

Rustomjee®

Date: February 3, 2025

The General Manager, Listing Department, Bombay Stock Exchange Limited , Phiroze Jeejeebhoy Towers, Dalal Street, Mumbai - 400 001	The Manager, Listing & Compliance Department, National Stock Exchange of India Limited Exchange Plaza, Plot no. C/1, G Block, Bandra Kurla Complex, Bandra East, Mumbai - 400 051
Scrip Code: 543669	Scrip Symbol: RUSTOMJEE

Dear Sir/ Madam,

Sub: Update on the Scheme of Amalgamation of Kingmaker Developers Private Limited with Real Gem Buildtech Private Limited and their respective shareholders

This is in continuation to our intimation dated January 30, 2024, on the captioned subject. We are pleased to inform you that the Hon'ble National Company Law Tribunal ("Tribunal"), Mumbai Bench *vide* its order dated January 29, 2025 ("Tribunal Order") has sanctioned the Scheme of Amalgamation of Kingmaker Developers Private Limited ("Transferor Company") with Real Gem Buildtech Private Limited ("Transferee Company") and their respective shareholders under Sections 230 to 232 read with Section 66 and other applicable provisions of the Companies Act, 2013 ("Scheme").

A copy of the Tribunal Order sanctioning the Scheme is available on the website of the Tribunal and Keystone Realtors Limited ("Company"), respectively. The certified copy of the Tribunal Order is awaited.

The Scheme will be made effective upon the Transferor Company and the Transferee Company filing the certified copy of the Tribunal Order with the Registrar of Companies. Further, upon the Scheme becoming effective, the Transferor Company will cease to be subsidiary of the Company, and the Transferee Company will become wholly-owned subsidiary of the Company.

We request you to kindly take the above on record.

Thanking you,

For Keystone Realtors Limited

Bimal K Nanda
Company Secretary and Compliance Officer
ACS - 11578

KEYSTONE REALTORS LIMITED

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH : C-IV

C.P.(CAA)/143/MB/2024
c/w C.A.(CAA)/37/MB/2024

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

AND

In the matter of
Scheme of Amalgamation of

Kingmaker Developers Private Limited

[Transferor Company /
Petitioner Company-1]

with

Real Gem Buildtech Private Limited

[Transferee Company /
Petitioner Company-2]

and

their respective shareholders.

Kingmaker Developers Private Limited ... Petitioner Company-1/
[CIN: U45203MH2008PTC180638] Transferor Company

Real Gem Buildtech Private Limited ... Petitioner Company-2/
[CIN: U45202MH2009PTC193816] Transferee Company

(Hereinafter collectively referred to as 'the Applicant Companies')

Order pronounced on: **29.01.2025**





Coram:

Ms. Anu Jagmohan Singh
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances:

For the Petitioners

: Mr. Haabil Vahanvaty a/w
Mr. Jamsheed Dadachanji i/b Khaitan
& Co., Advocates.

For the Regional Director (VC)

: Mr. Tushar Wagh, Representative
of the Regional Director, MCA (WR),
Mumbai.

For Income Tax

: Ms. Anusha Bapat i/b Adv. Prachi
Wazalwar for the Income Tax
Department, Advocates.

ORDER

1. This is a Company Scheme Petition filed on 12.07.2024 under Sections 230 to 232 of the Companies Act, 2013 seeking sanction of the Tribunal to the Scheme of Amalgamation of **Kingmaker Developers Private Limited** (Petitioner Company-1) with **Real Gem Buildtech Private Limited** (Petitioner Company-2) and their respective shareholders.
2. The Petitioner Companies submit that the Board of Directors of the Petitioner Companies have approved the Scheme in their respective Board Meetings held on 30.01.2024. The Appointed Date is **01.04.2023**.
3. The Petitioner Companies further submit that the present Company Petition has been filed in consonance with the Order dated 29.04.2024



passed in C.A.(CAA)/37/MB/2024 by this Tribunal.

4. ***Rationale for the Scheme:***

The Petitioner Companies submit that the circumstances and grounds that have necessitated the Scheme and some of the major benefits which would accrue from this Scheme of Amalgamation of Kingmaker Developers Private Limited with Real Gem Buildtech Private Limited, are stated below:

1. *The Transferor Company and the Transferee Company form part of the same group. By consolidating the assets and liabilities of the Transferor Company, the Transferee Company can expand its current service territory and strengthen its existing market share.*
2. *The Scheme will result in the following benefits:*
 - a) *Combination of resources, creating better synergies and deriving operating efficiencies;*
 - b) *More efficient utilization of capital for enhanced development and growth of the consolidated business under a single entity; and*
 - c) *Elimination of multiple entities, legal and regulatory compliances and reduction of administrative costs.*
3. *The Scheme is in the best interests of the shareholders, employees and the creditors of each of the Parties.*
5. The Counsel for the Petitioner Companies also submits that the Transferee Company is a wholly owned subsidiary of the Transferor Company.



6. The meetings of the equity shareholders and the preference shareholders of the Petitioner Companies were dispensed with vide Order dated 29.04.2024 passed in C.A.(CAA)/37/MB/2024. There were no secured creditors of the Petitioner Companies. Meetings of the Unsecured Creditors of both Petitioner Companies were ordered. The Chairman appointed in the meetings submitted its report wherein the unsecured creditors approved the scheme with requisite majority.
7. The Counsel for the Petitioner Companies submits that the Petitioner Companies have complied with all requirements as per directions of this Tribunal vide order dated 29.04.2024 in CA(CAA)/37/MB/2024 and they have filed necessary affidavits of compliance in this Tribunal. Moreover, the Petitioner Companies undertake to comply with all statutory / regulatory requirements, if and to the extent applicable, as may be required under the Companies Act, 2013 and the Rules made thereunder to give effect to the Scheme.
8. **Consideration:**
The Petitioner Companies submit that the consideration for the amalgamation of the Transferor Company with the Transferee Company, the Transferee Company shall issue and allot on a proportionate basis to each shareholder of the Transferor Company whose name is recorded in the register of members as members of the Transferor Company as on the Effective Date as under:



“1 (One) equity share of INR 10/- (Ten) each of the Transferee Company, credited as fully paid up, for every 1 (One) equity share of INR 10/- (Ten) each of the Transferor Company”.

9. Heard the Counsel for the Petitioner Companies and the Representative of the Regional Director, Western Region, Ministry of Corporate Affairs, Mumbai. He submitted that the Petitioner Companies have explained and clarified all the objections and there is no further objection from their side in this Scheme. No objector has come before this Tribunal to oppose the Scheme and nor has any party controverted any averments made in the Petition to the Scheme.
10. The Regional Director (Western Region), Ministry of Corporate Affairs, Mumbai, has filed its Report dated 15.10.2024. In response to the observation made by the RD in the said report, the Petitioner Companies have filed a reply in Affidavit in rejoinder on 03.12.2024 and additional response vide additional affidavit dated December 30, 2024. The Petitioner Companies have given necessary clarifications and undertakings to comply with all statutory requirements. The observations made by the Regional Director and the clarifications and undertakings given by the Petitioner Companies are summarized in the table below :-

Sr. no.	Observation in the Report of the Regional Director	Reply of the Petitioner Companies
2 a)	<i>In compliance of AS-14 (IND AS - 103), the Transferor company and</i>	As far as the observation made in Paragraph 2(a) of the Report of the



Sr. no.	Observation in the Report of the Regional Director	Reply of the Petitioner Companies
	<i>Transferee company shall pass such accounting entries which are necessary in connection with the scheme to comply with other applicable Accounting Standards such as AS-5 (IND AS-8) etc.</i>	Regional Director is concerned, the Transferee Company undertakes to pass such accounting entries which are necessary in connection with the Scheme to comply with such accounting standards notified under Section 133 of the Companies Act, 2013 as may be applicable.
b)	<i>As per Definition of the Scheme, "Appointed Date" means 1 April 2024 or such other date as may be mutually agreed by the respective Board of the Parties or as may be directed by the Appropriate Authority and;</i> <i>"Effective Date" means the date on which the last of the conditions specified in Clause 20 (Conditions Precedent) are complied with Reference in this Scheme to the date of "coming into effect of this Scheme" or "effectiveness of this Scheme" or "effect of this Scheme" or "upon the Scheme becoming effective" shall mean the Effective Date;</i>	As far as the observation made in Paragraph 2(b) of the Report of the Regional Director is concerned, the Petitioner Companies submit that the present Scheme is in compliance with the requirements of circular no. F. No. 7/12/2019/CL-1 dated 21.08.2019 issued by the Ministry of Corporate Affairs.

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH : C-IV

C.P.(CAA)/143/MB/2024
c/w C.A.(CAA)/37/MB/2024



Sr. no.	Observation in the Report of the Regional Director	Reply of the Petitioner Companies
	<p><i>Reference in this Scheme to the date of "coming into effect of this Scheme" or "effectiveness of this Scheme" or "effect of this Scheme" or "upon the Scheme becoming effective" shall mean the Effective Date.</i></p> <p><i>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 appointed date from which it shall be effective and the scheme shall be deemed to be effective from such date and not at a date subsequent to the appointed date. However, this aspect may be decided by the Hon'ble Tribunal taking into account its inherent powers.</i></p> <p><i>The Petitioner companies may be asked to comply with the requirements as clarified vide general circular no. F.No.7112/2019/CL-1 dated</i></p>	



Sr. no.	Observation in the Report of the Regional Director	Reply of the Petitioner Companies
	<i>21.08.2019 issued by the Ministry of Corporate Affairs</i>	
c)	<i>The Transferor company and Transferee company have to undertake to comply with section 232 (3) (i) of Companies Act, 2013, where the transferor company is dissolved, the fee and stamp duty paid by the transferor company on its authorised capital shall be set-off against fees and stamp duty payable by the transferee company on its authorised capital subsequent to the amalgamation and therefore, petitioners to undertake that the transferee company shall pay the difference of fees and stamp duty.</i>	As far as the observation made in Paragraph 2(c) of the Report of the Regional Director is concerned, the Petitioner Companies undertake to comply with provisions of Section 232(3)(i) of the Companies Act, 2013. Further, the Transferee Company undertakes to pay the balance/difference amount of the fees on its increasing authorized share capital, if any.
d)	<i>The Hon'ble Tribunal may kindly seek the undertaking 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</i>	The Petitioner Companies state that, the captioned Company Scheme Application filed by the Petitioner Companies have been allowed by the Hon'ble Tribunal vide its order dated April 29, 2024 ("said Order"). In terms of the said Order, inter alia, the Hon'ble Tribunal directed the following:



Sr. no.	Observation in the Report of the Regional Director	Reply of the Petitioner Companies
	<p><i>thereof are duly placed before the Tribunal.</i></p>	<ol style="list-style-type: none"><li data-bbox="842 501 1394 882">1. The meetings of equity shareholders of the Petitioner Companies, for the purpose of approving the proposed Scheme, were dispensed in view of consent affidavits provided by all the equity shareholders of the Petitioner Companies.<li data-bbox="842 943 1394 1218">2. As the Transferor Company did not have any preference shareholders, the question of convening and holding meeting of the preference shareholders did not arise.<li data-bbox="842 1279 1394 1659">3. The meetings of preference shareholders of the Transferee Company, for the purpose of approving the proposed Scheme, were dispensed in view of consent affidavits provided by all the preference shareholders of the Transferee Company.<li data-bbox="842 1720 1394 1951">4. As the Petitioner Companies did not have any secured creditors, the question of convening and holding meeting of the secured creditors did not arise.

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH : C-IV

C.P.(CAA)/143/MB/2024
c/w C.A.(CAA)/37/MB/2024



Sr. no.	Observation in the Report of the Regional Director	Reply of the Petitioner Companies
		<p>5. In compliance with applicable provisions of Sections 230 to 232 read with Section 66 and other applicable provisions of the Companies Act, 2013 and the said Order, the meeting of the unsecured creditors of the First Petitioner Company and the Second Petitioner Company were convened and held on 28 June 2024 at 11:00 a.m. and 11:30 a.m., respectively, for the purpose of considering, and, if thought fit, approving, with or without modification(s), the proposed Scheme.</p> <p>The Scheme was approved with requisite majority at the said meetings of the unsecured creditors of the First Petitioner Company and the Second Petitioner Company.</p> <p>Copies of the Chairpersons' Report disclosing the results of the said meetings along with scrutinizer's report as filed with the Hon'ble Tribunal is annexed hereto and marked as <u>Exhibit – A</u> colly.</p>
e)	<i>The Transferee Company shall be in compliance with provisions of Section 2(1B) of the Income Tax</i>	As far as the observation made in Paragraph 2(e) of the Report of the Regional Director is concerned, the



Sr. no.	Observation in the Report of the Regional Director	Reply of the Petitioner Companies
	<i>Act, 1961. In this regard, the Transferor company and Transferee company shall ensure compliance of all the provisions of Income Tax Act and Rules thereunder;</i>	Petitioner Companies submit that the present Scheme is in compliance with Section 2(1B) of the Income Tax Act, 1961 and the relevant provisions thereunder.
f)	<i>The Transferor company and Transferee company shall undertake to comply with the directions of the concerned sectoral Regulatory, if so required.</i>	As far as the observation made in Paragraph 2(f) of the Report of the Regional Director is concerned, the Petitioner Companies undertake to comply with the directions of the concerned sectoral Regulatory, if any, in accordance with applicable law.
g)	<i>The Transferor company and Transferee company shall undertake to comply with the directions of the I.T. Department and GST Department, if any.</i>	As far as the observation made in Paragraph 2(g) of the Report of the Regional Director is concerned, the Petitioner Companies undertake to comply with the directions of the Income Tax and GST Department, if any, in accordance with applicable law.
h)	<i>The Transferor company and Transferee company shall be directed u/s 230 (5) of CA, 2013 to serve notices to concerned Authorities which are likely to be affected by the present amalgamation or arrangement. Further the approval of the scheme by the Hon'ble Tribunal</i>	As far as the observation made in Paragraph 2(h) of the Report of the Regional Director is concerned, the Petitioner Companies states that notices under the provisions of section 230(5) of the Companies Act, 2013 have been served to the concerned authorities, in compliance with the directions of the Hon'ble Tribunal and no objection has been received from any of the authorities. Further, the Petitioner



Sr. no.	Observation in the Report of the Regional Director	Reply of the Petitioner Companies
	<i>may not deter such authorities to deal with any of the issues arising after giving effect to the scheme and the decision of such authorities shall be binding on the Transferor company and Transferee company.</i>	Companies undertake that the Petitioner Companies shall be bound by any decision of the concerned authorities in accordance with law.
i)	<i>As the Transferor company and Transferee company are engaged in the business of Development of Real Estate projects so, if required, notice to RERA may be directed to be issued by the Transferor company and Transferee company to ascertain as to whether public interest is involved in the respect of the real estate projects floated by these companies, if companies have collected money from home buyers.</i>	As far as the observation made in Paragraph 2(i) of the Report of the Regional Director is concerned, the Petitioner Companies states that notices under the provisions of section 230(5) of the Companies Act, 2013 have been served to the Maharashtra Real Estate Regulatory Authority, in compliance with the directions of the Hon'ble Tribunal and no objection has been received from the said authority. Further, the Petitioner Companies undertake that the Petitioner Companies shall be bound by any decision of the Maharashtra Real Estate Regulatory Authority in accordance with law.
j)	<i>It is observed from latest MGT-7 filed for the year ending 31.03.2023 that the Transferor company and the Transferee Company has the following corporate body shareholders</i>	It is hereby submitted that the Transferee Company is a wholly-owned subsidiary of the Transferor Company. Further, the Transferor Company is a wholly-owned subsidiary of Keystone Realtors Limited (listed entity). It is hereby



Sr. no.	Observation in the Report of the Regional Director	Reply of the Petitioner Companies									
	<p><i>having more than 10 % shareholding:</i></p> <table border="1" data-bbox="320 577 810 1229"> <thead> <tr> <th data-bbox="320 577 485 719">Name of Company</th> <th data-bbox="485 577 644 719">Name of shareholder</th> <th data-bbox="644 577 810 719">Percentage of shareholding (%)</th> </tr> </thead> <tbody> <tr> <td data-bbox="320 719 485 972"><i>Kingmaker Developers Private Limited (Transferor Company)</i></td> <td data-bbox="485 719 644 972"><i>Keystone Realtors Limited</i></td> <td data-bbox="644 719 810 972"><i>100</i></td> </tr> <tr> <td data-bbox="320 972 485 1229"><i>Real Gem Buildtech Private Limited (Transferor Company)</i></td> <td data-bbox="485 972 644 1229"><i>Kingmaker Developers Private Limited</i></td> <td data-bbox="644 972 810 1229"><i>100</i></td> </tr> </tbody> </table> <p><i>Therefore, the Transferor company and Transferee Company may be directed to clarify the compliance of section. 90 of the Companies Act, 2013 r/w rules 2A, 3 & 4 of the Companies (Significant Beneficial Owners) Rules, 2018.</i></p>	Name of Company	Name of shareholder	Percentage of shareholding (%)	<i>Kingmaker Developers Private Limited (Transferor Company)</i>	<i>Keystone Realtors Limited</i>	<i>100</i>	<i>Real Gem Buildtech Private Limited (Transferor Company)</i>	<i>Kingmaker Developers Private Limited</i>	<i>100</i>	<p>submitted that the Petitioner Companies are exempted to file Form BEN-2 in terms of Companies (Significant Beneficial Owners) Rules, 2018.</p> <p>Further, the Transferee Company undertakes to comply with the provisions of Section 90 of the Companies Act, 2013 read with the Companies (Significant Beneficial Owners) Rules, 2018, amended from time to time, if applicable and make necessary filing with the Registrar of Companies, as may be applicable.</p> <p>Additional Response: The Transferor Company has provided the necessary details of the holding reporting company by reporting in Form BEN-2 and filed the same with the Registrar of Companies, on 27 December 2024 vide SRN AB2273570. A copy of the Form BEN-2 with paid challan, filed by the Transferor Company is enclosed herewith as Annexure A.</p>
Name of Company	Name of shareholder	Percentage of shareholding (%)									
<i>Kingmaker Developers Private Limited (Transferor Company)</i>	<i>Keystone Realtors Limited</i>	<i>100</i>									
<i>Real Gem Buildtech Private Limited (Transferor Company)</i>	<i>Kingmaker Developers Private Limited</i>	<i>100</i>									
k)	<p><i>That on examination of the report of the Registrar of Companies, Mumbai dated 24.09.2024 (Annexed as Annexure A-1) that</i></p>	<p>As far as the observation made in Paragraph 2(k) of the Report of the Regional Director is concerned, the Petitioner Companies state that the said</p>									



Sr. no.	Observation in the Report of the Regional Director	Reply of the Petitioner Companies
	<p><i>the Transferor company and Transferee company fall within the jurisdiction of ROC, Mumbai. It is submitted that no complaint and/or representation regarding the proposed scheme of Amalgamation has been received against the Transferor company and Transferee company. Further, the Transferor company and Transferee company have filed Financial Statements up to 31.03.2023 further observations in ROC report are as under: -</i></p> <p><i>i. That the ROC Mumbai in his report dated 12.09.2024 has stated that no Inquiry, inspection, investigation & prosecution is pending against the subject applicant companies.</i></p> <p><i>ii. It is submitted that as per the provisions of Section 232 (3) (1) of the Companies Act, 2013, where the transferor Company is dissolved, the fee,</i></p>	<p>observation of the Registrar of Companies, Maharashtra, Ministry of Corporate Affairs (“Registrar of Companies”), is factual in nature.</p> <p>i. The Petitioner Companies state that the said observation of the ROC is factual in nature.</p> <p>ii. The Petitioner Companies undertake to comply with provisions of Section 232(3)(i) of the Companies Act, 2013. Further, the Transferee Company undertakes to pay the balance/difference amount of the</p>



Sr. no.	Observation in the Report of the Regional Director	Reply of the Petitioner Companies
	<p><i>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 subsequent to the amalgamation. Therefore, remaining fee, if any after setting-off the fees already paid by the transferor company on its authorized capital, has to be paid by the transferee Company on the increased authorized capital subsequent to the amalgamation.</i></p> <p><i>iii. Interest of the creditor should be protected</i></p> <p><i>iv. May be decided on its merits.</i></p> <p><i>Hence, the Petitioner Companies shall undertake to submit detail reply against observations mentioned above.</i></p>	<p>fees on its increasing authorized share capital, if any.</p> <p>iii. Pursuant to the Scheme, the creditors of the Transferor Company will become creditors of the Transferee Company. The Transferee Company undertakes to meet, discharge and satisfy liabilities in relation to creditors in ordinary course. The rights of the creditors shall not be impacted pursuant to the Scheme and there will be no reduction in their claims on account of the Scheme.</p>



11. The observations made by the Regional Director (RD), Western Region, Mumbai are enlisted hereinabove together with response of the Petitioner Company on the observations of the RD, which is filed vide affidavit by the Petitioner Companies dated 03.12.2024 and additional response vide additional affidavit dated 30.12.2024. Mr. Tushar Wagh, Ld. Authorised Representative of the Regional Director during the course of final hearing submitted that they have no further objection to the Scheme.
12. The Official Liquidator has filed his report on 12.11.2024, inter alia stating therein the observations on the Scheme as stated in paragraph 5 and 6 of the said Report. In response to the observations made by the Official Liquidator, the Petitioner Companies have filed a reply in Affidavit in rejoinder on 03.12.2024 and have given necessary clarifications and undertakings. The observations made by the Official Liquidator and the clarifications and undertakings given by the Petitioner Companies are summarized in the table below:

Sr. no.	Observation in the OL Report filed by the Official Liquidator	Response of the Petitioner Companies
5	As per the Financial Statement as at 31.03.2021 of Kingmaker Developers Private Limited (Transferor Company), it has negative networth and the Financial Statements has been prepared on going concern basis. Hon'ble Tribunal may require the company to explain in this respect.	The concept of going concern is related to the continuation of business operations of the company and a company may be a going concern with positive or negative net worth. Further, the auditors of the Transferor Company have not reported any breach of principles of accounting in this regard and the



Sr. no.	Observation in the OL Report filed by the Official Liquidator	Response of the Petitioner Companies
		Petitioner Companies undertake to comply with all principles of accounting which may be applicable to it from time to time.
6	With reference to clause No. 10.1 of the scheme it is stated that such clauses militate against the provision of Companies Act, 2013 namely Section 232(3)(i) which inter-alia provides that, 'if a company is dissolved, the fees paid by such company on its Authorised Capital shall be set off against any fees payable by the transferee company on its Authorised Capital. Hon'ble Tribunal may be pleased to direct Transferee Company to pay differential amount, if any, after setting off fees already paid by the Transferor Company.	The Petitioner Companies undertake to comply with provisions of Section 232(3)(i) of the Companies Act, 2013. Further, the Transferee Company undertakes to pay the balance/difference amount of the fees on its increasing Authorized share capital, if any.

13. The Official Liquidator has not sought any further clarification from the Petitioner Companies. Hence, the Tribunal considers that the explanations and clarifications given by the Petitioner Companies are satisfactory and that they have no further objection to the Scheme.

14. The Principal Commissioner of Income Tax Authority has filed its report dated 03.09.2024 stating as under:

- *"It is clear that all pending proceedings against King Maker Developers Private Limited, related to the Amalgamating undertaking, shall be*



continued against the Amalgamated Company. Therefore, the Scheme should be without prejudice to the rights of the Income Tax Department and the Income Tax Depart is free to proceed against the Transferee Company for all its proceedings.

- *At the moment this scheme is not being examined with reference to the taxation aspects vis-à-vis other such scheme/s, if any. In future, if it is discovered that this scheme or similar such schemes are in any way acting as a device for tax-avoidance, then the Department will be at liberty to initiate the appropriate course of action as per law.*
- *The Income-tax Department will be free to examine the aspect of any tax payable as a result of the Scheme and in case it is found that the scheme ultimately results in tax avoidance or is not in accordance to the provisions of the Income Tax Act, then the Department will be at liberty to initiate the appropriate course of action as per law.*
- *It is further requested that the rights of the Income Tax Department should remain intact to take out appropriate proceedings regarding raising of any tax demand against the Transferor Company and the Transferee Company at any future date and these rights should not be adversely affected in view of the sanction of the Scheme."*

15. In response to the Income Tax Report, the Petitioner Companies have given necessary response / clarification vide their affidavit in rejoinder dated 03.12.2024. The relevant extract of the affidavit in rejoinder is as under:



“5. In response to the above report, I say that as on date there are no investigation proceedings pending against the Petitioner Companies. Further, I say that the IT Authority would not be prejudiced in any manner by the sanction of the present Scheme. Any legal proceedings that are pending on the date on which the Scheme is made effective, would continue by or against the Transferee Company and accordingly, the sanction of the present Scheme would not adversely impact the rights of the IT Authority for any present or future proceedings. As such, the liability to pay the IT Authority would be met in the ordinary course of business as per applicable law. Accordingly, the IT Authority shall be fully entitled to continue or institute relevant proceedings under applicable law.

6. In any case, I say that the Scheme does not provide for any arrangement or compromise with the creditors. Further, there is no diminution of the liability of the creditors contemplated under the Scheme. In the event that any demands become due and payable, the same would be paid by the Transferee Company in ordinary course and in due compliance with applicable law.”

16. The Ld. Counsel for the Income Tax Authority during the course of final hearing has submitted that the explanations and clarifications given by the Petitioner Companies vide affidavit dated 03.12.2024 are found satisfactory and that they have no further objection to the Scheme.
17. 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. Proceedings/ Investigations, if any, pending before Income Tax Authorities will continue against the Transferee Company.



18. 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 and no objection has so far been received from any authority or creditors or members or any other stakeholders.
19. Since all the requisite statutory compliances have been fulfilled, the Petition in C.P.(CAA)/143/MB/2024 filed by the Petitioner Companies is made absolute in terms of prayer clauses of the said Company Scheme Petition. Therefore, the Scheme is hereby **sanctioned**. This Bench further orders that -
- a. The Appointed Date is fixed as **01.04.2024**.
 - b. It shall be binding on the Petitioner Companies involved in the Scheme and all concerned including their respective Shareholders, Creditors and Employees.
 - c. The Petitioner Companies are directed to file a certified copy of this order along with a copy of the Scheme with the concerned Registrar of Companies, electronically in E-Form INC-28 within 30 days from the date of receipt of the Order from the Registry.
 - d. The Petitioner Companies are directed to file a certified copy of this order and the Scheme duly authenticated by the Deputy / Assistant Registrar of this Tribunal, with the concerned Superintendent of Stamps, for the purpose of adjudication of stamp duty, payable, if any, within 60 clear working days from the date of receipt of certified copy of the Order from the Registry of this Tribunal.



- e. The Petitioner Companies shall comply with all the undertakings given by them.
- f. The Petitioner Companies shall take all consequential and statutory steps required under the provisions of the Act in pursuance of the Scheme.
- g. All concerned regulatory authorities shall act on a copy of this Order along with the Scheme duly authenticated by the Registrar of this Tribunal.
- h. Any person or any Authority, whose interest is adversely affected, shall be at liberty to approach appropriate Forum or to take appropriate action as permissible under law.
20. With the above directions, C.P.(CAA)/143/MB/2024 c/w CA(CAA)/37/MB/2024 is **allowed** and disposed of. File to be consigned to records.

Sd/-
Anu Jagmohan Singh
Member (Technical)

Sd/-
Kishore Vemulapalli
Member (Judicial)

29.01.2025/pvs