

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO: II**

Hearing Through: VC and Physical (Hybrid) Mode

CORAM: SHRI. RAJEEV BHARDWAJ, HON'BLE MEMBER (J)

CORAM: SHRI. SANJAY PURI, HON'BLE MEMBER (T)

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH, HELD ON 01.07.2024 AT 10:30 AM**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CP(CAA)/63/230//2023
NAME OF THE COMPANY	Deepa Filters Pvt Ltd (Transferor Co.1) & DVS Filters Pvt Ltd (Transferor Co.2) & ANV Filters Pvt Ltd (Transferor Co.3) & Vishnu Plastics Pvt Ltd (Transferee Co.)
NAME OF THE PETITIONER(S)	
NAME OF THE RESPONDENT(S)	
UNDER SECTION	230

ORDER

Orders pronounced, recorded vide separate sheets. In the result, this application is allowed.

Sd/-
MEMBER (T)

Sd/-
MEMBER (J)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH - II**

CP (CAA) No.63/230/HDB/2023

connected with

CA (CAA) No.50/230/HDB/2023

[Under Section 232 r/w Section 230 of the Companies Act, 2013]

In the matter of Scheme of Amalgamation of

**M/s. Deepa Filters Private Limited
(Transferor Company 1)**

And

**M/s. DVS Filters Private Limited
(Transferor Company 2)**

And

**M/s. AVN Filters Private Limited
(Transferor Company 3)**

With

**M/s. Vishnu Plastics Private Limited
(Transferee Company)**

And

Their Respective Shareholders and Creditors

M/s. Deepa Filters Private Limited
Having its registered office at
Shed No: B-7/3, Uppal Industrial Area,
Hyderabad, Telangana-500039.
Represented by its Director,
Mr. Sunil Kumar Kuragayala.

...Petitioner /Transferor Company 1

M/s. DVS Filters Private Limited
Having its registered office at
B-7/2, IDA, Uppal, Hyderabad-500039,
Telangana, India.
Represented by its Director,
Mr. Sunil Kumar Kuragayala.

...Petitioner /Transferor Company 2

M/s. ANV Filters Private Limited
Having its registered office at
B-7/2, IDA, Uppal, (K.V. Rangareddy),
Hyderabad-500039, Telangana, India.

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Represented by its Director,
Mr. Sunil Kumar Kuragayala.

...Petitioner /Transferor Company 3

M/s. Vishnu Plastics Private Limited
Having its registered office at
B-7/5, Uppal Industrial Area,
Hyderabad-500039, Telangana.
Represented by its Director,
Mr. Sunil Kumar Kuragayala.

...Petitioner /Transferee Company

Date of order:01.07.2024

CORAM:

Sri Rajeev Bhardwaj, Hon'ble Member (Judicial)
Sri Sanjay Puri, Hon'ble Member (Technical)

Counsel/Parties present:

For the Petitioner : Mr. Lokesh Agarwal, PCS
For Regional Director : Mr. Harshavardhan Reddy, Assistant Director
For Official Director : Mr. Vasantrao Meshram, Assistant Director

[PER: BENCH]

ORDER

1. This is a Joint Petition filed by the Transferor Companies and Transferee Company, under Section 232 r/w Section 230 and other applicable provisions of the Companies Act, 2013 praying for the sanction of the Scheme of Amalgamation (“Scheme”) of M/s. Deepa Filters Private Limited (“Transferor Company 1”) and M/s. DVS Filters Private Limited (“Transferor Company 2”) and M/s. ANV Filters Private Limited (“Transferor Company 3”) with M/s. Vishnu Plastics Private Limited

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(“**Transferee Company**”) and their respective shareholders and creditors in terms of the Scheme of Amalgamation (“**Scheme**”).

2. The Registered Office of the Transferor Companies and Transferee Company is situated in the State of Telangana.
3. Briefly, the facts are as follows:

I. First Petitioner/Transferor Company-1

- i. M/s. Deepa Filters Private Limited (“**Transferor Company-1**”), was incorporated on 19.03.1987 with CIN: U16001TG1987PTC-007289.
- ii. The Petitioner Company/Transferor Company-1 is engaged, inter alia, in the business of buy, sell, export, import, deal in, and to manufacture of Filters & Cigarettes of all types in various shapes and to do all such other things as are incidental or conducive to the attainment of the objects.

(A copy of Certificate of Incorporation, the Memorandum and Articles of Association of the Petitioner Company/ Transferor Company-1 is filed at Annexure–A1 at Page Nos.25-40 of the Petition).

- iii. The authorized, issued, subscribed and paid-up share capital of the Petitioner Company/Transferor Company-1 as on 31st March, 2023 is as follows:

Share Capital	Amount (in Rs.)
Authorized Capital	
2,000 (Two Thousand) Equity Shares of Rs.100/- (Rupees One Hundred only) each	2,00,000
Total	2,00,000
Issued, Subscribed and Paid-up Capital	
1,618 (One Thousand Six Hundred and Eighteen)	

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Equity Shares of Rs 100/- (Rupees One Hundred only) each	1,61,800
Total	1,61,800

(A certified copy of the audited financial statements as on 31.03.2023 of the Petitioner Company/Transferor Company-1 is filed as Annexure-A2 at Page Nos.41-54 of the Petition).

II. Second Petitioner/Transferor Company-2

- i. M/s. DVS Filters Private Limited (“**Transferor Company-2**”), was incorporated on 06.01.2023 with CIN: U16009TG2023PTC-170181.
- ii. The Petitioner Company/Transferor Company-2 is engaged, inter alia, in the business of buy, sell, export, import, deal in, and to manufacture of Filters & Cigarettes of all types in various shapes and to do all such other things as are incidental or conducive to the attainment of the objects.

(A copy of Certificate of Incorporation, the Memorandum and Articles of Association of the Petitioner Company/ Transferor Company-2 is filed at Annexure–A3 at Page Nos.55-70 of the Petition).

- iii. The latest authorized, issued, subscribed and paid-up share capital of the Petitioner Company/Transferor Company-2, is as follows:

Share Capital	Amount in Rs.
Authorized Capital	
10,000 (Ten Thousand) Equity Shares of Rs.10/- (Rupees Ten only) each	1,00,000
Total	1,00,000
Issued, Subscribed and Paid-up Capital	Amount in Rs.
10,000 (Ten Thousand) Equity Shares of Rs.10/- (Rupees Ten only) each	1,00 ,000
Total	1,00 ,000

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(A certified copy of the provisional financial statements as on 30.06.2023 of the Petitioner Company/Transferor Company-2 is filed as Annexure-A4 at Page Nos.71-79 of the Petition).

III. Third Petitioner/Transferor Company-3

- i. M/s. ANV Filters Private Limited (“**Transferor Company-3**”), was incorporated on 04.04.2023 with CIN: U12009TS2023PTC-171559.
- ii. The Petitioner Company/Transferor Company-3 is engaged, inter alia, in the business of buy, sell, export, import, deal in, and to manufacture of Filters & Cigarettes of all types in various shapes and to do all such other things as are incidental or conducive to the attainment of the objects.

(A copy of Certificate of Incorporation, the Memorandum and Articles of Association of the Petitioner Company/ Transferor Company-3 is filed at Annexure–A5 at Page Nos.80-107 of the Petition).

- iii. The latest authorized, issued, subscribed and paid-up share capital of the Petitioner Company/Transferor Company-3, is as follows:

Share Capital	Amount in Rs.
Authorized Capital	
10,000 (Ten Thousand) Equity Shares of Rs.10/- (Rupees Ten only) each	1,00,000
Total	1,00,000
Issued, Subscribed and Paid-up Capital	Amount in Rs.
10,000 (Ten Thousand) Equity Shares of Rs.10/- (Rupees Ten only) each	1,00 ,000
Total	1,00 ,000

(A certified copy of the provisional financial statements as on 30.06.2023 of the Petitioner Company/Transferor Company-3 is filed as Annexure-A6 at Page Nos.108-115 of the Petition).

IV. Transferee Company

- i. M/s. Vishnu Plastics Private Limited (“**Transferee Company**”), was incorporated on 23.02.1981 with CIN: U25209TG1981PTC-002934.
- ii. The Transferee Company is engaged, inter alia, in the business of buy, sell, export, import, deal in, and to manufacture of Plastic Containers of all types in various shapes and designs; manufacture, formulate, process, develop, refine, import, export, wholesale, retail trade, C&F Agents for all kinds of pharmaceuticals, antibiotics, drugs, medicines, biological, nutraceuticals, healthcare, ayurvedic, and dietary supplement products, medicinal preparations, vaccines, chemicals, chemical products, dry salters, mineral waters, wines, cordials, liquor, soups, broths and other restoratives or foods and also to deal in medicinal goods, such as surgical instruments, contraceptives, photographic, goods, oils, perfumes, cosmetics, patent medicines, soaps, artificial limbs, hospital requisites, proprietary medicines, veterinary medicines and tincture extracts and to carry on the business of vialling, bottling, repacking, processing of tablets, capsules, syrups, injections, ointments, etc., and also to carry on the business of chemist, druggist, buyers, sellers, agents, distributors, stockists of all kinds of pharmaceuticals and allied products to carry on in India or abroad business of importers, merchants, general orders suppliers, commission agents, representatives, distributors, royalty owner, contractors, auctioneer, indent agents, passage agents, factors, organisers, concessionaries, sale agents, sub agents and in connection with the business as referred to in sub clause above.

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(A copy of Certificate of Incorporation, the Memorandum and Articles of Association of the Transferee Company is filed at Annexure–A7 at Page Nos.116-143 of the Petition).

- iii. The latest authorized, issued, subscribed and paid-up share capital of the Transferee Company, is as follows:

Share Capital	Amount in Rs.
Authorized Capital	
10,000 (Ten Thousand) Equity Shares of Rs.100/- (Rupees One Hundred only) each	10,00,000
Total	10,00,000
Issued, Subscribed and Paid-up Capital	Amount in Rs.
3,300 (Three Thousand and Three Hundred) Equity Shares of Rs.100/- (Rupees One Hundred only) each	3,30,000
Total	3,30,000

All the three Transferor Companies and the Transferee Company are owned and managed by only two shareholders (i.e. Mr. Sunil Kumar Kuragayala and Ms. Vinitha Kooragayala) of the same family. Subsequent to 31st March, 2023 and till date of passing the resolution approving the Scheme of Amalgamation by the Board of Directors of the Transferee Company, there is no change in the authorised, issued, subscribed and paid up share capital of the Transferee Company.

(A certified copy of the audited financial statements as on 31.03.2023 of the Transferee Company is filed as Annexure-A8 at Page Nos.144-156 of the Petition).

4. **RATIONALE FOR THE PROPOSED SCHEME**

- i. To achieve consolidation, greater integration and flexibility which will maximize overall shareholder value and improve the competitive position of the combined entity;

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- ii. To consolidate the affairs, proceedings and assets of all the Companies under one roof which shall also enable to consolidate the Industrial Development Operations at Transferee Company;
- iii. To attain a simplified shareholding structure in one single entity rather than having multiple entities;
- iv. Greater access by the Amalgamated Company to different market segments in conduct of its business;
- v. Cost savings are expected to flow from more focused operational efforts, rationalization, standardization and simplification of business processes, elimination of duplication and rationalization of administrative expenses;
- vi. The amalgamation will result in reduction of multiplicity of entities;
- vii. To avoid and reduce the duplication of administrative, maintenance and compliance cost of multiple entities viz., statutory filings, regulatory compliances, labour law & establishment related compliances.

5. **BOARD RESOLUTIONS:**

The Board of Directors of the Petitioner Companies vide their resolution dated 20.06.2023, approved the Scheme of Amalgamation (“**Scheme**”) of M/s. Deepa Filters Private Limited (“**Transferor Company 1**”) and DVS Filters Private Limited (“**Transferor Company 2**”) and M/s. ANV Filters Private Limited (“**Transferor Company 3**”) with M/s. Vishnu Plastics Private Limited (“**Transferee Company**”) and their respective shareholders and creditors. The appointed date is 01.05.2023.

(Certified True Copy of the Board Resolutions of the Transferor Companies and Transferee Company, approving the Scheme of

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Amalgamation (Scheme) are filed at Annexures-11, 12, 13 and 14 at Page Nos. 200-219 of the Petition).

6. The instant Company Application is filed in pursuance of the Order dated 28.08.2023 passed in CA(CAA)No.50/230/HDB/2023, in which dispensed with the convening the meetings of the equity shareholders, secured creditors unsecured creditors of the Petitioner Companies.

(Copy of the Order dated is 28.08.2023 is filed at Annexure-A15 at Page Nos.220-239 of the Petition).

7. As per the directions of this Tribunal vide order dated 18.10.2023, the Petitioner Companies issued notices to the Statutory Authorities.
8. Notices were served individually to all the concerned regulatory authorities i.e., Regional Director (SER), Registrar of Companies (RoC), Official Liquidator, Hyderabad, Income Tax Authorities for intimating the Scheme of Amalgamation.
9. The Regional Director (South Eastern Region), Ministry of Corporate Affairs, Hyderabad has filed its Report on 10.04.2024 and Additional Affidavit Report filed on 19.06.2024 and Reply Affidavit filed on 16.04.2024.
10. In response to the observations made by the Regional Director's Report filed on 10.04.2024 and Additional Affidavit Report filed on 19.06.2024, the Petitioner Companies have given necessary undertakings and clarifications through their Reply Affidavit which was filed on 16.04.2024. The observations made by the Regional Director and the clarifications and undertakings given by the Petitioner Companies are summarized in the table below:

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Page & Para Nos.	Regional Director's Report filed on 10.04.2024 / observations	Reply Affidavit filed on 16.04.2024 by the Petitioner Companies	Regional Director's Additional Affidavit Report filed on 19.06.2024 / observations
Page 2 Para 3	This Directorate has received letter No. ROCH/Amal/230-232/2023-24/2326 dated 20.02.2024 from the Registrar of Companies, Telangana, Hyderabad opining no objection to the proposed Amalgamation, but pointed out certain observations as under-		
Page 2 Para 3 (a)	As per Clause 1.5 of the Scheme, 01.05.2023 is the Appointed date for the proposed scheme.		
Page 2 Para 3 (b)	Transferor Company has filed statutory returns up to 31.03.2023.		
Page 2 Para 3 (c)	Transferor Company-2 is incorporated on 06.01.2023. As per the e-records available on MCA21 Portal, no information regarding calling AGM is available since, company has not filed any Balance Sheet with this office.		
Page 2 Para 3 (d)	Transferor Company-3 is incorporated on 04.04.2023. As per the e-records		

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	available on MCA21 Portal, no information regarding calling AGM is available since, company has not filed any Balance Sheet with this office.		
Page 2 Para 3 (e)	Transferee Company has filed Annual Returns and Balance Sheet up to the financial year ended on 31.03.2023.		
Page 2 Para 3 (f)	Clause 10 of the scheme provides for an automatic increase in Authorized Capital of the Transferee Company with that of the Transferor Companies. The Transferee Company shall pay the differential fee and stamp duty payable on the said increase in Authorized capital after deducting such fees and duties paid by the Transferor Company before the merger.	The Transferee Company do hereby agrees, affirms, confirms, declares and undertakes that it shall pay the differential fee and stamp duty payable on the increase in the authorized capital of the Transferee Company with that of the Transferor Companies after deducting such fee and stamp duty already paid by the Transferor Companies before the Amalgamation.	
Page 2 Para 3 (g)	This NCLT, Hyderabad Bench vide order dated 28.08.2023 in CA (CAA) No.50/230/HDB/2023 has ordered dispensation for conducting meetings of the equity shareholders, secured and unsecured creditors of the Applicant companies (Transferor and		

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	Transferee Companies).		
Page 2 Para 3 (h)	This Tribunal may be pleased to direct the Petitioner Company(s) to preserve its books of accounts and papers and records and shall not be disposed off without the prior permission of the Central Government in terms of provisions of Section 239 of the Companies Act, 2013.	The Petitioner Companies do hereby jointly and severally, agree, affirm, confirm, declare and undertake to preserve to preserve its books of account and records and shall not dispose of the same without the prior permission of the central government in terms of provisions of section 239 of the Companies Act, 2013.	
Page 3 Para 3 (i)	This Tribunal may be pleased to direct the Petitioner Company(s) to ensure statutory compliance of all applicable laws and also on sanctioning of the present scheme the applicant company shall not be absolved for any of its statutory liability in any manner.	The petitioner companies do hereby jointly and severally, agree, affirm, confirm, declare and undertake to ensure statutory compliance of all the applicable laws and that on sanctioning of the present Scheme, the Petitioner Companies shall not be absolved for any of its statutory liabilities in any manner.	
Page 3 Para 3 (j)	This Tribunal may be pleased to direct the Petitioner Company(s), involved in the scheme to comply with Rule 17(2) of the Companies (Compromise, Arrangement and Amalgamation) Rules 2013 with respect to filing of order for confirmation of scheme to be filed in Form No.INC-28 with the concerned	The petitioner companies do hereby jointly and severally, agree, affirm, confirm, declare and undertake to comply with Rule 17(2) of the Companies (Compromise, Arrangement and Amalgamation) Rules 2013 with respect to filing of order of this Tribunal for confirmation of scheme in e-Form No.INC-28 with the concerned office of Registrar of Companies.	

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	office of Registrar of Companies by the Petitioner Company.		
Page 3 Para 7	The report of the Official Liquidator will be filed separately and NCLT may kindly take on record of the report/further report of the official liquidator containing observations if any, before the approval of the scheme.	The petitioner companies do hereby jointly and severally, state that the office of the Official Liquidator has filed its Report dated 28.02.2024 and the Petitioner Companies have already filed an Affidavit dated 16.03.2024 before this Tribunal in compliance with the observations of the office of the Official Liquidator.	
Page 3 Para 8	With reference to this Directorate's letter dated 03.11.2023, issued to The Addl. Commissioner of I. Tax, Hyderabad, till date no reply/comments in the matter has been submitted to this Directorate. Tribunal may be pleased to direct the petitioner companies to furnish an undertaking that, if any demand arises from the Income Tax Department with respect to Transferor Companies and Transferee Company, Transferee Company is ready to pay the said dues as per rules.	The petitioner companies do hereby jointly and severally, agree, affirm, confirm, declare and undertake that if any demand arises from the income tax department with respect to any of the Transferor Companies and/or the Transferee Company, the Transferee Company shall pay such dues in accordance with and subject to the applicable provisions of laws.	
Page 3 Para 9	On examination of the contents of the scheme, replies of the petitioner companies and apart from the observations stated in para 8 above, the observation of the Deponent is as under:		

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Page 3 Para 9 (a)	All the companies are managed by two shareholders belonging to the same family and all companies acquired in 2021-22.	The factual information which is on record and hence need not be traversed.	
Page 3 Para 9 (b)	Transferee Company has business activity different from that of all transferor companies.	The Petitioner Companies do hereby jointly and severally, state that the main objects of the Transferee Company inter-alia includes the activity “to buy, sell, export, import, deal in and to manufacture Plastic Containers of all types in various Shapes and Designs” which includes the main objects activity of the Transferor Companies viz., “to buy, sell, export, import, deal in and to manufacture Filters & Cigarettes of all types in various shapes”. The main objects of the Transferor Company 1 are appearing at Clause III (A) 1 to 4 at Page No.26 of the Company Petition, the main objects of the Transferor Company 2 are appearing at Clause 3(a) i to iv at Page No. 56 of the Company Petition, the main objects of the Transferor Company 3 are appearing at Clause 3(a) i to iv at Page No.81 of the Company Petition and the main objects of the Transferee Company 2 are appearing at Clause III(A) 1 to 5 at Page No.117 of the Company Petition. The Transferee Company further state, affirm, confirm, declare and undertake that if required by the statutory authorities, it shall alter its main objects so to specifically include the business activities of the	

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		Transferor Companies before commencement of businesses of the Transferor Companies by the Transferee Company.	
Page 4 Para 9 (c)	As per clause 10 of the scheme, the Authorized Share Capital of the Transferee Company shall automatically get increased upon approval of the scheme. In this regard, the Transferee Company shall furnish an undertaking with regard to compliance of the provisions of Section 232(3)(i) of the Companies Act, 2013 and pay the differential stamp duty after setting off the fee already paid by the Transferor Companies.	The Transferee Company do hereby agrees, affirms, confirms, declares and undertakes that it shall comply with the provisions of section 232(3)(i) of the Companies Act, 2013, and pay the differential fee and stamp duty payable on the increase in the authorized capital of the Transferee Company with that of the Transferor Companies after setting off fee and stamp duty already paid by the Transferor Companies.	
Page 4 Para 9 (d)	As per the order dated 28.08.2023 of the NCLT in CA(CAA) No.50/230/HDB/2023, the meeting of the equity shareholders, secured and unsecured creditors of the petitioner companies have been dispensed with. However, upon verification of the records available on MCA, it is observed that Transferor Company has secured creditor (SBH) and Transferee Company has open charges. In	The Petitioner Companies jointly and severally, do hereby state and confirm that none of the Petitioner Companies have any secured creditors or active open charges. It is further respectfully submitted that the Transferor Company 1 had one charge created in the year 1987 which was duly satisfied in the year 1995 and that the Transferee Company had two charges of which one was created in the year 1982 and satisfied in the year 1989 and other was created in 1985 and duly satisfied in the year 1993.	The Petitioner Companies have furnished the information with regard to satisfaction of charges along with documentary proof which may be considered.

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	<p>this regard, petitioner companies may be directed to furnish the details of obtaining NOC in the above regard before the NCLT for considering approval of the Scheme.</p>		
<p>Page 4 Para 9 (e)</p>	<p>Transferor Company 1 and transferee company are loss making companies as per the latest Balance Sheets as on 31.03.2023 filed by them.</p>	<p>The object of the amalgamation is not financial synergies but the consolidation of affairs, assets and to carry on the business under one roof of the consolidated entity in view of the fact that all the Petitioner Companies are controlled, owned and managed by the same shareholders and the amalgamation will help achieve attaining a simplified shareholding in addition to reduction of cost, reduction in multiplicity of entities and duplication of administrative, maintenance and compliance cost of multiple entities, the Objectives of the Scheme are appearing at Clause (C) of Scheme of Amalgamation at Page No.165 of the Company Petition.</p>	<p>The Petitioner Companies that the amalgamation is not financial synergies but the consolidation of affairs, assets and to carry on the business under one roof of the consolidated entity in view of the fact that all the Petitioner Companies are controlled, owned and managed by the same shareholders and the amalgamation will help achieve attaining a simplifies shareholding in addition to reduction of cost, reduction in multiplicity of entities and duplication of administrative maintenance and compliance cost of multiple entities and the same is appearing in the Scheme. The above submission of the Petitioner Companies may be considered by the Tribunal.</p>
<p>Page 4 Para 9 (f)</p>	<p>Para 10.1, 10.2, 10.3 & 10.4 of the scheme speaks about subdivision of Face Value of Equity Shares of Transferor Company No.1 and the Transferee Company from Rs.100/- to Rs.10/- each which is not tenable since the Exchange Ratio of shares given in Para 11.1 inter-alia stated</p>	<p>The Clauses 10.1 to 10.4 of the Scheme mentions about the subdivision of face value of equity shares of Transferor Company 1 and Transferee Company from Rs.100/- (Rupees One Hundred only) to Rs.10/- (Rupees Ten only) as a part and parcel of the Scheme. It is further respectfully submitted that the contention of the Regional Director with regard to changing the Face Value of equity shares of Transferor</p>	<p>The Clause 10.1 to 10.4 of the Scheme mentions about the subdivision of face value of equity shares of Transferor Company 1 and Transferee Company from Rs.100/- (Rupees One Hundred only) as a part and parcel of the Scheme and that it is further respectfully submitted that the contention of the Regional Director with regard to changing the Face Value of equity share of Transferor Company 1 and Transferee</p>

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<p>that the exchange of shares paid towards purchase consideration to the shareholders of the Transferor Company 1 shall be at the face value of Rs.100/- per share in line with the face value per share recommended by the Independent Valuer. Hence by changing the face value per share of the Transferor Company 1 the Transferee Company cannot allot shares to the shareholders of the said Transferor Company 1 for giving effect of the scheme (after approval of the scheme by the Tribunal), hence the scheme may not be implemented. It has not also gave effect for merger of Authorized Capital of the said Transferor Company with the Authorized Capital of the Transferee Company as stated in Para 10.7 of the Scheme. In view of the above, it is submitted before the Tribunal to direct the Petitioner Companies to delete Para 10.1 to 10.4 of the Scheme and also renumbered the remaining contents of the Paras</p>	<p>Company 1 and Transferee Company from Rs.100/- (Rupees One Hundred only) to Rs.10/- (Rupees Ten only) will not be in line with the exchange ratio as recommended by the Independent Valuer since the Independent Valuer has recommended the exchange ratio based on the face value of equity shares of Rs.100/- (Rupees One Hundred only), is not reasonable, since the Petitioner Companies have already captured the effect of change in the face value of equity shares in the exchange ration at clause 11.1 of the Scheme appearing at Page No.186 & 187 of the Company Petition. Clause 11.1 of the Scheme of Amalgamation is reproduced below for the ready reference of this Tribunal.</p> <p><i>11.1 Upon sanction of this Scheme by the Tribunal and in consideration of transfer and vesting of the Undertakings of the Transferor Companies to the Transferee Company in terms of provisions of the Scheme, the Transferee Company shall, without any further application or deed, issue and allot equity share(s) to the members of the Transferor Companies whose names appear in the Register of members as on Record Date, in the following ration (“Share Exchange Ratio”):</i> <i>Before giving effect to Clause</i></p>	<p>Company from Rs.100/- (Rupees One Hundred only) to Rs.10/- (Rupees Ten only) will not be in line with the exchange ratio as recommended by the Independent Valuer since the Independent Valuer has recommended the exchange ratio based on the face value of equity shares of Rs.100/- (Rupees One Hundred only), is not reasonable, since the Petitioner Companies have already captured the effect of change in the face value of equity shares in the exchange ratio at clause 11.1 of the Scheme. It is also submitted by the Petitioner Companies that it is amply clear from the above explanation that the above exchange ratio as recommended by the Independent Valuer considering the face value of equity shares of Rs.100/- (Rupees One Hundred only) does not have any bearing on the share exchange ratio mentioner at clause 11.1 of the scheme of amalgamation. However, in order to avoid any conflict or misperceptions and as suggested by the office of the Regional Director, the Board of Directors of the Petitioner Companies have at their respective Board of Directors of the Petitioner Companies have at their respective Board Meetings held on 15.04.2024, modified the Scheme of Amalgamation for the purpose of removing clauses 10.1, 10.2, 10.3 and 10.4 of the Scheme pertaining to the subdivision of face</p>
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	<p>10.5 to 10.8 to be amended as 10.1 to 10.4 in the scheme.</p>	<p><u>10 of Scheme:</u></p> <p>(a) 217 (Two Hundred and Seventeen) equity shares of Transferee Company of face value of Rs.100/- (Rupees One Hundred only) each fully paid-up for every 100 (One Hundred) equity shares of Transferor Company 1 of Rs.100/- (Rupees One Hundred only) each fully paid-up;</p> <p>(b) 01 (One) equity share of Transferee Company of face value of Rs.100/- (Rupees One Hundred only) each fully paid-up for every 20 (Twenty) equity shares of Transferor Company 2 of face value of Rs.10/- (Rupees Ten only) each fully paid-up;</p> <p>(c) 01 (One) equity share of Transferee Company of face value of Rs.100/- (Rupees One Hundred only) each fully paid-up for every 20 (Twenty) equity shares of Transferor Company 3 of face value of Rs.10/- (Rupees Ten only) each fully paid-up;</p> <p><u>After giving effect to Clause 10 of Scheme:</u></p>	<p>value of equity shares of the Transferor Company 1 and Transferee Company from Rs.100/- (Rupees One Hundred only) to Rs.10/- (Rupees Ten only). It is further submitted that apart from removal of clauses 10.1, 10.2, 10.3 and 10.4 of the Scheme and apart from any consequential changes in clause 10 and 11 of the Scheme, there are no other changes or modification made in the Modified Scheme of Amalgamation. In this regard it is submitted by the Deponent herein that the Petitioner Companies have modified para 10 the scheme as proposed by the Deponent and also approved such modification in their respective Board meetings convened on 15th April 2024 which copy has been submitted in the office of the Deponent. In view of the above it is prayed that the Modified Scheme of amalgamations as filed by the petitioner companies may be considered for approval in stead pf the scheme filed with the petition by the petitioner companies since the detects as pointed out are rectified by the petitioner companies in the Modified Scheme of Amalgamation as filed with this reply.</p>
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		<p>(a) 217 (Two Hundred and Seventeen) equity shares of Transferee Company of face value of Rs.10/- (Rupees Ten only) each fully paid-up for every 100 (One Hundred) equity shares of Transferor Company 1 of Rs.10/- (Rupees Ten only) each fully paid-up;</p> <p>(b) 01 (One) equity share of Transferee Company of face value of Rs.10/- (Rupees Ten only) each fully paid-up for every 02 (Two) equity shares of Transferor Company 2 of face value of Rs.10/- (Rupees Ten only) each fully paid-up;</p> <p>(c) 01 (One) equity share of Transferee Company of face value of Rs.10/- (Rupees Ten only) each fully paid-up for every 02 (Two) equity shares of Transferor Company 3 of face value of Rs.10/- (Rupees Ten only) each fully paid-up;</p> <p>Therefore, it is amply clear from the above explanation that the share exchange ratio as recommended by the Independent Valuer considering the face value of equity shares of Rs.100/- (Rupees One Hundred only)</p>	
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		<p>does not have any bearing on the share exchange ratio mentioned at clause 11.1 of the Scheme of Amalgamation. However, in order to avoid any conflict or misperceptions and as suggested by the office of the Regional Director, the Board of Directors of the Petitioner Companies have at their respective Board Meetings held on 15.04.2024, modified the Scheme of Amalgamation for the purpose of removing clauses 10.1, 10.2, 10.3 and 10.4 of the Scheme pertaining to the subdivision of face value of equity shares of the Transferor Company 1 and Transferee Company from Rs.100/- (Rupees One Hundred only) to Rs. 10/- (Rupees Ten only). It is further respectfully submitted that apart from removal of clauses 10.1, 10.2, 10.3 and 10.4 of the scheme and apart from any consequential changes in clause 10 and 11 of the scheme, there are no other changes or modification made in the Modified Scheme of Amalgamation.</p>	
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Hence, from the above report of the RD, it can be understood that there are no tenable objections raised and that the queries posed to the companies were also answered. Hence, the direction as sought for by the Regional Director (RD) would stand complied.

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11. The Official Liquidator (OL) made certain observations in his report filed on 01.03.2024 and further Report filed on 27.05.2024. In response, the petitioner companies filed their reply affidavit on 20.03.2024. The observations made by the Official Liquidator and the undertakings given by the Petitioner Companies are summarized in the table below:

Page and Para Nos.	Observations of the Official Liquidator report filed on 01.03.2024	Reply Affidavit to the report of the official liquidator filed by petitioner companies on 20.03.2024	Observations of the Official Liquidator's Further Report filed on 27.05.2024
Page 8 Para 22 (1)	That, the Clause 9.1 of Part-B of the scheme seeks to protect all the staff, workmen and employees on the payrolls of the Transferor Companies only if they are in service on the date of approval of the Scheme by the Tribunal. Hence, this Tribunal may be pleased to direct the Transferor and Transferee Companies to submit an undertaking to this Tribunal to the effect that there would be no retrenchment of any employee who were in service as on Appointed Date (i.e., 01.05.2023) as well.	The Petitioner Companies do hereby jointly and severally agree, state, affirm, confirm, declare and undertake that there would be no retrenchment of any employee of the Transferor Companies who were in service as on the Appointed Date i.e., as on 01 st May, 2023.	The Petitioner Companies submitted that jointly and severally agree, state, affirm, confirm, declare and undertake that there would be no retrenchment of any employee of the Transferor Company who were in service as on the Appointed Date i.e., as on 01 st May, 2023.
Page 8 Para 22 (2)	That, as per Clause 12.1 of Part-B of the Scheme "Upon the sanction of this scheme by the Tribunal, the Transferee Company shall record the assets and liabilities of the Transferor Companies transferred to the Transferee Company pursuant to this scheme and account	Contains the factual information which is on record and hence need not	The Petitioner Companies have submitted that they are factual

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	for the amalgamation of the Transferor Company pursuant to this Scheme in accordance with Accounting Standard-14 under pooling of interest method as notified by the Companies (Accounting Standards) Rules, 2006”.	be traversed.	information which are on record and hence need not be traversed.																																												
Page 8 Para 22 (3)	<p>That, as per the provisional Financial Statements as on 30.06.2023 of the Transferor Companies-1, 2 & 3, the Transferor and Transferee Companies are having the following assets:</p> <table border="1"> <thead> <tr> <th>Descripti on</th> <th>Transferor Company 1 Rs.</th> <th>Transferor Company 2 Rs.</th> <th>Transferor Company 3 Rs.</th> </tr> </thead> <tbody> <tr> <td colspan="4">A. Tangible Assets</td> </tr> <tr> <td>a. Land</td> <td>14,400</td> <td>36,11,500</td> <td>36,11,500</td> </tr> <tr> <td>b. Fact-ory Building</td> <td>5,35,100</td> <td>-</td> <td>-</td> </tr> <tr> <td>C. Plant & Equip-ment</td> <td>32,800</td> <td>-</td> <td>-</td> </tr> <tr> <td>d. Furni-ture & Fixtures</td> <td>900</td> <td>-</td> <td>-</td> </tr> <tr> <td>Total (A)</td> <td>5,83,200</td> <td>36,11,500</td> <td>36,11,500</td> </tr> <tr> <td colspan="4">B. Intangible Assets</td> </tr> <tr> <td>a. Good-will</td> <td>-</td> <td>7,67,800</td> <td>7,67,800</td> </tr> <tr> <td>Total (B)</td> <td>-</td> <td>7,67,800</td> <td>7,67,800</td> </tr> <tr> <td>Grand Total (A+B)</td> <td>5,83,200</td> <td>43,79,300</td> <td>43,79,300</td> </tr> </tbody> </table>	Descripti on	Transferor Company 1 Rs.	Transferor Company 2 Rs.	Transferor Company 3 Rs.	A. Tangible Assets				a. Land	14,400	36,11,500	36,11,500	b. Fact-ory Building	5,35,100	-	-	C. Plant & Equip-ment	32,800	-	-	d. Furni-ture & Fixtures	900	-	-	Total (A)	5,83,200	36,11,500	36,11,500	B. Intangible Assets				a. Good-will	-	7,67,800	7,67,800	Total (B)	-	7,67,800	7,67,800	Grand Total (A+B)	5,83,200	43,79,300	43,79,300	Contains the factual information which is on record and hence need not be traversed.	The Petitioner Companies have submitted that they are factual information which are on record and hence need not be traversed.
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Page 8 Para 22 (4)	<p>That, as per the Statements of Profit & Loss A/c of the Transferor Company 1, the details of Revenue from Operations and Loss during the period are as follows:</p> <table border="1"> <thead> <tr> <th rowspan="2">Descripti on</th> <th colspan="3">Transferor Company 1 Rs.</th> </tr> <tr> <th>30.06.2023</th> <th>31.03.2023</th> <th>31.03.2022</th> </tr> </thead> <tbody> <tr> <td>Revenue from Operatio ns</td> <td>Nil</td> <td>Nil</td> <td>Nil</td> </tr> <tr> <td>Loss during the period</td> <td>Nil</td> <td>(-89,000)</td> <td>(-96,600)</td> </tr> </tbody> </table>	Descripti on	Transferor Company 1 Rs.			30.06.2023	31.03.2023	31.03.2022	Revenue from Operatio ns	Nil	Nil	Nil	Loss during the period	Nil	(-89,000)	(-96,600)	Contains the factual information which is on record and hence need not be traversed.	The Petitioner Companies have submitted that they are factual information which are on record and hence need not be traversed.																													
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Page 9 Para 22 (5)	That, as per provisional financials of Transferor Company-2 & 3 as at 30.06.2023, there is no revenue from operations.	Contains the factual information which is on record and hence need not be traversed.	The Petitioner Companies have submitted that they are factual information which are on record and hence need not be traversed.												
Page 9 Para 22 (6)	<p>That, as per the Statements of Profit & Loss A/c of the Transferee Company, the details of Revenue from Operations and Loss during the period are as follows:</p> <table border="1" data-bbox="440 913 956 1198"> <thead> <tr> <th>Descripti on</th> <th>30.06.2023 Rs.</th> <th>31.03.2023 Rs.</th> <th>31.03.2022 Rs.</th> </tr> </thead> <tbody> <tr> <td>Revenue from Operatio ns</td> <td>Nil</td> <td>Nil</td> <td>Nil</td> </tr> <tr> <td>Loss during the period</td> <td>Nil</td> <td>(-54,500)</td> <td>(-58,700)</td> </tr> </tbody> </table>	Descripti on	30.06.2023 Rs.	31.03.2023 Rs.	31.03.2022 Rs.	Revenue from Operatio ns	Nil	Nil	Nil	Loss during the period	Nil	(-54,500)	(-58,700)	Contains the factual information which is on record and hence need not be traversed.	The Petitioner Companies have submitted that they are factual information which are on record and hence need not be traversed.
Descripti on	30.06.2023 Rs.	31.03.2023 Rs.	31.03.2022 Rs.												
Revenue from Operatio ns	Nil	Nil	Nil												
Loss during the period	Nil	(-54,500)	(-58,700)												
Page 9 Para 22 (7)	That, all the equity shares of the three Transferor and Transferee Companies are held by two individuals namely Sunil Kumar Kuragayala and Vinitha Kooragayala. Further, the above two individuals are the directors of above four companies.	Contains the factual information which is on record and hence need not be traversed.	The Petitioner Companies have submitted that they are factual information which are on record and hence need not be traversed.												
Page 9 Para 22 (8)	That, the Transferor and Transferee Companies have submitted a certificate dated 24.01.2024 from Pavan & Jayanth, Chartered Accountants informing that there is no material change in the financial statements of the companies from 30.06.2023 and till the date of issuance of this certificate.	Contains the factual information which is on record and hence need not be traversed.	The Petitioner Companies have submitted that they are factual information which are on record and hence need not												

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			be traversed.
Page 9 Para 22 (9)	That, as per Clause 13 of Part-B, upon the approval of this Scheme by the Tribunal, the Transferor Companies shall be dissolved without winding up and without an further act or deed on the part of the Transferor Companies pursuant to the provisions of Section 232 of the 2013 Act.	Contains the factual information which is on record and hence need not be traversed.	The Petitioner Companies have submitted that they are factual information which are on record and hence need not be traversed.
Page 9 Para 22 (10)	That, there are no prosecution proceedings pending against the directors and companies as per the information provided by Transferor and Transferor Companies vide letter dated 27.11.2023.	Contains the factual information which is on record and hence need not be traversed.	The Petitioner Companies have submitted that they are factual information which are on record and hence need not be traversed.

The Official Liquidator (OL) accepted the submissions made by the Petitioners and did not raise any objections for accepting the Scheme of Amalgamation of the Petitioner Companies.

12. ACCOUNTING TREATMENT CERTIFICATE:

A copy of the Certificate issued by Mr. Pavan & Jayanth, Chartered Accountants, the statutory auditors of the Transferor Companies and Transferee Company has been obtained to the effect that accounting treatment in the books of the Transferee Company as specified in Paragraph 12 of Part B, of the Draft Scheme is in compliance with the applicable Accounting Standards read with the rules made there under and other Generally Accepted Accounting Principles in India.

(A copy of the certificate issued by the Chartered Accountants confirming the Accounting Treatment proposed in the scheme are filed as Annexure-10 at Page Nos.197-199 of the Petition).

13. **CONSIDERATION:**

Upon sanction of this Scheme by the Tribunal and in consideration of transfer and vesting of the Undertakings of the Transferor Companies to the Transferee Company in terms of provisions of the Scheme, the Transferee Company shall, without any further application or deed, issue and allot equity share(s) to the members of the Transferor Companies whose names appear in the Register of members as on Record Date, in the following ratio: (“**Share Exchange Ratio**”):

- (a) **217 (Two Hundred and Seventeen)** equity shares of Transferee Company of face value of Rs.100/- (Rupees One Hundred only) each fully paid-up for every **100 (One Hundred)** equity shares of Transferor Company 1 of Rs.100/- (Rupees One Hundred only) each fully paid-up;
- (b) **01 (One)** equity share of Transferee Company of face value of Rs.100/- (Rupees One Hundred only) each fully paid-up for every **20 (Twenty)** equity shares of Transferor Company 2 of face value of Rs.10/- (Rupees Ten only) each fully paid-up;
- (c) **01 (One)** equity share of Transferee Company of face value of Rs.100/- (Rupees One Hundred only) each fully paid-up for every **20 (Twenty)** equity shares of Transferor Company 3 of face value of Rs.10/- (Rupees Ten only) each fully paid-up;

14. We have heard the Learned PCS for the Petitioner Companies and perused the material papers on record. Considering the entire facts and circumstances of the case and on perusal of the Scheme, Report of the Regional Director, reply/undertaking of the

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Petitioner Companies thereon, report of the Official Liquidator, and the documents produced on record, we consider the Scheme of Amalgamation is fair and reasonable and not contrary to public policy and not violative of any provisions of law. All the statutory compliances have been made under Sections 230 to 232 of the Companies Act, 2013.

ORDER

15. After hearing the Learned PCS for the Petitioner Companies and after considering the material on record, the following order is passed:
- i. The Modified Scheme of Amalgamation, which is filed at Annexure-A5 at Page Nos. 48-92 of the Additional Affidavit dated 15.04.2024 is hereby sanctioned and confirmed with appointed date as 01.05.2023 and shall be binding on all the members, employees, creditors, concerned statutory, regulatory authorities and all other stakeholders of the Petitioner Companies.
 - ii. While approving the Scheme, we make it clear that this order should not be construed as an order in anyway granting exemption from payment of stamp duty, taxes or any other charges, if any, payable, in accordance with law or in respect of any permission/compliance with any other requirement which may be specifically required under any law.
 - iii. The whole of the assets, property, rights and Liabilities of the Transferor Companies shall be transferred without the requirement of any further act or deed to the Petitioner/Transferee Company.

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- iv. We direct the Petitioner companies to comply with all the observations pointed out by the Regional Director and Official Liquidator, if any.
- v. We direct the Petitioner Companies to preserve the books of accounts and papers and records and the same shall not be disposed of without the prior permission of the Central Government in terms of the provisions of Section 239 of the Companies Act, 2013.
- vi. We direct the Petitioner Companies to ensure statutory compliance of all applicable laws and also on sanctioning of the present Scheme, the Petitioner Companies shall not be absolved from any of its statutory liabilities, in any manner.
- vii. We direct the Petitioner Companies involved in the Scheme, to comply with Rule 17(2) of the Companies (Compromise, Arrangement and Amalgamation) Rules, 2013. The Petitioner Companies within 30 days after the date of receipt of certified copy of the order, shall cause certified copy to be delivered in the Form INC-28 to the Registrar of Companies concerned for registration and on such certified copy being delivered, Registrar of Companies concerned shall take all necessary consequential action in respect of the Petitioner Companies.
- viii. The Petitioner Companies are further directed to take all consequential and statutory steps required in pursuance of the approved Scheme of Amalgamation under the provisions of the Companies Act, 2013 and submit necessary compliance and

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undertaking relating to the objections raised by the Regional Director (SER), MCA, Government of India, Hyderabad and Official Liquidator, Hyderabad.

- ix. All the legal proceedings pending by/or against the Transferor Companies shall be continued by/or against the Transferee Company.
- x. The tax implications, if any, arising out of the Scheme is subject to final decision of the Tax Authorities concerned and the decision of the Tax Authorities concerned shall be binding on the Transferee Company.
- xi. The Transferee Company is directed to strictly comply with the Accounting Treatment Standards prescribed under Section 133 of the Companies Act, 2013.
- xii. The sanction of the Scheme by this Tribunal shall not forbid the Revenue Authority from taking appropriate recourse for recovering the existing and previous tax liabilities of the Transferor and Transferee Companies.
- xiii. We direct the Transferee Company to comply with the provisions of Section 2(41) of the Companies Act, 2013, if applicable.
- xiv. The Transferor Company shall be dissolved without going through the process of winding up.

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- xv. The Petitioner Company shall until the completion of the Scheme of Amalgamation, file a statement in such form and within such time as prescribed with the Registrar every year duly certified by the Chartered Accountant or a Cost Accountant or a Company Secretary to the effect that the Scheme of Amalgamation is being complied in accordance with the orders of this Tribunal as required under Section 232(7) of the Companies Act, 2013.
- xvi. All concerned shall act on a copy of this order along with Scheme duly authenticated by the Deputy/Assistant Registrar of this Tribunal.
- xvii. Any person shall be at liberty to apply to this Tribunal in the above matter for any directions that may be necessary.
- xviii. Accordingly, the Company Petition bearing CP(CAA) No. 63/230/HDB/2023 is allowed and stands disposed of.

Sd/-

**SANJAY PURI
MEMBER (TECHNICAL)**

Sd/-

**RAJEEV BHARDWAJ
MEMBER (JUDICIAL)**

Apoorva