

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

ITEM No.402

C.P.(CAA)/34(AHM)2024 in C.A.(CAA)/13(AHM)2024

**Order under Section 230-232**

**IN THE MATTER OF:**

Infibeam Avenues Limited  
Odigma Consultancy Solutions Limited  
Infibeam Projects Management Pvt. Ltd

.....Applicant

.....Respondent

**Order delivered on: 29/08/2024**

**Coram:**

Mr. Shammi Khan, Hon'ble Member(J)  
Mr. Sameer Kakar, Hon'ble Member(T)

**PRESENT:**

For the Applicant :  
For the Respondent :

**ORDER**

**(Hybrid Mode)**

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

-sd-

**SAMEER KAKAR**  
**MEMBER (TECHNICAL)**

-sd-

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

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

**CP(CAA)/ 34(AHM) 2024  
in CA(CAA)/13(AHM)2024**

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

In the matter of **Composite Scheme of Arrangement**

**INFIBEAM AVENUES LIMITED**

CIN NO: L64203GJ2010PLC061366

Having its registered office at:

28th Floor, GIFT Two Building,  
Block No. 56, Road-5C, Zone-5,  
GIFT CITY, Gandhinagar, GJ 382355

... Applicant Demerged Company  
/ Transferor Company

**ODIGMA CONSULTANCY SOLUTIONS PRIVATE LIMITED**

CIN NO: U72900GJ2011PLC131548

**Having** its registered office at:

27th Floor, GIFT Two Building,  
Block No 56 Road 5C, Zone 5, GIFT City,  
Gandhinagar, Gujarat, India, 382355

... Applicant No. 2  
/ Resulting Company

**INFIBEAM PROJECTS MANAGEMENT PRIVATE LIMITED**

CIN NO: U70109GJ2022PTC129384

Having its registered office at:

28th Floor, GIFT Two Building,  
Block No. 56, Road-5C, Zone-5,  
GIFT CITY, Gandhinagar, GJ 382355

Applicant No. 3  
/ Transferee Company

and  
Their Respective Shareholders, Creditors, &  
Debenture Holders

**Order Pronounced on 27.08.2024**

**CORAM:**

**SH. SHAMMI KHAN, HON'BLE MEMBER (JUDICIAL)**  
**SH. SAMEER KAKAR, HON'BLE MEMBER (TECHNICAL)**

For Applicant(s): Mr. Navin Pahwa, Senior Advocate a/w.  
Mr. Ravi Pahwa, Advocate  
For the IT Dept. : Ms. Kinjal Vyas, Proxy Adv.  
For the RD : Mr. Shiv Pal Singh, Deputy Director,  
RD(NWR), Ahmedabad  
For the RoC : Ms. Rupa Sutar, Deputy RoC

**ORDER**

1. The present Joint Company Petition has been filed by the Petitioner Companies above named for the purpose of the approval of the Composite Scheme of Arrangement between **Infibeam Avenues Limited** (for brevity "Demerged/Transferor Company ") and **Odigma Consultancy Solutions Private Limited** for brevity "Resulting Company") and **Infibeam Projects Management Private Limited** (for brevity "Transferee Company"), under section 230-232 of Companies Act, 2013, and other applicable provisions of the Companies Act, 2013 read with Companies

(Compromises, Arrangements and Amalgamations) Rules, 2016 (for brevity 'the Rules') (hereinafter referred to as the 'SCHEME') pursuant to the Scheme proposed by the Petitioner Company and the said Scheme is also annexed at "**Annexure I**" of the Petition.

2. The Petitioner Companies seek sanction of Composite Scheme of Arrangement amongst Infibeam Avenues Limited, Odigma Consultancy Solutions Limited and Infibeam Projects Management Private Limited, and their respective shareholders and creditors ("Scheme"). The present Scheme provides for

- (i). demerger of Global Top Level Domain Undertaking (as defined in the Scheme) of Demerged Company with and into the Resulting Company, with effect from the Appointed Date (as defined hereinafter), pursuant to the provisions of Sections 230 to 232 and Section 66 and other applicable provisions of the Companies Act, 2013 as well as Section 2(19AA) of the Income Tax Act, 1961; and

(ii). transfer of the Project Management Undertaking (as defined in the Scheme) as a going concern on a Slump Sale (as defined in the Scheme) basis, with effect from the Appointed Date (as defined in the Scheme), by the Transferor Company to the Transferee Company under Sections 230 to 232 and Section 66 and other provisions of the Companies Act, 2013 and in accordance with Section 2(420) of the Income Tax Act, 1961.

3. The Scheme, inter alia, provides for the Arrangement in the nature of amalgamation of Infibeam Avenues Limited, and Odigma Consultancy Solutions Private Limited with Infibeam Projects Management Private Limited and Restructure of Share Capital of Infibeam Projects Management Private Limited.

4. **Infibeam Avenues Limited** (hereinafter referred to as "Petitioner Company 1" or "Demerged Company/Transferor Company") is a public limited Company incorporated on June 30, 2010 under the provisions of Companies Act, 1956 bearing Corporate Identification

Number L64203GJ2010PLC061366 and having its registered office at 28<sup>^</sup> Floor, GIFT Two Building, Block No. 56, Road-5C, Zone-5, GIFT CITY, Gandhinagar - 382 355, Gujarat, India. The Petitioner Company 1 is a public limited Company and its shares are listed on the BSE Limited ("BSE") and the National Stock Exchange of India Limited ("NSE").

5. The Petitioner Company 1 is engaged in the business of inter alia, digital payments, E-commerce services, software business, e-commerce technology platforms and provide a comprehensive suite of web services spanning digital payment solutions, data centre infrastructure, software platforms etc. A copy of the Memorandum and Articles of Association of the Petitioner Company 1 along with the Certificate of Incorporation issued from time to time is annexed hereto and marked as **Annexure-A**.
6. **Odigma Consultancy Solutions Limited** (hereinafter referred to as "Petitioner Company 2/ Resulting Company" is a public limited company incorporated on

February 28, 2011 under the provisions of the Companies Act, 1956 bearing Corporate Identity Number U72900GJ2011PLC131548 and having its registered office at 27<sup>th</sup> Floor, GIFT Two Building, Block No. 56, Road-5C, Zone-5, GIFT CITY, Gandhinagar - 382 355, Gujarat, India.

7. The Petitioner Company 2 is a wholly owned subsidiary of Petitioner Company 1. The Petitioner Company 2 is, inter alia, engaged in the business of online digital marketing, consultancy in e-commerce solutions and to provide e-commerce technologies for promotion and marketing of all products and service using online digital technologies and interactive channels such as search engine optimization, social media optimization, link exchange, pay per click (PPC), affiliate marketing, banner advertising, rich media, social bookmarking, directory listings, articles, blogs, etc. A copy of the Memorandum and Articles of Association of the Petitioner Company 2 along with the Certificate of

Incorporation issued from time to time is annexed hereto and marked as **Annexure-C**.

**8. Infibeam Projects Management Private Limited**

(hereinafter referred to as "Petitioner Company 3/ Transferee Company" is a private limited company incorporated on February 14, 2022 under the provisions of the Companies Act, 2013 bearing Corporate Identity Number U70109GJ2022PTC129384 having its registered office at 28<sup>th</sup> Floor, GIFT Two Building, Block No. 56, Road-5C, Zone-5, GIFT CITY, Gandhinagar - 382 355, Gujarat, India.

**9.** The Petitioner Company 3 is also wholly owned subsidiary of Petitioner Company 1. The Petitioner Company 3 is engaged in the business as inter alia, builders, town planners, real estate developers, infrastructure developers. Engineers land developers, property owners, Facility Management Service, Data Center Services including and not limited to cloud services, cloud computing, IT infrastructure management, web services, storage and compute,



hosting, domains, storage, data analytics, contractors, sub-contractors, dealers etc. A copy of the Memorandum and Articles of Association of the Petitioner Company 3 along with the Certificate of Incorporation issued from time to time is annexed hereto and marked as **Annexure-B**.

10. Affidavit in support of the above Company Petition was sworn on behalf of the Petitioner Company No.1 and has been filed by Mr. Shyamal Trivedi as Sr. Vice President & Company Secretary for the Petitioner Company No.1 and Mr. Vishal Mehta for other two Companies No.2 & 3 along with the Company Petition. The above-named Authorised Signatories of Petitioner Companies have been authorized vide Board Resolution dated 08.08.2023 passed by Transferor Company No.1, and vide board resolution dated 07.08.2023 passed by other Petitioner Companies.

## 11. 1<sup>ST</sup> MOTION APPLICATION – IN BRIEF

11.1 The Petitioner Company have filed the First Motion Application vide CA(CAA) No.13/NCLT/AHM/2024 seeking reliefs as follows: -

	<b>EQUITY SHAREHOLDERS MEETING</b>	<b>PREFERENCE SHAREHOLDERS</b>	<b>SECURED CREDITORS MEETING</b>	<b>UNSECURED CREDITORS MEETING</b>
<b>DEMERGED COMPANY</b>	<b>To Convening of Meeting</b>	<b>N/A</b>	<b>To Dispense with</b>	<b>To Convening of Meeting</b>
<b>RESULTING COMPANY</b>	<b>To Dispense with</b>	<b>N/A</b>	<b>N/A</b>	<b>To Convening of Meeting</b>
<b>TRANSFEREE COMPANY</b>	<b>To Dispense with</b>	<b>N/A</b>	<b>N/A</b>	<b>To Dispense with</b>

11.2 Based on such application moved under Sections 230-232 of the Companies Act, 2013; directions were issued by this Tribunal, vide order dated **29.04.2024**, to order meeting of:

- a) The Equity shareholders of the Demerged Company on 04.06.2024 at 10:00 AM, at the registered office of Transferee Company or through video conferencing for the purpose of considering and if, through fit;

b) The Unsecured Creditors of the Demerged Company and Unsecured Creditors of the Resulting Company on 04.06.2024 at 12:00 hours and 14.00 hours respectively at the registered office of Transferee Company or through video conferencing for the purpose of considering and if, through fit, and;

11.3 Accordingly, the Tribunal had appointed Mr. Binod Kumar Sinha, Ex-Member of NCLT, as the Chairperson and Mr. Mayur Jugtawat, Practicing Advocate as the Scrutinizer of the meeting(s), and gave directions to comply with various stipulations contained in the Order including filing of the Chairperson's Report.

11.4 The Tribunal also directed issuance of notices to statutory authorities viz. **(i) Regional Director, MCA (ii) Registrar of Companies Ahmedabad, and (iii) the Income Tax Authorities (iv) NSE and SEBI** (qua Demerged Company) as well as **other Sectoral regulators** stating that the representations, if any, to

be made by them within a period of 30 days from the date of receipt of such notice.

11.5 In compliance of the order dated 29.04.2024 made by this Tribunal in CA (CAA) No. 13 of 2024, the Applicant Companies filed an affidavit on 10.05.2024 regarding serving of notice of the meetings to all the equity shareholders of the Applicant Company No.1; and Unsecured Creditors of the Applicant Company No.1 & 2 and advertisement of notice of meetings. The Petitioner Companies have also sent notice to statutory authorities and filed affidavit regarding service of notice to the aforesaid statutory authorities on 10.05.2024.

11.6 The Chairperson Mr. Binod Kumar Sinha has submitted Report along with statutory auditor's Report dated 05.06.2024 on the meeting of the equity shareholders of the Applicant Company No.1 and Unsecured Creditors of the Applicant Company No.1 & 2. From the Chairperson's reports, it is observed that the the equity shareholders of the Applicant

Company No.1 and Unsecured Creditors of the Applicant Company No.1 & 2 had consented in favour of the Scheme. The said Chairperson's reports are annexed at **Annexure O Colly** of the Petition.

## 5. RATIONALE OF THE SCHEME

5.1. The proposed restructuring pursuant to the Scheme is expected, inter alia, to result in following benefits:

(i) Demerger, transfer and vesting of GTLD Undertaking from the Demerged Company to Resulting Company to result into:

- a) Segregation of Infibeam's GTLD Undertaking into Resulting Company;
- b) Future growth and expansion of the GTLD Undertaking would require differentiated strategy aligned to its industry specific risks, market dynamics and growth trajectory;

✓

✓

- c) Allow management of the Resulting Company to pursue independent growth strategies in markets;
- d) The proposed re-structuring would create enhanced value for the shareholders through potential unlocking of value through listing of GTLD business as well as business of the Resulting Company on the NSE and BSE;
- e) Since both the businesses are having separate growth trajectories, the proposed re-structuring would enable both the businesses to pursue their growth opportunities and offer investment opportunities to potential investors;
- f) Enhance competitive strength, achieve cost reduction and efficiencies of aforesaid companies and thereby significantly contributing to future growth;
- g) Provide scope of collaboration and expansion;  
and

- h) Rationalization, standardization and simplification of business processes and systems of the GTLD Undertaking on being demerged into Resulting Company;
- i) The proposed re-structuring would provide opportunity to shareholders of Infibeam to directly participate in GTLD Undertaking and Resulting Company's business; and
- j) The proposed re-structuring would enable investors to hold investments in the businesses with different investment characteristics, which best suit their investment strategies and risk profiles;
- ii) Transfer and vesting of the Project Management Undertaking of the Transferor Company as a going concern to the Transferee Company, on Slump Sale basis to result into:
- a) The Transferee Company is a wholly owned subsidiary of the Transferor Company. The Project Management Undertaking comprises

of, inter alia, the GIFT City Tower Two building and related amenities which is strategically located in the GIFT City and incubates/houses various start ups, aids projects and other technology related entities, which can be categorized as part of non-core business activities of the Transferor Company. With explosive potential opportunities visible in GIFT City and consequent enhanced opportunities for growth and development, the Project Management Undertaking of the Transferor Company would require increased capital and focused operations for tapping the said opportunities. The value of such non-core business activities is not getting reflected in the value of business of the Transferor Company, should form part of an independent entity and a separate strategy should be formed for unlocking the value of such non-core business activities of the



Transferor Company. In view of the same, it has become necessary to transfer the said business to the Transferee Company;

- b) The said transfer would entail smoother operations of the respective businesses under independent management set up paving way for growth and development of each of the business;
- c) The Scheme will result in simplification of the group structure and management structure leading to the better administration and more focused operational efforts, rationalization, standardization and simplification of business processes;
- d) Unlocking the value of the said business, which would enable optimal exploitation, monetization and development of both the Companies;

- e) The Scheme will enable entities to leverage their resources to align future cash flows; and
- f) The synergies that exist between the Transferor Company and Transferee Company in terms of services and resources can be put to best advantage of all the stake holders.

6. In the second motion application filed by the Applicant Companies, this Tribunal vide order dated 27.06.2024 directed the Applicant Companies to issue notice to the Statutory / Regulatory Authorities viz. (a) Central Government through the office of the Regional Director (North-Western Region), Ministry of Corporate Affairs (MCA) (b) Registrar of Companies, Gujarat, MCA (c) the Jurisdictional Income Tax office having jurisdiction over the respective companies indicating specifically their Permanent Account Number (PAN) in the communication (d) the Reserve Bank of India and (e) BSE, NSE and SEBI (qua Demerged Company) as well as the other Sectoral Regulators, who may govern the

working of the respective company, as well as for paper publication to be made in **“Financial Express”** in English language and in Vernacular Language both Ahmedabad Edition.

7. In compliance to the said directions issued by this Tribunal, the Applicant Companies have filed an affidavit of service before the Registry of this Tribunal on **04.07.2024** and a perusal of the same discloses that the Petitioner Companies have effected paper publications as directed by the Tribunal in the **“Financial Express”** in English language and in Vernacular Language both Ahmedabad Edition on 02.07.2024. It is also seen that notices have been also served dated 01.07.2024 to (i) the Central Government through Regional Director, North Western Region, (ii) the Registrar of Companies, Gujarat (iii) the Income-Tax Authority, (iv) the Reserve Bank of India and (v) BSE, NSE and SEBI (qua Demerged Company). The same has also been sent by an email on 01.07.2024 and the proof of the same by way of affidavits have

been enclosed with the separate typed set. Pursuant to the service of notice of the petition the following statutory authorities have responded as follows: -

**STATUTORY AUTHORITIES**

**8. REGIONAL DIRECTOR, NORTH WESTERN REGION**

- a. The Regional Director, North Western Region, MCA, and RoC, Ahmedabad have filed their observations before this Tribunal on 15.07.2024 vide inward dairy no. R 365 making the following observations: -

**Observations of RD and ROC are as under:**

- i. That, the Registrar of Companies, Ahmedabad, Gujarat has reported that there are no complaints, Inquiry, inspection, Investigation, or prosecution is pending against the Petitioner companies. Further, the ROC has made some observations at para 14 of his report dated 04.06.2024. The Hon'ble NCLT may therefore be pleased to direct the petitioner companies to clarify the

observations made by ROC in his report and place on record all the relevant facts of the matter.

- ii. That, Petitioner Demerged Company namely Infibeam Avenues Limited is listed with the BSE & NSE and Petitioner company has submitted with the office of the Regional Director, the copy of both observation letters dated 22.02.2024 and 23.02.2024 issued by BSE & NSE respectively to the petitioner company pursuant to the SEBI circular No. CFD / DIL / 3 / CIR / 2017 / 21 dated 10.03.2017 read with master circular dated 23.11.2021 and 20.06.2023 for necessary compliance. The SEBI's circulars are intended to ensure compliances by listed companies in the interest of shareholders at large. This office is of the view that the SEBI circulars which are applicable, and the petitioner company should comply with the requirements of the circular.

In this regard the Hon'ble NCLT may be pleased to direct petitioner Demerged company to place undertaking before the Hon'ble NCLT that company has complied the observations of aforesaid letter of stock exchange.

- iii. The Hon'ble 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.
- iv. The Hon'ble 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.
- v. The Hon'ble NCLT may therefore be pleased to direct the petitioner companies to submit the details of assets and liabilities (assets and amount wise) of the demerged undertaking to be transferred to the Resulting Company and

Transferee company before Hon'ble bench and place on record all the relevant facts of the matter to protect the interest of creditors of Petitioner Companies.

- vi. That, as per information provided by the petitioner companies vide letter dated 20.05.2024 pursuant to this Directorate's letter dated 10.05.2024 stating that there are Foreign National / NRI / Foreign Bodies Corporate are holding shares in the Petitioner demerged company. The Regional Director is not aware as to whether the Petitioner Companies have complied with the provisions of FEMA and RBI guidelines or not, in this regard. The Hon'ble NCLT may therefore be pleased to direct the Petitioner Companies to undertake about the compliances of FEMA and RBI guidelines, in the matter, from time to time..
- vii. Equity Shares of Demerged/ Transferor Company are listed on BSE Limited (BSE) and

National Stock Exchange of India Limited (NSE). BSE and NSE have issued observations letter dated 22.02.2024 and 23.02.2024 respectively to the Company. Thus, the Demerged / Transferor Company shall comply with the directive / Circular issued by SEBI from time to time. The Resulting Company and Amalgamated Company are not listed with any Stock Exchange.

- viii. In the Demerged/ Transferor Company, there are Non-Resident Indian(NRI) shareholders, Foreign national (other than NRI) shareholders / Foreign Institutional Investors. The Hon'ble NCLT may kindly direct the Demerged / Transferor Company to ensure the compliances pertaining to the FEMA and RBI guidelines in the matter.
- ix. As per the last financial statements as at 31.03.2023 of the Demerged/ Transferor Company, Resulting Company and Amalgamated Company, the Infibeam Avenues



Limited, Odigma Consultancy Solution Limited and Infibeam projects Management Private Limited body corporate shareholders holding 10% or more of total shareholding of the Applicant companies.

- x. It is observed from para 12 (iii) of the order dated 29.04.2024 passed in CA(CAA)/13(AHM) 2024 by the Hon'ble NCLT in respect of Applicant Demerged/ Transferor Company that "There are 3 (Three) Secured Creditors and all the Secured Creditors have given their consents in writing in approval of the Scheme by way of affidavit". However, as per the Index of Charges available under the MCA's website, there are 03 open secured Charge IDs in favour of 02 Secured charge holders.
- xi. It is observed from para 14 (iii) of the order dated 29.04.2024 passed in CA(CAA)/13(AHM) 2024 by the Hon'ble NCLT in respect of Applicant Transferee Company that "There are Nil Secured Creditors and the certificate issued

by the hartered Accountant to this effect is placed at Annexure "V" of the typed set filed along with the Application. Hence the necessity of convening, holding, and conducting the meeting does not arise". However, as per the Index of Charges available under the MCA's website, there are 01 open secured Charge ID in favour of 01 Secured charge holder.

- xii. On perusal of the Scheme, it is observed that Paid-up Share capital of the Demerged/ Transferor company has mentioned as Rs. 2,68,33,74,886/- divided into 2,68,33,74,886 equity Shares of Rs. 1/- at para 3.1 of the proposed Scheme. The company has increased its paid-up Capital from Rs. 2,68,33,74,886 to Rs. 2,78,20,02,130/- by allotment of Equity Shares from time to time. In this regard, the Demerged/Transferor company has filed prescribed e-Form PAS-3 (03 counts) on MCA21 portal and same were taken on record through STP mode.

xiii. Clause 10.1 of the Scheme provides that upon the coming into effect of this Scheme and in consideration of the transfer and vesting of the Global Top Level Domain Undertaking into Resulting Company pursuant to the provisions of this Scheme, Resulting Company shall, without any further act or deed, issue and allot to each shareholder of Demerged Company, whose name is recorded in the register of members and records of the depositories as members of Demerged Company, on the Record Date in the following ratio:

"1 (One) fully paid-up equity share of the Resulting Company of the face value of INR 1 (Indian Rupee One) each shall be issued and allotted, at par as fully paid-up to the equity shareholders of the Demerged Company for every 89 (Eighty Nine) equity shares of INR 1 (Indian Rupee One) each held by the shareholders of the Demerged Company, as on the Record Date."

Further, Clause 28.1 of the Scheme Provides that the authorised share capital of the Resulting Company shall be increased and enhanced to INR 3,12,00,000 (Indian Rupees Three Crore Twelve Lakh only), comprising of 3,12,00,000 (Three Crore Twelve Lakh) equity shares of face value of INR 1 (Indian Rupee One) each, without any further act, instrument or deed undertaken by the Transferee Company and on payment of any additional fees or stamp duty in respect of such increase by the Transferee Company.

In this regard, it is submitted that for the purpose of allotment of Equity Shares to the Demerged Company as proposed in the Scheme, further increase in authorized share capital of the Applicant Resulting Company will be required since the authorized share capital of the Resulting company is not sufficient to issue and allot new equity shares

of the Resulting to the shareholders of the Demerged Company. Hence, Resulting Company shall be required to comply the provisions of Section 61 r/w Section 64 of the Companies Act, 2013 and be filed necessary e-form to increase its authorized Capital under the MCA portal as per the requirement of Section 61 r/w Section 64 of the Companies Act, 2013 and Rules made thereunder along with payment of Fee/Additional Fee and necessary Stamp Fee as applicable.

- xiv. Clause 22.1 of the Scheme provide consideration that Upon the coming into effect of this Scheme and in consideration of the transfer and vesting of the Project Management Undertaking into Transferee Company pursuant to the provisions of this Scheme, Transferee Company shall pay consideration equal to the Net Worth of the Project Management Undertaking. The Transferee

Company shall pay the consideration by way of issuance and allotment to the Transferor Company, 55,78,114 (Fifty Five Lakh Seventy Eight Thousand One Hundred and Fourteen) equity shares of face value of INR 10 (Indian Rupee Ten) each at share premium of INR 203 (Indian Rupees Two Hundred and Three only), as fully paid-up, without any further act or deed."

Clause 29.1 of the Scheme provide The authorised share capital of the Transferee Company shall be increased and enhanced to INR 1,15,00,000 (Indian Rupees One Crore and Fifteen Lakh only) comprising of 11,50,000 (Eleven Lakh and Fifty Thousand) equity shares of INR 10 (Indian Rupees Ten) each, without any further act, instrument or deed undertaken by the Transferee Company and on payment of any additional fees or stamp duty in respect of such increase by the Transferee Company.

In this regard, it is submitted that for the purpose of allotment of Equity Shares to the Demerged Company as proposed in the Scheme, further increase in authorized share capital of the Applicant Transferee Company will be required, since the authorized share capital of the Transferee Company is not sufficient to issue and allot new equity shares of the Resulting to the shareholders of the Demerged Company. Hence, Transferee Company shall be required to comply the provisions of Section 61 r/w Section 64 of the Companies Act, 2013 and be filed necessary e-form to increase its authorized Capital under the MCA portal as per the requirement of Section 61 r/w Section 64 of the Companies Act, 2013 and Rules made thereunder along with payment of Fee/Additional Fee and necessary Stamp Fee as applicable.

- xv. As per the provisions of the Companies Act, 2013 wherein it is mandated certain statutory

responsibilities on the part of the public company and its KMP/BoD. A public company so long as remain as public companies shall ensure that such statutory requirements of law are duly complied with at relevant time in prescribed manner. Therefore, onus of the due compliance of the applicable provisions of the Companies Act, 2013 is vested with all the Applicant Companies and its KMP/BoD.

- xvi. The Registrar of Companies, Ahmedabad submits that the Hon'ble Bench of National Company Law Tribunal may be please to direct the Applicant Transferee Company/ Amalgamated Company to preserve its books of accounts, papers and records and shall not be disposed of without prior permission of Central Government as per the Provision Section 239 of the Companies Act, 2013.
- xvii. As per the provisions of the Companies Act, 2013 wherein it is mandated certain statutory responsibilities on the part of the public



company and its KMP/BoD. A public company so long as remain as public companies shall ensure that such statutory requirements of law are duly complied with at relevant time in prescribed manner. Therefore, onus of the due compliance of the applicable provisions of the Companies Act, 2013 is vested with all the Applicant Companies and its KMP/BoD.

- xviii. The Registrar of Companies, Ahmedabad further submits that the Hon'ble Bench of National Company Law Tribunal may be pleased to direct the Applicant Companies to ensure Statutory compliance of all applicable Laws and also on sanctioning of the present Scheme, the Applicant Companies shall not be absolved from any of its Statutory liabilities, in any manner.
- xix. Necessary Stamp Duty on transfer of property/Assets, if any is to be paid to the respective Authorities before implementation of the Scheme.

xx. The Registrar of Companies, Ahmedabad further submits that the Hon'ble Tribunal may direct the Applicant companies involved in the scheme to comply with the provisions of Section 232(5) of the Companies Act, 2013 with respect to file certified copy of order sanctioning the scheme with Registrar of Companies within 30 days from date of passing order.

b. The Petitioner Companies have filed an Additional Affidavit dated 06.08.2024 before this Tribunal on 06.08.2024 vide inward dairy no. D 6225 in response to observation of **Regional Director** and the **Registrar of Companies** with the following response:

i. With regards to observation contained in para 5(i) which is pertaining to the Report of the Registrar of Companies (RoC), I say that there are no complaints, inquiry or prosecution pending against the petition Infibeam companies. So far as the observations made in

Para 14 of the Report of RoC is concerned, the same are dealt with separately hereinafter in the present affidavit.

- ii. With regards to observation contained in para 6(i) which pertains to the report of Regional Director, I say and submit that the petitioner Demerged Company undertakes and confirms that the Demerged Company has complied with the observations made by BSE and NSE in their letters dated 22.2.2024 and 23.2.2024 respectively.
- iii. With regards to observation contained in para 6(ii), I say and submit that the petitioner companies confirm that the Scheme enclosed to the Company Application and the Company Petition are one and same and there is no discrepancy or change.
- iv. With regards to observation contained in para 6(iii), the petitioner companies declare that no CIRP proceeding under IBC and/or winding up

petition against the petitioner companies are pending.

- v. With regards to observation contained in para 6(iv), I beg to annex copy of Schedule of Assets containing details of assets and liabilities (assets and amount wise) of the Demerged Undertaking sought to be transferred to the Resulting Company and Transferee Company as Annexure-S1.
- vi. With regards to observation contained in para 6(v), I say that the petitioner companies undertake to comply with the provisions of FEMA and RBI Guidelines to the extent applicable.
- vii. With reference to observations contained in Para 7(i), I say that we have submitted clarification regarding observations made by the RD in the foregoing paragraphs we beg to submit clarification to the observations made by RoC hereinafter in this affidavit.

- viii. With reference to observations contained in Para 7(ii), I say that the petitioner Transferee Company undertake to preserve the books of accounts and the same shall not be disposed without the prior approval of the Central Government as per Sec. 239 of the Act.
- ix. With reference to observations contained in Para 7(iii), I say that the petitioner companies shall ensure statutory compliances of the applicable laws.
- x. With reference to observations contained in Para 7(iv), I say that the petitioner companies undertake to pay necessary stamp duty, to the extent applicable.
- xi. With reference to observations contained in Para 7(v), I say that the petitioner companies undertake to comply with the provisions of Sec. 232(5) of the Act.
- xii. With reference to observations contained in Para 7(vi), I say that the petitioner companies



undertake to comply with Income Tax/ GST Laws to the extent applicable.

- xiii. With regards to observation contained in para 7(vii), I say that the petitioner Transferee Company undertakes to pay the requisite fees to the Regional Director as may be quantified by this Hon'ble Tribunal.

### **Response to RoC**

- xiv. So far as the observations contained in Para 14(1) of RoC Report is concerned, I say that the Demerged / Transferor Company undertakes to comply with directives/ circulars issued by SEBI from time to time.
- xv. With reference to observations contained in Para 14(2), I say that the Demerged / Transferor Company undertakes to comply with FEMA and RBI guidelines to the extent applicable.
- xvi. With reference to observations contained in Para 14(3) to 14(6), I say that the same are

matter of record and therefore, we offer no comments.

- xvii. With reference to observations contained in Para 14(7), I say that the Resulting Company undertakes to comply with the provisions of Sec.61 r/w. 64 of the Act to the extent applicable.
- xviii. With reference to observations contained in Para 14(8), I say that the Transferee Company undertakes to comply with the provisions of Sec.61 /w. 64 of the Act to the extent applicable.
- xix. With reference to observations contained in Para 14(10), I say that the Transferee Company undertakes to preserve the books of accounts and the same shall not be disposed without the prior approval of the Central Government as per Sec. 239 of the Act.
- xx. With reference to observations contained in Para 14(12), I say that the petitioner companies

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shall ensure statutory compliances of the applicable laws.

xxi. With reference to observations contained in Para 14(13), I say that the petitioner companies undertake to pay necessary stamp duty, to the extent applicable.

xxii. With reference to observations contained in Para 14(14), I say that the petitioner companies undertake to comply with the provisions of Sec. 232(5) of the Act.

**9. INCOME TAX DEPARTMENT:**

- a. The Income Tax Department had filed its report dated 15.05.2024 to this Tribunal on 07.08.2024 under inward diary no. R398 with respect to all the Companies. In the said report it is stated that No proceeding is pending but the demand of Rs. 1,48,82,380/- is there in the case of Infibeam Avenues Limited.



10. The Petitioner Companies have filed an Additional Affidavit on 06.08.2024 in response to representation of the **Income Tax Department** with the following response:
11. With respect to the observation regarding the Petitioner Demerged Company i.e. Infibeam Avenues Limited, it is the case of the Income Tax Department that the 2550021 proceedings u/s. 147 of the Tax Act is pending against the petitioner Demerged Company for the AY-2015-16 and the demand is Rs. 1,48,82,380/- for the AY-2022-23. In this regard, I say and submit that the Hon'ble High Court of Gujarat vide order dated 14.6.2024 made in Special Civil Application No. 4877 of 2022 was pleased to quash and set aside the notice u/s. 148 of the Income Tax Act which sought to re-open the assessment of the petitioner Demerged Company for the Assessment Year 2015-16. The proceedings which are referred by the Income Tax Department are in relation to the very same assessment year i.e. AY 2015-16. Without prejudice,

the petitioner Demerged Company will remain in existence even after the Scheme is sanctioned by this Hon'ble Tribunal. Regarding the demand for the AY-2022-23, the petitioner Demerged Company shall pay the demand, if any, subject to outcome of any assessment proceedings.

## **12. ACCOUNTING TREATMENT**

- a. Notwithstanding anything in the other parts of the Scheme, the amalgamation of the Transferor Companies with the Transferee Company shall be accounted for in the books of account of the Transferee Company in accordance with 'Pooling of Interest Method' of accounting as per Accounting Standard (AS-14) prescribed under Section 133 of the Act, which is applicable to the Transferee Company since this is a common control business combination.
- b. The Petitioner Companies have filed through purshish on 05.07.2024 vide inward dairy no. D5323 through which annexed a copy of the certificate issued by the statutory auditor of the Petitioner

Companies, to the effect that the accounting treatment specified in the Scheme of Arrangement is in conformity with the accounting standards prescribed under Section 133 of the Companies Act, 2013.

### **13. OBSERVATIONS OF THIS TRIBUNAL**

A. After analysing the Scheme in detail, this Tribunal is of the considered view that the scheme as contemplated amongst the petitioner companies seems to be *prima facie* beneficial to the Company and will not be in any way detrimental to the interest of the shareholders of the Company. Considering the record placed before this Tribunal and since all the requisite statutory compliances have been fulfilled, this Tribunal sanctions the Composite Scheme of arrangement appended at "**Annexure I**" of the Petitioner Companies to the typed set filed along with the Company Petition as well as the prayer made therein.

- B. The Learned Counsel for the Petitioner companies submitted that no investigation proceedings are pending against the Transferor or Transferee Companies under the provisions of the Companies Act, 1956 or the Companies Act, 2013 and no proceedings against the petitioner companies for oppression or mismanagement have been filed before this Tribunal or erstwhile Company Law Board.
- C. 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 petitioners.
- D. 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 the said 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.

- E. 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 IT 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.com 374 (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 transferor 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.”*

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

- i. The Composite Scheme of Arrangement as annexed as **Annexure ‘I’** to the petition is hereby sanctioned and it is declared that same shall be binding on the Petitioner Companies and their Shareholders and Creditors and all concerned under the scheme;
- ii. Demerger of Global Top Level Domain Undertaking (as defined in the Scheme) of Demerged Company with and into the Resulting Company, with effect from the Appointed Date (as defined hereinafter), pursuant to the provisions of Sections 230 to 232 and Section 66 and other applicable provisions of the Companies Act, 2013 as well as Section 2(19AA) of the Income Tax Act, 1961; and
- iii. Transfer of the Project Management Undertaking (as defined in the Scheme) as a going concern on a

Slump Sale (as defined in the Scheme) basis, with effect from the Appointed Date (as defined in the Scheme), by the Transferor Company to the Transferee Company under Sections 230 to 232 and Section 66 and other provisions of the Companies Act, 2013 and in accordance with Section 2(420) of the Income Tax Act, 1961.

- iv. The Transferor Company as well as the Demerged Company shall, together with all its properties, rights and powers be transferred without further act or deed to the Transferee Company and Resulting Company and accordingly the same shall pursuant to Section 232 of the Act, stand transferred to and vest in the Transferee Company and Resulting Company for all the estate and interest of the Transferor Company and Demerged Company.
- v. 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 Company and Transferor Company shall stand transferred to and vested in the Resulting Company and Transferee Company, without any further act or deed. The Transferee Company and 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 Transferor Company and Demerged Company.

- vi. All the liabilities and duties of the Transferor Company and Demerged Company be transferred, without further act or deed, to the Transferee Company and 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 Transferee Company and Resulting Company.
- vii. All contracts, agreements, insurance policies, bonds and all other instruments of whatsoever nature or description, of the Demerged Company and Transferor Company, shall stand transferred to and



vested in the Resulting Company and Transferee Company and be in full force and effect in favour of the Transferee Company and Resulting Company and may be enforced by or against it as fully and effectually against the Transferee Company and Resulting Company.

viii. All taxes paid or payable by the Transferor Company and Demerged Company including existing and future incentives, un-availed credits and exemptions, the benefit of carried forward losses and other statutory benefits, which shall be available to and vest in the Transferee Company and Resulting Company. The Tax liability of the Transferor Company and Demerged Company shall become a liability of the Transferee Company and Resulting Company and any proceedings against the Transferor Company and Demerged Company shall continue against the Transferee Company and Resulting Company.

ix. All proceedings now pending by or against the Transferor Company and Demerged Company shall

be continued by or against the Transferee Company and Resulting Company respectively.

- x. That the Appointed Date for the scheme shall be **1<sup>st</sup> April, 2023** as mentioned in **Clause 1.3 of Part-A** of the Scheme.
- xi. **Consideration/ Issue of Shares:**

10.1 Upon the coming into effect of this Scheme and in consideration of the transfer and vesting of the Global Top Level Domain Undertaking into Resulting Company pursuant to the provisions of this Scheme, Resulting Company shall, without any further act or deed, issue and allot to each shareholder of Demerged Company, whose name is recorded in the register of members and records of the depositories as members of Demerged Company, on the Record Date in the following ratio:

*"1 (One) fully paid-up equity share of the Resulting Company of the face value of INR 1 (Indian Rupee One) each shall be issued and allotted, at par as fully paid-up to the equity shareholders of the Demerged*

*Company for every 89 (Eighty Nine) equity shares of INR 1 (Indian Rupee One) each held by the shareholders of the Demerged Company, as on the Record Date."*

10.2. The equity shares to be issued and allotted as provided in Clause 10.1 above shall be subject to the provisions of the Memorandum of Association and Articles of Association of Resulting Company and shall rank pari-pass in all respects with the then existing equity shares of Resulting Company after the Record Date including with respect to dividend, bonus entitlement, rights' shares' entitlement, voting rights and other corporate benefits.

10.3. In case any shareholder's shareholding in Demerged Company is such that such shareholder becomes entitled to a fraction of an equity share of Resulting Company, if any, Resulting Company shall not issue fractional shares to such shareholder but shall consolidate such fractions and issue and allot the consolidated shares directly to a trustee

nominated by the Board of Directors of Resulting Company in that behalf, who shall sell such shares in the market at such price or prices within 90 days from the date of allotment of equity shares, and on such sale, shall pay to Resulting Company, the net sale proceeds (after deduction of applicable taxes and other expenses incurred), whereupon Resulting Company shall, subject to withholding tax, if any, distribute such sale proceeds to the concerned shareholders of Demerged Company in proportion to their respective fractional entitlements.

10.4. The equity shares to be issued pursuant to Clause 10.1 above shall be issued' in dematerialized form only by Resulting Company. The shareholders of Demerged Company shall be required to provide details as required thereof by Resulting Company for such issuance of shares in dematerialized form. In the event that a shareholder of Demerged Company holds equity shares of Demerged Company in physical form or if any shareholder has not provided

the requisite details relating to his/her/its account with a depository participant or other confirmations as may be required or if the details furnished by any shareholder do not permit electronic credit of the shares of Resulting Company, then Resulting Company shall issue equity shares in demat form to a trustee nominated by the Board of Directors of Resulting Company in that behalf, who shall hold such shares for and on behalf of such shareholder or shareholders.

10.5. The equity shares to be issued by Resulting Company pursuant to this Scheme, in respect of such of the equity shares of Demerged Company which are held in abeyance under the applicable provisions of the Act or otherwise shall, pending allotment or settlement of dispute by order of court or otherwise, also be kept in abeyance by Resulting Company.

10.6. The equity shares issued pursuant to Clause 10.1, which Resulting Company is unable to allot due

to Applicable Laws (including, without limitation, the non receipt of approvals of Governmental Authority as required under Applicable Law) or any regulations or otherwise shall, pending allotment, be held in abeyance by Resulting Company and shall be dealt with in the manner as may be permissible under the Applicable Law and deemed fit by the Board of Directors of Resulting Company including to enable allotment and sale of such equity shares to a trustee as mentioned in Clause 10.3 above and thereafter make distributions of the net sales proceeds in lieu thereof (after deduction of taxes and expenses incurred) to the eligible shareholders of Demerged Company, in proportion to their entitlements as per the process specified in Clause 10.3 above: If the above cannot be effected for any reason, Resulting Company shall ensure that this does not delay implementation of the Scheme; and shall, take all such appropriate actions as may be necessary under Applicable Law. Resulting Company and/or the depository shall enter into such further documents

and take such further actions as may be necessary or appropriate in this regard and to enable actions contemplated therein.

10.7 In the event of there being any pending share transfers, whether lodged or outstanding, of any shareholders of Demerged Company, the Board of Directors of Demerged Company shall be empowered prior to or even subsequent to the Record Date, to effectuate such transfers in Demerged Company as if such changes in registered holders were operative as on the Record Date, in order to remove any difficulties arising to the transferors of the shares in relation to the shares issued by Resulting Company. The Board of Directors of Demerged Company shall be empowered to remove such difficulties that may arise in the course of implementation of this Scheme and registration of new shareholders in Resulting Company on account of difficulties faced in the transition period.

10.8. The issue and allotment of equity shares by Resulting Company to the members of Demerged Company as provided in this Scheme is an integral part thereof and shall be deemed to have been carried out under the orders passed by the Tribunal without requiring any further act or deed on the part of Resulting Company as if the procedure laid down under the Act and such other Applicable Laws as may be applicable were duly complied with. It is clarified that the approval of the Board, members and creditors of Resulting Company to this Scheme shall be deemed to be their consent / approval for the issue and allotment of equity shares.

10.9. In the event that the Demerged Company or Resulting Company alter their equity share capital, including but not limited to, by way of share split / consolidation / further issue of shares in any manner whatsoever during the pendency of the Scheme, the share entitlement ratio as per Clause 10.1 above, shall be adjusted accordingly to take into account the



effect of any such actions unless otherwise decided by the Board of Directors of Demerged Company and Resulting Company. It is clarified that the approval of the members and creditors of Demerged Company and Resulting Company to the Scheme shall be deemed to be their consent / approval also to the adjusted share entitlement ratio as per this clause.

10.10. Resulting Company shall, if necessary and to the extent required, increase its authorized share capital to facilitate issue of equity shares under the Scheme. It is clarified that the approval of the members of Resulting Company to the Scheme shall be deemed to be their consent / approval also to the alteration of the Memorandum of Association and Articles of Association of Resulting Company as required under Section 13, 14, 61, 64 and other applicable provisions of the Act.

**xii. Consideration- Transfer and vesting of the project management undertaking of transferor company in transferee company:**

22.1 Upon the coming into effect of this Scheme and in consideration of the transfer and vesting of the Project Management Undertaking into Transferee Company pursuant to the provisions of this Scheme, Transferee Company shall pay consideration equal to the Net Worth of the Project Management Undertaking. The Transferee Company shall pay the consideration by way of issuance and allotment to the Transferor Company, 55,78,114 (Fifty Five Lakh Seventy Eight Thousand One Hundred and Fourteen) equity shares of face value of INR 10 (Indian Rupee Ten) each at share premium of INR 203 (Indian Rupees Two Hundred and Three only), as fully paid-up, without any further act or deed ("New Equity Shares").

22.2. The New Equity Shares to be issued and allotted as provided in Clause 22.1 above shall be subject to the provisions of the Memorandum of Association and Articles of Association of Transferee Company and shall rank pari-pass in all respects

with the then existing equity shares of Transferee Company including with respect to dividend, bonus entitlement, rights' shares' entitlement, voting rights and other corporate benefits.

22.3. The New Equity Shares to be issued pursuant to Clause 22.1 above shall be issued in dematerialized form only by Transferee Company, provided that the Transferor Company shall be required to have an account with a depository participant and shall be required to provide details thereof and such other confirmations as may be required to the Transferee Company.

22.4. The equity shares issued pursuant to Clause 22.1, which Transferee Company is unable to allot due to Applicable Laws (including, without limitation, the non receipt of approvals of Governmental Authority as required under Applicable Law) or any regulations or otherwise shall, pending allotment, be held in abeyance by Transferee Company and shall be dealt with in the manner as may be permissible

under the Applicable Law and deemed fit by the Board of Directors of Transferee Company. If the above cannot be effected for any reason, Transferee Company shall ensure that this does not delay implementation of the Scheme; and shall, take all such appropriate actions as may be necessary under Applicable Law. Transferee Company and/or the depository shall enter into such further documents and take such further actions as may be necessary or appropriate in this regard and to enable actions contemplated therein.

22.5. The issue and allotment of New Equity Shares by Transferee Company to the Transferor Company as provided in this Scheme is an integral part thereof and shall be deemed to have been carried out under the orders passed by the Tribunal without requiring any further act or deed on the part of Transferee Company as if the procedure laid down under the Act and such other Applicable Laws as may be applicable were duly complied with. It is clarified that the

approval of the members Hundred and Three only), as fully paid-up, without any further act or deed ("New Equity Shares").

22.2. The New Equity Shares to be issued and allotted as provided in Clause 22.1 above shall be subject to the provisions of the Memorandum of Association and Articles of Association of Transferee Company and shall rank pari-pass in all respects with the then existing equity shares of Transferee Company including with respect to dividend, bonus entitlement, rights' shares' entitlement, voting rights and other corporate benefits.

22.3. The New Equity Shares to be issued pursuant to Clause 22.1 above shall be issued in dematerialized form only by Transferee Company, provided that the Transferor Company shall be required to have an account with a depository participant and shall be required to provide details thereof and such other confirmations as may be required to the Transferee Company.

22.4. The equity shares issued pursuant to Clause 22.1, which Transferee Company is unable to allot due to Applicable Laws (including, without limitation, the non receipt of approvals of Governmental Authority as required under Applicable Law) or any regulations or otherwise shall, pending allotment, be held in abeyance by Transferee Company and shall be dealt with in the manner as may be permissible under the Applicable Law and deemed fit by the Board of Directors of Transferee Company. If the above cannot be effected for any reason, Transferee Company shall ensure that this does not delay implementation of the Scheme; and shall, take all such appropriate actions as may be necessary under Applicable Law. Transferee Company and/or the depository shall enter into such further documents and take such further actions as may be necessary or appropriate in this regard and to enable actions contemplated therein.


22.5. The issue and allotment of New Equity Shares by Transferee Company to the Transferor Company as provided in this Scheme is an integral part thereof and shall be deemed to have been carried out under the orders passed by the Tribunal without requiring any further act or deed on the part of Transferee Company as if the procedure laid down under the Act and such other Applicable Laws as may be applicable were duly complied with. It is clarified that the approval of the members and creditors of Transferee Company to this Scheme shall be deemed to be their consent / approval for the issue and allotment of New Equity Shares.

22.6. In the event that the Companies alter their equity share capital, including but not limited to, by way of share split / consolidation / further issue of shares in any manner whatsoever during the pendency of the Scheme, the number of equity shares as per Clause 22.1 above, shall be adjusted accordingly to take into account the effect of any

such actions unless otherwise decided by the Board of Directors of Transferor Company and Transferee Company. It is clarified that the approval of the members of Companies to the Scheme shall be deemed to be their consent / approval also to the adjusted number of equity shares as per this clause.

22.7. Transferee Company shall, if necessary and to the extent required, increase its authorized share capital to facilitate issue of shares under the Scheme. It is clarified that the approval of the Board and the members of Transferee Company to the Scheme shall be deemed to be their consent / approval also to the alteration of the Memorandum of Association and Articles of Association of Transferee Company as required under Section 13, 14, 61, 64 and other applicable provisions of the Act and no further resolution under Section 52 read with Section 66 and other applicable provisions of the Companies Act, 2013 would be required to be passed separately.



- xiii. All concerned Authorities to act on the copy of this order along with the Scheme authenticated by the Registrar of this Tribunal shall issue the certified copy of this order along with the Scheme immediately;
- xiv. The Petitioner Companies are directed to lodge a copy of this Order and the approved Scheme and Schedule of Assets of the Transferor Company, duly authenticated by the Registrar of this Tribunal, with the concerned Superintendent of Stamps, for adjudication of stamp duty, and pay requisite stamp duty payable, if any, within 60 days from the date of this Order.
- 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 legal fees and expenses for the office of the Regional Director are quantified at Rs. 20,000/-. The said fees to the Regional Director shall be paid by the Transferee Company.

xvii. 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. 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.

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

15. Accordingly, the Company Petition stands **allowed** on the aforementioned terms.

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**SAMEER KAKAR**  
**MEMBER (TECHNICAL)**

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

SP-LRA