

**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH - V**

**C.P. (CAA) 80/MB/2024**

**Connected with**

**C.A. (CAA)49/MB/2024**

In the matter of the Companies Act, 2013 (18 of 2013);

AND

In the matter of Sections 230 and 232 and other applicable provisions of the Companies Act, 2013 and Rules framed thereunder as in force from time to time;

AND

In the matter of Scheme of Amalgamation of PL INSURANCE BROKING SERVICES PRIVATE LIMITED, the First Transferor Company; PL COMMODITY MARKETS PRIVATE LIMITED, the Second Transferor Company; CONVICTION CAPITAL PRIVATE LIMITED, the Third Transferor Company with PRABHUDAS LILLADHER ADVISORY SERVICES PRIVATE LIMITED, the Transferee Company.

**PL Insurance Broking Services )**  
**Private Ltd,** ) ...Petitioner Company 1/  
CIN: U66010MH2008PTC184265 First Transferor  
Company

**PL Commodity Markets Private )**  
**Limited,** ) ... Petitioner Company 2/  
CIN: U51100MH2005PTC157590 Second Transferor  
Company

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**Conviction Capital Private Limited,** )  
CIN: U65999MH2022PTC378702 ) ... Petitioner Company 3/  
Third Transferor  
Company.

**Prabhudas Lilladher Advisory** )  
**Services Private Limited;** CIN: ) ... Petitioner Company 4/  
U65990MH1991PTC060157 Transferee Company.

**Order Dated: 07.06.2024**

**Coram:**

Hon'ble Shri Sanjiv Dutt  
Member (Technical)

Hon'ble Ms. Reeta Kohli  
Member (Judicial)

**Appearances**

**For the Applicant(s):** Mr. Ashish O. Lalpuria a/w Mr. Kamal Lahoty,  
Practising Company Secretaries (PH)

**For the Regional Director:** Mr. Altap Shaikh for the Office of the Regional  
Director, WR, MCA. (VC)

**ORDER**

1. The sanction of the Tribunal is sought under sections 230 to 232 and other applicable provisions of the Companies Act, 2013 (the Act) to the Scheme of Amalgamation of PL Insurance Broking Services Private Limited ("**the First Transferor Company**"), PL Commodity Markets Private Limited ("**the Second Transferor Company**"), Conviction Capital Private Limited, ("**the Third Transferor Company**") and Prabhudas Lilladhar Advisory Services Private Limited ("**the Transferee Company**") and their respective shareholders.

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2. The Scheme envisages Amalgamation of wholly owned subsidiary company (Transferor Company 1 and Transferor Company 2) into its holding company (Transferee Company) and Transferor Company 3 with the Transferee Company.
3. We have heard the Authorised Representative for the Petitioner Companies and the representative for the Regional Director, WR, MCA. No objector has come before this Tribunal to oppose the Scheme.
4. The Authorised Representative for the Petitioners submits that the First Transferor Company and the Second Transferor Company are wholly owned subsidiaries of the Transferee Company and their entire paid-up share capital is held by the Transferee Company. The Third Transferor Company holds 48% of the paid-up Equity share capital of the Transferee Company.

5. **The Petitioner Companies:**

- 5.1. The Petitioner Company 1 was incorporated on 3<sup>rd</sup> day of July, 2008 having registered office at Mumbai, Maharashtra with the object of carrying business of Insurance Broking Services and presently does not have any significant business operations.
- 5.2. The Petitioner Company 2 was incorporated on 25<sup>th</sup> day of November, 2005 having registered office at Mumbai, Maharashtra with the object of carrying out business of trading in commodities and presently does not have any significant business operations.
- 5.3. The Petitioner Company 3 was incorporated on 21<sup>st</sup> day of March 2022 having registered office at Mumbai, Maharashtra and is in business of consultancy, advisory and dealing in shares, debentures and other securities of all nature and also to act as an

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intermediary in trading of securities.

- 5.4. The Petitioner Company 4 was incorporated on 07<sup>th</sup> day of February, 1991 having registered office at Mumbai, Maharashtra with the object of rendering advisory services and offer consultancy services and / or to act as advisors to companies, banks, institutions, bodies corporate, government association or any other person, both in India as well as abroad.
6. The Authorized Representative for the Petitioner states that the respective Board of Directors of Transferor Companies and the Transferee Company at its respective Board Meeting held on 28<sup>th</sup> February, 2024 approved the Scheme.
7. The Authorised Representative for the Petitioners states that appointed date of the Scheme is 1<sup>st</sup> April, 2023.
8. **The Authorized, Issued, Subscribed and Paid Up Capital of the Applicant Companies are as under:**

**8.1** The Authorized, Issued, Subscribed and Paid-Up Capital of **PL INSURANCE BROKING SERVICES PRIVATE LIMITED, the Applicant Company 1** as on the 31<sup>st</sup> day of March, 2023 is as under:

<b>Authorised Capital</b>	<b>Amount Rs.</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 Capital</b>	
6,00,000, Equity Shares of Rs. 10/- each fully paid up	60,00,000
<b>TOTAL</b>	<b>60,00,000</b>

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**8.2** The Authorized, Issued, Subscribed and Paid-Up Capital **PL COMMODITY MARKETS PRIVATE LIMITED, the Applicant Company 2** as on the 31<sup>st</sup> day of March, 2023 is as under:

<b>Authorised Capital</b>	<b>Amount Rs.</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 Capital</b>	
18,87,100, Equity Shares of Rs. 10/- each fully paid up	1,88,71,000
<b>Total</b>	<b>1,88,71,000</b>

**8.3** The Authorized, Issued, Subscribed and Paid-Up Capital of **CONVICTION CAPITAL PRIVATE LIMITED, the Applicant Company 3** as on the 31<sup>st</sup> day of March, 2023 is as under:

<b>Authorised Capital</b>	<b>Amount Rs.</b>
1,00,000, Equity Shares of Rs. 10/- each	10,00,000
100, 10% Non-Cumulative Redeemable Preference Shares of Rs. 10/- each	1,000
<b>Total</b>	<b>10,01,000</b>
<b>Issued, Subscribed and Paid up Capital</b>	
1,00,000, Equity Shares of Rs. 10/- each fully paid up	10,00,000
<b>Total</b>	<b>10,00,000</b>

**8.4** The Authorized, Issued, Subscribed and Paid-Up Capital of **PRABHUDAS LILLADHER ADVISORY SERVICES PRIVATE**

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**LIMITED, the Applicant Company 4** as on the 31<sup>st</sup> day of March, 2023 is as under:

<b>Authorised Capital</b>	<b>Amount Rs.</b>
47,50,000, Equity Shares of Rs. 10/- each 2,50,000, 10% Non-Cumulative Non-Convertible Redeemable Preference Shares of Rs. 10/- each	4,75,00,000 25,00,000
<b>Total</b>	<b>5,00,00,000</b>
<b>Issued, Subscribed and Paid up Capital</b>	
18,03,060, Equity Shares of Rs. 10/- each 100, 10 % Non-Cumulative Non-Convertible Redeemable Preference Shares of Rs. 10/- each	1,80,30,600 1,000
<b>Total</b>	<b>1,80,31,600</b>

9. The **First Transferor Company and the Second Transferor Company are wholly owned subsidiaries of the Transferee Company** and their entire paid-up share capital is held by the Transferee Company and, therefore, the shares held by Transferee Company would be cancelled and extinguished and no shares will be issued and allotted in lieu of such cancellation.

10. In respect of the Third Transferor Company, Mr. Bhavesh M. Rathod, Registered Valuer has issued a valuation report dated 27<sup>th</sup> February, 2024 which propose an exchange ratio of 5.45 (Five Point Four Five) fully paid-up Equity Shares of face value of Rs. 10/- (Rupees Ten Only) of the Transferee Company for every 1 (One) fully paid-up Equity Share of Rs.10/- (Rupees Ten Only) of the Third Transferor Company.

11. The Learned Authorised Representative for the Petitioners submit that **the rationale for the Scheme** is as under:

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- 11.1. The Transferor Companies and the Transferee Company are owned, controlled, and managed by the same promoter i.e. Mrs. Amisha Niraj Vora.
- 11.2. The First Transferor Company and the Second Transferor Company are wholly owned subsidiary of the Transferee Company. The Third Transferor Company holds 48% of the paid-up Equity Share capital of the Transferee Company and, therefore, with a view to maintain a simple corporate structure and eliminate duplicate corporate procedures, it is desirable to merge and amalgamate the Transferor Companies with Transferee Company. The amalgamation of Transferor Companies into the Transferee Company shall facilitate consolidation of all the undertakings to enable effective management and unified control of operations. This would enable streamlining the activities and consequently reducing managerial overlaps by reducing the number of companies under the same management and thus lead to reduction in administration efforts.
- 11.3. The Amalgamation would also allow the consolidation of debt, leading to more favorable terms and efficient debt management.
- 11.4. The Transferor Companies and the Transferee Company are operating in complementary/similar line of business and can be conveniently combined for mutual benefit as this would increase the profitability of the Transferee Company.
- 11.5. The proposed amalgamation of the Transferor Companies will

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help the Transferee Company to strengthen its rapidly growing consultancy and advisory business.

- 11.6. The proposed amalgamation will help pool and combine finances and resources into one consolidated entity which will result in administrative and operations rationalization, organization efficiencies, optimal utilization of various resources, overheads and other expenses and better compliance management.
- 11.7. The proposed amalgamation will help the Transferee Company to achieve financial strength aiding in achieving economies of scale, more focused operational efforts, standardization and simplification of business processes and productivity improvements.
- 11.8. The proposed amalgamation is commercially and economically viable, feasible, fair, and reasonable and is in the interest of the Transferor Companies, the Transferee Company and their respective stakeholders
12. The Company Petition is filed in consonance with Sections 230 to 232 of the Act along with the order dated 1<sup>st</sup> May, 2024 passed in CA (CAA) No. 49/(MB)/2024 of this Tribunal.
13. The Authorised Representative appearing on behalf of the Petitioner Companies states that the Petitioner Companies have complied with all requirements as per directions of the Tribunal and have filed necessary affidavits of compliance with the Tribunal. Moreover, the Petitioner Companies undertake to comply with all



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statutory/regulatory requirements, if any, as required under the Act and the Rules made thereunder. The undertaking given by the Petitioner Companies is accepted.

14. The Regional Director (Western Region), Ministry of Corporate Affairs, Mumbai, has filed its Report dated 30<sup>th</sup> May, 2024 inter alia stating therein its observations on the Scheme as stated in para 2 (a) to (h) of the Report. In response to the observations made by the Regional Director, the Petitioner Companies filed an Affidavit in Rejoinder and have given necessary clarifications and undertakings. The observations made by the Regional Director and the responses of the Petitioner Companies thereto are brought out in the table below:

<b>Sr. No. Para a (2)</b>	<b>Observation of Regional Director</b>	<b>Response of the Petitioner Companies</b>
a) (i)	<p>That on examination of the report of the Registrar of Companies, Mumbai dated 29.05.2024 <b>(Annexed as Annexure A-1)</b> for Petitioner Companies falls within the jurisdiction of ROC, Mumbai. It is submitted that no complaint and /or representation regarding the proposed scheme of Arrangement has been received against the Petitioner Companies. Further, Petitioner Companies has filed Financial Statements up to 31.03.2023.</p> <p>That the ROC Mumbai in its report dated 29.05.2024 stated that No Inquiry, Inspection, Investigations, Prosecutions and Complaints under</p>	<p>Apropos observation of ROC made in paragraph 2 (a) (i) of the report of Regional Director is concerned, the Petitioner Companies submits that the same is self-explanatory and do not require any explanation.</p>

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	Companies Act, 2013 are pending against the Petitioner Companies.	
a) (ii) (a)	2nd and 3rd Transferor Company has one open charge.	Apropos observation of ROC made in paragraph 2 (a) (ii) (a) of the report of Regional Director is concerned, it is submitted that the charge pertaining to the 2nd Transferor Company pertains to security provided by 2nd Transferor Company on its Fixed Deposits for overdraft facilities obtained by the Transferee Company. As far as 3rd Transferor Company is concerned, open charge pertains to credit facilities taken by the Company from Piramal Capital. Both these charges shall stand transferred to the Transferee Company pursuant to Amalgamation.
(a) (ii) (b)	All Petitioner Companies has not Filed Form GNL-1.	Apropos observation of ROC made in paragraph 2 (a) (ii) (b) of the report of Regional Director is concerned, the Petitioner Companies have already filed Form GNL-1 with the Registrar of Companies on 21st May, 2024. Copies of Form GNL-1 together with challans are attached as <b>Annexure A- Colly</b> to Rejoinder.
(a) (ii) (c)	Necessary stamp duty on transfer of property is to be paid to the respective Authorities.	Apropos observation of ROC made in paragraph 2 (a) (ii) (c) of the report of Regional Director is concerned, it is submitted that

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		the Transferor Companies do not have any properties which are required to be transferred to Transferee Company. However, the Transferee Company undertakes to file necessary application along with the Order of this Tribunal before the Stamp Authorities for adjudication and payment of necessary stamp duty.
(a) (ii) (d)	As per provisions of section 232(3)(i) of CA, 2013 where the transferor company is dissolved, the fee, if any, paid by the transferor company on its authorized capital shall be set off against any fees payable by the transferee company on its authorized capital shall be set off against any fees payable by the transferee company on its authorized capital subsequent to the amalgamation. Therefore, remaining fee, if any after setting off the fees already paid by the transferor company on its authorized capital, must be paid by the transferee company on the increased authorized capital subsequent to amalgamation.	Apropos observation of ROC made in paragraph 2 (a) (ii) (d) of the report of Regional Director is concerned the Transferee Company submits that it would comply with the provisions of Section 232(3)(i) of the Companies Act, 2013 with respect to payment of differential fees and would pay the differential fees, if any.
(a) (ii) (e)	Transferor Company – 1 engaged in the business of insurance broking services as stated in the scheme and object clause of MOA. Hence NOC from the IRDA may be required. Hon'ble NCLT may decide on merit.	Apropos observation of ROC made in paragraph 2 (a) (ii) (e) of the report of Regional Director is concerned, it is submitted that the PL Insurance Broking Services Private Limited, the First Transferor Company has never carried on the business of

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		Insurance Broking and is neither registered with IRDA. Accordingly, the First Transferor Company is not required to obtain any NOC from IRDA. A copy of the certificate issued by Chartered Accountant certifying that none of the Petitioner Companies are governed by any sectoral regulators is annexed as <b>Annexure B</b> to Rejoinder.
(a) (ii) (f)	Form BEN-2 not filed for FY 2018-19 till date by Transferor Company - 1.	Apropos observation of ROC made in paragraph 2 (a) (ii) (f) of the report of Regional Director is concerned, it is submitted that the First Transferor Company has already filed Form BEN-2 with ROC and the said fact has also been confirmed by Office of Regional Director in its Report.
(a) (ii) (g)	As per MOA of Transferor company- 2 and stated in the scheme, business of the company in to trading broking in commodities, member in commodity exchange and securities. Hence, SEBI NOC maybe required.	Apropos observation of ROC made in paragraph 2 (a) (ii) (g) of the report of Regional Director is concerned, it is submitted that the PL Commodity Services Private Limited, the Second Transferor Company was a member of Multi Commodity Exchange of India Limited. However from 28th September, 2018, the said membership stood transferred to another Company Prabhudas Lilladher Private Limited and accordingly the Second Transferor Company is not carrying on the commodity business and therefore no NOC is required from SEBI. A copy of the letter issued by Multi

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		Commodity Exchange of India Limited confirming the transfer of the membership to Prabhudas Lilladher Private Limited is annexed as <b>Annexure C</b> to Rejoinder.
(a) (ii) (h)	Form BEN-2 not filed by Transferor Company- 2 for both entity SBO and Changed SBO due to Change in shareholder owing to transfer of share.	Apropos observation of ROC made in paragraph 2 (a) (ii) (h) of the report of Regional Director is concerned, it is submitted that the Second Transferor Company has already filed Form BEN-2 with ROC and the said fact has also been confirmed by Office of Regional Director in its Report.
(a) (ii) (i)	Transferor Company- 3 is engaged in the business of consultancy, advisory and dealing in share, debenture of other of the securities of all nature and it also act as an intermediary in trading and securities, as per the MOA and as stated in the scheme. Hence SEBI NOC may be required.	Apropos observation of ROC made in paragraph 2 (a) (ii) (i) of the report of Regional Director is concerned, it is submitted that the Conviction Capital Private Limited, the Third Transferor Company has never carried on any business which is governed by Securities and Exchange Board of India (SEBI). Accordingly, the Third Transferor Company is not required to obtain any NOC from SEBI. A copy of the certificate issued by Chartered Accountant certifying that none of the Petitioner Companies are governed by any sectoral regulators is already annexed as <b>Annexure B</b> to Rejoinder.
(a) (ii) (j)	As per note 5 long-term borrowing of the balance sheet as on 31 <sup>st</sup> March 2023, Rs. 8,50,000 show as unsecured	Apropos observation of ROC made in paragraph 2 (a) (ii) (j) of the report of Regional Director is

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	<p>term loan from the parties i.e Aakrosh securities, where is related party disclosure. Aakrosh securities are not disclosed as related party. Hence, there will be violation of section 73 of Companies Act, 2013. Hence the scheme may be opposed.</p>	<p>concerned, it is submitted that Aakrosh Securities Pvt. Ltd. is not a related party as per the provisions of Accounting Standard 18 (AS-18) as the parties do not have the ability to control or exercise significant influence over the other in making financial and/or operating decisions. Further there is no violation of Section 73, as the loan taken by Conviction Capital Pvt. Ltd., the Third Transferor Company from Aakrosh Securities Pvt. Ltd. is in compliance with the provisions of Section 186 of the Companies Act, 2013 and falls within the purview of intercorporate Loan.</p>
<p>(a) (ii) (k)</p>	<p>In foot note 5 long-term borrowing as on 31<sup>st</sup> March 2013. It is stated that term loan facilities from Piramal Capital is secured against Flat No 3101 at beau monde towers Prabhadevi (carpet area 2625 of sqft) owned Jain Avishkar. However, Jain Avishkar is not related party as per Balance sheet MCA -21 Portal.</p>	<p>Apropos observation of ROC made in paragraph 2 (a) (ii) (k) of the report of Regional Director is concerned, it is submitted that Jai Aavishkar Securities Pvt. Ltd. is not a related party as per the provisions of Accounting Standard 18 (AS-18) as the parties do not have the ability to control or exercise significant influence over the other in making financial and/or operating decisions. Further, the collateral security provided by Jai Aavishkar Securities Pvt. Ltd. is in compliance with section 186 of the Companies Act, 2013. Further, the lender being Piramal capital has already issued their NOC to the</p>

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		Scheme.
(a) (ii) (l)	How third person has given collated for the company borrowing company has to give clarification on this to submit supplementary report to have clear picture on section 73 and collated for term loan. In same foot note it is mentioned that three residential flat no. 3204, 3405 & 3406) at Andheri. Project malad west (carpet-3012 sqft) is disclosed. But not disclosed who's flat, whether it is director, shareholder, or a related party. this needs proper a clarification to proceed with merger scheme.	Apropos observation of ROC made in paragraph 2 (a) (ii) (l) of the report of Regional Director is concerned, it is submitted that Flat No. 3204 is owned by HNR Securities Pvt Ltd and Flat No. 3405 & 3406 are owned by Sonata Securities Pvt Ltd. Both these Companies are not a related party as per the provisions of Accounting Standard 18 (AS-18). Further, the collateral security provided by these Companies are in compliance with section 186 of the Companies Act, 2013. Further, the lender being Piramal capital has already issued their NOC to the Scheme.
(a) (ii) (m)	Transferee Company has not filed Form BEN-2 as per the section-90 of Companies Act 2013	Apropos observation of ROC made in paragraph 2 (a) (ii) (m) of the report of Regional Director is concerned, it is submitted that the Second Transferee Company has already filed Form BEN-2 with ROC and the said fact has also been confirmed by Office of Regional Director in its Report.
(a) (ii) (n)	Interest of the Creditor should be protected.	Apropos observation of ROC made in paragraph 2 (a) (ii) (n) is concerned, the interest of creditors shall be protected at all times.
b)	In compliance of Accounting Standard-14 or IND-AS 103, as may be applicable, the Petitioner Companies shall pass such accounting entries which are necessary in connection with the scheme to comply with other applicable	Apropos observation made in paragraph 2 (b) of the report of Regional Director is concerned, the Petitioner Companies undertakes to comply with AS-14 or IND AS-103 and such applicable accounting standards for Amalgamation and as per

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	Accounting Standards including AS-5 or IND AS-8 etc.	other applicable provisions of the Companies Act, 2013 while passing necessary entries in connection with the Scheme including AS-5 or IND AS-8 as applicable.
c)	The Hon'ble Tribunal may kindly direct the Petitioner Companies to file an affidavit to the extent that the Scheme enclosed with the Company Application and Company Petition are one and same and there is no discrepancy, or no change is made.	Apropos observation made in paragraph 2 (c) of the Report of the Regional Director is concerned, the Petitioner Companies submits that Scheme enclosed to the Company Application and the Scheme enclosed to the Company Petition are one and the same and there is no discrepancy or deviation.
d)	The Petitioner Companies under provisions of section 230(5) of the Companies Act 2013 have to serve notices to concerned authorities which are likely to be affected by the Amalgamation or arrangement. Further, the approval of the scheme by the Hon'ble Tribunal may not deter such authorities to deal with any of the issues arising after giving effect to the scheme. The decision of such authorities shall be binding on the Petitioner Companies concerned.	Apropos observation made in paragraph 2 (d) of the report of Regional Director is concerned, the Petitioner Companies submits that notices were served upon the concerned regulatory authorities in accordance with the provisions of section 230(5) of the Companies Act, 2013. The Petitioners further submits that approval of the scheme by this Hon'ble Tribunal may not deter such authorities to deal with any of the issues arising after giving effect to the scheme. The decision of such Authorities shall be binding on the Petitioner Companies subject to right of appeal, if available.
e)	The Hon'ble Tribunal may kindly seek the undertaking	Apropos observation made in paragraph 2 (e) of the report of



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	<p>that this Scheme is approved by the requisite majority of members and creditors as per Section 230(6) of the Act in meetings duly held in terms of Section 230(1) read with 7 subsection (3) to (5) of Section 230 of the Act and the Minutes, thereof are duly placed before the Tribunal.</p>	<p>Regional Director is concerned, the Petitioner Companies states that the meetings of members and creditors were dispensed with by the Hon'ble Tribunal vide its Order dated 1<sup>st</sup> May, 2024. Therefore, the requirement of holding the meetings and furnishing the minutes thereof are not applicable in the present matter.</p>
<p>f)</p>	<p>As per Definition of the Scheme, "Appointed Date" shall mean April 1, 2023, or such other date(s) as the Hon'ble National Company Law Tribunal at Mumbai, Maharashtra or such other Appropriate Authority may approve. "Effective Date" means the last of the dates on which the certified or authenticated copies of the orders of the National Company Law Tribunal, Mumbai sanctioning the Scheme are filed with the Registrar of Companies, Mumbai, by the Transferor Companies and by the Transferee Company, as the case may be. Any references in this Scheme to the "date of coming into effect of this Scheme" or "effectiveness of this Scheme" or "Scheme taking effect" shall mean the Effective Date. In this regard, it is submitted that Section 232(6) of the Companies Act, 2013 states that the scheme under this section shall clearly indicate an</p>	<p>Apropos observation of the Regional Director, Western Region, Mumbai, as stated in paragraph 2 (f) of his report concerned, the Petitioners Companies confirms that the definition "Appointed Date" means 1<sup>st</sup> April, 2023. Further, Clause A-2 of the Scheme specifies that the appointed date shall be 1<sup>st</sup> day of April, 2023. Further, the Petitioners confirms that the "Effective Date" means the date on which certified or authenticated copies of the Order sanctioning this Scheme, passed by the National Company Law Tribunal at Mumbai are filed with the Registrar of Companies, Mumbai, Maharashtra. The Petitioner Companies are in compliance with the circular no. F. No.7/12/2019/CL-1 dated 21.08.2019 issued by the Ministry of Corporate Affairs.</p>

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	<p>appointed date from which it shall be effective from such date and not a date subsequent to the appointed date. However, this aspect may be decided by the Hon'ble Tribunal taking into account of its inherent powers.</p> <p>The Petitioner Companies shall undertake to comply with the requirements as clarified vide circular no. F. No. 7 /12/2019/CL-I dated 21.08.2019 issued by the Ministry of Corporate Affairs.</p>	
<i>g)</i>	<p>Petitioner Companies shall undertake to comply with the directions of the Income Tax Department &amp; GST Department, if any.</p>	<p>Apropos observation made in paragraph 2 (g) of the report of Regional Director is concerned, the Petitioner Companies undertakes to comply with the directions of the Income Tax Department and GST Department, if any in accordance with the law.</p>
<i>h)</i>	<p>Petitioner Companies shall undertake to comply with the directions of the concerned sectoral Regulatory, if any.</p>	<p>Apropos observation made in paragraph 2 (h) of the report of Regional Director is concerned, the Petitioner Companies submits that the petitioner companies are not governed by any sectoral regulators. Further, the Petitioner Companies undertakes to comply with the directions of the applicable regulators in accordance with law.</p>

15. The Official Liquidator has filed his report dated 4<sup>th</sup> June, 2024

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wherein in para 5 (I) to (IV) the Official Liquidator has stated that **(a)** the First and Second Transferor Companies have not maintained physically signed subscriber sheets of Memorandum and Articles of Association; **(b)** the Official Liquidator has stated that preparation of accounts of Transferor Companies having negative networth on a going concern basis is a fundamental breach of accounting principles; **(c)** the Official Liquidator has stated that the First Transferor Company has made a mis-classification of loan by showing the same as Short Term Borrowing and **(d)** the second Transferor Company has open charge on MCA website but have not shown any secured creditors in the balance sheet.

16. The Transferor Companies have filed an affidavit in rejoinder to Official Liquidator's Report dated 5<sup>th</sup> June, 2024 wherein they have stated that:

**(a)** the original subscribers' sheets of MoA and AoA were filed with the Registrar of Companies and copies of the same are not traceable with the companies. The Authorised Representative further states that the said observation does not relate to the functioning of the said transferor companies nor affects the proposed merger in any manner;

**(b)** that as per Standard on Accounting (SA) 570 it is assumed that the entity is a going concern and will continue its operations for the foreseeable future. Thus, Financial Statements are prepared using the going concern basis of accounting, unless management either intends to liquidate the entity or to cease operations. Hence, Transferor companies having negative net worth does not affect its assumption of "going concern" and management can prepare Financial Statements as going concern basis and therefore there is no breach or violation of fundamental principle of accounting.

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**(c)** it is submitted and reiterated that there is no mis-classification of loan as the nature of borrowing as taken from the Holding Company is short term in nature and is “Repayable on Demand” and accordingly the same has been shown under Short Term Borrowing. Further, the lender can always demand the repayment of loan at any point of time and therefore the loan cannot be classified as long-term loan as it needs to be serviced upon recall or repayment demand made by the lender.

**(d)** it is submitted and reiterated that the charge relates to an Overdraft facility taken by Prabhudas Lilladher Advisory Services Private Limited, the Transferee Company/Holding Company from State Bank of Mauritius (SBM Bank) for which security/collateral on its fixed deposits was provided by PL Commodity Markets Private Limited and, therefore, it was not a Creditor.

17. The Authorised representative further submits that as per the very well settled proposition of law, the approval of the Scheme will not affect the rights and contentions of all the regulatory authorities including the Official Liquidator and will always remain open to take any action for non-compliance of the law and that such action, if taken, would continue against the Transferee Company.

18. **The authorized representative of Regional Director, MCA(WR) who is present at the time of hearing has reported no objections for allowing the Company petition by the Tribunal.**

19. From the materials on record, the Scheme appears to be fair, reasonable and is not in violation of any provisions of law nor is contrary to public interest/policy. The undertakings given by the Petitioner Companies are hereby accepted.

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20. Since all the requisite statutory compliances have been fulfilled, CP (CAA)/80/(MB)/2024 is made absolute in terms of prayer clauses of the Company Petition. Ordered accordingly.

**ORDER**

21. The Petition is allowed subject to the following:-

- (i) The Scheme, with the Appointed Date fixed as 1<sup>st</sup> April, 2023 placed as **Exhibit - "A"** of the Company Petition, is hereby sanctioned. It shall be binding on the Petitioner Companies involved in the Scheme and all concerned including their respective Shareholders, Secured Creditors, Unsecured Creditors/Trade Creditors and Employees.
- (ii) The Registrar of this Tribunal shall issue the certified copy of this Order along with the Scheme forthwith. The Petitioner Companies are directed to file a certified copy of this Order along with a copy of the Scheme with the Registrar of Companies concerned, electronically in E-form INC-28 within 30 days from the date of receipt of the Order from the Registry.
- (iii) The Petitioner Companies shall lodge a copy of this Order and the Scheme duly authenticated by the Registrar of this Tribunal with the Superintendent of Stamps concerned, within 60 working days from the date of the receipt of the Order, for the purpose of adjudication of stamp duty, if any, payable.
- (iv) The Petitioner Companies shall comply with all the undertakings given by them.
- (v) The Petitioner Companies shall take all consequential and

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statutory steps required under the provisions of the Act in pursuance of the Scheme.

(vi) All concerned shall act on a copy of this Order along with the Scheme duly authenticated by the Registrar of this Tribunal.

(vii) Any person interested in the above matter shall be at liberty to apply to the Tribunal for any directions that may be necessary.

SD/-  
**Sanjiv Dutt**  
**(Technical Member)**  
/Abhay/

SD/-  
**Reeta Kohli**  
**(Judicial Member)**