

**IN THE NATIONAL COMPANY LAW TRIBUNAL,**

**MUMBAI BENCH – V**

**C.A.(CAA) / 36 (MB) / 2024**

In the matter of the Companies Act, 2013;

AND

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

AND

In the matter of Scheme of Merger by Absorption of Perigord Premedia (India) Private Limited (“First Transferor Company”) and Perigord Data Solutions (India) Private Limited (“Second Transferor Company”) and Tech Mahindra Cerium Private Limited (“Third Transferor Company”) and Thirdware Solution Limited (“Fourth Transferor Company”) with Tech Mahindra Limited (“Transferee Company”) and their respective shareholders (“Scheme” or “this Scheme”)

**PERIGORD PREMEDIA (INDIA) )**

**PRIVATE LIMITED, a company incor- )**

porated under the Companies Act, 2013, )

having its registered office at Oberoi Gar- )

den Estate, Near Chandivali Studio Wing )

)

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-I, Andheri (E), Mumbai City, Mumbai, )  
Maharashtra, India, 400072 )... FIRST APPLICANT COMPANY

[CIN: U72300MH2015FTC413730]

**PERIGORD DATA SOLUTIONS (IN-** )

**DIA) PRIVATE LIMITED,** a company )

incorporated under the Companies Act, )

2013, having its registered office at )

Oberoi Garden Estate, Near Chandivali )

Studio Wing -I, Andheri (E), Mumbai )

City, Mumbai, Maharashtra, India, )

400072 )... SECOND APPLICANT COMPANY

[CIN: U72900MH2018FTC389871]

**TECH MAHINDRA CERIUM PRI-** )

**VATE LIMITED,** a company incorpo- )

rated under the Companies Act, 1956, )

having its registered office at Oberoi Gar- )

den Estate, Near Chandivali Studio Wing )

-I, Andheri (E), Mumbai City, Mumbai, )

Maharashtra, India, 400072 )

[CIN: U72200MH2013PTC419393] )... THIRD APPLICANT COMPANY

**THIRDWARE SOLUTION LIM-** )

**ITED,** a company incorporated under the )

Companies Act, 1956, having its regis- )

tered office at Oberoi Garden Estate, Near )

Chandivali Studio Wing -I, Andheri (E), )

Mumbai City, Mumbai, Maharashtra, In- )

dia, 400072 )... FOURTH APPLICANT COMPANY

[CIN: U72900MH1995PLC089765]

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**TECH MAHINDRA LIMITED**, a com- )  
pany incorporated under the Companies )  
Act, 1956, having its registered office at )  
Gateway Building, Apollo Bunder, Mum- )  
bai - 400 001, Maharashtra, India )  
[CIN: L64200MH1986PLC041370] )... FIFTH APPLICANT COMPANY

*(First Applicant Company, Second Applicant Company, Third Applicant Company and Fourth Applicant Company are hereinafter collectively referred as ‘Transferor Companies’ and along with the Transferee Company collectively referred to as ‘Applicant Companies’)*

**Order Dated: 22.04.2024**

**Coram:**

**Hon’ble Reeta Kohli, Member (Judicial)**

**Hon’ble Madhu Sinha, Member (Technical)**

**Appearances:**

**For the Applicant Companies:** CA Harsh Ruparelia i/b M/s. A R C H and Associates,  
Professional for the Applicant Companies.

**ORDER**

1. The Professional for the Applicant Companies states that the present Scheme is a Scheme of Merger by Absorption of Perigord Premedia (India) Private Limited ('PPIPL' or 'the First Transferor Company') and Perigord Data Solutions (India) Private Limited ('PDSIPL' or 'the Second Transferor Company') and Tech Mahindra Cerium Private Limited ('TMCPL' or 'the Third Transferor Company') and Thirdware Solution Limited ('TSL' or 'the Fourth Transferor Company') with Tech Mahindra Limited ('TML' or 'The Transferee Company') and their respective shareholders ('Scheme'), under the provisions of Sections 230 to 232 and other applicable provisions of the Companies Act, 2013 read with applicable rules & regulations framed in this regard.
2. This Scheme provides for Amalgamation of the Transferor Companies with and into the Transferee Company on a going concern basis.
3. The Professional for the Applicant Companies states that the resolution passed by the Board of Directors of the Applicant Companies in their respective meetings conducted on 25<sup>th</sup> October 2023, which was modified vide Board Resolutions of the respective Applicant Companies dated 24<sup>th</sup> January 2024 and all the directors of the respective Applicant Companies, who participated in the meetings, unanimously approved the Scheme. The Appointed Date for the Scheme is 1<sup>st</sup> April 2024.
4. The Professional for the Applicant Companies further submits the nature of business of the Applicant Companies and the rationale for the Scheme: -

**Business of Transferor Companies**

The First Applicant Company is currently engaged in the business of consultancy, advisory and all related support services in all areas of information technology including computer hardware, consumer hardware, automation software, system

integration, software and solutions and system for broadcast and media industry etc.

The Second Applicant Company is currently engaged in the business of consultancy, advisory and all related support services in all areas of information technology including computer hardware, consumer hardware, automation software, system integration, software solutions and systems for life sciences industry, broadcast and media industry etc.

The Third Applicant Company is currently engaged in the business of offering design services in VLSI/ASIC, Embedded Software, Finware, Hardware Design and Software Applications, to carry on the business of field-programmable gate array development and application specific integrated circuit front-end design in functional analysis.

The Fourth Applicant Company is engaged in the business to implement, support, maintain, invent, import, export, license, purchase, sell or otherwise deal in or dispose any type of computer and communication software, hardware, peripherals, components, consumables etc.

**Business of Transferee Company**

The Fifth Applicant Company is an Indian multinational, offering a full range of Information Technology (IT) services and Industry Specific Solutions to help clients to take advantage of opportunities which includes convergence, digital, design, experience, innovation platform, telecom services, consulting, application outsourcing, infrastructure outsourcing. engineering and Business Process Outsourcing (BPO). The Company has presence in India and overseas through subsidiaries and branches.

**Rationale of the Scheme:**

In order to consolidate and effectively manage the business of the Applicant Companies in a single entity, which will provide several benefits including synergy, economies of scale, attain efficiencies and cost competitiveness, it is intended that the First Applicant Company, Second Applicant Company, Third Applicant Company and Fourth Applicant Company be merged with the Fifth Applicant Company, which would inter alia have following benefits:

- The First Applicant Company, Second Applicant Company, Third Applicant Company and Fourth Applicant Company are wholly owned subsidiaries of the Fifth Applicant Company, so merger will help to consolidate the entities.
- The merger will lead to greater efficiency in the overall combined business including economies of scale, efficiency of operations, operational rationalization, organizational efficiency, cash flow management and unfettered access to cash flow generated by the combined business which can be deployed more effectively for the purpose of development of businesses of combined entity and their growth opportunities, eliminate inter corporate dependencies, minimize administrative compliances and to maximize shareholder value.
- The merger will result in reduction in the overheads including administrative, managerial and other expenditure, and optimal utilization of resources by elimination of unnecessary duplication of activities and related costs. It will also result in a reduction in the multiplicity of legal and regulatory compliances required at present to be separately carried out by the Applicant Companies.
- The merger would motivate employees of the First Applicant Company, Second Applicant Company, Third Applicant Company and Fourth Applicant Company by providing better opportunities to scale up their performance

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with a larger corporate entity having large revenue base, resources, assets base etc. which will boost employee morale and provide to better corporate performance ultimately enhancing shareholder value.

The proposed corporate restructuring mechanism by way of a scheme of merger by absorption under the provisions of the Companies Act, 2013 is beneficial, advantageous and not prejudicial to the interests of the shareholders, creditors and other stakeholders of all the companies involved.

5. The Professional for the Applicant Companies further submits that the Transferor Companies are direct wholly owned subsidiaries of the Transferee Company and the entire issued, subscribed, paid-up share capital of the Transferor Companies is directly held by the Transferee Company and in lieu of that no shares would be issued as consideration to the shareholders of the Transferor Companies by the Transferee Company.
6. The Authorised, Issued, Subscribed and Paid-up share capital of the First Transferor Company as on date of filing of the present Company Scheme Application is as under:

<b>Particulars</b>	<b>Amount (in Rs.)</b>
<b>Authorised Share Capital</b>	
20,00,000 Equity shares of Rs.10/- each	2,00,00,000
<b>Total</b>	<b>2,00,00,000</b>
<b>Issued, Subscribed and Paid-up Share Capital</b>	
11,57,880 Equity shares of Rs.10/- each, fully paid-up	1,15,78,800
<b>Total</b>	<b>1,15,78,800</b>

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7. The Authorised, Issued, Subscribed and Paid-up share capital of the Second Transferor Company as on date of filing of the present Company Scheme Application is as under:

<b>Particulars</b>	<b>Amount (in Rs.)</b>
<b>Authorised Share Capital</b>	
10,00,000 Equity shares of Rs.10/- each	1,00,00,000
<b>Total</b>	<b>1,00,00,000</b>
<b>Issued, Subscribed and Paid-up Share Capital</b>	
2,08,188 Equity shares of Rs.10/- each, fully paid-up	20,81,880
<b>Total</b>	<b>20,81,880</b>

8. The Authorised, Issued, Subscribed and Paid-up share capital of the Third Transferor Company as on date of filing of the present Company Scheme Application is as under:

<b>Particulars</b>	<b>Amount (in Rs.)</b>
<b>Authorised Share Capital</b>	
40,00,000 Equity shares of Rs.10/- each	4,00,00,000
<b>Total</b>	<b>4,00,00,000</b>
<b>Issued, Subscribed and Paid-up Share Capital</b>	
31,65,392 Equity shares of Rs.10/- each, fully paid-up	3,16,53,920
<b>Total</b>	<b>3,16,53,920</b>

9. The Authorised, Issued, Subscribed and Paid-up share capital of the Fourth Transferor Company as on date of filing of the present Company Scheme Application is as under:



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<b>Particulars</b>	<b>Amount (in Rs.)</b>
<b>Authorised Share Capital</b>	
79,95,000 Equity shares of Rs.10/- each	7,99,50,000
5,000 Preference shares of Rs.10/- each	50,000
<b>Total</b>	<b>8,00,00,000</b>
<b>Issued, Subscribed and Paid-up Share Capital</b>	
47,00,800 Equity shares of Rs.10/- each, fully paid-up	4,70,08,000
<b>Total</b>	<b>4,70,08,000</b>

10. The Authorised, Issued, Subscribed and Paid-up share capital of Transferee Company as on date of filing of the present Company Scheme Application is as under:

<b>Particulars</b>	<b>Amount (in Rs.)</b>
<b>Authorised Share Capital</b>	
181,86,00,000 Equity shares of Rs.5/- each	909,30,00,000
<b>Total</b>	<b>909,30,00,000</b>
<b>Issued, Subscribed and Paid-up Share Capital</b>	
97,55,04,105 Equity shares of Rs.5/- each, fully paid-up	487,75,20,525
<b>Total</b>	<b>487,75,20,525</b>

11. The Professional for the Applicant Companies submits that to the best of their knowledge and belief, there are no proceedings / investigations pending against the Applicant Companies under Sections 210 – 217, 219, 220, 223, 224, 225, 226 & 227 of the Companies Act, 2013. However, pursuant to an order passed by the Hon'ble High Court of Mumbai, C&S System Technologies Private Limited (C&S) was amalgamated with the Fifth Applicant Company with effective from 25<sup>th</sup> June 2013. After inspection of C&S and upon its merger 5 cases were filed

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by SFIO before the Economic Offence Court, Mumbai for alleged non-compliances of Section 211, 383(A), 269 and 187(C) of the Companies Act, 1956 during the period 2001 to 2008 against C&S and its the then Directors. These cases were later transferred to the Fifth Applicant Company, pursuant to the above mentioned merger. Against these cases, 2 writ petitions were filed for quashing the non-compoundable offences and compounding applications were filed for the remaining 3 compoundable offences by the Fifth Applicant Company. Further, there is no winding up petition admitted against the Applicant Companies. There is no petition/application under Insolvency and Bankruptcy Code, 2016, which is admitted by NCLT against the Applicant Companies.

12. The Professional for the Applicant Companies submits that there are 2 (Two) Equity Shareholders (including 1 Nominee Shareholder) holding 11,57,880 Equity Shares of Rs. 10/- each having total value of Rs. 1,15,78,800 in the First Applicant Company and that the First Applicant Company has procured the consent affidavits from its Holding Company (i.e., Transferee Company including its nominees) representing **100%** shares in the First Applicant Company, which are annexed as **Exhibits I1 and I2 (Page Nos. 835-840)** to the Company Scheme Application. The copy of the certificate of an Independent Chartered Accountant certifying the list of Equity Shareholders of the First Applicant Company is annexed as **Exhibit I (Pages 833-834)** to the Company Scheme Application.
13. The Professional for the Applicant Companies submits that there are 2 (Two) Equity Shareholders (including 1 Nominee Shareholder) holding 208,188 Equity Shares of Rs. 10/- each having total value of Rs.20,81,880 in the Second Applicant Company and that the Second Applicant Company has procured the consent affidavits from its Holding Company (i.e., Transferee Company including its nominees), representing **100%** shares in the Second Applicant Company which are annexed as **Exhibits J1 and J2 (Page Nos. 843-848)** to the Company Scheme Application. The copy of the certificate of an Independent Chartered Accountant

certifying the list of Equity Shareholders of the Second Applicant Company is annexed as **Exhibit J (Pages 841-842)** to the Company Scheme Application.

14. The Professional for the Applicant Companies submits that there are 2 (Two) Equity Shareholders (including 1 Nominee Shareholder) holding 31,65,392 Equity Shares of Rs. 10/- each having total value of Rs.3,16,53,920 in the Third Applicant Company and that the Third Applicant Company has procured the consent affidavits from its Holding Company (i.e., Transferee Company including its nominees), representing **100%** shares in the Third Applicant Company which are annexed as **Exhibits K1 and K2 (Page Nos. 851-856)** to the Company Scheme Application. The copy of the certificate of an Independent Chartered Accountant certifying the list of Equity Shareholders of the Third Applicant Company is annexed as **Exhibit K (Pages 849-850)** to the Company Scheme Application.
15. The Professional for the Applicant Companies submits that there are 7 (Seven) Equity Shareholders (including 6 Nominee Shareholder) holding 47,00,800 Equity Shares of Rs. 10/- each having total value of Rs.4,70,08,000 in the Fourth Applicant Company and that the Fourth Applicant Company has procured the consent affidavits from its Holding Company (i.e., Transferee Company including its nominees) representing 100% shares in the Fourth Applicant Company, which are annexed as **Exhibits L1 and L7 (Page Nos. 859-879)** to the Company Scheme Application. The copy of the certificate of an Independent Chartered Accountant certifying the list of Equity Shareholders of the Fourth Applicant Company is annexed as **Exhibit L (Pages 857-858)** to the Company Scheme Application.
16. In view of the fact that all the equity shareholders of the Transferor Companies have given their Consent Affidavits in writing, the meetings of all the equity shareholders of respective Transferor Companies are hereby dispensed with.

17. The Professional for the Applicant Companies further submits that there are no Preference Shareholders in the Applicant Companies and therefore, the question of issuing notices and convening of meeting of the Preference Shareholders does not arise.
  
18. The Professional for the Applicant Companies submits that there are no Secured Creditors in the First Applicant Company as on 31<sup>st</sup> October 2023 and therefore, the question of convening and holding the meeting of the Secured Creditors of the First Applicant Company does not arise. The copy of the certificate of an Independent Chartered Accountant certifying No Secured Creditors of the First Applicant Company is annexed as **Exhibit N1 (Page Nos. 889-890)** to the Company Scheme Application. Further, there are 5 Unsecured Creditors aggregating to Rs.1,98,30,425.40/- as on 31<sup>st</sup> October 2023. The copy of the certificate of an Independent Chartered Accountant certifying list of the Unsecured Creditors of the First Applicant Company is annexed as **Exhibit O1 (Page Nos. 931-932)** to the Company Scheme Application. The First Applicant Company has procured consents affidavits from 100% of the unsecured creditors in value which are annexed as **Exhibit O2 (Colly.) (Page Nos. 933-950)**. The Professional of the Applicant Companies submits that the meeting of the Unsecured creditors of the First Applicant Company be dispensed with as the Scheme of Amalgamation is not an arrangement under Section 230(1)(a) of the Act as it does not involve any compromise or arrangement with the Secured Creditors or the Unsecured Creditors, and post Scheme, the assets of the Transferee Company will be more than sufficient to discharge the Unsecured Creditors of the First Applicant Company, the Second Applicant Company, the Third Applicant Company and the Fourth Applicant Company. The Net-Worth of the Transferee Company is significantly positive and there would not be any material adverse impact on the financial position, post amalgamation of the Transferor Companies. The Professional for the Applicant Companies submits that no reconstruction or arrangement is proposed by the Applicant Companies either with its shareholders or with its Secured Creditors or

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Unsecured creditors, as the case may be. Further, the Scheme involves amalgamations of wholly-owned subsidiaries with its Holding Company and thus, it does not require to hold Secured Creditors and Unsecured creditors meeting for approval of the proposed Scheme. The Professional for the Applicant Companies submits that the facts in the present case are similar to the facts of above case, therefore, no meeting of the Secured Creditors and Unsecured Creditors of the First Applicant Company is required to be convened. The Applicant Companies seeks for direction from this Hon'ble Tribunal to dispense with holding of the meeting of the Unsecured Creditors of the First Applicant Company. This is accepted.

19. The Professional for the Applicant Companies submits that there are no Secured Creditors in the Second Applicant Company as on 31<sup>st</sup> October 2023 and therefore, the question of convening and holding the meeting of the Secured Creditors of the Second Applicant Company does not arise. The copy of the certificate of an Independent Chartered Accountant certifying No Secured Creditors of the Second Applicant Company is annexed as **Exhibit N2 (Page Nos. 891-892)** to the Company Scheme Application. Further, there are 5 Unsecured Creditors aggregating to Rs.63,99,215.80/- as on 31<sup>st</sup> October 2023. The copy of the certificate of an Independent Chartered Accountant certifying list of the Unsecured Creditors of the Second Applicant Company is annexed as **Exhibit O3 (Page Nos. 951-952)** to the Company Scheme Application. The Second Applicant Company has procured consents affidavits from 100% of the unsecured creditors in value which are annexed as **Exhibit O4 (Colly.) (Page Nos. 953-969)**. The Professional of the Applicant Companies submits that the meeting of the Unsecured creditors of the Second Applicant Company be dispensed with as the Scheme of Amalgamation is not an arrangement under Section 230(1)(a) of the Act as it does not involve any compromise or arrangement with the Secured Creditors or the Unsecured Creditors, and post Scheme, the assets of the Transferee Company will be more than sufficient to discharge the Unsecured Creditors of the First Applicant Company, the Second Applicant Company, the Third Applicant Company and the

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Fourth Applicant Company. The Net-worth of the Transferee Company is significantly positive and there would not be any material adverse impact on the financial position, post amalgamation of the Transferor Companies. The Professional for the Applicant Companies submits that no reconstruction or arrangement is proposed by the Applicant Companies either with its shareholders or with its Secured Creditors or Unsecured creditors, as the case may be. Further, the Scheme involves amalgamation of wholly-owned subsidiaries with its Holding Company and thus, it does not require to hold Secured Creditors and Unsecured Creditors meeting for approval of the proposed Scheme. The Professional for the Applicant Companies submits that the facts in the present case are similar to the facts of above case, therefore, no meeting of the Secured Creditors and Unsecured creditors of the Second Applicant Company is required to be convened. The Applicant Companies seeks for direction from this Hon'ble Tribunal to dispense with holding of the meeting of the Unsecured Creditors of the Second Applicant Company. This is accepted.

20. The Professional for the Applicant Companies submits that there are no Secured Creditors in the Third Applicant Company as on 31<sup>st</sup> October 2023 and therefore, the question of convening and holding the meeting of the Secured Creditors of the Second Applicant Company does not arise. The copy of the certificate of an Independent Chartered Accountant certifying No Secured Creditors of the Third Applicant Company is annexed as **Exhibit N3 (Page Nos. 893)** to the Company Scheme Application. Further, there are 41 Unsecured Creditors aggregating to Rs.1,95,51,746/- as on 31<sup>st</sup> October 2023. The copy of the certificate of an Independent Chartered Accountant certifying list of the Unsecured Creditors of the Third Applicant Company is annexed as **Exhibit O5 (Page Nos. 970-971)** to the Company Scheme Application. The Third Applicant Company has procured consents affidavits from 96.59% of the unsecured creditors in value which are annexed as **Exhibit O6 (Colly.) (Page Nos. 972 - 1095)**. The Professional of the Applicant Companies submits that the meeting of the Unsecured creditors of the

Third Applicant Company be dispensed with as the Scheme of Amalgamation is not an arrangement under Section 230(1)(a) of the Act as it does not involve any compromise or arrangement with the Secured Creditors or the Unsecured Creditors, and post Scheme, the assets of the Transferee Company will be more than sufficient to discharge the Unsecured Creditors of the First Applicant Company, the Second Applicant Company, the Third Applicant Company and the Fourth Applicant Company. The Net-worth of the Transferee Company is significantly positive and there would not be any material adverse impact on the financial position, post amalgamation of the Transferor Companies. The Professional for the Applicant Companies submits that no reconstruction or arrangement is proposed by the Applicant Companies either with its shareholders or with its Secured Creditors or Unsecured creditors, as the case may be. Further, the Scheme involves amalgamation of wholly-owned subsidiaries with its Holding Company and thus, it does not require to hold Secured Creditors and Unsecured Creditors meeting for approval of the proposed Scheme. The Professional for the Applicant Companies submits that the facts in the present case are similar to the facts of above case, therefore, no meeting of the Secured Creditors and Unsecured creditors of the Third Applicant Company is required to be convened. The Applicant Companies seeks for direction from this Hon'ble Tribunal to dispense with holding of the meeting of the Unsecured Creditors of the Third Applicant Company. This is accepted.

21. The Professional for the Applicant Companies submits that there are no Secured Creditors in the Fourth Applicant Company as on 31<sup>st</sup> October 2023 and therefore, the question of convening and holding the meeting of the Secured Creditors of the Fourth Applicant Company does not arise. The copy of the certificate of an Independent Chartered Accountant certifying No Secured Creditors of the Fourth Applicant Company is annexed as **Exhibit N4 (Page Nos. 894-895)** to the Company Scheme Application. Further, there are 16 Unsecured Creditors aggregating to Rs.12,01,85,651/- as on 31<sup>st</sup> October 2023. The copy of the certificate of an

Independent Chartered Accountant certifying list of the Unsecured Creditors of the Fourth Applicant Company is annexed as **Exhibit O7 (Page Nos. 1096-1097)** to the Company Scheme Application. The Fourth Applicant Company has procured consents affidavits from 92.05% of the unsecured creditors in value which are annexed as **Exhibit O8 (Colly.) (Page Nos. 1098 -1128)** The Professional of the Applicant Companies submits that the meeting of the Unsecured creditors of the Fourth Applicant Company be dispensed with as the Scheme of Amalgamation is not an arrangement under Section 230(1)(a) of the Act as it does not involve any compromise or arrangement with the Secured Creditors or the Unsecured Creditors, and post Scheme, the assets of the Transferee Company will be more than sufficient to discharge the Unsecured Creditors of the First Applicant Company, the Second Applicant Company, the Third Applicant Company and the Fourth Applicant Company. The Net-worth of the Transferee Company is significantly positive and there would not be any material adverse impact on the financial position, post amalgamation of the Transferor Companies. The Professional for the Applicant Companies submits that no reconstruction or arrangement is proposed by the Applicant Companies either with its shareholders or with its Secured Creditors or Unsecured creditors, as the case may be. Further, the Scheme involves amalgamation of wholly-owned subsidiaries with its Holding Company and thus, it does not require to hold Secured Creditors and Unsecured Creditors meeting for approval of the proposed Scheme. The Professional for the Applicant Companies submits that the facts in the present case are similar to the facts of above case, therefore, no meeting of the Secured Creditors and Unsecured creditors of the Fourth Applicant Company is required to be convened. The Applicant Companies seeks for direction from this Hon'ble Tribunal to dispense with holding of the meeting of the Unsecured Creditors of the Fourth Applicant Company. This undertaking is accepted.

22. The Professional for the Applicant Companies submits there are no Secured Creditors and 1,487 Unsecured Creditors aggregating to Rs. 3497,49,91,915/- in the Fifth Applicant Company as on 31<sup>st</sup> October 2023. The copy of the certificate of



an Independent Chartered Accountant certifying list of Secured Creditors and Unsecured Creditors of the Fifth Applicant Company are annexed as **Exhibit N5 (Page Nos. 896-930)** and **Exhibit O9 (Page Nos. 1129-1130)**, respectively to the Company Scheme Application.

23. The Professional for the Applicant Companies respectfully submits that:
- a. Being a merger of wholly owned subsidiary companies into its holding company, no shares would be issued or allotted as consideration pursuant to the merger. Accordingly, the rights of members of the Fifth Applicant Company are not affected since there will be no issue of shares pursuant to the Scheme and there would be absolutely no change in the equity share capital of the Fifth Applicant Company. Also, the present Scheme will not result in any dilution in shareholding of the shareholders of the Fifth Applicant Company;
  - b. The rights of the creditors of the Fifth Applicant Company are not affected since there will be no reduction in their claims and the assets of the Fifth Applicant Company, post amalgamation, will be more than sufficient to discharge their claims. Also, the net worth of the Fifth Applicant Company is and will continue to remain highly positive post-merger;
  - c. The existence of the Fifth Applicant Company will remain as before without any change either to its shareholding pattern or debt position pursuant to the Scheme;
  - d. No undertaking of the Applicant Companies is being parted away or being disposed-off and hence provisions of Section 180 of the Companies Act, 2013 are also not applicable.
24. The Professional for the Applicant Companies submits that, in view of the above, no reconstruction or arrangement is proposed by the Fifth Applicant Company either with its shareholders or with its Secured/Unsecured creditors, as the case

may be, and thus, it does not require to hold either shareholders meeting or Secured/Unsecured creditors meeting for approval of the proposed Scheme, in view of the ratio laid down by the Hon'ble High Court of Judicature at Bombay in the case of *Mahaamba Investments Limited V/s. IDI Limited (2001) 105* Company Cases page 16 to 18 inter alia observed and held that if the Scheme of Amalgamation provides for no issue of equity shares to the members of the Transferor Company, being a wholly owned subsidiary of the Transferee Company and the creditors of the Transferee Company, are not likely to be affected by the Scheme, a separate Petition by the Transferee Company was not necessary. Further, the Hon'ble High Court of Bombay in an unreported judgement of *Bon Limited* dated March 12, 2010 in Company Scheme Petition No. 123 of 2010, reiterated that a separate petition by the Transferee Company would not be necessary, if the Scheme, by way of transfer of undertaking, does not (a) involve the re-organisation of the capital of the Transferee Company; and (b) affect the rights of the members or creditors of the Transferee Company, as between themselves and the Company. The said observations are squarely applicable to the proposed Scheme wherein the Transferor Companies are being merged into the Transferee Company and the Transferor Companies are directly/indirectly wholly owned subsidiaries of the Transferee Company. Similar view has also been taken by the Delhi High Court in the case of *Sharat Hardware Industries P. Ltd.*, in re (1978) 48 Com Cas 23, Hon'ble High Court of Madras in the case of *Santhanalakshmi Investments (P) Ltd.*, In re (2005) 129 Company Cases page 789 to 792 and the Hon'ble High Court of Andhra Pradesh in the case of *Nebula Motors Ltd.*, In re 45 SCL 143. This Hon'ble Tribunal in *CSA No 243 of 2017 in the matter of Housing Development Finance Corporation Limited*, in *CSA No. 1611 of 2019 in case of CEAT Limited*, in *CSA No. 1615 of 2018 in case of Dolvi Minerals and Metals Private Limited*, in *CSA No. 396 of 2019 in case of JSW Logistics Infrastructure Private Limited*, in *CSA No. 1142 of 2019 in case of City Corporation Limited*, in *CSA No. 3123 of 2019 in case of Jai Realty Ventures Limited*, in *CSA No. 3219 of 2019 in case of Impact Automotive Solutions Limited*, in

*CSA No. of 3749 of 2019 in case of Datamatics Digital Limited, in CSA No. of 1062 of 2019 in case of Sterling and Wilson Solar Limited and in CSA No. 26 of 2022 in case of Shapoorji Pallonji Roads Private Limited, Ambuja Cements Limited in Company Appeal No. 19 of 2021, Patel Hydro Power Private Limited and Others in Company Appeal No. 137 of 2021 and Reliance Industries Limited in Company Appeal No. 109 of 2023* have taken similar view. The Professional for the Applicant Companies submits that the facts in the present case are similar to the facts of above stated cases, therefore, no meeting of equity shareholders, secured creditors and unsecured creditors of the Fifth Applicant Company is required to be convened. The undertaking is accepted.

25. Based on the above, this Bench is of the view that the meeting of the Equity Shareholders, Secured Creditors and Unsecured Creditors of the Fifth Applicant Company can be dispensed with since the Transferor Companies are direct wholly owned subsidiaries of the Fifth Applicant Company. In the view of the above facts submitted by the Professional for the Applicant Companies, the meeting of the Equity Shareholders, Secured Creditors and Unsecured Creditors of the all the Applicant Companies are hereby dispensed with.
26. The Applicant Companies are accordingly directed to serve notices along with copy of Scheme upon-
  - (i) concerned Income Tax Authorities within whose jurisdiction the Applicant Company's assessments are made i.e.,
    - a. for the First Applicant Company, having PAN AAICP1741N;
    - b. for the Second Applicant Company, having PAN AAJCP9090P;
    - c. for the Third Applicant Company, having PAN AAFCC3956R;
    - d. for the Fourth Applicant Company, having PAN AABCT0556A;

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- e. for the Fifth Applicant Company, having PAN AAACM3484F;  
and
- f. Nodal Officer of Income Tax Department i.e. Pr. Chief Commissioner of Income Tax, 3<sup>rd</sup> Floor, Aaykar Bhawan, Maharishi Karve Road, Mumbai – 400020, e-mail: Mumbai.pccit@incometax.gov.in;
- (ii) the Central Government through the office of Regional Director, Western Region, Mumbai;
- (iii) Registrar of Companies, Maharashtra at Mumbai;
- (iv) The Goods and Service Tax Authorities. GST registration number for First Applicant Company is 36AAICP1741N6ZY (Telangana), for Second Applicant Company is 36AAJCP9090P1ZG (Telangana), for Third Applicant Company is 29AAFCC3956R1ZT (Karnataka), for Fourth Applicant Company is 27AABCT0556A2ZS (Maharashtra) and for Fifth Applicant Company is 27AAACM3484F1ZI (Maharashtra);
- (v) BSE Limited (*only in case of the Fifth Applicant Company*);
- (vi) National Stock Exchange of India Limited (*only in case of the Fifth Applicant Company*);
- (vii) Securities Exchange Board of India (*only in case of the Fifth Applicant Company*);
- (viii) The Official Liquidator, High Court, Bombay (*only in case of the Transferor Companies*).

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pursuant to sub-section (5) of Section 230 of the Companies Act, 2013 and as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, 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.

27. The Professional for the Applicant Companies further clarifies that the Applicant Companies will file petition and comply with the provision of service of notices upon all the regulatory authorities and creditors (wherever applicable), as directed hereinabove. The undertaking is accepted.
28. The Applicant Companies to file an Affidavit of Service of the directions given by the Tribunal for proving service of notices to the regulatory authorities and to the creditors (wherever applicable) as stated above and do report to this Tribunal that the directions regarding the issue of notices have been duly complied with.
29. Ordered accordingly.

**SD/-**

**Madhu Sinha**

**Hon'ble Member (Technical)**

/Aakansha/

**SD/-**

**Reeta Kohli**

**Hon'ble Member (Judicial)**