

**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH, COURT-1**

**C.P.(CAA)/280/MB/2023**

C/w

**C.A(CAA)/197/MB-I/2023**

*In the matter of*

*The Companies Act, 2013 (18 of  
2013);*

*AND*

*In the matter of*

*Sections 230 to 232 and other applicable  
provisions of the Companies Act, 2013 and  
Rules framed there under as in force from  
time to time;*

*AND*

*In the matter of*

*Scheme of Amalgamation of*

***Ambuthirtha power private limited***

*(Transferor Company 1)*

*and*

***Soham Renewable Energy India Private***

***Limited***

*(Transferor Company 2)*

*with*

***Soham Infrastructure Private Limited***

*(Transferee Company)*

**Ambuthirtha Power Private Limited**

**CIN: U40101MH2000PTC405600**

...Petitioner Company 1/

**Transferor Company1**

**Soham Renewable Energy India Private Limited**

CIN: U67200MH1991PTC405601

...Applicant Company 2/  
Transferor Company 2

**Soham Infrastructure Private Limited**

CIN: U45200MH2006PTC405602

...Applicant Company 3/  
Transferee Company 3

***Order delivered on 08.02.2024***

***Coram:***

**Shri Prabhat Kumar**  
Hon'ble Member (Technical)

**Justice Shri V.G. Bisht**  
Hon'ble Member (Judicial)

***Appearances (through)***

For the Applicant (s) : Mr. Ahmed Chunawala,  
Advocate i/b Rajesh Shah

For the Regional Director : Mr. Tushar Wagh, Deputy  
Director, Office of the Regional  
Director

**ORDER**

1. Heard the Learned Counsel for the Petitioner Companies and the representative of the Regional Director. No objector has come before this Tribunal to oppose the Scheme and nor has any party controverted any averments made in the Petitions to the said Scheme, except as otherwise stated.
2. The sanction of the Tribunal is sought under Sections 232 r/w Section 230 of the Companies Act, 2013 and other relevant provisions of the Companies Act, 2013 and the rules framed there under for the Scheme of Amalgamation of **Ambuthirtha Power Private Limited**, (First Transferor Company) and **Soham Renewable**

**Energy India Private Limited**, (Second Transferor Company) with **Soham Infrastructure Private Limited**, the Transferee Company.

3. The Petitioner Companies have approved the said Scheme of Amalgamation by passing the Board Resolutions dated 30<sup>th</sup> June, 2023 which are annexed to the respective Company Scheme Petitions.
4. The Petitions have been filed in consonance with the Order passed in the C.A. (CAA) No. 197/MB/2023 date 04.10.2023 by this Tribunal and Petitioner Companies have complied with all requirements as per directions of the National Company Law Tribunal, Mumbai Bench and they have filed necessary affidavits of compliance in the National Company Law Tribunal, Mumbai Bench.
5. The Petitioner Companies are presently carrying on business of generation of power.
6. The rationale for the Scheme of Amalgamation of the Petitioner Companies is in the interest of the stakeholders of these companies and shall result in the following benefits:
  - (a) Enabling consolidation of business and operations of the Transferor Companies and Transferee Company which will provide impetus to growth, enable synergies, reduce operational costs, increase operational efficiencies and enable optimal utilization of various resources as a result of pooling financial, managerial, technical and human resources of both the Transferor Companies and Transferee Company, thereby creating a stronger base for future growth and accretion of shareholder value. The amalgamation shall result in a simplified shareholding structure and reduce multiple-tiered shareholding.

- (b) Simplification of group structure by eliminating multiple companies having similar objective or business.
  - (c) The consolidation of resources (including but not limited to resources relating to power generation capacities) of the Transferor Companies and Transferee Company will enable the Transferee Company to provide better services and facilities to its customer and suppliers.
7. The Regional Director has filed his Report dated 01.01.2024 making certain observations and the Petitioner Companies have undertaken/made following submission that :
- i. The setting off of fees paid by the Transferor Company on its Authorised Share Capital shall be in accordance with provisions of section 232(3)(i) of the Companies Act, 2013;
  - ii. The interest of creditors is not adversely affected by the present Scheme of Arrangement and their interest is protected;
  - iii. The approval from Ministry of New and Renewable Energies are not required to be obtained however, if after the scheme there are any approval/ intimation is required than the same would be complied with;
  - iv. The Transferee Company shall pass such accounting entries as may be necessary in connection with the Scheme in compliance with applicable accounting standards including IND AS-5 or IND AS-8, as applicable;

- v. The Scheme enclosed to Company Application & Company Petition, are one and same and there is no discrepancy / any change / changes are made;
  - vi. The Petitioner Companies shall comply with the requirements as to Appointed Date and clarified vide circular no. F. No.7/12/2019/CL-1 dated 21.08.2019 issued by the Ministry;
  - vii. The Transferee Company will comply with Income Tax Provisions in relation to proceedings/claims under Income Tax Act against the Transferor Company; and
  - viii. The Petitioner Company submits that there no sectoral regulatory authorities governing the company.
8. Mr. Tushar Wagh, Deputy Director, Office of Regional Director (WR), Mumbai appeared on the date of hearing and submits that above explanations and clarifications given by the Petitioner Companies in rejoinder are satisfactory and they have no further objection to the Scheme.
9. The Official Liquidator has filed its report on 28<sup>th</sup> December 2023 in the C.P.(CAA) 280/MB/2023, inter alia, therein that the affairs of the Transferor Company has been conducted in a proper manner not prejudicial to the interest of the Shareholders of the Transferor Company and that the Transferor Company may be ordered to be dissolved by this Tribunal.
10. The Income Tax Department will be at liberty to examine the aspect of any tax payable as a result of this scheme and in case it is found that the scheme ultimately results in tax avoidance under the provisions of Income Tax Act, it shall be open to the

income tax authorities to take necessary action as possible under the Income Tax Law.

11. From the material on record, the Scheme appears to be fair and reasonable and is not violative of any provisions of law and is not contrary to public policy considering that no objection has so far been received from any authority or creditors or members or any other stakeholders.
12. Since all the requisite statutory compliances have been fulfilled, Company Scheme Petition No. 280 of 2023 is made absolute in terms of clauses 44 (a) to (c) of the said Company Scheme Petition
13. The First and Second Petitioner Companies be dissolved without winding up.
14. Petitioners are directed to file a copy of this Order along with a copy of the Scheme of Amalgamation with the concerned Registrar of Companies, electronically along with E-Form INC-28, within 30 days from the date of receipt of the Order from the Registry.
15. The Petitioner Companies to lodge a copy of this Order and the Scheme duly authenticated by the Deputy Registrar or Assistant Registrar, National Company Law Tribunal, Mumbai Bench, with the concerned Superintendent of Stamps, for the purpose of adjudication of stamp duty payable within 60 days from the date of receipt of the Order, if any.

16. All authorities concerned to act on a copy of this Order along with Scheme duly authenticated by the Deputy Director or Assistant Registrar, National Company Law Tribunal, Mumbai.
17. Ordered Accordingly.

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

Sd/-  
**Justice V.G. Bisht**  
Member (Judicial)