

**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH, COURT – III**

**C.P. (CAA) 172/ MB/ 2023  
CONNECTED WITH  
C.A. (CAA) 61/ MB/ 2023**

In the matter of the Companies Act,  
2013;

and

In the matter of Sections 230 to 232 and  
other applicable provisions of the  
Companies Act, 2013 read with  
Companies (Compromises,  
Arrangements and Amalgamations)  
Rules, 2016;

and

In the matter of Composite **Scheme of  
Arrangement** between TERRACIS  
TECHNOLOGIES LIMITED ('Transferor  
Company 1' or 'Petitioner Company 1'),  
LIVIA INDIA LIMITED ('Transferor  
Company 2' or 'Petitioner Company 2'),  
BHOPAL E-GOVERNANCE LIMITED  
(Transferor Company 3' or 'Petitioner  
Company 3'), ECENTRIC  
DIGITAL LIMITED ('Transferee  
Company' or 'Petitioner Company 4'),  
and their respective shareholders  
(hereinafter referred to as the 'Scheme'  
or 'Composite Scheme of Arrangement')

**TERRACIS TECHNOLOGIES LIMITED**, a  
public company incorporated under the  
Companies Act, 1956 and having its  
registered office address at Smartworks,  
Fleet House, Near Marol Naka Metro Station,  
Marol, Andheri Kurla Road, Andheri East,  
Mumbai-400059  
CIN: U74999MH1993PLC070724

... Transferor Company 1/  
Petitioner Company 1/  
TTL

C.P. (CAA) 172/ MB/ 2023  
Connected with  
C.A. (CAA) 61/ MB/ 2023

**LIVIA INDIA LIMITED**, a public company incorporated under the Companies Act, 1956 and having its registered office address at Smartworks, Fleet House, Near Marol Naka Metro Station, Marol, Andheri Kurla Road, Andheri East, Mumbai-400059  
CIN: U72900MH2009PLC191389

...Transferor Company 2/  
Petitioner Company 2/  
LIVIA

**BHOPAL E-GOVERNANCE LIMITED**, a public company incorporated under the Companies Act, 1956 and having its registered office address at Smartworks, Fleet House, Near Marol Naka Metro Station, Marol, Andheri Kurla Road, Andheri East, Mumbai-400059  
CIN: U72200MH2013PLC392305

... Transferor Company 3/  
Petitioner Company 3/  
BeGL

**ECENTRIC DIGITAL LIMITED**, a public company incorporated under the Companies Act, 2013 and having its registered office address at Ground to Third Floor, Fleet House, Marol Metro Station, Andheri Kurla Road, Andheri East, Mumbai - 400059  
CIN: U72100MH2014PLC390563

... Transferee Company/  
Petitioner Company 4/  
e-Centric

*(Collectively known as the ‘Petitioner Companies’)*

**Order Pronounced on: 10.05.2024**

*Coram:*

**HON’BLE MS LAKSHMI GURUNG** : **MEMBER (JUDICIAL)**  
**HON’BLE SHRI CHARANJEET SINGH GULATI** : **MEMBER (TECHNICAL)**

*Appearances:*

For the Petitioner Companies : Mr. Gaurav Joshi, Senior Advocate, Mr. Hemant Sethi, i/b Hemant Sethi & Co, Advocates

SFIO : Adv. Aditya Sikka a/w Mr. Meghav Gupta  
a/w Ms. Onshi Jhakar

Per: **MS LAKSHMI GURANG, MEMBER (JUDICIAL)**

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**ORDER**

1. This is second motion joint petition seeking sanction of this Tribunal under Sections 230 to 232 and other applicable provisions of the Companies Act, 2013 and Rules thereunder to the Composite Scheme of Arrangement between TERRACIS TECHNOLOGIES LIMITED ('Transferor Company 1' or 'Petitioner Company 1' or 'TTL'), LIVIA INDIA LIMITED ('Transferor Company 2' or 'Petitioner Company 2' or 'LIVIA'), BHOPAL E-GOVERNANCE LIMITED ('Transferor Company 3' or 'Petitioner Company 3' or 'BeGL'), ECENTRIC DIGITAL LIMITED ('Transferee Company' or 'Petitioner Company 4' or 'E-centric'), and their respective shareholders ('the Scheme'/ 'Composite Scheme of Arrangement').
2. This Composite Scheme of Arrangement is as follows –
  - i. Transfer of the Digital Technology Business Undertaking of the Petitioner Company 1 to the Petitioner Company 4 on a going concern basis by way of Slump Sale;
  - ii. Amalgamation of the Petitioner Company 2 with the Petitioner Company 4; and
  - iii. Amalgamation of the Petitioner Company 3 with the Petitioner Company 4.
3. The Board of Director of Petitioner Companies have approved the Scheme in their respective board meetings held on 19.10.2022, and the copies of the board resolutions are annexed to the Joint Company Scheme Petition.

4. The Appointed Date is **1<sup>st</sup> April 2022**.

5. **Nature of Business:**

5.1. **The Petitioner Company 1** is a complete end-to-end technology solutions company offering consulting, software development, systems integration, data digitalization and management services and solutions, performance tuning solutions and IT infrastructure management services to global customers. The Petitioner Company 1 works closely with various government departments (PAN India and Global) to create e-Governance Infrastructure;

5.2. **The Petitioner Company 2** is engaged in the business of other computer related activities like maintenance of websites of other firms/ creation of multimedia presentations for other firms and so on;

5.3. **The Petitioner Company 3** is engaged in the business of providing state-wide revenue management solutions for land on a public-private partnership 'build own operate transfer' model for the Government. It has an agreement with Commissioner of Land Records, Government of Madhya Pradesh to provide state-wide revenue management solutions for land on a public-private partnership 'build own operate transfer' model for the Government of Madhya Pradesh. This will be a project providing online rule-based service delivery to land owners;

5.4. **The Petitioner Company 4** is engaged in the business of consultancy/ integration/ implementation of smart city solutions for both government and non-government agencies, and is also engaged in the business of manpower placement, recruiting, selecting, interviewing, training and employing all types of executives, middle management staff, junior level staff, workers, labourers skilled/ unskilled required by various industries and organisations including providing security

services, labour contractors, industrial, commercial, housing and other security services and workers for office management and to conduct employment bureau and to provide consultancy and other services in connections with requirements of persons and manpower supply in India and abroad.

### **The Rationale of the Scheme**

6. The Rationale as mentioned in the Scheme is:

#### **A. Slump Sale**

- a. *TTL is a global technology leader with more than a decade of experience in providing best-in-class information technology solutions for efficient citizen service delivery and smart governance, through its customised solutions. TTL's primary focus is in creating and engaging experience for all its customers, thereby ensuring an effective advantage over the competition. With high expertise in cutting edge technologies, TTL has become a pioneer in land governance, citizen services, analytics, system integration, enterprise resource planning and information technology infrastructure management services. TTL adopts various financial models ranging from public private partnership models to build, own, operate models to execute projects in the domestic as well as South East Asian and South Asian Association for Regional Co-operation regions.*
- b. *Over time, TTL has concluded several client engagements in the digital technology space with both, government and private clients and has established itself as a strong brand of repute in the digital technology solutions space.*
- c. *The erstwhile shareholders of TTL have recently transferred 99.19% of their stake in TTL to an incoming investor. The new owners of TTL are inclined to focus on the international business of TTL and desire to transfer the domestic business.*
- d. *E-Centric is an end-to-end IT solutions provider for Government of India, US Government and Fortune 500 companies. e-Centric is primarily focused on e-governance projects in India that is growing at a triple digit growth rate every year and off-shoring solutions ranging from strategy consulting, business analysis, project management, software development, software implementation, maintenance and support and is desirous of inorganically*

*expanding its business operations in India. TTL is engaged in the similar line of business as e-Centric; e-Centric believes that there could be significant synergies to be achieved by the acquisition of Digital Technology Business Undertaking as e-Centric could leverage upon the experience, track record, pre-qualification criteria in bidding for government contracts, market share, etc of Digital Technology Business Undertaking of TTL, to bid for government contracts and expand its own business.*

- e. *To this end, e-Centric has approached TTL for acquiring the Digital Technology Business Undertaking and TTL has agreed to transfer the Digital Technology Business Undertaking as a going concern on a slump sale basis (along with all the past experience and track record adjoining the Digital Technology Business Undertaking) for the Purchase Consideration (as defined hereinafter) and in the manner and subject to terms and conditions stated in this Scheme.*

**B. Amalgamation**

- a. *LIVIA and BeGL are an integral part of the Digital Technology Business Undertaking of TTL. Pursuant to slump sale of the Digital Technology Business Undertaking, LIVIA and BeGL would be transferred to e-Centric.*
  - b. *Given that the operations of e-Centric, LIVIA and BeGL are intrinsically connected to each other, the management of e-Centric desires to merge LIVIA and BeGL into e-Centric once the slump sale is concluded.*
  - c. *This will provide several benefits including streamlined group structure by reducing the number of legal entities, reducing the multiplicity of legal and regulatory compliances and rationalising costs.*
7. It is submitted that the present Company Scheme Petition is filed in consonance with Section 230-232 of the Companies Act, 2013 and in terms of order passed on 17.03.2023 in CA (CAA)/ 61/ MB/ 2023.
  8. It is further submitted that the Petitioner Companies have complied with all the directions of this Tribunal and has made requisite filings to demonstrate compliance with this Tribunal. Moreover, the Petitioner Companies undertake to comply with all the further requirements, if any

under the Companies Act, 2013 and the rules made thereunder or any other law. The said undertaking is accepted.

9. The Regional Director (Western Region), Ministry of Corporate Affairs, Mumbai, has filed its Report dated 12.09.2023 *inter-alia* stating in paragraphs 2 (a) to (q) as under: -

<b>Observation by the Regional Director</b>	<b>Undertaking of the Petitioner Companies/ Rejoinder</b>
2(a)	
<p>That on examination of the report of the Registrar of Companies, Mumbai dated 15.06.2023 for Petitioner Companies that the Petitioner Companies falls within the jurisdiction of ROC, Mumbai. It is submitted that no representation regarding the proposed scheme of Arrangement has been received in the matter of Petitioner Company. Further, the Petitioner Companies has filed Financial Statements up to 31.03.2022.</p> <p>The ROC has further submitted that in his report dated 15.06.2023 which are as under:</p> <p>i. That the ROC Mumbai in its report dated 15.06.2023 has also stated that No Inquiry, Inspection,</p>	<p>In so far as the observations made in paragraph 2 (a) of the Report is concerned, it is submitted that the observation made by the ROC is merely factual in nature and no further response in required to that extent.</p> <p>In so far as the observations made in paragraph 2 (a) (i) of the Report is concerned, it is submitted that the observation made by the ROC is merely factual in nature and no further response in required to that extent.</p> <p>In so far as the observations made in paragraph 2 (a) (ii) (a) of the Report is concerned, it is submitted that the said observation is correct</p>

<p>Prosecutions, Technical Scrutiny and Complaint under CA, 2013 have been pending against the Petitioner Companies.</p> <p>ii. Further ROC has mentioned as follows:</p> <p>a. There are no secured creditors in 1st, 2nd, 3rd Applicant Company and 1 Secured Creditor of Rs. 99,93,367/- in the 4th Applicant Company. There are 88 unsecured creditors of Rs. 41,26,94,264/- in the Applicant Company 1. There are 79 unsecured creditors of Rs. 1,46,50,85,590/- in the Applicant Company - 4. There are 7 unsecured creditors of Rs. 32,54,04,228/- in the Applicant Company - 2 and there are 4 unsecured creditors of Rs. 5,55,65,487/- in the Applicant Company - 3.</p> <p>b. As per provisions of section 232(3)(i) of CA, 2013 where the transferor company is dissolved, the fee, if any, paid by the transferor company on its authorized capital shall be set off</p>	<p>and is not required to be traversed. Further, the Hon'ble NCLT vide directions issued in its order dated March 17, 2023 has dispensed with the requirements of calling meetings of the shareholders and creditors (as applicable) of the Petitioner Companies.</p> <p>In so far as the observations made in paragraph 2 (a) (ii) (b) of the Report is concerned, the filing fees and stamp duty already paid by the Petitioner Company 2 and Petitioner Company 3 on its authorised share capital shall be utilised and applied to the increased share capital of the Petitioner Company 4 and shall be deemed to have been so paid by the Petitioner Company 4 on such combined authorised share capital and, accordingly the Petitioner Company 4 undertakes to pay additional fees / stamp duty, at the time of filing of the necessary forms, after setting off the fees / stamp duty paid by the Petitioner Company 2 and Petitioner Company 3 in accordance with the provision of</p>
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<p>against any fees payable by the transferee 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, the remaining fee, if any after setting off the fees already paid by the transferor company on its authorized capital, must be paid by the transferee company on the increased authorized capital subsequent to amalgamation.</p> <p>c. Interest of the Creditors should be protected.</p> <p>Hence, the Petitioner Companies shall undertake to submit detailed replies against the observations mentioned above.</p>	<p>Section 232(3) (i) of the Companies Act, 2013.</p> <p>In so far as the observations made in paragraph 2 (a) (ii) (c) of the Report is concerned, the Petitioner Companies hereby undertake and confirm that the interest of the creditors shall be protected.</p>
<p>2 (b)</p>	
<p>Transferee Company should undertake to comply with the provisions of section 232(3)(i) of the Companies Act, 2013 through appropriate affirmation in respect of fees payable by Transferee Company for increase of share capital on account of merger of transfer of companies</p>	<p>In so far as the observations made in paragraph 2 (b) of the Report is concerned, Petitioner Company 4 submits and undertakes that the setting off of fees paid by the Petitioner Company 2 and Petitioner Company 3 on its authorised share capital on account of amalgamation</p>

	<p>shall be in accordance with the provision of Section 232(3) (i) of the Companies Act, 2013.</p>
<p>2 (c)</p>	
<p>In compliance of Accounting Standard-14 or IND-AS 103, as may be applicable, the resultant company shall pass such accounting entries which are necessary in connection with the scheme to comply with other applicable Accounting Standards including AS-5 or IND AS-8 etc.</p>	<p>In so far as observations made in paragraph 2 (c) of the Report is concerned, the Petitioner Companies submit that (i) Petitioner Company 1 and Petitioner Company 4 hereby undertake and confirm that they shall pass the necessary accounting entries in their books of accounts to give effect to the Scheme in compliance with the applicable accounting standards prescribed under section 133 of the Companies Act, 2013 and Clause 12, 21 and 31 of the Scheme; and (ii) that pursuant to Clause 22 and 32 of the Scheme, the Petitioner Company 2 and Petitioner Company 3 shall stand dissolved, without any further act, instrument or deed and therefore, the question of compliance with the applicable accounting standards does not arise in the case of the Petitioner Company 2 and Petitioner Company 3.</p>
<p>2(d)</p>	
<p>The Hon'ble NCLT may kindly direct to the Petitioner Companies to file an affidavit to the extent that the Scheme enclosed to the Company Application and Company Petition are one and same and there is no discrepancy, or no change is made.</p>	<p>In so far as the observation made in paragraph 2 (d) of the Report is concerned, the Petitioner Companies hereby confirm that the Scheme enclosed in the company scheme application and the Scheme enclosed in the company scheme</p>

	petition are one and the same and there is no discrepancy or deviation.
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2(e)	
<p>The Petitioner Companies under provisions of section 230(5) of the Companies Act, 2013 have to serve notices to concerned authorities which are likely to be affected by amalgamation or arrangement. Further, the approval of the scheme by this Hon'ble Tribunal may not deter such authorities from dealing with any of the issues arising after giving effect to the scheme. The decision of such authorities shall be binding on the Petitioner Companies concerned.</p>	<p>In so far as the observation made in paragraph 2 (e) of the Report is concerned, Petitioner Companies confirms that they have served notices along with copy of the Scheme upon:</p> <ul style="list-style-type: none"> <li>(i) the Central Government through the office of Regional Director (Western Region), Ministry of Corporate Affairs, Mumbai;</li> <li>(ii) the Registrar of Companies, Mumbai;</li> <li>(iii) the Official Liquidator in so far as the Petitioner Company 2 and Petitioner Company 3 is concerned;</li> <li>(iv) the Income Tax Authority within whose jurisdiction the respective Petitioner Companies are assessed to tax;</li> <li>(v) the Goods and Service Tax Authority within whose jurisdiction the respective Applicant Companies are assessed to GST;</li> <li>(vi) the Reserve Bank of India,</li> </ul> <p>in accordance with Section 230(5) of the Act and as directed by the Hon'ble Tribunal vide its order dated March 17, 2023. An affidavit of service and compliance dated May 10, 2023 to this effect was duly filed on behalf of the</p>

	<p>Petitioner Companies with the Hon'ble Tribunal.</p> <p>The Petitioner Companies also confirms that if any such authority issues any direction to the Petitioner Companies after the Scheme becomes effective, then such directions shall be dealt with in accordance with the applicable.</p>
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2(f)	
<p>As per Definition of the Scheme, 'Appointed Date' shall mean April 1, 2022 or such other date as the NCLT may direct;</p> <p>Effective Date' means the date on which the certified true copy of the order of the NCLT, sanctioning the Scheme, is filed with the Registrar of Companies, Mumbai by the Transferor Company 1, the Transferor Company 2, the Transferor Company 3 and the Transferee Company.</p> <p>Any references in this Scheme to the date of</p>	<p>In so far as observations made in paragraph 2 (f) of the Petitioner Companies submit that the Scheme itself defines the Appointed Date and Effective Date. Attention is also invited to Clause 3 of the Scheme, which provides that, <b><i>“The Scheme as set out herein in its present form or with any modification(s) and amendments (s) made as per Clause 36 of the Scheme, approved or imposed or directed by the NCLT, as the case may be, shall become effective from the Appointed Date, but shall be operative from the Effective Date”</i></b>.</p> <p>In so far as the circular dated August 21, 2019 is concerned, paragraph 6(c) of the same, being relevant in the current circumstances, is reproduced below:</p> <p><b><i>‘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</i></b></p>

<p>‘coming into effect of this Scheme’ or ‘effectiveness of this Scheme’ or ‘Scheme taking effect’ or ‘upon this Scheme coming into effect’ shall mean the Effective Date.</p>	<p><b>/ 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.’</b></p>
<p>It is submitted that the Petitioners 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</p>	<p>The company scheme application CA (CAA) / 61 / MB/ 2023 was filed by the Petitioner Companies on March 7, 2023, whereas the Appointed Date mentioned in the Scheme is April 1, 2022. Although the Appointed Date precedes the date of filing of the application, the Appointed Date is not ante-dated beyond a year, and, therefore, the Scheme is in compliance with the circular no. F. No. 7/12/2019/CL-I dated 21.08.2019 issued by the Ministry of Corporate Affairs.</p>

<p>2(g)</p>	
<p>Petitioner Companies shall undertake to comply with the directions of the Income tax department and the GST authorities, if any.</p>	<p>In so far as the observation made in paragraph 2 (g) of the Report is concerned, the Petitioner Companies undertakes to meet their income tax liability / goods and service tax liability, which may be outstanding in accordance with law and subject to its legal rights.</p>

<p>2(h)</p>	
<p>Petitioner Companies shall undertake to comply</p>	<p>In so far as the observation made in paragraph 2 (h) of the Report is concerned, the Petitioner Companies</p>

<p>with the directions of the concerned sectoral Regulatory, if so required.</p>	<p>undertake to comply with the directions issued by the concerned sectoral regulations, if any in accordance with the law.</p>
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<p>2(i)</p>	
<p>This Directorate has filed CP 3638/241-242/MB/2018 before the Hon'ble NCLT Mumbai Bench u/s. 241-242 of CA, 2013 wherein Terracis Technologies Limited (formerly known as IL&amp;FS Technologies Limited) ('TTL' or 'Transferor Company 1') is one of the Respondent and this CP 3638/241-242/MB/2018 is still pending before the Hon'ble Tribunal.</p> <p>Further, it is submitted that Falcon acquired 92.29% stake in the Terracis Technologies Limited (Petitioner Transferor Company - 1) pursuant to a bidding process that was initiated on behalf of Infrastructure Leasing and Financial Services Limited ('IL&amp;FS') and approved by Justice (Retd.) D. K. Jain, and subsequently was approved by</p>	<p>In so far as the observation made in paragraph 2 (i) of the Report is concerned, it is submitted that Falcon SG Holding (Philippines) Inc ('Falcon') along with its parent Falcon Investments Pte. Ltd. (both collectively referred to as 'Falcon Group') collectively own 99.37 % stake in the Petitioner Company 1 on a fully diluted basis. Of this, Falcon acquired 92.29% stake in the Petitioner Company 1 pursuant to a bidding process that was initiated on behalf of Infrastructure Leasing and Financial Services Limited ('ILFS') and approved by Justice (Retd.) D. K. Jain, and subsequently was approved by the Hon'ble Tribunal vide order dated September 15, 2021 ('TTL Acquisition Order'). Pursuant to the final TTL Acquisition Order, following stakes were transferred by the existing shareholders to Falcon:</p> <ul style="list-style-type: none"> <li>• 52.26% stake was transferred by ILFS;</li> <li>• 6.90% stake was transferred by CISCO Systems (USA) Pte. Ltd.; and</li> <li>• 31.13% stake was transferred by the founders, employees and other shareholders of the Petitioner Company 1.</li> </ul>

<p>the Hon'ble Tribunal vide order dated September 15, 2021, in Company Application No. 222/2021 in Company Petition 3638/2018. (Copy Enclosed as Annexure A-2).</p>	<p>Copy of TTL Acquisition Order is attached herewith for the sake of convenience as Annexure-B to the Rejoinder Affidavit. Hence, it is submitted that no application is pending in the name of Petitioner Company 1.</p>
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<p>2(j)</p>	
<p>Serious Fraud Investigation Office is carrying Investigation against IL&amp;FS and its group companies; hence Terracis Technologies Limited (formerly known IL&amp;FS Technologies Limited) ('TTL' or 'Transferor Company 1') is under Investigation, and which is still pending with o/o SFIO.</p>	<p>In so far as the observation made in paragraph 2 (j) of the Report is concerned, it is humbly submitted that the Ministry of Corporate Affairs, Serious Fraud Investigation Office ('SFIO') had initiated investigation against ILFS and its group companies under Section 212(1) of the Companies Act, 2013 on October 1, 2018 which was much prior to the acquisition of the Petitioner Company 1 by the existing shareholders ('Falcon Group'). However, Falcon acquired a its stake in the Petitioner Company 1 on November 22, 2021 pursuant to the TTL Acquisition Order with the prior approval of the retired judge of the Hon'ble Supreme Court, Justice (Retd.) D.K. Jain, who was appointed by the Hon'ble National Company Law Appellate Tribunal to oversee the resolution process of ILFS and its various group companies, including that of the Petitioner Company 1.</p> <p>Additionally, the representative for the Union of India, during the resolution process, has also made a statement that the Union of India has no objection to the application, which is duly noted in the TTL Acquisition Order at para 44. As stated above, the SFIO had initiated its</p>

investigation on October 1, 2018, and until today, the SFIO is seeking information from the Petitioner Company 1 in relation to the ongoing investigation against the erstwhile management; nonetheless the existing management of the Petitioner Company 1 are extending their full cooperation to SFIO to the extent possible.

However, the Petitioner Company 1 humbly submits that this investigation of the SFIO is a long drawn process and the outcome of the said investigation has no bearing on the Composite Scheme, since the investigation of SFIO was initiated against the erstwhile management of ILFS prior to the TTL Acquisition Order and has no correlation with the existing shareholders or this Composite Scheme, which is duly approved by the existing shareholders / creditors of the Petitioner Company 1. The Petitioner Company 1 relies upon the decision of High Court, Gujarat in Company Petition No. 9 and 10 of 2006, in the matter of Core Healthcare Limited v. Nirma Limited and also relies upon the decision of High Court, Delhi in Company Petition No. 251 of 2012 in the matter of Child Planet Dot Com Private Limited and Ors. Vs. Competent Holdings Private Limited, wherein there were ongoing civil and criminal proceedings and the High Courts have held that,

*“the Scheme can always be sanctioned subject to and without prejudice to the liability, if any, in the civil and criminal proceedings in respect of past transactions and the liability, if any, of the board, directors, management etc., in civil and criminal proceedings would continue.”*



	<p>Copies of the above judgments are attached herewith as <b>Annexure-C</b> to the Rejoinder Affidavit.</p> <p>The Petitioner Company 1 also reiterates that the approval of this Hon’ble Tribunal for the Composite Scheme will not in any manner be detrimental to the ongoing investigation being carried out by the SFIO against the erstwhile management of ILFS. Nonetheless, the Petitioner Company 1 undertakes to extend its full cooperation / any assistance that may be required and as may be feasible / in control of the Petitioner Company 1, in relation to the pending investigation of SFIO.</p>
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2(k)	
<p>This is the Composite Scheme of Arrangement wherein transfer of the Digital Technology Business from Terracis Technologies Limited to Ecentric Digital Limited by way of a Slump Sale, in this regard, the Petitioner Company shall undertake to comply the provisions of Section 2(42C) of the Income Tax Act, 1961 and guidelines of Income Tax Department issued in this regard.</p>	<p>In so far as the observation made in paragraph 2 (k) of the Report is concerned, the Petitioner Companies undertakes and confirm that they shall comply with the provisions of section 2(42C) of the Income Tax Act, 1961 and guidelines of Income Tax Department issued in this regard, if any.</p>

2(l)
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<p>Bhopal E-Governance Limited is a public limited company is engaged in the business of providing state-wide revenue management solutions for land on a public-private partnership 'build own operate transfer' model for the Government of Madhya Pradesh, India. BeGL has an agreement with Commissioner of Land Records, Government of Madhya Pradesh to provide statewide revenue management solutions for land on a public-private partnership 'build own operate transfer' model for the Government of Madhya Pradesh. This will be a project providing online rule-based service delivery to landowners of one of the biggest states of India. In this regards, necessary approvals may be obtained from National Highway Authorities of India and the Government of Madhya Pradesh as this is the Transferor Company No. 3 which will get dissolved without winding up after approval of this composite scheme of arrangement as per clause 32 of the scheme.</p>	<p>In so far as the observation made in paragraph 2 (l) of the Report is concerned, it is stated that the tenure of the agreement of Petitioner Company 3 with Commissioner of Land Records, Government of Madhya Pradesh ('said Agreement') has expired on August 31, 2023 and not renewed. Hence, approval from National Highway Authorities of India or the Government of Madhya Pradesh for the proposed Scheme is not required to be procured.</p>
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<p>2(m)</p>	
<p>As per clause 37 &amp; 38 of the scheme Change of Name of the Transferor Company 1 and Transferee Company is proposed from TERRACIS TECHNOLOGIES LIMITED to TERRACIS DIGITAL</p>	<p>In so far as the observation made in paragraph 2 (m) of the Report is concerned, the Petitioner Companies submit that a mere perusal of Rule 8 of Companies (Incorporation) Rules, 2014, that this Hon'ble Tribunal is competent and duly empowered to permit change in the name of the Petitioner Company 1 from "Terracis Technologies Limited" to</p>

<p>LIMITED and ECENTRIC DIGITAL LIMITED to TERRACIS TECHNOLOGIES LIMITED, that the adoption of new name of Transferor Company shall create confusion in the minds of general public and other stakeholders. Besides, it will also create confusion with the regulators like the Income Tax Department, GST, MCA etc. which give impression that transferor company - 1 is still in existence, however, will lose the existence after confirmation of scheme by Hon'ble NCLT, Mumbai Bench.</p>	<p>"Terracis Digital Limited" and name of Petitioner Company 4 from "Ecentric Digital Limited" to "Terracis Technologies Limited" in the course of a compromise, arrangement and amalgamation. Petitioner Company 1 and Petitioner Company 4 submit that their equity shareholders have given consent for sanction of the Scheme which includes the change of name of Petitioner Company 1 and Petitioner Company 4. Pursuant to the Scheme being sanctioned, the Digital Technology Business Undertaking of the Petitioner Company 1 will be transferred to Petitioner Company 4. The Petitioner Company 1 has generated sufficient goodwill in its name, and Petitioner Company 4 desires to use this goodwill and continue to use the name of the Petitioner Company 1 even after the Scheme has been sanctioned. It is further submitted that the Petitioner Company 1 and Petitioner Company 4 are engaged in a similar line of business. Additionally, one of the key purpose for the proposed Slump Sale of Digital Technology Business Undertaking of the Petitioner Company 1 to the Petitioner Company 4 is to leverage upon the experience, track record, pre-qualification criteria in bidding for government contracts, market share, and such other assets. of Digital Technology Business Undertaking of Petitioner Company 1, to bid for government contracts and expand its own business. Hence, the name of the Petitioner Company 1 is extremely important for the business</p>
<p>The Hon'ble NCLT may not allow the change of name of the Petitioner Companies at this stage. Further, if Hon'ble NCLT, Mumbai Bench will allow this change of name then it should be subject to compliance of Provisions of CA, 2013 by filling of Form</p>	

<p>INC-24 for change of name of Company also compliance of Rule 8(2)(8) of Companies (Incorporation) Rules, 2014 which provides:</p> <p>“The names released on change of name by any company shall remain in data base and shall not be allowed to be taken by any other company including the group company of the company who has changed the name for a period of three years from the date of change subject to specific direction from the competent authority in the course of compromise, arrangement and amalgamation.”</p>	<p>operations of the Petitioner Company 4 and the brand name identified are extremely critical and should therefore be permitted to be continued by Petitioner Company 4 post completion of the Scheme.</p> <p>As such, even after sanction of the Scheme, there is no question of creating confusion in the minds of the general public, stakeholders or regulators as there will be a fresh certificate which shall be obtained from the jurisdictional Registrar of Companies stating the change of name. Separately, following with regard to Petitioner Company 1 and Petitioner Company 4, shall continue to remain the same (i) CIN ie the Company Identification Number; and (ii) the PAN as mentioned in communication to the Income Tax authorities. Further, it is clarified that pursuant to the name change as aforesaid, the Petitioner Companies will mention the words "earlier known as..." following the new name for the period of next 3 (Three) years to avoid any confusion.</p> <p>Lastly, it is submitted that as per Section 8A(1)(w) of the Companies (Incorporation) Rules, 2014, as amended by the Companies (Incorporation) Fifth Amendment Rules, 2019, such change in name is permitted "in the course of compromise, arrangement or amalgamation". Accordingly, since the change of name is being undertaken pursuant to a slump sale in accordance with the Scheme, the</p>
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	<p>same is permissible in accordance with the said Rules. The Petitioner Companies undertake to comply with the applicable procedural requirements, including filings of requisite forms with the Registrar of Companies in respect of the proposed name change in accordance with law.</p>
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2(n)	
<p>Petitioner Companies have foreign shareholders hence Petitioner Companies shall undertake to comply with guidelines of RBI, FEMA and FERA.</p>	<p>In so far as the observation made in paragraph 2 (o) of the Report is concerned, the Petitioner Companies undertakes and affirm that they shall comply with the provisions of the Foreign Exchange Management Act, 1999, Foreign Exchange Regulations Act, 1973 and the relevant guidelines issued by the Reserve Bank of India thereunder and as may be applicable.</p>

2(o)	
<p>There are various contracts and arrangements that are going on/ work in progress of the Petitioner Companies. Hence, in this regards Petitioner Companies shall undertake to</p>	<p>In so far as the observation made in paragraph 2 (o) of the Report is concerned, various contracts form an integral part of the ‘Digital Technology Business Undertaking’ of the Petitioner Company 1 being transferred to the Petitioner Company 4. Infact the details of key contracts and arrangements included in the past track records are fully described in Schedule II of the Scheme.</p> <p>The Petitioner Companies undertake to complete all the pending contracts and arrangements in the prescribed timelines, and will otherwise be transferred to the Petitioner</p>

complete all pending contracts and arrangements within the given timeline.	Company 4 pursuant to Clause 9, 18 and 28 of the Scheme, wherein it is clearly mentioned that all contracts, deeds, bonds, insurance, letters of intent, undertakings, arrangements, policies, agreements and other instruments, if any, of whatsoever nature subsisting or having effect on the Effective Date, shall be in full force and effect against or in favour of the Petitioner Company 4, and may be enforced by or against the Petitioner Company 4 as fully and effectually as if, instead of the Petitioner Company 1, Petitioner Company 2 and Petitioner Company 3 - the Petitioner Company 4 had been a party thereto.
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2(p)

**Observation by Regional Director**

As per shareholding pattern as on 31.03.2022 submitted by the Petitioner company, details of shareholding is as follows:

<b>Sr No</b>	<b>Petitioner Company</b>	<b>Name of shareholder</b>	<b>% of shares held</b>	<b>Remarks</b>
1	Terracis Technologies Limited (Transferor Company No 1)	Falcon SG Holding (Philippines) Philippines	95%	No Form BEN-2 has been filed by any of the Petitioner Companies as per records available at MCA-21 Portal
2	Ecentric Digital Limited	Quantela Inc	100%	

	(Transferee Company)		
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No Form BEN-2 has been filed by any of the Petitioner Company as per records available at MCA21 Portal, hence Petitioner Companies shall undertake to comply with the provisions of section 90 of Companies Act, 2013 r/w. Companies (Significant Beneficial Owners) Amendment Rules, 2019, thereunder and to file Form BEN- 2 for declaring name of the natural person as significant beneficial owner with concerned ROC to disclose the same as the present company is a part of the IL&FS Resolution plan.

Terracis Technologies Limited (Petitioner Transferor Company - 1) has filed COMPANY PETITION NO. 286 OF 2022 under section 66(1) of the Companies Act, 2013 before Hon'ble NCLT, Mumbai Bench wherein this office has filed interim report dated 21.06.2023 (Copy enclosed as Annexure A-3).

The outcome of Petition No. 286 of 2022 filed u/ s. 66 of CA, 2013 has bearing on minority shareholder's interest holding 0.63% shares of value of Rs. 4,95,38,368.40/- (as per valuation made by the Petitioner Companies). Therefore, Hon'ble NCLT may also consider the observations of this Directorate given in this matter.

2(p)

**Undertaking/Rejoinder by the Petitioner Companies**

In so far as the observation made in paragraph 2 (p) of the Report is concerned, the Petitioner Company 1 submits that, Falcon SG Holding (Philippines), Inc. along with its nominees holds 95.45% of the equity shares in the Petitioner Company 1 ('Holding Company of Petitioner Company 1'). As per Explanation III of Clause (h) of Rule 2 of Companies (Significant Beneficial Owners) Amendment Rules, 2019 ('SBO Rules'), which provides that where the immediate shareholder of a reporting

company is not an individual, but a body corporate, it shall be deemed that an individual holding more than 50% of the equity shares, voting rights, or right to participate in the distributions (including dividend) of such immediate shareholder entity, or, in the alternative, an individual holding more than 50% of the equity shares, voting rights, or right to participate in the distributions (including dividend) of the ultimate holding company of the immediate shareholder entity, should be the significant beneficial owner for the purpose of the SBO Rules.

It is also submitted that Holding Company of Petitioner Company 1 is indirectly held and owned 100% by Gateway Fund II, L.P, Avenue Asia Special Situations Fund V L.P. and Avenue Asia Special Situations Fund VI. L.P ('Ultimate Holding Companies of Petitioner Company 1'). The Petitioner Company 1 also submits that these Ultimate Holding Companies of Petitioner Company 1 are investment funds, and there is no individual holding 10% or more of beneficial interest or has the right to exercise or actually exercises significant influence, or has the right to exercise or actually exercises control in these investment funds and accordingly over the Petitioner Company 1. Hence, there is no "significant beneficial owner" in the Petitioner Company 1 and provisions of Section 90 of Companies Act, 2013 read with Companies (Significant Beneficial Owners) Amendment Rules, 2019 are not applicable to the Petitioner Company 1. A copy of the entire shareholding structure of Petitioner Company 1 is attached as Annexure-D to the Rejoinder Affidavit.

It is also stated that Petitioner Company 4 is held and owned 100% by its parent ie Quantela Inc. and its nominee shareholders ('Holding Company of Petitioner Company 4'). The Holding Company of Petitioner Company 4 in turn has 146 shareholders, which are individuals as well as body corporates. None of the individual shareholders of Holding Company of Petitioner Company 4 hold 10% or more of beneficial interest or has the right to exercise or actually exercises significant influence, or has the right to exercise or actually exercises control in the Holding Company. Additionally, .none of the body corporate shareholders hold



majority stake in the Holding Company of Petitioner Company 4 per the provisions of Explanation III of Clause (h) of Rule 2 of Companies (Significant Beneficial Owners) Amendment Rules, 2019. Hence, there is no “significant beneficial owner” in the Petitioner Company 4 and provisions of Section 90 of Companies Act, 2013 read with Companies (Significant Beneficial Owners) Amendment Rules, 2019 are not applicable to the Petitioner Company 4. A copy of the entire shareholding structure of Petitioner Company 4 is attached as Annexure-E to the Rejoinder Affidavit.

The Petitioner Company 1 and Petitioner Company 4 also undertakes to file Form BEN-2, if applicability thereof is established at any time in the future. Further, it is submitted that the present Scheme has been approved by all the equity shareholders present and voting at the meeting of equity shareholders of Petitioner Company 1 directed by the Hon’ble NCLT vide order dated March 17, 2023. The report of Chairperson and Scrutinizer has already been filed along with the company scheme petition and is attached herewith as Annexure-F to the Rejoinder Affidavit. It is humbly submitted that the company petition filed by the Petitioner Company 1 under section 66 of the Companies Act, 2013 has no correlation with the present Scheme and shall be dealt with separately.

2(q)

<p>In order to protect the interest of the Union of India and creditors in public interest, the draft affidavit is submitted to the Ministry for approval before filing in the matter hence in this regard, Hon'ble Tribunal may grant liberty to this Directorate to file additional / supplementary report in this matter if</p>	<p>In so far as the observation made in paragraph 2 (q) of the Report is concerned, the Petitioner Companies submits that the interest of Union of India, creditors and the public is protected. Further, pursuant to the TTL Acquisition Order approved by Justice (Retd.) D. K. Jain, and subsequently</p>
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<p>any instructions / inputs received from the Ministry in the matter of subject company as UOI (Ministry of Corporate Affairs) through this Directorate has filed Company Petition u/s. 241-242 of CA, 2013 vide CP 3638/2018 before Hon'ble NCLT, Mumbai Bench against subject Petitioner Transferor Company No. 1 as a Respondent which is still pending.</p>	<p>approved by the Hon'ble Tribunal vide order the TTL Acquisition Order (as referred to above) dated September 15, 2021, no application is pending in the name of Petitioner Company 1.</p>
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10. The Regional Director (Western Region), Ministry of Corporate Affairs, Mumbai, has filed a Supplementary Report dated December 13, 2023 *inter alia* stating in paragraphs (2) to (5). The observations in the supplementary report, undertaking of the Petitioner Companies and subsequent observation by RD in additional supplementary report are as under: -

**11. Observation by the Regional Director in the Supplementary Report on December 13, 2023**

**Para 2**

*IL&FS Technologies Limited (ITL) now changed to Terracis Technologies Limited (Terracis) was subsidiary of Infrastructure Leasing and Financial Services Limited (IL&FS) as on 30 Sep 2018 with IL&FS holding 58.29% of shares.*

*Bhopal E-Governance Limited (BEGL) and Livia India Limited (Livia) are subsidiaries of Terracis with it holding 99.99 % and 100 % shares in both these companies respectively.*

*As per MCA order dated 30 September 2018, the investigation into affairs of ITL i.e. Terracis and its subsidiaries which include BEGL and Livia is ongoing.*

*In view of the ongoing investigation, their merger with Ecentric Digital Limited and consequent dissolution may not be allowed.*

**Undertaking of the Petitioner Companies / Rejoinder on January 19, 2024 with regards to para 2-**

*In so far as the observation made in paragraph 2 of the Supplementary RD Report is concerned, it is re-iterated that Petitioner Company 1, Petitioner Company 2 and Petitioner Company 3 being the wholly owned subsidiaries of the Petitioner Company 1 were acquired by the existing shareholders ('Falcon Group') pursuant to a bidding process that was initiated on behalf of Infrastructure Leasing and Financial Services Limited ('ILFS') and approved by Justice (Retd.) D. K. Jain, who was appointed by the Hon'ble National Company Law Appellate Tribunal to oversee the resolution process of ILFS and its various group companies, including that of the Petitioner Company 1, and such acquisition of the Petitioner Company 1, Petitioner Company 2 and Petitioner Company 3 was subsequently also approved by the Hon'ble Tribunal vide order dated September 15, 2021 ('TTL Acquisition Order'). As a part of the TTL Acquisition Order, following stakes of the erstwhile shareholders in the Petitioner Company 1 were transferred to Falcon:*

*52.26% stake was transferred by ILFS;*

*6.90% stake was transferred by CISCO Systems (USA) Pte. Ltd.; and*

*31.13% stake was transferred by the founders, employees and other shareholders of the Petitioner Company 1.*

*A copy of the TTL Acquisition Order is attached herewith for the sake of convenience as Annexure-A to Supplementary Rejoinder Affidavit.*

*The Petitioner Companies further states that the Ministry of Corporate Affairs ('MCA') vide its order dated September 30, 2018, had directed that the affairs of the ILFS be investigated by the Serious Fraud Investigation Office ('SFIO). SFIO commenced investigation of the affairs of the ILFS and its group companies including that of Petitioner Company 1, Petitioner Company 2 and Petitioner Company 3, on October 1, 2018 which was much prior to the acquisition of the Petitioner Company 1 by Falcon Group, and until today, the SFIO is seeking information from the Petitioner Company 1, Petitioner Company 2 and Petitioner Company 3 in relation to the ongoing investigation against the erstwhile management; nonetheless the existing management of the Petitioner Company 1, Petitioner Company 2 and Petitioner Company 3 are extending their full cooperation to SFIO to the extent possible.*

*However, as mentioned earlier, the investigation of the SFIO is a long drawn process and the outcome of the said investigation has no bearing on the Composite Scheme, since the investigation of SFIO was initiated against the erstwhile management of ILFS prior to the TTL Acquisition Order and has no correlation with the existing shareholders or this Composite Scheme, which is duly approved by the existing shareholders / creditors of the Petitioner Company 1. The Petitioner Company 1 relies upon the decision of High Court, Gujarat in Company Petition No. 9 and 10 of 2006, in the matter of Core Healthcare Limited v. Nirma Limited and also relies upon the decision of High Court, Delhi in Company Petition No. 251 of 2012 in the matter of Child Planet Dot Com Private Limited and Ors. Vs. Competent Holdings Private Limited, wherein there were ongoing civil and criminal proceedings and the High Courts have held that, “the Scheme can always be sanctioned subject to and without prejudice to the liability, if any, in the civil and criminal proceedings in respect of past transactions and the liability, if any, of the board, directors, management etc., in civil and criminal proceedings would continue.”*

*In so far as the SFIO is objecting to the proposed amalgamation of Petitioner Company 2 and Petitioner Company 3 with and into Petitioner Company 4, it is stated that as per clause 17.1 and 27.1 of the Scheme all legal proceedings of whatsoever nature by or against the Petitioner Company 2 and the Petitioner Company 3, pending on and/or arising after the Appointed Date, as and from the Effective Date shall not abate or be discontinued or be in any way prejudicially affected by reason of the Scheme or by anything contained in this Scheme but shall be continued and enforced by or against the Transferee Company in the same manner and to the same extent as would or might have been continued and enforced by or against the Petitioner Company 2 and the Petitioner Company 3. It is expressly mentioned in clause 17.3 and 27.3 of the Scheme that the Petitioner Company 4 undertakes to have all legal or other proceedings initiated by or against the Petitioner Company 2 referred to in Clause 17.1 and Petitioner Company 3 referred to in Clause 27.1 above transferred to its name and to have the same continued, prosecuted and enforced by or against the Petitioner Company 4 to the exclusion of the Petitioner Company 2 and the Petitioner Company 3. Further, the Petitioner Company 1 does not dissolve pursuant to this Scheme. Hence, the approval of this Hon’ble Tribunal for the Composite Scheme will not in any manner be detrimental to the ongoing investigation being carried out by the SFIO against the erstwhile management of ILFS and the Petitioner Company 1 and the Petitioner Company 4 (pursuant to merger of the Petitioner Company 2 and the*

*Petitioner Company 3) undertakes to extend their full cooperation / any assistance that may be required and as may be feasible / in control of the Petitioner Company 1 and the Petitioner Company 4, in relation to the pending investigation of SFIO.*

**Observation by the Regional Director in the Additional Supplementary Report on March 31, 2024 with regards to para 2**

*Final Inputs / comments received from SFIO Mumbai vide their email dated 09.02.2024: -*

*“Since, the Petitioner Companies have given undertaking that all legal proceedings of whatsoever nature against the Petitioner Company 2 (Livia) and the Petitioner Company 3 (BEGL), pending on and/or arising after the Appointed Date, as and from the Effective Date shall not abate or be discontinued or be in any way prejudicially affected by reason of the Scheme or by anything contained in this Scheme but shall be continued and enforced by or against the Transferee Company (Ecentric) in the same manner and to the same extent as would or might have been continued and enforced by or against the Petitioner Company 2 and the Petitioner Company 3, there is no objection to the merger of Livia India Limited (Livia), Bhopal E-Governance Limited (BEGL) with Ecentric Digital Limited (Ecentric). Further, it is reiterated that right of SFIO to initiate legal proceedings, any, against Transferee Company in place of Livia and BEGL on account of their dissolution, arising in future out of investigation into affairs of IL&FS Group shall be protected.”*

*In regard to the above, the comments of SFIO may be taken into consideration so that SFIO investigation and further follow up penal action as including may be sanctioned by the Ministry on completion of SFIO investigation against the Respondents companies and their officers in defaults including ongoing proceeding u/s 241 & 242 and past directors shall not be allowed to get diluted and the petitioner companies shall unconditionally undertake to honour the said condition subject to order dated 15.09.2021 by the Hon'ble NCLT in favor of Acquirer of Petitioner Companies No. 1, 2 and 3.*

*Hence, in view of the above submission and comments of SFIO, the NCLT may consider the petition on merits of the case as the present Petitioner Company No. 1, 2 & 3 are Respondents in Petition u/s 241 - 242 of*

*Companies Act, 2013 in Company Petition No. 3638 of 2018 filed by Union of India.*

**Observation by the Regional Director in the Supplementary Report on December 13, 2023**

**Para 3**

*As per clause 37 & 38 of the scheme, the Change of Name of the Transferor Company 1 and Transferee Company is proposed from Terracis Technologies Limited to Terracis Digital Limited and Ecentric Digital Limited to Terracis Technologies Limited. In this regard, the Hon'ble NCLT may not allow the change of name of the Petitioner Companies at this stage because of this Change of Name, the adoption of new name of Transferor Company No. shall create confusion in the minds of general public and other stakeholders. Besides, it will also create confusion with the regulators like the Income Tax Department, GST, MCA etc. also Petitioner Companies shall undertake to comply with provisions of Section 13 and applicable rules contain provisions for change of name of the Company in Companies Act, 2013.*

**Undertaking of the Petitioner Companies / Rejoinder on January 19, 2024 with regards to para 3**

*In so far as the observation made in paragraph 3 of the Supplementary RD Report is concerned, the Petitioner Companies submit that a mere perusal of Rule 8 of Companies (Incorporation) Rules, 2014, that this Hon'ble Tribunal is competent and duly empowered to permit change in the name of the Petitioner Company 1 from "Terracis Technologies Limited" to "Terracis Digital Limited" and name of Petitioner Company 4 from "Ecentric Digital Limited" to "Terracis Technologies Limited" in the course of a compromise, arrangement and amalgamation. Petitioner Company 1 and Petitioner Company 4 submit that their equity shareholders have given consent for sanction of the Scheme which includes the change of name of Petitioner Company 1 and Petitioner Company 4. Pursuant to the Scheme being sanctioned, the Digital Technology Business Undertaking of the Petitioner Company 1 will be transferred to Petitioner Company 4. The Petitioner Company 1 has generated sufficient goodwill in its name, and Petitioner Company 4 desires to use this goodwill and continue to use the name of the Petitioner Company 1 even after the Scheme has been sanctioned. It is further submitted that the Petitioner Company 1 and Petitioner Company 4*

*are engaged in a similar line of business. Additionally, one of the key purpose for the proposed Slump Sale of Digital Technology Business Undertaking of the Petitioner Company 1 to the Petitioner Company 4 is to leverage upon the experience, track record, pre-qualification criteria in bidding for government contracts, market share, and such other assets of Digital Technology Business Undertaking of Petitioner Company 1, to bid for government contracts and expand its own business. Hence, the name of the Petitioner Company 1 is extremely important for the business operations of the Petitioner Company 4 and the brand name identified are extremely critical and should therefore be permitted to be continued by Petitioner Company 4 post completion of the Scheme.*

*As such, even after sanction of the Scheme, there is no question of creating confusion in the minds of the general public, stakeholders or regulators as there will be a fresh certificate which shall be obtained from the jurisdictional Registrar of Companies stating the change of name. Separately, following with regard to Petitioner Company 1 and Petitioner Company 4, shall continue to remain the same (i) CIN ie the Company Identification Number; and (ii) the PAN as mentioned in communication to the Income Tax authorities. Further, it is clarified that pursuant to the name change as aforesaid, the Petitioner Companies will mention the words "earlier known as..." following the new name for the period of next 3 (three) years to avoid any confusion.*

*Lastly, it is submitted that as per Section 8A(1)(w) of the Companies (Incorporation) Rules, 2014, as amended by the Companies (Incorporation) Fifth Amendment Rules, 2019, such change in name is permitted "in the course of compromise, arrangement or amalgamation". Accordingly, since the change of name is being undertaken pursuant to a slump sale in accordance with the Scheme, the same is permissible in accordance with the said Rules. The Petitioner Companies undertake to comply with the applicable procedural requirements, including fillings of requisite forms with the Registrar of Companies in respect of the proposed name change in accordance with law.*

*In support of this, there are various precedents wherein the NCLT has permitted such change of name belonging to the Transferor Company to be used by the Transferee Company by way of change of name clause being proposed in the schemes wherein post sanction of the schemes, it is filed with the Registrar of Companies and thereafter the applicable process*

C.P. (CAA) 172/ MB/ 2023  
Connected with  
C.A. (CAA) 61/ MB/ 2023

*followed by the Transferee Company for name change with further approval of Central Registration Centre is obtained. We have attached a copy of latest precedent wherein NCLT has allowed the name change of the Transferee Company to that of the Transferor Company in Company Petition No (CAA) 102 (ND) / 2022 connected with Company Application No CA (CAA) 84 (ND) / 2021 in the matter of scheme of amalgamation of Ericsson India Private Limited and Ericsson India Global Services Private Limited by way of order dated September 13, 2023 as Annexure C to Supplementary Rejoinder Affidavit.*

**Observation by the Regional Director in the Additional Supplementary Report on March 31, 2024 with regards to para 3**

*The reply submitted by Petitioner Companies is not satisfactory. This Directorate humbly prays to the Hon'ble Tribunal not to allow change of Name of the Transferor Company 1 and Transferee Company, because this Change of Name, the adoption of new name of Transferor Company No. 1 and Transferee Company will create confusion in the minds of general public and other stakeholders. Besides, it will also create confusion with the regulators like the Income Tax Department, GST, MCA etc.*

**Observation by the Regional Director in the Supplementary Report on December 13, 2023**

**Para 4**

*In order to protect the interest of the Union of India and creditors in public interest, the Hon'ble Tribunal may grant liberty to this Directorate to file additional / supplementary report on the rejoinder submitted by the Petitioner Companies dated 13.12.2023. Further, it is submitted that the Ministry of Corporate Affairs through this Directorate has filed Company Petition u/s. 241-242 of CA, 2013 vide CP 3638/2018 before Hon'ble NCLT, Mumbai Bench, wherein subject Petitioner Transferor Company No. 1 is a Respondent and CP 3638/2018 is still pending before the Tribunal.*

**Undertaking of the Petitioner Companies / Rejoinder on January 19, 2024 with regards to para 4**



C.P. (CAA) 172/ MB/ 2023  
Connected with  
C.A. (CAA) 61/ MB/ 2023

*In so far as the observation made in paragraph 4 of the Supplementary RD Report is concerned, the Petitioner Companies submit that the interest of Union of India, creditors and the public is protected. Also, Petitioner Company 1 will continue to exist pursuant to the slump sale of Digital Technology Business Undertaking as per Part B of the Scheme.*

*Also, as per clause 7.1 of the Scheme all legal proceedings of whatsoever nature by or against the Petitioner Company 1 in respect of the Digital Technology Business Undertaking, pending as on the Effective Date, shall not abate or be discontinued or be in any way prejudicially affected by reason of the Scheme or by anything contained in this Scheme but shall be continued and enforced by or against the Petitioner Company 4 in the same manner and to the same extent as would or might have been continued and enforced by or against the Petitioner Company 1. It is expressly mentioned in clause 7.3 of the Scheme that the Petitioner Company 4 undertakes to have all legal or other proceedings initiated by or against the Petitioner Company 1 referred to in Clause 7.1 above, transferred to its name and to have the same continued, prosecuted and enforced by or against the Petitioner Company 4 to the exclusion of the Petitioner Company 1.*

**Observation by the Regional Director in the Additional Supplementary Report on March 31, 2024 with regards to para 4**

*Since the report u/s 230-232 is filed by the Directorate on behalf of Ministry of Corporate Affairs (Central Government) under delegated power to RDs, therefore, liberty is taken to file any additional supplementary report/affidavit in the matter of Petitioner company no. 1, 2 and 3 been UoI has filed 241-242 petition vide CP no. 3638 of 2018 and the petitioner no.1, 2, and 3 are Respondents no. respectively and the 241-242 proceedings ongoing before Hon'ble NCLT, Mumbai Bench Court No. 1.*

**Observation by the Regional Director in the Supplementary Report on December 13, 2023**

**Para 5**

*The Directorate is of the opinion that the said Petition u/ s. 230-232 of CA, 2013 may be considered after disposal of CP 286 of 2022 u/ s. 66 of the CA, 2013, in the matter of Terracis Technologies Limited (formerly known as IL&FS Technologies Limited) in which order is reserved on 13.12.2023.*

**Undertaking of the Petitioner Companies / Rejoinder on January 19, 2024 with regards to para 5**

*In so far as the observation made in paragraph 5 of the Supplementary RD Report is concerned, it is submitted that the company petition filed by the Petitioner Company 1 under section 66 of the Companies Act, 2013 has been allowed by the Hon'ble NCLT vide order dated January 3, 2024 and this petition for reduction of share capital of Petitioner Company 1 has no correlation with the present Scheme and has been dealt with separately. Copy of the order passed by the Mumbai NCLT is attached herewith as Annexure-D to Supplementary Rejoinder Affidavit. Also, as stated above, the investigation of the SFIO is a long drawn process and the outcome of the said investigation should not have any bearing on this Composite Scheme since the said investigation is on the erstwhile management of the Petitioner Company 1. The approval of the Scheme by this Hon'ble NCLT should not in any manner be detrimental to the ongoing investigation being carried out by the SFIO against the erstwhile management of ILFS. Additionally, the Petitioner Company 1, submits that this Composite Scheme should be allowed and approved as approval to this Composite Scheme will not affect the investigation and shall not impede the proceedings of SFIO against the Petitioner Company 1.*

**Observation by the Regional Director in the Additional Supplementary Report on March 31, 2024 with regards to para 5**

*The Hon'ble NCLT vide order dated 03.01.2024 has approved application u/s 66 filed by the petitioner no. 1 and copy of said order is enclosed as Annexure-1. Further, the Directorate has filed IA in CP 286 of 2022 in order to implement the order dated 03.01.2024 passed in the matter filed u/s 66 of Companies Act, 2013. This is submitted for kind information to NCLT in the matter.*

12. It is noted that the Transferor Company no. 1 was subsidiary of IL&FS as on 30.09.2018 and Transferor Company 2 and Transferor Company 3 are Subsidiaries of Transferor Company no.1. All the three Transferor Companies were acquired by the existing shareholders (Falcon Group) in bidding process monitored by Justice. D.K. Jain, Judge Supreme Court (Retd.) who was appointed by Hon'ble NCLAT to oversee resolution process

of IL&FS and its group companies. The said acquisition was approved by Hon'ble NCLAT vide order dated 15.09.2021. Thus, it can be seen that the Transferor Companies were acquired by the present shareholders in a process approved by Hon'ble NCLAT and the acquiring shareholders are entitled to arrange their business activities in the interest of the all the Stakeholders.

13. In so far as the observation by RD in Additional Supplementary Report dated 31.03.2024 with regards to para 2 forms integral part of this order and the sanction of the Scheme is subject to the said conditions by the RD. Further, sanctioning of this Scheme shall not impact ongoing proceedings under section 241-242 and past directors of the Transferor Companies in the C.P. 3638 of 2018 filed by Union of India.
  
14. It is clarified that all pending inquiry/ investigation/ legal proceedings, against the Transferor Companies will continue against/by the Transferee Company and approval of the Scheme will not deter the concerned authorities including SFIO to continue initiate any further legal proceedings against the Transferee Company in case if any violation is found in relation to the conduct of affairs by the Transferor Companies in their respective transactions. It is further clarified that the Transferee Company shall do all such acts and deeds as required in response to the notice(s), if any, received in the future from any regulatory authority / investigating authority in matters pertaining to Transferor Companies as if such notice(s) were for the Transferee Company. The SFIO shall be at liberty to initiate legal proceedings, if any, arising out of investigation in future into the affairs of the Transferee Company. Since SFIO is conducting investigation against Livia and BeGL, which would be wound-up, we direct Transferee Company to co-operate in the investigation of Livia and BeGL and to preserve the all records of Livia and BeGL till investigation attains finality.

15. The RD has raised objection to the proposed change of name (i) of the Transferor Company 1 from Terracis Technologies Limited to Terracis Digital Limited and (ii) of Transferee Company from Ecentric Digital Limited to Terracis Technology Limited. It is submitted that the change of new name of Transferor Company 1 and Transferee Company will create confusion with the in the minds of general public and regulatory authorities like Income Tax Department, GST, MCA etc. The Petitioner Companies have submitted that pursuant to sanction of the Scheme the Digital Technology Business Undertaking of the Transferor Company 1 will be transferred to Transferee Company and the goodwill of the Transferor Company no 1 should be utilised by Transferee Company for its digital technology business. It is further submitted that, this will maximise the valuation of Transferee Company by leveraging upon the experience, track report, pre-qualification criteria in bidding for government contracts, market shares, and such other assets of Digital Technology Business.
16. Having considered the submission on the both the sides, we are inclined to permit the proposed change in the names of the Transferor Company no. 1 and Transferee Company by passing the direction that the Petitioner Companies will mention the words “earlier known as .....” following the new name for the period of next 5 (Five) years to avoid any confusion in the minds of the general public. As far as confusion with the Regulatory Authorities is concerned, we note that the Petitioner Companies are identified by (i) PAN number under Income Tax Act, (ii) GST registration number under GST law, (iii) CIN under Companies Act. Thus, we are of the view that there shall not be any confusion with the Regulatory Authorities
17. The rejoinders dated 13.12.2023 and 19.01.2024 filed by the Petitioner Companies, the clarifications and undertakings given by the Petitioner Companies are accepted by this Tribunal, and the Petitioner Companies

are directed to comply with the same. The Authorised Representative of the Regional Director, MCA (WR), Mumbai, who is present at the time of the hearing has submitted that the explanation and clarifications given by the Petitioner Companies are found satisfactory for approving the Scheme by the Tribunal.

18. The Official Liquidator has filed his report on 09.08.2023, inter alia stating therein that the affairs of the Petitioner Company 2 and Petitioner Company 3 have been conducted in a proper manner.

**19. Consideration:**

Consideration for Slump Sale:

19.1. As per Clause 11.1 of the Scheme, upon effectiveness of the Scheme and in consideration for the transfer and vesting of the Digital Technology Business Undertaking, the Petitioner Company 4 shall pay a lump sum consideration of Rs 1,50,00,000/- (Rupees One Crore Fifty Lacs), without values being assigned to the individual assets and liabilities. ('Purchase Consideration'). The Purchase Consideration for the transfer of the Digital Technology Business Undertaking, shall be payable by the Petitioner Company 4 to the Petitioner Company 1, in one or more tranches, with or without interest, as may be mutually agreed between the Petitioner Company 1 and Petitioner Company 4.

Consideration for Amalgamation(s):

19.2. As per Clause 20.1 - 20.3 of the Scheme, the Petitioner Company 2 is an integral part of the Digital Technology Business Undertaking of the Petitioner Company 1. Pursuant to slump sale of the Digital Technology Business Undertaking as per Part B of the Scheme, the Petitioner Company 2 having been transferred to the Petitioner Company 4 would be a wholly owned subsidiary of the Petitioner Company 4, and its entire share capital is held by the Petitioner Company 4 and its

nominees. Accordingly, upon the Scheme becoming effective, the entire share capital of the Petitioner Company 2 shall stand cancelled without any further application, acts or deeds and there would be no consideration, either in the form of shares or otherwise, to be paid to the shareholders of the Petitioner Company 2. Also, on the Scheme becoming effective, redeemable preference shares issued by the Transferor Company 2 and held by the Transferee Company shall stand cancelled.

- 19.3. As per Clause 30.1-30.3 of the Scheme, the Petitioner Company 3 is an integral part of the Digital Technology Business Undertaking of the Petitioner Company 1. Pursuant to slump sale of the Digital Technology Business Undertaking as per Part B of the Scheme, the Petitioner Company 3 having been transferred to the Petitioner Company 4 would be a wholly owned subsidiary of the Petitioner Company 4, and its entire share capital is held by the Petitioner Company 4 and its nominees. Accordingly, upon the Scheme becoming effective, the entire share capital of the Petitioner Company 3 shall stand cancelled without any further application, acts or deeds and there would be no consideration, either in the form of shares or otherwise, to be paid to the shareholders of the Petitioner Company 3. Also, on the Scheme becoming effective, redeemable preference shares issued by the Transferor Company 3 and held by the Transferee Company shall stand cancelled.

20. The clarifications and undertakings given by the Petitioner Companies are accepted by this Tribunal.

21. The Statutory Auditors of the Transferee Company have examined the Scheme in terms of provisions Sections 230-232 and certified that the accounting treatment specified in the Scheme is in compliance with all

applicable accounting standards specified under section 133 of the Companies Act, 2013.

22. Heard the Learned Counsel for the Petitioner Companies. No objector has come before this Hon'ble National Company Law Tribunal, Mumbai Bench ('Tribunal') to oppose the Scheme and nor has any party controverted any averments made in the Petition to the said Scheme.
23. From the material on record, the Scheme appears to be fair and reasonable and is not in violation of any provisions of law and is not contrary to public policy or public interest.
24. Since all the requisite statutory compliances have been fulfilled, Company Petition CP(CAA) / 172 / MB / 2023 connected with CA(CAA) / 61 / MB / 2023 is made absolute in terms of prayer in the Petition mentioned therein.
25. The Income Tax Department will be at liberty to examine the aspect of any tax payable because of this scheme and it shall be open to the income tax authorities to take necessary action as permissible under the Income Tax Law.
26. Further, effectiveness of this Scheme shall not deter any regulatory authorities to initiate action, proceedings, prosecution, investigation or any regulatory action against the Petitioner Companies.
27. The shareholders and Creditors of the Petitioner Companies are the best judges of their interest. Their decision should not be ordinarily interfered with by the Tribunal as per the decision of Hon'ble Supreme Court in **Miheer H. Mafatlal vs. Mafatlal Industries Ltd [JT 1996 (8) 205]**.

**ORDER**

28. The Scheme is **sanctioned** with the Appointed Date of the Scheme as **1<sup>st</sup> April 2022** and with following directions:
- a. The Petitioner Company 2 and Petitioner Company 3 shall be dissolved without winding up.
  - b. The Petitioner Companies are directed to lodge a certified copy of this Order along with a copy of the Scheme with the concerned Registrar of Companies, electronically, along with e-Form INC-28, within 30 days from the date of receipt of the order by the Registry, duly certified by the Deputy/ Assistant Registrar or any other Designated Registrar of this Tribunal.
  - c. The Petitioner Companies are directed to lodge a certified copy of this Order and the Scheme duly authenticated by the Deputy / Assistant Registrar or any other Designated Registrar of this Tribunal, with the concerned Superintendent of Stamps for the purpose of adjudication of stamp duty payable, if any, within 60 working days from the date of receipt of certified copy of the certified Order from the Registry of this Tribunal.
  - d. Petitioner Companies are directed to serve copy of this order to concerned Income Tax Authorities and GST Authorities.
29. While approving the Scheme, we clarify that this Order should not, in any way, be construed as an Order granting exemption from payment of stamp duty, taxes or other charges, if any, and payment in accordance with law or in respect of any permission or compliance with other requirements which may be specifically required under any law.



30. The Petitioner Companies shall comply with all the undertakings given by them.
31. The Petitioner Companies shall take all consequential and statutory steps required under the provisions of the Act in pursuance of the Scheme.
32. All the employees of the Transferor Companies in service, on the date immediately preceding the date on which the Scheme takes effect i.e. the Effective Date, shall become the employees of the Transferee Company on such date, without any break or interruption in service and upon terms and conditions not less favourable than those subsisting in the concerned Transferor Companies on the said date.
33. Any proceedings now pending by or against the Transferor Companies be continued by or against the Transferee Company.
34. All the properties, rights, liabilities, duties and powers of the Transferor Companies, be transferred without further act or deed, to the Transferee Company and accordingly the same shall, pursuant to Section 232 of the Companies Act, 2013, be transferred to and vest in the Transferee Company.
35. The Registrar of Companies is entitled to proceed against the Transferee Company for violation/offences committed by Transferor Companies, if any.
36. All authorities concerned to act on a copy of this Order along with Scheme duly authenticated by the Deputy Director or Assistant Registrar, National Company Law Tribunal, Mumbai.

C.P. (CAA) 172/ MB/ 2023  
Connected with  
C.A. (CAA) 61/ MB/ 2023

37. Any person interested shall be at liberty to apply to this Tribunal in the above matter for any directions that may be necessary.
38. Any concerned authorities are at liberty to approach this Tribunal for any further clarification as may be necessary.
39. Ordered accordingly. Thus, CP (CAA)/ 172/ MB/ C-III/ 2023 in CA (CAA)/ 61/ MB/ C-III/ 2023 shall stand to be **disposed of**.

‘Files to be Consigned to the Records’

Sd/-

**CHARANJEET SINGH GULATI**  
**MEMBER (TECHNICAL)**

(Saayli, LRA)

Sd/-

**LAKSHMI GURUNG**  
**MEMBER (JUDICIAL)**