

**NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH (COURT-II), CHANDIGARH**

CA (CAA) No.14/Chd/Hry/2024
(1st Motion)

Under Section 230 to 232 of 'The Companies Act, 2013' read with 'The Companies (Compromises, Arrangements and Amalgamations) Rules, 2016' and National Company Law Tribunal Rules, 2016'

IN THE MATTER OF:

Tex Corp Private Limited

through its Authorized Representative Mr. Akhilesh Kumar
with its registered office at
Mohammadpur Khansa Road, Gurgaon,
Haryana-122001
CIN: U36100HR1982PTC014609
PAN: AABCT4364L

.....Demerged Company/Applicant Company No. 1

And

Tex Fasteners Private Limited

through its Authorized Representative Mr. Anil Tandon
with its registered office at
Mohammadpur Khansa Road, Gurgaon,
Haryana-122001
CIN: U14101HR2023PTC116244
PAN: AAKCT5394B

.....Resulting Company/Applicant Company No. 2

Order delivered on: 02.07.2024

**Coram: HON'BLE DR. P.S.N. PRASAD, MEMBER (JUDICIAL)
HON'BLE MR. SATYA RANJAN PRASAD, MEMBER (TECHNICAL)**

Present:-

For the Applicant Companies: Mr. N.P.S. Chawla, Ms. Ashima Jain, Mr. Yash Jain
and Mr. Lokesh Dhiyani with G.S. Sarin, Advocates

Per: Dr. P.S.N. Prasad, Member (Judicial)
Satya Ranjan Prasad, Member (Technical)

ORDER

This is a Joint First Motion Application filed by Applicant Companies under Section 230-232 of 'The Companies Act, 2013' read with 'The Companies (Compromises, Arrangements and Amalgamations) Rules, 2016' and National Company Law Tribunal Rules, 2016' in relation to the Scheme of Arrangement of **Tex Corp Private Limited** (for short hereinafter referred to as Demerged Company/Applicant Company No. 1) with and into **Tex Fasteners Private Limited** (for short hereinafter referred to as Applicant Company No. 2/Resulting Company). The said Scheme is attached as Annexure A of the Application. The registered office of the Demerged Company and Resulting Company is Gurgaon, Haryana, India and therefore, it is under the territorial jurisdiction of this bench.

FACTS OF THE CASE

2. The facts of the case, as stated in the application, have been summarised below:

- (i) The Applicant Company No. 1 is a private limited company incorporated under the provisions of the Companies Act, 1956 ("Act, 1956"), on November 02, 1982, under the name and style of 'Gapp's Drugs and Pharmaceuticals Private Limited', bearing CIN U36100HR1982PTC014609. The Applicant Company No. 1 w.e.f. August 25, 2001, had changed its name to 'Tex Corp Limited'. Further, w.e.f. April 02, 2018, the Applicant Company No. 1 had been converted into a private limited company, accordingly, the name of the Demerged Company was

altered to its present name i.e. Tex Corp Private Limited. The registered office of Applicant Company No. 1 is presently situated at Mohammadpur Khansa Road, Gurgaon, Haryana-122001. The permanent account number of the Applicant Company No.1 is AABCT4364L. The income tax jurisdiction of the Applicant Company No.1 is situated at Circle 3 (1) Gurgaon.

- (ii) The Applicant Company No. 1 is primarily engaged in the business of manufacturing of Zips, Zip fasteners, embroidery ribbons and braid buttons, hooks and eyes, pins and needles, artificial flowers, laces and all kinds of items used in the manufacturing of garments, further, the Demerged Company also carrying a business of owning and leasing of land, building, and other kinds of immovable properties or assets. The main objects of Applicant Company No.1 as set out in Clause III(A) of the Memorandum of Association are, inter-alia, as under:

"1. To carry on business of purchase, Sale, Export, Manufacture of and otherwise to deal in Zips, Zips Fastners, Polyester Zip Fasteners, Embroidery, Ribbons and Braid Buttons, Hooks and Eyes, Pins and needles, Artificial Flowers, Laces and all kinds of items used for manufacture of garments and to carry on business of Zippers and Zip Fastners."

The certified copy of the Memorandum and Articles of Association of Applicant Company No.1 are annexed as Annexure C1 (Colly.) of the application.

- (iii) The authorized, issued, subscribed and paid-up share capital of Applicant Company No.1 as on October 31, 2023 is as follows:

Particulars	Amount (in Rs.)
Authorised Share Capital:	
60,00,000 equity shares of Rs. 10 each.	6,00,00,000
Total	6,00,00,000
Issued, Subscribed and Paid-up Share Capital:	
30,93,179 equity shares of Rs. 10/- each	3,09,31,790
Total	3,09,31,790

Subsequent to October 31, 2023, there has been no change in the paid-up share capital of Applicant Company No.1 till the date of filing of this Application. The certified true copy of the audited financial statements of the Applicant Company No.1 for the financial year ended March 31, 2023, and the provisional financial statement for the period commencing from April 1, 2023, to October 31, 2023, are annexed as Annexure- C2(Colly.) of the application.

- (iv) Key financial figures of the Applicant Company No. 1 as on October 31, 2023:

Particulars	Amount (Rs.)
Paid- Up equity share capital	309.32 Lakhs
Other equity	5746.32 Lakhs

- (v) Applicant Company No. 2 is a newly incorporated private limited company incorporated under the provisions of the Companies Act, 2013, on

November 3, 2023, bearing CIN U14101HR023PTC112644, and having its registered office situated at Mohammadpur Khansa Road, Gurgaon, Haryana- 122001. The permanent account number of Applicant Company No.2 is AAKCT5394B. The income tax jurisdiction of the Applicant Company No.2 is CIRCLE 3 (1) GURGAON.

- (vi) The Applicant Company No.2 was incorporated to carry on the business as manufacturers, importers, exporters, traders, buyers, sellers, retailers, wholesalers, suppliers or otherwise deal in textile, textile goods, cotton, silk, wool, linen, hemp, jute and yarns of all kinds and fabrics made of such yarns, and all kinds of synthetic or partially synthetic fabrics, waterproof fabrics and articles made from them, natural fabrics, fashion materials, imitation fur, all kind of buttons, belts and all kind of zippers and other fasteners, linings of all kinds, canvas, umbrellas, marquees flags and all kinds of items used for manufacturing of garments, Shoes, luggage, automobile accessories The main objects of Applicant Company No.2 as set out in Clause 3 (a) of the Memorandum of Association are as under:
- "Manufacture of all types of textile garments and clothing accessories"*

The certified copy of Memorandum and Articles of Association of Applicant Company No.2 are annexed as Annexure D 1 (Colly.) of the application.

- (vii) The authorized, issued, subscribed and paid-up share capital of Applicant Company No. 2 as on March 20, 2024, as per the financial statements given in Annexure D2 of the application is as follows:

Particulars	Amount (in Rs.)
Authorised Share Capital:	
50,000 equity shares of Rs. 10/- each.	5,00,000

Total	5,00,000
Issued, Subscribed and Paid-up Share Capital:	
50,000 equity shares of Rs. 10/- each	5,00,000
Total	5,00,000

Subsequent to March 20, 2024, and till the date of filing of this joint application there is no change in the share capital of the Applicant Company No.2. Since the Applicant Company No. 2 was incorporated on November 03, 2023, therefore, the provisional financial statement for the period commencing from November 03, 2023, to March 20, 2024, is annexed as Annexure D2 of the application.

- (viii) Key financial figures of the Applicant Company No. 2 as on March 20,2024:

Particulars	Amount (Rs.)
Paid- Up equity share capital	5,00,000
Other equity	Nil

- (ix) The salient features of the Scheme, as mentioned in the application, are set out hereunder:

(a) The board of directors of the Applicant Companies are of the view that the proposed Scheme shall have the following benefits:

That the Demerged Company is engaged in two divisions of businesses, (i) manufacturing of zips and zip fasteners and components thereof; and (ii)

owning and leasing of land, building, and other kind of immovable properties or assets. The Resulting Company is also incorporated to undertake the business of manufacturing of all kinds of zips and zip fasteners and components thereof.

In order to focus on each and every division the board of directors of the Demerged Company have decided to segregate the zips and zip fasteners manufacturing business under the specialized management of the Resulting Company.

The Demerged Company also owns some overseas investment in the foreign entities engaged in the business of manufacturing of zips and zip fasteners and components thereof, therefore, these overseas investments shall become part of Demerged Undertaking (More particularly described hereinafter).

The said demerger shall also result in following benefits:

- i. creation of a separate and distinct entity for the Demerged Undertaking would lead to greater operational and administrative efficiency for the Demerged Company and would also allow the Resulting Company to manage the Demerged Undertaking more efficiently*
- ii. enabling the business and the activities to be pursued and carried on with greater focus and attention through two separate parallel companies with separate administrative set up of each of them in place.*
- iii. The restructuring under this Scheme would enable focused business approach for maximization of benefits to all stakeholders and capitalize on the opportunity for the growth.*

In view of the aforesaid, the Board of Directors of the Companies have considered and proposed the Scheme (as defined hereinafter) for the benefits of the stakeholders of all the Companies. Accordingly, the Board of Directors of the Companies have formulated this Scheme pursuant to the provisions of Sections 230 to 232 and other relevant provisions of the Act (as defined hereinafter) and rules made thereunder.

(b) The Appointed Date of the Scheme is April 1st, 2023.

(c) Effective Date shall be the last of the dates on which certified copies of the order of the Tribunal under Section 230 to 232 of the Act, sanctioning this Scheme, is filed by the respective Companies with their respective jurisdictional Registrar of Companies.

Provided that references in this Scheme to the date of "upon coming into effect of the Scheme" or "upon the scheme becoming effective" or "effectiveness of the Scheme" mean the Effective Date;

(d) Upon coming into effect of this Scheme and with effect from the Appointed Date and subject to provisions of the Scheme, all property(ies), being movable or immovable, tangible or intangible, intellectual property rights pertaining to Demerged Undertaking (more particularly defined in the Scheme) of the Demerged Company and rights, titles and interest therein, if any, shall pursuant to provisions of section 232(4) of the Act be transferred to and stand vested in the Resulting Company;

(e) All statutory licenses including but not limited to permits, quotas, approvals, permissions, clearances, incentives, consents and authorization orders and all business certifications and all other registration certificates

issued in respect of the Demerged Undertaking (more particularly defined in the Scheme) of the Demerged Company under applicable laws and other benefits or privileges enjoyed or conferred upon or held or availed of by and all rights and benefits accrued to or which may accrue to Demerged Company shall, pursuant to provisions of section 232(4) of the Act be transferred to and stand vested in and be available to Resulting Company;

(f) All secured and unsecured liabilities, borrowing, whether (long-term or short-term), including liabilities of every kind, nature and description, whatsoever and howsoever arising, whether present or future, pertaining to the Demerged Undertaking (more particularly defined in the Scheme) of the Demerged Company shall also be transferred to and vested in or be deemed to be transferred to and stand vested in, without any further act, instrument or deed, to Resulting Company pursuant to provisions of section 230 to 232 of the Act;

(g) All suits, actions and other proceedings including legal and taxation proceedings (before any statutory or quasi-judicial authority or tribunal or any court) by or against the Demerged Company, pertaining to the Demerged Undertaking (more particularly defined in the Scheme) whether pending and/or arising on or before Effective Date shall be continued and/or enforced by or against Resulting Company

(h) All inter-company transactions, pertaining to the Demerged Undertaking of the Demerged Company, inter-se between the Demerged Company and Resulting Company including but not limited to any loans, advances due or outstanding, agreements or memorandum of understanding executed

between the Applicant Companies shall stand cancelled as on Effective Date and shall be of no effect;

(i) All staff, workmen and employees who are in employment of the Demerged Company, pertaining to the Demerged Undertaking, on Effective Date, shall become staff, workmen and employees of Resulting Company with effect from Appointed Date on the basis that: (i) their employment shall be deemed to have been continuous and not been interrupted by reasons of the said transfer; and (ii) terms and conditions of their employment after such transfer shall not in any way be less favourable to them than those applicable to them immediately preceding the said transfer

(j) The Demerged Company shall, with effect from Appointed Date and up to and including the Effective Date, carry on its business and other incidental matters, pertaining to the Demerged Undertaking, for and on account of and in trust for Resulting Company;

(k) The proposed demerger of Demerged Undertaking of the Demerged Company with and into the Resulting Company shall be accounted by the Applicant Companies in their respective books of accounts, in accordance with the applicable Accounting Standards as prescribed under Section 133 of the Act.

(l) Since the equity shares of the Applicant Companies are held by the same set of shareholders and in order to have mirror shareholding both of the Applicant Companies and in terms of Clause 18 of the Scheme, the Resulting Company shall, without any application or deed, issue and allot 9% non- cumulative optionally convertible redeemable preference shares

("OCRPS") credited as fully paid up, to the extent indicated below, to the members of Demerged Company holding fully paid-up equity shares of Demerged Company and whose names appear in the register of members of the Demerged Company as on the Record Date, or to such of their respective heirs, executors, administrators or other legal representatives or other successors in title as may be recognized by the Board of the Resulting Company in the following proportion:

"For every 1 (One) equity share of face value of Re. 10/- each held in the Demerged Company, as on the Record Date, every equity shareholder of the Demerged Company shall without any application, act or deed, be entitled to receive 1 (One) 9% non-cumulative optionally convertible redeemable preference shares of face value of Re. 10/- each of the Resulting Company, credited as fully paid-up."

(m) The Scheme is and shall be conditional upon:

- a. The Scheme being approved by the respective majorities of the Members and/or creditors of the Applicant Companies as required, if any and as may be directed by the Tribunal;*
- b. Obtaining the sanction of the Tribunal or such other competent authority by the Applicant Companies under Sections 230 to 232 and other applicable provisions of the Act*
- c. The certified or authenticated copies of the order of the Tribunal sanctioning this Scheme being filed with the Registrar of Companies having jurisdiction over the Companies.*

- (x) The Applicant Companies has obtained the valuation report dated February 02, 2024, issued by Mr. Anurag Singal, Registered Valuer, Regn, No. IBBI/RV/06/2022/14679. The valuation report is annexed as Annexure-B of the application.
- (xi) The board of the Applicant Companies in their meeting held on February 16, 2024, had approved the said Scheme the copy of the board resolution of the Applicant Company No. 1 and Applicant company No. 2 are attached as Annexure C3 and D3 of the application respectively.
- (xii) The Applicant Company No. 1 has 8 (Eight) equity shareholders, as of December 31, 2023, and all the equity shareholders of Applicant Company No. 1 have given their consent to the Scheme, hence the Applicant Company No. 1 prays for the dispensation of the requirement of convening the meeting of its equity shareholders. The certified list of equity shareholders of Applicant Company No. 1 as on December 31, 2023, duly certified by M/s Anjali Yadav and Associates, Membership No. 528961, independent chartered accountant, along with the consent affidavits of equity shareholders of the Applicant Company No. 1, are annexed as Annexure- C4(Colly.) of the application.
- (xiii) The Applicant Company No. 2 has 5 (Five) equity shareholders, as of March 20, 2024, and all the equity shareholders of Applicant Company No. 2 have given their consents to the Scheme, hence the Applicant Company No. 2 prays for the dispensation of requirement of convening the meeting of its equity shareholders. The certified list of equity shareholders of Applicant Company No. 2 as on March 20, 2024, duly certified by M/s Anjali Yadav and Associates, Membership No. 528961, independent

chartered accountant, along with the consent affidavits of equity shareholders of Applicant Company No. 2, are annexed as Annexure-D4(Colly.).

- (xiv) The Applicant Company No. 1, as on October 31, 2023, has 9 (Nine) secured creditors having a total outstanding due of Rs. 11,41,52,777 (Rupees Eleven Crores Forty-One Lakhs Fifty-Two Thousand Seven Hundred Seventy-Seven Only). None of the secured creditors of the Applicant Company No. 1 have given their consent to the Scheme, therefore, the Applicant Company No. 1 prays for convening the meeting of the secured creditors of the Applicant Company No. 1. The list of secured creditors of the Applicant Company No.1, as on October 31, 2023, duly certified by M/s Anjali Yadav & Associates, independent chartered accountant, Membership No. 528961, is annexed as Annexure-C5(Colly.) of the application.
- (xv) The Applicant Company No.2, as on March 20, 2024, has no secured creditors, hence Applicant Company No. 2 hereby prays for dispensing the requirement of convening the meeting of secured creditors of the Applicant Company No. 2. The certificate issued by M/s Anjali Yadav & Associates, independent chartered accountant, FRN-040472N, certifying that as on March 20, 2024, the Applicant Company No. 2 has no secured creditors, is annexed as Annexure-D5 of the application.
- (xvi) The Applicant Company No. 1, as on October 31, 2023, has 747 (Seven Hundred Forty-Seven) unsecured creditors amounting to the total outstanding due of Rs. 13,91,00,329.73 (Rupees Thirteen Crores Ninety-one Lakhs Three Hundred Twenty-Nine and Seventy-Three Paise

Only). None of the unsecured creditors of the Applicant Company No. 1 have given their consent to the Scheme, therefore, the Applicant Company No. 1 prays for convening the meeting of the unsecured creditors of the Applicant Company No. 1. The list of unsecured creditors of the Applicant Company No.1, as on October 31, 2023, duly certified by M/s Anjali Yadav & Associates, independent chartered accountant, Membership No. 528961, is annexed as Annexure-C6 (Colly.) of the application.

(xvii) The Applicant Company No. 2, as on March 20, 2024, has no unsecured creditors, hence Applicant Company No. 2 hereby prays for dispensing the requirement of convening the meeting of unsecured creditors of the Applicant Company No. 2. The certificate issued by M/s Anjali Yadav & Associates, independent chartered accountant, Membership No. 528961, certifying that as on March 20, 2024, the Applicant Company No. 2 has no unsecured creditors is annexed as Annexure-D6 of the application.

(xviii) A certificate dated March 15, 2024, has been provided by M/s Khattar Khanna & Associates, Chartered Accountants, Firm Regn. No. 014731N, statutory auditor of the Applicant Company No. 1 certifying that the accounting treatment given in Clause 20 of the Scheme complies with the accounting standards as prescribed by the Central Government under section 133 of the Act is attached as Annexure C7 of the application.

(xix) A certificate dated March 15, 2024, has been provided by M/s BR Maheshwari & Co. LLP, Chartered Accountants, Firm Regn. No. 001035N/N500050, statutory auditor of the Applicant Company No. 2 certifying that the accounting treatment given in Clause 20 of the Scheme is in compliance with the accounting standards as prescribed by the

Central Government under section 133 of the Act is attached as Annexure D7 of the application.

- (xx) No other similar application has been filed by the Applicant Companies before any court and/or tribunal. Scheme is not prejudicial to the interests of the shareholders and creditors of the Applicant Companies. Proposed Scheme is beneficial to the Applicant Companies and their respective shareholders and creditors.
- (xxi) The Applicant Companies are unlisted companies and not governed by any other sectoral regulator(s) including the Competition Commission of India. The said fact has been duly disclosed by the authorized signatories of the respective Applicant Companies by way of affidavits that are annexed as Annexure- E(Colly.) of the application.
- (xxii) There are no proceedings pending under Sections 210 to 227 of the Companies Act, 2013 against either the Demerged Company or the Resulting Company. No proceedings are pending for inspection/investigation under the Companies Act, 1956/2013 Foreign Exchange Management Act, 1999, and the Indian Penal Code, 1860 against the Applicant Company No 1. However, certain court cases are pending by or against the Applicant Company No. 1 in the ordinary course of business. The list of the said court cases is annexed by way of an affidavit by the authorized signatory of the Applicant Company No.1 as Annexure F of the application. No proceedings are pending for inspection/investigation under the Companies Act, 1956/2013 Foreign Exchange Management Act, 1999, and the Indian Penal Code, 1860 against the Applicant Company No. 2. In this regard, an affidavit by the

authorized signatory of the Applicant Company No. 2 is annexed as Annexure G of the application.

(xxiii) The Scheme does not provide for any corporate debt restructuring with any of the secured and unsecured creditors of the Applicant Companies. In this regard, an affidavit by the respective Applicant Companies for the compliance of the provisions of Section 230(2) of the Act are annexed as Annexure-H (Colly.) of the application.

(xxiv) The Scheme is not intended to grant any material benefit, if any, to the directors of the Applicant Companies except to the extent of their shareholding, if any, in the Applicant Companies.

3. The Applicant Companies submitted an additional affidavit vide Diary no. 0151/1 dated 02.05.2024 in which it stated that the scheme filed as Annexure A to the Company Application consisted of few inadvertent calculation errors in the value of assets and liabilities proposed to be demerged as part of Demerged undertaking. In this regard, the Applicant Companies had relied upon the valuation report issued by Anurag Singal, Registered Valuer, Registration No. IBBI/RV/06/2022/14679, which contains the schedule of assets and liabilities, proposed to be transferred pursuant to the Scheme. Accordingly, the said valuation report along with the altered Scheme are attached as Annexure- A of the aforesaid affidavit. It is further submitted that the present demerger does not cross the threshold limits prescribed by the Competition Commission of India and conforms that the present proposal of demerged/ combination is not attracted by the provisions of the Competition Act, 2002. In this respect, the relevant value of assets and turnover of the Applicant Companies and Demerger Undertaking as of March 31, 2023, are disclosed in the table on page 4 of the affidavit. In view of the notification dated March 07, 2024 bearing no. S.O.

1131(E), the value assets and turnover of the demerged undertaking do not exceed Rs. 450 crores and Rs. 1250 crores, therefore, the proposed Scheme is also exempted from obtaining approval of the Competition Commission of India under section 5 of the Competition Act, 2022. A copy of the said notification is annexed as Annexure B of the aforesaid affidavit. It is reiterated that the facts and financials of Applicant Companies doesn't meet the criteria stated in Section 5 of the Competition Act, 2002 as amended by Competition (Amendment) Act, 2024 in view of the specific exclusion and the Applicant Companies do not require prior approval of Competition Commission of India under Section 6 of the Act, 2002 and hence the said Act, 2002 is not applicable on the proposed Scheme of Arrangement.

4. The Applicant Companies have also furnished the details of the Shareholders and Creditors as follows:

Particulars	Applicant Company No. 1		Applicant Company No. 2	
	Total	Consent	Total	Consent
Equity Shareholders	8	8 holding 100% of shareholding	5	5 holding a 100% of shareholding
Preference Shareholders	Nil	N/A	Nil	N/A
Debenture Holders	Nil	N/A	Nil	N/A
Secured Creditors	9	Meeting to be convened	Nil	N/A
Unsecured Creditors	747	Meeting to be convened	Nil	N/A

ANALYSIS AND FINDING

5. Accordingly, the directions of this Bench in the present case are as under:

- I. The Appointed date, as proposed by the Applicant Companies, shall be 01.04.2023.

- II. The meetings of the equity shareholders of the Applicant Company No. 1 are dispensed with keeping in view the shareholding and ownership pattern and the fact that the consent to the proposed scheme of amalgamation by way of affidavits has been furnished by 8 equity shareholders (out of 8 equity shareholders) holding 100% of the equity share capital of the company. The requirement of issue and publication of notices for the same are also being dispensed.
- III. The meetings of the equity shareholders of the Applicant Company No. 2 are dispensed with keeping in view the shareholding and ownership pattern and the fact that the consent to the proposed scheme of amalgamation by way of affidavits has been furnished by 5 equity shareholders (out of 5 equity shareholders) holding 100% of the equity share capital of the company. The requirement of issue and publication of notices for the same are also being dispensed.
- IV. The convening of meetings of Preference shareholders of the both Applicant Companies, and the requirement of issue and publication of notices are dispensed with, as there are no Preference Shareholders in both the Applicant Companies.
- V. The convening of meetings of secured creditors of the Applicant Company No. 2, and the requirement of issue and publication of notices are dispensed with, as there are no secured creditors in the Applicant Company No. 2.
- VI. The convening of meeting of unsecured creditors of the Applicant Company No. 2 and the requirement of issue and publication of notices are

dispensed with, as as there are no unsecured creditors in the Applicant Company No. 2

- VII. The meetings of the secured creditors of Applicant Company No. 1 be convened, as prayed for, on such Date, Time and Venue either personally/ physically or through video conferencing with facility of remote e-voting, as may be decided by the Chairperson with the consent of alternate Chairperson and Scrutiniser subject to individual notice of the meeting being issued. The quorum of the meeting of the Secured creditors of Applicant Company No. 1 shall be 4 in number and 40% in value of the secured creditors;
- VIII. The meetings of the unsecured creditors of Applicant Company No. 1 be convened, as prayed for, on such Date, Time and Venue either personally/ physically or through video conferencing with facility of remote e-voting, as may be decided by the Chairperson with the consent of alternate Chairperson and Scrutiniser subject to individual notice of the meeting being issued. The quorum of the meeting of the unsecured creditors of Applicant Company No. 1 shall be 299 in number and 40% in value of the unsecured creditors;
- IX. In case, the quorum is not present within half an hour from the time appointed for holding the meeting, then the Chairman shall adjourn the meeting to the same day in the next week at the same time and place. The intimation about the adjourned meeting should be given to each member, as the case may be through e-mail or by any other mode. If the quorum is

still not present on such adjourned date, then the Chairman may furnish a report to that effect to NCLT within seven days thereafter.

- X. Mr. Bhupesh Gupta, Address: SCF-47, Rishi Nagar Market, Opp. BSNL, Ludhiana, Punjab-141001 Mobile No. 91-9815605702, email: bkg.majestic@gmail.com, is appointed as the Chairperson for the meeting to be called under this order. An amount of Rs.2,00,000/- (Rupees Two Lakh Only) be paid for his services as the Chairperson.
- XI. Vinod Kumar Mahajan, Address: Flat no. 309, RCS Society, Sector 48A, Chandigarh 160047 India Mobile No. 91-7042277309, email: vkmahajan586@gmail.com, is appointed as the Alternate Chairperson for the meeting to be called under this order. An amount of Rs.1,50,000/- (Rupees One lakh Fifty Thousand only) be paid for his services as the Alternate Chairperson.
- XII. Mr. Shubham Gupta, Address: 2181, Sector 38 Chandigarh-160036, Mobile No. 9878942316, e-mail id: advcs.shubhamgupta@gmail.com, is appointed as the Scrutinizer for the meeting to be called under this order. An amount of Rs.1,00,000/- (Rupees One lakh Only) be paid for his services as the Scrutinizer.
- XIII. The fee of the Chairperson, Alternate Chairperson and Scrutinizer and other out of pocket expenses for them shall be borne by the Applicant Companies jointly.
- XIV. The notices shall be served to the secured and unsecured creditors of the Applicant company no. 1 as discussed in Para VII, VIII above, through courier or speed post or registered post, or through courier or e-mail, 30

days in advance before the schedule date of meeting, indicating the day, date, place and time as aforesaid, together with a copy of the Scheme, copy of explanatory statement with Valuation Report and any other documents as may be prescribed under the Act as per the list of secured and unsecured creditors as on the date of passing of this Order in the same manner as the notices shall be served to various authorities as per Section 230(5) of the Companies Act, 2013 read with Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

- XV. The audited accounting statement of Applicant Companies as on 31.03.2023 and the provisional accounting statement on a subsequent date in terms of Section 232 (2) (e) of the Act be also circulated for the aforesaid meeting.
- XVI. Along with the notices, Applicant Companies shall also send, statements explaining the effect of the scheme on the shareholders/ creditors, key managerial personnel, promoters and non-promoter members etc. along with effect of the scheme of amalgamation on any material interests of the Directors of the Company or the debenture trustees, if any, as provided under sub-section (3) of Section 230 of the Act.
- XVII. The Applicant Companies shall publish advertisement with a gap of at least 30 days before the aforesaid meeting, indicating the day, date, place and time of the meeting as aforesaid, in newspapers having wide circulation in Haryana, where the registered Office of the applicant companies are situated namely "Business Standard" (English), "Jansatta" (Hindi) both Haryana edition. It be stated in the advertisement that the copies of

“Scheme”, the Explanatory Statement required to be published pursuant to Section 230 to 232 of the Act. The Applicant companies shall also publish the notice on its websites.

- XVIII. It shall be the responsibility of the Applicant Companies to ensure that the notices are sent under the signature and supervision of the authorized representative of the company on the basis of Board resolutions and that they shall file their affidavits in the Tribunal at least ten days before the date fixed for the meeting.
- XIX. Voting shall be allowed on the “Scheme” through electronic means which will remain open for a period as mandated under Clause 8.3 of Secretarial Standards on General Meetings to the Applicant Companies under the Act and the Rules framed thereunder.
- XX. The Scrutinizer’s report will contain his/her findings on the compliance to the directions given in Para XIII to XIX above.
- XXI. The Chairperson shall be responsible to report the result of the meeting to the Tribunal in Form No. CAA-4, as per Rule 14 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 within 7 (seven) days of the conclusion of the meeting. The Chairperson would be fully assisted by the authorized representative/ Company Secretary of the Applicant Companies and the Scrutinizer, who will assist the Chairperson and Alternate Chairperson in preparing and finalizing the report.
- XXII. The Applicant Companies shall individually and in compliance with sub-section (5) of Section 230 of the Act and Rule 8 of Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 send

notices in Form CAA-3 along with copy of the Scheme, Explanatory Statement, Accounting Statements (as referred to para XV above) and the disclosures mentioned in Rule 6 of the “Rules” to (i) Central Government through the Regional Director (Northern Region), Ministry of Corporate Affairs, New Delhi (ii) Registrar of Companies, NCT of Delhi and Haryana (iii) Concerned Income Tax Department having jurisdiction on the Applicant Companies, by mentioning the PAN number of the Applicant Companies; and to such other Sectoral Regulator(s) governing the business of the Applicant Companies, if any, stating that report on the same, if any, shall be sent to this Tribunal within a period of 30 days from the date of receipt of such notice and copy of such report shall be simultaneously sent to the applicant companies, failing which it shall be presumed that they have no objection to the proposed Scheme.

XXIII. The Applicant Companies shall furnish a copy of the copy of the Scheme, Explanatory Statement, Accounting Statements as referred to para XV above and the disclosures mentioned in Rule 6 of the “Rules” free of charge within one day of any requisition for the Scheme made by any creditor or member/shareholder.

XXIV. The authorized representative of the Applicant Companies shall furnish an affidavit of service of notice of meeting and publication of advertisement and compliance of all directions contained herein at least a week before the proposed meeting.

XXV. All the aforesaid directions are to be complied with strictly in accordance with the applicable laws including forms and formats contained in the Rules

as well as the provisions of the Companies Act, 2013 by the Applicant Companies.

XXVI. All the Applicant Companies shall file an affidavit in compliance of all the conditions laid down herein along with original proof of service to all the authorities and creditors.

6. In view of the above, the First Motion Application stands allowed by giving liberty to the Applicant Companies to file Second Motion Petition in accordance with Rule 15 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. A copy of this order be supplied to the learned counsel for the Applicant Companies, who in turn shall supply a copy of the same to the Chairperson, Alternate Chairperson and the Scrutinizer immediately.

Sd/-
(Satya Ranjan Prasad)
Member (Technical)

Sd/-
(Dr. P.S.N. Prasad)
Member (Judicial)

July 02, 2024

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