholders / Members and Creditors (Secured & Unsecured) of the Petitioner / Transferor Company and Transferee Company respectively with effect from appointed date i.e. 1st April, 2016
- (b) The Petitioner Company is directed to take appropriate steps to file the certified copy of this order with the Registrar of Companies within 30 days from the date of receipt of Copy of this order.
- (c) The Petitioner / Transferor Company is directed to publish in the Hyderabad edition of the "Business Standard", the English daily newspaper and in the Hyderabad edition of "Nava Telangana", the Telugu daily newspaper to ensure transparency/ dissemination of complete information to all concerned parties about the approval granted by the Tribunal for the scheme as proposed.
- (d) The Petitioner / Transferor Company is further directed to take all consequential and statutory steps required in pursuance of the approved Scheme of Arrangement under the provisions of the Act.



- (e) Liberty is granted to any party/parties who are aggrieved by this order, to seek any direction(s) by way of filing miscellaneous application in the present CP.
- (f) The Petitioner Company is directed to strictly adhere to the above directions and provisions of Section 230 of the Act.



Rajeswara Rao Vittanala

Member (J)

Order received by the Registry
on 10/8/17

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केस संख्या

CASE NUMBER CPCAA No. 61/230/HDE/2017

निर्णय का तारीख

DATE OF JUDGEMENT... 18.7.2017

प्रति तैयार किया गया तारीख

COPY MADE READY ON... 10.8.2017

V. Annapoorna
V. ANNAPOORNA
Asst. DIRECTOR
NCLT, HYDERABAD.