

IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH-IV

CP (CAA)/211/MB-IV/2022  
IN  
CA. (CAA)/201/MB-IV/2021

*In the matter of  
the Companies Act, 2013;*

*AND*

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

*AND*

*In the matter of  
Scheme of Amalgamation and Arrangement  
of*

***Energair Windfarms Private Limited,***  
*The Transferor Company/  
Petitioner Company No.1*

*And*

***Primeair Windfarms Limited,***  
*The Transferor Company/  
Petitioner Company No.2*

*And*

***Sovereign Windfarms Private Limited,***  
*The Transferor Company/  
Petitioner Company No.3*

*And*

***Vespower Windfarm Private Limited,***  
*The Transferor Company/  
Petitioner Company No.4*

*And*

***Windeon Windfarms Private Limited,***  
*The Transferor Company/  
Petitioner Company No.5*

*And*

***Powerica Sales and Services Private  
Limited,***  
*The Transferor Company/  
Petitioner Company No.6*

*And*

***Empower Gensets Private Limited,***  
*The Transferor Company/  
Petitioner Company No.7*

*And*

***Everest Industrial Gases Private Limited,***  
*The Transferor Company/  
Petitioner Company No.8*

*With*

***Powerica Limited,***  
*the Transferee Company/  
Petitioner Company No. 9*

*And*

*their respective shareholders.*

Energair Windfarms Private Limited  
[CIN: U40100MH2019PTC327582]

...Petitioner Company No. 1/  
Transferor Company

Primeair Windfarms Limited  
[CIN: U40300MH2015PLC263258]

... Petitioner Company No. 2/  
Transferor Company

Soverign Windfarms Private Limited  
[CIN: U74999MH2017PTC295652]

... Petitioner Company No. 3/  
Transferor Company

Vespower Windfarm Private Limited  
[CIN: U74999MH2017PTC298318] ... Petitioner Company No. 4/  
Transferor Company

Windeon Windfarms Private Limited  
[CIN: U74999MH2017PTC301520] ... Petitioner Company No. 5/  
Transferor Company

Powerica Sales and Services  
Private Limited  
[CIN: U51900MH1980PTC022350] ... Petitioner Company No. 6/  
Transferor Company

Empower Gensets Private Limited  
[CIN: U31101PN2007PTC129406] ... Petitioner Company No. 7/  
Transferor Company

Everest Industrial Gases  
Private Limited  
[CIN: U40200MH1981PTC025580] ... Petitioner Company No. 8/  
Transferor Company

Powerica Limited  
[CIN: U31101MH1984PLC032825] ...Petitioner Company No. 9/  
Transferee Company

**Order delivered on: 20.01.2023**

*Coram:*

Mr. Prabhat Kumar  
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli  
Hon'ble Member (Judicial)

*Appearances (through video conferencing) :*

For the Petitioner : Mr. Ajit Singh Tawar i/b Ajit  
Singh Tawar & Co., Advocates  
for Petitioner Companies.

**ORDER**

***Per: Kishore Vemulapalli, Member (Judicial)***

1. The Court is conveyed through videoconference today.
2. Petition Admitted.
3. Petition fixed for hearing and final disposal on 02.03. 2023.
4. The Learned Counsel for the Petitioner Companies states that in pursuance of the directions contained in the order dated 30<sup>th</sup> day of August, 2022, passed by this Tribunal in the C.A.(CAA)/201/MB/2021, (i) the Meetings of the Equity Shareholders of the Petitioner Companies 1, 2, 3, 4, 5, 6, 8 and 9 were dispensed with, in view of the Consent Affidavits, *inter-alia* stating therein that the consents of all the Equity Shareholders have been obtained. (ii) the Meeting of the Equity Shareholders of the Petitioner Company No. 7 was convened and held on Tuesday, 11<sup>th</sup> day of October, 2022 at 11.00 a.m. The meeting was attended by 4 (Four) out of 6 (Six) Equity Shareholders representing 99.8% of the total value of Equity Shares of the Petitioner Company No. 7 and the scheme was approved unanimously by all the Equity Shareholders present and voting constituting 99.8% of the total Equity shares. The Chairperson appointed for the meeting had filed the Chairperson's Report of the meeting of the Equity Shareholders of the Petitioner Company No. 7 along with the Scrutinizer Report, with this Hon'ble Tribunal on 3<sup>rd</sup> day of November, 2022, which is annexed to Company Scheme Petition.
5. Learned Counsel for the Petitioner Companies states that pursuant to the directions contained in the said Order, the

meetings of the Secured Creditors of the Petitioner Companies 1, 2, 3, 4, 5 and 8 were not required to be held as there were no Secured Creditors in the said Petitioner Companies.

6. Learned Counsel for the Petitioner Companies states that pursuant to the directions contained in the said Order, the meetings of the Secured Creditors of the Petitioner Companies 6, 7 and 9 were dispensed with, in view of the Consent Affidavits filed by the respective Petitioner Companies.
7. Learned Counsel for the Petitioner Companies states that pursuant to the directions contained in the said Order, the meetings of the Unsecured Creditors of the Petitioner Companies were dispensed with, as there is no compromise and/or arrangement with the any of the Creditors, as no sacrifice is called and that the rights of the Creditors will not be affected as the assets of the Transferee Company post sanctioning the Scheme will be sufficient to pay off all the Creditors in the ordinary course of business. The Petitioner Companies were further directed to issue Notices to their respective Unsecured Creditors with a direction that they may submit their representations, if any to the Tribunal and copies of such representation shall simultaneously be served upon the respective Petitioner Company. The said Notices were duly served by the respective Petitioner Companies.
8. The Petitioner Companies have also filed Audited Financial Statement for Financial Year 2020-21 along with Audited/Unaudited Financial statement for the Financial Year 2021-22 as directed earlier.

9. The Petitioner Companies has submitted no case is pending against it under IBC and no litigation is pending against transferor companies. The list of pending litigations against the Transferee Company has been filed and it is submitted that such litigations does not have any material impact on the composite scheme of amalgamation and arrangement.
10. The Petitioner Companies have also filed details of all Letters of Credit sanctioned and utilized. It is stated that there is no Margin Money.
11. The Petitioner Companies 2, 7 and 9 have also issued notices to the entities to whom Corporate Guarantee, Bank Guarantee and Performance Guarantee were provided.
12. The Petitioner Company 9 has also issued notices to the entities to whom it provides electricity.
13. Learned Counsel for the Petitioner Companies, further submits that as directed by this Tribunal, notices have been served upon all the Regulatory Authorities, namely (1) the Central Government through the office of Regional Director, Western region, Mumbai; (2) Concerned Registrar of Companies; (3) Ministry of Corporate Affairs; and (4) Income Tax Authority within whose jurisdiction the Petitioner Companies are assessed to tax and (5) GST Authority within whose jurisdiction the Petitioner Companies are assessed to GST.
14. Learned Counsel for the Petitioner Companies further submits that as directed by this Tribunal, notices have been served upon Official Liquidator, High Court of Bombay at Mumbai by the respective Transferor Companies.

15. The Learned Counsel for the Petitioner Companies submit that, the Company Scheme Petition is filed in consonance with Sections 230 to 232 of the Companies Act, 2013 and in terms of the order passed in Company Scheme Application No. C.A.(CAA)/201/MB/2021 by this Tribunal.
16. At least 10 (ten) days before the date fixed for hearing, the Petitioner Companies is directed to publish a composite notice of final hearing of Petition in two local newspapers viz. “Business Standard”, in English and “Navshakti”, in Marathi language, both having circulation in the State of Maharashtra, as per Rule 16 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. The Petitioners will have option to publish notices online in the respective e-newspaper editions.
17. The Petitioner Companies are further directed to intimate date of final hearing of Company Scheme Petition to (1) the Central Government through the office of Regional Director, Western region, Mumbai; (2) Concerned Registrar of Companies; (3) Ministry of Corporate Affairs; (4) Income Tax Authority within whose jurisdiction the Petitioner Companies are assessed to tax as under:

<b>Petitioner Company</b>	<b>PAN Number</b>	<b>Address of Income tax Authority</b>
Energair Windfarms Private Limited	AAFCE5494E	WARD 6(2)(1), MUMBAI
Primeair Windfarms Limited	AAECN8881F	WARD 7(2)(3), MUMBAI
Soverign Windfarms Private Limited	AAYCS7555H	WARD 8(2)(3), MUMBAI
Vespower Windfarm Private Limited	AAGCV0428C	WARD 8(2)(3), MUMBAI
Windeon Windfarms Private Limited	AAHCG0666N	CIRCLE 7(1)(1), MUMBAI

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Powerica Sales and Services Private Limited	AAACP4047M	WARD 3(2)(4), MUMBAI
Empower Gensets Private Limited	AABCE6945J	PNE C522
Everest Industrial Gases Private Limited	AAACE0926E	WARD 3(1)(3), MUMBAI
Powerica Limited	AAACP3812E	LTU CIRCLE 1, MUMBAI

and (5) GST Authority within whose jurisdiction the Petitioner Companies are assessed to GST as under:

<b>Petitioner Company</b>	<b>GSTIN</b>	<b>Jurisdiction</b>
Energair Windfarms Private Limited	N.A.	N.A.
Primeair Windfarms Limited	27AAECN8881F1Z2	State – Maharashtra Zone - MUMBAI_NORTH_WEST Division - GHATKOPAR Charge - SION- CHUNABHATTI_702
Soverign Windfarms Private Limited	24AAAYCS7555H1ZM	State – Gujarat Division - Division - 1 Range - Range - 3 Unit - Ghatak 9 (Ahmedabad)
Vespower Windfarm Private Limited	37AAGCV0428C2ZL	Commissionerate - TIRUPATI Division - ANANTAPUR Range - ANANTAPUR - 1 RANGE
Windeon Windfarms Private Limited	24AAHCG0666N1ZC	State – Gujarat Division - Division - 1 Range - Range - 3 Unit - Ghatak 9 (Ahmedabad)
Powerica Sales and Services Private Limited	27AAACP4047M1Z7	State – Maharashtra Zone - MUMBAI_SOUTH_EAST Division - NARIMAN POINT Charge - NARIMAN- POINT_701
Empower Gensets Private Limited	27AABCE6945J1ZC	Commissionerate - PUNE - II Division - DIVISION-VI HADAPSAR Range - RANGE-II



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Everest Industrial Gases Private Limited	N.A.	N.A.
Powerica Limited	27AAACP3812E1ZT	Commissionerate - MUMBAI-SOUTH Division - DIVISION VIII Range - RANGE-IV

Further, The Transferor Companies are directed to intimate date of final hearing of Company Scheme Petition to the Official Liquidator, High Court of Bombay at Mumbai and sectoral regulator`.

18. The Petitioner Companies is also directed to send the notice of final hearing to above mentioned Regulators either by Registered Post AD/ Speed Post/ Hand Delivery or by E-mail. If no response is received by this Tribunal from the concerned Regulatory Authority, it will be presumed that the said Authorities have no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
19. The Petitioner Companies shall file proof of compliance at least 3 days before the final hearing date to report with the Registry in regard to the directions given in this order service of notices to the Regulatory Authorities and publication of notices in newspapers as stated above and do report to this Tribunal that the directions regarding the issue of notices have been duly complied with.

Sd/-  
**Prabhat Kumar**  
**Member (Technical)**

/Dubey/

Sd/-  
**Kishore Vemulapalli**  
**Member (Judicial)**