

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, AT MUMBAI

CP (CAA) No.1263/MB.II/2019

Connected with

CA (CAA) No.1027/MB.II/2018

In the matter of

The Companies Act, 2013

and

In the matter of

Sections 230 - 232 and other applicable
provisions of the Companies Act, 2013

and

In the matter of

Scheme of Arrangement

between

Hind Lamps Limited

(Demerged Company)

and

Bajaj Electricals Limited

(Resulting Company)

and

their respective shareholders

Hind Lamps Limited

CIN: U27302UP1951PLC002355 ...

Non-Petitioner/
Demerged Company

Bajaj Electricals Limited

CIN: L31500MH1938PLC009887 ...

Petitioner/
Resulting Company

Order pronounced on 21st May 2020



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Coram:

Mr Rajasekhar V.K. : Member (Judicial)
Mr V. Nallasenapathy : Member (Technical)

Appearances (via videoconferencing):

For the Petitioner : Mr Mudit Gupta, i/b Mehta &
Padamsey, Advocates
For the Regional Director (WR) : Ms Rupa Sutar, Deputy Director

ORDER

Per: Rajasekhar V.K., Member (Judicial)

1. The Court convened via videoconferencing today.
2. Heard the Learned Counsel appearing for the Petitioner Company. No objector has come before this Tribunal to oppose the Scheme nor has any party controverted any averments made in the Petition to the Scheme of Arrangement between Hind Lamps Limited (*Demerged Company*) and Bajaj Electricals Limited (*Resulting Company*) and their respective shareholders.
3. The sanction of the Scheme is sought under Sections 230-232 read with other applicable provisions of the Companies Act, 2013 and Rules framed thereunder as in force from time to time to a Scheme of Arrangement between Hind Lamps Limited (*Demerged Company*) and Bajaj Electricals Limited (*Resulting Company*) and their respective shareholders creditors whereby and where under the Manufacturing Business of the Demerged Company will be demerged into the Resulting Company.



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4. The Petitioner Company and the Demerged Company have approved the Scheme of Arrangement between Hind Lamps Limited (*Demerged Company*) and Bajaj Electricals Limited (*Resulting Company*) by passing the necessary board resolutions which are annexed to the Company Scheme Petition.
5. Learned Counsel appearing on behalf of the Petitioner Company stated that the Petition has been filed in consonance with the order passed in their CA (CAA) No.1027/2018 filed before this Bench. Learned Counsel appearing for the Petitioner Company submitted that the National Stock Exchange of India Limited and BSE Limited have through their respective observation letters dated 21 March 2018 (annexed to the Company Scheme Petition), granted their 'No objection' to the Scheme and have stated in their respective letters that the Petitioner Company is not required to send notice for representation as mandated under section 230(5) of Companies Act, 2013 to the Securities and Exchange Board of India again for its comments / observations / representations.
6. Learned Counsel appearing on behalf of the Petitioner Company submitted that Hind Lamps Limited (*Demerged Company*) falls within the jurisdiction of National Company Law Tribunal, Allahabad Bench. A separate Company Scheme Petition No. 277/ALL/2019 was filed by the Demerged Company before National Company Law Tribunal, Allahabad Bench for sanction of the Scheme. The National Company Law Tribunal, Allahabad bench *vide* order dated 18 December 2019 (Form CAA-7 dated 7 January 2020) sanctioned the Scheme of Arrangement between the



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Demerged Company and the Resulting Company without any modifications.

7. The Learned Counsel appearing on behalf of the Petitioner Company submitted that the Petitioner Company has duly complied with all the requirements as per the directions of the National Company Law Tribunal, Mumbai Bench. The Petitioner Company submitted that the Scheme has been approved by the requisite majority of the equity shareholders, secured creditors and unsecured creditors of the Petitioner Company at their respective meetings duly convened in accordance with the directions of the this. The Learned Counsel appearing on behalf of the Petitioner Company submitted that the Petitioner Company has filed necessary affidavits of compliance with this Bench. Moreover, the Petitioner Company undertakes to comply with all the statutory requirements if any, as required under the Companies Act, 2013 and Rules framed thereunder whichever applicable. The said undertaking is accepted.
8. The Learned Counsel appearing for the Petitioner Company submitted that the Petitioner Company is a public listed company which is primarily engaged in the business of sales, distribution and marketing of electrical appliances, manufacture of fans and high masts, poles and towers and products relating to industrial, commercial, and domestic lighting, undertaking turnkey, commercial and rural lighting projects, design, manufacture, erection and commissioning of high masts, poles and towers. The Demerged Company is primarily engaged in the manufacturing of glass bulbs, HID bulbs and aluminium caps. The Scheme of Arrangement shall



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have beneficial results for both the companies, their shareholders and their creditors.

9. The Learned Counsel for the Petitioner Company submitted that the demerger of the Manufacturing Business of the Demerged Company into the Resulting Company would have the following benefits:
- (a) The Scheme of Arrangement between the Petitioner Company and the Demerged Company will result in various benefits including synergies in administration, marketing and business operations.
 - (b) The transfer and vesting of the manufacturing business of the Demerged Company into the Petitioner Company will enable both the Demerged Company and the Petitioner Company to achieve and fulfil their objectives more efficiently and economically and the same is also in the interest of all stakeholders. The Petitioner Company's existing management expertise and quality systems & controls will enhance the performance of the business of the Demerged Company.
 - (c) It shall facilitate the revival of the Manufacturing Business of the Demerged Company upon its consolidation with the Petitioner Company.
 - (d) It shall lead to greater administrative efficiency and shall enable the Demerged Company to focus on and enhance its remaining business operations by streamlining operations and cutting costs.
 - (e) It will increase the ability to leverage financial and operational resources of each business and will streamline the group structure.



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- (f) Pursuant to the demerger of the manufacturing business of the Demerged Company into the Petitioner Company, the Petitioner Company will have advanced shareholders value accruing from consolidation of business operations resulting in economies of scale, operational rationalisation, organisation efficiency and optimum utilisation of various resources.
10. The Learned Counsel appearing on behalf of the Petitioner Company submitted that the Scheme of Arrangement does not involve any compromise with the creditors of the Petitioner Company or the Demerged Company in any manner whatsoever. The Scheme of Arrangement does not in any manner whatsoever adversely affect the interests of any of the creditors of the Petitioner Company or the Demerged Company.
11. The Learned Counsel appearing on behalf of the Petitioner Company submitted that valuation for the purpose of the Scheme was undertaken by M/s Katre Barwe & Associates, Chartered Accountants, Mumbai specifying the consideration for the Scheme of Arrangement and copy of the valuation has been annexed to the Company Scheme Petition. The share entitlement ratio for the proposed demerger of the Manufacturing Business of the Demerged Company into the Resulting Company at the relevant date, shall be 97 equity shares of the Resulting Company of ₹2/- each fully paid up for every 1000 equity shares of the Demerged Company of ₹25/- each fully paid up. The details of the share entitlement ratio are provided in the Scheme annexed to the Company Scheme Petition.



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12. The Regional Director (Western Region), Ministry of Corporate Affairs, Mumbai has filed a report dated 1 May 2020 stating the following:

(a) *In compliance of AS-14 (IND AS-103), the Petitioner Companies 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-AS8) etc.*

(b) *As per Definitions of the Scheme:*

"Appointed Date" means date for all tax and other regulatory purposes, i.e., 31st day of March 2014; and "Effective Date" means the last of the dates on which the certified copies of the orders of the respective NCLTs are filed with the Registrar of Companies at Mumbai and Kanpur. Any references in the Scheme to "upon the Scheme becoming effective" of "effectiveness of the Scheme" shall be a reference to the "Effective Date". 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 Tribunal taking into account its inherent powers.

Further, the Petitioners may be asked to comply with the requirements as clarified vide circular No.7/12/2019/CL-1 dated 21.08.2019 issued by the Ministry of Corporate Affairs.

(c) *That appointed date for the Scheme is 31st day of March, 2014 and the Petitioner Company has filed Company application in the year 2018. Therefore, the Petitioner may be asked reason for the same.*

(d) *ROC, Mumbai Report dated 10.02.2020 has inter alia mentioned that as per MCA Master Data the paid-up Share Capital of the Resulting Company is Rs.20,49,59,502/- and as per para No. 3 of the scheme the*



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paid-up share capital of the Resulting Company is Rs.20,25,80,352/- which is not agreed with the MCA master data.

- (e) *The Registered Office of the Demerged Company is situated in the state of Uttar Pradesh i.e. outside the jurisdiction of this Tribunal and falls within the jurisdiction of NCLT Allahabad Bench. Accordingly, similar approval be obtained by the Demerged Company from NCLT at Allahabad Bench.*
- (f) *The Tribunal may kind 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 meeting duly held in terms of Section 230(1) read with subsection (3) to (5) of Section 230 of the Act and the Minutes thereof are duly placed before the Tribunal.*
- (g) *As the Petitioner Company is listed with NSE and/or the BSE, hence the Petitioner may be directed to file an affidavit to the extent it has complied with the directions issued vide letter No.DCS/AMAL/A1/R37/1060/2017-18 dated 08.03.2018 and NSE/LIST/14769 dated 12.03.2018 by BSE and NSE respectively.*
- (h) *Petitioner Companies have foreign resident shareholders, therefore, the petitioner companies may be directed to comply with the guidelines issued by FEMA.*
- (i) *Petitioner Company may be asked to submit clarification regarding the Complaint as mentioned on Sr. No. 9 of the above table.*
- (j) *The Tribunal may kind 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 meeting duly held in terms of Section 230(1) read with subsection (3) to (5) of Section 230 of the Act and the Minutes thereof are duly placed before the Tribunal.”*



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13. In so far as the observation made in paragraph IV(a) of the Report submitted by the Regional Director is concerned, the Petitioner Company undertakes that, in addition to compliance of IND AS-103, the Petitioner Company shall pass such accounting entries which are necessary in connection with the Scheme to comply with other applicable Accounting Standards including IND AS-8 and shall give treatment in the accounting books of the Resulting Company as per Clause 12 of the Scheme, which is reproduced herein below:

"12. Accounting Treatment

12.1. Treatment in the accounting books of the Resulting Company

The Indian Accounting Standards (Ind AS) as notified under Section 133 of the Companies Act, 2013, read together with paragraph 3 of The Companies (Indian Accounting Standard) Rules, 2015 is applicable to the Resulting Company from the year ended March 31, 2017 with transition date of 1st April, 2015.

In the statutory books of account of the Resulting Company, the scheme will be accounted from effective date in accordance with the Indian Accounting Standard (IND AS) 103 – Business Combination.

Hence, on the Scheme becoming effective, the Resulting Company shall account for the Scheme and its effects in its books of account as under:

- (a) The Resulting Company shall, upon the Scheme coming into effect, record all the identifiable assets acquired and liabilities assumed pertaining to the Demerged Undertaking vested in it pursuant to this Scheme, at their acquisition date fair values.*



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Accordingly, if the fair values of identifiable assets acquired, separately from goodwill, are less than the fair values of liabilities assumed and the consideration issued as per Clause 11 on account of demerger of Demerged Undertaking, then as per Ind AS 103, the Resulting Company shall on the acquisition date recognise the identifiable assets acquired and the liabilities assumed at their acquisition date fair values and accordingly determine the difference as goodwill.

Conversely, if the fair values of identifiable assets acquired are more than the fair values of liabilities assumed and the consideration issued as per Clause 11 on account of demerger of Demerged Undertaking, then as per Ind AS 103, the Resulting Company shall on the acquisition date determine the difference as capital reserve in accordance to the treatment to be given for bargain purchase in business combination (para 34 of Ind AS 103 – Business Combinations) and shall credit the same in other comprehensive income on the acquisition date and accumulate the same in equity.

- (b) *BEL shall credit its share capital account with the aggregate face value of shares issued by it to the shareholders of HLL pursuant to Clause 11 of the Scheme.*

Any matter not dealt with in this Scheme or hereinabove shall be dealt with in accordance with the applicable Accounting Standards prescribed.

12.2. *Accounting treatment in the books of the Demerged Company:*

- (a) *Upon the scheme coming into effect; the assets and the liabilities of the Demerged Company being transferred to the Resulting Company shall be transferred at values appearing in the books of account (ignoring revaluation) of the Demerged Company;*
- (b) *The net difference between the liabilities and assets as transferred under sub-clause (a) above shall be adjusted to capital reserve.*

Any matter not dealt with in this Scheme or hereinabove shall be dealt with in accordance with the applicable Accounting Standards prescribed.



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12.3. *The mere adoption of the accounting treatment in the books of Resulting Company as per Ind AS 103 pursuant to the aforesaid Clause 12.1 of the Scheme shall not in any manner affect the vesting of the Demerged Undertaking from the Appointed Date for tax and other regulatory purposes.*

12.4. *Accounting Treatment for Tax Purposes*

The Scheme set out herein in its present form duly approved by the NCLT shall be effective from the Appointed Date, including for regulatory & tax purposes. Accordingly, the Resulting Company and the Demerged Company shall, for tax and other regulatory purposes, account for the Scheme and all its effects with effect from the Appointed Date viz. 31st March, 2014 as under:-

- a. *The Resulting Company will record all assets, liabilities and reserves pertaining to the Demerged Undertaking vested in it pursuant to this Scheme, at the respective book values thereof (ignoring revaluation) and in the same form as appearing in the books of the Demerged Company at the Appointed Date.*
- b. *The Resulting Company shall credit its share capital account with the aggregate face value of shares issued by it to the shareholders of HLL pursuant to Clause 11 of the Scheme.*
- c. *The difference between the net assets of the Demerged Undertaking under sub-clause (a) above and the consideration issued as per Clause 11 on account of demerger shall be adjusted to the reserves in the books of the Resulting Company.*
- d. *The assets and liabilities of the Demerged Company being transferred to the Resulting Company shall be transferred at values appearing in the books of account (ignoring revaluation) of the Demerged Company at the Appointed Date;*



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- e. *The net difference between the assets and liabilities as transferred under sub-clause (d) above shall be adjusted to capital reserve in the books of the Demerged Company.*
14. In so far as the observation made in paragraph IV(b) of the Report submitted by the Regional Director, Western Region, Mumbai is concerned, the Petitioner Company stated that a similar observation was made by Regional Director, Northern Region, New Delhi, which was raised before National Company Law Tribunal, Allahabad Bench where the Company Scheme Petition No.277/ALD/2019 in respect of Hind Lamps Limited, the Demerged Company was filed. The Petitioner Company submitted during the final hearing of the said Petition that it would not be possible to revise the financials of the Resulting Company, being a listed company for the past years which have been adopted and published in public domain. The National Company Law Tribunal, Allahabad Bench after considering Clause 12 (Accounting Treatment) of the Scheme and other submissions, made the following observations in paragraphs 23, 25 and 28 of the final order and sanctioned the Scheme from the appointed date, i.e., 31 March 2014:
- “23. The aforementioned accounting treatment will be incorporated in the books and in the financials drawn up there from for tax and regulatory purposes and related compliances. These shall be approved by the Board of Directors of Demerged Company and Resulting Company and furnished to the authorities as may be applicable upon audit thereof from the tax auditors of both the Companies. The drawn-up financials will be furnished along with the returns/ filings to be made with the tax*



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authorities and will form the basis of tax assessments and tax compliances.”

“25. The Tribunal also examined the report of the Regional Director and Official Liquidator, Allahabad and after perusing the same this Tribunal is of the view that the sanction of the present scheme is not against public policy, nor prejudicial to the public at large.”

“28. In the result, the proposed Scheme of Arrangement annexed to the Company Petition is duly approved and hereby sanctioned. Petitioner Companies to act upon as per terms and conditions of the sanctioned Company Scheme and the same is binding on the shareholders, secured creditors and unsecured creditors of the abovenamed Petitioner Companies and also on the said Petitioner with effect from the appointed date, i.e. 31.03.2014.”

The Scheme shall be given effect from effective date, with fair values as at acquisition as defined in the Scheme in the books of account of the Resulting Company (Petitioner Company) and there will be no change in the statutory accounts already filed by the Resulting Company (which is a listed company) with the Registrar of Companies, Mumbai for previous years. For tax and other regulatory purposes, the Scheme shall be accounted from the Appointed Date as defined in the Scheme. Accordingly, the Demerged Company and Resulting Company shall prepare financial statements for previous years for tax purposes and file revised tax audit reports and return of income with the respective tax authorities.



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15. In so far as the observation made in paragraph IV(c) of the Report submitted by the Regional Director is concerned, the Petitioner Company submitted the following:

- (a) *The Demerged Company was declared as a Sick Industrial Company in terms of Section 3(1)(o) of Sick Industrial Companies (Special Provisions) Act, 1985 (hereinafter referred to as "SICA") by the Board for Industrial & Financial Reconstruction (hereinafter after referred to as BIFR") vide its order dated 29 May 2003 in Case No.9 of 2002. On declaration of the Demerged Company as a Sick Industrial Company, the Demerged Company filed a revival scheme with the BIFR. The revival scheme of Demerged Company was sanctioned by the BIFR on 11 January 2012 being MDRS (MS-12) (hereinafter referred to as "Sanctioned Scheme"). In the review hearing dated 19 November 2013, the BIFR directed the Government of Uttar Pradesh to grant reliefs in terms of the Sanctioned Scheme within 2 (two) months. As the Government of Uttar Pradesh did not grant the reliefs and concessions on time, the results as projected under the Sanctioned Scheme could not be achieved which in turn resulted in the Sanctioned Scheme becoming a non-starter and the Demerged Company incurring further losses.*
- (b) *On account of the losses incurred by the Demerged Company, the Board of Directors of the Demerged Company and the Petitioner Company thought fit to get the manufacturing business of the Demerged Company transferred into the Petitioner Company by way of Demerger as the transfer and vesting of the manufacturing business of the Demerged Company with the Petitioner Company will enable both the Companies to achieve and fulfil their objectives more efficiently and economically. In view of the above, the board of directors of the Demerged Company and Petitioner Company approved the modified draft rehabilitation scheme (hereinafter referred to as "Scheme of Arrangement") at their respective meetings thereby proposing a scheme of arrangement under Sections 230-232 and other applicable provisions of the Companies Act,*



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2013, subject to the approval of the equity shareholders, secured creditors and unsecured creditors of the Petitioner Company and Demerged Company and the sanction of the BIFR.

- (c) Pursuant to the said Scheme of Arrangement, the Board of Directors of the Demerged Company and the Petitioner Company granted their approval for issue of 5,29,740 fully paid-up equity shares of the Petitioner Company of the face value of Rs.2 each to the shareholders of the Demerged Company (except to the Petitioner Company itself) as a consideration for the demerger in compliance with the provisions of Section 2(19AA) of the Income Tax Act, 1961, which was based on the Share Entitlement Ratio (i.e. 109 equity shares of the Petitioner Company of the face value of Rs.2 each for 1,000 equity shares of the Demerged Company of the face value of Rs.25 each), as recommended by M/s. S.R. Batliboi & Co. LLP, Chartered Accountants, who were appointed as an Independent Valuer by the Petitioner Company and Demerged Company.
- (d) Since the Demerged Company was declared as a sick industrial company within the meaning of Section 3(1)(o) of the SICA by the BIFR, the said Scheme of Arrangement was required to be filed only with the BIFR for its approval and accordingly, on 22 April 2016, the Demerged Company had filed the said Scheme of Arrangement with the BIFR under the BIFR Case No.09/2002 (hereinafter referred to as "BIFR Case").
- (e) As the Scheme of Arrangement was not required to be filed with the High Court or Tribunal for its approval when it was approved by the Board of Directors of the Demerged Company and Petitioner Company, and was required to be filed only with the BIFR, the provisions of erstwhile Clause 24(f) of the Listing Agreement and/or Regulation 37 of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 (hereinafter referred to as the "SEBI LODR") and SEBI circulars No. CIR/CFD/DIL/5/2013



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dated 4 February 2013 and CIR/CFD/CMD/16/2015 dated 30 November 2015 (hereinafter referred to as "SEBI Circulars"), in respect of filing of draft scheme of arrangement with the Stock Exchange(s)/Securities and Exchange Board of India ("SEBI") for obtaining Observation Letter or No-Objection Letter were not applicable to the Petitioner Company.

- (f) *During the pendency of the case before the BIFR, the Central Government vide Notification No.S.O.3568(E) dated 25 November 2016 notified the Sick Industrial Companies (Special Provisions) Repeal Act, 2003 (1 of 2004) ("SICA Repeal Act"), by virtue of which the BIFR was repealed and the references/cases pending before the BIFR stood abated. Consequently, the BIFR Case filed by the Demerged Company also stood abated as on 1 December 2016.*
- (g) *With the notification of SICA Repeal Act, the provisions of Regulation 37 of the SEBI LODR and SEBI Circulars have become applicable to the Petitioner Company as the Scheme of Arrangement was then required to be filed with the National Company Law Tribunal.*
- (h) *On 10 March 2017, SEBI vide its Circular No. CFD/DIL3/ CIR/ 2017/21 (hereinafter referred to as "Revised SEBI Circular"), amended the regulatory framework for schemes of arrangements and the provisions of Para 8 of the Revised SEBI Circular, stated that in cases of the issuance of shares under schemes to a select group of shareholders or shareholders of unlisted companies, the issuer shall follow the pricing provisions of Chapter VII of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 (hereinafter referred to as "SEBI ICDR Regulations"). Further, as per Para 6 of the said Revised SEBI Circular, the schemes filed with the stock exchange(s)/SEBI after the date of the Revised SEBI Circular shall be governed by its provisions.*



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- (i) On 29 September 2017, the Petitioner Company filed the Scheme of Arrangement with BSE Limited and National Stock Exchange of India Limited (together referred to as "Stock Exchanges") under Regulation 37 of the SEBI LODR with a request for waiver from the requirements of adhering to the pricing provisions of Chapter VII of SEBI ICDR Regulations considering the fact that the Scheme of Arrangement was approved by the Board of Directors of the Demerged Company and Petitioner Company, well before the issue of the said Revised SEBI Circular. However, the Stock Exchanges requested the Petitioner Company to amend the Scheme of Arrangement and the valuation report to meet with the requirements of the Revised SEBI Circular vide their letter dated 6 October 2017 and 26 October 2017.
- (j) Accordingly, the Board of Directors of the Petitioner and Demerged Company, in their respective meeting held on 9 November 2017, considered and approved the revised valuation/share entitlement ratio, as per the valuation report dated 31 October 2017 (hereinafter referred to as the "Revised Valuation Report"), issued by M/s Katre Barwe & Associates, Chartered Accountants, Mumbai, the independent valuation firm, for demerger of the manufacturing business of the Demerged Company into the Petitioner Company and made consequential amendment to the Scheme of Arrangement (which hereinabove referred to as "Scheme"). As per the Revised Valuation Report, the revised share entitlement ratio of equity shares for the proposed demerger of the Manufacturing Business of the Demerged Company into the Petitioner Company, as at the relevant date, shall be 97 equity shares of the Petitioner Company of Rs.2 each fully paid-up for every 1,000 equity shares of the Demerged Company of Rs.25 each fully paid-up. Accordingly, the shareholders of the Demerged Company, except the Petitioner Company, shall now be issued 471,420 fully paid-up equity shares of the Petitioner Company of the face value of Rs.2 each, as against 529,740 equity shares proposed earlier in consideration for the



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demerger, in compliance with the provisions of Section 2(19AA) of the Income Tax Act, 1961.

(k) The Stock Exchanges have vide their observation letters dated 21 March 2018, conveyed their 'No-objection' to the Petitioner Company, in terms of Regulation 94 of the SEBI LODR, for filing Scheme/Petition with the National Company Law Tribunal after incorporating the SEBI's observations. Accordingly, to meet the requirements of the observation letters received from the Stock Exchanges, the Board of Directors of the Demerged Company and Petitioner Company at their respective meetings held on 23 April 2018 and 29 March 2018 suitably amended the Scheme of Arrangement. The observation letters dated 21 March 2018 were valid for a period of 6 months from the date of such letters. Accordingly, the Resulting Company and the Demerged Company filed the relevant Company Scheme Applications before the respective NCLT, Mumbai and NCLT, Allahabad within the said period of six months, in compliance with the observation letters. Copies of all the orders and letters have been annexed to the Company Scheme Petition

(l) In light of the above chain of events, the Company Applications for the Resulting Company and the Demerged Company were filed in the year 2018 though the Appointed Date is 31 March 2014.

16. In so far as the observation made in paragraph IV(d) of the Report submitted by the Regional Director is concerned, the Petitioner Companies submitted that the paid-up share capital of the Resulting Company mentioned in the Scheme, i.e., Rs.20,25,80,352/- is as of 31 March 2017. Subsequently, the Resulting Company has allotted equity shares of the Petitioner Company of Rs.2 each fully paid up under its ESOP scheme; and under Rights issue. Therefore, the



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paid-up share capital of the Resulting Company is different from what is indicated on the website of Ministry of Corporate Affairs.

17. In so far as the observation made in paragraph IV(e) of the Report submitted by the Regional Director is concerned, the Petitioner Company submitted that the Scheme filed in respect of the Demerged Company in Company Scheme Petition 277/ALD/2019 has been approved and sanctioned without modifications by the NCLT Allahabad vide order dated 18 December 2019 (Form CAA-7 dated 7 January 2020).
18. In so far as the observation made in paragraph IV(f) and paragraph IV(j) of the Report submitted by the Regional Director is concerned, the Petitioner Company undertakes through its Counsel that the Scheme has been approved by the requisite majority of equity shareholders, secured creditors and unsecured creditors as per Section 230(6) of the Act in the meeting duly held in terms of Section 230(1) read with subsection (3) to (5) of the said Act and the Petitioner Company has filed the Chairman's report in Form CAA-4 dated 20 March 2019 (copy annexed to the Company Scheme Petition) to report the outcome of the meeting of the equity shareholders, secured creditors and unsecured creditors of the Petitioner/Resulting Company.
19. In so far as the observation made in paragraph IV(g) of the Report submitted by the Regional Director is concerned, the Petitioner Company submitted that the details of the observation letters mentioned in the said report pertains to Godrej Industries Limited and not in respect of the Petitioner Company. The Petitioner



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Company submitted that the BSE Limited issued observation letter No.DCS/AMAL/AC/R37/1072/2017-18 and National Stock Exchange of India Limited issued observation letter No.NSE/LIST/13505, both dated 21 March 2018, to the Petitioner Company. The Petitioner Company through its counsel confirms and undertakes that it has duly complied with all the directions of the said observation letters.

20. In so far as the observation made in paragraph IV(h) of the Report submitted by the Regional Director is concerned, the Petitioner Company submitted that none of the shareholders of the Demerged Company are foreign residents and therefore the guidelines issued by FEMA in this regard are not applicable. The Petitioner Company undertakes that it has duly complied with the applicable FEMA guidelines with respect to its foreign resident shareholders.
21. In so far as the observation made in paragraph IV(i) of the Report submitted by the Regional Director is concerned, the Petitioner Company submitted that it is unaware of the complaint filed and has received no notice from the Registrar of Companies, Mumbai. The Petitioner Company submitted that from an overview of the said report, it appears that the complaint has been made against the Petitioner Company in respect of a loan allegedly in violation of section 185 of the Companies Act, 2013. The Petitioner Company submitted that it had passed a special resolution on 26 March 2019 through postal ballot to advance loan to its subsidiary or associate or joint venture or group entity or any person in which any director of the Petitioner Company is deemed to be interested and such



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resolution was passed in compliance with applicable provisions of the Companies Act, 2013 including Section 185. The Petitioner Company submitted that once the Petitioner Company receives the complaint from the Registrar of Companies, Mumbai, the Petitioner Company will duly address the complaint filed against it expeditiously.

22. The observations made by the Regional Director have been explained by the Petitioner Companies in paragraphs 13 to 21 above. The clarifications and undertakings given by the Petitioner Company are accepted.
23. The accounting treatment mentioned in the Scheme will be incorporated in the books and in the financials drawn up there from for tax and regulatory purposes and related compliances. These shall be approved by the Board of Directors of Demerged Company and Resulting Company and furnished to the authorities as may be applicable upon audit thereof from the tax auditors of both the Companies. The drawn-up financials will be furnished along with the returns / filings to be made with the tax authorities and will form the basis of tax assessments and tax compliances.
24. From the material on record, the Scheme appears to be fair and reasonable and does not violate any provisions of law, nor contrary to the public policy, nor prejudicial to the interest of shareholders or detrimental to public interest at large.



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25. Since all statutory compliances have been fulfilled or further undertaken to be fulfilled, the Company Scheme Petition No.1263/2019 filed by the Petitioner Company is made absolute in terms of prayer clause (a) of the said Petition and the Scheme of Arrangement annexed to the said Petition is duly approved and sanctioned.
26. The Petitioner Company is directed to lodge a copy of this Order along with a copy of the Scheme of Arrangement with the concerned Registrar of Companies, Mumbai electronically in e-form INC-28 within 60 days from the issuance of a certified copy of this Order, duly certified by the Deputy Registrar or the Assistant Registrar, as the case may be, of this Bench.
27. All concerned regulatory authorities to act on a copy of this Order along with the Scheme duly authenticated by the Deputy Registrar or the Assistant Registrar of this Bench.
28. In the result, the proposed Scheme of Arrangement annexed to the Company Petition is duly approved and hereby sanctioned from the Appointed Date *i.e.*, 31 March 2014. The Petitioner Company to act upon as per terms and conditions of the sanctioned Company Scheme and the same to be binding on the shareholders, secured creditors and unsecured creditors of the Petitioner Company and also on the said Petitioner Company and the Demerged Company with effect from the Appointed Date.



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29. Any person interested in the above matter shall be at liberty to apply to the Tribunal for any direction that may be necessary.
30. Ordered accordingly. File be consigned to record.

Sd/-
V. Nallasenapathy
Member (Technical)

Sd/-
Rajasekhar V.K.
Member (Judicial)



Certified True Copy

Copy issued "free of cost"

Date: 09/06/2023

Assistant Registrar

National Company Law Tribunal Mumbai Bench