

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO: II**

Hearing Through: VC and Physical (Hybrid) Mode

CORAM: SHRI. RAJEEV BHARDWAJ, HON'BLE MEMBER (J)

CORAM: SHRI. SANJAY PURI, - HON'BLE MEMBER (T)

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH, HELD ON 19.04.2024 AT 10:30 AM**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CA (CAA) No.10/230/2024
NAME OF THE COMPANY	ECS Infosolutions Pvt Ltd (Transferor Co.) and Global Logic Technologies Pvt Ltd (Transferee Co.)
NAME OF THE PETITIONER(S)	
NAME OF THE RESPONDENT(S)	
UNDER SECTION	230

ORDER

Orders pronounced, recorded vide separate sheets. In the result, the petition is allowed and disposed of.

Sd/-
MEMBER (T)

Sd/-
MEMBER (J)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH -II, HYDERABAD**

CA (CAA) No.10/230/HDB/2024

**In the matter of Section 230 to 232 of the Companies Act, 2013
Scheme of Amalgamation**

of

M/S.ECS INFOSOLUTIONS PRIVATE LIMITED

(Transferor Company)

And

M/S.GLOBALLOGIC TECHNOLOGIES PRIVATE LIMITED

(Transferee Company)

And

Their respective Shareholders & Creditors

M/s.ECS Infosolutions Private Limited,

Registered Office at :

H.No.8-2-293/82/A/590,

Road No.31, Jubilee Hills,

Hyderabad, Shaikpet,

Telangana – 500 033.

....1st Applicant/Transferor Company

M/s.GlobalLogic Technologies Private Limited,

Registered Office at :

6th Floor, Block 1, DLF Cyber City,

Hyderabad, Telangana – 500 019.

....2nd Applicant/Transferee Company

And

Their respective Shareholders & Creditors

Date of Order: 19.04.2024

Coram:

Sri Rajeev Bhardwaj, Hon'ble Member (Judicial)

Sri Sanjay Puri, Hon'ble Member (Technical)

Counsel present:

For the Applicants

: Mr.P.Anil Mukherjee, Mr.Ajit Singh Talwar,
Mr.Kushal Kumar, Advocates.

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[P E R : B E N C H]
ORDER

- (1) This application is filed under Section 230 of the Companies Act, 2013 (hereinafter referred to as "the Act, 2013"), read with the Companies (Compromises, Arrangements and Amalgamation) Rules, 2016, by **M/s.ECS Infosolutions Private Limited**, (hereinafter referred to as Transferor Company) with **M/s.GlobalLogic Technologies Private Limited**, (hereinafter referred to as Transferee Company) and their respective shareholders and creditors with effect from the Appointed Date. The Transferor Company and the Transferee Company are hereinafter collectively referred to as the ‘Applicant Companies’ and severally as “Applicant Company”.
- (2) This Joint Petition is filed by the Petitioner Companies under Section 230 read with 232 of the Companies Act, 2013 and other applicable provisions of the Companies Act, 2013 by inter-alia seeking approval for Scheme of Amalgamation between the Petitioner Companies and their respective shareholders, creditors so as to be binding on all the members, shareholders, creditors and employees of all the Petitioner Companies and all concerned and praying the Tribunal to issue the following directions :
- (i) To dispense with the requirements of convening the meeting of Equity Shareholders of the Transferor Company and the Transferee Company.
 - (ii) To dispense with the requirement of convening the meeting of the Secured and Unsecured Creditors of the Transferor Company and the Transferee Company; and
 - (iii) To pass such orders as the Tribunal may deem fit and proper in the circumstances of the case in the interest of justice and equity.

(3) **Description of the Applicant Companies :**

- (1) **M/s.ECS Infosolutions Private Limited**, was incorporated as a Private Limited Company under the provisions of Companies Act, 2013 on 26th May, 2011 vide Corporate Identification Number (CIN)

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U72900TS- 2011FTC172338 in the State of Telangana Hereinafter referred to as the “Transferor Company”).

The Registered office of the Transferor Company is situated at H.No.8-2-293/82/A/590, Road No.31, Jubilee Hills, Hyderabad, Shaikpet – 500 033, Telangana, India.

The main objects of the Transferor Company are as follows:

- (a) The main objects of the Transferor Company are set out in the Memorandum of Association. They are briefly provided below:

"To carry on the business of designing, developing, marketing and trading in computer software including management Information Systems, Database Services, Industrial Applications, Office Systems, Desk Top Publishing. Communications including telecommunications & Satellite communication, CAD, CAM, Animation, Operating Systems, utilities and developments in the field of computers and to manufacture, establish, develop, formulate, structure, offer service and/or otherwise deal in information and communications, computers, satellite communications and render consultancy, offer training courses, undertake job works/contracts to design and develop information technologies, software and hardware connected with above fields and to obtain patent rights and intellectual property rights and to render consultancy services and services in the field of Software development, Software export, information and data processing, computer systems, communications, operations, research and technical services including commercial exploitation, export, import and to act as dealers, authorized representatives of the same."

(A copy of the Master Data, Certificate of Incorporation, Memorandum and Articles of Association of the Transferor Company is at Annexure A (colly) page Nos.64-96 of the Application).

- (b) **Nature of Business:**

The Transferor Company is engaged in the business of export-based operation and provides end user computing, application profiling, dynamic packaging services, service discovery, telecoms, voice and

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video and internetworking solutions and application management services to its parent company's customer base across Europe.

- (c) The Authorized, Issued, Subscribed and Paid-up Share Capital of the Transferor Company as on 31.03.2023 is as follows:

Share Capital	Amount in Rs.
Authorized Capital:	
10,000 Equity Shares of Rs.10/- (Rupees Ten only) each.	1,00,000
Total	1,00,000
Issued, Subscribed and Paid Up Share Capital:	
10,000 Equity Shares of Rs.10/- (Rupees Ten only) each fully paid	1,00,000
Total	1,00,000

Subsequent to 31.03.2023 and till the date of approval of the resolution for the scheme of Amalgamation by the Board of Directors of the Transferor Company, there has been no change in the Authorized, issued, subscribed and paid-up share capital of the Transferor Company.

(Copies of the audited statements of account as on 31 March 2023 and unaudited financials as on 31 August, 2023 are at Annexure A-1, A-2 – page Nos.97-131, 132-140 of the Application).

- (2) **M/s.GlobalLogic Technologies Private Limited** was incorporated as a Private Limited Company under the provisions of Companies Act, 2013 on 19th December, 2006 vide Corporate Identification Number (CIN) U72200TG2006PTC067980 in the State of Telangana (Hereinafter referred to as the “Transferee Company”).

The Registered office of the Transferee Company is situated at is situated at 6th Floor, Block 1, DLF Cyber City, Hyderabad – 500 019, Telangana, India.

The main objects of the Transferee Company are as follows:

- (a) The main objects of the Transferee Company are set out in the Memorandum of Association and are briefly provided below:

"To carry on in India or any part of the world the business of computer hardware and software products and service, sale and support, software development in the field of finance, banking, insurance,

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medical, manufacturing, retail, enterprise resource planning, telecom, education, training biotechnology, bio informatics, genomics and others Networking consultancy and implementation and support services in both LAN and WAN internet, Internet, extranet services, web design related solutions, content development, E-commerce, E-trading E-learning WAP related activities, information technology enabled services, like BO, KPO services, multimedia services, Research activities in financial services, data research, data raising and allied services. Also Software product development, support and maintenance in India and worldwide including training services."

(Copy of the Master data, Certificate of Incorporation, Memorandum and Articles of Association of the Transferee Company is at Annexure B (colly) – page Nos.141-162 of the Application).

(d) **Nature of Business:**

The Transferee Company provides software development and IT enabled services to its customers.

(e) The authorized, issued, subscribed and paid-up share capital of Transferee Company as on 31.03.2023 is as follows:

Share Capital	Amount in Rs.
<u>Authorized Capital:</u>	
15,00,000 Equity Shares of Rs.10/- (Rupees Ten only) each.	1,50,00,000
Total	1,50,00,000
<u>Issued, Subscribed and Paid Up Capital:</u>	
Equity Shares:	
9,76,505 Equity Shares of Rs.10/- (Rupees Ten only) each.	97,65,050
Total	97,65,050

Subsequent to 31.03.2023 and till the date of approval of the resolution for the scheme of Amalgamation by the Board of Directors of the Transferee Company, there has been no change in

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the Authorized, Issued, Subscribed and Paid-up Share Capital of the Transferee Company.

(Copy of the audited statements of accounts as on 31 March 2023 and unaudited financials as on 31 August, 2023 are at Annexure B-1, Annexure B-2 – page Nos.163-219, 220-232 of the Application).

(4) Jurisdiction :

The Registered Offices of both the Applicant Companies are situated in the state of Telangana. Hence, the subject matter of this Application is within the jurisdiction of this Tribunal.

(5) Limitation :

The present Application is being filed under Section 230 to 232 of the Companies Act, 2013 pursuant to the Board Resolution passed by the Board of Directors of the Applicant Companies in their respective meetings held on 02.02.2024 and hence the application is within the Limitation.

(6) Rationale for the Proposed Scheme :

The rationale for and the benefits of the proposed Scheme of Amalgamation of Transferor Company into Transferee Company will result in Consolidation of the Transferor Company and the Transferee Company to achieve simplified corporate structure, rationalise the number of entities and merge into a single entity with combined businesses. The other benefits are given below:

- i. The Transferor Company and the Transferee Company are working in the same line of business therefore with the intent of aligning the business operations which will allow resultant entity to undertake future expansion strategies and to tap bigger opportunities.
- ii. More utilization of Capital, Human resources and infrastructure to create a stronger base for future growth and derive synergic arising out of consolidation of business.
- iii. Enhance competitive strength and future business potential, productivity gains and advantages by pooling of resources of the Companies thereby significantly contributing to future growth and

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- maximizing shareholders value and improvement in the competitive position of the combined entity.
- iv. Improved organizational capability and leadership.
 - v. Streamline operations and reduce operational cost of legal entities.
 - vi. Provide for the pooling of resources of the companies, the scheme will provide strategic fit that is required to counter the Competitive environment of the industry.
 - vii. Result in economy of scales, reduction in overheads including administrative, managerial, and other expenditure, operational rationalization, organizational efficiency, and optimal utilization of resources.
 - viii. The Scheme is commercially and economically viable, feasible, fair and reasonable and is in the interest of the Transferor Company, the Transferee Company and their respective stakeholders.

(7) **Board Resolution** :

The Board of Directors of the Transferor Company and Transferee Company vide its board resolution dated 02nd day of February 2024, approved the Scheme of Amalgamation of M/s.ECS Infosolutions Private Limited (Transferor Company) with M/s.GlobalLogic Technologies Private Limited (Transferee Company) and their respective shareholders. **(Copy of Board Resolution of the Transferor Company and Transferee Company approving the Scheme is at Annexure C, Annexure C-1 – page Nos.233-235, 236-238 of the Application).**

(8) Some of the salient/material features of the proposed Scheme are **detailed in page Nos.30-47 of the Application.**

(Copy of the Scheme of Amalgamation is at Annexure – D – page Nos.239-278 of the Application).

(9) **Saving of Concluded Transactions** :

The transfer and vesting of the entire business and Undertaking of the Transferor Company pursuant to this Scheme, and the continuance of proceedings under Clause 11 above shall not affect any transaction or proceedings already concluded by the Transferor Company on or after the Appointed Date for Amalgamation till the Effective Date, to the end and

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intent that the Transferee Company accepts and adopts all acts, deeds and things done and executed by the Transferor Company in respect thereto, as if done and executed on its behalf.

(10) Accounting Treatment :

- A) Notwithstanding anything else contained in the Scheme, the Transferee Company shall account for the amalgamation of Transferor Company in its books of accounts in accordance with Indian Accounting Standards (Ind AS) notified under Section 133 of the Act, under the Companies (Indian Accounting Standard) Rules 2015, as may be amended from time to time and the date of such accounting treatment would be in accordance with the applicable Ind AS as given below :
- i) The Transferor Company shall record the assets and liabilities, if any, of the Transferee Company vested in it pursuant to this Scheme at the respective book values and in the same form as appearing in the financial statement of the Transferor Company.
 - ii) For accounting purposes, the Scheme will be given effect on the date when all substantial conditions for the transfer of assets and liabilities of the Transferor Company are completed.
 - iii) The value of investments held by the Transferee Company in the Transferor Company shall stand cancelled pursuant to amalgamation.
 - iv) Difference, if any arising after taking the effect of clause I after giving the effect of the adjustments referred to in clause 2, subject to impairment assessment, is allocated to assets acquired based on the substance of the transaction in the financial statements of the Transferee Company with appropriate disclosure.
 - iv) Pursuant to the amalgamation of the Transferor Company with the Transferee Company, the inter-company balances between the Transferee Company and the Transferor Company, if any, appearing in the books of the Transferor Company and the Transferee Company shall stand cancelled and there shall be no further obligation in that behalf.

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- v. For accounting purposes, the Scheme will be given effect on the date with in accordance with the Indian Accounting Standards applicable to the Transferee Company.
 - vi. Any matter not dealt with in Clause hereinabove shall be dealt with in accordance with the Indian Accounting Standards applicable to the Transferee Company.
- B) In case of any difference in accounting policies between the Transferor Company and the Transferee Company, the accounting policies followed by the Transferee Company will prevail and the difference shall be quantified and adjusted in the reserves of the Transferee Company.

(11) Combination of Authorised Share Capital and Amendment of Memorandum of Association of Transferee Company:

- a) It is submitted that upon the Scheme becoming effective, the authorised share capital of the Transferee Company shall stand increased without any further act, instrument or deed on the part of the Transferee Company including payment of stamp duty and fees payable to appropriate Registrar of Companies, by the authorised share capital of the Transferor Company, and the Memorandum of Association of the Transferee Company (relating to the authorised share capital) shall, without any further act, instrument or deed, be and stand altered, modified and amended, and the consent of the shareholders to the Scheme shall be deemed to be sufficient for the purposes of effecting this amendment, and no further resolution(s) under Sections 13, 14, 61 and 230-232 of the Companies Act, 2013 and other Applicable provisions of the Act would be required to be separately passed, as the case may be and for this purpose the stamp duties and fees paid on the authorised share capital of the Transferor Company shall be utilized and applied to the increased authorised share capital of the Transferee Company and there would be no requirement for any further payment of stamp duty and/or fee by the Transferee Company for increase in the authorised share capital to that extent. Pursuant to the Scheme becoming effective and consequent amalgamation of the Transferor Company into the Transferee Company, the authorised share capital of the Transferee Company will be as under:

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Particulars	Amount
Authorised Share Capital	
15,10,000 Equity Shares of Rs.10/- each	1,51,00,000
TOTAL	1,51,00,000

- b) It is clarified that the approval of the shareholders of the Transferee Company to the Scheme, whether at a meeting or otherwise, shall be deemed to be their consent/approval also to the amendment of the Memorandum of Association of the Transferee Company as may be required under the Act, and Clause V of the Memorandum of Association of the Transferee Company shall stand substituted without any further act instrument or deed by virtue of and upon the coming into effect of this Scheme to read as follows:

Clause V of the Memorandum of Association of the Transferee Company:

"The Authorized Share Capital of the Company is Rs.1,51,00,000/- (Indian Rupees One Crore Fifty One Lakhs only) divided into 15,10,000 (Fifteen Lakhs Ten Thousand) equity shares of Rs. 10/- (Indian Rupee Ten) each".

(12) Dissolution of the Transferor Company :

1. It is submitted that on the Scheme becoming effective, the Transferor Company shall stand dissolved without being wound up and without any further act by the parties.
2. It is submitted that on and with effect from the Effective Date, the names of the Transferor Company shall be struck off from the records of the appropriate Registrar of Companies
3. It is submitted that even after the Scheme becomes effective, the Transferee Company shall be entitled to operate all bank accounts of the Transferor Company and realize all monies and complete and enforce all pending contracts and transactions in respect of the Transferor Company in the name of the Transferee Company in so far as may be necessary until the transfer and vesting of rights and obligations of the Transferor Company to the Transferee Company under this Scheme is formally effected by the parties concerned.

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(13) Contracts, Deeds, Bonds and other Instruments :

- a) It is submitted that upon coming into effect of this Scheme and subject to the provisions of the Scheme and without any further act of the parties, all memorandum of understanding, contracts (including but not limited to customer contracts, service contracts and supplier contracts), schemes, assurances, licenses, insurance policies, guarantees, deeds, bonds, agreements, arrangements and other instruments (including all tenancies, leases, and other assurances in favour of the Transferor Company or powers or authorities granted by or to it) of whatsoever nature to which the Transferor Company are a party or to the benefit of which the Transferor Company may be eligible and which are subsisting or having effect immediately before the Effective Date, shall continue in full force and effect against or in favour of the Transferee Company as the case may be, and may be enforced as fully and effectually as if, instead of the Transferor Company, the Transferee Company had been a party or beneficiary or obligee or obligor thereto.
- b) It is submitted that the Transferee Company shall, if so required or becomes necessary, upon the coming into effect of this Scheme enter into and/ or issue and/or execute deeds, writings or confirmations to give effect to the provisions of this Scheme and to the extent that the Transferor Company are required prior to the Effective Date to join in such deeds, writings or confirmations, the Transferee Company shall be entitled to act for and on behalf of and in the name of the Transferor Company, as the case maybe.
- (14) It is submitted that no investigation proceedings, no winding up or Insolvency proceedings have been instituted and/or are pending in relation to Applicant Companies under the provisions of Chapter XIV of Companies Act, 2013 along with the provisions of Sections 235 to 251 of the Companies Act, 2013 or under the Companies Act, 1956 or Insolvency and Bankruptcy Code, 2016. It is also submitted that Scheme does not in any way violate, override or circumscribe any provisions of the Companies Act, 2013 and other relevant provisions of the Companies Act, 2013 and the Rules, Regulations and Guidelines made under the said Act.

(15) It is submitted that the Transferor and Transferee Companies are Private Limited Company.

(16) **Accounting Treatment Certificate :**

It is submitted that Certificate issued by the Statutory Auditors of the Transferee Company to the effect that the accounting treatment specified in the Scheme is in conformity with the Accounting Standards prescribed under Section 133 of the Companies Act, 2013 is at **Annexure E – page Nos.279-320 of the Application.**

(17) **Valuation Report :**

The Applicant Companies have obtained Valuation Report dated 15th Day of January, 2024 from CA Sumit Kumar Malani, Registered Valuer ("Valuation Report"), having IBBI Number IBBI/RV/06/2019/11955 a certified copy of which annexed to this Company Scheme Application is at **Annexure F - page Nos.321-352 of the Application.**

(18) **Equity Shareholders Of The Transferor Company :**

It is submitted that there are 2 (Two) equity shareholders including nominee shareholder of the GlobalLogic Technologies Private Limited (Transferee Company) in the Transferor Company who have given their consent affidavits stating their no objection to the proposed Scheme of Amalgamation. A copy of the list of equity shareholders of the Transferor Company certified by an independent chartered accountant along with certificate confirming the above details is at **Annexure G – page Nos.353-354 of the Application.**

(Copies of the consent affidavits received from both equity shareholders are annexed at Annexure GI & Annexure G2 - page Nos.355-362 of the Application) .

(19) **Equity Shareholders Of The Transferee Company :**

(a) It is submitted that the Transferee Company is the Wholly owned Subsidiary Company of M/s. GlobalLogic Inc. Further, as on 15th December, 2023, there are 4 (Four) equity shareholders in the

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Transferee Company which includes M/s. GlobalLogic Inc. holding 9,76,502 equity shares of Transferee Company and the other three (3) nominee shareholders holding one (1) share each in Transferee Company on behalf of M/s.GlobalLogic Inc.

(Copies of the list of equity shareholders of the Transferee Company certified by an independent chartered accountant and the consent affidavit received from M/s.GlobalLogic Inc holding 99.99% equity shareholding in Transferee Company is at Annexure H & H1 – page Nos.363-364 & 365-368 of the Application).

(b) As far as Equity Shareholders of the Transferee Company is concerned, it is prayed that the requirement of holding and convening the meeting of the Equity shareholders of the Transferee Company, to consider the Scheme, be dispensed with, particularly in the light of the following:-

1. The present case involves amalgamation of the Transferor Company (M/s. ECS Infosolutions Private Limited) which is the wholly owned subsidiary of the Transferee Company (M/s.GlobalLogic Technologies Private Limited).
2. It is submitted that as a result of the aforesaid amalgamation, no shares will be issued by the Transferee Company to the shareholders of the Transferor Company. Accordingly, there shall be no impact on the equity shareholders of the Transferee Company.
3. It is submitted that it is an established proposition of law that in case of an amalgamation of a wholly owned subsidiary with its parent, there is no impact on the shareholders and creditors of the parent company (i.e., Transferee Company). particularly, since such amalgamation involves cancellation of shares held by the parent company in its wholly owned subsidiary and consequently, does not involve any issuance of shares by the parent company.
4. It is submitted that this Tribunal in a catena of Judgements has dispensed with the Meeting of the Shareholders wherein the case is of a merger of a Wholly Owned Subsidiary and Parent Company, wherein, the net worth of both Companies is positive and 'Unsecured Creditors' are paid off in the ordinary course of business and their

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liability is not affected as it is neither reduced nor extinguished. In this connection, the judgements of this Tribunal, NCLT, New Delhi, NCLT, Mumbai and Hon'ble NCLAT have been relied upon for praying to dispense with the necessity of holding the Shareholders meeting are detailed in page Nos.57 to 60 of this Application.

(20) Secured Creditors Of The Transferor/Transferee Companies :

It is submitted that as on 15th day of December 2023, there are no Secured Creditors in the Transferor and Transferee Companies.
(Certificate an independent chartered accountant confirming the same is annexed hereto as Annexure I & Annexure J – page Nos.369 & 370 of the Application).

(21) Unsecured Creditors of the Transferor Company :

It is submitted that as on the 15th day of December 2023, there are 2 (two) unsecured creditors in the Transferor Company amounting to Rs.72,303/- (Seventy-Two Thousand Three Hundred and Three only) who have given their consent affidavits stating their no objection to the proposed Scheme of Amalgamation.

(Certificate from an independent chartered accountant confirming the same is at Annexure K – page No.371 of the Application and the consent affidavits received from unsecured creditors are at Annexure KI & K2 – Page Nos.372-377 of the Application)

(22) Unsecured Creditors Of The Transferee Company :

It is submitted that on the 15th day of December 2023, there are 2 (two) unsecured creditors in the Transferee Company amounting to Rs.3,17,500/- (Three Lacs Seventeen Thousand Five Hundred only).

(Certificate from an independent chartered accountant confirming the same is at Annexure L – Page No.378 of the Application and the consent affidavit received from 1 (one) unsecured creditor constituting 97.23% of the total unsecured creditors amount is at Annexure LI – page Nos.379-380 of the Application).

ORDER

(23) After hearing the Learned Counsel for Applicant Companies and after perusing the documents filed, We therefore pass the following order:-

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- a. Convening of the meeting of equity Shareholders Unsecured and Trade creditors of the Transferor Company is hereby dispensed with.
- b. Convening of the meeting of equity Shareholders, Secured creditors, unsecured creditors and Trade Creditors of the Transferee Company is hereby dispensed with.
- c. Notwithstanding the above, when the Applicant Companies approach this Tribunal seeking approval of the Scheme, it would be open for any person who is interested in the Scheme of Amalgamation to put forth their contentions before this Tribunal.
- d. Accordingly, the Company Application No. **C.A.(CAA) No.10/230/HDB /2024** is allowed and disposed of.

SD/-

(Sanjay Puri)

Member (Technical)

Vinod

SD/-

(Rajeev Bhardwaj)

Member (Judicial)