

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL**

**MUMBAI BENCH-V**

**CA(CAA)107/MB/2024**

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;

**AND**

In the matter of Scheme of Amalgamation (Merger by absorption) between Maxbhumi Developers Limited (“Transferor Company 1/ First Applicant Company”); Sleek International Private Limited (“Transferor Company 2/ Second Applicant Company”) and Asian Paints Limited (“Transferee Company/ Third Applicant Company”) and their respective Shareholders (“Scheme”)

**Maxbhumi Developers Limited** )  
A company incorporated under Companies )  
Act, 1956 having its registered office at Plot )  
No. 5, Gaiwadi Industrial Estate, S.V. Road, )  
Goregaon (West), Mumbai 400 062. )  
CIN: U45400MH2007PLC175925 )  
)

... Transferor Company 1/ First  
Applicant Company

**Sleek International Private Limited** )  
A company incorporated under Companies )  
Act, 1956 having its registered office at )  
301/302, G Wing, 3<sup>rd</sup> Floor, Lotus Corporate )  
Park Graham Firth Compound, Western )  
Express Highway, Goregaon (East), Bandra )  
Suburban, Mumbai 400 063. )  
CIN: U31300MH1993PTC070859 )  
)

... Transferor Company 2/ Second  
Applicant Company

**Asian Paints Limited** )  
A company incorporated under Companies )  
Act, 1913 having its registered office at 6A, )  
Shantinagar, Santacruz East, Mumbai – 400 )  
055. )  
CIN: L2422MH1945PLC01498 )

... Transferee Company / Third  
Applicant Company

*Applicant Company No.1, Applicant Company No.2, Applicant Company No.3 shall be hereinafter collectively referred to as “Applicant Companies”*

**Order Dated:03.07.2024**

**Coram:**

Reeta Kohli

Madhu Sinha

Hon’ble Member (Judicial)

Hon’ble Member (Technical)

**For the Applicant Companies:** Mr. Hemant Sethi, Ms. Tanaya Sethi, i/b Hemant Sethi & Co., Advocates.

**ORDER**

- 1) The Learned Counsel for the Applicant Companies states that the present Scheme is Scheme of Amalgamation (Merger by absorption) between Maxbhumi Developers Limited (“Transferor Company 1/ First Applicant Company”); Sleek International Private Limited (“Transferor Company 2/ Second Applicant Company”) and Asian

Paints Limited (“Transferee Company/ Third Applicant Company”) and their respective Shareholders (“Scheme”), under the provisions of Sections 230 to 232 of the Companies Act, 2013.

- 2) The Learned Counsel for the Applicant Companies states both the Transferor Companies are wholly owned subsidiaries of the Transferee Company i.e. Third Applicant Company.
- 3) The Learned Counsel for the Applicant Companies states that the resolution passed by the Board of Directors of the Applicant Companies in their respective meetings conducted on 27<sup>th</sup> March, 2024 approved the Scheme. The Appointed Date of the Scheme is 1<sup>st</sup> April, 2024.
- 4) The Learned Counsel for the Applicant Companies further submits the nature of business of the Applicant Companies and Rationale for the Scheme: -
  - i. Maxbhumi Developers Limited (Transferor Company No. 1)**

The Company was previously had land parcels in Pune, Maharashtra and was primarily engaged in development of real estate and infrastructural facilities.
  - ii. Sleek International Private Limited (Transferor Company No. 2)**

The Company is engaged in the manufacture, selling and distribution of modular kitchens and wardrobes, kitchen and wardrobe components, kitchen and wardrobe accessories, civil kitchens and providing related services of designing and installing kitchens and wardrobes.
  - iii. Asian Paints Limited (Transferee Company)**

The Company is engaged in the business of manufacturing, selling and distribution of paints, coatings, products related to home décor, bath fittings and providing related services.

**iv. Rationale of the Scheme:**

1. Rationale for amalgamation of Transferor Company 1 with Transferee:
  - a) The Transferor Company 1 was set up with the objective of purchasing a land parcel in Pune for setting up the Transferee Company's paint manufacturing plant in the state of Maharashtra. On account of certain unforeseeable circumstances, the proposal of setting up of paint manufacturing facility by the Transferee Company at the land held by Transferor Company 1 was annulled. The land parcel held by the Transferor Company 1 was sold during the FY 2022-23. It is now proposed to merge the Transferor Company 1 with the Transferee Company.;
  - b) The amalgamation of the Transferor Company 1 with the Transferee Company will maximise shareholder value of the Transferee Company;
  - c) The amalgamation of the Transferor Company 1 with the Transferee Company shall facilitate consolidation to enable effective management;
  - d) Upon completion of the Amalgamation, Transferor Company 1 will be dissolved. Consequently, there would be lesser regulatory and legal compliance obligations including accounting, reporting requirements, tax filings, company law compliances, etc. and therefore reduction in administrative costs.
2. Rationale for amalgamation of Transferor Company 2 with Transferee:

- a) The Transferor Company 2 is engaged in the design, development, manufacturing and selling of Modular Kitchens, Wardrobes & Fitted furniture and in the sales & distribution through channel and OEMs for Components including hardware and accessories, also providing related services of training, design, and installation.
- b) The Transferee Company has forayed into home décor products and services propelling its transition from '**share of surface**' to '**share of space**'. Home décor has strong synergy with the Transferee Company's core business and is an essential part of the Transferee Company's strategy. The products and services offered by Transferor Company 2 are an integral part of the home décor and hence are intrinsically linked with the products and services being offered by the Transferee Company.
- c) Transferor Company 2 has a strong presence in the organized kitchens and wardrobe market and has a good production line, it manufactures good quality products and has a skilled, competent, and experienced labour force which is required for manufacturing such products. Transferee Company will reap long-term benefits by absorbing such production lines and skilled labour force including safeguarding the intellectual property and designs of certain products which are proposed to be launched in markets with its unique fit, finish and features, which can distinguish its products from competitors.
- d) The amalgamation of the Transferor Company 2 with the Transferee Company shall facilitate the provision of integrated offerings to the customers of the Transferee Company, considering the interlinked nature of

products and services offered and the type of customers served by both Companies.

3. The other benefits of the proposed amalgamation include:
  - i. Enabling in creating revenue synergies through sharing of consumer understanding, market insights, and channel models to ensure faster go-to-market strategy and achieve faster growth with fewer resources;
  - ii. Driving synergy benefits around back-end such as procurement, logistics, supply chain, technology operations and shared services; driving optimal utilization of resources and building centers of excellence;
  - iii. Strengthening of organizational capabilities around operational and financial areas, driving scale benefits through leveraging resources;
  - iv. Enabling coverage of complementary markets and consumer segments in line with a focused strategy of building a comprehensive home décor portfolio entering newer markets and driving penetration;
  - v. Enhancing organizational capabilities arising from the pooling of talent and human capital with diverse skill sets and experience in areas such as design, sourcing and consumer insights, providing strength to operate strongly in a highly fragmented market;
  - vi. Enabling more coordinated and comprehensive business management with a clear focus on driving common goals around building best quality products, wide distribution, efficient operations, and brand building, allowing for more efficient allocation of capital and resources for growth;
  - vii. It will maximize shareholder value of the Transferee Company;

viii. Upon completion of the Amalgamation, Transferor Company 2 will be dissolved. Consequently, there would be lesser regulatory and legal compliance obligations including accounting, reporting requirements, tax filings, company law compliances, etc. and therefore reduction in administrative costs.

- 5) There are no investigation proceedings have been instituted and/or are pending against them under Sections 210 – 217, 219, 220, 223, 224, 225, 226 & 227 of the Companies Act, 2013.
- 6) The Authorized, Issued, Subscribed and Paid-up Share Capital of the First Applicant Company as on 31<sup>st</sup> December, 2023 is:

<b>Particulars</b>	<b>Amount (₹)</b>
<b>Authorised Share Capital</b>	
4,50,000 Equity shares of ₹ 10 each	45,00,000
<b>Total</b>	<b>45,00,000</b>
<b>Issued, Subscribed, and Paid-up Share Capital</b>	
4,19,000 Equity Shares of ₹ 10 each fully paid up	41,90,000
<b>Total</b>	<b>41,90,000</b>

- 7) The Authorized, Issued, Subscribed and Paid-up Share Capital of the Second Applicant Company as on 31<sup>st</sup> December, 2023 is:

<b>Particulars</b>	<b>Amount (₹)</b>
<b>Authorised Share Capital</b>	
16,50,000 Equity shares of ₹ 10 each	1,65,00,000
<b>Total</b>	<b>1,65,00,000</b>
<b>Issued, Subscribed, and Paid-up Share Capital</b>	
2,90,100 Equity Shares of ₹ 10 each fully paid up	29,01, 000
<b>Total</b>	<b>29,01, 000</b>

4. The Authorized, Issued, Subscribed and Paid-up Share Capital of the Third Applicant Company as on 31<sup>st</sup> December, 2023 is:

<b>Particulars</b>	<b>Amount (₹)</b>
<b>Authorised Share Capital</b>	
99,50,00,000 Equity shares of Re. 1 each	99,50,00,000
50,000 11% Redeemable Cumulative Preference shares of ₹ 100 each	50,00,000
<b>Total</b>	<b>100,00,00,000</b>



<b>Issued, Subscribed, and Paid up Share Capital</b>	95,91,97,790
95,91,97,790 Equity Shares of ₹ 1 each fully paid up	
<b>Total</b>	<b>95,91,97,790</b>

- 8) The Learned Counsel for the Applicant submits that as the entire paid-up share capital of the First Applicant Company and the Second Applicant Company are held by the Third Applicant Company i.e. Transferee Company along with its nominees. Upon the Scheme becoming effective, no shares of the Transferee Company shall be allotted in lieu or exchange of the holding of the wholly owned subsidiary companies of the Transferee Company in the Transferor Companies and the stated capital/issued and paid-up capital of the Transferor Companies shall stand cancelled on the Effective Date. The said cancellation of the existing share capital of the Transferor Companies shall be effected as an integral part of this Scheme. Hence, no consideration shall be discharged by the Transferee Company pursuant to amalgamation with Transferor Companies.

**Shareholders and Creditors of Applicant Companies**

- 9) The Learned Counsel for the First Applicant Company submits that the entire Equity Share capital of the First Applicant Company is held by the Transferee Company i.e. the Third Applicant company. The Third Applicant Company being the Transferee Company has given their consent to the proposed scheme. In view of the fact that the consent has been given by the third Applicant/Holding Company, the meeting of the

Equity Shareholders of the First Applicant Company is hereby dispensed with. Certificate of Chartered Accountant of the First Applicant Company certifying the list of Equity Shareholders of First Applicant.

10) The Learned Counsel for the First Applicant Company submits that there are no Secured Creditors in the First Applicant Company. In view thereof, the question of convening and holding the meeting of the Secured Creditors of the First Applicant Company does not arise and the same is not required to be convened. Chartered Accountant of Applicant Companies certifying the no Secured Creditors of First Applicant Company.

11) The Learned Counsel of the First Applicant Company submits that as on 31<sup>st</sup> March, 2024, there are 3(three) Unsecured Creditors of the First Applicant Company of value of Rs. 2,26,000/- (Rupees Two Lakhs Twenty-Seven Thousand Only). The present Scheme is an Amalgamation between the First Applicant Company and their respective shareholders as contemplated under Section 230(1)(b) and not in accordance with the provisions of Section 230(1)(a) of the Companies Act, 2013, and as there is no compromise and/or arrangement with the creditors, no diminution of liabilities of the creditors, no sacrifice is called for and hence, the meeting of the unsecured creditors of the First Applicant Company is not required to be convened and is dispensed with. Certificate of Chartered Accountant of the First Applicant Company certifying the list of Unsecured Creditors of the First Applicant Company. Two of the unsecured creditors have been paid as on date. One unsecured secured creditor amounting to Rs. 2,500 (Rupees Two Thousand Five Hundred) will be paid before the final hearing.

12) The Learned Counsel for the Second Applicant Company submits that the entire Equity Share capital of the Second Applicant Company is held by the Transferee /Holding Company ie the Third Applicant company. The Third Applicant Company being the Transferee/Holding Company has given its consent to the proposed scheme. In view of the fact that the consent has been given by the Holding Company, the meeting of the Equity Shareholders of the Second Applicant Company is hereby dispensed with. Certificate of Chartered Accountant of the Second Applicant Company certifying the list of Equity Shareholders of Second Applicant Company.

13) The Learned Counsel for the Second Applicant Company submits that there are no Secured Creditors in the Second Applicant Company as on 31<sup>st</sup> March, 2024. In view thereof, the question of convening and holding the meeting of the Secured Creditors of the Second Applicant Company does not arise and the same is not required to be convened. Chartered Accountant of Second Applicant Company certifying the no Secured Creditors of Second Applicant Company.

14) The Learned Counsel of the Second Applicant Company submits that as on 31<sup>st</sup> March, 2024, there are three categories unsecured creditors of the Second Applicant Company amounting to Rs. 139.93 Crores/- (Rupees One Hundred and Thirty Nine Crores and Ninety Three Lakhs Only).The present Scheme is an Amalgamation between the Second Applicant Company and their respective shareholders as contemplated under Section 230(1)(b) and not in accordance with the provisions of Section 230(1)(a) of the

Companies Act, 2013, and as there is no compromise and/or arrangement with the creditors, no diminution of liabilities of the creditors, no sacrifice is called for and hence, the meeting of the unsecured creditors of the Second Applicant Company is not required to be convened and is dispensed with. Certificate of Chartered Accountant of the Second Applicant Company certifying the list of Unsecured Creditors of the Second Applicant Company. This Bench hereby directs the Second Applicant Company to issue notices to all its Unsecured Creditors by RPAD/ Speed Post or Email (to the Unsecured Creditors whose email addresses are duly registered with the Applicant Company for the purposes of receiving such emails) at their last known addresses or email addresses as per the records of the Applicant Company to its Unsecured Creditors as required under section 230(3) of the Companies Act, 2013 with a direction that they may submit their representations, if any, to the Tribunal and copy of such representation shall be served upon the Applicant Company. The Second Applicant undertakes to pay off their unsecured creditors or obtain their consent, totaling to 90% of the total value before the final hearing of the Petition as per the list attached as Annexure L2. In view thereof the meeting of the Unsecured Creditors of the Second Applicant Company is hereby dispensed with.

15) The Learned Counsel for the Third Applicant Company submits that the Scheme does not entail any compromise or arrangement whatsoever between the Third Applicant Company and its shareholders and creditors within the meaning of Section 230 to 232 of the Act. Therefore, holding of meetings of shareholders and/or creditors of the Third Applicant Company for approval of the proposed Scheme is not required in view of Order of Hon'ble National Company Law Appellate Tribunal (NCLAT) in the matter

of **Reliance Industries Ltd. V. Registrar of Companies [Company Appeal (AT) No. 109 of 2023]** dated 11<sup>th</sup> May, 2023 wherein Hon'ble NCLAT, Principal Bench, New Delhi held that the transfer of demerged undertaking from the wholly owned subsidiary into the parent/ transferee company by way of demerger is akin to merger of wholly owned subsidiary with parent company & directed that convening and holding of meetings of Equity Shareholders, Secured and Unsecured Creditors of the Parent Company was dispensed with and further consent affidavits of 90% of the total value of shareholders and secured creditors and all unsecured creditors will not be necessary at this stage. It is respectfully submitted that the Hon'ble National Company Law Appellate Tribunal in the case of **DLF Phase-IV Commercial Developers Limited & Ors, In Company Appeal (AT) No. 180 of 2019, Ambuja Cements Limited, In Company Appeal (AT) No. 19 of 2021,** and **Patel Engineering Limited, In Company Appeal (AT) No. 137 of 2021** have held that Scheme of arrangement/Amalgamation between subsidiary and Holding Company does not warrant meetings of its shareholders and creditors. The facts of the case are similar to the present matter. The rights of secured creditors and unsecured creditors of the Third Applicant Company are not affected as there is no compromise or arrangement with them. The net worth of the Transferor and Transferee Companies are positive.

- 16) The Learned Counsel for the Third Applicant Company submits that there are 11,05,326 (Eleven Lakhs Five Thousand Three Hundred and Twenty-Six) Equity Shareholders in Third Applicant Company as on 31st March 2024 available with BSE Limited / NSE or Depository. There is one Secured Creditors of value of Rs. 53,44,00,000 /-(Rupees Fifty-Three Crores and Forty-Four Lakhs Only) and Two

Categories of Unsecured Creditors of value of Rs. 4,603.43 Crores/- (Rupees Four Thousand Six Hundred and Three Crores Only) as on 31<sup>st</sup> March, 2024. Details of the shareholders of the Third Applicant Company available with Bombay Stock Exchange/NSE/ Depository. Details of the Secured Creditors of the Third Applicant Company as on 31<sup>st</sup> March, 2024 as certified by the Chartered Accountant. Details of the Unsecured Creditors of the Third Applicant Company as on 31<sup>st</sup> March, 2024 as certified by the Chartered Accountant.

17) The Learned Counsel for the Third Applicant Company submits that the Networth of the First applicant company, second applicant company and third applicant company as on 31<sup>st</sup> March, 2024 is **Rs. 13.31 crores** (Rupees Thirteen Crores and Thirty-One Lakhs), **Rs. 99.17 crores** (Rupees Ninety-Nine Crores and Seventeen Lakhs) and **Rs. 18,218.47 crores** (Rupees Eighteen Thousand, Two Hundred and Eighteen crores) respectively. The Networth of the applicant companies post amalgamation is **Rs. 18,084.23 crores** (Rupees Eighteen Thousand and Eighty Four crores). Details certifying the Networth of the applicant companies certified by Chartered Accountant is marked as Q (Pg nos 446-448 Vol III).

18) Based on the above, this Bench is of the view that meetings of Equity Shareholders, and Creditors of the Third Applicant Company i.e. Transferee Company are hereby dispensed with since **the First Applicant Company and Second Applicant Company are wholly owned subsidiaries of the Third Applicant Company** and view of the ratios laid down in the aforesaid judgments.

19) The Applicant Companies are accordingly directed to serve notices along with copy of Scheme upon under the provisions of Section 230(5) of the Companies Act, 2013 and Rule 8 of the Companies (Compromises, Arrangement and Amalgamation) Rules, 2016 upon the:-

- (i) concerned Income Tax Authorities within whose jurisdiction the Applicant Company's assessments are made.
- (ii) Concerned Nodal Office.
- (iii) the Central Government through the office of Regional Director, Western Region, Ministry of Corporate Affairs, Mumbai, Maharashtra;
- (iv) Registrar of Companies, Mumbai, Maharashtra;
- (v) Respective Goods and Service Tax Department;
- (vi) Official Liquidator, Bombay High Court for First Applicant Company and Second Applicant Company;
- (vii) BSE Limited ('BSE') and the National Stock Exchange of India Limited ('NSE') in so far as the Third Applicant Company

The notices shall be served through by Registered AD/ Speed-Post/ Email/ Hand Delivery with a direction that they may submit their representations, if any, within a period of thirty days from the date of receipt of such notice to the Tribunal with copy of such representations shall simultaneously be served upon the Applicant Companies, failing which, it shall be presumed that the authorities have no representations to make on the proposals.

20) The Applicant Companies to file an affidavit of service of the directions given by the Tribunal for proving service of notice to the Regulatory Authorities by the Applicant Companies, have been duly complied with.

21) Accordingly, CA(CAA) 107 /MB/2024 is allowed and disposed of.

**SD/-**

**Madhu Sinha**  
**Member (Technical)**  
/Aakansha/

**SD/-**

**Reeta Kohli**  
**Member (Member)**