

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**DIVISION BENCH, COURT – 1, AHMEDABAD**

ITEM No.304

C.P.(CAA)/13(AHM)2026  
in C.A.(CAA)/67(AHM)2025

**Under Section 230-232 of Co. Act, 2013**

**IN THE MATTER OF:**

Shiva Performance Materials Pvt. Ltd  
Shivacore Materials Pvt. Ltd

.....Applicants

**Order delivered on: 17/06/2026**

**C O R A M:**

MR. SHAMMI KHAN, HON'BLE MEMBER (J)  
MR. SANJEEV SHARMA, HON'BLE MEMBER (T)

**ORDER**  
**(Hybrid Mode)**

The case is fixed for pronouncement of order. The order is pronounced in the open court, vide separate sheet.

SD /-

**SANJEEV SHARMA**  
**MEMBER (TECHNICAL)**

Sd/-

**SHAMMI KHAN**  
**MEMBER (JUDICIAL)**

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, COURT-1, AHMEDABAD**

**CP(CAA)/13(AHM)2026**

**In**

**CA(CAA)/67(AHM)2025**

[Company Petition under Sections 230 to 232 and other applicable provisions of the Companies Act, 2013 read with Companies (Compromises, Arrangements, and Amalgamations) Rules, 2016].

In the matter of Scheme of Arrangement (Demerger)

**Memo of Parties**

**Shiva Performance Materials  
Pvt. Ltd.**

CIN: U24100GJ2013PTC078001

A company incorporated under the provisions of the Companies Act 1956, having its registered office situated at: 11<sup>th</sup> Floor, Shiva, Sarabhai Complex, Dr. Vikram Sarabhai Marg, Vadiwadi, Vadodara-390023, Gujarat.

..... Petitioner Company  
No.1/ **Demerged Company**

**And**

**ShivaCore Materials Pvt. Ltd.**

CIN: U20119GJ2025PTC167120

A company incorporated under the provisions of the Companies Act, 2013, having its registered office situated at: 10<sup>th</sup> Floor, Monet Sarabhai Compound, Nr. Isha Hospital, Subhanpura, Vadodara-390023, Gujarat.

..... Petitioner Company  
No.2/ **Resulting Company**

**C O R A M :**

**MR. SHAMMI KHAN, HON'BLE MEMBER (JUDICIAL)**  
**MR. SANJEEV SHARMA, HON'BLE MEMBER (TECHNICAL)**

**A P P E A R A N C E:**

For the Petitioner Companies : Mr. Ravi Pahwa, Advocate  
For the Regional Director : Mr. Shiv Pal Singh, Deputy  
Director  
For the Income Tax Dept. : Mr. Aman A. Mir, Sr.  
Standing Counsel

**O R D E R**

**Per Bench**

1. This joint Company Petition viz., **CP(CAA)/13(AHM) 2026** in CA(CAA)/67(AHM)/2025, has been filed by the petitioner companies under Sections 230 to 232 and other applicable provisions of the Companies Act and read with Companies (Compromise, Arrangement and Amalgamations) Rules, 2016 (hereinafter referred to as "Companies (CAA) Rules, 2016"), seeking approval of the proposed Scheme of Arrangement (Scheme) with effect from **01.04.2026**, being the Appointed Date as mentioned in the Scheme. The Scheme is annexed as "Annexure:G1" to the company petition (Pg.360 to 414).
2. Affidavits dated 02.03.2026 in support of the Company Petition, were sworn by Rakesh Shiwebhagwan Agrawal, and Rahul Rakesh Agrawal the Authorized Signatories of

the petitioner companies, duly authorized vide Board Resolutions dated 03.12.2025 of Petitioner Companies. The aforesaid affidavits and board resolutions are placed on record along with the company petition. The Board Resolutions dated 03.12.2025 are annexed at **Annexure-E** to the company petition. Further, copy of Board Resolution dated 16.01.2026 of the petitioner companies, approving the rectification in the Scheme, is annexed to the company petition as Annexure-M (Pg. 525-530).

3. The proposed Scheme, *inter alia*, provides for transfer and vesting of the **Manufacturing Business** (Demerged Undertaking) from the Demerged Company/Shiva Performance Materials Pvt. Ltd. to the Resulting Company/ShivaCore Materials Pvt. Ltd. on a going concern basis and issue of New Shares by the Resulting Company to the equity shareholders of the Demerged Company, with effect from the Appointed Date i.e. **01.04.2026**.

4. **Shiva Performance Materials Pvt. Ltd./ Demerged Company**

It is a private limited company incorporated on 23.12.2013 under the provisions of the Companies Act, 1956, with the Registrar of Companies, Gujarat. Its registered office is situated in the State of Gujarat. As on 31.10.2025, the authorized share capital of the Demerged Company was Rs.18,20,00,000/- and the issued, subscribed and paid-up share capital was Rs.17,84,02,000/-.

**5. ShivaCore Materials Pvt. Ltd./ Resulting Company**

It is a private limited company incorporated on 02.09.2025 under the provisions of the Companies Act, 2013 with the Registrar of Companies, Gujarat. Its registered office is situated in the State of Gujarat. As on 31.10.2025, the authorized share capital of the Resulting Company was Rs.1,00,000/- and the issued, subscribed and paid-up share capital was Rs.1,00,000/-.

6. The Petitioner Companies had filed a joint Company Application before this Tribunal, being CA(CAA)/67(AHM)2025 on 22.12.2025. The said company application was allowed by this Tribunal vide order dated 08.01.2026 and directed to convene meetings of the secured creditors and unsecured creditors of the Demerged Company on 25.02.2026 as well as appointed Dr. Madan Bhalachandra Gosavi, Ex-Member NCLT as the Chairperson and CA Sehnil Devdiwala as the Scrutinizer of the aforesaid meetings. Further, directed the applicant companies for issuance of notice to Central Government through the Regional Director, to the Registrar of Companies, Gujarat and to the concerned Income Tax Department and copy to the Principal Chief Commissioner of Income Tax Office as well as other Sectorial Regulators, if applicable, who may have significant bearing on the operation of the applicant companies.

7. In compliance with the order dated 08.01.2026 passed by this Tribunal in CA(CAA)/67(AHM)2025, the Applicant Companies filed affidavit of service of notice on 10.02.2026, vide Inward No. D1207, regarding service of notice upon Statutory/Regulatory Authorities. Further, the Chairman of the meetings has filed an affidavit on 10.02.2026, vide inward no. D1207, with respect to the publication of notice of meetings in “The Times of India” and Sandesh as well as proof of service of notice upon the secured and unsecured creditors of the Demerged Company.
8. The aforesaid meetings were duly convened and held on 25.02.2026 and reports dated 25.02.2026 were, thereafter, filed by the Chairman on 09.03.2026, vide inward no. D2086, in compliance with the order dated 08.01.2026. The Chairman, in his reports, submitted that;  
*“Thus, the resolution approving the proposed Scheme of Arrangement was carried unanimously i.e. 100% in number and 100% in value by the Secured Creditors and Unsecured Creditors present and casting valid votes at the said meetings”.*
9. This Tribunal vide order dated 08.01.2026, passed in CA(CAA)67 of 2025 directed the applicant companies to furnish the following clarifications/details along with the second motion petition:-
- Why the Appointed Date has been fixed as 01.04.2026?
  - Whether any petition under the IBC has been filed against the applicant companies?

- Balance Sheet, Profit and Loss Account, and Cash Flow Statement of the Demerged Undertaking as on 31.10.2025
- Reasons for splitting the allotment of shares of the resulting company to the shareholders of the demerged company into equity and optionally convertible redeemable preference shares and not only allotting equity shares.
- Computation for determining allotment of 5,00,000 fully paid up non-convertible redeemable preference shares of Rs.10/- each to the preference shareholder of the demerged company.

9.1 The responses of the petitioner companies to the aforesaid points are as follows:-

- (i) Why the Appointed Date has been fixed as 01.04.2026?

Response of the petitioner companies: The petitioners submitted that the Appointed Date is fixed as 1st April 2026 because it facilitates smoother accounting, statutory compliance, and administrative implementation of the demerger. Further, the appointed date being 1.4.2026 being the commencement of FY 2026-27 avoids complications of implementing the Scheme in the mid-year, such as splitting financial statements, regulatory filings, payroll, and other operational records, thereby ensuring clarity and reducing reconciliation efforts. Further, the aforesaid appointed date enables the transfer of manufacturing undertaking right from the beginning of Financial Year 2026-2027 thereby allowing the Resulting Company to commence independent operations with a clear financial and operational cut-off based on audited balances as of March 31, 2026, in line with the Scheme's objective of focused growth and value unlocking.

- (ii) Whether any petition under IB Code has been filed against the Petitioner Companies?

Response of the petitioner companies: The petitioner companies submitted that no petition under the IB Code has been filed against the petitioner companies.

- (iii) Balance Sheet, Profit and Loss Account, and Cash Flow Statement of the Demerged Undertaking as on 31.10.2025

Response of the petitioner companies: Copy of standalone balance sheet, profit and loss account and cash flow statement of the Demerged Undertaking of the Demerged Company as on 31.10.2025 is annexed as Annexure-L.

- (iv) Reasons for splitting the allotment of shares of the resulting company to the shareholders of the demerged company into equity and optionally convertible redeemable preference shares and not only allotting equity shares;

Reply of the petitioner companies: The petitioners submitted that the decision to split the consideration into equity and optionally convertible redeemable preference shares in the resulting company is to provide flexibility to repatriate the capital to the promoters as the cash flows permit, without disturbing the equity structure or voting rights. This action allows for redemption to the promoters based on their liquidity requirements (considering the company's cash flows) as opposed to dividend which would be declared to all the shareholders irrespective of their liquidity positions.

- (v) Computation for determining allotment of 5,00,000 fully paid up non-convertible redeemable preference shares of Rs.10/- each to the preference shareholder of the demerged company.

Response of the petitioner companies: The petitioner companies submitted that the preference shares of the Demerged Company are in the nature of debt instruments with a fixed redemption obligation. This allotment ensures that the preference shareholders receive some consideration from the Resulting Company in the form of shares, reflecting continuity in the manufacturing business. Further, to ensure that the cumulative redemption amount remains the same as per the original agreement, the equivalent redemption value has been proposed to be reduced from the Demerged Company as part of the Scheme. This has been not only explained to shareholders but also acknowledged and agreed by shareholders in writing.

**10. RATIONALE OF THE SCHEME:**

The Application states the following regarding the rationale of the Scheme:

- (i) The Demerged Company has 2 (two) distinct business segments viz. (a) Manufacturing business segment and (b) Trading and Investment business segment. "**Manufacturing Business**" means the business of providing products with ecologically friendly solutions to meet the specific needs of the printing and packaging industries. Its products include Grafted styrenix rubber, Alpha methyle styrene Diol acrylic resins, resin solutions and emulsions for specific printing and packaging applications. They also produce toner resins and styrene maleic anhydride resins. "**Trading and Investment Business**" means the business of procuring high-quality products from the suppliers and distributing it to customers across industries involved in packaging and printing. It is also involved in management of capital through investments in financial assets.

- (ii) The Board of Directors are of the opinion that the proposed arrangement shall enable all the Companies to focus on specific businesses and shall be beneficial to the members, creditors and employees of each of these Companies as defined above and will be in the public interest. It shall enhance operational flexibility and will enable the Companies to focus on each business and attract best talent and bring better value to the stakeholders. This will accelerate profitable growth and industry recognition in respective areas.
- (iii) This scheme would enable the Companies to enhance operational efficiencies, ensuring synergies through pooling of the financial, managerial and personnel capabilities and skills.
- (iv) The Board of Directors of the Companies are of the opinion that the Scheme would result in an increase in the value for its members in the long run. Further, the proposed arrangement would inter alia achieve the following objectives:
  - (a) facilitate each business to be effectively integrated for achieving growth for each of the verticals independently;
  - (b) enhance management focus;
  - (c) facilitate investment by strategic players;
  - (d) create a platform to enhance financial flexibility to pursue growth;
  - (e) unlocking of value
- (v) The proposed Demerger will create a focused corporate structure, enabling each business to attract investors, raise funds through various means including private equity or public listing, and pursue independent growth and expansion.
- (vi) This Scheme has been drawn up to comply with the conditions relating to "Demerger" as defined under

section 2(19AA) of the IT Act. If any of the terms or provisions of the Scheme are found or interpreted to be inconsistent with the provisions of the said Section at a later date including resulting from an amendment of law or for any other reason whatsoever, the provisions of the said Section of the IT Act shall prevail and the Scheme shall stand modified to the extent determined necessary to comply with the provisions of the IT Act. Such modifications will however not affect the other parts of the Scheme.

- 11.** After complying with all the directions given in the order dated 08.01.2026 passed in CA(CAA)/67(AHM)2025, by this Tribunal, the Second Motion Petition, CP(CAA)/13(AHM)2026, was filed by the Petitioner Companies on 09.03.2026, vide Inward Diary No. E 709, seeking sanction of the proposed Scheme.
- 12.** This Tribunal vide order dated 19.03.2026, passed in CP(CAA)/13(AHM)2026, directed the petitioner companies for issuance of notice to the Statutory/Regulatory Authorities namely (i) Central Government through the Regional Director (North-Western Region), (ii) Registrar of Companies, Gujarat, (iii) to the concerned Income Tax Authorities and copy to the Principal Chief Commissioner of Income Tax at Ahmedabad, as well as to the concerned Statutory Regulators / Sectorial Regulators, if applicable. Further, directed to publish the notice in two newspapers i.e. in "Times of India" in English and Gujarati translation thereof in "Sandesh".

13. In compliance of order dated 19.03.2026, passed in CP(CAA)/13(AHM)2026, affidavit of service dated 26.03.2026 was filed by the petitioner companies on 27.03.2026, vide inward no.D2773 in respect of service of notice upon the aforesaid statutory/regulatory authorities along with proof of service as well as proof of publications of notice of hearing of the petition in “Times of India”, in English and Gujarati translation thereof in “Sandesh”, on 24.03.2026.
14. Pursuant to the service of notice upon the statutory/regulatory authorities, following authorities have responded: -

**STATUTORY/REGULATORY AUTHORITIES  
OBSERVATION & RESPONSE THEREOF**

**A. Regional Director and ROC**

In response to the notice served upon the Regional Director (RD), a representation/report dated 16.04.2026 was filed by the RD, North-Western Region, on 20.04.2026, vide Inward Diary No. R275, along with report of the Registrar of Companies (RoC) dated 23.02.2026. They have made some observations in their reports. The petitioner companies filed an affidavit in reply on 22.04.2026, vide inward no. D3540, in response to the representation/reports of RD and RoC.

**RD's Observation**

- i) Paragraph 7(i), it is mentioned that at para 11.2.6 of the scheme which are as under:

*In case of any difference in the accounting policies between the Demerged Company and the Resulting Company, the accounting policies followed by the Resulting Company shall prevail and the difference, if any, will be quantified and shall be adjusted **in the Reserves**, to ensure that the financial statements of the Resulting Company reflect the financial position on the basis of consistent accounting policy.*

In this regard, it is observed that the applicant companies have not specifically mentioned in scheme that which reserves will be utilized for the said adjustment as per the applicable accounting standards. Therefore, this Tribunal may be pleased to direct the Petitioner Companies to disclose/clarify that which reserves will be utilized for the said adjustment.

Reply of the petitioner companies: It is submitted that although Clause 11.2.6 of the Scheme uses the term "Reserves" it is clarified that any difference arising on account of difference of accounting policies between the Demerged Company and the Resulting Company shall be adjusted in Revenue Reserves (i.e. Retained Earnings) only, and not in any other reserves. The Petitioner Companies undertake to ensure that such adjustment shall be restricted to Revenue Reserves at the time of implementation of the Scheme.

- (ii) Paragraph 7(ii), according to para 19.1 and 19.2 of the scheme, the name of the Resulting Company will be changed from Effective Date to "Shiva Performance

Materials Private Limited" Further, simultaneously with the change of name of the Resulting Company, the name of the Demerged Company shall stand changed from Effective Date to any suitable name as may be determined by the Board of the Demerged Company.

In this regard, it is submitted that the reason for change of name of Resulting Company and Demerged Company has not been provided in the scheme.

However, change of name of a company will be subject of availability of name after filing application before competent authority by the applicant company(s). Further, the applicant company(s) is required to be filed relevant eform with applicable fee before concern ROC in compliance of Sections 4, 13 and 14 of the Companies Act,2013.

Reply of the petitioner companies: It is submitted that the change of name of the Resulting Company to "Shiva Performance Materials Private Limited" and the simultaneous adoption of a new name by the Demerged Company is an integral and consequential part of the Scheme, flowing from the transfer and vesting of the Manufacturing Undertaking from the Demerged Company into the Resulting Company on a going-concern basis.

The reason for the said change of name is that the said Manufacturing Undertaking has been continuously

carried on for several years under the name "Shiva Performance Materials Private Limited" and the substantial goodwill, brand, customer relationships, supplier confidence, dealer and distributor arrangements, quality certifications, and overall market presence built up over the years stand associated exclusively with the said name. In order to preserve continuity of the said Manufacturing Undertaking in the hands of the Resulting Company, it is commercially imperative that, post-demerger, the Manufacturing Undertaking continues to be carried on under the same established name, and correspondingly, the Demerged Company simultaneously adopts a new name so as to align its corporate identity with its residual business.

The petitioner companies clarified that the change of name of the Resulting Company and the Demerged Company in pursuance to Clause 19.1 and 19.2 of the Scheme shall be carried out strictly in accordance with the applicable provisions of the Companies Act, 2013, including Sections 4, 13 and 14 thereof, and the Rules framed thereunder.

The Petitioner Companies shall, in accordance with law, file the requisite applications/e-forms with the jurisdictional Registrar of Companies along with the prescribed fees, obtain the availability of name from the competent authority, and comply with all related procedural and disclosure requirements. The change of

name shall take effect only upon the said compliances being duly completed and upon issuance of the fresh Certificate of Incorporation by the jurisdictional Registrar of Companies.

- (iii) Paragraph-7(iii), as per consideration provided in the scheme, further increase in authorized share capital of the Petitioner Resulting Company will be required since the authorized share capital of the Resulting Company is not sufficient to issue and allot new shares of the Resulting Company to the shareholders of the petitioner Demerged Company through this scheme. There is requirement to increase in the authorized capital of the petitioner Resulting Company. The company is required to comply with the relevant provisions of the Companies Act, 2013 for increase in authorized share capital of the Resulting Company.

This Tribunal may therefore be pleased to direct the petitioner Resulting Company to comply with the provisions of Section 61 of the Companies Act, 2013 and also as to the payment of stamp duty, registration fees etc. and file the relevant e-form with respective Registrar of Companies.

Reply of the petitioner companies: The Resulting Company undertakes to comply with the provisions of Section 61 of the Act and also to pay stamp duty,

registration fee, etc. and file relevant e-form with respective RoC, to the extent applicable.

- (iv) Paragraph-7(iv), the Tribunal may be pleased to direct the petitioner companies to undertake the compliance of all applicable provisions of Income Tax Act and Rules thereunder including Section 2 (19AA) of the Income Tax Act in the matter, since this is a scheme of demerger.

Reply of the petitioner companies: The petitioner companies undertake to comply with the provisions of the Income Tax Act and Rules including Section 2(19AA) of the IT Act, to the extent applicable.

- (v) Paragraph-7(v), this Tribunal may kindly direct the petitioner companies to file an affidavit to the extent that the Scheme enclosed to the Company Application and Company Petition are one and same and there is no discrepancy or no change is made.

Reply of the petitioner companies: The petitioner companies submitted that there was typographical error in Clause 10.3 of the Scheme, which was enclosed with the Company Application, wherein the Redemption Price of the Existing Non-Convertible Redeemable Preference Shares of the Demerged Company was erroneously typed as to be reduced to INR 1,02,00,00,000 instead of INR 1,02,50,00,000. After getting knowledge of such typographical error,

the Petitioner Companies immediately convened a Board Meeting and approved the rectified scheme after correcting the typographical error. Further, the Scheme shared with the statutory authorities and the Scheme placed in the Board Meeting by the chairperson and rectified Scheme.

The Petitioner Companies accordingly have produced Board Resolution dated 16<sup>th</sup> January 2026 passed by respective Petitioner Companies approving rectification in the Scheme. Therefore, apart from the typographical error as stated above, there is no other change in Scheme annexed with Company Application and with the Company Petition.

- (vi) This Tribunal may kindly direct the Petitioner Companies to file an affidavit to the extent that no CIRP proceeding under IBC and/ or winding up petition against applicant companies are pending.

Reply of the petitioner companies: The petitioner companies declared that no CIRP proceeding under IBC and/or winding up petition against the petitioner companies are pending.

**The RD in the representation further submitted that this Tribunal may be pleased to direct the Petitioner Companies;**

- (i) To preserve its books of accounts, papers and records and shall not be disposed of without prior permission

of Central Government as per the provisions of Section 239 of the Companies Act, 2013.

Reply of the petitioner companies: The petitioner companies undertake to preserve the books of accounts, papers and records and shall not dispose of without prior permission of Central Government as per the provisions of Section 239 of the Companies Act, 2013.

- (ii) To ensure statutory compliance of all applicable laws and on sanctioning of the present scheme, the petitioner companies shall not be absolved from any of its statutory liabilities, in any manner.

Reply of the petitioner companies: The petitioner companies undertake that they will comply with all applicable laws and on sanctioning of the present Scheme, shall not be absolved from any of its statutory liabilities, in any manner.

- (iii) Necessary Stamp Duty on transfer of property/assets, if any, is to be paid to the respective authorities before implementation of the Scheme.

Reply of the petitioner companies: The petitioner companies undertake to pay necessary stamp duty in line with the applicable laws.

- (iv) The petitioner companies involved in the Scheme to comply with the provisions of Section 232(5) of the Companies Act, 2013 with respect to filing of the

certified copy of the order sanctioning the scheme with Registrar of Companies within 30 days from the date of passing order.

Reply of the petitioner companies: The Petitioner Companies undertake to comply with the provisions of Section 232(5) of the Companies Act, 2013 with respect to filing certified copy of order sanctioning the Scheme with the RoC within 30 days from date of passing order.

- (v) The petitioner companies shall undertake to comply with the Income Tax/GST law and any demand/taxes payable on implementation of the said scheme as per law.

Reply of the petitioner companies: The petitioner companies undertake to comply with the Income Tax / GST law and any demand/taxes payable on implementation of the said scheme as per law, if any.

### **RoC's Observation**

- (i) Paragraph-14(3), from para-A(ii) of the order part of the order dated 08.01.2026 passed in CA(CAA)67(AHM)2025 by this Tribunal in respect of the Demerged Company as on 30.06.2025, there are 4 secured creditors in the Demerged Company. Whereas, as per the Index of Charge available under the MCA's BO Portal, there are 9 (nine) open secured Charge IDs against 4 (four) Charge Holders in the records of the

Demerged Company. The details of aforesaid open charge IDs are follows:-

Sr. No	SRN	Charge Id	Charge Holder Name	Date of Creation	Date of Modification	Date of Satisfaction	Amount
1	A80646826	100979147	HDFC BANK LIMITED	05/09/2024	-	-	46,50,00,000
2	AA5947008	100798282	THE FEDERAL BANK LTD	27/09/2023	-	-	62,65,000
3	AA1881366	100698975	HDFC BANK LIMITED	01/04/2023	-	-	42,84,000
4	AA1704149	100691985	THE FEDERAL BANK LTD	09/03/2023	-	-	21,65,000
6	AA6253032	100548458	THE FEDERAL BANK LTD	05/03/2022	25/10/2023	-	1,15,00,00,000
7	T70247358	100517307	CITI BANK N.A.	09/12/2021	-	-	30,00,00,000
8	AA6274833	100469778	ICICI BANK LIMITED	05/08/2021	10/11/2023	-	40,00,00,000
9	T36504470	100468790	HDFC BANK LIMITED	23/07/2021	-	-	35,00,00,000
10	AA1061668	100452502	THE FEDERAL BANK LTD	31/05/2021	06/10/2022	-	50,00,00,000

The RoC submitted that this Tribunal may kindly issue suitable directions to the Demerged company to place on record all the relevant facts in the matter and duly comply with the provisions of Section 82 of the Companies Act, 2013 read with Rule 8 of the Companies (register of Charges) Rules, 2014.

Reply of the petitioner companies: It is submitted that the Index of charge as per MCA contains details of the sanction amount as on the date of creation of charge whereas the NCLT Order received by the Company dated 8.1.2026 contains details of the outstanding secured debt as on 31.10.2025, being the cut-off date considered for the process of demerger under Section 230-232 of the Companies Act, 2013. Copy of extract of

MCA Master Data showing index of charges as on the date of order of this Tribunal dated 08.01.2026 is annexed as Annexure-I. Copy of Statement of Reconciliation on repayment of Secured Debt, is annexed as Annexure-II. It is further submitted that as on 21.04.2026, certain charges have been paid. Copy of extract of MCA Master Data as on 21.04.2026, is annexed as Annexure-III.

- (ii) The other observations of the Registrar of Companies have already been incorporated in the representation filed by the Regional Director. The petitioner companies have duly submitted their replies and have also furnished the requisite undertakings in response to the said representation of the Regional Director/the Registrar of Companies.

## **15. Income Tax Department**

- 15.1 Pursuant to the notice served upon the Income Tax Department, No Objection Certificate/Report dated 04.05.2026 from the Income Tax Department, Vadodara, was received on 05.05.2026, vide inward no. R307.
- 15.2 In the aforesaid No Objection Certificate/Report, it is submitted a clarification letter dated 28.04.2026 was issued to the assessee seeking an explanation regarding compliance with the mandatory conditions prescribed under Sections 2(19AA) and 2(41A) of the Income Tax Act, 1961. In response, the assessee, M/s. Shiva

Performance Materials Pvt. Ltd. submitted its reply on 29.04.2026. The reply, along with the supporting details furnished, has been examined and it is noticed that the assessee has complied with the mandatory conditions prescribed under Section 2(19AA) of the Income Tax Act, 1961. It is further submitted that the shareholding pattern of the Resulting Company has been verified and it is observed that it is a wholly owned subsidiary of the Demerged Company. Further, pursuant to the Scheme, shareholders holding 100% in value of the shares of the Demerged Company (which well in excess of the stipulated threshold of three-fourths i.e., 75% in value), shall become shareholders of the Resulting Company. Accordingly, the mandatory conditions under Sections 2(19AA) and 2(41A) of the Income-tax Act, 1961 are considered to be fulfilled in respect of the demerger of M/s Shiva Performance Materials Pvt. Ltd. into M/s Shiva Core Materials Pvt. Ltd.

**16.** No other representations or reports have been received from any other statutory/regulatory authorities.

**17.** The equity shares of the petitioner companies are not listed on any stock exchanges.

**18. Valuation Report**

Copy of Valuation Report dated 22.11.2025 of CA Snehal Shah, Registered Valuer, Registration No. IBBI/RV/06/2019/11772, recommending the share

exchange ratio for the proposed Scheme of Arrangement, is annexed to the company petition as **Annexure-H** (Pg.415-431).

**19. Accounting Treatment**

The petitioner companies submitted that the accounting treatment specified in the Scheme is in conformity with the Accounting Standards prescribed under Section 133 of the Companies Act, 2013.

The Statutory Auditors have certified that the accounting treatment contained in the proposed scheme is in compliance with all the Applicable Accounting Standards notified by the Central Government under Section 133 of the Companies Act, 2013 read with Companies (Indian Accounting Standard) Rules, 2015. Accordingly, the accounting requirements of the proposed scheme are not in violation of the requirements of Section 133 of the Companies Act, 2013 read with Companies (Indian Accounting Standard) Rules, 2015. Copy of the certificate dated 16.12.2025 issued by the Statutory Auditors Talati & Talati LLP, is placed on record as **Annexure-F** (Pg.352-353).

**20.** The petitioner companies submitted that there are no proceedings/investigation pending against all the petitioner companies under Sections 210-217, 219, 220, 223, 224, 225, 226 & 227 of the Companies Act, 2013.

**21.** The petitioner companies submitted that no winding up petition is pending against the petitioner companies under the provisions of the Companies Act, 2013. The petitioner companies declared that there are no proceedings pending under the provisions of Insolvency and Bankruptcy Code 2016 against the petitioner companies.

**22.** We have heard the Ld. Counsel for the Petitioner Companies, Ld. Deputy Director for the Regional Director, the Ld. Sr. Standing Counsel for Income Tax Department and perused the record.

**23. OBSERVATIONS OF THIS TRIBUNAL**

**23.1** Before advertizing to the reports of the Regional Director, Registrar of Companies and the Income Tax Department, we summarise the progress of the case before this Tribunal after application was filed seeking approval of the Scheme.

	Company Application/ Company Petition Filed on	Notice issued on (N)/ Listed on (L)	Service Affidavit filed on	Report/ Response received/ filed on	Reserved on	Order pronounced on	Meetings held on
First Motion Application	22.12.2025	08.01.2026	10.02.2026		08.01.2026	08.01.2026	25.02.2026
Chairman's Report				25.02.2026			
2 <sup>nd</sup> Motion Petition	09.03.2026	19.03.2026(N) 23.04.2026(L) 08.05.2026(L)	27.03.2026		12.06.2026	17.06.2026	
RD Office Report/RoC				20.04.2026			

And Petitioner companies' response				22.04.2026			
OL Office Report (s)				NA			
And Petitioner companies' response							
Income Tax Report(s)				05.05.2026			
And Petitioner companies' response				--			

**23.2** The Appointed Date of the Scheme is **01.04.2026**

**24. Companies involved in the Scheme**

- (i) In the Scheme presented in the company petition, Shiva Performance Materials Private Limited has been designated as Demerged Company. The company had revenue from operations of Rs.42,035.14 Lakhs, other income of Rs.38,734.01 Lakhs and profit/(loss) before tax of Rs.40,708.71 lakhs during the F.Y 2024-2025 (Pg.129).
- (ii) In the Scheme presented in the company petition, ShivaCore Materials Private Limited has been designated as Resulting Company. It is a newly incorporated company and has no business activity as on 31.10.2025.

25. The petitioner companies submitted that the Scheme enclosed with the first motion application contained a typographical error in Clause 10.3 of the Scheme, wherein the redemption price of the Existing Non-Convertible Redeemable Preference Shares of the Demerged Company was incorrectly stated. For the sake of convenience, same is reproduced herein below:

“10.3 Upon allotment of the "**New NCRPS**" by the Resulting Company being issued in terms of Clause 10.1, to the holder of the 0.01% non-cumulative redeemable preference shares (**Existing NCRPS**) of the Demerged Company, the Redemption Price of the **Existing NCRPS** of the Demerged Company shall be reduced to **INR 1,02,00,00,000** without any consideration and without any further act, instrument or deed, which shall be regarded as an integral part of the scheme.”

It is submitted that, upon noticing the aforesaid typographical error, the petitioner companies convened their respective Board Meetings and approved the rectified Scheme. The rectified Scheme is also shared to the Chairman of the meetings. The rectified Scheme was, thereafter, shared with the statutory authorities also.

**The rectified Clause 10.3 of the Scheme is as follows:-**

“10.3 Upon allotment of the "**New NCRPS**" by the Resulting Company being issued in terms of Clause 10.1, to the holder of the 0.01% non-cumulative redeemable preference shares (**Existing NCRPS**) of the Demerged Company, the Redemption Price of the **Existing**

**NCRPS** of the Demerged Company shall be reduced to INR **1,02,50,00,000** without any consideration and without any further act, instrument or deed, which shall be regarded as an integral part of the scheme”.

**26. Consideration**

Paragraph 10 (Pg.384-386) of the Scheme deals with the Consideration of transfer and vesting of the Manufacturing Business of the Demerged Company into the Resulting Company. Annexure H (Pg. 415-431) contains copy of share exchange ratio report issued by CA Snehal Shah recommending share exchange ratio for the proposed Scheme of Arrangement. The valuation date is 22.11.2025.

**27.** We have gone through the Company Petition, Scheme, Representation/Report of the Regional Director, report of the Registrar of Companies, report of Income Tax Department as well as the response of the Petitioner Companies in respect of the Representation/Report of the RD and RoC.

**28.** On perusal of the aforesaid representations/reports, there are no adverse observations in respect of the petitioner companies and the proposed Scheme.

**29.** On perusal of the Chairman’s reports, 4 Secured Creditors having value of debt of Rs.41,29,54,952/- and 47 Unsecured Creditors having value of debt of Rs.22,33,76,023/- of the Demerged Company as on

31.10.2025, have unanimously approved the Scheme of Arrangement.

- 30.** During the hearing on 12.06.2026, the Ld. Deputy Director for the Regional Director's office submitted that they have no objection to the proposed scheme, in view of the response affidavits and undertaking given by the petitioner companies. The Income Tax Department has already submitted its No Objection Certificate with respect to the proposed Scheme. Ld. Counsel for the Income Tax Department has also submitted that the Department has no objection to the Scheme.
- 31.** After analysing the Scheme in detail, this Tribunal is of the considered view that the Scheme as contemplated between the Companies seems to be prima facie beneficial to the Companies and will not be in any way detrimental to the interest of the shareholders and the creditors of the Companies, upholding the commercial wisdom doctrine as in ***Miheer H. Mafatlal v. Mafatlal Industries Ltd. (1997) 1 SCC 579***. Considering the record placed before this Tribunal and since all the requisite statutory compliances have been fulfilled by the Petitioner Companies, this Tribunal sanctions the proposed Scheme as well as the prayer made therein subject to the findings/directions given in this order. In short, the proposed Scheme provides, *inter alia*, provides for transfer and vesting of the **Manufacturing Business** (Demerged Undertaking) from the

Demerged Company/Shiva Performance Materials Pvt. Ltd. to the Resulting Company/ShivaCore Materials Pvt. Ltd. on a going concern basis and issue of New Shares by the Resulting Company to the equity shareholders of the Demerged Company, with effect from the Appointed Date i.e. **01.04.2026**. We have also carefully examined the responses of the Regional Director, ROC and the Income Tax Department on being notices served on them and the replies of the Applicant Companies. We consider none of the responses object to the sanctioning of Scheme and any procedural/technical issue raised by the authorities about the Demerged Undertaking of the Demerged Company will be considered and responded by the Resulting Company.

- 32.** The Learned Counsel for the Petitioner Companies submitted that no investigation proceedings are pending against the Petitioner Companies under the provisions of the Companies Act, 1956 or the Companies Act, 2013, and no proceedings for oppression or mismanagement have been filed before this Tribunal or the erstwhile Company Law Board. Considering the submission of the Petitioner Companies, the Resulting Company shall be responsible for all statutory compliances, liabilities and obligations pertaining to the Manufacturing Business (Demerged Undertaking) transferred under the Scheme. This Tribunal holds that any non-compliance does not affect the approval of the Scheme, as the statutory/ regulatory authorities are

free to take necessary action as per law for any non-compliance.

- 33.** Notwithstanding the above, if there is any deficiency found or, violation committed qua any enactment, statutory rule or regulation, the sanction granted by this Tribunal will not come in the way of action being taken, albeit, in accordance with law, against the concerned persons, directors and officials of the petitioner companies.
- 34.** While approving the Scheme as above, it is clarified that this order should not be construed as an order in any way granting approval of any loan assignments and exemption from payment of stamp duty, taxes or any other charges, if any, payment is due or required in accordance with law or in respect to any permission/compliance with any other requirement which may be specifically required under any law.
- 35.** Further, it becomes relevant to discuss that in Company Petition CAA-284/ND/2018 vide Order dated 12.11.2018, the NCLT New Delhi has made the following observations with regard to the right of the Income Tax Department in the Scheme of Amalgamation:

*“taking into consideration the clauses contained in the Scheme in relation to liability to tax and also as insisted upon by the Income Tax and in terms of the decision in re **Vodafone Essar Gujarat Limited v. Department of Income Tax (2013) 353 ITR 222 (Guj)** and the same being also affirmed by the Hon'ble Supreme Court and as reported in **(2016) 66 taxmann.com374 (SC)** from which it is seen that at the time of declining the SLPs*

*filed by the revenue, however stating to the following effect vide its order dated April 15,2015 that the Department is entitled to take out appropriate proceedings for recovery of any statutory dues from the Petitioner or transferee or any other person who is liable for payment of such tax dues, the said protection be afforded is granted. With the above observations, the petition stands allowed and the scheme of amalgamation is sanctioned.*

**36. THIS TRIBUNAL DO FURTHER ORDER**

- i) The rectified Scheme of Arrangement annexed as **“Annexure:G1” (Pages 360 to 414)** to the Company Petition is hereby sanctioned and it is declared that same shall be binding on the Petitioner Companies and its Shareholders and Creditors and all concerned under the Scheme.
- ii) The Appointed Date for the Scheme shall be **01.04.2026.**
- iii) The approval of the Scheme will not be foreclosing the right of the Income Tax Department to take any decision as per the provisions of the Income Tax Act, 1961, against the Petitioner Companies. The final Income Tax demands in the case of Demerged Undertaking of the Demerged Company, if any, shall be paid by the Resulting Company.
- iv) The approval of the Scheme does not affect the authorities’ right to proceed with pending cases, if any, against the Petitioner Companies. Further, nothing contained in this Order shall affect the

rights of any third party, secured creditor, governmental authority or statutory authority to proceed in accordance with law.

- v) All the properties rights and powers of the Demerged Undertaking of the Demerged Company and all the other property, rights and powers of the Demerged Undertaking of the Demerged Company be transferred without any further act or deed to the Resulting Company and accordingly the same shall, pursuant to Section 232 of the Act, vest in the Resulting Company for all the estate and interest of the Demerged Undertaking of the Demerged Company therein but subject nevertheless to all charges now affecting the same, if any.
- vi) All licenses, permissions, permits, approvals, certificates, clearances, authorities, leases, tenancy, assignments, rights, claims, liberties, special status, other benefits or privileges and any power of attorney relating to the Demerged Undertaking of the Demerged Company shall stand transferred to and vested in the Resulting Company, without any further act or deed. The Resulting Company shall be bound by the terms thereof, the obligations and duties thereunder, and the rights and benefits under the same shall be available to the Resulting Company.

- vii) All the liabilities and duties of the Demerged Undertaking of the Demerged Company shall be transferred, without further act or deed, to the Resulting Company, and accordingly, the same shall pursuant to Sections 230 & 232 of the Companies Act, 2013, be transferred to and become the liabilities and duties of the Resulting Company.
- viii) All contracts, agreements, insurance policies, bonds and all other instruments of whatsoever nature or description, of the Demerged Undertaking of the Demerged Company, shall stand transferred to and vested in the Resulting Company and be in full force and effect in favour of the Resulting Company and may be enforced by or against it as fully and effectually against the Resulting Company.
- ix) All proceedings, if any, now pending by or against the Demerged Undertaking of the Demerged Company shall be continued by or against the Resulting Company.
- x) All workers / employees of the Demerged Undertaking of the Demerged Company shall be deemed to become the workers /employees of the Resulting Company with effect from the Appointed Date, and shall stand absorbed in the Resulting Company in accordance with the Scheme without any interruption of service and on terms and conditions no less favourable than those on which

they are engaged by the Demerged Undertaking of the Demerged Company, as on the Effective Date, in compliance with Section 232(3)(g) of the Act and applicable labour laws.

- xi) All taxes paid or payable by the Demerged Undertaking of the Demerged Company including existing and future incentives, unveiled credits and exemptions, the benefit of carried forward losses and other statutory benefits, which shall be available to and vest in the Resulting Company, as per the provisions of law. The Tax liability of the Demerged Undertaking of the Demerged Company shall become a liability of the Resulting Company, and any proceedings against the Demerged Undertaking of the Demerged Company shall continue against the Resulting Company. It is stated that any credit/exemption/relief, etc., as discussed, will be subject to the provisions of the Income Tax Act, 1961.
- xii) The petitioner companies are directed to comply with the observations of the Regional Director and the Registrar of Companies in their representation. The petitioner companies shall:
  - a) Preserve their books of accounts, papers, and records and not dispose of them without prior permission of the Central Government, as per Section 239 of the Companies Act, 2013.

- b) The sanction of the Scheme shall not absolve the petitioner companies from any statutory liabilities, and all books of accounts, papers, and records shall be preserved as per Section 239 of the Companies Act, 2013, without disposal unless permitted by the Central Government.
- c) File a certified copy of this order with the Registrar of Companies electronically via e-Form INC-28 (in addition to physical copy) within 30 days of receipt of the certified copy, as per Section 232(5) of the Companies Act, 2013.
- xiii) The Resulting Company shall pay the differential fees and stamp duty, if any, on the enhanced authorized share capital after setting off the fees/stamp duty already paid by the Demerged Undertaking of the Demerged Company, in compliance with Section 232(3)(i) of the Companies Act, 2013.
- xiv) **Consideration for Amalgamation (Part-II, Paragraph-13 of the Scheme)**

On the date of effectiveness of this Scheme, in accordance with Clause 22, and in consideration for the Demerger of the Demerged Undertaking pursuant to Clause 9 of this Scheme, Resulting Company shall issue and allot New Shares of face value of INR 10 each, credited as fully paid up, to the extent indicated below, to all the members of the Demerged Company, holding fully paid up equity and preference shares in Demerged Company and whose name appear in the register of members of the Demerged Company as on the Record Date or to such of their respective heirs, executors, administrators or other successors in title

as may be recognized by the Board of Directors of the Demerged Company in accordance with Section 2(19AA) of the IT Act, 1961 and other provisions of the Applicable Law.

Issue of Shares of the Resulting Company to the Shareholders of the Demerged Company:

*70 (seventy) fully paid-up equity shares ("New Equity Shares") of INR 100 each (including face value of INR 10 and securities premium of INR 90) of Resulting Company shall be issued and allotted for every 100 (hundred) fully paid-up equity share of face value INR 10 each held in the Demerged Company" ("Share Entitlement Ratio").*

*"185 (one hundred eighty five) fully paid-up 0.01% optionally convertible redeemable preference shares ("New OCRPS") of INR 100 each (including face value of INR 10 and securities premium of INR 90) of Resulting Company shall be issued and allotted for every 100 (hundred) fully paid-up equity share of face value INR 10 each held in the Demerged Company".*

*"5,00,000 (five lakhs) fully paid-up 0.01% non-cumulative redeemable preference shares ("New NCRPS") of INR 100 each (including face value of INR 10 and securities premium of INR 90) of Resulting Company shall be issued and allotted for 1,07,50,000 (one crore seven lakhs fifty thousand) 0.01% non-cumulative redeemable preference shares of face value INR 10 each held in the Demerged Company".*

The principal terms and conditions of the New OCRPS and New NCRPS have been set out in Annexure III and Annexure IV, respectively.

- xv) The Petitioner Companies are further directed to file a copy of this order along with a copy of the Scheme with the concerned Registrar of Companies, electronically,

along with e-form INC-28 in addition to a physical copy within 30 days from the date of issuance of the certified copy of the Order by the Registry as per relevant provisions of the Act.

- xvi) The Petitioner Companies 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, on such certified copy being so delivered, the Demerged Undertaking of the Demerged Company shall stand transferred to the Resulting Company and the Registrar of Companies shall place all documents relating to the Demerged Undertaking of the Demerged Company to the respective files kept by him in relation to the Resulting Company.
- xvii) All concerned Authorities shall act on the copy of this order along with the Scheme annexed at “**Annexure-G1**” of the Company Petition. The Registrar of this Tribunal shall issue the certified copy of this order within 7 days of from the date of this order.
- xviii) The Petitioner Companies are directed to lodge a copy of this Order and the approved Scheme, duly certified by the Registrar of this Tribunal, with the concerned Superintendent of Stamps for adjudication of stamp duty payable, if any, within 30 days from the date of this Order, and pay requisite stamp duty within 60

days from the date of adjudication under the Gujarat Stamp Act, 1958 as amended.

- xix) The legal fees and expenses of the office of the Regional Director are quantified at Rs.70,000/-, to be paid by the Resulting Company.
- xx) The Statutory Auditors of the Petitioner Companies are hereby directed to ensure that the Accounting Treatment as a result of this order is carried out in accordance with the provisions of Section 133 of the Companies Act, 2013, and as per the draft treatment as proposed in the Scheme. They are further directed to disclose their observations in this regard in the next Annual Audit Report/Audit Report of the Petitioner Companies in accordance with the certificate dated 16.12.2025 issued by the Statutory Auditors and placed on record.
- xxi) The Income Tax Department will be free to examine the aspect of any tax payable as a result of the sanction of the Scheme and if it is found that the Scheme of Arrangement ultimately results in tax avoidance or is not in accordance with the applicable provisions of Income Tax Act, then the Income Tax Department shall be at liberty to initiate appropriate course of action as per law, including under Section 232(3)(h) of the Companies Act, 2013, for any tax liabilities arising from the scheme. Any sanction of the Scheme of

Arrangement under Sections 230-232 of the Companies Act, 2013 shall not adversely affect the rights of Income Tax Department or any past, present or future proceedings and the sanction of the scheme shall not come in its way for the appropriate course of action as per law for the tax liabilities, if any.

xxii) Any person aggrieved shall be at liberty to apply to this Tribunal for any directions that may be necessary.

**37.** Accordingly, Company Petition i.e. **CP(CAA)/13(AHM)2026** in CA(CAA)/67(AHM)2025, stands allowed and disposed of in terms of the aforementioned terms.

**38.** The Registry is directed to send a copy of this order to the Regional Director, the Registrar of Companies, the Income Tax Department, Vadodara, and Principal Chief Commissioner of Income Tax, Ahmedabad within seven days from the date of this order, through e-mail and place proof on the file.

sd/-

**SANJEEV SHARMA**  
**MEMBER (TECHNICAL)**

Sudha/PS

SD

**SHAMMI KHAN**  
**MEMBER (JUDICIAL)**