

IN THE NATIONAL COMPANY LAW TRIBUNAL,
NEW DELHI BENCH, COURT-III

COMPANY PETITION NO. (CAA) - 79(ND)/2024

CONNECTED WITH

COMPANY APPLICATION NO. (CA) - 83(ND)/2024

(Under Section 230-232 and other applicable provisions of the Companies Act, 2013 r/w Rule 15 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016)

IN THE MATTER OF SCHEME OF AMALGAMATION:

AMONGST

M/s. GARG VILLAS PRIVATE LIMITED

... Petitioner Company No. 1/ Transferor Company No. 1

AND

M/s. GARG ADVISORY SERVICES PRIVATE LIMITED

... Petitioner Company No. 2/ Transferor Company No. 2

AND

M/s. SEMPITERN INVESTMENTS PRIVATE LIMITED

... Petitioner Company No. 3/ Transferor Company No. 4

WITH

M/s. MANGEL CHAND CONSTRUCTION PRIVATE LIMITED

... Petitioner Company No. 4/ Transferee Company

AND WITH

THEIR RESPECTIVE SHAREHOLDERS AND CREDITORS

Order Pronounced On: 19.05.2026

CORAM:

SHRI BACHU VENKAT BALARAM DAS,

HON'BLE MEMBER (JUDICIAL)

SMT. REENA SINHA PURI,

HON'BLE MEMBER (TECHNICAL)

PRESENT:

- For the Petitioner(s)** : Mr. Sachin Arora, Adv
For the IT Department : Mr. Siddhartha Sinha SSC, Ms. Akshita Goyal, Mr. Ashish Parashar, Ms. Easha JSCs, Mr. Mudit Dewan, Ms. Dacchita Shahi, JSC; Ms. Anuja Pethia, JSC; Mr. Utkarsh Kandpal, Mr. Shourya Sharma, Mr. Shivansh B. Pandya, Mr. Sankalp Kumar Advs.
For the OL : Mr. Kartikeya Asthana, Adv
For the RD : Mr. P Ganguly (Deputy Director), Mr. Prahlad Meena (JD), Mr. Sumit Kansal, Mr. Aryan Gupta Ms. Shankari Mishra, Mr. Aakash Sharma Advs.

ORDER:

PER: REENA SINHA PURI, MEMBER (TECHNICAL)

1. The present Second Motion Petition is filed jointly by **M/s. GARG VILLAS PRIVATE LIMITED** (Petitioner Company No. 1 /Transferor Company No. 1), **M/s. GARG ADVISORY SERVICES PRIVATE LIMITED** (Petitioner Company No. 2/Transferor Company No. 2), **M/s. SEMPITERN INVESTMENTS PRIVATE LIMITED** (Petitioner Company No. 3 /Transferor Company No. 3) and **M/s. MANGEL CHAND CONSTRUCTION PRIVATE LIMITED** (Petitioner Company No. 4/Transferee Company) under Sections 230-232 of the Companies Act, 2013 (Act) read with the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (Rules) for the Sanction of the proposed Scheme of Amalgamation amongst the Transferor Companies and Transferee Company and their respective shareholders and creditors (Scheme).
2. The Registered office address of all the Transferor Companies and the Transferee Company is situated in the NCT of Delhi. Therefore, it is under the jurisdiction of the National Company Law Tribunal, New Delhi.
3. **M/s. Garg Villas Private Limited**, Transferor Company No. 1, bearing CIN: U70101DL2012PTC433526, was incorporated on 16.02.2012 under the Companies Act, 1956, with the Registrar of Companies, NCT of Delhi & Haryana as a Private Limited Company. The Registered Office of the

Transferor Company No.1 is situated at 24, Third Floor, Rajlok Building, Nehru Place, Kalkaji District Centre, Nehru Place, South Delhi, New Delhi — 110019. The authorized share capital of the Company is Rs. 10,00,00,000/- (Rupees Ten Crore only) divided into 1,00,00,000 (One Crore) equity shares of Rs. 10/- (Rupees Ten only) each. The Issued, Subscribed and Paid-up Share Capital is Rs. 9,01,00,000/- (Rupees Nine crore one lakh Only) divided into 90,10,000/- (Rupees Ninety Lakh Ten Thousand Only) Equity Shares of Rs. 10/- (Rupees Ten Only) each fully paid-up.

4. **M/s. Garg Advisory Services Private Limited**, Transferor Company No. 2, bearing CIN: U74140DL2006PTC155877 was incorporated on 23.11.2006 under the Companies Act 1956 with the Registrar of Companies, NCT of Delhi & Haryana as a Private Limited Company. The Registered Office of the Transferor Company No.2 is situated at ES58-A, Greater Kailash-II, South Delhi, New Delhi — 110048. The authorized share capital of the Company is Rs: 20,00,000/- (Rs. Twenty Lakhs) divided into 2,00,000 (Two Lakhs) Equity Shares of Rs. 40/- (Rupees Ten) each. The Issued, Subscribed and Paid-up Share Capital is Rs. 17,57,000/- (Rupees Seventeen Lakh Fifty-Seven Thousand Only) divided into 1,75,700/- (Rupees One Lakh Seventy Five Thousand Seven Hundred Only) Equity Shares of Rs. 10/- (Rupees Ten Only) each fully paid-up.
5. **M/s. Sempitern Investments Private Limited**, Transferor Company No. 3, bearing CIN: U74899DL1992PTC050935 was incorporated on 11.11.1992 under the Companies Act 1956 with the Registrar of Companies, NCT of Delhi & Haryana as a Private Limited Company. The Registered Office of the Transferor Company No.2 is situated at 24, Second Floor, District Centre, Nehru Place, New Delhi - 110019. The authorized share capital of the Company is Rs. 25,00,000/- (Rupees Twenty Five Lakhs) divided into 2,50,000 (Two Lakhs Fifty Thousand) Equity Shares of Rs. 10/- (Rupees Ten) each. The Issued, Subscribed and Paid-up Share Capital is Rs. 15,90,000/- (Rupees Fifteen lakh Ninety Thousand Only) divided into 1,59,000/- (Rupees One Lakh Fifty-

Nine Thousand Only) Equity Shares of Rs. 10/- (Rupees Ten Only) each fully paid-up.

6. **M/s. Mangel Chand Construction Private Limited** Transferee Company, bearing CIN: U45201DL2006PTC147262 was incorporated on 09/03/2006 under the provisions of the Companies Act, 1956 as a Private Limited Company with the Registrar of Companies, NCT of Delhi & Haryana. The Registered office of the Transferee Company is situated at E-257, Greater Kailash-II, New Delhi - 110048. The authorized share capital of the Company is Rs. 20,00,000/- (Rupees Twenty Lakhs) divided into 2,00,000 (Two Lakhs) Equity Shares of Rs. 10/- (Rupees Ten) each. The Issued, Subscribed and Paid-up Share Capital is Rs. 18,34,000/- (Rupees Eighteen lakh Thirty-Four Thousand Only) divided into 1,83,400/- (Rupees One Lakh Eighty Three Thousand Four Hundred Only) Equity Shares of Rs. 10/- (Rupees Ten Only) each fully paid-up.
7. Affidavits¹ in support of the captioned Petition have been duly sworn and filed along with the Petition by the following authorized signatories, each being duly authorized by way of Board Resolutions of their respective companies: (i) Mr. Romi Garg for Transferor Company No. 1 and Transferee Company; (ii) Mr. Manoj Kumar for Transferor Company No. 2 and; (iii) Mr. Telu Ram for Transferor Company No. 3
8. The Board of Directors of the Transferor Companies and Transferee Company in their separate meetings dated 17.07.2024 approved and adopted the Scheme of Amalgamation in accordance with the terms of the said Scheme. The true copy of the Resolutions form part of the Petition.²
9. The rationale and benefits of the proposed Composite Scheme of Amalgamation, as stated by the Petitioners reads as follows³:

¹ Page no. 23-38, Company Petition(CAA) No. 79 of 2024

² Annexure P-10 (Colly), Company Petition(CAA) No. 79 of 2024

³ Annexure P-7, Company Petition(CAA) No. 79 of 2024

- “a) The Transferor Company no. 1, Transferor Company no. 2 and the Transferee Company are engaged in business of real estate, construction and real estate advisory.*
- b) The Transferor Company no. 3 is engaged in business of core investment company and also supporting the group companies to growth their business.*
- c) Recognizing the strengths of each other and with the intent of aligning the business operations undertaken by the Transferor Companies and the Transferee Company, the said companies now propose, by way of this Scheme to amalgamate the Transferor Companies with and into the Transferee Company in accordance with the terms hereof.*
- d) The amalgamation of the Transferor Companies with the Transferee Company would inter-alia have the following benefits:-*
- i) Up Merger shall result in consolidation of respective operations served by one platform thereby leveraging the capabilities of the merged entity.*
 - ii) Create revenue and cost synergies by bundling the product offerings and leveraging distribution networks.*
 - iii) The combination of business result in stronger consolidated revenue and profitability, with diversification in product portfolio thereby reducing business risks for mutual benefit of the Shareholders of the Companies and*
 - iv) Ensuring a streamlined group structure by reducing the number of legal entities in the group structure in India, and thereby eliminating administrative duplications and consequently reducing the administrative costs of maintaining separate Companies; and*

- v) *Pooling of assets, proprietary information, personnel, financial, managerial and technical resources of the Companies, thereby contributing to the future growth of the merged entity*
- e) *The Scheme shall not be prejudicial to the interests of the concerned shareholders and creditors or general public at large in any manner.*
- f) *In view of the aforesaid, the Board of Directors of the Transferor Companies as well as the Board of Directors of the Transferee Company have considered and proposed the amalgamation of the entire undertaking and business of the Transferor Companies with the Transferee Company in order to benefit the stakeholders of the said companies. Accordingly, the Board of Directors of all the Transferor Companies and Transferee Company have formulated this Scheme for the transfer and vesting of the Undertakings of the Transferor Companies (as defined hereinafter) with and into the Transferee Company pursuant to the provisions of Section 230 to Section 232 and other relevant provisions of the Act.”*

10. This Tribunal by its order⁴ dated 18.09.2024 dispensed with the requirement from convening and holding of the meetings of the Equity Shareholders, Secured Creditors and Unsecured Creditors of the Transferor Companies and the Transferee Company, as sought through first motion application bearing Company Application (CA) No. 83 of 2024.

11. Vide order⁵ dated 09.12.2024, notice was directed to be issued to the Regional Director, Registrar of Companies (NCT of Delhi and Haryana), Income Tax Department, Official Liquidator besides order to publish the notice in two newspaper namely, Financial Express (Delhi Edition) and Jansatta (Delhi Edition) and file proof and affidavit of service.

⁴ Para 13-14 of Order Dated 18.09.2024, Company Application (CA) No. 83 of 2024

⁵ Para 3 of Order Dated 19.12.2024 of Company Petition (CAA) No. 79 of 2024

12. Transferor Companies and the Transferee Company, in compliance of the above-stated directions, duly filed an affidavit dated 22.12.2024 confirming that the aforesaid Notices of were duly given to the Regional Director, Registrar of Companies (NCT of Delhi and Haryana), Income Tax Department and Official Liquidator along with the public advertisement which has been duly published in Financial Express (English, Delhi Edition) and Jansatta (Hindi, Delhi Edition).⁶
13. The Regional Director vide its report dated 19.02.2025 submitted before this Tribunal that it had made certain objections to the proposed Scheme of Amalgamation in its report, to which the Respondents had furnished a reply in response to the said observations, and the same is as follows:

S. No.	Observations of Regional Director	Reply by Transferee Company
1	<p>Para 11(a):</p> <p>In respect of the Transferor Company no. 1 and Transferor Company no. 3, as per audited financial statement for the F.Y. 2023-24, the Company has granted inter corporate loans and loans to others, hence, the company may be</p>	<p>We hereby submit that the Transferor Company no. 1 has duly approved the transactions in terms of section 185 and section 186 of the Companies Act, 2013 in its Annual General Meeting dated 30th September 2022 and corresponding e-form MGT-14 was filed with MCA portal on 15th July 2025 vide SRN — AB4742613.</p> <p>Further, the Transferor Company no. 3 has also duly approved the transactions in terms of section 185 and section 186 of the Companies Act, 2013 in its Annual General Meeting dated 30th September 2022 and corresponding e-form MGT-14 was filed with MCA portal on 15 July 2025 vide SRN — AB4744426.</p>

⁶ Affidavit Filed on 22.12.2024, of Company Petition (CAA) No. 79 of 2024.

	<p>asked to ensure the compliance of section 185 and 186 of the Companies Act, 2013.</p>	<p>The copies of e-forms MGT-14 of Transferor Companies no. 1 and 3 are being enclosed herewith as Annexure R-1 (Collv). Hence this concern stands fully addressed</p>
2	<p>Para no. 11(b): As per the audited financial statement of the Transferor Company no. 2 for the F.Y. 2023-24, it is seen that the Company has 'NIL' revenue from operations since last two years and appears to be 'Dormant'.</p>	<p>We completely denied the contention raised by RD. We hereby submitting the extract of Section 455(1) of the Companies Act, 2013 that– <i>“where a company is formed and registered for a future project or to hold an asset or intellectual property or has no significant accounting transaction, such a company or an inactive company may make an application to the Registrar in such manner as may be prescribed for obtaining the status of dormant company”.</i></p> <p>Also according to Section 455(4) of the Companies Act, 2013 mentioned that <i>“where in case of a company which has not filed financial statements or annual returns for two financial years consecutively, the Registrar shall issue a notice to that company and enter the name of such company in the register maintained for dormant companies”.</i></p> <p>In this regard, we state that Transferor Company no. 2 was managing significant accounting transactions and was also looking into future prospects of business, there was no ground by which Transferor Company no. 2 should apply for the status of dormant company with the Registrar.</p>

		<p>Further, the Transferor Company no. 2 has also duly filed financial statements or annual returns for two financial years which was also approved by the ministry.</p> <p>Hence the observation may be respectfully disregarded.</p>																																			
3	<p>Para no. 11(c):</p> <p>As per audited financial statements of the Transferor Company no. 2 for the F.Y. 2023-24, it is seen that the company has 'securities premium balances of Rs. 977.63 lakhs. However, as per record on MCA-21 Portal, it is observed that the company has not filed Form 2/PAS-3 in this regard.</p>	<p>We asserted that the concerns are false and baseless. We state that Transferor Company no. 2 has duly filed e-forms 2 for the allotment as detailed below:</p> <table border="1" data-bbox="687 815 1418 1821"> <thead> <tr> <th>S. N.</th> <th>Form no.</th> <th>Detail of form/ No. of Shares</th> <th>Date of allotment</th> <th>Amount of Premium (in Rs.)</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td>Form 2</td> <td>Allotment of shares/ 36,900 shares</td> <td>06/03/2007</td> <td>21,771,000</td> </tr> <tr> <td>2.</td> <td>Form 2</td> <td>Allotment of shares 16,000 shares</td> <td>15/06/2007</td> <td>94,40,000</td> </tr> <tr> <td>3.</td> <td>Form 2</td> <td>Allotment of shares 24,800 shares</td> <td>31/12/2007</td> <td>1,46,32,000</td> </tr> <tr> <td>4.</td> <td>Form 2</td> <td>Allotment of shares/ 80,000 shares</td> <td>18/04/2008</td> <td>4,72,00,000</td> </tr> <tr> <td>5.</td> <td>Form 2</td> <td>Allotment of shares/ 8,000 shares</td> <td>28/07/2009</td> <td>47,20,000</td> </tr> <tr> <td colspan="4" style="text-align: center;">Total</td> <td>977,63,000</td> </tr> </tbody> </table> <p>The copies of aforementioned e-forms with challans thereof are being enclosed herewith as <u>Annexure R-2 (Colly)</u>.</p>	S. N.	Form no.	Detail of form/ No. of Shares	Date of allotment	Amount of Premium (in Rs.)	1.	Form 2	Allotment of shares/ 36,900 shares	06/03/2007	21,771,000	2.	Form 2	Allotment of shares 16,000 shares	15/06/2007	94,40,000	3.	Form 2	Allotment of shares 24,800 shares	31/12/2007	1,46,32,000	4.	Form 2	Allotment of shares/ 80,000 shares	18/04/2008	4,72,00,000	5.	Form 2	Allotment of shares/ 8,000 shares	28/07/2009	47,20,000	Total				977,63,000
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4	<p>Para no. 11(d): As per audited financial statements of the Transferor Company no. 3 for the F.Y. 2023-24, it is seen that the company has 'securities premium balances of Rs. 885.60 lakhs. However, as per record on MCA-21 Portal, it is observed that the company has not filed Form 2/PAS-3 in this regard.</p>	<p>We asserted that the concerns are false and baseless. We state that Transferor Company no. 3 has duly filed e-form 2 for the allotment as detailed below:</p> <table border="1"> <tr> <td>1.</td> <td>Form 2</td> <td>Allotment of shares/</td> <td>28/11/2011</td> <td>8,85,60,000</td> </tr> <tr> <td></td> <td></td> <td>1,44,000 shares</td> <td></td> <td></td> </tr> </table> <p>The copies of aforementioned e-forms with challans thereof are being enclosed herewith as <u>Annexure R-2 (Colly)</u>.</p> <p>Hence the observations are false and baseless and may be respectfully disregarded.</p>	1.	Form 2	Allotment of shares/	28/11/2011	8,85,60,000			1,44,000 shares		
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		1,44,000 shares										
5	<p>Para no. 11(e): As per audited financial statements of the Transferee Company for the F.Y. 2023-24, it is seen that the company has "securities</p>	<p>We asserted that the concerns are false and baseless. We state that Transferor Company no. 3 has duly filed e-form 2 for the allotment as detailed below:</p> <table border="1"> <thead> <tr> <th>S. No.</th> <th>Form no.</th> <th>Detail of form/ No. of Shares</th> <th>Date of allotment</th> <th>Amount of Premium (in Rs)</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td>Form 2</td> <td>Allotment of shares/ 9,000 shares</td> <td>30/03/2006</td> <td>44,10,000</td> </tr> </tbody> </table>	S. No.	Form no.	Detail of form/ No. of Shares	Date of allotment	Amount of Premium (in Rs)	1.	Form 2	Allotment of shares/ 9,000 shares	30/03/2006	44,10,000
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1.	Form 2	Allotment of shares/ 9,000 shares	30/03/2006	44,10,000								

<p>premium balances of Rs. 981.16 lakhs. However, as per record on MCA-21 Portal, it is observed that the company has not filed Form 2/PAS-3 in this regard.</p>	2.	Form 2	Allotment of shares/ 10,500 shares	21/07/2006	51,45,000
	3.	Form 2	Allotment of shares/ 9,200 shares	23/09/2006	45,08,000
	4.	Form 2	Allotment of shares/ 19,000 shares	03/10/2007	93,10,000
	5.		Allotment of shares/ 20,500 shares	14/01/2008	1,00,45,000
	6.	Form 2	Allotment of shares/ 20,500 shares	14/01/2008	1,00,45,000
	7.	Form 2	Allotment of shares/ 20,500 shares	14/01/2008	1,00,45,000
	<p>The copies of aforementioned e-forms with challans thereof are being enclosed herewith as <u>Annexure R-4 (Colly)</u>.</p> <p>Hence the observations are false and baseless and may be respectfully disregarded.</p>				
6.	<p>Para no. 11(f): As per audited financial statement of the Transferee Company for the F.Y. 2023-24, it is seen that more than 10% of the share capital held by a body</p>	<p>We asserted that the Declaration of Beneficial Owner has been on record of the Company in Form no. BEN-1 dated 27th December 2023 and accordingly e-form BEN-2 was filed with the Ministry on 19th July 2025 vide SRN - AB5420984.</p> <p>The copy of e-form BEN-2 with enclosure along with challan thereof are being enclosed herewith as Annexure R-5.</p>			

	<p>corporate. However, the company has not filed e-form BEN-2 in this regard.</p>	<p>Hence this concern stands fully addressed.</p>
<p>7.</p>	<p>Para no. 11(g): As per clause 3.2 of the scheme, this scheme becomes effective from the effective date is not as provisions of section 232(6) of the Act which provides that the scheme shall be effective from appointed date. Hence, the clarification in this regard may be sought.</p>	<p>We submit that the contention is raised solely on the basis of one clause 3.2 of the Scheme while failing to consider and/or appreciate the other clauses of the Scheme (viz. clause 3.1), which ought to be construed harmoniously and in their entirety.</p> <p>Such a date is called “<i>Effective Date</i>”. It is clearly stipulated that only after filing of certified copies of the Hon'ble Court(s) order with the office of Registrar of Companies, the Scheme shall become effective. It is called the Effective Date.</p> <p>We also reiterate clause 3.2 of the scheme which defines about the Appointed Date as follows: “<i>Through this Scheme shall become effective on Effective Date, the provisions of the scheme, so far as they relate to the transfer & vesting of undertaking of the Transferor Companies into the Transferee Company and/or all accounting purposes, shall be applicable and come into operation from the Appointed Date i.e. 1st day of April 2024.</i>” It is clearly stipulated that in relation to transfer & vesting of undertaking of the Transferor Companies into the Transferee Company and for all accounting purposes, it shall come into operation from the Appointed Date.</p>

		This Appointed Date provision as mentioned in clause 3.2 of the scheme is in due compliance of Section 232(6) of the Act. Hence, the observations are false and denied.
8.	<p>Para no. 11(h):</p> <p>The Transferee Company is directed to comply with the provisions of Section 232(3)(i) of the Companies Act, 2013 regarding the fee payable on its revised Authorised Share Capital.</p>	<p>We assert that the compliance required under the aforementioned Section 232(3)(i) is required only after sanction of the Scheme by the Hon'ble NCLT and not before. In support of this assertion, we rely on the extract of Section 232(3) which states:</p> <p><i>“The Tribunal, after satisfying itself that the procedure specified in sub-section (1) and (2) has been complied with, may by order, sanction the compromise or arrangement or by a subsequent order, make provision for the following matters, namely—</i></p> <p style="padding-left: 40px;"><i>(i) Where the transferor company is dissolved, the fee, if any, paid by the transferor company on its authorised capital shall be set-off against any fees payable by the transferee company on its authorised capital subsequent to the amalgamation.”</i></p> <p>Henceforth, the provisions of Section 232(3)(i) is not applicable before sanction of Scheme by Hon'ble NCLT and no action is required at this situation.</p>

14. Subsequently, vide order dated 23.02.2026, upon consideration of the replies so filed, the learned Regional Director has not pressed the objections and has conveyed that there are no further representations to be offered by the RD.

15. The Official Liquidator vide its report dated 16.01.2025 has submitted to this Tribunal that the affairs of the aforesaid Companies have not been conducted in a manner prejudicial to the interests of their members or to public interest, in terms of the provisions of the Companies Act, 2013 and this Adjudicating Authority may pass such order or orders as it may deem fit and proper.
16. The Income Tax Department, vide reports dated 30.04.2025, 14.02.2025, 18.02.2024 and 13.02.2025 concerning Transferor Company No. 1, Transferor Company No. 2, Transferor Company No. 3 and Transferee Company respectively, has confirmed that there are no outstanding tax demands against the petitioner companies and has raised no objection to the proposed scheme of arrangement, subject to safeguarding the Department's rights to protect revenue. Further, the reports also stated that all pending or future income tax assessment proceedings and appeals by or Transferor Companies as on the effective date shall continue and be enforced by or against Transferee Company in the same manner and to the same extent. The Department also reserves its right to examine and determine the tax implications arising from the proposed amalgamation in accordance with the provisions of the Income Tax Act, 1961, which shall prevail over any contrary provision contained in the scheme.
17. The Transferor Companies and the Transferee Company have undertaken to maintain the account in accordance with and as per the method of Amalgamation prescribed in the applicable Indian Accounting Standard (Ind AS) as notified under Section 133 of the Companies Act, 2013 and Generally Accepted Accounting Principles in India (Indian GAAP). In this regard, certified true copies of the certificates have been obtained from the Statutory Auditors of all Transferor Companies and the Transferee Company confirming the accounting treatment proposed in the Scheme of Amalgamation⁷.

⁷ Annexure 8 (Colly) of Company Petition (CAA) 79 of 2024

18. It is submitted that the Directors, of the Transferor Companies and the Transferee Company have no interest in the proposed Scheme of Amalgamation, other than as Shareholder in general, the extent of which will appear from the Register of the Directors shareholdings maintained by the respective Companies.
19. It is further submitted that if any suit, appeal or other proceedings of whatever nature by or against the Transferor Companies be pending, the same shall not abate, be discontinued or be in any way prejudicially effected by reason of the transfer of the undertaking of the Transferor Companies or of anything contained in this Scheme but the said proceedings may be continued, prosecuted and enforced by or against the Transferee.
20. The Scheme of Amalgamation shall not in any manner affect the rights and interests of the creditors of the Transferor Companies, which may be deemed to be prejudicial to their interest and in particular, the secured and statutory creditors of the Transferor Companies who shall continue to enjoy and hold charge upon their respective securities and properties.
21. Affidavits ⁸ have been filed by the Transferor Companies and the Transferee Company stating that no investigation or proceedings are pending against the Transferor and Transferee Companies under the Companies Act, 1956, or Companies Act, 2013, or under any law for the time being in force.
22. This Joint Second Motion Petition is made *bona fide* and in the interest of justice, and no one will be prejudiced if orders are made/or directions are given as prayed for.

⁸ Annexure 11 (Colly) of Company petition (CAA) 79 of 2024

ANALYSIS AND FINDING:

23. We have heard the learned counsel appearing for the parties and have perused the records.
24. After examining the Scheme in detail, and in the absence of any other objections having been placed on record before this Tribunal, and it being satisfied that all requisite statutory compliances have been duly fulfilled, this Tribunal is of the considered view that the Scheme of arrangement proposed amongst the Petitioner Companies does not appear to be prejudicial to the interests of the equity shareholders or creditors of the Transferor Companies and the Transferee Company. The Scheme appears to be fair and reasonable and beneficial to the said companies and their stakeholders. Accordingly, the Scheme stands sanctioned.
25. Notwithstanding the sanction granted to the Scheme, if any deficiency is found or any violation of any enactment, statutory rule or regulation is detected, such sanction shall not preclude any action being taken in accordance with law against the concerned persons, directors or officials of the Transferor Companies and the Transferee Company.
26. It is made clear that if at any stage the undertakings or commitments made in respect of the observations of the Regional Director are found not to have been complied with, or are found to be incorrect, the present order shall be liable to be recalled.
27. It is further directed that any term contained in the Scheme which is contrary to the provisions of Section 6 of the Companies Act, 2013 shall be treated as *non est*.
28. It is also clarified that this Order shall not be construed as granting any exemption from payment of stamp duty, taxes or any other statutory charges payable in accordance with law, nor shall it be construed as dispensing with any permission, approval or compliance required under any applicable law.

29. It is clarified that the present Order shall not affect or come in the way of any pending investigation, proceedings or inquiry in relation to the Applicant Companies or their promoters, directors, key managerial personnel or any other persons associated with the affairs of the companies.
30. It is further clarified that any pending proceedings before any statutory or regulatory authority shall remain unaffected by the approval of the Scheme of Amalgamation and shall continue in accordance with law, without prejudice to the powers of the concerned authorities. Any liability that may arise pursuant to such proceedings, including those crystallizing after the Effective Date, shall be borne and discharged by the Transferee Company. The Transferee Company shall extend full cooperation and assistance to the concerned authorities, and this Order shall not be construed as impeding or prejudicing any investigation, inspection or other proceedings.
31. It has been submitted by the Transferee Company and the Transferor Companies that no statutory demands are presently outstanding against them. It is, however, made clear that the rights of the Income Tax Department shall not in any manner be affected by the sanction of the present Scheme. In the event any demand arises in respect of the Transferor Companies, the same shall be borne and discharged by the Transferee Company.
32. Additionally, any proceedings initiated or continued by the Income Tax Department against the Transferor Companies shall, upon the Scheme becoming effective, be deemed to have been initiated or continued against the Transferee Company, which shall step into the shoes of the Transferor Companies for such purposes and shall be liable to respond and comply in accordance with law.
33. It is further clarified that any revision of financial statements, income tax returns, GST returns or other statutory filings shall be carried out strictly in accordance with law and without contravening Sections 130 or 131 of

the Companies Act, 2013 or any other applicable statutory provision, and without causing prejudice to the interests of stakeholders. If any party is aggrieved by any such revision or action undertaken pursuant to the Scheme in violation of law, such party shall be at liberty to seek appropriate remedies in accordance with law against the Transferee Company.

34. It is further clarified that any revision of financial statements, income tax returns, GST returns or other statutory filings shall be carried out strictly in accordance with law and without contravening Sections 130 or 131 of the Companies Act, 2013 or any other applicable statutory provision, and without causing prejudice to the interests of stakeholders. If any party is aggrieved by any such revision or action undertaken pursuant to the Scheme in violation of law, such party shall be at liberty to seek appropriate remedies in accordance with law against the Transferee Company.
35. The Transferor Companies and the Transferee Company shall remain bound to comply with the provisions of the Companies Act, 2013, the rules and regulations framed thereunder, and all other applicable laws for the time being in force.
36. In compliance with the requirement of Section 232(7) of the Act, the Transferee Companies shall until the full implementation of the Scheme of Amalgamation file a statement every year in Form CAA 8 along with the required fee with the Registrar of Companies as prescribed in the Companies (Registration offices and fees) Rules 2014 within 210 days from the end of each financial year.
37. It is further clarified that the sanction of the Scheme shall in no manner affect the tax treatment of the transactions contemplated therein under the provisions of the Income Tax Act, 1961, and shall not operate as any exemption or defence in respect of any tax liability arising under the said Act and the rules made thereunder.

38. It is clarified that the Amalgamated Company shall not be entitled to claim any refund, credit of advance tax or withholding tax, or any immunity from demand of income tax, except in accordance with the provisions of the Income Tax Act, 1961 and the rules made thereunder.
39. The Appointed Date as proposed in the Scheme of Amalgamation i.e., 01.04.2024⁹ is confirmed by this Tribunal.
40. This Tribunal does further order: -
- i. That the Transferor Companies shall stand dissolved without following the process of winding-up; and
 - ii. That all properties, rights and powers of the Transferor Companies be transferred without further act or deed to the Transferee Companies and accordingly, the same shall pursuant to Section 230-232 of the Companies Act, 2013 be transferred to and vested in the Transferee Companies for all intents, purposes and interest of the Transferor Companies subject nevertheless to all changes now affecting the same; and
 - iii. That all the liabilities, (if any) and powers, engagements, obligations and duties of the Transferor Companies shall pursuant to Section 232(3) of the Companies Act, 2013 without further act or deed be transferred to the Transferee Companies and accordingly the same shall become the liabilities and duties of the Transferee Companies; and
 - iv. That all proceedings now pending by or against the Transferor Companies shall be continued by or against the Transferee Companies; and
 - v. That all the employees of the Transferor Companies in service, on the date immediately preceding the date on which the Scheme takes effect, i.e. the effective date, shall become the employees of the Transferee Companies on such date, without any break or interruption in service and upon terms and condition not less

⁹ Page No. 223, Annexure P-7, Company Petition(CAA) No. 79 of 2024

favorable than those subsisting in the concerned Transferor Companies on the said date; and

- vi. That the Transferor Companies and the Transferee Company, shall within thirty days of the date of the receipt of this order cause certified copy of this Order to be delivered to the Registrar of Companies for registration and on such certified copy being so delivered, the Transferor Companies shall be deemed to be transferred; and
 - vii. That any person interested shall be at liberty to apply to the Tribunal in the above matter for any directions that may be necessary.
41. Accordingly, the ***Scheme stands sanctioned*** and ***CP(CAA)/79(ND)/2024*** stands ***disposed of*** in the above terms.

Let copy of the order be served to the parties.

Sd/-

(REENA SINHA PURI)
MEMBER (TECHNICAL)

Sd/-

(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)