

**IN THE NATIONAL COMPANY LAW TRIBUNAL
“CHANDIGARH BENCH, CHANDIGARH”**

CA(CAA) No.16/Chd./Hry/2018

**Under Sections 230 to 232
of the Companies Act, 2013**

In the matter of scheme of amalgamation between:

1. SUNBEAM AUTO PRIVATE LIMITED

having its registered office at
38/6 K. M. Stone,
Delhi-Jaipur Highway,
Narsingpur, Gurgaon 122001, Haryana
PAN: AABCS2948F

.... First Applicant Company-Transferor Company

With

2. SUNBEAM LIGHTWEIGHTING SOLUTIONS

PRIVATE LIMITED

(Formerly NOVY MIR LIGHTWEIGHTING SOLUTIONS

PRIVATE LIMITED

having its registered office at
38/6 K. M. Stone,
Delhi-Jaipur Highway,
Narsingpur, Gurgaon 122001, Haryana
PAN: AAFCN8583K

.... Second Applicant Company-Transferee Company

Order delivered on: 27.09.2018

**Coram: Hon'ble Mr. Justice R.P. Nagrath, Member (Judicial)
Hon'ble Mr. Pradeep R. Sethi, Member (Technical)**

For the Applicants: D. Bhattacharyya, Advocate
Deeti Ojha, Advocate

Per: R.P. Nagrath, Member(Judicial)

ORDER

At the time of filing this Application for approval of Scheme of Amalgamation, the name of Transferee Company was M/s Novy Mir Lightweighting Solutions Private Limited. The Application CA No.384 of

2018 was filed vide diary No.3440 dated 12.09.2018 stating that the name of Transferee Company has been changed to Sunbeam Lightweighting Solutions Private Limited. The fresh certificate of incorporation dated 04.09.2018 is attached with CA No.384 of 2018. Alongwith this application the Board Resolutions dated 07.09.2018 of Transferee Company as well as of Transferor Company have also been filed which are at Annexures 'B' and Annexure 'C' respectively. The amended Scheme of Amalgamation just to incorporate the changed name of Transferee Company is at Annexure 'D'. With this CA No.384 of 2018, the amended Memo of Parties has also been filed. This Misc. Application was allowed by this Tribunal on 17.09.2018.

2. This is a joint First Motion application filed by the applicant companies herein, namely; Sunbeam Auto Private Limited, Transferor Company (for brevity A-1 Company) and Sunbeam Lightweighting Solutions Private Limited, Transferee Company (for brevity A-2 Company), jointly described as 'Applicant Companies'; under sections 230 to 232 of the Companies Act, 2013 (for short to be referred here-in-after as the 'Act'), read with Companies (Compromises, Arrangements, Amalgamations) Rules, 2016 (for brevity the 'Rules') for sanction of the proposed Scheme of Amalgamation, Annexure 'A' attached with CA No.384 of 2018 (for short the 'Scheme') of the Applicant Companies as supported by an affidavit of Mr. Aditya Vij, Director of Transferor Company and Mr. Rishiraj Khajanchi Bharatprakash, Director of Transferee Company in support of the joint application for seeking appropriate orders/direction for calling and convening meetings and for dispensing with some of the meetings. The joint application is maintainable in terms of Rule 3(2) of the Rules.

3. The Board of Directors of the Applicant Companies approved the Scheme by passing their respective Board Resolutions dated 08.06.2018 subject to the sanction of the same by this Tribunal. A-1 Company has authorized Mr. Aditya Vij, Director, Mr. Ashay Chetan Shah, Director, Mr. Bhupinder Pal Singh, Chief Executive Officer and Ms. Alka Rani, Company Secretary severally and A-2 Company has authorized Mr. Rishiraj Khajanchi Bharatprakash and/or Mr. Ashay Chetan Shah, Directors of the Company to appear and plead on behalf of the company and to do all such acts, matters, deeds and things as may be necessary or desirable with regard to the Scheme. These Board Resolutions are at Annexure 'F' and Annexure 'N' respectively.

4. It is stated that as per the Memorandum of Association, Annexure 'B', the main objects of A-1 Company are:-

"1. To acquire the unit Sunbeam Castings includes all its assets & liabilities wherever located, as a going concern for the time being situated at 38/6, K.M. Stone, Delhi-Jaipur highway, Narsinghpur, Gurgaon from Highway Cycle Industries Ltd. subject to the approval of the shareholders and the appropriate authority as the case may be. The said unit namely sunbeam castings ceased to exist after having off.

2. To manufacture, assemble, buy, sell, distribute, import, export, alter, remodel, hire, exchange, repair, services and otherwise deal in all types of non-ferrous and ferrous, casting of every kind and description and components for all types of automobiles including two wheelers, three wheelers, Four wheelers, gears, transmission, axles, joints springs, lamps, chain, bodies, frames, chasis, engines, tyres, tubes, batteries, equipment component, accessories, appliances, apparatus, raw material of every kind and description.

3. *To manufacture, assemble, buy, sell, distribute, import, export, alter, remodel, hire, exchange, repair, service test and otherwise deal in cycles, bicycles, tricycles, rickshaws, motor-cycle and motor vehicles of every kind and description, component parts, spare parts accessories, tools, implements, material thereof and product for the transport or conveyance of passengers, merchandise and goods of every nature or description whether propelled by using gas, petroleum, diesel oil, steam oil vapor, electricity or any other motive or mechanical power” etc.*

Further as per clause III (B) (5) of Memorandum of Association of this company the Transferor Company could also amalgamate with any other company having objects altogether or in part similar to those of this company, subject to the provisions of the Act.

5. As per the certificate of incorporation of A-1 Company which is part of the document Annexure-B, A-1 Company was incorporated on 02.05.1996 with the name Sunbeam Castings Limited. Its name was changed to “Sunbeam Auto Limited” and a fresh certificate of incorporation was issued by Registrar of Companies, NCT of Delhi & Haryana dated 12.09.1996. At page 71, is the fresh certificate issued by the Registrar of Companies, NCT of Delhi & Haryana dated 19.05.2010 consequent upon change of name on conversion to private limited Company i.e. Sunbeam Auto Private Limited. Its CIN is U27104HR1996PTC033093.

6. The authorized, issued, subscribed and paid up share capital of the Transferor Company as on 31st March, 2017 is as under:

Particulars	Amount (₹)
Authorised Capital: 75,00,000	7,50,00,000

Equity Shares of ₹ 10 each	
Issued, Subscribed and Paid-up Capital: 55,32,210 Equity Shares of ₹ 10 each	5,53,22,100

Subsequent to the above date and till the date of the Scheme being approved by the Board of Directors of Transferor Company, there has been change in the paid-up capital of Transferor Company. The revised share capital structure of the Transferor Company as on May 31, 2018 is as follows:

Particulars	Amount (₹)
Authorised Capital: 75,00,000 Equity Shares of ₹ 10 each	7,50,00,000
Issued, Subscribed and Paid-up Capital: 50,40,898 Equity Shares of ₹ 10 each	5,04,08,980

7. As per clause III(B) (9) of the Memorandum of Association of Transferee Company there is authorization to amalgamate with other company. The said clause is reproduced below:-

“To amalgamate with any other company, or to enter into partnership or into an arrangement with any person or company, whether or not the objects or any of them are similar to the objects of this Company, or whose business is similar to the business of this Company, whether by sale or purchase (for fully or partly paid-up shares or otherwise), subject to the liabilities of such company including winding up, or by sale or purchase

(for fully or partly paid-up shares or otherwise) of all or a controlling interest in the shares or stock of such company or by partnership or in any other manner.

8. It is further stated that as per the Memorandum of Association, Annexure 'K', main objects of A-2 company are:-

- “1. *To carry on the business in India and abroad of manufacturing, importing, exporting, buying, selling, assembling, marketing, trading and distributing agents of and dealers in all kinds of automotive vehicles, and related parts, components, accessories, spare parts, ancillaries, and all engines, chassis, bodies, turbines, axles, shafts, tools and other things, materials and products used for the automotive industry.*
2. *To manufacture, assemble, fabricate, import, buy, sell, distribute, lease out or otherwise deal in all kinds and types of hand tools such as pipes, spanners, wrenches, pliers, water pumps pliers, alien keys, screw drivers, chisels, sledges, hammers, pick axes, nuts, automatic machineable materials, dies, tools, jigs, fixtures, electronic and mechanical instruments, goods and equipments and allied products moldable interior films and laminates, accessories and fittings of all kinds used in any industry or for defence, communications, aviation, transport, medical research, recreational, educational or domestic purposes and install, service or repair, overhaul and maintain all such equipment.”*

9. As per the certificate of incorporation of A- 2 Company (Annexure 'K'), the A-2 Company was incorporated on 04.12.2017. Its CIN is U29309HR2017PTC071709. As already narrated that the name of

Transferee Company has since been changed to Sunbeam Lightweighting Solutions Private Limited.

10. The first financial year of the Transferee Company ended on March 31, 2018 due to which the audited financial statements are not available yet. The authorized, issued, subscribed and paid up share capital of the Transferee Company as on 31.05.2018 is as under:

Particulars	Amount (₹)
Authorised Capital: 408,250,000 Equity Shares of ₹ 10 each	4,082,500,000
Issued, Subscribed and Paid-up: 408,250,000 Equity Shares of ₹ 10 each	4,082,500,000

Subsequent to 31.05.2018 and till the date of this Application, there have been no additions / changes in the share capital of the Transferee Company.

11. The registered offices of both the Applicant Companies is the same and situated in Gurugram within the State of Haryana. Therefore, the matter falls within the territorial jurisdiction of the National Company Law Tribunal, Chandigarh. It is represented that both the Applicant Companies are Private Limited Companies.

12. The list of Directors of A-1 Company is at Annexure E and that of A-2 Company is at Annexure M.

13. Learned counsel for the Applicant Companies submitted that as per the affidavits of the respective Directors/authorized signatories of the Applicant Companies at page Nos. 240-242 and 243-246, the Scheme does not envisage reduction of share capital of the Transferee Company and the proposed Scheme is not a corporate debt restructuring scheme in terms of Section 230 (2) (b) and 230 (2) (c) of the Act.

14. It is also stated in the application supported by the affidavits of respective authorized person that no proceedings or investigation under the Companies Act, 1956 and/or the Companies Act, 2013 are pending or instituted in relation to the Applicant Companies.

15. The Applicant Companies have made the following prayers:-

“a) Dispense with the meetings of the equity shareholders of the applicant companies in view of the written consent given by all the equity shareholders of the Applicant companies by way of affidavit and to dispense with meeting of unsecured creditor of transferee company;

b) Should the Hon’ble Tribunal not be inclined to dispense with the meeting of the equity shareholders of the Applicant companies, pass necessary directions in relation to meetings of equity shareholders;

c) Pass necessary directions in relation to holding the meeting of the secured creditors of the Transferor company and/ unsecured creditors of the applicant companies;

d) Passing such other and further orders as are deemed necessary in the facts and circumstances of the case.”

16. Learned Counsel for the Applicant Companies submitted that as on 08.06.2018 the Transferor Company has 2 (two) equity shareholders as per the list attached at Annexure G. The Transferor Company is a wholly owned subsidiary of the Transferee Company, which holds its entire issued and paid up share capital i.e. 99.9998% one share is held by Mr. Aman Gandhi as a nominee of the Transferee Company to the extent of 0.00002%. Both the shareholders have consented to the dispensation of the meeting of shareholders by way of affidavits. Annexure-H at page 157 of the paper book is the affidavit of Mr. Rishiraj Khajanchi the Director of A-2 Company stating that A-2 Company has no objection to the sanction of the Scheme and dispensation of the meeting of the equity shareholders. The authorization is given to Mr. Rishiraj Khajanchi to furnish affidavit of consent by resolution of A-2 Company dated 08.06.2018 as at page 158 of the paper book. The affidavit of no objection furnished by Mr. Aman Gandhi the nominee of A-2 Company is at page 159 of the paper book.

17. Learned Counsel for the Applicant Companies further represents that as on 31.05.2018, as per the list at Annexure I there are 1086 (One thousand eighty six) unsecured creditors in A-1 Company for an amount of ₹1,467,451,090.26. The certificate of Bansal Ajay & Co.,

Chartered Accountants dated 09.06.2018 to this effect is at Annexure I. Prayer is made for calling and convening the meeting of the unsecured creditors.

18. It has been further submitted that as on 31.05.2018, as per the list at Annexure J (Page 180-181) there are 7 (Seven) Secured Creditors in A-1 Company to the tune of ₹ 338,699,972. The list of secured creditors comprises of the Banks. The certificate of Bansal Ajay & Co., Chartered Accountants dated 09.06.2018 to this effect is at Annexure J. It is prayed that the meeting of secured creditors may be called.

19. It is also stated that as on 08.06.2018 the Transferee Company has 2 (two) equity shareholders as per the list attached at Annexure O. Both the shareholders have consented to the dispensation of the meeting of shareholders by way of affidavits at Annexure P (colly). Kedaara Capital Fund II LLP holds 40,82,49,999 shares i.e. 99.99% on whose behalf the affidavit of Mr. Manish Kejriwal, nominee of Designated Partners is attached at page 220 giving no objection to the dispensation of meeting of shareholders. It is stated that the Designated Partners of M/s Kedaara Capital Fund II LLP have authorized him by resolution dated 08.06.2018 to furnish the affidavit. The resolution of LLP is at page 221 of the paper book, decided to authorize Mr. Manish Kejriwal to give affidavit on its behalf for no objection to the Scheme and for dispensing with the holding of the meeting of the equity shareholders. The resolution is at page 221 of the paper book. Mr. Nishan Sharma the nominee shareholder has also given similar affidavit dated 08.06.2018 as at page 222 of the paper book.

20. Learned Counsel for the applicants has represented that as on 06.06.2018, there is no unsecured creditor in A-2 Company. The certificate of Todarwal & Todarwal LLP, the Chartered Accountants dated 06.06.2018 certifying NIL list of unsecured creditors is at Annexure Q (Page 224).

21. It has further been submitted that as on 06.06.2018, as per the list at Annexure R (Page 225-226) there are 2 (two) Secured Creditors in A-2 Company amounting to ₹3,100,000,000. The certificate of Todarwal & Todarwal LLP, Chartered Accountants to this effect is at Annexure R (Page 225-226). It is submitted that meeting of the unsecured creditor of A-2 company may be called.

22. The certificate of the Statutory Auditors of the Transferee Company with respect to the Scheme between Applicant Companies to the effect that the accounting treatment proposed in the Scheme is in conformity with the accounting standards prescribed under Section 133 of the Act and the rules framed thereunder and other generally accepted principles. The certificate is at Annexure 'S' (pages 227-229).

23. We have heard the learned counsel for the applicant companies and have perused the records and supporting documents/papers filed alongwith the "Scheme" contemplated between the applicant companies with the assistance of learned counsel for the applicants.

24. The amalgamation would *inter alia* provide the following benefits to the stakeholders of the said companies:-

“(i) incremental operational and administrative synergies accruing to both Transfer Company and Transferee Company;

(ii) combination/consolidation of resources, expertise and energies, etc.; and

(iii) maintain a simple corporate structure and eliminate duplicate corporate procedures”.

25. It is represented by the learned counsel of the applicant companies that since the Transferor Company is a wholly owned subsidiary of the Transferee Company, therefore upon the Scheme becoming effective the entire share capital of Transferor Company shall stand cancelled and no new shares shall be issued by the Transferee Company. The Transferor Company shall stand dissolved without the process of winding up.

26. It was further submitted that in respect of the A-1 Company, the audited financial statements up to 31.03.2017 and unaudited provisional statement of accounts as on 31.03.2018 are at Annexure C and Annexure D respectively. In respect of the Transferee Company the audited financial statements were not available since its first financial year ended on 31.03.2018. However, the latest unaudited balance sheet of Transferee Company as on 31.03.2018 is at Annexure L.

27. It was then represented that the Scheme also takes care of the interests of the staff/workers and employees of the Transferor Company. It is provided as under:-

“Upon the coming into effect of this Scheme, all the employees of Transferor Company immediately prior to the Effective Date shall become the employees of Transferee Company without any break or interruption of service and with the benefit of continuity of service on terms and conditions which are not less favourable than the terms and conditions as were applicable.

28. The Scheme envisages that with effect from the Appointed Date i.e 31st May, 2018 A-1 Company shall merge in the A-2 Company and

all the assets and liabilities of A-1 shall also be and transferred to and vested in and assumed by A-2.

29. When the matter was listed on 31.07.2018, the petitioners were directed to make submissions with regard to para numbers 26 and 27 of the petition. These paragraphs are reproduced as under:-

“26. Kedaara Capital Fund II LLP, being promoter of the Transferee Company were interested in buying the business of the Transferor Company on a going concern basis. After several rounds of deliberation, the previous promoters of Transferor Company, Kedaara Capital II LLP, Transferor and Transferee Companies entered into Share Purchase Agreement on January 9, 2018 setting forth the terms & conditions for purchase of entire share capital of the Transferor Company through Transferee Company.

27. Consequently, the Transferee Company completed the acquisition of the entire share capital of Transferor Company on June 8, 2018 as a result of which Transferor Company has become wholly owned subsidiary of Transferee Company and they now form part of the same management whose business objectives are similar. The Transferee Company holds one (1) equity share of Transferor Company through its nominee named Mr. Aman Gandhi”.

30. The applicant companies filed CA No.313/2018 for placing on record certain documents with reference to the observations made in the order dated 31.07.2018. The documents filed alongwith application are Share Purchase Agreement dated 09.01.2018 (Annexure-A) entered between the Transferee Company and Kedaara Capital Fund II LLP, promoter of the transferee company with all existing share holders for purchase of entire shareholding; Form SH-11 (for buy back) with challan (Annexure-B) for buy back of 491,312 equity shares by the transferee

company from the existing shareholders of the transferor company; DEMAT statement of the transferee company showing transfer of 5,040,897 equity shares of transferor company from existing shareholders (Annexure-C); Declaration of beneficial interest in one share with challan filed with the Registrar of Companies (Annexure-D); Provisional financial statements of transferor and transferee company as on 31.05.2018 (Annexure-E & F respectively).

31. Learned counsel for the applicants contended that the Scheme in question does not involve buy-back of the shares by the companies for attracting Section 68 of the Act. It was submitted that in the application filed with CA No.313/2018 supported with the affidavit of Rishiraj Khajanchi, the authorized representative of A-2 company, it is evident that the Scheme which has been submitted for approval was prepared after the acquisition process of the purchase of shares have been completed. In the said application the list of shareholders of A-1 company as on 31.03.2017 has been given and those were a different set of the shareholders. The issued, subscribed and paid up share capital is ₹5,53,22,100/- comprising of 55,32,210 equity shares of ₹10/- each. Reference is made to the share purchase agreement dated 09.01.2018 between Kedaara Capital Fund II L.L.P., being the promoter of Transferee company with existing shareholders of A-1 company for purchase of the shares. Prior to the completion of sale and purchase of shares from the existing shareholders of A-1 company (Transferor Company) by the A-2 Company (Transferee Company), A-1 company undertook a share buy-back of 4,91,312 equity shares in compliance with the provisions of the Act. That buy-back was completed on

29.05.2018. To comply with the provisions of the Act, Form SH 11 (Return in respect of buy-back of securities) [Pursuant to Section 68 (10) of the Act read with Rule 17 (13) of the Companies (Share Capital & Debentures) Rules, 2014] was duly filed with the Registrar of Companies and copy of challan and Form SH 11 is at Annexure- B attached with this application.

32. Further, shareholding structure of A-1 company after the buy-back is also given. On 31.05.2018, the A-2 company acquired the entire shareholding of A-1 company. The shares of the A-1 company are in DEMAT form and the DEMAT statement of the A-2 company held with ICICI Bank Ltd. duly reflects the aforesaid position. In this way the A-1 company is wholly owned subsidiary of A-2 company. Form and Challan filed with the Registrar of Companies for declaration of beneficial interest are at Annexures-C and D respectively.

33. In view of the above, following directions are issued with respect to calling, convening and holding of meetings of the shareholders, secured and unsecured creditors or dispensing with the same as well as issue of notices including by way of paper publication which are as follows:-

A. In relation to A-1 Company/Transferor Company

(a) Meeting of the equity shareholders is dispensed with as there are 2 equity shareholders and the consent given by both of them on affidavits have been obtained and placed on record;

(b) Meeting of secured creditors be convened on 24.11.2018 at 10.30 AM at the registered office of the company at 38/6 K.M. Stone, Delhi-Jaipur Highway, Narisngpur, Gurgaon-

122001, Haryana, subject to notice of meeting being issued.

The quorum of the meeting of the secured creditor of the Transferor Company shall be 4 in number and 50% in value respectively.

- (c) Meeting of unsecured creditors be convened on 24.11.2018 at 12 'O' clock at the registered office of the company at 38/6 K.M. Stone, Delhi-Jaipur Highway, Narsingpur, Gurgaon- 122001, Haryana, subject to notice of meeting being issued. The quorum of the meeting of the unsecured creditor of the Transferor Company shall be 140 in number and 40% in value respectively.

B. In relation to A-2 Company/Transferee Company

- (a) Meeting of the equity shareholders is dispensed with as there are 2 equity shareholders and the consent of both of them on affidavits have been obtained and placed on record;

- (b) Meeting of secured creditors be convened on 24.11.2018 at 2.00 PM at the registered office of the company at 38/6 K.M. Stone, Delhi-Jaipur Highway, Narsingpur, Gurgaon- 122001, Haryana, subject to notice of meeting being issued. The quorum of the meeting of the secured creditor of the Transferee Company shall be 2 in number and 40% in value respectively.

(c) There being no unsecured creditor of the Transferee Company, there is no need of calling and convening their meeting.

C. In case the required quorum, as noted above for the meetings is not present at the commencement of the meetings, the meetings shall be adjourned by 30 minutes and thereafter the persons present and voting shall be deemed to constitute the quorum. For the purposes of constituting the quorum, the valid proxies shall also be considered if the proxy in prescribed form, duly signed by the person entitled to attend and vote at the meeting is filed with the registered office at least 48 hours before the meeting. The Chairperson and Alternate Chairperson appointed herein along with the Scrutinizer shall ensure that the proxy register is properly maintained.

D. Mr. Rameshwar Singh Malik, Senior Advocate, Mobile No.+919417372202 (Phone No.01140204873), House No. B-13, Mayfair Gardens, August Kranti Marg, Hauz Khas, Near Embassy of Madagascar, New Delhi-110016 is appointed as the Chairperson for the meetings to be called under this Order. He shall be paid a lump sum fee of ₹1,50,000/- for his services as the Chairperson.

E. Ms. Eshna Kumar, Advocate, Mobile No.9717313618, House No.79, Sector 16-A, Chandigarh is appointed as the Alternate Chairperson for the meetings to be called under this

order. She shall be paid a lump sum fee of ₹80,000/- for her services as the Alternate Chairperson.

F. CS S.K. Sikka, Mobile No. 9814261166, sikkasushil@gmail.com House No.5441, Sector-38 (West), Chandigarh is appointed as the Scrutinizer for the meetings to be called under this Order. He shall be paid a lump sum fee of ₹ 70,000/- for his services as the Scrutinizer.

G. The fee of the Chairperson, Alternate Chairperson and Scrutinizer along with the travelling expenses and other out of pocket expenses for them shall be borne by the Transferee Company.

H. It is further directed that individual notices of the said meetings, shall be sent by the Applicant Companies to all the unsecured and secured creditors as on 31.05.2018. Notice shall be sent through registered post or speed post or through courier or through email, 30 days in advance before the scheduled date of meeting indicating the day, date, place and time as aforesaid, together with the copy of the Scheme, copy of explanatory statement required to be sent under the Companies Act, 2013 and the applicable Rules alongwith proxy forms and other documents as may be prescribed under the Act shall also be duly sent with the notice.

I. It is further directed that along with the notices the Applicant Companies shall also send, statement explaining the effect of the Scheme on the creditors, key managerial personnel, promoters and non-promoter members etc. along

with effect of the arrangement for amalgamation on any material interests of the Directors of Company or the debenture trustee, if any, as provided under sub-section 3 of the Section 230 of the Act.

J. It is also directed that the supplementary accounting statement relating to the period ending 30.06.2018 be also circulated for the aforesaid meetings apart from other requirements of sub-section 2 of the Section 230 of the Act.

K. The Applicant Companies shall jointly publish with a gap of atleast 30 clear days before the aforesaid meeting, indicating the day, date and the place and time of meetings as aforesaid, to be published in the Indian Express (English, Delhi/NCR Edition) and Jansatta (Hindi, Delhi/NCR Edition). It be stated in the advertisements that copy of the Scheme, the Explanatory Statement required to be published pursuant to Sections 230-232 of the Act and the forms of proxy shall be provided free of charge at the registered office of the Applicant Companies. The Applicant Companies shall also publish the notice on the respective websites, if any.

L. It shall be the responsibility of the Applicant Companies to ensure that the notices are sent under the signature and supervision of the authorized representative of the company on the basis of Board resolutions and that they shall file their affidavits in the Tribunal at least 10 days before the date fixed for meeting.

M. Voting shall be allowed on the “Scheme” in person or by proxy or through electronic means as may be applicable to the applicant companies under the Act and Rules framed thereunder.

N. The Chairperson shall be responsible to report the result of the meetings in form No. CAA 4, as per Rule 14 of the Rules within 7 working days of the conclusion of the meetings. The Chairperson shall be fully assisted by the authorized representative/Company Secretary of each Company and the Scrutinizer who will also assist the Chairperson and Alternate Chairperson in preparing and finalizing the reports.

O. The Applicant Companies shall individually and in compliance of sub-section (5) of Section 230 and Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 send notices in Form CAA 3 along with the copy of the Scheme, the Explanatory Statement and the disclosures mentioned in Rule 6 of the Rules to (i) the Central Government, through the Regional Director, Ministry of Corporate Affairs, Northern Region; (ii) the Registrar of Companies, NCT of Delhi & Haryana; (iii) Official Liquidator attached to Punjab & Haryana High Court; (iv) Income Tax Authorities, and other Sectoral Regulator(s), if any, stating that representations, if any, to be made by them shall be sent to the Tribunal within a period of 30 days from the date of receipt of such notice and copy of such

representations shall be simultaneously sent to the concerned companies, failing which it shall be presumed that they have no objection to the proposed Scheme.

P. The Applicant Companies further shall furnish copy of the Scheme free of charge within 1 day of any requisition for the Scheme made by any creditor/shareholder entitled to attend the meetings as aforesaid.

Q. The authorized representatives of the Applicant Companies shall furnish affidavit of service of notices of meetings and publication of advertisement in newspapers and all directions contained herein at least 7 days before the date of the meeting.

R. All the aforesaid directions are to be complied with strictly in accordance with the applicable law including forms and formats contained in the "Rules" as well as the provisions of the Companies Act, 2013 by the applicants.

34. With the aforesaid directions, this First Motion application stands disposed of. A copy of this order be supplied to the learned counsel for the Applicant Companies who in turn shall supply the same to the Chairperson, Alternate Chairperson and Scrutinizer immediately.

Sd/-

(Pradeep R. Sethi)
Member (Technical)

Sd/-

(Justice R.P. Nagrath)
Member (Judicial)

September 27, 2018
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