IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT – 2

ITEM No.301
CP(CAA)/32(AHM)2022
in
CA(CAA)/16(AHM)2022

Proceedings under Section 230-232 of Co. Act, 2013

IN THE MATTER OF:
Obtain Distributiors Pvt Ltd ....**Applicant**
Retain Tie Up Pvt Ltd
PFL Venture Pvt Ltd ....**Respondent**
Pratibha Endeavor Pvt Ltd

Order delivered on: 10/07/2026

Coram:
Mrs. Chitra Hankare, Hon'ble Member(J)
Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

This case is fixed for pronouncement of order

The order is pronounced in open court vide separate sheet.

Sd/-

DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

Sd/-

CHITRA HANKARE
MEMBER (JUDICIAL)

AD/AP

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD (COURT - II)

CP (CAA) No. 32 (AHM) 2022
in
CA (CAA) No.16 of 2022

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

Memo of Parties

OBTAIN DISTRIBUTORS PRIVATE LIMITED
(CIN: U52190GJ2011PTC124267)
Regd. Off: C-1/121, Cabin No. 6,
1st Floor, GIDC Pandesara
Surat- 394221, Gujarat, India

... Applicant Company
/ Transferor Company No. 1

M/s RETAIN TIE UP PRIVATE LIMITED
(CIN: U52190GJ2011PTC124482)
Regd. Off: C-1, 121, Cabin No. 5
1st Floor, GIDC Pandesara
Surat- 394221, Gujarat, India

... Applicant Company
/Transferor Company No. 2

M/s PFL VENTURE PRIVATE LIMITED
(CIN: U52399GJ2010PTC121629)
Regd. Off: C-1, 121, Ground Floor,
GIDC Pandesara,
Surat-394221, Gujarat, India

... Applicant Company
/Transferor Company No. 3

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WITH

M/s. PRATIBHA ENDEAVOR PRIVATE LIMITED
(CIN: U67190GJ1996PTC123838)
Regd. Off :- C-1, 121, Cabin No. 1,
1st Floor, GIDC Pandesara,
Surat- 394221, Gujarat, India

... Applicant Company
/Transferee Company

Order Pronounced on: 10.07.2026

Coram:
MRS. CHITRA HANKARE
HON'BLE MEMBER (JUDICIAL)

MR. VELAMUR G VENKATA CHALAPATHY
HON'BLE MEMBER (TECHNICAL)

Appearance:

For the Applicant	: Mr. Vinit Nagar, PCS
For the RBI	: Mr. Amar Bhatt, Sr. Adv., Mr. Kunal Vaishnav, Adv.
For the RD	: Mr. Shivpal Singh
For the Income Tax Dept	: Mr. Aman Mir, Adv.

JUDGEMENT

1. The present joint Company Petition is filed by the Petitioner Companies under Sections 230 to 232 read with other applicable provisions of the Companies Act, 2013 and Companies (Compromise, Arrangement and Amalgamations) Rules, 2016, seeking approval of the Scheme of Amalgamation of M/s Obtain Distributors Pvt. Ltd. (Transferor Company No. 1), M/s Retain Tie Up Pvt. Ltd. (Transferor Company No. 2), M/s PFL Venture Pvt. Ltd.

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(Transferor Company No. 3), with Pratibha Endeavor Pvt. Ltd. (Transferee Company) and their respective Shareholders and Creditors with effect from the Appointed Date, i.e. 01.04.2021.

2. It is represented that the registered office of all the applicant companies are situated in Surat and within the territorial jurisdiction of Registrar of Companies, Ahmedabad, Gujarat, which is falling under the jurisdiction of this Tribunal.

3. The Board of Directors of all the applicant companies have approved the Scheme of Amalgamation through Board Resolutions dated 31.07.2021 passed in their respective Board Meetings.

4. Applicant Companies had filed a joint Company Application before this Tribunal being CA (CAA) No. 16 of 2022. By an order dated 31.03.2022, this Tribunal had allowed the aforesaid company application. The meetings of Equity share holders in respect of all Transferor as well as the Transferee Companies was dispensed with in view of 100% consent affidavits of the shareholders placed on record. The meetings of secured creditors in respect of all Transferor and Transferee Companies were obviated as there were no secured creditors in the applicant companies. The meetings of unsecured creditors in respect of all Transferor Companies was dispensed with in view of 100 % consent affidavits of the shareholders placed on record and in respect of Transferee Company, since there are no unsecured creditors so , the requirement of the convening of meeting of Unsecured Shareholders was obviated.

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5. In compliance of order dated 06.07.2022, applicant companies published notice of hearing of this petition in "Financial Express" in English and "Dhabkar" in Gujarati edition on 02.08.2022 thereof and served the notices to the Regional Director (NWR), Registrar of Companies, to the Income Tax Department along with full details of assessing officer and PAN Number of all the applicant companies with the copy also to the Chief Commissioner of Income Tax Office, Official Liquidator, and Reserve Bank of India, the Department of Non-Banking Supervision (for Transferee Company).

6. In response to the notice served upon the Regional Director (RD), a representation/report dated 24.05.2022 was filed by the RD North-Western Region, along with the report of the Registrar of Companies (RoC) dated 20.05.2022. The petitioner companies have filed an affidavit of undertaking dated 01.10.2022 in response to the reports of RD and RoC. Following are the observations of RD and ROC and response of the petitioner companies.

<u>RD's Observations</u>

a. The Petitioner Transferee Company will be required to pay the difference of amount of fees which is payable on the enhanced Authorized Capital of Rs.5,96,00,000/- as on the date and the total payable amount of fees which have already been paid by all the petitioner companies at the time of registration/ increase in authorized capital, as the case may be. This Tribunal may direct the companies to undertake the compliance of Section 232 (3) (i) of the

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Companies Act, 2013 and pay fees accordingly.

The Transferee Company undertakes to pay the difference of amount of registration fee and stamp duty, if payable upon enhanced authorised share capital upon the approval of the scheme of amalgamation by this Tribunal.

b. The transferee Company is registered with RBI as NBFC vide registration No. B-05.03757. In this regard, the transferee company should take prior permission/NOC from RBI.

The Transferee Company has served notice to the RBI for seeking 'No Objection /approval' and also pursuant to the directions of this Tribunal vide order dated 23.08.2022, the Transferee has once again served notice intimating the next date of hearing in the said matter and requested for their no objection to the scheme of amalgamation. The Transferee Company shall comply with all the directions of the Reserve Bank of India upon receipt of observation, if any, to the proposed scheme of amalgamation. It will abide by all the rules, regulations, master circulars, and guidelines framed by the Reserve Bank of India in order to undertake the business as Non-Banking Financial Company.

<u>ROC's Observation</u>

c. The RoC in its report submitted that Applicant Companies are not listed on any stock exchange. The Transferor Companies and the Transferee Companies

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have filed Balance Sheet as at 31.03.2019, 31.03.2020 and 31.03.2021 and Annual Returns. Both the Companies have filed Balance Sheet Director's Report and Auditor's Report with prescribed e-form AOC-4 for the aforesaid financial years. It is further submitted that no show cause notice has been issued to all the companies, no court case is pending, no technical scrutiny/inquiry is pending, as per the MCA portal record no complaint received and no inspection / investigation proceedings under Section 209A/206(5) of the Companies Act, 1956/2013 is pending against the companies.

d. Petitioner Companies have to undertake to comply with section 232(3)(i) of Companies Act, 2013 and Transferee Company must be paid the differential fee, if any after setting off the fee already paid by Transferor Companies on its Authorised capital.

   The petitioner companies undertakes to comply with the provisions of Section 232(3)(i) of the Companies Act.

e. That Clause 13.4 of the Scheme provides that Upon the Scheme being effective, the Transferee Company shall be entitled to commence and carry on the business and activities currently being carried on by the Transferor Companies, without any further act or deed with effect from the appointed date. In this regard, the Transferee company shall be filed the relevant e-Form i.e. MGT-14 for alteration of Main

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Objects under clause 3A on MOA of the Transferee Company with follow the procedure laid down under sub-Section 9 of Section 13 of the Companies Act 2013 and Rules made thereunder with the Ministry of Corporate Affairs along with requisite fees /additional fees.

f. The RoC submitted that the petitioner companies to preserve its books of accounts, papers and record and shall not be disposed of without prior permission of Central Government as per Section 239 of the Companies Act, 2013. It is further submitted that petitioner companies to ensure statutory compliance of all applicable laws and also on sanctioning of the present Scheme, the Transferor Company shall not be absolved from any of its statutory liabilities, necessary stamp duty on transfer of property/assets, if any, to the respective authorities before implementation of the Scheme and to comply with the provisions of Section 232(5) of the Companies Act with respect to file certified copy of order sanctioning the Scheme with Registrar of Companies within 30 days from the date of passing order.

The petitioner companies undertake to comply with all statutory compliances of applicable laws and on sanctioning of the Scheme and the companies will not absolve from any of its statutory liabilities, in any manner and further

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declare that no Corporate Insolvency Resolution Proceedings under Insolvency and Bankruptcy Code, 2016 and/or winding up petition are pending against the Petitioner Companies.

7. In response to the notice served upon the Reserve Bank of India (RBI), An affidavit dated 23.07.2025 was filed by the RBI, The Transferee Company have filed an affidavit dated 26.08.2025 in response to the affidavit dated 23.07.2025 Following are the observations of RBI and response of the Transferee Company:

RBI's Observations

a. The Company had not filed the DNBS 02 return for March 2021 and March 2022.

   It is submitted by the petitioner companies that the Transferee Company had filed DNBS -02 return for March 2021 and March 2022 vide acknowledgment numbers 10904567 and 10904992 respectively, both dated 20.08.2025. The return filing confirmations was also generated from the RBI portal.

b. The Company had not filed audited DNBS02 return on CIMS/ erstwhile XBRL portal for March 2023 and quarter ended March 2024.

   The Transferee Company had filed the DNBS-02 returns for March 2023 and March 2024 vide acknowledgment numbers 10903654 and 10903843 respectively, both dated 19.08.2025. The return filing confirmations were also generated from the

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RBI portal.

c. Statutory Auditor Certificate not submitted for Financial Year 2020-2021.

The Transferee Company had filed the DNBS -10 Return for Financial Year 2020-21 vide acknowledgement number 10904389 dated 20.08.2025. The return filing confirmation was generated from the RBI Portal.

d. The Company had not filed quarterly DNBS 04A and monthly DNBS04B return on CIMS Portal for the quarter ended March 2024, June 2024, September 2024, December 2024 and March 2025.

The requirement to file DNBS-4A is applicable to NBFC-ND-SI and deposit- taking NBFC's and/or NBFCs having asset size exceeding Rs 100 Crore. The Transferee Company had crossed the prescribed asset threshold of Rs 100 Crore only during Financial Year 2024-25 and accordingly, the obligation to file DNBS-4A returns arises with effect from Q1 of Financial Year 2025-26. The filing of Form DNBS -4A was not applicable to the Transferee Company for the quarters ended March 2024, June 2024, September 2024, December 2024 and March 2025.

e. The Company had not submitted DNBS 13 Return on CIMS/ XBRL portal for the quarter ended March 2021, June 2021, and September 2021. Further, it had also not filed audited DNBS 13 quarterly return data on CIMS/ erstwhile XBRL portal for quarter ended March

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2022, March 2023, and March 2024.

The Transferee Company had filed the DNBS- 13 Returns as per table given hereunder

Particular	Acknowledgment	Reporting Period	Date of Submission
DNBS -13	10904985	31.03.2025	20.08.2025
DNBS-13	10893595	31.03.2021	12.08.2025
DNBS-13	10893543	30.09.2021	12.08.2025
DNBS-13	10893531	30.06.2021	12.08.2025
DNBS-13	10865179	31.03.2024	24.07.2025
DNBS-13	10865161	31.03.2023	24.07.2025
DNBS-13	10865135	31.03.2022	24.07.2025

f. The Company has not registered with CKYCR as required by section (56) of Master Direction - Know Your Customer (KYC) Direction, 2016 (Updated as on June 12, 2025) RBI/DBR/2015-16/18 Master Direction DBR.AML.BC.No.81/14.01.001/2015-16 Dt. February 25, 2016 whereunder, "In terms of provision of Rule 9(1A) of the PML Rules, the REs shall capture customer's KYC records and upload onto CKYCR within 10 days of commencement of an account-based relationship with the customer.

The Transferee Company had complied by obtaining registration with CKYCR vide Registration No. 303150.

g. The Company had acquired the membership of Transunion CIBIL on June 20, 2025 although it is still not registered with other three Credit Information Companies as required by para 4(1) - "Membership of CICs" of Master Direction - Reserve Bank of India

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(Credit Information Reporting) Directions, 2025, Dt. January 06, 2025, whereunder "All CIs shall become members of all the CICs registered with the RBI".

The Transferee Company stated that the company had acquired the membership of all four Credit Information Companies as required by para 4(1) – ' Membership of CIC's of Master Direction – Reserve Bank of India (Credit Information Reporting) Directions, 2025, RBI/DoR/2024-25/125, DoR.FIN.REC.No.55/20.16.056/2024-25 dated January 06, 2025.

h. The Copy of board approved KYC Policy was sought from the Company. It is not updated as per latest RBI guidelines mentioned in Master Direction – (KYC) Direction, 2016 (Updated as on June 12, 2025) RBI/DBR/2015-16/18 Master Direction DBR. AML.BC No. 81/14.01.001/2015-16 Dt. February 25, 2016.

The Transferee Company had submitted board approved KYC and AML Policy to the RBI via email communication on 18.06.2025 and pursuant to this a physical copy of the same was also submitted on 21.07.2025.

i. The Copy of board approved Fair Practices Code was sought from the Company. It is not updated as per latest RBI Guidelines mentioned in para 45 of Master Direction – Reserve Bank of India (Non-Banking Financial Company – Scale based Regulation)

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Directions, 2023, RBI/DoR/2023-24/106 DoR. FIN. REC. No. 45/03.10.119/2023-24 dated October 19, 2023.

The Transferee Company had duly complied by updating its Board- approved Fair Practices Code in line with the latest RBI Guidelines. The updated Fair Practices Code was submitted to the RBI on 22.08.2025.

j. The information relating to registration with FIU-IND (FINNet 2.0) and details of Principal Officer and designated director registered with FIU-IND, as required in terms of section (6) &(7) of Master Direction - (KYC) Direction, 2016 (Updated as on June 12, 2025) RBI/DBR/2015-16/18 Master Direction DBR.AML.BC.No.81/14.01.001/2015-16 Dt. February 25, 2016 has not yet been submitted by the Transferee Company, despite mail to the Company on May 12, 2025 and subsequent reminder emails dated June 30, 2025; July 02, 2025; July 03, 2025.

In reference to the email dated 12.05.2025 and subsequent reminder communications. The Company's FIU Registration ID (FIUREID) is FI00068365.

k. The information sought in relation to Audited financial statement for FY 2021-22, FY 2022-23, FY 2023-24 and FY 2024-25 has not yet been submitted by the company, despite mail to the Company on May 12, 2025 and subsequent reminder emails dated July 02,

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2025 and July 03, 2025.

The Transferee Company had submitted the audited financial statements for Financial Year 2021-22, 2022-23, 2023-24 along with the provisional financial statements for FY 2024-25 via email dated 18.06.2025. The Audited financial statements for F.Y. 2024-25 shall be duly submitted upon completion of the Statutory Audit.

l. The information relating to Registration Number/ certificate w.r.t registration with all the four CICs viz. CIBIL, CRIF, Experian, Equifax. The Company has not yet registered with three of the CICs, viz, CRIF, Experian, Equifax.

The Transferee Company submits that it had obtained membership and registration with all four Credit Information Companies, viz. CIBIL, CRIF, Experian and Equifax.

m. The information relating to Form A for FY 2021-2022, FY 2022-2023, FY 2023-2024 and FY 2024-2025 with respect to the appointment of statutory auditors. The Company has submitted the forms which are not as per the specified format. The NBFC was advised vide email dated June 30, 2025 to submit the revised Form-A. The Company had submitted revised Form A on July 05, 2025, however the same was not as per specified format.

The Transferee Company states that it had

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submitted the revised Form A in the prescribed format on 23.08.2025.

n. Profile data as given in the link https://forms.gle/K6xtM8VYxLFdbMy2A as required in terms of Section 45(L) of RBI Act, 1934. The information has not yet been submitted by the company despite e-mail to the company on May 12, 2025.

The Transferee Company states that it had complied with the requirement under Section 45(L) of the Reserve Bank of India Act, 1934 by submitting the requisite profile data through the prescribed google form.

o. The Company has not obtained prior written approval from RBI before approaching this Tribunal for seeking orders for amalgamation of all three Transferor Companies with the Transferee Company. It is clarified to the NBFC's in terms of FAQ 87 dated January 10, 2017 updated on April 23, 2025 which stipulates that prior approval of the RBI would have to be obtained before approaching any Court, Tribunal seeking orders for merger/ amalgamation/ involving NBFC's.

The applicant companies states that all the three transferor companies are non-NBFCs, whereas the transferee company, is an NBFC. The Transferee Company states that the proposed Scheme of Amalgamation is in consonance with the clarification provided in FAQ 85 of the RBI publication 'All you wanted to know about NBFC's.

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Further is has been stated that the none of the conditions are triggered in the present case and the NBFC shall continue to fulfil the Principal Business Criteria post amalgamation.

8. Further, RBI filed additional affidavit on 24.09.2025, to which the petitioner company filed reply dated 05.12.2025 and 05.01.2026. The following are the observations raised by the RBI.

   i. With reference to the observation in Point 1 of the table in Para 2 of the affidavit of RBI, the Petitioner has claimed to have filed audited DNBS-02 return for March 2021 and March 2022. After verifying the claimed compliance with the audited balance sheet of the NBFC, it is observed that while calculating the Net Owned Fund (NOF) in the return, the NBFC has not reduced the owned fund by the amount excess to 10% of owned fund invested and loaned to group companies, as specified under Reserve Bank of India Act 1934 (herein after also referred to as RBI Act, 1934), in DNBSO2 for March 2O21 and March2022,.Therefore, the filed DNBS 02 return of the NBFC for March 2021 and March 2022 was found to be incorrect. The compliance of NBFC is not found satisfactory.

      The petitioner company states that the Company has duly rectified the said observation. The Company has filed the revised

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DNBS-02 returns for March 2021 and March 2022 on November 5, 2025, vide acknowledgment numbers 11024460 and 11024507, respectively. Copies of the return filing confirmations, as generated from the RBI portal, are annexed.

ii. After verifying the audited balance sheet of the NBFC, it is observed that while calculating the Net Owned Fund (NOF) in the return, it has not reduced the owned fund by the amount excess to 10% of owned fund invested and loaned to group companies in DNBSO2 for March 2023 and quarter ended March 2024, as specified under RBI Act 1934,. Therefore, the filed DNBS 02 return for March 2023 and quarter ended March 2024 was found to be incorrect.

The petitioner company states that the Company has duly rectified the said observation. The Company has filed the revised audited DNBS-02 returns for March 2023 and March 2024 on November 5, 2025, vide acknowledgment numbers 11024643 and 11024748, respectively, thereby ensuring full compliance with the requirements specified under the Reserve Bank of India Act, 1934.

iii. With reference to the observation contained in Point 3 of the table in Para 2 of the affidavit of the RBI stating the 'Statutory Auditor Certificate' it is

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observed that the Statutory Auditor has not shown investments and loans in group companies in NOF calculation as it has not reduced the owned fund by the amount excess to 10% of owned fund invested and loaned to group companies, as specified under the RBI Act 1934. As such, the NOF of the NBFC for FY 2020-21 is found to be incorrect.

The petitioner company states that the Company has duly rectified the said observation. The Company has filed the revised DNBS-10 return for the financial year 2020-21 on November 5, 2025, vide acknowledgment number 11025398, thereby ensuring full compliance with the applicable provisions of the Reserve Bank of India Act, 1934.

iv. With reference to the observation contained in Para 3 (i) of the affidavit of RBI, the Petitioner has produced with its affidavit of compliance showing that it has complied with the deficiency and has claimed to have applied to CERSAI to get registered with CKYCR. However, no proof of registration is provided by the NBFC. In view of the above, the NBFC still found to be not registered with CKYCR. In view of the afore-mentioned, the compliance on the part of NBFC is not found satisfactory.

The petitioner/Transferee company states that the company has registered itself CKYCR vide registration number 70005210354540. The

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Copy of registration certificate issued by CERSAI is annexed as "Annexure - 4."

v. With reference to serial No. I in the table at para 4 of the affidavit of the RBI with regard to the copy of Board approved KYC policy, the Petitioner has claimed that it has submitted the same to RBI. In this regard, the following were found to be missing in the submitted KYC policy of the NBFC, which is required as per Master Direction - Know Your Customer (KYC) Direction, 2016 (Updated as on june 12, 2025) RBI/DBR/2015-16/18 Master Direction DBR.AML.BC.No.81/ 14.01.001 /2015-16 dated February 25, 2026.

(A) In section of Customer Acceptance Policy, the following were missing:

1. REs shall apply the CDD procedure at the UCIC level. Thus, if an existing KYC compliant customer of a RE desires to open another account or avail any other product or service from the same RE, there shall be no need for a fresh CDD exercise as far as identification of the customer is concerned.

2. Where Permanent Account Number (PAN) is obtained, the same shall be verified from the verification facility of the issuing authority, where an equivalent e-document is obtained from the customer, RE shall verify, the digital signature as per the

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provisions of the Information Technology Act, 2000 (21 of 2000). Where Goods and Services Tax (GST) details are available, the GST number shall be verified from the search/verification facility of the issuing authority.

(B) In section of Risk Management, the following was missing:

The risk categorisation of a customer and the specific reasons for such categorisation shall be kept confidential and shall not be revealed to the customer to avoid tipping off the customer

(C) Secrecy Obligations and Sharing of Information:

i. REs shall maintain secrecy regarding the customer information which arises out of the contractual relationship between the RE and customer.

ii. Information collected from customers for the purpose of opening of account shall be treated as confidential and details thereof shall not be divulged for the purpose of cross selling, or for any other purpose without the express permission of the customer.

iii. While considering the requests for data/information from Government and

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other agencies, REs shall satisfy themselves that the information being sought is not of such a nature as will violate the provisions of the laws relating to secrecy in the transactions.

iv. The exceptions to the said rule shall be as under:

a. Where disclosure is under compulsion of law,
b. Where there is a duty to the public to disclose,
c. Where the interest of RE requires disclosure, and
d. Where the disclosure is made with the express or implied consent of the customer.

(D) The KYC policy was not modified according to the section "CDD Procedure and sharing KYC information with Central KYC Records Registry (CKYCR)" of Master Direction - (KYC) Direction, 2016 (Updated as on June 12, 2025) RBI/DBR/2015-16/18 Master Direction DBR.AML.BC.No.81/14.01.001/2015-16 dated February 25, 2016.

The compliance on the several parts of the relevant Master Directions by the NBFC is not found satisfactory.

The petitioner company states that the

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Company has updated and adopted the revised KYC Policy in its Board Meeting held on 01/09/2025 incorporating all provisions and requirements as prescribed under the Master Direction – KYC, 2016 (as updated on June 12, 2025). The revised KYC Policy has been submitted to the Reserve Bank of India, Ahmedabad, vide email dated November 7, 2025. A copy of the revised KYC Policy and the email communication made to the Reserve Bank of India are annexed herewith and marked as "Annexure - 5" and “Annexure - 6", respectively.

vi Additional supervisory concern raised by RBI is that in respect of the said NBFC based on the affidavit submitted by NBFC. The NBFC, while calculating the Net Owned Fund (NOF) in the return, has not reduced the owned fund by the amount excess to 10% of owned fund invested and loaned to group companies, as specified under RBI Act, 1934. In this text, the NBFC has not complied with stipulated NOF requirement of Rs. 5.00 Crores as of March 31,2005, as required under para 6.2 of Master Direction – Reserve Bank of India (Non-Banking Financial Company – Scale Based Regulation) Directions, 2023 RBI// DoR / 2023-24 / 106 DoR.FIN.REC.No.45 /03.10.119/2023-24 dated

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October 19, 2023.

vii It is the settled position of law that the circulars/Directives issued by the RBI have a statutory force and therefore an NBFC is bound to comply with the circulars and Directives issued by time to time. Any order that may be passed by the Hon,ble Tribunal in relation to the scheme of amalgamation may be without prejudice to the rights of RBI to take necessary action.

The petitioner company states that the company shall comply with the stipulated NOF requirement of Rs. 500.00 Lakhs before 31.03.2026 and shall furnish proof of such compliance to the Reserve Bank of India, Ahmedabad, upon completion. A copy of the CA Certificate of Net Owned Fund of INR 110.72 Lakhs issued by M/s B.N. Kedia & Co. Statutory Auditor is annexed as Annexure-7.

9. RBI had filed another affidavit on 18.02.2026 in response to the Petitioner's Affidavit dated 05.12.2026 and 02.01.2026. The petitioner company has filed reply to the same on 28.02.2026. The observations given by RBI are as follows:

   a. That the DNBS 02 returns for March 3I,2021 was not filed correctly and accordingly, it was informed to the NBFC on visit by one of its staff/employee to RBI on December 10, 2025. The NBFC has submitted revised returns on

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CIMS portal of RBI. It has reduced the owned fund by the amount excess to 10% of owned fund invested and loaned to group companies, while calculating the Net Owned Fund (NOF). The NOF of NBFC was above 200 lakhs as on March 3I, 2021 and 2022. The observation of the RBI has been duly complied by the Petitioner Company.

b. The NBFC has claimed to have reduced the owned fund by the amount excess to 10% of owned fund invested and loaned to group companies, while calculating the Net Owned Fund (NOF). The NOF of NBFC was above Rs. 200 lakhs as on March 31, 2023 and 2024. Thus the company has complied with the applicable regulatory requirements prescribed by RBI.

c. That the NBFC has submitted to have filed revised DNBS 10 for March 31,2021 on the RBI's CIMS portal. The NBFC has also submitted that the Statutory Auditor has reduced the owned fund by the amount excess to 10% of owned fund invested and loaned to group companies, while calculating the Net Owned Fund (NOF) the NOF of NBFC was above Rs. 200 lakhs as on March 31,2021. Thus the company has complied with the observations of RBI.

d. The NBFC has submitted to have registered itself with CKYCR. The NBFC has also claimed to have included the deficiencies pointed out by RBI in

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the company's KYC policy. The petitioner company has complied with the observations raised by RBI.

e. As regards complying with the NOF requirements, the NBFC, vide its email dated December 16, 2025, has informed RBI that it achieved NOF of Rs. 647.64 lakh as on December 15, 2025 and submitted Statutory Auditor Certificate for the same.

f. It has been further stated that it is a settled position of law that the circulars/directives issued by RBI have a statutory force and therefore an NBFC is bound to comply with the circulars and directives issued by RBI from time to time. It is, therefore, prayed that the above factual position may kindly be taken on record and that appropriate orders may be passed by this Hon'ble Tribunal in relation to the Scheme of Amalgamation without prejudice to the rights of RBI to take necessary action in accordance with law.

10. In response to the notice of hearing served upon the office of Official Liquidator (OL), a representation dated 27.06.2022 in respect of the Transferor Companies, was filed by the OL.

i. The OL in its report has raised certain observations with regards to all the Transferor companies about the proposed treatment of amount lying in the Reserve & Surplus account including the amount of

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security premium of all the transferor companies upon the approval of the scheme of amalgamation and the provisions pertaining to the proposed treatment of the Reserves & Surplus account including that of Security Premium is forming a part of clause 11.1 of the scheme of amalgamation.

The petitioner companies states that no further adjustment shall be made to the book values of the assets and liabilities of the transferor company when these will be forming a part of the financial statements of the transferee company except the things which shall be required to be done to ensure the uniformity of the accounting policies between the amalgamating companies.

ii. The OL has also raised observations with regards to the pending dispute of Transferor Co. No. 2 pertaining to the Assessment year 2015-16 for an amount of Rs. 41,88,880/- which is presently pending before the Hon'ble CIT

The petitioner Transferor Company No. 2. i.e. the Retain Tie Up Pvt Limited had preferred an appeal before the Hon'ble CIT as the said company has not received any communication with regard to the any notice of hearing and leading to which the Assessment order was passed u/s 144 of the Income Tax Act, 1961 on 22.12.2017. Further, the company has also not received the copy of the Assessment order and upon its intimation, board of directors of the

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said company has informed about the facts of assessment and has applied for the certified copy of the Assessment order which was received on 26.02.2018 and an appeal against the same is pending before the Hon'ble CIT. The petitioner companies further states that the interest of Income Tax Department in this regard shall be duly taken care as all the actions and proceedings pending against the transferor companies and/or arising on or before the effective date shall be continued and be enforced by or against the Transferee company.

11. The OL in its report submitted that as per the MCA Portal, the Transferor Companies have filed its Balance Sheet with the RoC up to 31.03.2021. It is further submitted that the Transferor Companies have not accepted any Deposits under Section 73 of the Act and is not required to register with RBI as NBFC. The Transferor companies have submitted a certificate dated 01.03.2022 from the statutory auditor of the company M/s. B.N. Kedia & Co, CA. That, the Transferor Companies have passed resolution in the meeting of Board of Directors of the Company held on 31.07.2021 for approval of the Scheme of Amalgamation of M/s Obtain Distributors Pvt. Ltd, Retain Tie Up Pvt. Ltd and PFL Venture Pvt. Ltd. with Pratibha Endeavor Pvt Ltd. and their respective shareholders and creditors pursuant to Provisions of

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Section 230 to 232 of the Companies Act, 2013. There is no adverse observation in respect of the Transferor Company. Further, the Transferee Company is also required to pay Rs. 10,000/- approximately, the related expenses of the Official Liquidator or any other amount as may be considered appropriate by this Tribunal.

The petitioner companies *vide* affidavit dated 01.10.2022, in response to the representation of the OL undertakes to preserve books of accounts, papers and records of the Transferor Company and shall not dispose the same without prior permission of Central Government as required under Section 239 of the Act. The petitioner companies undertake to lodge a certified copy of the order along with the Scheme with the concerned Superintendent of Stamps for the purpose of adjudication of stamp duty payable, if any. The petitioner companies undertake to file certified copy of order sanctioning the Scheme with the RoC within 30 days from the date of issuance of the certified copy of the order. The petitioner companies also undertakes to pay Rs. 10,000/- as the fees of the Official Liquidator. The petitioner company undertakes to do the necessary stamp duty, if any, required to be payable on transfer of any property or assets.

12. In response to the notice of hearing served upon the Income Tax Department, it has filed report dated 23.09.2022, to which the petitioner companies have submitted affidavit in reply on 01.10.2022, The Income Tax Department states

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that there is an outstanding demand of Rs. 33,49,880/- for the A.Y. 2015-16 against the Transferor Company No. 2. i.e. Retain Tie Up Pvt. Ltd. Further, the department has submitted their no objection to the proposed scheme of amalgamation stipulating that the Income Tax Department reserves its right to invoke the provisions of Income Tax Act in case there is non-compliance of the provisions of Section 2(1B), Section 2(19AA), Section 27A, Section 72AA of the Act and any other relevant provisions of the Act.

The petitioner Transferor Company No. 2. i.e. the Retain Tie Up Pvt Limited had preferred an appeal before the Hon'ble CIT as the said company has not received any communication with regard to the any notice of hearing and leading to which the Assessment order was passed u/s 144 of the Income Tax Act, 1961 on 22.12.2017. Further, the company has also not received the copy of the Assessment order and upon its intimation, board of directors of the said company has informed about the facts of assessment and has applied for the certified copy of the Assessment order which was received on 26.02.2018 and an appeal against the same is pending before the Hon'ble CIT. The petitioner companies further states that the interest of Income Tax Department in this regard shall be duly taken care as all the actions and proceedings pending against the transferor companies and/or arising on or before the effective date shall be continued and be enforced by or

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against the Transferee company.

13. In compliance to the order dated 07.05.2026, wherein the matter was de-reserved and certain clarifications were sought, the petitioner companies have filed compliance affidavit dated 10.06.2026 and placed on record all the relevant documents and certificates of memberships sought by RBI and provided clarification to all the observations raised by this Tribunal vide order dated 07.05.2026. As per the compliance affidavit, the Transferee Company has submitted in compliance to Master Directions of RBI (DOR) dated January 6, 2025, that they have enrolled as a member of CRIF and received confirmation of registration vide email dated 04 Nov 2020 and no separate certificate of membership has been received. The Petitioner on behalf of the Transferee company has also submitted the query Board of Directors of the transferee company have submitted the reasons why no prior approval of RBI for the transferee company on the amalgamation scheme was required on all the three conditions mentioned. It is submitted that the transferor and transferee companies are under common management and common ownership holding directly or indirectly 100% equity share capital of the transferee company and shall continue to hold after scheme becomes effective. Hence, there is no change in control of the transferee company pursuant to the scheme and hence the condition (i) specified in FAQ No.85 of the RBI circular is not attracted. It is further submitted that as regards the change in shareholding of the transferee

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company consequent upon the scheme is 11.16% which is below the threshold of 26% specified in FAQ No.85 and the RBI Directions. Details of the change in shareholding pre and post amalgamation are furnished with the affidavit. Hence condition (ii) specified is not attracted. As regards the structure of management and Directors of the Transferee Company, it is submitted that scheme does not provide for appointment of any director from the Transferor companies on the Board of the Transferee Company and no existing director of the transferee company shall cease to hold office as a consequence of the scheme. Hence the applicant submits that the transferee company shall continue to satisfy the Principal Business Criteria applicable to NBFC and shall continue to remain eligible to hold its Certificate of Registration issued by RBI after the scheme becomes effective. Hence the company complies with the FAQ No.85 as no prior permission is required from RBI for prior approval of the scheme of amalgamation as per the scheme.

14. The applicant has also confirmed in the same affidavit that there are no pending compliances with the regulator RBI as on 31 March 2026 including whether any action under penal provisions is initiated/pending adjudication before the regulatory authority.

15. Further in the earlier affidavit dated 3 March 2026, the transferee company has submitted that it complies with the requirement of Not Owned Funds on account of re computation to be in excess of Rs. 200 lakhs as on 31 March 2021, 31 March 2022, 31 March 2023 and 31

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March 2024 and hence they comply with the regulatory requirements in accordance with Sec 45-IA of the RBI Act, 1934.

16. The Ld. Sr. Counsel appearing for RBI on 2.07.2026 submitted that the relevant para of their report for compliance by applicant may be noted while passing the order.

17. Even though the applicant has served notices on the regulator/s including RBI on 20 August 2022, the RBI in its reports observed certain regulatory violations/observations/non filing of proper regulatory forms by affidavits dated 24 July 2025, 25 Sept 2025 and 19 Feb 2026 including non-compliance to FAQ 85 of their relevant circular, this matter was heard, compliances sought and adjourned to satisfy if the scheme is in compliance with the regulations. It is also observed from the Certificate of Registration issued to the Transferee Company that it is a NBFC and is a non-deposit taking entity regulated by Department of Regulation of RBI. The petitioner was directed to file the Last audited balance sheet of the Transferee Company and accordingly the balance sheet for the year 2024-25 is submitted.

18. This tribunal had queried the petitioner on 31.10.2023 whether the transferee company as NBFC has obtained prior permission/NOC from RBI. The registry was directed to issue notices to RBI. Vide letter dated 4 March 2024, the RBI submitted its reply stating that the transferee company is a NBFC and based on Ministry of Corporate Affairs issuing a No Objection

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Certificate in the year 2020 to shift the registered office of the transferee company in the year 2020 to shift the registered office fromWest Bengal to Gujarat. Later in order to complete the formalities of shifting, RBI had advised to the aforesaid company to submit required documents post shifting of their registered office which the company had not submitted. Hence, as per our records the company is still attached to RBI Kolkata. Hence due to above mentioned supervisory concerns and non-compliant status of Transferee Company merging as per proposal with the transferor companies was not concurred. The Petitioner of the Transferee Company filed the compliance affidavit dated 10 Oct 2024 that they have since complied with the requirements of RBI in filing the statutory returns for FY 2020-21 to 2023-24 with RBI filing with proof and copies to RBI.

19. Further, RBI vide its affidavit dated 18 Feb 2026 in response to the compliance affidavits dated 5.12.205 and 2.01.2026 made certain observations on the compliances made that the necessary compliances have been provided and also stated that "it is a settled position of law that the circulars/directives issued by RBI have a statutory force and therefore an NBFC is bound to comply with the circulars and directives issued by time to time. It is also prayed that the factual position may kindly be taken on record and that appropriate orders may be passed in this matter".

20. Despite service of notice and paper publication, no representation from any other sectorial/regulatory

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authorities has been received.

21. Petitioner companies submitted that there are no proceedings/ investigation pending against both the petitioner companies under Sections 210-217, 219, 220, 223, 224, 225, 226 & 227 of the Companies Act, 2013. It is further submitted that there are no winding up petition is pending against the petitioner companies under the provisions of the Act. The Statutory Auditors have certified that the accounting treatment specified in the Scheme is in conformity with the accounting standards prescribed under Section 133 of the Companies Act. It is submitted that the petitioner companies belong to the same promoter group and there is no separate valuation done for approval of the scheme.

22. We heard the Ld. Counsel for the petitioner companies, counsel for Income Tax Department and perused reports of the Office of the Regional Director, OL and Registrar of Companies and also gone through the material available on record.

23. The counsel appearing for the petitioner companies submitted that the petitioner companies have complied with all statutory requirements as per the directions of this Tribunal and filed the necessary affidavits. The petitioner companies also undertake to comply with statutory/regulatory requirements under the Companies Act, 2013 and the Rules made thereunder, as may be applicable.

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24. On the basis of above facts and submissions made by the Learned Counsel representing the petitioner companies, representative of the Regional Director, Counsel for the Income Tax Authorities, the Registrar of Companies and on perusal of the Scheme, Reserve Bank of India, subject to the veracity of the compliance affidavit filed by the petitioner/s, it appears that the requirements of the provisions of Sections 230 and 232 are satisfied by the petitioner companies. No objections to the scheme have been produced on record by the petitioners other than the observations seeking further compliance/s by RBI which have been filed with appropriate board resolution. The petitioner/s has also filed their last audited balance sheet. The compliance of the regulations, eligibility to continue as an NBFC based on COR issued by RBI is upto the regulator to see if there still any regulatory requirements based on the assessed Net Owned Funds of the Transferee Company at the time of the regulatory returns. As on date of approval of the scheme for consideration, we have observed that the compliances have been provided by affidavit to the regulators.

25. We are of the considered view that the proposed Scheme of Amalgamation is otherwise *bona fide* and in the interest of the shareholders who are closely held and its creditors. In the result,

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Company Petition No. CP (CAA)/32(AHM) 2022 in CA (CAA)/16 (AHM) 2022 can be allowed. The Scheme envisages Amalgamation of M/s Obtain Distributors Pvt. Ltd (Transferor No. 1), Retain Tie Up Pvt. Ltd (Transferor No.2) and PFL Venture Pvt. Ltd. (Transferor NO.3) with Pratibha Endeavor Pvt Ltd. (Transferee Company) and their respective shareholders and creditors .

26. 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 to the scheme will not come in the way of action being taken, albeit, in accordance with law, against the concerned persons, directors and officials of the petitioners by any of the regulatory authorities under whose purview the transferor/transferee companies are regulated.

27. While approving the Scheme as above, based on the declaration and reply by affidavit submitted we further clarify that this order should not be construed as an order in granting any exemption from payment of stamp duty, taxes including Income Tax, GST, etc. or any other charges, if any, and payment in accordance with law or in respect of any permission/compliance with any of the regulatory authorities and with any other requirement which may be specifically required

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under any law.

28. Therefore, this Tribunal orders as under;

ORDER

I. Company Petition i.e. CP (CAA) 32 of 2022 in CA (CAA) 16 of 2022, is allowed.

II. The Scheme of Amalgamation is hereby sanctioned and it is declared that the same shall be binding on the Petitioner Companies and their Shareholders and Creditors and all concerned under the Scheme.

III. The Appointed Date sought for the Scheme is 01.04.2021. However, the delay in approving the scheme is purely due to regulatory non-compliance by the Transferee Company and the necessary regulatory filings before the RBI which were completed only during the year 2024-25. The applicant has submitted the audited balance sheet of the Transferee Company as on 31 March 2025. This is also to enable that the transferor/transferee companies have filed their respective regulatory returns including to the tax authorities up to the financial year 31 March 2025. Hence, we direct that the appointed dated for the scheme as 01.04.2025.

IV. Sanction of the scheme, does not in any way affect any regulatory/statutory action to be initiated against the petitioner companies

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despite our sanction of the scheme for any period prior to filing of this application or during its pendency.

V. RBI being a regulator of NBFC is granted liberty as sought in their reply affidavit to the notice issued on the scheme by the petitioner/s that they may take any appropriate action if their regulations or Act provisions are not complied by the NBFC pre or post sanction of the scheme of merger including on the Certificate of Registration of the transferee company based on its last audited balance sheet. The sanction of the scheme is based on the affidavit and board resolutions filed by the transferee company which undertakes to comply with the regulations.

VI. The Petitioner Companies are directed to comply with the statutory filing requirements sought by the RD/RoC in their report/representation. This would include complying with any provisions that may be needed on account sanction of this scheme to any other regulatory authorities. The Petitioner companies will ensure that there is no charge created before sanction of the scheme/if any to be accordingly deleted if there are no liabilities with any creditors, or any other, irrespective of approval of the scheme and submit the necessary clarifications seeking

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deletion by the ROC through appropriate creditors who have created charge if any. RD/ROC are at liberty to seek any statutory returns from the petitioner/s due prior to the scheme and also can proceed further as per the Company Act provisions of violations if any on account of non-compliance.

VII. 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 Amalgamation 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. Any sanction of the Scheme of Amalgamation 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 against the petitioner companies in complying with any of the provisions of Income Tax and they are liable to be proceeded against at time before or after sanction of the scheme that is approved. In case of non-filing of any tax return or assessment

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dues of the transferor company, the same be proceeded against the transferee company for any period prior to the sanction of the scheme.

VIII. The applicant is liable to pay penalty, fee or any other charge regulatory action during the process of consideration of the scheme by any of the regulatory authority under process of law, no appeal would be considered for any waiver of the same by this Tribunal.

IX. It is declared that the Transferor Companies shall be dissolved without winding up on compliance of this order.

X. All the property rights and powers of the Transferor Companies and all the other property, rights and powers of the Transferor Company be transferred as per scheme without further act or deed to the Transferee Company and accordingly the same shall pursuant to Section 232 of the Act, be transferred to and vested in the Transferee Company for all the estates and interest of the Transferor Company therein.

XI. All the liabilities and duties of the Transferor Companies be transferred as per scheme to the Transferee Company and accordingly the same shall pursuant to Section 232 of the Companies Act, 2013 become the liabilities and duties of the Transferee Company.

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XII. All workers/employees of the Transferor Companies shall be deemed to have become the workers/employees of the Transferee Company as per scheme with effect from the Appointed Date without any break, discontinuance or interruption in their service and on the basis of continuity of service, and the terms and conditions of their employment with the Transferee Company shall not be less favourable than those applicable to them with reference to the Transferor Company as on the Effective Date.

XIII. All proceedings, if any, now pending against the Transferor Companies are continued by or against the Transferee Company.

XIV. The Petitioner Companies within thirty days of the date of 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 entire Undertaking of the Transferor Company shall stand transferred to the Transferee Company as per scheme and the Registrar of Companies shall place all documents relating to the Transferor Company to the file kept by him in relation to the Transferee Company and the files relating to the said companies shall be treated accordingly.

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XV. All concerned Authorities to act on copy of this order along with the Scheme authenticated. Registrar of this Tribunal shall issue the certified copy of this order along with the Scheme.

XVI. The Petitioner Companies are directed to lodge a copy of this Order and the approved Scheme and Schedule of Assets duly authenticated by the Registrar of this Tribunal, with the concerned Superintendent of Stamps, for the purpose of adjudication of stamp duty, if any, within 60 days from the date of the Order.

XVII. The Petitioner Companies are further directed to file a copy of this order along with the copy of the Scheme with the concerned the Registrar of Companies, electronically, along with e-form INC-28 in addition to 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.

XVIII. The legal fees and expenses of the office of the Regional Director are quantified at Rs.25,000/- in respect of the Petitioner Companies. The said fees to the Regional Director shall be paid by the Transferee Company.

XIX. The legal fees and expenses of the office of the Official Liquidator are quantified at Rs.20,000/- in respect of each the Transferor Company. The

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said fees of the Official Liquidator shall be paid by the Transferee Company.

XX. Any person aggrieved shall be at liberty to apply to the Tribunal in the above matter for any direction that may be necessary.

Accordingly, Company Petition i.e. C.P.(C.A.A.) /32(AHM) of 2022 in C.A.(C.A.A.)/16 of 2022, is disposed of.

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DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

Sd/-

CHITRA HANKARE
MEMBER (JUDICIAL)

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