**NATIONAL COMPANY LAW TRIBUNAL**

**NEW DELHI BENCH, COURT-VI**

**COMPANY PETITION NO. (CAA)-47/230/232/ND/2025**

**CONNECTED WITH**

**COMPANY APPLICATION NO. (CAA)-39(ND)/2025**

*Under Section 230-232 and other applicable provisions of the Companies Act, 2013 r/w the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016)*

**<u>IN THE MATTER OF SCHEME OF AMALGAMATION:</u>**

1. **WINDCHIMES TRADING PRIVATE LIMITED**
   Registered office at: D-4, 1st Floor, Commercial Complex,
   Paschimi Marg, Vasant Vihar,
   New Delhi 110057

**...APPLICANT COMPANY NO. 1/TRANSFEROR COMPANY**

**AND**

2. **AURIS DEVELOPERS PRIVATE LIMITED**
   Registered office at: D-4, 1st Floor, Commercial Complex,
   Paschimi Marg, Vasant Vihar,
   New Delhi 110057

**... APPLICANT COMPANY NO. 2/TRANSFEROR COMPANY**

**AND**

3. **WINDCHIMES BOTIQUE HOMES PRIVATE LIMITED**
   Registered office at: D-4, 1st Floor, Commercial Complex,
   Paschimi Marg, Vasant Vihar,
   New Delhi 110057

**... APPLICANT COMPANY NO. 3/TRANSFEREE COMPANY**

**Order Delivered on: 15.07.2026**

**CORAM**

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| **JUSTICE JYOTSNA SHARMA,** | **MS. ANU JAGMOHAN SINGH** |
| **HON'BLE MEMBER (JUDICIAL)** | **HON'BLE MEMBER (TECHNICAL)** |

**<u>PRESENT</u>**

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| **For the Petitioner:** | Mr. Naresh Kumar, Adv |
| **For the Respondents:** | |
| **For the OL :** | Mr. Kartikeya Asthana, Ms. Urvashi Raj, Advs |
| **For the IT Dept:** | Mr. Sunil Agarwal, SSC, Ms. Monica Benjamin, JSC, Mr. Gibran Naushad, JSC, Ms. Laiba Arif, Adv, Mr. Adeeb Ahmad, Adv. |

**<u>ORDER</u>**

**1)** This joint Application filed under Sections 230 to 232 of the Companies Act, 2013 read with the Companies (Compromises, Arrangements, Amalgamation) Rules, 2016 in respect of proposed Scheme of Arrangement for Amalgamation of **Windchimes Trading Private Limited** (hereinafter referred to as the "Transferor Company/Applicant Company No. 1") and **Auris Developers Private Limited** (hereinafter referred to as the "Transferor Company /Applicant Company No. 2") and **Windchimes Botique Homes Private Limited** (hereinafter referred to as the "Transferee Company/ Applicant Company No. 3").

**2)** Further, the copy of the Scheme has been placed on record. Details of the Companies proposed to be amalgamated, as under: -

3) That the Petitioner Company No.1/Transferor Company No.1 – Windchimes Trading Private Limited, was incorporated on 11.02.1985 in accordance with the provisions of the Companies Act, 1956 as a Private Limited Company by virtue of Certificate of Incorporation by the name "True Toys Private Limited" which was on 09.02.2022 subsequently changed to "Windchimes Trading Private Limited". The Company has its registered Office at D-4, 1st Floor, Commercial Complex, Paschimi Marg, Vasant Vihar, New Delhi-110057. The Authorized Share Capital, Issued, subscribed, and paid-up share capital of the Company is mentioned at Page no. 18 of the Petition.

4) That the Petitioner Company No.2/Transferor Company No.2 – Auris Developers Private Limited, was incorporated on 23.08.2012 in accordance with the provisions of the Companies Act, 1956 as a Private Limited Company by virtue of Certificate of Incorporation. The Company has its registered Office at D-4, 1st Floor, Commercial Complex, Paschimi Marg, Vasant Vihar, New Delhi-110057. The Authorized Share Capital, Issued, subscribed, and paid-up share capital of the Company is mentioned at Page no 24 of the Petition.

5) That the Petitioner Company No.3/Transferee Company – Windchimes Botique Homes Private Limited, was originally incorporated on 08.12.1980 under the provisions of the Companies Act, 1956 as a Private Limited Company in the name of "G.S. Finance and Investment Private Limited" with Registrar of Companies, Punjab, H.P. and Chandigarh, Jullundur. Subsequently, the registered office of the Company was shifted to Delhi

and the name of the company was changed to “Windchimes Botique Homes Private Limited” and a fresh Certificate of Incorporation was issued on 20.07.2021. Presently The Company has its registered Office at D-4, 1st Floor, Commercial Complex, Paschimi Marg, Vasant Vihar, New Delhi-110057. The Authorized Share Capital, Issued, subscribed, and paid-up share capital of the Company is mentioned at Page no. 30 of the Petition.

**6)** The Transferor companies and the Transferee Company together are called **‘Petitioner Companies’** hereinafter. The Registered offices of all the Companies being in Delhi, the territorial jurisdiction lies with this Tribunal.

**7)** The Board of Directors of the Transferor Companies and the Transferee Company in their respective meetings held on 18.02.2025, considered and unanimously approved the proposed Scheme of Amalgamation. Copies of the said Resolutions passed in the said Board Meetings have been placed on record.

**8)** The petitioner has further submitted that the “Appointed date” as fixed for the proposed scheme of Amalgamation is 01.04.2024.

**9)** Vide order dated 30.04.2025, this Tribunal, in the First Motion Application (i.e., C.A. (CAA)–39/ND/2025), dispensed with the requirement of the meeting of equity shareholders, secured Creditors and Unsecured Creditors of the Petitioner Companies.

**10)** This Tribunal vide order dated 15.05.2025 directed the petitioner companies to issue individual notices to the (i) Central Government through Regional Director, Northern Region of Ministry of Corporate Affairs, (ii) the jurisdictional Income Tax Department, (iii) Registrar of Companies, NCT of Delhi and Haryana, (iv) Official Liquidator, and to such other Objector(s), if any. And Notice be published in the newspaper, namely, Indian Express (English) Delhi Edition and Jansatta (Hindi) Delhi Edition.

**11)** In compliance of the order dated 15.05.2025, the petitioners Companies have filed an Affidavit dated 19.07.2025, wherein it was submitted that the petitioners Companies have effected publication in Indian Express (English) Delhi Edition and Jansatta (Hindi) Delhi Edition, both dated on 07.07.2025. In addition to the public notice, notices were served on the Regional Director (Northern Region), Official Liquidator, the Income Tax Department, Registrar of Companies, NCT of Delhi and Haryana.

**12)** Pursuant to the notice, the Regional Director (hereinafter referred to as 'RD') in its report dated 30.07.2025 has made certain observations with regard to the proposed Scheme amongst the Petitioner Companies. In response to the observation made by the RD, the Petitioner Companies have filed their reply on 03.09.2025 wherein the Petitioner Companies have given clarifications and undertaken to address the observations made by the 'RD'. The details of the same are summarized below:

| S. No. | Queries | Reply to Queries |
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| a) | As per the E-form MGT-7, it is observed that the Transferor Company No. 1 (named Windchimes Trading Private Limited) has more than 10% shareholding beneficiaries. However, the E-form BEN-2 was not filed by the Transferor Company-1. | That in the Transferor Company No. 1, the shares were held by the individual shareholders i.e. Mr Rajesh Kumar Nandrajog and Mr Amrit Lal Giroti. 5000 shares by each of the shareholders and both the individuals are the registered as well as beneficial shareholders of the company and holding 50% shares each in their own name (i.e„ direct holding). However, if the individual is already a registered shareholder holding shares in their own name and not holding indirectly through other entities (like trusts, companies, LLPs, etc.), they are not considered SBOs for the purposes of filing BEN-2. There is no indirect holding, trusts, layered structures, etc. Therefore, BEN-2 filing is NOT required in this case, because:<br>➢ Both shareholders are natural persons.<br>➢ They hold shares directly in their own names.<br>➢ There is no indirect holding or ownership through any other entity. |

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| b) | As per the E-form MGT-7, it is observed that the Transferor Company-2 (named Auris Developers Private Limited) has more than 10% shareholding beneficiaries. However, the E-form BEN-2 was not filed by Transferor Company-2 | That in the Transferor Company No. 2, the shares were held by the individual shareholders i.e. Mr Rajesh Kumar Nandrajog and Mr Amrit Lal Giroti. 7500 shares by each of the shareholders and both the individuals are the registered as well as beneficial shareholders of the company and holding 50% shares each in their own name (i.e., direct holding). However, the individual is already a registered shareholder holding shares in their own name and not holding indirectly through other entities (like trusts, companies, LLPs, etc.), they are not considered SBOs for the purposes of filing BEN-2. There is no indirect holding, trusts, layered structures, etc. Therefore, BEN-2 filing is NOT required in this case, because:<br>➢ Both shareholders are natural persons.<br>➢ They hold shares directly in their own names.<br>There is no indirect holding or ownership through any other entity. |

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| c) | As per the E-form MGT-7, it is observed that the Transferee Company (named Windchimes Botique Homes Private Limited) has more than 10% shareholding beneficiaries. However, the E-form BEN-2 was not filed by Transferee Company | E-form BEN-2 has been. filed by the Transferee Company. A copy of E-form Ben-2 along with challan is enclosed herewith and marked as Annexure No. 1 |
| d) | The Transferee Company may kindly be directed to comply with the provisions of section 232(3)(i) of the Companies Act, 2013 in regard to fee payable on its revised Authorized Share Capital. | The Transferee company hereby undertakes that it will comply with the provisions of section 232 (3) (i) of the Companies Act, 2013 with regard to fee payable on its authorized Share capital if applicable or if required. |
| e) | As per the Statement of profit & Loss for period ended 31.03.2024 of the Transferor Company-1 (named Windchimes Trading Private Limited) the company has shown the provision for doubtful debts of 6,36,07,090/- and provisions for diminution in value of inventories of Rs 6,40,00,220/-. As per Provisional Statement of Profit & Loss for period ended on 31.01.2025, the company has shown the reversal of provisions for doubtful debts and provision for diminution in value of inventories with the same amount Rs. 6,36,07,090/- and Rs. 6;40,00,220/- respectively. The | In the board meeting of the company held on 31.03.2024, the management has reviewed the uncertainty in the realization of the loans granted and also the value of inventories. Both matters were considered and following the principles of prudency, the board resolved to make a provision for the reduction in the value of debts and inventories. Accordingly, provisions were made for reduction in the value of loans granted (equivalent to 99% of outstanding loans as or 31.03.2024) by Rs.6,36,07,090/- and additionally for reduction in |

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| | company may be asked to clarify the reason for this. | the value of inventories (equivalent to 98% of cost of stock as on 31.03.2024) by Rs.6,40,00,220/. These provisions were crucial to ensure a true and fair view of the presentation of the financial position of the company, as on 31.03.2024. Although these provisions made were accounted for in the Statement of profit & Loss for the year ending on 31.03.2024, to serve as a precautionary measure to accurately reflect the financial standing of the company, it is important to note that it did not signify an actual loss until it realized. The management has actively worked hard to realize the full value of the outstanding loans and advances given and to realize the stock also, to the best of its efforts. Due to the hard work and the efficiency of the board, the management is successful in realizing the full value of the stock and also settlement of terms and conditions for the loans and advances granted to the parties, during the next financial year 2024-25. |

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| | | Therefore, to present the true and fair view of the financial position of the company, the existing provision of Rs.6,36,07,090/- for doubtful debts and Rs.6,40,00,220/- were reversed during the Financial Year 2024-25 and accordingly, effect of reversal of provisions were taken in Provisional Statement of Profit and Loss prepared for the period ending on 31.01.2025. |
| f) | Further, the company has given long term loan and advances of Rs 3,37,05,080/-to Ms Seema Batra and Short term inter corporate deposits of Rs. 3,37,65,785/- to City Home Developers Pvt. Ltd. However, no details are disclosed as to the relation of the company with these parties. | The company 'Windchimes Trading Private Limited' has no direct or indirect relation with the persons namely 'Ms. Seema Batra' and 'M/s City Home Developers Private Limited' from whom loans/intercorporate deposits of Rs.3,37,05,080/- and Rs.3,37,65,785/- respectively, were recoverable, as on 31.01.2025. Hence, no related party transactions with these parties, thus no disclosure as to the relation of the company with these parties is required. |
| g) | It is observed that, as per the Financial Statements for the year ended 31.03.2024, the Transferee Company (name Windchimes Botique Homes Private Limited) has given long | As per Financial Statement as on 31.03.2024, the Transferee Company namely 'Windchimes Botique Homes Private Limited' had given long term loans and |

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| | term Loan and Advances of Rs. 16,86,84,011/- to its promoters. Furthermore, as per Provisional Balance Sheet as on 31.01.2025, the said advances have reduced to Rs. 14,48,37,640/- and the same has been given to Windchimes Constructions Pvt. Ltd. Disclosure w.r.t. AS-18 is not given. | advances of Rs.16,86,84,011/- [168684.01 (Rs.in'000)] to its related party 'Windchimes Constructions Private Limited'. Please refer to Note 10 forming part of the audited financial statement as on 31.03.2024 (A copy of Balance Sheet for the Financial Year ended 31.03.2024 is enclosed herewith and marked as Annexure No. 2), wherein disclosure with respect to related party transaction, has been done in Note 10, reproduced below:<br><br>Note (10) Long Term Loans & Advances<br>Advance Recoverable in cash or in Kind 168684.01<br>Security Deposits 62.50<br>Total 168746.51<br><br>Disclosure required in pursuant to Part I of Schedule III to the Companies Act, 2013<br>(i) Advances paid to related parties<br>(a) Secured, considered good -<br>(b)Unsecured, considered good 168684.01<br>(c) Which have singnificant increase in credit risk -<br>(d) Credit Impaired -<br>(i) Advances paid to other(non-related) parties<br>(a) Secured, considered good -<br>(b)Unsecured, considered good 62.50<br>(c) Which have significant increase in credit risk -<br>(d) Credit Impaired - |
| h) | As per provisional Balance Sheet as on 31.01.2025, the Transferee Company (named Windchimes Botique Homes Private Limited) has raised fresh capital by issue of Equity Shares to the Transferor Company-1 of Rs. 25,20,400/- at premium of Rs. 5,99,35,112/-. The Company raised the total amount (including security premium) of 6,24,55,5 12/-only to be extinguished by this scheme. | During the fy24-25, the Transferee Company- Windchimes Botique Homes Private Limited, had made allotment vide fresh issue of total 25204 equity shares (6660+18544) to the Applicant Company- Windchimes Trading Private Limited, in lieu of total consideration of Rs.6,24,55,512/- to increase and strengthen its capital structure |

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| | | and to use the fresh issue proceeds for the growth and working capital requirements of the company. It was a bona fide transaction made in accordance with applicable provisions of the Companies Act, 2013, and relevant rules. The original share allotment was in compliance with all legal and procedural requirements prevailing at the time. The extinguishment of shares held by the transferor company is a consequence of the merger, not the purpose or intent of the original allotment. The company has not contravened any provisions of the Companies Act, 2013, with respect to share allotment, and the same has been duly filed with the Registrar within the prescribed time through PAS- 3 and other relevant filings. The subsequent merger process and extinguishment of shares are being carried out under Sections 230-232 of the Companies Act, 2013, and are subject to the sanction of the Hon'ble NCLT. Please be noted that the share allotment was |

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| | | independent of the merger scheme and there was a genuine commercial purpose behind the allotment. The proceeds received by the Company from the said issue of shares were genuinely utilized towards the Company's working capital requirements and business growth initiatives. This demonstrates that the share allotment was made in the ordinary course of business with clear commercial objectives and not in anticipation of the merger or for the sole purpose of subsequent extinguishment.<br>A Copy of PAS-3 filed (dated 18.11.2024 and dated 31.01.2025) to give effect to the allotment of equity shares along with corresponding challans are enclosed herewith and marked as Annexure No. 3. |

**13)** Ld. Counsel for the RD, appeared through VC before this Tribunal and submitted that though initially they had certain observations on the scheme, however in view of the response given by the petitioner company, they have no further objections to the approval of the scheme. Same has been recorded vide order dated 22.01.2026.

**14)** Upon notice to the Income Tax Department, Ld. Counsel for the IT Department appeared on 09.07.2026 and states that they have no objection against this scheme. Same has been recorded vide order dated 09.07.2026.

The Hon'ble Tribunal, vide order dated 09.04.2026, directed the applicants to file an additional affidavit regarding liability for payment of Income Tax dues. The Petitioner Company through an additional affidavit dated 22.04.2026 stated that Petitioner No.3 (i.e., Transferee Company) will pay all Income Tax dues, if any, present/future of the Transferor Company and as well as of Transferee Company. Same has been recorded vide Order dated 09.07.2026.

**15)** The Official Liquidator has also filed its report dated 17.07.2025, wherein the Official Liquidator submitted that "*the affairs of the Transferor Company do not appear to have been conducted in a manner prejudicial to the interest of its members or to public interest in terms of the provisions of the Companies Act, 2013.*" The same was recorded vide order dated 09.07.2025.

**16)** The Petitioner Companies submitted that no investigation proceedings have been instituted or are pending in relation to the Transferor Company/ Petitioner Company No. 1, Transferor Company/ Petitioner Company No. 2, and Transferee Company/ Petitioner Company No. 3 under Sections 235 to 251 of the Companies Act, 1956 or corresponding provisions under the Companies Act, 2013.

**17)** Certificates of Statutory auditor of the petitioner companies, has been placed on record to the effect that Accounting Treatment proposed in the

Scheme of Amalgamations is in conformity with the Accounting Standard notified by the Central Government as specified under the provisions of Section 133 of the Companies Act, 2013 read with Rule 7 of the Companies Accounts Rules, 2014 and Companies (Accounting Standards) Amendment Rules, 2016, and other generally accepted accounting principles in accordance with the Companies Act, 2013, as applicable.

**18)** It is settled law that the share-holders of the Petitioner Companies are the best judges of their interest, being fully conversant with market trends. Therefore, this tribunal is not supposed to look into merit of their commercial decision. It is well settled that while evaluating the scheme, sanction of which is sought under section 230-232 of the Companies Act, 2013, the Tribunal ordinarily will not interfere with the corporate decision of the Petitioner Companies, as approved by their respective shareholders and creditors.

**19)** Supreme Court in ***Miheer H. Mafatial vs Mafatial Industries Ltd JT 1996 (8) 205*** while considering the scope of the jurisdiction of the Company Court in respect of matters of sanction of the Scheme of Amalgamation as per the provisions of Section 91 read with Section 393 of the Companies Act, 1956, observed as under:

*"It is the commercial wisdom of the parties to the scheme who have taken an informed decision about the usefulness and propriety of the scheme by supporting it by the requisite majority vote that has to be kept in view by the Court. The Court certainly would not act as a court of appeal and sit in judgment over the informed view of the concerned parties to the*

*compromise as the same would be in the realm of corporate and commercial wisdom of the concerned parties. The Court has neither the expertise nor the jurisdiction to delve deep into the commercial wisdom exercised by the creditors and members of the company who have ratified the Scheme by the requisite majority. Consequently, the Company Court's jurisdiction to that extent is peripheral and supervisor and not appellate."*

**20)** In view of the law laid down by the Supreme Court, this Tribunal is not supposed to examine the merits/benefits of the commercial wisdom of the decision of the shareholders etc.

**21)** It has also been affirmed in the Petition that the Scheme is in the interest of all the Petitioner Companies including their shareholders, creditors, employees and all concerned. In view of the foregoing, upon considering the approval accorded by the members and creditors of the Petitioner companies to the proposed Scheme, there appears to be no impediment in sanctioning the proposed Scheme.

**22)** Consequently, sanction is hereby granted to the Scheme under Section 230 to 232 of the Companies Act, 2013 with the following directions: -

(i) The Petitioners shall, however, remain bound to comply with the statutory requirements in accordance with the law.

(ii) Notwithstanding the above, if there is any deficiency found or, violation committed, qua any enactment, statutory rule or regulation, the sanction granted by this court to the scheme will not come in the way of action being taken in accordance with the law, against the concerned persons, directors and officials of the petitioners.

(iii) While approving the Scheme as above, we further clarify that this order should not be construed as an order in any way granting exemption from payment of stamp duty, taxes or any other charges if any, 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.

**23)** This Tribunal further directs with respect to all the Transferor company and the Transferee company, that:

(i) The appointed date of the scheme is 01.04.2024.

(ii) All contracts of the Transferor Companies, which are subsisting or having effect immediately before the Effective Date, shall stand transferred to and vested in the Transferee Company and be in full force and effect in favour of the Transferee Company and may be enforced by or against it as fully and effectually as if, instead of the Transferor Company, the Transferee Company had been a party or beneficiary or obliged thereto;

(iii) All the employees of the Transferor Companies shall be deemed to have become the employees and the staff of the Transferee Company with effect from the Appointed Date, and shall stand transferred to the Transferee Company without any interruption of service and on the terms and conditions no less favourable than those on which they are engaged by the Transferor Companies, including in relation to the level of remuneration and contractual and statutory benefits, incentive plans, terminal benefits, gratuity plans, provident plans and any other retirement benefits;

(iv) All liabilities of the Transferor Companies, shall, pursuant to the provisions of section 232(4) and other applicable provisions of the Companies Act, 2013, to the extent they are outstanding, without any further act, instrument or deed stand transferred to and be deemed to be the debts, liabilities, contingent liabilities, duties and obligations etc. as the case may be, of the Transferee Company and shall be exercised by or against the Transferee Company, as if it had incurred such liabilities.

(v) All proceedings now pending by or against the Transferor Companies be continued by or against the Transferee Company.

(vi) Any person interested or effected shall be at liberty to apply to this Tribunal in the above matter for any directions that may be necessary.

**24)** Further, the Petitioner Companies shall within thirty days of the date of the receipt of this order, cause a certified copy of this order to be delivered to the Registrar of Companies for registration and on such certified copy being so delivered, the Transferor companies shall be dissolved and the Registrar of Companies shall place all documents relating to the Transferor Companies on the file kept by him in relation to the Transferee Company and the files relating to all the Petitioner Companies shall be consolidated accordingly.

**25)** In compliance with the requirement of Section 232 (7) of the Act, the transferee company shall until the full implementation of the Scheme of Arrangement shall file a statement every year in the Form CAA 8 along with the required fees with the Registrar of Companies as prescribed in the Companies (Registration offices and fees) Rules 2014 within 210 days from the end of each financial year.

**26)** The petition stands disposed of in the above terms.

**27)** Let copy of the order be served to the parties.

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| **S/d-** | **S/d-** |
| **(ANU JAGMOHAN SINGH)** | **(JYOTSNA SHARMA)** |
| **MEMBER (TECHNICAL)** | **MEMBER (JUDICIAL)** |