

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH : C-IV

C.P.(CAA)/89/MB/2024
c/w C.A.(CAA)/07/MB/2024

In the matter of
Sections 230 to 232 of the Companies Act, 2013
and other applicable provisions of the Companies
Act, 2013

AND

In the matter of
Scheme of Amalgamation of

Karza Technologies Private Limited
[Transferor Company /
Petitioner Company-1]

with

Perfios Software Solutions Private Limited
[Transferee Company /
Petitioner Company-2]

and

their respective shareholders.

Karza Technologies Private Limited
[CIN: U74120MH2015PTC265316]

... Petitioner Company-1/
Transferor Company

Perfios Software Solutions Private Limited
[CIN: U72200MH2008PTC404503]

... Petitioner Company-2/
Transferee Company

(Hereinafter collectively referred to as 'the Applicant Companies')

Order pronounced on: **12.07.2024**

Coram:

Ms. Anu Jagmohan Singh
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances:

For the Petitioners

: Mr. Haabil Vahanvaty a/w,
Mr. Peshwan Jehangir, Mr. Mehul
Shah, Mr. Aman Yagnik,
Mr. Amit Panwar, Mr. Deeshank
Doshi i/b Khaitan & Co., Advocates.

For the Regional Director (VC)

: Mr. Tushar Wagh, Representative
of the Regional Director, MCA (WR),
Mumbai.

ORDER

1. This is a Company Scheme Petition filed on 02.05.2024 under Sections 230 to 232 of the Companies Act, 2013 seeking sanction of the Tribunal to the Scheme of Amalgamation of **Karza Technologies Private Limited** (Petitioner Company-1) with **Perfios Software Solutions Private Limited** (Petitioner Company-2) and their respective shareholders.
2. The Petitioner Companies submit that the Board of Directors of the Petitioner Companies have approved the Scheme in their Board Meetings held on 15.06.2023 and 14.06.2023 respectively. The Appointed Date is **01.04.2023**.
3. The Petitioner Companies further submit that the present Company Petition has been filed in consonance with the Order dated 28.04.2024

passed in C.A.(CAA)/07/MB/2024 by this Tribunal.

4. The Petitioner Companies further submits that the Transferor Company was incorporated on 8th June, 2015 under the provisions of the Act. The Transferor Company is engaged in the business of providing software solutions. The Transferor Company is a wholly owned subsidiary of the Transferee Company. The Transferee Company was incorporated on 29th May, 2008 under the provisions of the Companies Act, 1956. The Transferee Company is engaged in the business of FinTech space enabling financial institutions in real time decisioning, analysis and credit underwriting and also assists in banks statement analysis (APIs and portal), e-verification, financial analysis, fraud check, Form 26AS, ITR, PAN, personal finance management APIs, InteGreat for lending solutions, etc.

5. ***Rationale:***

The Petitioner Companies submit that the circumstances and grounds that have necessitated the Scheme and some of the major benefits which would accrue from this Scheme of Amalgamation of Karza Technologies Private Limited with Perfios Software Solutions Private Limited, are stated below:

a) *In March 2022, the Transferee Company had acquired 100% shares of the Transferor Company. In order to derive further synergies of businesses and as part of overall acquisition strategy, the Transferee Company is now desirous of*

consolidating the assets and liabilities of the Transferor Company pursuant to amalgamation.

- b) *The Scheme will result in the following benefits:*
- (i) the proposed consolidation will bring the entire value chain of the Transferor Company under one umbrella, deriving benefit out of combined resources, better synergies, optimal utilisation of resources, greater economies of scale and operating efficiencies;*
 - (ii) acquisition of various intangible assets including, technology, customer contracts/ relationships, assembled/ trained workforce and other intangibles by the Transferee Company;*
 - (iii) more efficient utilization of capital for enhanced development and growth of the consolidated business under a single entity;*
 - (iv) enable opportunities for employees of the parties to grow, by bringing them into a common pool; and*
 - (v) elimination of multiple entities, legal and regulatory compliances and reduction of administrative costs.*
- c) *The Scheme is in the best interests of the Transferor Company and the Transferee Company and their stakeholders."*

6. The meetings of the shareholders and the creditors of the Petitioner Companies were dispensed with vide Order dated 28.04.2024 passed in C.A.(CAA)/07/MB/2024.

7. The Counsel for the Petitioner Companies submits that the Petitioner Companies have complied with all requirements as per directions of this Tribunal vide order dated 28.04.2024 in C.P(CAA)/07/MB/2024 and they have filed necessary affidavits of compliance in this Tribunal. Moreover,

the Petitioner Companies undertake to comply with all statutory / regulatory requirements, if and to the extent applicable, as may be required under the Companies Act, 2013 and the Rules made thereunder to give effect to the Scheme.

8. Consideration:

The Petitioner Companies submit that the consideration for the amalgamation of the Transferor Company with the Transferee Company as mentioned in Clause 8 of the Scheme is as under:

“The Transferor Company is a wholly owned subsidiary of Transferee Company and therefore there shall be no issue of shares as consideration for the amalgamation of the Transferor Company with the Transferee Company.”

9. Heard the Counsel for the Petitioner Companies and the Representative of the Regional Director, Western Region, Ministry of Corporate Affairs, Mumbai. No objector has come before this Tribunal to oppose the Scheme and nor has any party controverted any averments made in the Petition to the Scheme.

10. The Regional Director (Western Region), Ministry of Corporate Affairs, Mumbai, has filed its Report dated 18.06.2024. In response to the observation made by the RD in the said report, the Petitioner Companies have filed a reply in Affidavit in rejoinder on 19.06.2024 and have given necessary clarifications and undertakings. The observations made by the Regional Director and the clarifications and undertakings given by the Petitioner Companies are summarized in the table below:-

Sr no	Observation in the RD Report filed by the Regional Director	Reply of Petitioner Companies
a)	<p><i>In compliance of AS-14 or IND AS - 103, the Transferor Company and the Transferee Company shall pass such accounting entries which are necessary in connection with the scheme to comply with other applicable Accounting Standards such as AS – 5 (IND AS – 8) etc.</i></p>	<p>As far as the observation made in Paragraph 2(a) of the Report of the Regional Director is concerned, the Petitioner Companies state that, the Transferee Company undertakes to pass such accounting entries which are necessary in connection with the Scheme to comply with applicable Accounting Standards such as IND AS - 103 and other accounting standards, as may be applicable.</p>
b)	<p><i>As per Definitions of the Scheme, “Appointed Date” means the opening business hours of 1st April 2023 or such other date as may be decided by the Board of the parties</i></p> <p><i>“Effective Date” means the date on which the certified copies of the orders of Tribunal sanctioning this Scheme, is filed by the respective Parties with the jurisdictional RoC.</i></p> <p><i>In this regard, it is submitted that Section 232(6) of the Companies Act, 2013 states that the scheme under this section shall clearly indicate an appointed date from which it shall be effective, and the scheme shall be deemed to be effective from such date and not a date subsequent to the appointed date. However, this aspect may be decided by the Hon’ble Tribunal taking into account its inherent powers.</i></p>	<p>As far as the observation made in Paragraph 2(b) of the Report of the Regional Director is concerned, the Petitioner Companies state that, the Appointed Date as defined in the Scheme means the opening business hours of 1st April, 2023 or such other date as may be decided by the Board of the Petitioner Companies.</p> <p>The Effective Date as defined in the Scheme means the date on which the certified copies of the orders of Tribunal sanctioning this Scheme, is filed by the respective Parties with the jurisdictional RoC.</p> <p>In terms of Section 232(6) of the Act, the said Appointed Date has been clearly mentioned in the Scheme.</p>

Sr no	Observation in the RD Report filed by the Regional Director	Reply of Petitioner Companies
	<p><i>The Transferor Company and the Transferee Company may be asked to comply with the requirements as clarified vide circular no. F. No. 7/12/2019/CL-I dated 21.08.2019 issued by the Ministry of Corporate Affairs.</i></p>	<p>Further, Circular No. F.No.7/12/2019/CL-I dated 21st August 2019 issued by Ministry of Corporate Affairs (“MCA Circular”) states that, in terms of Section 232(6) of the Act, the Scheme shall be deemed to be effective from the ‘appointed date’ and not a date subsequent to the ‘appointed date’. Further, the MCA Circular permits the Petitioner Companies to decide and agree upon an ‘appointed date’ from which the Scheme shall come into force and permits the Petitioner Companies to choose and state an ‘appointed date’ in the Scheme. This appointed date may be a specific calendar date or may be tied to the occurrence of an event. The Petitioner Companies have agreed to choose 1st April, 2023 as the Appointed Date for the Scheme. Therefore, the Petitioner Companies humbly submit that, the Scheme is in compliance with the requirements specified in Section 232(6) of the Act and the MCA Circular.</p>
c)	<p><i>The Transferor Company and the Transferee Company have to undertake to comply with the provisions of section 232(3)(i) of the Companies Act, 2013, where the transferor company is dissolved, the fee and stamp duty paid by the transferor company on its authorized capital shall be set-off against fees</i></p>	<p>As far as the observation made in Paragraph 2(c) of the Report of the Regional Director is concerned, the Petitioner Companies state that, in terms of Section 232(3)(i) of the Act where the transferor company is dissolved, the fee paid by the transferor company on its authorised capital shall be set-off against any</p>

Sr no	Observation in the RD Report filed by the Regional Director	Reply of Petitioner Companies
	<p><i>and stamp duty payable by the transferee company on its authorized capital subsequent to the amalgamation and therefore, petitioners to undertake that the transferee company shall pay the difference of fees and stamp duty.</i></p>	<p>fees payable by the transferee company on its authorised capital subsequent to the amalgamation. Further, the Petitioner Companies state that, in terms of Clause 11 of the Scheme, the authorised share capital of the Transferor Company will be combined with the authorised share capital of the Transferee Company in the manner provided in the Scheme and the Petitioner Companies will comply with the provisions of Section 232(3)(i) of the Act to the extent applicable.</p>
d)	<p><i>The Hon'ble Tribunal may kindly seek the undertaking that this Scheme is approved by the requisite majority of members and creditors as per Section 230(6) of the Act in meeting duly held in terms of Section 230(1) read with 7 subsection (3) to (5) of Section 230 of the Act and the Minutes thereof are duly placed before the Tribunal.</i></p>	<p>The Petitioner Companies state that, the captioned Company Scheme Application filed by the Petitioner Companies have been allowed by the Hon'ble Tribunal vide its order dated April 28, 2024 ("said Order").</p> <p>In terms of the said Order, inter alia, the Hon'ble Tribunal directed the following:</p> <ol style="list-style-type: none"><li data-bbox="943 1462 1544 1832">1. The meetings of equity shareholders and preference shareholders of the Transferor Company, for the purpose of approving the proposed Scheme, were dispensed in view of consent affidavits provided by all the equity and preference shareholders of the Transferor Company.<li data-bbox="943 1883 1544 1986">2. As the Transferor Company did not have any secured and unsecured creditors, the

Sr no	Observation in the RD Report filed by the Regional Director	Reply of Petitioner Companies
		<p>question of convening and holding meeting of the secured and unsecured creditors did not arise.</p> <p>3. The meeting of the equity shareholders, preference shareholders, secured creditors and unsecured creditors of the Transferee Company were dispensed and directed to issue notice to all equity shareholders, preference shareholders, secured creditors and unsecured creditors with a direction that they may submit their representations, if any to the Tribunal within 30 days of receipt of such notice. Further, The Transferee Company states that there were no Secured Creditors at the time of issuing notices.</p> <p>In compliance with applicable provisions of Sections 230 to 232 and other applicable provisions of the Companies Act, 2013, the Petitioner Companies have filed Affidavit of Service with the Hon'ble Tribunal on May 2, 2024.</p>
e)	<i>The Transferee Company shall be in compliance with provisions of Section 2(1B) of the Income Tax Act, 1961. In this regards, the Transferor company and the Transferee company shall ensure compliance of all the provisions of</i>	The Petitioner Companies state that, the Scheme is in compliance with Section 2(1B) of the Income-tax Act, 1961 and the Transferee Company will comply with provisions of Section 2(1B) and other

Sr no	Observation in the RD Report filed by the Regional Director	Reply of Petitioner Companies
	<i>Income Tax Act and Rules thereunder;</i>	applicable provisions of the Income-tax Act, 1961 and rules thereunder.
f)	<i>The Hon'ble Tribunal may kindly direct the Transferor Company and the Transferee Company 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 changes made</i>	As far as the observation made in Paragraph 2(f) of the Report of the Regional Director is concerned, the Petitioner Companies confirm that, the Scheme enclosed to the Company Scheme Application and Company Scheme Petition are one and the same and there is no discrepancy / change made.
g)	<i>The Transferor Company and the Transferee Company shall be directed u/s 230(5) of the Companies Act 2013 have to serve notices to concerned authorities which are likely to be affected by the amalgamation or arrangement. Further, the approval of the scheme by the Hon'ble Tribunal may not deter such authorities to deal with any of the issues arising after giving effect to the scheme. The decision of such authorities shall be binding on the Transferor Company and the Transferee Company.</i>	As far as the observation made in Paragraph 2(g) of the Report of the Regional Director is concerned, the Petitioner Companies states that notices have been issued to the concerned authorities under Section 230(5) of the Act through email, Registered Post with Acknowledge Due and hand delivery. The Affidavit of Service dated May 2, 2024 evidencing service of notices upon concerned authorities has been filed before this Hon'ble Tribunal in that regard. The Petitioner Companies confirm that the sanction of the Scheme will not prevent the authorities from making any decisions, as per law and any such decision of such authorities if taken, will be dealt with as per law.
h)	<i>The Transferor Company and the Transferee Company shall undertake to comply with the directions of the concerned sectoral Regulatory,</i>	As far as the observation made in Paragraph 2(h) of the Report of the Regional Director is concerned, the Petitioner Companies state

Sr no	Observation in the RD Report filed by the Regional Director	Reply of Petitioner Companies								
	<i>if so required</i>	that, the Transferor Company and the Transferee Company do not have any sectoral regulators.								
i)	<i>The Transferor Company and the Transferee Company shall undertake to comply with the directions of I.T department and GST Department, if any</i>	As far as the observation made in Paragraph 2(i) of the Report of the Regional Director is concerned, the Petitioner Companies undertake to comply with the directions of the Income Tax Authorities concerned in accordance with applicable law.								
j)	<p><i>It is observed from latest MGT – 7 filed for the year ending 31.03.2023 that the Transferor Company and Transferee Company have the following corporate body shareholders having more than 10% shareholding, but the Transferor Company and the Transferee Company has not filed for BEN – 2 with the respective RoC:</i></p> <table border="1" data-bbox="272 1312 882 1977"> <thead> <tr> <th data-bbox="272 1312 448 1588"><i>Name of the Company</i></th> <th data-bbox="448 1312 632 1588"><i>Name of the shareholders</i></th> <th data-bbox="632 1312 764 1588"><i>Percent age of shareholding (%)</i></th> <th data-bbox="764 1312 882 1588"><i>Status of BEN – 2</i></th> </tr> </thead> <tbody> <tr> <td data-bbox="272 1588 448 1977"><i>Karza Technologies Private Limited (Transferor Company)</i></td> <td data-bbox="448 1588 632 1977"><i>Perfios Software Solutions Private Limited</i></td> <td data-bbox="632 1588 764 1977"><i>100</i></td> <td data-bbox="764 1588 882 1977"><i>Not filed</i></td> </tr> </tbody> </table>	<i>Name of the Company</i>	<i>Name of the shareholders</i>	<i>Percent age of shareholding (%)</i>	<i>Status of BEN – 2</i>	<i>Karza Technologies Private Limited (Transferor Company)</i>	<i>Perfios Software Solutions Private Limited</i>	<i>100</i>	<i>Not filed</i>	<p>i. The Transferor Company is a wholly-owned subsidiary of the Transferee Company. Further, as per Rule 8(b) of Companies (Significant Beneficial Owner) Rules, 2018, a company is exempted from filing Form BEN-2 if its holding company has already filed Form BEN - 2 with the Registrar of Companies. In this regard, the Transferee Company has filed Form BEN - 2 with the Registrar of Companies on December 24, 2019 with SBO ID SB00001030 and later change in holding of Beneficial Interest on March 13, 2020, April 25, 2022, November 17, 2023 and May 13, 2024.</p> <p>The Transferee Company states that it has received confirmation from Bessemer India Capital Holdings II Ltd that no individual natural person owns or is entitled to more than 10% of the shares or capital or profits or</p>
<i>Name of the Company</i>	<i>Name of the shareholders</i>	<i>Percent age of shareholding (%)</i>	<i>Status of BEN – 2</i>							
<i>Karza Technologies Private Limited (Transferor Company)</i>	<i>Perfios Software Solutions Private Limited</i>	<i>100</i>	<i>Not filed</i>							

Sr no	Observation in the RD Report filed by the Regional Director				Reply of Petitioner Companies
	<p><i>Perfios Software Solutions Private Limited (Transferee Company)</i></p>	<p><i>Bessemer India Capital Holdings II Ltd.</i></p>	<p>15.70</p>	<p><i>Not filed</i></p>	<p>has the right to appoint majority of the directors or to control the management. Accordingly, in accordance with Rule 3 and Rule 4 read with Rule 2(h) of the Companies (Significant Beneficial Owners) Rules, 2018, filing of form BEN-2 was not applicable. However, the Transferee Company undertake to comply with the provisions of Section 90 of the Companies Act, 2013 read with the Companies (Significant Beneficial Owners) Rules, 2018, amended from time to time, if applicable and make necessary filing with the Registrar of Companies, as may be applicable.</p>
k)	<p><i>In the Balance Sheet of the Transferor Company and Transferee Company as on 31st March, 2023, Security Premium of Rs. 7,13,88,44,000/- and Rs. 50,02,68,000/- respectively is showing.</i></p> <p><i>In view of the above, if agreed, Hon'ble NCLT may direct the petitioners to clarify that Income Tax Department has properly assessed the increase of share capital from time to time u/s. 68 of the Income Tax Act, 1961 and payment of Income Tax by existing shareholders, if they have purchased shares at lower price than issued price from above allottees or seek the reply from Income tax department about issue of shares at high premium.</i></p>				<p>As far as the observation made in Paragraph 2(k) of the Report of the Regional Director is concerned, the Transferor Company and the Transferee Company states that, no proceedings were initiated or are pending under section 68 of the Income Tax Act, 1961 for the financial years in which the shares were issued at premium.</p> <p>Further, the Petitioner Companies states that the notices were served to concerned assessing officer of Income tax and Nodal Officer of Mumbai and Bangalore.</p> <p>The Income Tax Authority concerned of the</p>

Sr no	Observation in the RD Report filed by the Regional Director	Reply of Petitioner Companies
	<p><i>It is further submitted that CBDT vide circular dated 17.03.2023 appointed the following nodal officer for income tax department for the Region of Mumbai & Goa, which is as follow:-</i></p> <p style="text-align: center;"><i>Pr. CCIT, Mumbai</i> <i>Address:- 3rd Floor, Aayakar Bhawan,</i> <i>Maharishi Karve Road,</i> <i>Mumbai – 400 020</i> <i>Phone No. 022 – 22017654</i> <i>Email: Mumbai.pccit@incometax.gov.in</i></p>	<p>Transferor Company has filed its representation letter on the Scheme with the Tribunal. The Income Tax Authority concerned of the Transferor Company has not raised any objections to the Scheme. However, a demand of INR 6,290/- is outstanding by the Transferor Company for AY 2022 – 23. The Transferor Company has also filed an affidavit dated June 7, 2024, placing on record the representation letter issued by the said Income Tax Authority along with the payment challan confirming payment of outstanding demand of INR 6,290/- by the Transferor Company.</p> <p>No representations have been received from the Income tax department for the Transferee Company. The Transferee Company submits that if there are any outstanding demands and/or any pending proceedings against the Transferee Company, the same shall be dealt by Transferee Company in accordance with applicable law.</p>
1)	<p><i>That on examination of the report of the Registrar of Companies, Mumbai dated 21.05.2024 (Annexed as Annexure A-1) that all the Petitioner Companies fall within the Jurisdiction of ROC, Mumbai. It is submitted that no compliant and / or representation regarding the proposed scheme of Amalgamation has been</i></p>	<p>As far as the observation made in Paragraph 2(1) of the Report of the Regional Director is concerned, the Petitioner Companies state that the said observation of the Registrar of Companies, Maharashtra, Ministry of Corporate Affairs (“Registrar of Companies”), is factual in nature.</p>

Sr no	Observation in the RD Report filed by the Regional Director	Reply of Petitioner Companies
	<p><i>received against the Petitioner Companies. Further, the petitioner companies have filed Financial Statements up to 31.03.2023. The observations in ROC report are as under:</i></p> <p><i>i. That the ROC Mumbai in his report dated 21.05.2024 has stated that no Inquiry, investigations, inspections & prosecutions is pending against the subject applicant companies.</i></p> <p><i>ii. Transferor Company has Two open charges.</i></p>	<p>As far as the observation made in Paragraph 2(1)(i) of the Report of the Regional Director is concerned, the Petitioner Companies state that the said observation of the Registrar of Companies, is factual in nature.</p> <p>As far as the observation made in Paragraph 2(1)(ii) of the Report of the Regional Director is concerned, the Transferor Company states that there are no Secured Creditors in the Transferor Company. The same is evident from C.A.(CAA)/7(MB)/2024 order passed by this Hon'ble Tribunal. There are only two Charges that are open as per MCA Portal for the Transferor Company, which relates to corporate credit card facilities for an amount of Rs.50,00,000/- and Rs. 5,00,000/- used in the ordinary course of business and are duly secured by adequate value of fixed deposits being created for the same. The Transferor Company further states that the said charges do not pertain to any secured loan and thereby the Transferor Company does not have any Secured Creditors. Without prejudice to the above-mentioned</p>

Sr no	Observation in the RD Report filed by the Regional Director	Reply of Petitioner Companies								
	<p>iii. <i>As per MCA Master data Authorized and Paid Share Capital of the Transferee company does not match with Scheme</i></p>	<p>contentions, the Transferor Company submits / undertakes that it would be paid off as per contractual arrangements in the ordinary course of business / within due date.</p> <p>As far as the observation made in Paragraph 2(1)(iii) of the Report of the Regional Director is concerned, the Transferee Company state that, the details of share capital in the Scheme are as on the Board approving the Scheme i.e. June 14, 2023 whereas the Master Data shows the current position of the share capital basis the filings made by the Transferee Company.</p> <p>The reconciliation between the authorised share capital and issued, subscribed and paid-up share capital of the Transferee Company as per Scheme and as per Master data is as below:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">Authorized Share Capital</th> <th style="text-align: center;">Amount in INR</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">As per Scheme</td> <td style="text-align: center;">64,97,20,694</td> </tr> <tr> <td>Add: 53,558 Series D 0.01% compulsory convertible preference shares of INR 10 each</td> <td style="text-align: center;">5,35,580</td> </tr> <tr> <td>Add: 39,860 0.01% Series D1 Compulsorily Convertible Preference Shares of INR 10 each</td> <td style="text-align: center;">3,98,600</td> </tr> </tbody> </table>	Authorized Share Capital	Amount in INR	As per Scheme	64,97,20,694	Add: 53,558 Series D 0.01% compulsory convertible preference shares of INR 10 each	5,35,580	Add: 39,860 0.01% Series D1 Compulsorily Convertible Preference Shares of INR 10 each	3,98,600
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Sr no	Observation in the RD Report filed by the Regional Director	Reply of Petitioner Companies													
		TOTAL	65,06,54,874												
		As per Master Data	65,06,54,874												
		<u>Issued and subscribed and paid-up share capital</u>													
		<table border="1"> <thead> <tr> <th data-bbox="943 797 1249 842">Particulars</th> <th data-bbox="1249 797 1530 842">Amount in INR</th> </tr> </thead> <tbody> <tr> <td data-bbox="943 842 1249 913">As per Scheme</td> <td data-bbox="1249 842 1530 913">63,83,43,298</td> </tr> <tr> <td data-bbox="943 913 1249 1211"> <u>Add:</u> Allotment of 1,21,000 0.01% Series D Compulsorily Convertible Preference Shares of INR 10 each </td> <td data-bbox="1249 913 1530 1211">12,10,000</td> </tr> <tr> <td data-bbox="943 1211 1249 1532"> <u>Add:</u> Allotment of 39,860 0.01% Series D1 Compulsorily Convertible Preference Shares of INR 10 each </td> <td data-bbox="1249 1211 1530 1532">3,98,600</td> </tr> <tr> <td data-bbox="943 1532 1249 1603">TOTAL</td> <td data-bbox="1249 1532 1530 1603">63,99,51,898</td> </tr> <tr> <td data-bbox="943 1603 1249 1644">As per Master data</td> <td data-bbox="1249 1603 1530 1644">63,99,51,898</td> </tr> </tbody> </table>		Particulars	Amount in INR	As per Scheme	63,83,43,298	<u>Add:</u> Allotment of 1,21,000 0.01% Series D Compulsorily Convertible Preference Shares of INR 10 each	12,10,000	<u>Add:</u> Allotment of 39,860 0.01% Series D1 Compulsorily Convertible Preference Shares of INR 10 each	3,98,600	TOTAL	63,99,51,898	As per Master data	63,99,51,898
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As per Master data	63,99,51,898														
		<p>The copy of the Form SH – 7 for increase in authorised share capital and Form PAS – 3 for allotment of shares, filed by the Transferee Company are enclosed and marked as <u>Annexure – “A”</u> & <u>Annexure – “B”</u> respectively to the affidavit in rejoinder dated June 19, 2024. Further, the Transferee</p>													

Sr no	Observation in the RD Report filed by the Regional Director	Reply of Petitioner Companies
	<p>iv. <i>As per the provisions of Section 232(3)(i) of the Companies Act, 2013, where the transferor Company is dissolved, the fee, if any, paid by the transferor Company on its authorized capital shall be set-off against any fees payable by the Transferee company on its authorized capital subsequent to the amalgamation. Therefore, remaining fee, if any after setting-off the fees already paid by the transferee company on the increased authorized capital subsequent to the amalgamation.</i></p> <p>v. <i>Necessary Stamp Duty on transfer of property / Assets is to be paid to the respective Authorities before implementation of the Scheme</i></p> <p>vi. <i>May be decided on its merit.</i></p>	<p>Company will continue to remain in existence post effectiveness of the Scheme.</p> <p>As far as the observation made in Paragraph 2(1)(iv) of the Report of the Regional Director is concerned, the Petitioner Companies state that, in terms of Section 232(3)(i) of the Act where the transferor company is dissolved, the fee paid by the transferor company on its authorised capital shall be set-off against any fees payable by the transferee company on its authorised capital subsequent to the amalgamation. Further, the Petitioner Companies state that, in terms of Clause 11 of the Scheme, the authorised share capital of the Transferor Company will be combined with the authorised share capital of the Transferee Company in the manner provided in the Scheme and the Petitioner Companies will comply with the provisions of Section 232(3)(i) of the Act to the extent applicable.</p> <p>As far as the observation made in Paragraph 2(1)(v) of the Report of the Regional Director is concerned, the Transferee Company submit that they will pay requisite / necessary stamp duty, as applicable.</p> <p>As far as the observation made in Paragraph 2(1)(vi) of the Report of the Regional</p>

Sr no	Observation in the RD Report filed by the Regional Director	Reply of Petitioner Companies
		Director is concerned, the Petitioner Companies state that the said observation of the Registrar of Companies, is factual in nature.

11. The observations made by the Regional Director (RD), Western Region, Mumbai are enlisted hereinabove together with response of the Petitioner Company on the observations of the RD, which is also filed vide affidavit of the Petitioner Company. Mr. Tushar Wagh, Ld. Authorised Representative of the Regional Director during the course of final hearing submitted that they have no further objection to the Scheme.

12. The Official Liquidator has filed his report on 12.06.2024, inter alia stating therein the observations on the Scheme as stated in paragraph 5 and 6 of the said Report. In response to the observations made by the Official Liquidator, the Petitioner Companies have filed a reply in Affidavit cum rejoinder on 19.06.2024 and have given necessary clarifications and undertakings. The observations made by the Official Liquidator and the clarifications and undertakings given by the Petitioner Companies are summarized in the table below:

Sr no	Observation in the OL Report filed by the Official Liquidator	Reply of the Transferor Company
5)	<i>With reference to clause No. 11.1 of the scheme it is stated that such clause overrides the provision of the Companies Act, 2013 namely Section</i>	The Transferor Company states that, in terms of Section 232(3)(i) of the Companies Act, 2013 (“Act”) where the transferor company is dissolved, the fee paid by the

Sr no	Observation in the OL Report filed by the Official Liquidator	Reply of the Transferor Company
	<p><i>232(3)(i) which inter-alia provides that, 'if a company is dissolved the fee paid by such company on its Authorised Capital shall be set off against any fees payable by the transferee company on its Authorised Capital Hon'ble Tribunal may be pleased to direct Transferee Company to pay differential amount, if any, after setting off fees already paid by the Transferor Company.</i></p>	<p>transferor company on its authorised capital shall be set-off against any fees payable by the transferee company on its authorised capital subsequent to the amalgamation.</p> <p>The Transferor Company states that, in terms of Clause 11 of the Scheme, the authorised share capital of the Transferor Company will be combined with the authorised share capital of the Transferee Company in the manner provided in the Scheme and the Petitioner Companies will comply with the provisions of Section 232(3)(i) of the Act to the extent applicable.</p> <p>In view of the aforesaid, Clause 11 of the Scheme is in accordance with Section 232(3)(i) of the Act and does not override the provisions of Section 232(3)(i) of the Act.</p>
6)	<p><i>Hon'ble Tribunal order dated 28.03.2024 vide paragraph No. 13 have recorded that the Karza Technologies Private Limited (Transferor Company) does not have any Secured Creditor. However, from the company's master data on MCA21 portal there are two open charges amounting to Rs.50,00,000/- and Rs.5,00,000/-. A copy of master data of</i></p>	<p>The Transferor Company states that there are no Secured Creditors in the Transferor Company. The same is evident from C.A.(CAA)/7(MB)/2024 order passed by this Hon'ble Tribunal. There are only two Charges that are open as per MCA Portal for the Transferor Company, which relates to corporate credit card facilities for an amount of Rs.50,00,000/- and Rs. 5,00,000/- used in the ordinary course of business and are duly</p>

Sr no	Observation in the OL Report filed by the Official Liquidator	Reply of the Transferor Company
	<i>Transferor Company as available on the MCA21 portal is annexed hereto and marked as Annexure 'A'. Hon'ble Tribunal may be pleased to require the Transferor Company to explain in this respect.</i>	secured by adequate value of fixed deposits being created for the same. The Transferor Company further states that the said charges do not pertain to any secured loan and thereby the Transferor Company does not have any Secured Creditors. Without prejudice to the above-mentioned contentions, the Transferor Company submits / undertakes that it would be paid off as per contractual arrangements in the ordinary course of business / within due date.

13. The Income Tax Department will be at liberty to examine the aspect of any tax payable as a result of this scheme and in case it is found that the scheme ultimately results in tax avoidance under the provisions of Income Tax Act, it shall be open to the income tax authorities to take necessary action as possible under the Income Tax Law.
14. From the material on record, the Scheme appears to be fair and reasonable and is not violative of any provisions of law and is not contrary to public policy considering that no objection has so far been received from any authority or creditors or members or any other stakeholders.
15. Since all the requisite statutory compliances have been fulfilled, the Petition in C.P.(CAA)/89/MB/2024 filed by the Petitioner Companies is

made absolute in terms of prayer clauses of the said Company Scheme Petition. Therefore, the Scheme is hereby **sanctioned**. This Bench further orders that -

- a. The Appointed Date is fixed as **01.04.2023**.
- b. It shall be binding on the Petitioner Companies involved in the Scheme and all concerned including their respective Shareholders, Creditors and Employees.
- c. The Transferor Company will be dissolved, without winding up.
- d. All the assets and liabilities including taxes and charges, if any and duties of the respective Transferor Companies, shall pursuant to Section 232 of the Companies Act, 2013, be transferred to and become the liabilities and duties of the Transferee Company.
- e. The Petitioner Companies are directed to file a certified copy of this order along with a copy of the Scheme with the concerned Registrar of Companies, electronically in E-Form INC-28 within 30 days from the date of receipt of the Order from the Registry.
- f. The Petitioner Companies are directed to file a certified copy of this order and the Scheme duly authenticated by the Deputy / Assistant Registrar of this Tribunal, with the concerned Superintendent of Stamps, for the purpose of adjudication of stamp duty, payable, if any, within 60 clear working days from the date of receipt of certified copy of the Order from the Registry of this Tribunal.

- g. The Petitioner Companies shall comply with all the undertakings given by them.
 - h. The Petitioner Companies shall take all consequential and statutory steps required under the provisions of the Act in pursuance of the Scheme.
 - i. All concerned regulatory authorities shall act on a copy of this Order along with the Scheme duly authenticated by the Registrar of this Tribunal.
 - j. Any person or any Authority, whose interest is adversely affected, shall be at liberty to approach appropriate Forum or to take appropriate action as permissible under law.
16. With the above directions, C.P.(CAA)/89/MB/2024 c/w CA(CAA)/07/MB/2024 is **allowed** and disposed of. File to be consigned to records.

Sd/-
Anu Jagmohan Singh
Member (Technical)

Sd/-
Kishore Vemulapalli
Member (Judicial)

12.07.2024/pvs