

THE COMPANIES ACT, 2013  
(COMPANY LIMITED BY SHARES)  
**MEMORANDUM OF ASSOCIATION**  
**OF**  
**EPACK DURABLE LIMITED**

1. The name of the Company is EPACK DURABLE LIMITED<sup>1</sup>.
2. The Registered office of the company will be situated in the STATE OF UTTAR PRADESH-UP.
3. (a) The objects to be pursued by the company on its incorporation are

1. To convert M/s. E-Vision, a partnership firm, having its place of business at C-6, UPSIDC Industrial Area, Selaquai, Dehradun, Uttarakhand-248011 into the Part I Company under the Companies Act as going concern along with all the assets and liabilities of that firm. The said firm shall be ceased to exist on the date of incorporation of the company under Part-I of the Companies Act, 2013.

2. To design, manufacture, assemble, construct, fabricate, install, repair, develop, process, sell, import, export, buy, marketing and to deal in components, spare parts for electronic and electric appliances as well as all types of mechanical items, dealing in any other form in respect of any or all types of expandable and expanded polystyrene, polyethylene, PVC, nylons, H.P.P.E., P.P. and various other items and form of plastic and plastic powders, P.V.C. compounds, solvents and laminations materials and to provide services, repair, reconditioning and maintenance on spot or otherwise of such components, appliances, items and service parts, Packaging material and to acquire or lease property, building, machinery, equipments, manufacturing, assembly, installation, servicing, repairing, reconditioning and maintenance of such appliances, service parts etc. fabrication of prefab structure, manufacturing of bricks, tiles, pipes, cement lime and building construction requisites and to carry on all or any of the business of builders, contractors, architects, decorators, furnishers, and to carry on all or any of the business of farmers, dairyman, milk contractors, dairy farmers, millers, purveyors and vendors of milk and milk products and to cultivate, tea, coffee, cinchona and any other such similar product and to carry on the business of planters, to carry on the business of purchase and sale of petroleum products, to act as dealers and distributors for petroleum companies, to run service stations for the repair and servicing of automobiles and to manufacture or deal in fuel oils, cutting oils and greases, making of scientific, industrial and surgical instruments, to purchase, hold and acquire mines, deals in on road & off road vehicle, to carry on the business of printing, publishing, to undertake and transact all kinds of agency business.

3. To manufacture, assemble, marketing, alter, convert, process, import, design, buy, sell, export, install, service, maintain, repair, recondition, exchange or otherwise deal in all types of computers, software, data processing machines, computers peripherals, word processing machines, calculators, computerised systems, telecommunication, network systems, transmission system converting all media such as fibre copper wireless, satellite and other computer based systems and instruments and their components, devices and spare parts.

4. To assist in the matter of recruitment of personnel including providing manpower and give guidance in the assessment of their personnel and act on behalf of any person, firm, company or institutions, corporation or Government bodies within India or abroad.

5. To establish and carry on in India or abroad the above business (through internet, with or without internet, physical contact, introductory letters tele-marketing etc.)

<sup>1</sup> a) The Company changed its name from Epack Durables Solutions Private Limited to Epack Durable Private Limited by Special Resolution passed in the Extra-Ordinary General Meeting of the Company held on July 30, 2021.

b) The Company passed a Special Resolution to convert the Company from Private Limited Company to Public Limited Company at its Extra-Ordinary General Meeting held on June 13, 2023.

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Epack Durable Limited  
Company Secretary

6. To do all incidental acts and things necessary for the attainment of the above objects.

7. To do all or any of the main businesses either as principals, trustees, agents, contractors or otherwise and either alone or in conjunction with others and either by or through agents, sub-contractor, trustees or otherwise.

**3. (b) Matters which are necessary for furtherance of the objects specified in clause 3(a) are**

1. To purchase, exchange or otherwise any movable or immovable property and any rights or privileges which the Company may deem necessary or convenient for the purpose of its main business.

2. To enter into partnership or into any arrangement for sharing profits, union of interest, joint venture, reciprocal concession or co-operation with persons or companies carrying on or engaged in the main business or transaction of this Company.

3. To import, buy, exchange, alter, improve and manipulate in all kinds of plants, machinery, apparatus, tools and things necessary or convenient for carrying on the main business of the Company.

4. To vest any movable or immovable property, rights or interests required by or received or belonging to the Company in any person or company on behalf of or for the benefit of the Company and with or without any declared trust in favour of the Company.

5. To purchase, build, carry out, equip, maintain, alter, improve, develop, manage, work, control and superintend any plants, warehouse, sheds, offices, shops, stores, buildings, machinery, apparatus, labour lines, and houses, warehouses, and such other works and conveniences necessary for carrying on the main business of the Company.

6. To undertake or promote scientific research relating to the main business or class of business of the Company.

7. To takeover the whole or any part of the business, goodwill, trade-marks properties and liabilities of any person or persons, firm, companies or undertakings either existing or new, engaged in or carrying on or proposing to carry on business this Company is authorised to carry on, possession of any property or rights suitable for the purpose of the Company and to pay for the same either in cash or in shares or partly in cash and partly in shares or otherwise.

8. To negotiate and enter into agreements and contracts with Indian and foreign individuals, companies, corporations and such other organizations for technical, or any other such assistance for carrying out all or any the main objects of the Company or for the purpose of activity research and development of manufacturing projects on the basis of know-how, or technical collaboration and necessary formulas and patent rights for furthering the main objects of the Company.

9. Subject to the Provisions of the Companies Act 2013, to amalgamate with any other company of which all or any of their objects companies having similar to the objects of the Company in any manner whether with or without the liquidation.

10. Subject to any law for the time being in force, to undertake or take part in the formation, supervision or control of the business or operations of any person, firm, body corporate, association undertaking carrying on the main business of the Company.

11. To apply for, obtain, purchase or otherwise and prolong and renew any patents, patent-rights, brevets, inventions, processes, scientific technical or other assistance, manufacturing processes know-how and other information, patterns, copyrights, trade-marks, licenses concessions and the like rights or benefits, conferring an exclusive or non-exclusive or limited or unlimited right of use thereof, which may seem capable of being used for or in connection with the main objects of the Company or the acquisition or use of which may seem calculated directly or indirectly to benefit the Company on payment of any fee royalty or other consideration and to use, exercise or develop the same under or grant licenses in respect thereof or otherwise deal with same and to spend money in experimenting upon testing or improving any such patents, inventions, right or concessions.

12. To apply for and obtain any order under any Act or Legislature, charter, privilege concession, license or authorisation of any Government, State or other Authority for enabling the Company to carry on any of its main objects into effect or for extending any of the powers of the Company or for effecting and modification of the constitution of the Company or for any other such purpose which may seem expedient and to oppose any proceedings or applications which may seem expedient or calculated directly or indirectly to prejudice the interest of the Company.

**For Epack Durable Limited**

  
Company Secretary  
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13. To enter into any arrangements with any Government or Authorities or any persons or companies that may seem conducive to the main objects of the Company or any of them and to obtain from any such Government, authority, person or company any rights, charters, contracts, licenses and concessions which the Company may think desirable to obtain and to carry out, exercise and comply therewith.
14. To procure the Company to be registered or recognised in or under the laws of any place outside India and to do all act necessary for carrying on in any foreign country for the business or profession of the Company.
15. To draw, make, accept, discount, execute and issue bills of exchange, promissory notes bills of lading, warrants, debentures and such other negotiable or transferable instruments, of all types or securities and to open Bank Accounts of any type and to operate the same in the ordinary course of the Company.
16. To advance money either with or without security, and to such persons and upon such terms and conditions as the Company may deem fit and also to deal with the money of the Company not immediately required.
17. To undertake and execute any trusts, the undertaking of which may seem to the Company desirable, either gratuitously or otherwise.
18. To establish, or promote or concur in establishing or promote any company for the purpose of dealing all or any of the properties, rights and liabilities of the Company.
19. To sell, mortgage, exchange, grant licenses and other rights improve, manage, develop and dispose of undertakings, properties, assets and effects of the company or any part thereof for such consideration as may be expedient and in particular for any shares, stocks, debentures or other securities of any other such company having main objects altogether or in part similar to those of the Company.
20. Subject to the Provisions of Companies Act 2013, to distribute among the members in specie or otherwise any property of the Company or any proceeds of sale or disposal of any property of the Company in the event of winding up.
21. To distribute as dividend or bonus among the member or to place to reserve or otherwise to apply, as the Company may, from time to time, determine any money received by way of premium on debentures issued at a premium by the Company and any money received in respect of forfeited shares, money arising from the sale by the Company of forfeited shares subject to the provisions of Sec. 52 of the Companies Act, 2013.
22. To employ agents or experts to investigate and examine into the conditions, prospects value, character and circumstances of any business concerns and undertakings and generally of any assets properties or rights which the Company purpose to acquire.
23. To create any reserve fund, sinking fund, or any other such special funds whether for depreciation, repairing, improving, research, extending or maintaining any of the properties of the Company or for any other such purpose conducive to the interest of the Company.
24. Subject to the provisions of Section 179 to 183 of Companies Act, 2013, to subscribe contribute, gift or money, rights or assets for any national educational, religious, charitable, scientific, public, general or usual objects or to make gifts or such other assets to any institutions, clubs, societies, associations, trusts, scientific research associations, funds, universities, college or any individual, body of individuals or bodies corporate.
25. To establish and maintain or procure the establishment and maintenance of any contributory or non-contributory pension or superannuation, provident or gratuity funds for the benefit of and give of procure the giving of the gratuities pensions, allowances, bonuses or emoluments of any persons who are or were at any time in the employment or service of the company or any company which is a subsidiary of the Company or is allied to or associated with the Company or with any such subsidiary company or who are or were at any time Directors or officers of the Company or any other company as aforesaid and the wives, widows, families and dependents of any such persons and also to establish and subsidise and subscribe to any institutions, associations, club or funds calculated to be for the benefit of or advance aforesaid and make payments to any such persons as aforesaid and to do any of the matters aforesaid, either alone or in conjunction with any such other company as aforesaid.
26. To establish, for any of the main objects of the Company, branches or to establish any firm or firms at places in or outside India as the Company may deem expedient.
27. To pay for any property or rights acquired by or for any services rendered to the Company and in particular to remunerate any person, firm or company introducing business to the company either in cash or fully or partly-paid up shares with or without preferred or deferred rights in respect of dividend or repayment of capital or otherwise or by any securities which the company has power to issue or by the grant of any rights or options or partly in one mode and partly in another and generally on such terms as the company may determine.

For Epack Durable Limited

  
Company Secretary

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28. To pay out of the funds of the company all costs, charges and expenses of and incidental to the formation and registration of the company and any company promoted by the company and also all costs, charges, duties, impositions and expenses of and incidental to the acquisition by the company of any property or assets.
29. To send out to foreign countries, its director, employees or any other person or persons for investigation possibilities of main business or trade procuring and buying any machinery or establishing trade and business connections or for promoting the interests of the company and to pay all expenses incurred in the connection.
30. To compensate for loss of office of any Managing Director or Directors or other officers of the Company within the limitations prescribed under the Companies Act or such other statute or rule having the force of law and to make payments to any person whose office of employment or duties may be determined by virtue of any transaction in which the Company is engaged.
31. To agree to refer to arbitration any dispute, present or future between the Company and any other company, firm, individual or any other body and to submit the same to arbitration in India or abroad either in accordance with Indian or any foreign system of law.
32. To appoint agents, sub-agents, dealers, managers canvassers, sales, representatives or salesmen for transacting all or any kind of the main business of which this Company is authorised to carry on and to constitute agencies of the Company in India or in any other country and establish depots and agencies in different parts of the world.
33. To Borrow or raise any sum or sums of money for the purpose of the company in such manner and on such terms and conditions in all respect as they think fit without security or with security of all or any part of the movable and immovable properties and to open current, Cash credit, overdraft or other Loan account/Bank account and to draw, make, accept, endorse, negotiate, discount and execute cheques, promissory notes, issue bill of exchanges, bill of lading and other negotiable instrument or transferable instruments.<sup>2(a)</sup>
34. Subject to the powers, procedures, restrictions, enabling provisions envisaged under the Companies Act, 2013 as may be amended from time to time, to do all such other acts, things, deals, transactions, including but not limited to investment of funds, providing of security, giving guaranty etc. as may be incidental, consequential or conducive to the attainment or furtherance of the above matters or main objects mentioned hereinabove.<sup>2(a)</sup>

4. The liability of the member(s) is limited and this liability is limited to the amount unpaid, if any, on the shares held by them.
5. The Authorized Share Capital of the Company is Rs. 1,68,10,00,000/- (Indian Rupees One Hundred Sixty Eight Crore and Ten Lakh only) divided into 13,70,00,000 (Thirteen Crore Seventy Lakh) Equity Shares of Rs. 10/- (Rupees Ten only) each, 2,00,00,000 (Two Crore) Preference Shares of Rs. 10/- (Indian Rupees Ten only) each and 1,11,00,000 (One Crore Eleven Lakh) Series A Preference Shares of Rs. 10/- (Indian Rupees Ten only) each.<sup>2e)</sup>

<sup>2</sup> a) The Company altered Memorandum of Association by special resolution passed at the Extra Ordinary General meeting of the Company held on September 25<sup>th</sup>, 2019 by insertion of sub-clause 33 and 34 under clause 3(b).

b). The Company increased its Authorised Share Capital to Rs. 90,00,00,000/- (Indian Rupees Ninety Crore only) in the Extra-ordinary General Meeting held on July 30<sup>th</sup>, 2021.

c). The Company increased its Authorised Share Capital to Rs. 101,10,00,000/- (Indian Rupees One Hundred One Crore Ten Lakh only) in its Extra-Ordinary General Meeting held on August 12<sup>th</sup>, 2022.

d). The Company increased its Authorised Share Capital to Rs. 1,36,10,00,000 /- (Indian Rupees One Hundred Thirty-Six Crore and Ten Lakh only) in its Extra-Ordinary General Meeting held on June 13<sup>th</sup>, 2023.

e) The Authorised Share Capital has been increased to Rs. 1,68,10,00,000/- (Indian Rupees One Hundred Sixty Eight Crore and Ten Lakh only) pursuant to order of National Company Law Tribunal, Allahabad Bench dated May 02, 2024, sanctioning the scheme of amalgamation of EPACK Components Private Limited with EPACK Durable Limited.

For Epack Durable Limited



Company Secretary

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6. We, the several persons, whose names and addresses are subscribed, are desirous of being formed into a company in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set against our respective names:

S.No.	Subscriber Details				
	Name, Address, Description and Occupation	DIN/PAN/Passport Number	No. of shares taken	DSC	Dated
1	Bajrang Lal Bothra S/o Punam Chand Bothra R/o B-114 SECTOR-40, GAUTAM BUDDHA NAGAR, NOIDA-201301 BUSINESS	00129286	1204523 8	Equity BAJRA NG LAL BOTHRA A	11/04/19
2	Ajay Singhania S/o DeenDayal Singhania R/o D-145, SECTOR-47, NOIDA - 201301 BUSINESS	00107555	2408613 1	Equity AJAY SING HANIA	11/04/19
3	Nikhil Bothra S/o Laxmipat Bothra R/o B-116 SECTOR-40, GAUTAM BUDDHA NAGAR, NOIDA-201301 BUSINESS	APRPB1291A	1204089 2	Equity NIKHIL BOTH RA	11/04/19
Total Shares taken			48,172,2 61.00 0.00	Equity	

  

Signed before Me				
Name	Address, Description and Occupation	DIN/PAN/Passport Number/ Membership Number	DSC	Dated
FCS	Naresh Verma S/o Ramesh Kumar Verma R/o 160 J-EXTENSION STREET NO.5, LAXMI NAGAR, DELHI 110092 Practising Company Secretary FCS No. 5403 CP 4424	5403	NAR ESH VER MA	11/04/19

For Epack Durable Limited



Company Secretary

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## **ANNEXURES TO THE MEMORANDUM OF ASSOCIATION**

National Company Law Tribunal, Allahabad Bench dated May 02, 2024, sanctioning the scheme of amalgamation of EPACK Components Private Limited with EPACK Durable Limited

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL  
ALLAHABAD BENCH, PRAYAGRAJ**

**CP (CAA) No.5/ALD/2023**

**(2<sup>nd</sup> Motion)**

Under Sections 230 and 232 of the Companies Act, 2013 read with Rule 15(1) of the Companies Act, 2013, the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, and other applicable provisions of the Companies Act, 2013.

**In the matter of Scheme of Amalgamation of:**

1. **EpacK Components Private Limited**, a Company incorporated under the Companies Act, 2013 having Registered office at 61-B, Udyog Vihar, Surajpur, Kasna Road Greater Noida, Noida, Gautam Buddha Nagar, Uttar Pradesh – 201306, CIN: U74999UP2019PTC115950  
PAN: AAFCE4760R, E-mail: [rajesh.mittal\\_ed@epack.in](mailto:rajesh.mittal_ed@epack.in)

**...First Applicant Company /Transferor Company**

**AND**

2. **EpacK Durable Limited**, A Company, incorporated under the Companies Act, 2013 Registered office at 61-B, Udyog Vihar, Surajpur, Kasna Road Greater Noida, Noida, Gautam Buddha Nagar, Uttar Pradesh - 201306  
CIN: U74999UP2019PLC116048 PAN: AAFCE4759E  
E-mail: [rajesh.mittal\\_ed@epack.in](mailto:rajesh.mittal_ed@epack.in)

**...Second Applicant Company/ Transferee Company**

**ORDER PRONOUNCED ON: 2<sup>nd</sup> MAY, 2024**

**CORAM:**

Shri Praveen Gupta : Member (Judicial)  
Shri Ashish Verma : Member (Technical)

**PRESENT:**

Sh. Saurabh Khanna, Adv. : *For the Petitioner Companies*  
Sh. Ajeet Kumar Singh, AOL : *For the OL Alld*  
Sh. Shivendra Bahadur Singh, CGSC : *For the ROC*  
Sh. Niraj Kumar Singh, Proxy for : *For the IT Deptt.*  
Sh. Gaurav Mahajan, Sr. S.C.

**ORDER**

1. The present Joint Company Petition is filed by the above named Petitioner Companies under Sections 230 to 232 and other applicable provisions of the Companies Act, 2013 read with the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, for sanction of the Scheme of Amalgamation (hereinafter referred to as the '**Scheme**') for Amalgamation of Epack Components Private Limited (**First Applicant Company/ Transferor Company**) with Epack Durable Limited (**Second Applicant Company/ Transferee Company**) (collectively referred to as '**Petitioner Companies**').
2. The Petition has now come up for final hearing. The Ld. Counsel for the Petitioner Companies submits as follows:



- (i) The proposed 'Scheme of Amalgamation' has previously been approved by the Board of Directors of the Petitioner Companies in their respective Board Meetings held on 15th July, 2023.
- (ii) The factual position of the Authorized, Issued, Subscribed and Paid up Share Capital of the Petitioner Companies as on 31st March, 2022 is described in the present Company Petition.
- (iii) The rationale of the proposed Scheme of Amalgamation is elaborately described in the present Company Petition which may be summarized as under:

**2.1** The Scheme of Amalgamation provides for Amalgamation of Epack Components Private Limited (**First Applicant Company/ Transferor Company**) with Epack Durable Limited (**Second Applicant Company/ Transferee Company**) in accordance with Sections 230 to 232 and other applicable provisions of the Companies Act, 2013 and rules made thereunder.

#### **Rationale for Merger**

- (i) The Transferor Company and the Transferee Company have common control, common management, common place of business, common fund management and common group administration. The amalgamation will result in simplification of corporate structure by reducing the number of legal entities, rationalization of

group shareholding pattern and reorganizing the legal entities in the group structure;

- (ii) The amalgamation would integrate the business synergies and reap the benefit of consolidation through focused management, generating surplus funds to enable planning for further growth in business;
- (iii) The amalgamation will lead to emergence of a single entity with strong financial capability to effectively withstand competition, to effectuate economies of scale and to optimize benefits available under the law. The consolidated Company with far enlarged asset base, higher profitability and net worth will be better placed to access low cost fund for its expansion and diversification requirements;
- (iv) The amalgamation will result in significant reduction in the multiplicity of legal and regulatory compliances required at present to be carried by the Amalgamating Company and will avoid duplication of administrative functions and eliminate multiple record keeping.

**2.2** In consideration of the above mentioned business rationale and related benefits, this Scheme of Amalgamation between Epack Components Private Limited (First Applicant Company/Transferor Company) and Epack Durable Limited (Second Applicant Company/Transferee Company) is propounded in accordance with the terms set out in the

Scheme of Amalgamation. The Board of Directors of the Petitioner Companies are of the opinion that the proposed Scheme is in the best interests of these Companies, their Shareholders and other Stakeholders.

3. The Petitioners have stated that the accounting treatment proposed in the Scheme of Amalgamation is in conformity with the Accounting Standards prescribed under Section 133 of the Companies Act, 2013 as certified by the respective Auditors of the Petitioner Companies.
4. It has also been stated in the Petition that no proceedings under Sections 235 to 251 of the Companies Act, 1956 or under Sections 210 to 226 of the Companies Act, 2013 are pending against any of the Petitioner Companies.
5. It has also been stated that the Assets of the Transferor and Transferee Companies are sufficient to meet all the liabilities and the said scheme will not adversely affect the rights of any of the creditors of Transferor and Transferee Companies in any manner whatsoever. Further, there is no compromise or sacrifice called from any of the creditors of the Petitioner Companies.

6. It has also been stated that the proposed scheme is not a Corporate Debt Restructuring Scheme and hence a creditors responsibility statement and other requirements of Section 230(2)(c) are not applicable in the present case.
7. It has been stated that the First Applicant Company/ Transferor Company is a wholly owned subsidiary of the Transferee Company, upon the scheme becoming effective, no shares of the Transferee Company shall be allotted in lieu or exchange of it's holding in the Transferor Company.
8. A perusal of the present Petition discloses that initially the Petitioner Companies had filed a Company Application No. CA (CAA) No. 09 / ALD / 2022 seeking directions of this Tribunal to dispense with the requirement of holding meetings of the equity shareholders (in view of the consents of all received by way of affidavit) of Transferor Company as well as Transferee Company and the Preference Shareholders of the Transferee Company (in view of consents of all received by way of Affidavit). Accordingly, this Tribunal vide its order dated 21<sup>st</sup> February, 2023 allowed the above mentioned prayers and directed for dispensation of meetings of Equity Shareholders and Preference Shareholders. However, Hon'ble Tribunal directed the meetings



of Unsecured Creditors of the Transferor Company and the Transferee Company to be held at the registered office of the Companies on 08<sup>th</sup> April, 2023 at 11:00 AM and on 09<sup>th</sup> April, 2023 at 11:00 AM respectively. The Hon'ble Tribunal also directed the meetings of the Secured Creditors of the Transferor Company and the Transferee Company to be held at the registered office of the Companies on 08<sup>th</sup> April, 2023 at 02:00 PM and on 09<sup>th</sup> April, 2023 at 02:00 PM respectively.

9. As directed by the Hon'ble Tribunal, the meetings of the Secured as well as Unsecured Creditors of the Transferor Company were held on 08<sup>th</sup> April, 2023, at the registered office of the company, under the Chairmanship of Mr. Krishna Dev Vyas with Mr. S.K. Gupta (Scrutinizer), as appointed by the Hon'ble Tribunal. The meetings of the Secured as well as Unsecured Creditors of the Transferee Company were held on 09<sup>th</sup> April, 2023 at the registered office of the company, under the Chairmanship of Mr. Krishna Dev Vyas, with Mr. S.K. Gupta (Scrutinizer), as appointed by the Hon'ble Tribunal.
10. The Scheme was approved by the Secured Creditors and Unsecured Creditors of the Transferor and the Transferee Companies. The Scrutinizer submitted his report to the

Chairman and the Chairperson Report in Form CAA4 was filed on 21st April, 2023 before this Tribunal by the Petitioner Companies.

11. The Petitioner Companies filed 2<sup>nd</sup> Motion Petition which was registered as CP(CAA) No. 05/ALD/2023 and this Tribunal directed to issue notice of the said Company Petition along with the Scheme of Amalgamation and related documents to the Statutory Authorities, viz. (a) the Central Government through the office of the Regional Director (Northern Region), Ministry of Corporate Affairs, New Delhi (b) the Registrar of Companies, Uttar Pradesh, Kanpur; (c) The Official Liquidator, Uttar Pradesh, Allahabad and (d) the Income-Tax Department having jurisdiction over the Petitioner Companies.
12. In the integrum, the Petitioner Companies filed an application registered as CA No. 28/2023 in CP(CAA) No. 5/ALD/2023 for amending the 2<sup>nd</sup> Motion Petition and the Scheme due to change in the legal status of the Transferee Company as it got converted from Private Limited to Public Limited w.e.f. 24<sup>th</sup> June, 2023 and also due to enhancement in the authorised share capital of the Transferee Company.

13. This Tribunal vide its order dated 18<sup>th</sup> October, 2023 directed to issue notice of hearing in respect of present Amended Company Petition to the Statutory Authorities and also to make paper publication in this respect in “Financial Express” (English) and “Jansatta” (Hindi) having circulation in the State of Uttar Pradesh in which the Registered offices of the Petitioner Companies are situated.
14. In compliance thereof, the Petitioner Companies on 01<sup>st</sup> November, 2023 filed an Affidavit of service of publication, confirming that notices have been duly published in “Financial Express” (English) and “Jansatta” (Hindi) newspapers having circulation the State of Uttar Pradesh in which the Registered office of the Petitioner Companies are situated. The Petitioner Companies have also served notice of the 2<sup>nd</sup> Motion Company Petition to (a) the Central Government through the office of the Regional Director (Northern Region), Ministry of Corporate Affairs, New Delhi (b) the Registrar of Companies, Uttar Pradesh, Kanpur and (c) The Official Liquidator, Uttar Pradesh, Allahabad; (d) the Income-Tax Department having jurisdiction over the Petitioner Companies.

15. In response to the above stated notice, the Registrar of Companies (ROC), Ministry of Corporate Affairs, Uttar Pradesh submitted its Report dated 07<sup>th</sup> November, 2023 to the Regional Director (Northern Region), Ministry of Corporate Affairs, New Delhi citing observations which were only factual statements and did not call for any further comments or explanation. There was no objection from the ROC to the Scheme being accorded sanction by this Tribunal. The ROC further did not express any objection to the application for amendment (supra) filed by the Petitioner Companies due to change in the legal status of the Transferee Company and also on account of enhancement of the Authorised Share Capital of the Transferee Company.
16. In response to the above stated notice, the Regional Director (Northern Region), Ministry of Corporate Affairs, New Delhi has filed its Representation Affidavit dated 22<sup>nd</sup> November, 2023 ("RD Affidavit") citing observations made in the Report of the Registrar of Companies, Uttar Pradesh which as per the submissions made by the Counsel representing the Petitioner Companies were only factual statements and did not call for any further comments or explanation. There was no objection in the RD Affidavit to the Scheme being accorded sanction by



this Tribunal. The RD Affidavit further did not express any objection to the application for amendment (supra) filed by the Petitioner Companies due to change in the legal status of the Transferee Company and also on account of enhancement of the Authorised Share Capital of the Transferee Company.

17. The Official Liquidator, Ministry of Corporate Affairs, Allahabad at Prayagraj, Uttar Pradesh also submitted his Report on 20<sup>th</sup> November, 2023 wherein Para 14 it has been stated that the Official Liquidator has no objection to the dissolution of the Transferor Company without winding up pursuant to provisions of Sections 230 - 232 of the Companies Act, 2013 and other applicable sections rules thereunder. There was no objection from the Official Liquidator in its report to the Scheme being accorded sanction by this Tribunal. The Official Liquidator further did not express any objection in its report to the application for amendment (supra) filed by the Petitioner Companies due to change in the legal status of the Transferee Company and also on account of enhancement of the Authorised Share Capital of the Transferee Company
18. The Income-Tax Department also filed its Representation Affidavit/Report dated 01<sup>st</sup> December, 2023 in respect of the

Petitioner Companies citing observations which were only factual statements and did not call for any explanations. The report of the IT Department however had no objection to the sanctioning of the Scheme also to the change in status of the Transferee Company from a Private Limited to a Public Limited Company and enhancement of Authorised Share Capital of the Transferee Company. However, Income Tax Department stated that from perusal of the Digital database of the Department i.e. ITBA, proceeding u/s 148 of the Income Tax Act have been initiated against the Transferor and Transferee Company for A/Y 2019-20 by the Income Tax Department by issuing notice u/s 148 of the Income Tax Act dated 25<sup>th</sup> March, 2023 and that reassessment proceedings are pending before the National Faceless Assessment Centre (NaFAC) and such reassessment proceedings have to be concluded within the period of limitation which will expire on 31<sup>st</sup> March, 2024.

19. The Petitioner Companies vide their Joint Affidavit dated 02<sup>nd</sup> December, 2023 furnished an undertaking to the effect that all Income Tax Liabilities pertaining to the Transferor Company arising in the ordinary course of business shall stand transferred to the Transferee Company.

20. Further, the Petitioner Companies vide Joint Affidavit dated 05<sup>th</sup> March, 2024 furnished another undertaking specifically to the effect that Transferee Company shall continue to remain liable for income tax liabilities in relation to faceless proceedings initiated under Section 148 of the Income Tax Act for the A.Y. 2019-20 or any other Income Tax Liability after giving effect to the Scheme of Amalgamation.
21. However, on 04<sup>th</sup> April, 2024 the representative of the Income Tax Department informed the Hon'ble Bench that Income Tax proceedings against the Transferor and the Transferee Company have been dropped by the Income Tax Department. This Tribunal directed the Ld. Counsel to file affidavit for the same. The relevant excerpt of the said order has been reproduced hereunder: -

*"2. On the previous date of hearing i.e. 21.03.2024, it was observed at para no.2 by this Tribunal that some assessment proceeding was pending with the Income Tax Department, which was to be completed by 31.03.2024, and therefore at the request of Ld. Counsel representing the Income Tax Department, the matter was adjourned beyond 31.03.2024.*

3. Today, when the matter came up for hearing, the Ld. Counsel representing the Income Tax Department very candidly states that the assessment proceedings which was being carried out, have finally been dropped, however he does not have any written instruction to that effect, and he seeks one week time to file the said information on an affidavit.

4. The publications have been made in the newspaper in compliance of the notice of order dated 30.05.2023 and the affidavit of service has also been filed.

5. Ld. Counsel representing the Petitioner Companies states that neither the Petitioners nor any representative has received any adverse comments or observations from any of the stakeholders or any party pursuance of advertisement so made. The affidavit to this effect be filed within a period of one week.”

22. However, the affidavit to that effect has not been filed by the Ld. Counsel representing the Income Tax Department.

23. The Petitioner Companies on 09<sup>th</sup> April, 2024 have also filed another Joint Affidavit confirming that neither the Petitioner Companies nor their Legal Counsel has received any objection / representation from any person against the Company Petition



or the proposed Scheme of Amalgamation in response to the publication of the notice of hearing of the present Petition in newspapers.

24. We have gone through the reports of the Ld. Regional Director (Northern Region), Ministry of Corporate Affairs, New Delhi, Ld. Registrar of Companies, Uttar Pradesh, Kanpur, Official Liquidator, Allahabad and the Income-Tax Department having jurisdiction over the Petitioner Companies and after perusing the same and hearing the submissions made by the Ld. Counsel representing the Petitioner Companies, we find that there appears to be no reservation to grant sanction to the Scheme and we are of the view that the sanction of the present Scheme of Amalgamation is not against public policy, nor it would be prejudicial to the public interest at large.

25. In addition to above, all the statutory compliances seem to have been complied with by the Petitioner Companies, therefore, the present Company Petition deserves to be allowed in terms of its Prayer clause.

26. As a result, the proposed Scheme of Amalgamation, which is annexed to the Company Petition stands approved and sanctioned and the same shall be binding on all the

Shareholders, Creditors and other Stakeholders of the above-named Petitioner Companies and also on the Petitioner Companies with effect from the 'Appointed Date' i.e. 1<sup>st</sup> April, 2022. The Petitioner Companies are required to act upon as per the terms and conditions of the sanctioned Scheme of Amalgamation.

27. While approving the Scheme of Amalgamation as above, it is clarified that this order should not be construed as, in any way, granting exemption from payment of stamp duty (if any, as applicable), taxes (including Income-Tax, GST or other charges, if any, as applicable) and payment in accordance with law or in respect to any permission / compliance with any other requirement which may be specifically required under any law.

**28. THIS TRIBUNAL DO FURTHER ORDER:**

i. Upon the Scheme becoming effective, all the property, rights and powers of the First Applicant Company/ Transferor Company specified in the Schedule annexed hereto shall, pursuant to Sections 230 and 232 of the Companies Act, 2013, be transferred to and vested in the Second Applicant Company/ Transferee Company;

ii. Upon the Scheme becoming effective, all the liabilities and

duties of the First Applicant Company/ Transferor Company be transferred, without further act or deed, to Second Applicant Company/ Transferee Company and accordingly, the same shall pursuant to Sections 230 and 232 of the Companies Act, 2013 become the liabilities and duties of the Petitioner / Transferee Company; and

**iii.** Upon the Scheme becoming effective, all the employees of the First Applicant Company/ Transferor Company in service on the Effective Date, shall be transferred to and shall become the employees of the Second Applicant Company/ Transferee Company as provided in the Scheme of Amalgamation;

**iv.** Upon the Scheme becoming effective, all proceedings, if any, either pending by or against the First Applicant Company/ Transferor Company be continued and enforced by or against the Petitioner / Transferee Company; and

**29.** The Petitioner Companies shall within thirty days of the date of the receipt of certified copy of this Order cause a copy of this order delivered to the Registrar of Companies, Uttar Pradesh for registration and on such copy being so delivered, the First Applicant Company / Transferor Company shall stand

For Epack Durable Limited

dissolved without undergoing the process of winding up and the Registrar of Companies, Uttar Pradesh shall place all documents relating to the First Applicant Company / Transferor Company in the file maintained in relation to the Second Applicant Company / Transferee Company and the file relating to the said First Applicant Company / Transferor Company shall be consolidated accordingly.

30. The Petitioner Companies shall supply legible print outs of the Scheme of Amalgamation and the Schedule of Assets in acceptable form to the Registry and the Registry will append such print outs, after verification, to the certified copy of the Order.
31. Certified copy of this Order be supplied, if applied for, subject to compliance with usual formalities.
32. That the Resulting Company shall deposit an amount of Rs. 25,000/- (Rupees Twenty-Five Thousand Only) in favour of "The Ministry of Corporate Affairs" within a period of four weeks from the date of receipt of the certified copy of this order and file affidavit of compliance thereof
33. All the concerned Regulatory Authorities and other persons to act on a copy of this Order annexed with the Scheme of



Amalgamation duly authenticated by the Registrar, National Company Law Tribunal, Allahabad Bench, Prayagraj.

34. Any person interested shall be at liberty to apply to the Tribunal in the above matter for any directions that may be necessary.
35. Accordingly, the present Company Petition bearing CP (CAA) No. 05 / ALD / 2023 is allowed and stands disposed of.

**-Sd-**

**(ASHISH VERMA)**  
**Member (Technical)**

**Date: 2<sup>nd</sup> May, 2024**

**-Sd-**

**(PRAVEEN GUPTA)**  
**Member (Judicial)**

For Epack Durable Limited



-Company Secretary

Certified True Copy

