

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH, COURT II**

**C.P (C.A.A)/ 228/2023  
IN  
C.A (C.A.A)/52/2023**

*In the matter of the Companies Act, 2013*

**AND**

*In the matter of Sections 230 to Section 232  
of the Companies Act, 2013 and other  
applicable provisions of the Companies  
Act, 2013*

**AND**

*In the matter of Composite Scheme of  
Arrangement involving Amalgamation of  
Panama Holding Private Limited  
(‘Petitioner Company 1’ or ‘Transferor  
Company 1’), Panama Agriculture Private  
Limited (‘Petitioner Company 2’ or  
‘Transferor Company 2’), Panama  
Renewable Energy Private Limited  
(‘Petitioner Company 3’ or ‘Transferor  
Company 3’) and SGI Water India Private  
Limited (‘Petitioner Company 4’ or  
‘Transferor Company 4’) with Indo  
Magnus Wind Energy Private  
Limited(‘Petitioner Company 5’ or  
‘Transferee Company’) and their  
respective Shareholders and Creditors(the  
‘Scheme’ or ‘this Scheme’)*

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**Panama Holding Private Limited, }**

**CIN No: U35100MH1994PTC082327 }**

**... Petitioner Company 1/ Transferor Company 1**

**Panama Agriculture Private Limited, }**

**CIN No: U01400PN2011PTC141501 }**

**...Petitioner Company 2/ Transferor Company 2**

**Panama Renewable Energy Private Limited, }**

**CIN No: U40106PN2014PTC151356 }**

**... Petitioner Company 3/ Transferor Company 3**

**SGI Water India Private Limited, }**

**CIN No: U41000PN2010PTC135849 }**

**...Petitioner Company 4/ Transferor Company 4**

**Indo Magnus Wind Energy Private Limited, }**

**CIN No: U40101PN2010PTC196188 }**

**... Petitioner Company 5/ Transferee Company**

***Petitioner Company 1, Petitioner Company 2, Petitioner Company 3,  
Petitioner Company 4 and Petitioner Company 5 are collectively referred as  
the “Petitioner Companies”.***

**Order delivered on: 13.05.2024**

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IN  
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***Coram:***

**Anil Raj Chellan  
Member (Technical)**

**Kuldip Kumar Kareer  
Member (Judicial)**

***Appearances:***

**For the Petitioner(s):** Counsel, Hemant Sethi

**ORDER**

***Per: Coram***

1. The Company Application CA (CAA)/52/MB/2023 was filed for composite scheme of arrangement involving amalgamation of Panama holding ('Petitioner/Company No. 1'), Panama Agriculture Private Limited ('Petitioner Company No. 2'), Panama Renewable Energy Private Limited ('Petitioner Company 3'), SGI Water Private Limited ('Petitioner Company No. 4') with Indo Magnus Wind Energy Private Limited ('Petitioner Company No. 5') collectively referred as the "Petitioner Companies" which was allowed vide order dated **10.07.2023**. By the said order this Tribunal directed the Petitioner Companies to serve notice(s) upon all regulatory authorities.
2. After compliances of the directions contained in order dated 10.07.2023, the Petitioner Companies filed the Present Company Petition CP(CAA)/228/2023 seeking for sanction of the said scheme of arrangement and amalgamation.
3. In the second motion hearing, the Company Petition was admitted on 08.09.2023. This Tribunal directed the Petitioners for publication of

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notices in two local newspapers i.e. "Loksatta" in Marathi Language and "Indian Express" in English Language and further directed the Registrar of Companies, Regional Director and Official Liquidator to file their report of their representation/ comments in terms of section 230 (5) of the Companies Act, 2013.

4. Thereafter, the matter was listed for final hearing on 10.01.2024. The Official Liquidator has submitted its report dated 30th October 2023 ("OL report") and in the said report, the Official liquidator has made an observation in para 4 that the Petitioner Company No. 1 has made an investment in foreign subsidiary namely Sergio Investment Pvt Ltd of Rs. 3.76 crores and therefore requires compliance of RBI regulations and other regulatory laws. The said observation of Official Liquidator is reproduced below:

*"The Statutory Auditor of Panama Holding Private Limited has observed 'Emphasis of Matter and other matters' in his report annexed to the Financial Statement of company as at 31.03.2022, which is reproduced as follows:*

*"Emphasis of Matter"*

*(a) Without qualifying our opinion, we draw attention to Note, of the accompanying financial statements in respect of Investments made in foreign subsidiary namely Sergio Investment Pte Ltd Singapore, of Rs. 3.76 crores at cost. It is desired to have compliance of RBI Regulations & other regulatory laws".*

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5. The Petitioner Companies replied to the above observation that the Petitioner Company No.1 has already undertaken to comply with the requisite compliances to be made with RBI. However, no document proving such compliance has been placed on record. The Official Liquidator further submitted that the reply of the Petitioner Company is silent with respect to compliance of RBI regulations, etc.
  
6. In the light of the observation of the Official Liquidator, this Bench deems it appropriate to issue directions to the Petitioner No. 1 as well as the Registry of this Tribunal to issue notice to RBI for its comments, if any, with respect to the said investment by transferor company in its foreign entity to be submitted within a period of 30 days. If no representation / response is received by the Tribunal from RBI within a period of thirty days from the date of receipt of such notice, it will be presumed that RBI has no representation / objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
  
7. List the matter on 01.07.2024 for further hearing.

**Sd/-**

**ANIL RAJ CHELLAN  
MEMBER (TECHNICAL)**

**Sd/-**

**KULDIP KUMAR KAREER  
MEMBER (JUDICIAL)**