

**NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH (COURT-II), CHANDIGARH**

CA (CAA) No.60/Chd/Pb/2023

(1st Motion)

Under Section 230 to 232 of 'The Companies Act, 2013' read with 'The Companies (Compromises, Arrangements and Amalgamations) Rules, 2016' and National Company Law Tribunal Rules, 2016'

IN THE MATTER OF SCHEME OF AMALGAMATION BETWEEN:

Enorg Limited

with its registered office at
93, Industrial Area-A,
Ludhiana, Punjab-141003 IN
CIN: U51909PB2019PLC049625
PAN: AAGCV9789E

.....Applicant Company No. 1/Transferor Company

And

NM Merchantiles Private Limited

with its registered office at
86, Industrial Area-A,
Ludhiana, Punjab-141003 IN
CIN: U51900PB2008PTC031571
PAN: AACCN6753A

.....Applicant Company No. 2/Transferee Company

Order delivered on: 25.04.2024

**Coram: HON'BLE DR. P.S.N. PRASAD, MEMBER (JUDICIAL)
HON'BLE MR. UMESH KUMAR SHUKLA, MEMBER (TECHNICAL)**

Present: -

For the Applicant Companies: Mr. Shubham Gupta, Advocate

Per: Dr. P.S.N. Prasad, Member (Judicial)

Umesh Kumar Shukla, Member (Technical)

ORDER

This is a Joint First Motion Application filed by Applicant Companies under Section 230-232 of 'The Companies Act, 2013' read with 'The Companies (Compromises, Arrangements and Amalgamations) Rules, 2016' and National Company Law Tribunal Rules, 2016' in relation to the Scheme of Amalgamation of **Enorg Limited** (for short hereinafter referred to as Applicant Company No. 1/ Transferor Company) with **NM Merchantiles Private Limited** (for short hereinafter referred to as Applicant Company No. 2/ Transferee Company). The said Scheme is attached as Annexure A-3 of the Application. The registered office of both the Applicant Companies is in Ludhiana, Punjab, India and therefore, it is under the territorial jurisdiction of this Bench.

FACTS OF THE CASE

2. The facts of the case, as stated in the application, have been summarised below:
 - (i) Applicant Company No. 1/ Transferor Company, bearing CIN:U51909PB2019PLC049625 is an Unlisted Public Company incorporated on 14th June, 2019 as a Private Limited Company under the jurisdiction of Registrar of Companies, Punjab and Chandigarh in the name and style of Vasudeva Organics Private Limited. The Transferor Company changed its name from Vasudeva Organics Private Limited to Vasudeva Organics Limited consequent to conversion from Private Limited Company to Public Limited Company on 03.07.2020. The name of the Company was changed from Vasudeva Organics Limited to Enorg Limited from 16.07.2020. The registered office of Transferor Company is being currently maintained at 93, Industrial Area-A, Ludhiana, Punjab

141003, under the jurisdiction of Registrar of Companies, Punjab and Chandigarh. The PAN of the Applicant Company No. 1/ Transferor Company is AAGCV9789E. A copy of the Master Data, PAN, Certificate of Incorporation, Certificate of conversion of Company from Private Limited to Public Limited and Certificate of change of name of Applicant Company No. 1/ Transferor Company are attached as Annexure A-1 (colly.) of the Application.

(ii) Applicant No. 2/ Transferee Company bearing CIN:U51900PB2008PTC031571 is a Private Limited Company incorporated on 08th January, 2008 as a Public Limited Company under the jurisdiction of Registrar of Companies, Punjab and Chandigarh as NM Merchantiles Limited. The Company changed its name from NM Merchantiles Limited to NM Merchantiles Private Limited consequent to conversion from Public Limited Company to Private Limited Company on 12.10.2023. The registered office of the Company is being currently maintained at 86, Industrial Area-A, Ludhiana, Punjab-141003. The PAN of the Applicant Company No. 2/ Transferee Company is AACCN6753A. A copy of the Master Data, PAN, Certificate of Incorporation and Certificate of conversion of Company from Public Limited to Private Limited of Applicant Company No. 2/ Transferee Company are attached as Annexure A-2 (colly.) of the Application.

(iii) The Valuation Report issued by a Registered Valuer underlining the Share Exchange/ Swap Ratio of Equity Shares of the Transferee Company for the Transferor Company is attached as Annexure A-4 of the Application.

- (iv) The Applicant Company No. 1/ Transferor Company has its main objects set out in Clause III(A) of its Memorandum of Association as below:

'Trading of Chemicals and Textiles Items.'

- (v) The Memorandum of Association of the Applicant Company No. 1/ Transferor Company authorizes Amalgamation with any other Company under sub-clause 12 of Object Clause III(B) as below:

'To amalgamate with any other Company whose objects are, or include objects similar to those of this Company whether by sale or purchase for fully or partly paid-up shares or otherwise, of the undertaking subject to the liabilities of this or any such other Company as aforesaid, with or without winding up or by sale or purchase (for fully or partly paid-up shares or otherwise) of all or a controlling interest in the shares or stock of this or any other Company as aforesaid or in any other manner.'

A true copy of the Memorandum and Articles of Association of the Applicant Company No. 1/ Transferor Company is attached as Annexure A-5 of the Application.

- (vi) The Share Capital structure of Applicant Company No. 1/ Transferor Company as per its latest audited Balance Sheet dated 31st March, 2023 is as under:

PARTICULARS	AMOUNT (In Rs.)
<u>Authorized Share Capital</u>	
1,00,10,000 Equity Shares of Rs. 10 each	10,01,00,000
TOTAL	10,01,00,000
<u>Issued, Subscribed and Paid Up Share Capital</u>	
8,22,466 Equity Shares of Rs. 10 each	82,24,660
TOTAL	82,24,660

There has been no change in the above share capital structure of the Applicant Company No. 1/ Transferor Company after 31 March, 2023 till the date of approval of Scheme by the Board of Directors of the Applicant Company No.1/ Transferor Company.

- (vii) The Applicant Company No. 1/ Transferor Company has the following Financial Position as per the latest Audited Financial Statements for the period ending 31 March, 2023

PARTICULARS	AMOUNT (In Rs. Thousands)
EQUITY AND LIABILITIES	
Share Capital	8,224.66
Reserve and Surplus	2,11,291.93
Non-current Liability	--
Current Liability	23,913.03
TOTAL	--
ASSETS	
Non-Current Assets	2,00,120.91
Current Assets	43,308.71
TOTAL	2,43,429.62

A copy of the latest Audited Financial Statements of Applicant Company No. 1/ Transferor Company for the period ending 31 March, 2023 are attached as Annexure A-6 of the Application.

- (viii) The Applicant Company No. 1/ Transferor Company has prepared its latest Provisional Financial Statements for the period ending 30th September, 2023 pursuant to and in compliance of the provisions of Section 230(2)(e) of the Companies Act, 2013. A copy of the Provisional Financial Statements for the period ending 30th September, 2023 are attached as Annexure A-7 of the Application.
- (ix) The Board of Directors of the Applicant Company No. 1/ Transferor Company has approved and adopted the Scheme at their meeting held on 8th November 2023. A certified true copy of the Board Resolution dated 8th November 2023 passed by the Board of Directors of Applicant Company No. 1/ Transferor Company approving the Scheme is attached as Annexure A-8 of the Application.

- (x) The Applicant Company No. 1/ Transferor Company has 61 Equity shareholders as on 30.11.2023, holding 8,22,466 number of equity shares of the face value of Rs.10/- each aggregating to Rs.82,24,660/- (Rupees Eighty two Lacs twenty four thousand six hundred sixty only). The list of Equity Shareholders of the Applicant Company No. 1/ Transferor Company duly certified by a Chartered Accountant is attached as Annexure A-9 of the Application.
- (xi) The Equity Shareholders have given their consent to the Scheme by way of Affidavits constituting 60 out of 61 in number and 98.75% in value. The sole shareholder of a minority stake of 1.25% could not grant his consent to the Scheme of Amalgamation as he is deceased. The Applicant Company No. 1/ Transferor Company did not have any nomination filed for the shares of the deceased and the Company has not received any request for transmission of shares of the deceased shareholder. The Affidavits of consent of the Equity Shareholders of Applicant Company No. 1/ Transferor Company, along with authorizations/ board resolutions for respective shareholders, wherever applicable, are annexed as Annexure A-10 (colly.) of the Application.
- (xii) The Applicant Company No.1/Transferor Company has no Preference Share Capital as on 31 March, 2023. A Certificate issued by a Chartered Accountant certifying NIL Preference Shareholders of Applicant Company No. 1/ Transferor Company as on 30.11.2023 is attached as Annexure A-11 of the Application.
- (xiii) The Applicant Company No. 1/ Transferor Company has NIL Secured Creditors as on 08.11.2023. A Certificate issued by a Chartered

Accountant certifying NIL Secured Creditors of Applicant Company No. 1/ Transferor Company as on 08.11.2023 is attached as Annexure A-12 of the Application.

- (xiv) The Applicant Company No. 1/ Transferor Company has only one Unsecured Creditor as on 08.11.2023. The list of Unsecured Creditors of Applicant Company No. 1/ Transferor Company certified by a Chartered Accountant as on 08.11.2023 is attached as Annexure A-13 of the Application. The Affidavits of consent of the Unsecured Creditors of Applicant Company No.1/ Transferor Company, along with authorizations/ board resolutions for respective creditors, wherever applicable, are annexed as Annexure A-14 (colly.) of the Application.
- (xv) The list of Directors of the Applicant Company No. 1/ Transferor Company as on 30.11.2023 is annexed as Annexure A-15 of the Application.
- (xvi) The Applicant Company No. 2/ Transferee Company has its main objects set out in Clause III(A) of its Memorandum of Association as below:
- '1. To carry on all or any of the business of general merchants and traders, importers and exporters, commission agents, manufacturer's agents, brokers, and agents manufacturers, retailers, wholesalers, buyers, sellers, distributors and shippers of, and dealers in goods, commodities and merchandise and produce of every description; to participate in, undertake, perform and carry on all kinds of commercial, industrial, trading and financial operations'*
- (xvii) The Memorandum of Association of the Applicant Company No. 2/ Transferee Company authorizes Amalgamation with any other Company under sub-clause 12 of Object Clause III(B) as below:
- 'To enter into arrangement or to amalgamate/ merger/ demerge into or with any other Company whose objects are, or include objects similar to those of this Company whether by sale or purchase for fully or partly paid-up shares or otherwise, of the undertaking subject to the liabilities of this or any such other Company as aforesaid, with or without winding up or by sale or purchase (for fully*

or partly paid-up shares or otherwise) of all or a controlling interest in the shares or stock of this or any other Company as aforesaid or in any other manner.'

A true copy of the Memorandum and Articles of Association of the Applicant Company No. 2/ Transferee Company is attached as Annexure A-16 of the Application.

- (xviii) The Share Capital structure of Applicant Company No. 2/ Transferee Company as per its latest audited Balance Sheet dated 31st March, 2023 is as under

PARTICULARS	AMOUNT (In Rs.)
Authorized Share Capital	
67,00,000 Equity Shares of Rs. 10 each	6,70,00,000
23,00,000 1% Optionally Convertible Non-Cumulative Preference Shares of Rs. 10 each	2,30,00,000
TOTAL	9,00,00,000
Issued, Subscribed and Paid Up Share Capital	
62,11,419 Equity Shares of Rs. 10 each	6,21,14,190
23,00,000 1% Optionally Convertible Non-Cumulative Preference Shares of Rs. 10 each	2,30,00,000
TOTAL	8,51,14,190

There has been no change in the above share capital structure of the Applicant Company No. 2/ Transferee Company after 31 March, 2023 till the date of approval of Scheme by Board of Directors of the Applicant Company No. 2/ Transferee Company.

- (xix) The Applicant Company No. 2/ Transferee Company has the following Financial Position as per the latest Audited Financial Statements for the period ending 31 March, 2023:

PARTICULARS	AMOUNT (In Rs. Thousands)
EQUITY AND LIABILITIES	
Share Capital	85,114.19
Reserve and Surplus	3,61,480.67
Non-current Liability	--
Current Liability	5098.35
TOTAL	
ASSETS	
Non-Current Assets	4,30,414.97
Current Assets	21,278.24
TOTAL	4,51,693.21

A copy of the latest Audited Financial Statements of Applicant Company No. 2/ Transferee Company for the period ending 31 March, 2023 are attached as Annexure A-17 of the Application.

- (xx) The Applicant Company No. 2/ Transferee Company has prepared its latest Provisional Financial Statements for the period ending 30th September, 2023 pursuant to and in compliance of the provisions of Section 230(2)(e) of the Companies Act, 2013. A copy of the Provisional Financial Statements for the period ending 30th September, 2023 is attached as Annexure A-18 of the Application.
- (xxi) The Board of Directors of the Applicant Company No. 2/ Transferee Company has approved and adopted the Scheme at their meeting held on 08.11.2023. A certified true copy of the Board Resolution dated 08.11.2023 passed by the Board of Directors of Applicant Company No. 2/ Transferee Company approving the Scheme is attached as Annexure A-19 of the Application.
- (xxii) The Applicant Company No. 2/ Transferee Company has 49 (Forty Nine) Equity shareholders as on 30.11.2023, holding 62,11,419 number of equity shares of the face value of Rs.10/- each aggregating to Rs.6,21,14,190/- (Rupees Six Crores, Twenty One Lacs, Fourteen Thousands, One Hundred and Ninety only). The list of Equity Shareholders of the Applicant Company No. 2/ Transferee Company duly certified by a Chartered Accountant is attached as Annexure A-20 of the Application.
- (xxiii) The Applicant Company No. 2/ Transferee Company has 4 (Four) Preference Shareholders as on 30.11.2023, holding 23,00,000 number of

preference shares of the face value of Rs.10/- each aggregating to Rs.2,30,00,000/- (Rupees Two Crores and Thirty Lacs only). The list of Preference Shareholders of the Applicant Company No. 2/ Transferee Company duly certified by a Chartered Accountant is attached as Annexure A-21 of the Application.

- (xxiv) All the Preference Shareholders of Applicant Company No. 2/ Transferee Company have given their consent to the Scheme constituting 100% in number and 100% in value. The Affidavits of consent of the Preference Shareholders of Applicant Company No. 2/ Transferee Company, along with authorizations/ board resolutions for respective shareholders, wherever applicable, are annexed as Annexure A-22 (colly.) of the Application.
- (xxv) The Applicant Company No. 2/ Transferee Company has NIL Secured Creditors as on 08.11.2023. A Certificate issued by a Chartered Accountant certifying NIL Secured Creditors of Applicant Company No. 2/ Transferee Company as on 08.11.2023 is attached as Annexure A-23 of the Application.
- (xxvi) The Applicant Company No. 2/ Transferee Company has no Unsecured Creditors as on 08.11.2023. A Certificate issued by a Chartered Accountant certifying NIL Unsecured Creditors of Applicant Company No. 2/ Transferee Company as on 08.11.2023 is attached as Annexure A-24 of the Application.
- (xxvii) The list of Directors of the Applicant Company No. 2/ Transferee Company is annexed as Annexure A-25 of the Application.

(xxviii) The Auditors of the Transferor and Transferee Companies have certified that the Applicant Companies comply with the provisions of Section 133 of the Companies Act, 2013. The said certificates issued by the Auditors of both the Applicant Companies are attached as Annexure A- 26 (colly.) of the Application.

(xxix) The Scheme of Amalgamation ('Scheme' or 'the Scheme' or 'this Scheme') provides for the Merger/ Amalgamation of Transferor Company with Transferee Company pursuant to sections 230 to 232 of the Companies Act, 2013 and other applicable provisions of the Act and the Rules and/or Regulations framed thereunder, to the extent notified and in accordance with the terms hereof, as a measure of consolidation of the business entities in India.

(xxx) As per the Rationale of the Scheme of Amalgamation, the proposed Amalgamation of the Transferor Company with the Transferee Company in accordance with this Scheme would enable both the Companies to realize benefits of greater synergies between their businesses and avail of the financial resources as well as the managerial, technical, distribution and marketing resources of each other in the interest of maximizing shareholder and stakeholder value as the Transferor Company and Transferee Company's business activities are similar and complement each other,. The proposed amalgamation will be beneficial to the Companies, inter-alia, in the following manner:

'a) Synergy of the amalgamation will improve operational efficiency, integrated management functioning and will enhance the share value for the benefit of shareholders of the existing entities besides economies in costs and other benefits resulting from the economies of scale, by combining the businesses and operations of the Transferor Company and the Transferee Company, and optimum utilization of valuable resources;

b) The amalgamation would result in the advantages of the combined assets, resources and complementary strengths for future expansion and growth of the business of the Transferee Company. Improved organizational capability and leadership, arising from the pooling of human capital that has the diverse skills, talent and vast experience to compete successfully in an increasingly competitive industry;

c) The amalgamation would result better efficiency in cash management of the amalgamated entities and unfettered access to cash flow generated by the combined business which can be deployed more efficiently to fund organic and inorganic growth opportunities, to maximize shareholders value;

d) Better operational synergy in terms of procurement benefits, access to marketing networks/customers, different market segments and comfortable enhancement of opportunities, better credit rating and fundraising capabilities, resulting in cost efficiency coupled with greater financial flexibility;

e) The Amalgamation shall be beneficial to the interest of the shareholders, employees and creditors (if any) and will result in a simplified corporate structure and direct control of assets of the Transferor Company in the hands of the Transferee Company. The value of the shares of the combined entity shall enhance the shareholder's value by becoming a part of stronger operating entity; and

f) There shall be a significant reduction in the multiplicity of regulatory and legal compliances/ filings including accounting, reporting requirements, statutory audit requirements, tax filings, multiple records keeping etc. other compliances and consequential reduction in administrative costs and optimal utilization of resources of both the companies.'

(xxx) The key terms of the Scheme of Amalgamation are:

i) Para 3(b) of the Scheme provides 'Appointed Date' to be 1st April 2023 or such other date as may be approved by the National Company Law Tribunal (NCLT) and that appointed date shall be in compliance with section 232(6) of the Act;

ii) Para 3(d) of the Scheme provides that Effective Date means the last of the dates on which all the conditions, matters and filings referred to in Clause 22 of the Scheme have been fulfilled and the last date on which all the certified copies of the Order(s) passed by the NCLT are filed with the Registrar of Companies, Punjab at Chandigarh;

iii) Clause 12 of the Scheme provides for Consideration Clause.

iv) Clause 10 of the Scheme provide for Treatment of Employee Clause'

(xxxii) The Scheme is not prejudicial to the interest of Shareholders and Creditors of the Transferor and Transferee Companies and will be beneficial to the Transferor and Transferee Company and all their respective Shareholders and Creditors.

(xxxiii) The Applicant Company No. 1/ Transferor Company has not issued shares to the general public and does not have any of its securities listed on any of the recognized Stock Exchange in India or anywhere else. Hence, the securities of the Applicant Company No. 1/ Transferor Company are closely held. Further, upon the Scheme of Amalgamation being approved, the Equity Shares of the Transferee Company shall be issued to the Equity Shareholders of the Transferor Company in proportion to the Share Exchange/ Swap Ratio determined by the Registered Valuer. The Applicant Company No. 2/ Transferee Company being a Private Limited Company has not issued shares to the general public and does not have any of its securities listed on any of the recognized Stock Exchange in India or anywhere else.

(xxxiv) Pursuant to the Scheme of Amalgamation, the Transferee Company shall retain its legal identity as a Private Limited Company and shall be subject to all such restrictions and exceptions as prescribed for a Private Limited Company under the Companies Act, 2013 and Rules made thereunder. For the purposes of this Scheme and all purposes incidental thereto, pursuant to the sanction of the Scheme of Amalgamation, the Applicant Company No. 2/ Transferee Company shall be deemed to be a Private Limited Company, subject to any specific conditions that the Hon'ble Tribunal may expressly provide. The Applicant Company No. 1/ Transferor Company has limited its number of equity shareholders to below the threshold limit of 200 members for a Private Limited Company and hence, the Applicant Company No. 2/ Transferee Company shall allot

its equity shares to the existing shareholders of the Applicant Company No. 1/ Transferor Company in the prescribed share exchange ratio.

(xxxv) There is no investigation or proceedings pending against the Applicant Companies under the Companies Act, 2013 or under the Companies Act, 1956. The affidavits deposed by the Directors/ Authorised Signatories of the Applicant Companies stating that no legal proceedings are pending are annexed as Annexure A-27 (colly.) of the Application.

(xxxvi) The Directors and Key Managerial Personnel of the Applicant Companies shall not be deemed to be interested in the proposed Scheme save to the extent of the shares held by them in the Applicant Companies, if any.

(xxxvii) The Disclosures under Section 230(2)(a) in respect of all material facts relating to the Applicant Companies such as the latest financial position of the company and the latest Auditor's Report on the Accounts/ Financial Statements of the Applicant Companies has been mentioned in the present application duly supported by way of affidavits in support of the present Application.

(xxxviii) The Scheme of Amalgamation being filed herein, pursuant to clauses (b) and (c) of sub-Section (2) of Section 230 of the Companies Act, 2013, does not envisage any Reduction of Share Capital and is not a Scheme of Corporate Debt Restructuring and therefore, Creditor's Responsibility Statement and other requirements under Section 230(2)(c) are not applicable to the present case of the Applicant Companies. The affidavits deposed by the Directors/ Authorised Signatories of the Applicant Companies stating that the Scheme of Amalgamation herein does not

envisage Reduction of Share Capital or Corporate Debt Restructuring are annexed as Annexure A-28 (colly.) of the Application.

(xxxix) Applicant Companies are not governed by any specific sectoral regulator.

Therefore, no notice is required to be issued to any sectoral regulator, except the statutory authorities, as may be applicable pursuant to the provisions of the Companies Act, 2013 and the applicable Rules thereunder. Affidavits by the Directors/ Authorised Signatories of the Applicant Companies with regard to the non-applicability of Sectoral Regulators are attached as Annexure A-29 (colly.) of the Application.

(xl) No approval is required from Competition Commission of India (CCI) as, the present Scheme of Amalgamation envisages combination of assets and turnover by way of merger that falls much below the threshold limits of Rs.350 crores of Assets and Rs.1,000 crores of Turnover of the combined entities as per the de minimis exemption provided by the Ministry of Corporate Affairs. Affidavits by the Directors/ Authorized Signatories of the Applicant Companies with regard to non-applicability of approval from the CCI are attached as Annexure A-30 (colly) of the Application.

(xli) The Post Amalgamation Shareholding/ Capital structure of the Applicant Companies along with the Affidavit of Positive Net Worth by the Applicant Company No. 2/ Transferee Company is annexed as Annexure A-31 of the Application.

3. The Applicant Companies have also furnished the details of the Shareholders, Secured Creditors and Unsecured Creditors as follow:

Particulars	Applicant Company 1/ Transferor Company		Applicant Company 2/ Transferee Company	
	Total	Consent	Total	Consent
Equity Shareholders	61	60 holding 98.75% of shareholding	49	Meeting to be convened
Preference Shareholders	Nil	N/A	4	4 holding 100% of shareholding
Debenture Holder	N/A	N/A	Nil	N/A
Secured Creditors	Nil	N/A	Nil	N/A
Unsecured Creditors	1	1 holding 100% of shareholding	Nil	N/A

ANALYSIS AND FINDINGS

4. Since this is the first motion application seeking order for dispensation/ conduct of the meetings of shareholders/ creditors, the analysis has been limited to that and other issues would be analysed at the time of second motion petition by the Applicant Companies. The Applicant Companies have submitted their audited provisional financial statements as on 30.09.2023, but the list of equity/ preference shareholders and secured/ unsecured creditors as on 30.09.2023 and 08.11.2023 respectively certified by the Chartered Accountants have been furnished. In view of the above, this Tribunal has considered the list of equity/ preference shareholders and secured/ unsecured creditors in deciding the matter.

5. Accordingly, the directions of this Bench in the present case are as under:

- I. The Appointed date, as proposed by the Applicant, shall be 01.04.2023.
- II. The meetings of the equity shareholders of the Applicant Company no. 1 is dispensed with keeping in view the shareholding and ownership pattern and the fact that the consent to the proposed scheme of amalgamation by way of affidavits has been furnished by 60 equity shareholders (out of 61 equity shareholders), holding 98.75% of the equity share capital of the Company as per the list of equity shareholders as on 30.11.2023 as per the certificate of K.K. Kapoor & Associates, Chartered Accountants dated 05.12.2023. The

requirement of issue and publication of notices for the same are also being dispensed.

- III. The convening of meetings of Preference shareholders of the Applicant Company no. 1, and the requirement of issue and publication of notices are dispensed with, as there are no Preference Shareholders in the Applicant Company no. 1 as per the list of Preference Shareholders as on 30.11.2023 as per certificate of K.K. Kapoor & Associates, Chartered Accountant dated 05.12.2023.
- IV. The meetings of the Preference Shareholders of the Applicant Company no. 2 is dispensed with keeping in view the shareholding and ownership pattern and the fact that the consent to the proposed scheme of amalgamation by way of affidavits has been furnished by 4 Preference Shareholders (out of 4 Preference Shareholders), holding 100% of the Preference share capital of the Company as per the list of Preference Shareholders as on 30.11.2023 as per the certificate of K.K. Kapoor & Associates, Chartered Accountants dated 05.12.2023. The requirement of issue and publication of notices for the same are also being dispensed.
- V. The convening of meetings of secured creditors of both Applicant Companies, and the requirement of issue and publication of notices are dispensed with, as there are no secured creditors in the Applicant Companies as per the list of secured creditors as on 08.11.2023 as per certificate of K.K. Kapoor & Associates, Chartered Accountants dated 05.12.2023.
- VI. The convening of the meeting of unsecured creditors of the Applicant Company no. 1 is dispensed with, as the consent to the proposed scheme

of amalgamation by way of affidavits has been furnished by 1 unsecured creditor (out of 1 unsecured creditor), comprising 100% of the unsecured creditors as per the list of unsecured creditors as on 08.11.2023 as per the certificate of K.K. Kapoor & Associates, Chartered Accountant dated 05.12.2023. The requirement of issue and publication of notices for the same are also being dispensed.

- VII. The convening of the meeting of unsecured creditors of the Applicant Company no. 2 is dispensed with, as there are no unsecured creditors in the Applicant Company no. 2 as per the list of unsecured creditors as on 08.11.2023 as per the certificate of K.K. Kapoor & Associates, Chartered Accountant dated 05.12.2023.
- VIII. The meetings of the equity shareholders of Applicant Company 2/ Transferee Company be convened, as prayed for, on such Date, Time and Venue either personally/ physically or through video conferencing with facility of remote e-voting, as may be decided by the Chairperson with the consent of alternate Chairperson and Scrutiniser subject to individual notice of the meeting being issued. The quorum of the meeting of the equity shareholders of Applicant Company No.2 / Transferee Company shall be 20 in number and 40% in value of the equity shareholders;
- IX. In case, the quorum is not present within half an hour from the time appointed for holding the meeting, then the Chairman shall adjourn the meeting to the same day in the next week at the same time and place. The intimation about the adjourned meeting should be given to each member, as the case may be through e-mail or by any other mode. If the quorum is

still not present on such adjourned date, then the Chairman may furnish a report to that effect to NCLT within seven days thereafter.

- X. Mr. Arun Gupta, Address: Khalsa School Road, Khanna, Ludhiana-141401
Mobile No. 91-9878991186, email: caarunsapna@gmail.com, is appointed as the Chairperson for the meeting to be called under this order. An amount of Rs.1,00,000/- (Rupees One Lakh Only) be paid for his services as the Chairperson.
- XI. Ms. Krishna Dayama, Office- 315, Ground Floor, sector 35 A, Chandigarh, 160022, Mobile No. 9818282596, e-mail id: adv.krishh@gmail.com, is appointed as the Alternate Chairperson for the meeting to be called under this order. An amount of Rs.75,000/- (Rupees Seventy Five Thousand only) be paid for his services as the Alternate Chairperson.
- XII. Ms. Sapna Gupta, Address: Street No. L-4, Bhagat Colony Khalsa School Road, Khanna, Ludhiana-141401, Punjab; Mobile No. 91-9316117883, email- casapnaguptaoffice@gmail.com, is appointed as the Scrutinizer for the meeting to be called under this order. An amount of Rs.50,000/- (Rupees Fifty Thousand Only) be paid for his services as the Scrutinizer.
- XIII. The fee of the Chairperson, Alternate Chairperson and Scrutinizer and other out of pocket expenses for them shall be borne by the Applicant Companies jointly.
- XIV. The notices shall be served to the equity shareholders of the Applicant company no. 2/ Transferee company as discussed in Para VIII above, through courier or speed post or registered post, or through courier or e-mail, 30 days in advance before the schedule date of meeting, indicating the

day, date, place and time as aforesaid, together with a copy of the Scheme, copy of explanatory statement with Valuation Report and any other documents as may be prescribed under the Act as per the list of Equity Shareholders as on the date of passing of this Order in the same manner as the notices shall be served to various authorities as per Section 230(5) of the Companies Act, 2013 read with Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

- XV. The audited accounting statement of Applicant Companies as on 31.03.2023 and the provisional accounting statement on a subsequent date in terms of Section 232 (2) (e) of the Act be also circulated for the aforesaid meeting.
- XVI. Along with the notices, Applicant Companies shall also send, statements explaining the effect of the scheme on the shareholders/ creditors, key managerial personnel, promoters and non-promoter members etc. along with effect of the scheme of amalgamation on any material interests of the Directors of the Company or the debenture trustees, if any, as provided under sub-section (3) of Section 230 of the Act.
- XVII. The Applicant Companies shall publish advertisement with a gap of at least 30 days before the aforesaid meeting, indicating the day, date, place and time of the meeting as aforesaid, in newspapers having wide circulation in Punjab, where the registered Office of the applicant companies are situated namely “Financial Express” (English), “Punjabi Tribune” (Punjabi) and “Dainik Bhaskar (Hindi). It be stated in the advertisement that the copies of “Scheme”, the Explanatory Statement required to be published pursuant to

Section 230 to 232 of the Act. The Applicant companies shall also publish the notice on its websites.

- XVIII. It shall be the responsibility of the Applicant Companies to ensure that the notices are sent under the signature and supervision of the authorized representative of the company on the basis of Board resolutions and that they shall file their affidavits in the Tribunal at least ten days before the date fixed for the meeting.
- XIX. Voting shall be allowed on the "Scheme" through electronic means which will remain open for a period as mandated under Clause 8.3 of Secretarial Standards on General Meetings to the Applicant Companies under the Act and the Rules framed thereunder.
- XX. The Scrutinizer's report will contain his/her findings on the compliance to the directions given in Para XIII to XIX above.
- XXI. The Chairperson shall be responsible to report the result of the meeting to the Tribunal in Form No. CAA-4, as per Rule 14 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 within 7 (seven) days of the conclusion of the meeting. The Chairperson would be fully assisted by the authorized representative/ Company Secretary of the Applicant Companies and the Scrutinizer, who will assist the Chairperson and Alternate Chairperson in preparing and finalizing the report.
- XXII. The Applicant Companies shall individually and in compliance with subsection (5) of Section 230 of the Act and Rule 8 of Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 send notices in Form CAA-3 along with copy of the Scheme, Explanatory

Statement, Accounting Statements (as referred to para XV above) and the disclosures mentioned in Rule 6 of the “Rules” to (i) Central Government through the Regional Director (Northern Region), Ministry of Corporate Affairs, New Delhi (ii) Registrar of Companies, Punjab and Chandigarh (iii) the Official Liquidator (attached to Punjab and Haryana High Court); (iv) Income Tax Department through the Nodal Officer – Principal Commissioner of Income Tax, NWR, Aayakar Bhawan, Sector 17-E, Chandigarh by mentioning the PAN number of the Applicant Companies; and to such other Sectoral Regulator(s) governing the business of the Applicant Companies, if any, stating that report on the same, if any, shall be sent to this Tribunal within a period of 30 days from the date of receipt of such notice and copy of such report shall be simultaneously sent to the applicant companies, failing which it shall be presumed that they have no objection to the proposed Scheme.

- XXIII. The Applicant Companies shall furnish a copy of the copy of the Scheme, Explanatory Statement, Accounting Statements as referred to para XV above and the disclosures mentioned in Rule 6 of the “Rules” free of charge within one day of any requisition for the Scheme made by any creditor or member/shareholder.
- XXIV. The authorized representative of the Applicant Companies shall furnish an affidavit of service of notice of meeting and publication of advertisement and compliance of all directions contained herein at least a week before the proposed meeting.
- XXV. All the aforesaid directions are to be complied with strictly in accordance with the applicable laws including forms and formats contained in the Rules

as well as the provisions of the Companies Act, 2013 by the Applicant Companies.

XXVI. All the Applicant Companies shall file an affidavit in compliance of all the conditions laid down herein along with original proof of service to all the authorities and creditors.

6. In view of the above, the First Motion Application stands allowed by giving liberty to the Applicant Companies to file Second Motion Petition in accordance with Rule 15 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. A copy of this order be supplied to the learned counsel for the Applicant Companies, who in turn shall supply a copy of the same to the Chairperson, Alternate Chairperson and the Scrutinizer immediately.

Sd/-

(Umesh Kumar Shukla)
Member (Technical)

Sd/-

(Dr. P.S.N. Prasad)
Member (Judicial)

April 25, 2024

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