

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, KOLKATA, COURT NO II**

**C.P. (CAA) No. 41/ KB /2024  
Connected with  
C.A.(CAA) No. 198/ KB /2023**

*A petition under section 230 read with section 232 of the Companies Act, 2013, read with the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, and other applicable provisions of law.*

**IN THE MATTER OF:  
A Scheme of Amalgamation of (Second Motion):**

**AGNI TRANSPORT PRIVATE LIMITED, A Company Incorporated Under The Provisions Of The Companies Act, 1956 (CIN: U63090WB2003PTC096865) And Having Its Registered Office At Chartered Bank Building, Room No. 132, 1<sup>st</sup> Floor, 4, Netaji Subhas Road Kolkata – 700001 in The State Of West Bengal.**

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

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**And**

**KAMPER ECONOMY SERVICES PRIVATE LIMITED, A Company Incorporated Under The Provisions Of The Companies Act 1956 (CIN:U65999BR1994PTC005736) And Having Its Registered Office At 33, Kaveri Apartment, New Dakbunglow, Road P.S. Kotwali, Patna-800001 In The State Of Bihar .**

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

**And**

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**NHK COMMODEAL PRIVATE LIMITED, A Company Incorporated Under The Provisions Of The Companies Act,1956(Cin: U51101wb2010ptc147303) And Having Its Registered Office Chartered Bank Building, Room No. 132, 1<sup>st</sup> Floor, 4, Netaji Subhas Road Kolkata - 700001in The State Of West Bengal.**

**... Transferor Company No.3/ Petitioner No.3**

**And**

**V S MINERALS PRIVATE LIMITED, A Company Incorporated Under The Provisions Of The Companies Act, 1956 (Cin: U10100wb2009ptc135549) And Having Its Registered Office Chartered Bank Building, Room No. 132, 1<sup>st</sup> Floor, 4, Netaji Subhas Road Kolkata - 700001in The State Of West Bengal.**

**... Transferor Company No.4/ Petitioner No.4**

**And**

**KAMPER FINANCE & SECURITIES PRIVATELIMITED, A Company Incorporated Under The Provisions Of The Companies Act, 1956 (Cin: U65993wb1988ptc044981)And Having Its Registered Office At 5f Everest 46 Chowringhee Rd P S Park Street, Kolkata - 700071, In The State Of West Bengal.**

**... Transferee Company / Petitioner No.5**

**And**

**In the Matter of:**

**1. AGNI TRANSPORT PRIVATE LIMITED**

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2. **KAMPER ECONOMY SERVICES PRIVATE LIMITED**
3. **NHK COMMODEAL PRIVATE LIMITED**
4. **V S MINERALS PRIVATE LIMITED**
  
5. **KAMPER FINANCE & SECURITIES PRIVATE LIMITED**

**.... Petitioners**

**Date of pronouncing the order: 24<sup>th</sup> July, 2024**

**CORAM**

**Smt. Bidisha Banerjee, Member (Judicial)  
Shri. D. Arvind, Member (Technical)**

**APPEARANCE : Ms. Manju Bhuteria, Adv.  
Ms. Aisha Amin, Adv.  
Ms. Radhika Patodia , FCA**

**ORDER**

**Per: Bidisha Banerjee, Member (Judicial)**

1. The instant Company Petition has been filed in the second stage of the proceedings under Section 230(6) read with Section 232(3) of the Companies Act, 2013 (“Act”) for sanction and confirmation of the Scheme of Amalgamation of

Agni Transport Private Limited	Transferor Company No.1/PetitionerNo.1
Kamper Economy Services Private Limited	Transferor Company No.2/PetitionerNo.2
NHK Commodeal Private Limited	Transferor Company

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	No.3/PetitionerNo.3
V S Minerals Private Limited	Transferor Company No.4/PetitionerNo.1

With Kamper Finance & Securities Private Limited - Transferee Company/Petitioner No 5 from the **Appointed Date 01<sup>st</sup> April, 2022**, in the manner and on the terms and conditions stated in the said **Scheme of Amalgamation** (“Scheme”). A copy of the said Scheme is annexed to the Company Petition marked – **Annexure – A** in VOL I at Page No 52 to 85.

2. It is submitted by Ld. counsel appearing for the Petitioner(s) that the Appointed Date as per the Scheme is **01<sup>st</sup> April,2022**.
3. It is submitted by Ld. counsel appearing for the Petitioner(s) that the **Transferee Company / Petitioner No 5** is a **NBFC** Company duly registered with Reserve Bank of India and is holding a valid Certificate of Registration issued by the said Bank.
4. It is submitted by Ld. counsel appearing for the Petitioner(s) that the Board of Directors of the Petitioner Companies have at their respective meeting held on 01<sup>ST</sup>February,2023 have passed resolution adopting the proposed Scheme of Amalgamation. A copy of the Resolution passed by the Board of Directors of the Petitioner Companies are all collectively annexed to the Company Petition marked – **Annexure – L** in VOL III at Page No 480 to 489.

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- 5.** It is submitted by Ld. counsel appearing for the Petitioner(s) that the Valuation Report dated 10-01-2023 recommending the Swap Ratio has been prepared by CA MUKESH BANKA, IBBIRegistered Valuer. A copy of the said Report is annexed to the Company Petition marked – **Annexure – Q** in VOL IV at Page No 511 to 527.
- 6.** It is submitted by Ld. counsel appearing for the Petitioner(s) that the list of equity shareholders of the Petitioner Companies as on 30<sup>th</sup> September,2022 and 30<sup>th</sup> November,2022 duly certified by the statutory auditor of the Company are all collectively annexed to the Company Petition marked – **Annexure – N** in VOL IV at Page No 497 to 503.
- 7.** It is submitted by Ld. counsel appearing for the Petitioner(s) that NIL Secured Creditors of the Petitioner Transferor Companies as on 30<sup>th</sup> November,2022 duly certified by the statutory auditor of the Company are all collectively annexed to the Company Petition marked – **Annexure – O** in VOL IV at Page No 504 to 507.
- 8.** It is submitted by Ld. counsel appearing for the Petitioner(s) that NIL Unsecured Creditors of the Petitioner Transferor Companies as on 30<sup>th</sup> November,2022 duly certified by the statutory auditor of the Company are all collectively annexed to the Company Petition marked – **Annexure – O** in VOL IV at Page No 504 to 507.

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- 9.** It is submitted by Ld. counsel appearing for the Petitioner(s) that the list of secured Creditors of Petitioner No 5 as on 30<sup>th</sup> November,2022 duly certified by the statutory auditor of the Company is annexed to the Company Petition marked – **Annexure – P** in VOL IV at Page No 508.
- 10.** It is submitted by Ld. counsel appearing for the Petitioner(s) that the list of Unsecured Creditors of Petitioner No 5 as on 30<sup>th</sup> November,2022 duly certified by the statutory auditor of the Company is annexed to the Company Petition marked – **Annexure – P** in VOL IV at Page No 508 to 510.
- 11.** It is submitted by Ld. counsel appearing for the Petitioner(s) that the statutory auditors of the Petitioner Companies have by their certificate all dated 10-03-2023 confirmed that the Accounting Treatment proposed in the Scheme of Amalgamation is in conformity with the Accounting Standards as prescribed under Section 133 of the Companies Act, 2013 and Rules made there under. A copy of the said Certificate issued by Statutory Auditor of the Petitioner Companies are all collectivelyannexed to the Company Petition marked – **Annexure – R** in VOL IVat Page No 528to 537.
- 12.** It is submitted by Ld. counsel appearing for the Petitioner(s) that, the Petitioner(s) have the following classes of shareholders and creditors:-

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<b>PARTICULARS</b>	<b>EQUIT Y SHARE HOLDE RS 30-09- 2022</b>	<b>PREFER ENCE SHARE HOLDER S 30-09- 2022</b>	<b>SECURE D CREDIT ORS 30-11- 2022</b>	<b>UNSECU RED CREDITO RS 30-11- 2022</b>
TRANSFEROR COMPANY NO 1 / PETITIONER NO 1	4	NIL	NIL	NIL
TRANSFEROR COMPANY NO 2 / PETITIONER NO 2	11	NIL	NIL	NIL
TRANSFEROR COMPANY NO 3 / PETITIONER NO 3	2	NIL	NIL	NIL
TRANSFEROR COMPANY NO 4 / PETITIONER NO 4	2	NIL	NIL	NIL
TRANSFeree COMPANY / PETITIONER NO 5	11	NIL	3	13

**13.** It is submitted by Ld. counsel appearing for the Petitioner(s) that, by an order dated 22<sup>nd</sup> January, 2024, in Company Application No. C.A (CAA) NO. 198/KB/2023 this Tribunal made the following directions with regard to meetings of shareholders and creditors under Section 230(1) of the Act:-

**a. Meetings dispensed:**

**Equity Shareholders**

Meeting of Equity Shareholders of the Petitioner Companies for considering the Scheme are dispensed with in view of shareholder representing 100% in value of shares of Petitioner

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Companies having respectively given their consent to the Scheme by way of affidavits.

**Secured Creditors**

Meeting of Secured Creditors of Petitioner No 5 for considering the Scheme are dispensed with in view of consent by Secured Creditors representing 100% in value of Secured Debt of Petitioner No 5 having respectively given their consent to the Scheme by way of affidavits.

**Unsecured Creditors**

Meeting of Unsecured Creditors of Petitioner No 5 for considering the Scheme are dispensed with in view of consent by Unsecured Creditors representing 99.64% in value of Unsecured Debt of Petitioner No 5 having respectively given their consent to the Scheme by way of affidavits.

**b. No requirement of Meetings**

**Secured Creditors**

No requirement of Meeting of Secured Creditors of Petitioner No 1 to Petitioner No 4 – NIL Creditors duly verified by auditor's certificate.

**Unsecured Creditors**

No requirement of Meeting of Unsecured Creditors of Petitioner No 1 to Petitioner No 4 – NIL Creditors duly verified by auditor's certificate.



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**c. Meetings to be held**

No meetings are required to be held

**14.** The Petition has now come up for final hearing. Counsel for the Applicants submits as follows:-

- (a)** The circumstances which justify and/or have necessitated the Scheme and the benefits of the same are, inter alia, as follows:-
- a) The TRANSFEREE COMPANY is a Non-Banking Financial Company duly registered with the Reserve Bank of India and presently engaged in investing and financing activities. Apart from pursuing their main object, all the Transferor Companies have made deployment of funds in other investable instruments. The business of the TRANSFEROR COMPANIES and the TRANSFEREE COMPANY can be combined/ adjusted and carried forward conveniently with combined strength.
  - b) The amalgamation will enable the TRANSFEREE COMPANY to consolidate its line of business by restructuring and re-organizing its business activities and Capital Structure.
  - c) The amalgamation will enable the amalgamated company to broad base their business activities under the roof of the TRANSFEREE COMPANY.
  - d) The amalgamation will result in economy of scale including reduction in overhead expenses relating to management and administration in better and more productive utilization of various resources.

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- e) The business of the Transferor Companies can be conveniently and advantageously combined together and in general with the business of the Transferee Company concerned and will be carried on more economically and profitably under the said Scheme;
- f) The said Scheme of Amalgamation will enable the establishment of a larger company with larger resources and a larger capital base enabling further development of the business of the company concerned. The said scheme will also enable the undertakings and business of the said applicant company to obtain greater facilities possessed and enjoyed by one large company compared with a number of small Company for raising capital, securing and conducting trade on favorable terms and other benefits;
- g) The said scheme will contribute in furthering and fulfilling the objects of the Company concerned and, in the growth, and development of these businesses;
- h) The said scheme will strengthen and consolidate the position of the amalgamated company and will enable the amalgamated company to increase its profitability;
- i) The said scheme will enable the undertakings concerned to pool their resources and to expand their activities;
- j) The said scheme will enable the Companies concerned to rationalize and streamline their management, business and finances and to eliminate duplication of work to their common advantages.

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k) The said scheme will have beneficial results for the Companies concerned, their shareholders, employees and all concerned.

**15.** It is submitted by Ld. counsel appearing for the Petitioner(s) that there are no proceedings pending under Sections 210 to 227 of the Companies Act, 2013 against the Petitioner(s).

**16.** Consequently, the Petitioner(s) presented the instant petition for sanction of the Scheme. By an order dated 01<sup>ST</sup> March, 2024 the instant petition was admitted by this Tribunal and fixed for hearing on 17<sup>TH</sup> April,2023 upon issuance of notices to the Statutory / Sectoral Authorities and advertisement of date of hearing. In compliance with the said order dated 01<sup>ST</sup> March,2024 the Petitioner(s) have duly served such notices on the Regulatory Authorities as below:

NAME OF THE REGULATORY AUTHORITY	DATE OF SERVICE	AFFIDAVIT OF SERVICE	
		ANNEXURE NO	PAGE NO
<b>BY SPEED POST</b>			
Deputy Commissioner of Income Tax – Circle 1 / Patna	14-03-2024	C	20
Upon Registrar Of Companies, Patna	13-03-2024	F	41
Upon Official Liquidator , High Court Patna	13-03-2024	H	45
<b>THROUGH SPECIAL MESSENGER ( BY HAND DELIVERY)</b>			
Principal Commissioner of Income Tax - 1 / KOL	14-03-2024	C	19
Income Tax Officer – Ward 8(1) / KOL	14-03-2024	C	21
Income Tax Officer – Ward 2(1) / KOL	14-03-2024	C	22

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Income Tax Officer – Ward 2(1) / KOL	14-03-2024	C	23
Income Tax Officer – Ward 11(1)/ KOL	14-03-2024	C	24
Regional Director , Eastern Region , Ministry of Company Affairs	11-03-2024	D	34
Upon Registrar Of Companies, West Bengal	11-03-2024	E	38
Upon Reserve Bank of India	11-03-2024	G	44
Upon Official Liquidator , High Court Calcutta	11-03-2024	I	46
<b>BY ELECTRONIC MAIL</b>			
Principal Commissioner of Income Tax - 1 / KOL	05-04-2024	C	25
Income Tax Officer – Ward 11(1)/ KOL	05-04-2024	C	26 & 29
Income Tax Officer – Ward 2(1) / KOL	05-04-2024	C	27
Income Tax Officer – Ward 8(1) / KOL	05-04-2024	C	28 & 32 & 33
Income Tax Officer – Ward 2(1) / KOL	05-04-2024	C	30 & 31
Regional Director , Eastern Region , Ministry of Company Affairs	08-04-2024	D	35 to 37
Upon Registrar Of Companies, West Bengal	02-04-2024	E	39 to 40
Upon Registrar Of Companies, Patna	02-04-2024	F	42 to 43
<b>PAPER PUBLICATION OF NOTICE</b>			
Financial Express – In English	17-03-2024	B	15 to 16
AAjkal – In Bengali Translation	17-03-2024	B	17 to 18

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An affidavit duly affirmed on 08<sup>th</sup> April, 2024 has also been filed with the Registry.

- 17.** All statutory formalities requisite for obtaining sanction of the Scheme have been duly complied with by the Petitioners. The Scheme has been made bona fide and is in the interest of all concerned.
- 18.** Pursuant to the said advertisements and notices the Official Liquidator, High Court Calcutta and Official Liquidator, High Court Patna (OL), Regional Director, Ministry of Corporate Affairs, Kolkata (“RD”), have filed their representations before this Tribunal.
- 19.** The Official Liquidator, High Court , Calcutta has filed his report dated 04-04-2024 and concluded as under:-

**PARA 9**

That the Official Liquidator has not received any complaint against the proposed Scheme of Amalgamation from any person/party interested in the Scheme in any manner till the date of filing of this Report.

**PARA 11**

That the Official Liquidator on the basis of information submitted by the Petitioner Companies is of the view that the affairs of the aforesaid Transferor Company do not appear to have been conducted in a manner prejudicial to the interest of its members or to public interest as per the provisions of the Companies Act, 1956/the Companies Act, 2013 whichever is applicable.

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- 20.** The Official Liquidator, High Court , Patna has filed his report dated 10-03-2024 and concluded as under:-

**PARA 7**

That the Official Liquidator has not received any complaint against the proposed Scheme of Amalgamation from any person/party interested in the Scheme in any manner till the date of filing of this Report.

**PARA 9**

That the Official Liquidator on the basis of the Petition filed by the Petitioner Companies, has made the following observations:-

- a. That as per Financial Statement for the Financial Year, 2021-22, annexed with the petition, it appears that the Company is doing the principal business of Investment Company, which comes under NBFC activity and under the jurisdiction of the RBI. Though the Company is not registered with RBI it fulfill the criteria laid down by the RBI, which are as under:-
- (i) The financial income of the Company should be more than the 50% of the total income; and
  - (ii) The financial assets should be more than 50% of the total assets.

However, the Transferor Company No.2 is not registered with the RBI.

- 21.** It is submitted by Ld. counsel appearing for the Petitioner(s) in respect of observation made by the Official Liquidator Patna, the Reserve Bank of India vide their letter No.KOL.DOS.RSG.NO.S2587/99-06-002/2023-24 dated 02-01-2024 addressed to the Kamper Finance & Securities Private Limited have conveyed their no Objection to the

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Scheme after considering all facts and aspects based on documents furnished to them.

- 22.** The RD has filed his reply affidavit dated 8<sup>TH</sup> July, 2024 (“RD affidavit”) which has been dealt with by the Petitioner(s) by their Rejoinder affidavit dated 16<sup>th</sup> July, 2024 (“Rejoinder”). The observations of the RD and responses of the Petitioner(s) are summarized as under:-

**Paragraph 2 (a) of RD Affidavit**

That it is submitted that on the examination of report of the Registrar of Companies, West Bengal, it appears that no complaint and/or representation has been received against the proposed Scheme of Amalgamation. Further, all the petitioner companies are up-dated in filing their Financial Statements and Annual Returns for the financial year 31/03/2023. It is stated therein the Transferor Company namely Kamper Economy Services Private Limited is registered in the State of Bihar.

**Paragraph 2 (a) of the Rejoinder**

The Deponent has to say that no adverse comments made by the Registrar of Companies, West Bengal in his report to the Regional Director. Further the Registrar of Companies, West Bengal has not received any Complaint and / or representation from any person on the proposed Scheme. Hence no reply is made for the same.

**Paragraph 2 (b) of RD Affidavit**

The Appointed Date stated in the Scheme is 1st April 2022. In terms of the Circular no. 09/2019 dated 21.08.2019 of the Ministry of

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Corporate Affairs, "where the 'appointed date' is chosen as a specific calendar date, it may precede the date of filing of the application for scheme of merger/amalgamation in NCLT. However, if the appointed date is significantly ante dated beyond a year from the date of filing, the justification for the same would have to be specifically brought out in the scheme and it should not be against public interest" It is not ascertainable from the documents provided by the Applicant whether the application for the scheme was filed before Hon'ble Tribunal within a year from the said Appointed Date. If the application for the scheme was filed with Hon'ble Tribunal after more than one year from the appointed date, Hon'ble Tribunal may kindly direct the Applicant to bring out the justification for the Appointed Date being more than one year before the date of filing of the Application for the scheme, in accordance with the said Circular.

**Paragraph 2 (b) of the Rejoinder**

The Deponent duly authorised hereby submits that the Board of Directors of the Petitioner Companies have at their meeting held on 10th July,2024 have passed resolution for shifting of Appointed Date from 01st April,2022 to 01st April,2023. Copy of the resolution passed by the Board of Directors of the Petitioner Companies are all collectively annexed hereto and marked – ANNEXURE B.

**Paragraph 2 (c) of RD Affidavit**

It is submitted that the Petitioner Transferee Company namely M/s Kamper Finance & Securities Private Limited is registered with RBI as NBFC Companies. The Reserve Bank of India (RBI) by letter



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no.KOL.DOS.RSG.No.S2857 / 99-06-002/ 2023-24 dated 02.01.2024 addressed to the Board of Directors of M/s Kamper Finance & Securities Private Limited (Transferee Company) issued their "No Objection" to the proposed scheme of amalgamation. Further, in the said letter, the RBI has also stated that the said 'No Objection' is valid for six months from the date of issuance of that letter. (A copy of the said letter of RBI marked as Annexure-I is annexed herewith for kind perusal and ready reference).

**Paragraph 2 (c) of the Rejoinder**

The Deponent has to say that the Reserve Bank of India have vide their letter no. KOL.DOS.RSG.No.S2857 / 99-06-002/ 2023-24 dated 02.01.2024 have granted their NO OBJECTION to the proposed Scheme of Amalgamation . Copy of the said letter issued by the Reserve Bank of India is annexed and marked – ANNEXURE – C.

**Paragraph 2 (d) of RD Affidavit**

The Petitioner Companies should be directed to provide list/details of Assets, if any, to be transferred from the Transferor Companies to the Transferee Company upon sanctioning of the proposed Scheme.

**Paragraph 2 (d) of the Rejoinder**

The Deponent duly authorised hereby confirms that the Petitioner Transferee Company undertakes to file list / details of assets that will be transferred by the Transferor Company upon sanction and confirmation of the Scheme by the Hon'ble Tribunal.

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**Paragraph 2 (e) of RD Affidavit**

That the Petitioner company should undertake to comply with the provisions of section 232(3)(i) of the Companies Act, 2013 whenever applicable on each stage of consolidation of Authorized Share Capital of the respective Transferor Companies with the Transferee Company through appropriate affirmation.

**Paragraph 2 (e) of the Rejoinder**

The Deponent duly authorised hereby confirms that the Transferee Company undertakes that it shall comply with the provisions of Sec 232(3)(i) of the Companies Act, 2013 in regard to adjustment of fees upon clubbing of Authorized Share Capital of the Transferor Company with the Authorized Share Capital of the Transferee Company in post-amalgamation and shall file a detailed statement thereof with the Registrar of Companies at the time of filing of INC – 28.

**Paragraph 2 (f) of RD Affidavit**

That the Transferee Company should be directed to pay applicable stamp duty on the transfer of the immovable properties from the Transferor Companies to it.

**Paragraph 2 (f) of the Rejoinder**

The Deponent duly authorised hereby confirms that the Petitioner Transferee Company undertakes that it shall pay applicable stamp duty on the transfer of the immovable properties from the Transferor Companies to it.

**Paragraph 2 (g) of RD Affidavit**

The Hon'ble Tribunal may kindly direct the Petitioners to file an affidavit to the extent that the Scheme enclosed to the Company

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Application and Company Petition are one and same and there is no discrepancy or no change is made.

**Paragraph 2 (g) of the Rejoinder**

The Deponent duly authorised by the Petitioner Companies hereby affirms 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.

**Paragraph 2 (h) of RD Affidavit**

It is submitted that the Income Tax Department vide its letter No. IT0,W-8(1) / Kol / Amalgamation / 2023-24 / 279 dated 12.02.2024 stated that the jurisdiction of M/s Kamper Finance & Securities Private Limited lies with the jurisdiction of ITO, Ward-8(1), Kolkata and the Assessee Company has not submitted (1) Reason for Demerger, (2) Whether business operations of all the companies are in the same line or not, (3) Whether proposed demerger company is for the benefit of business or not. Accordingly, the Income tax Department has Objection against the proposed demerger. Copy of such letter of Income Tax Department marked as Annexure-II is enclosed herewith for perusal and ready reference.

**Paragraph 2 (h) of the Rejoinder**

The Deponent duly authorised by the Petitioner Companies hereby submits in respect of observation made by the IT0,W-8(1) / Kol / Amalgamation / 2023-24 / 279 dated 12.02.2024 stated that the Assessee company, Kamper Finance & Securities Private Limited that the

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- a. rational to the Scheme has already been mentioned in the Scheme.
- b. Further it is a Scheme of Amalgamation and not a Scheme of Arrangement as reported by him.
- c. The objection can be only with respect to outstanding demand, if any, and the outstanding amount of tax due has not mentioned.

The Income Tax authorities in respect of other Petitioner Companies have not made any observations on notice served by the office of the Regional Director.

Further the Petitioner Companies have also complied with the directions contained in the order passed by the Hon'ble Tribunal and have effected service upon the Income Tax Department. However the said department have not made/ filed observation pursuant to the said notices filed by the Petitioner Companies.

Heard submissions made by the Ld Counsel appearing for the Petitioner, submissions made by the RD, the report filed by OL, Kolkata and OL Patna, the documents submitted to and by the Reserve Bank of India. Upon perusing the records and documents in the instant proceedings and considering the submissions, we allow the petition and make the following orders:-

**SHIFTING OF APPOINTED DATE**

- a. The Appointed date stands shifted from 1st day of April, 2022 to **1st day of April, 2023** and the same wherever appearing in the Scheme will be read as 1st day of April, 2023.

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**SANCTION OF THE SCHEME**

- b.** The **Scheme of Amalgamation** mentioned in this Petition being **Annexure “A”** hereto be sanctioned by this Tribunal to be binding with effect from **1st day of April, 2023 ( upon shifting of Appointed Date )** on the Transferor Companies and the Transferee Company and their respective shareholders and all concerned;

**TRANSFER OF ASSETS**

- c.** All the properties, rights and interest of Agni Transport Private Limited, Kamper Economy Services Private Limited, Nhk Commodeal Private Limited And V S Minerals Private Limited be transferred to and vested in without further act or deed in **Kamper Finance & Securities Private Limited** and accordingly the same shall pursuant to Section 232 of the Companies Act, 2013 and read with Companies (Compromises, Arrangements and Amalgamation) Rules, 2016 be transferred to and vested in **Kamper Finance & Securities Private Limited** for all the estate and interest of **Agni Transport Private Limited, Kamper Economy Services Private Limited, Nhk Commodeal Private Limited And V S Minerals Private Limited** but subject nevertheless to all charges, now affecting the same;

**TRANSFER OF LIABILITIES**

- d.** All the liabilities and duties of Agni Transport Private Limited, Kamper Economy Services Private Limited, Nhk Commodeal Private Limited And V S Minerals Private Limited be transferred

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without further act or deed to **Kamper Finance & Securities Private Limited** and accordingly the same shall pursuant to Section 232 of the Companies Act, 2013 and read with Companies (Compromises, Arrangements and Amalgamation) Rules, 2016 be transferred to and become the liabilities and duties of **Kamper Finance & Securities Private Limited**;

**TRANSFER OF LEGAL PROCEEDINGS**

- e. In case of any default including any Provisions of the Income Tax Act in this respect of the Transferor Company the Income Tax Department, the Registrar of Companies, West Bengal, and all other Statutory Department shall be at liberty to initiate appropriate proceedings against the Transferee Company, which after the sanction of the scheme by this Tribunal is in any case responsible for the liabilities/non-compliance of the Transferor Companies also. The transferee company shall preserve all the records of the transferor companies as per the requirement of the Companies Act, 2013, in this regard.

With effect from the Appointed Date and up to and including the Effective Date, all legal, arbitration, active charges and tax assessment proceedings/appeals of whatsoever nature by or against the Transferor Companies pending and/or arising on or after the Appointed Date shall be continued and/or enforced by or against the Transferee Company. Any Compounding/ Penalties/ Liabilities/ Taxes/Active Charges required to be done on behalf of the Transferor Companies for any violation of the Companies Act,

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2013 shall be the responsibility of the Transferee Company. The Transferee Company shall also preserve the necessary records in respect of any such pending proceedings, at least till the culmination of such proceedings. To fortify our view, we would rely upon the judgment passed by the Hon'ble Apex Court in **Religare Finvest Limited vs. State of NCT of Delhi** reported in **AIR 2023 SC 4537**: MANU/SC/1004/2023, where the ratio laid down in **Saraswati Industrial Syndicate Ltd. v. CIT, Haryana, H.P. & Delhi** reported in MANU/SC/0584/1990: 1990 Supp (1) SCR 332, was discussed as

*“The true effect and character of the amalgamation largely depends on the terms and scheme of merger but there cannot be any doubt that when two companies amalgamate and merge into one the transferor company loses its entity as it ceases to have its business. However, their respective rights or liabilities are determined under the scheme of amalgamation but the corporate entity of the transferor company ceases to exist with effect from the date the amalgamation is made effective.”*

**(Emphasis Added)**

**ALLOTMENT OF SHARES**

- f. The Transferee Company do issue and allot shares to the shareholders of the Transferor Companies as envisaged in the said Scheme of Amalgamation and for that, if necessary, to increase the authorized share capital;

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**FILING SCHEDULE OF ASSETS & LIABILITIES**

- g.** The schedule of Assets and Liabilities in respect of Agni Transport Private Limited, Kamper Economy Services Private Limited, Nhk Commodeal Private Limited And V S Minerals Private Limited be filed within a period of 60 days from the date of the order to be made herein;

**DISSOLUTION OF TRANSFEROR COMPANIES**

- h.** The Transferor Companies namely Agni Transport Private Limited, Kamper Economy Services Private Limited, Nhk Commodeal Private Limited And V S Minerals Private Limited shall stand dissolved from the effective date.

**FILING OF CERTIFIED COPY**

- i.** **Kamper Finance & Securities Private Limited, Agni Transport Private Limited, Nhk Commodeal Private Limited And V S Minerals Private Limited** shall within 30 days after the date of obtaining the certified copy of the order to be made herein cause certified copies of this order to be delivered to the Registrar of Companies, West Bengal for registration respectively;
- j.** Any person interested be at liberty to apply to this Tribunal in the above matter for any direction that may be necessary.

- 23.** The Petitioner(s) shall supply legible print out of the scheme and schedule of assets and liabilities in acceptable form to the department



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and the department will append such printout, upon verification to the certified copy of the order.

- 24.** The Company Petition **C.P (CAA) No. 41 / KB / 2024** connected with Company Application **C.A(CAA) NO 198 / KB /2023** is disposed of accordingly.
- 25.** Urgent certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

**D. Arvind  
Member (Technical)**

**Bidisha Banerjee  
Member (Judicial)**

**This order is signed on this, the 24<sup>th</sup> day of July, 2024.**

Oindrila, K. (LRA)