

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

CP (CAA) NO. 62/230/HDB/2017

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

In the matter of

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

Transferee/ Petitioner Company

Versus

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

Transferor Company

Date of order: 18.07.2017

CORAM

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

Parties present

Counsels for the Transferee/
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. 62/230/HDB/2017 is filed by The Agricultural Development Commercial Credit and Industrial Investment Company Private Limited (herein after referred to as Transferee Company) by inter-alia, seeking directions for sanction of the Scheme of Arrangement with the Sangam Books (India) Private Limited (Transferor Company).
2. Heard Shri L.V.V. Iyer, Learned Counsel along with Shri Vivek Ganesh, Learned Counsel for the Transferee / Petitioner Company.
3. Brief facts, of the case, which are relevant to the issue in question, are submitted as under:-
 - (a) Initially, the Petitioner / Transferee Company has filed Company Application No. 1604/ 2016 in the Hon'ble High Court for dispensing with the convening of meeting of the equity shareholders 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. 1604 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 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 / Transferee Company

The Agricultural Development Commercial Credit and Industrial Investment Company 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 September, 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.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 Telangana – 500029, India.

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

| 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 |

(d) Details of the Transferor Company

Sangam Books (India) Private Limited, hereinafter called the "Transferor 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 February 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.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 – 500 029, Telangana.

| 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 |

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

1. To carry on the business of investment in Agriculture, animal Husbandry, including cattle breeding dairy farming, poultry farming, Horticulture, Sheep breeding, Horse breeding including breeding of thoroughbred Race Horses and the like and investing in real estate or industries in rural areas and urban areas and investing in the shares of agricultural, commercial or industrial companies including the purchasing of land or building sites or plots and in general by:
 - i. Assisting to carry on the business of Agricultural, Commercial and Industrial enterprises.
 - ii. Assisting in the creation, expansion and modernization of agricultural, commercial and industrial enterprises within the private sector of India.
 - iii. Encouraging and promoting the participation of Private capital, both internal and external, in such enterprises.
 - iv. Encouraging and promoting private ownership of industrial investments.



2. To carry on the business of an Investment Company and to underwrite, sub-underwrite, to invest in and acquire and hold, sell, buy or otherwise deal in shares, debentures, stock, bonds, units, obligations and securities issued or guaranteed by Indian or Foreign Government of States, Dominions, Municipalities or Public Authorities or Body Corporates, Companies and shares, stock, debentures and debenture stocks, bonds, obligations and securities issued and guaranteed by any Company, Corporation Firm or person whether incorporated or established in India or elsewhere.
3. To acquire by purchase or otherwise and to hold, sell and deal in shares or partnership interest in any firm or company or body corporate or firms incorporated in India or in any other country.
4. To undertake and subscribe for conditionally or unconditionally stocks, shares, securities of any other company; to subscribe for conditionally or unconditionally or absolutely underwrite, purchase, acquire by exchange or otherwise hold, underwrite, negotiate, sell and deal in loans, shares, debentures, debenture-stocks, bonds, securities or obligations of any Government, State, Local Authority, Port Trust, Municipal or other body incorporated or not or of any Company, Corporation or persons.
5. Providing finance in the form of long or medium term loans to limited liability companies or partnerships or equity participation in limited liability companies whether private or public or join in partnerships registered or unregistered, syndicate or societies



engaged in Agricultural farming, Rural development, Horticulture, Animal Husbandry, including cattle breeding. Dairy farming, Horse breeding including breeding of thoroughbred Race Horses or any organization such as Stud farming, Dairy farming, Poultry farming and the like.

- (f) The rationale for the Scheme of Arrangement has been summarized in the Scheme as under:

The proposed Scheme of Arrangement:

- a. 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. would enable the Transferee Company to have diversified product portfolio which would enable it to manage risks in a better way;
- c. 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. 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 Transferee / Petitioner Company has, in its meeting held on 29th September 2016, passed a resolution approving the Scheme of Arrangement in question.

4. The following are brief terms of Scheme of Arrangement

- (a) The Appointed Date for the purpose of this Scheme is 01.04.2016l.
- (b) 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.
- (c) 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.

- (d) 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).

- (e) 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.

- (f) 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.
- (g) 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.



(h) 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.



(i) 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.

(j) 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.

- (k) 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.
- (l) 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.

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 27th 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.

- (m) 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.
- (n) 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 |

- (o) With effect from the Effective Date, the Transferor Company shall stand dissolved without being wound up.
- (p) 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.
- (q) The Scheme does not propose any arrangement with the creditors of the Petitioner Company. The Petitioner Company has no secured creditors or unsecured creditors as on 30th September 2016. The status of 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 were submitted as an exhibit to Company Application 1604 of 2016 before the Hon'ble High Court of Judicature at Hyderabad for the State of Telangana and for the State of Andhra Pradesh.



- (r) 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 Petitioner Company are sufficient to meet all the liabilities of the Transferor Company.
- (s) The financial position of the Petitioner 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 Transferor Company under the Scheme of Arrangement and, accordingly, there is no likelihood that any creditor of the Transferor 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 Petitioner 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 Transferor Company will not be prejudicially affected by the Scheme.
- (t) The Scheme of Arrangement requires sanction of requisite majority of the equity shareholders of the Petitioner Company. There are sixteen 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. Fourteen equity shareholders having 84.7% 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. 1604 of 2016 before the Hon'ble High Court of Judicature at Hyderabad for the State of Telangana and for the State of Andhra Pradesh.

- (u) The Petitioner Company submitted that it had filed a Company Application in the Hon'ble High Court which was allotted No. 1604 of 2016 praying, inter alia, for a direction to dispense with the convening of meeting of the equity shareholders of the Petitioner Company. In view of affidavits from the shareholders the Hon'ble High Court on 30th November 2016, ordered the Company Application in terms of the prayers listed therein.
- (v) 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.
- (w) 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.
- (x) The Regional Director, South Eastern Region, has filed a report by way of Affidavit dated 2nd June 2017, 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 merit.



5. 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 interest. 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.

6. In the result, the Company Petition bearing no. CP (CAA) NO. 62/230/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 Transferor Company and Petitioner /Transferee Company.

(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 / Transferee 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 sanction granted by the Tribunal for the scheme as proposed.



- (d) The Petitioner / Transferee 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.



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

8d/-

Rajeswara Rao Vittanala
Member (J)

Order received by the Registry
on 18/8/2017 प्रमणित प्रति

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केस संख्या

CASE NUMBER CA(CAA) No. 62/230/HDB/2017

निर्णय का तारीख

DATE OF JUDGEMENT 18/7/17

प्रति तैयार किया गया तारीख

COPY MADE READY ON 18/8/17