

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 1
C.A.(CAA)/63(AHM)2021

Order under Section 230-232

IN THE MATTER OF:

Devendra Paramchand Jain Liquidator of Asis Logistics LtdApplicant

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Petitioner : Learned Counsel, Mr. Jaimin R Dave
For the Respondent :

ORDER

Heard. Reserved for Order.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

-SD-
(MADAN B GOSAVI)
MEMBER (JUDICIAL)

Sweta

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 2

C.P.(CAA)/49(AHM)2021 in C.A.(CAA)/16(AHM)2021
C.A.(CAA)/19(AHM)2021

Order under Section 230-232

IN THE MATTER OF:

Crystal Interior Products Pvt Ltd
Ever Shine Appliances Pvt Ltd

.....Applicant

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Petitioner : Learned Counsel, Ms. Natasha Dhruvan Shah
For the Respondent :

ORDER

The Application is filed under Section 230-232 of the Companies Act.

The Petitioner has served Notice(s) to Statutory Authorities and also filed Affidavit evidencing service to concerned Authorities.

No representation received from the other Statutory Authorities.
Heard the arguments of learned Counsel for Petitioner.

The Petition is admitted.

The Petitioner shall advertise Notice of hearing of this petition in Newspaper in "**Business Standard**" in English Ahmedabad edition and "**Gujarat Guardian**" in Gujarati Surat edition, having wide circulation not less than ten days before fixed date of hearing, calling for objections, if any, on or before the date of hearing.

The Petitioner shall issue notice(s) to Regional Director, Registrar of Companies, Official Liquidator and Income Tax Authority informing the date of hearing.

Matter to appear for further consideration on 25.10.2021.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Sweta

-SD-
(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 3
Appeal/19(AHM)2021

Order under Section 252(3)

IN THE MATTER OF:

Dushyantbhai Gajendrabhai Patel
(Cine Link Multiplex Pvt Ltd)
V/s
ROC, Gujarat

.....Applicant

.....Respondent

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Appellant : PCS, Mr. Jigar Kamlesh Vyas
For the Respondent :

ORDER


The application is filed as a fresh application under Section 252(3) of the Companies Act.

The Appellant as well as Registry is directed to issue a Notice of date of hearing along with copy of the Appeal to the **Regional Director** as well as **ROC** and to file proof of service by way of an affidavit within two weeks.

Matter to appear for further consideration on 25.10.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Sweta


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 101
CP(IB) 559 of 2019

Order under Section 7 IBC

IN THE MATTER OF:

State Bank of India

.....Applicant

V/s

Sujyot Infrastructure Pvt Ltd

.....Respondent

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)

Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Financial Creditor

: Learned Counsel, Ms. Aishwarya Reddy

For the Corporate Debtor

: Learned Counsel, Mr. Mohit Gupta

ORDER

The Pleadings are complete.

Documents are uploaded on E-portal.

We direct both of them to file written notes of arguments (not more than four pages) within a week.

Matter to appear for further consideration on 04.10.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Sweta

-SD-
(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 102
CP(IB) 773 of 2019

Order under Section 7 IBC

IN THE MATTER OF:

Small Industries Development Bank of India
V/s
Ario Infrastructure Pvt Ltd

.....Applicant

.....Respondent

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Financial Creditor : Learned Counsel, Mr. Vishal Dave along with
Learned Counsel, Mr. Nipun Singhvi
For the Corporate Debtor : Learned Proxy Counsel, Mr. Arpit Singhvi

ORDER

Learned Proxy Counsel for the Corporate Debtor submitted that due to some personal difficulties the regular counsel was not in a position to appear today.

Both parties are directed to file written notes of arguments (not more than four pages).

Matter stands adjourned for final hearing on 13.09.2021.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Sweta

-SD-

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 103
C.P.(IB)/56(AHM)2021

Order under Section 7 IBC

IN THE MATTER OF:

Bhupesh Sevantilal Shah
V/s
Lyka Lab Ltd

.....Applicant

.....Respondent

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Financial Creditor : Learned Counsel, Mr. Jaimin R Dave
For the Corporate Debtor : Learned Counsel, Ms. Dharmishta N Raval

ORDER

Learned Counsel for the Financial Creditor seeks time to file rejoinder which was supposed to be filed within July, 2021. Seven days' time is granted to file the same failing which right to file rejoinder shall be closed.

Matter stands adjourned for further consideration on 18.10.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Sweta

-SD-
(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 104
C.P.(IB)/133(AHM)2021

Order under Section 7 IBC

IN THE MATTER OF:

O3 Developers Pvt Ltd
V/s
Bacon Vanijya Pvt Ltd

.....Applicant

.....Respondent

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant :
For the Respondent :

ORDER

No one appeared for the Financial Creditor as well as the Corporate Debtor.

Documents are available on E-portal.

List for further consideration on 18.10.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Sweta

-SD-
(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 105
CP(IB) 260 of 2018

Order under Section 9 IBC

IN THE MATTER OF:

Shree Sai Industries Pvt Ltd
V/s
Shubhmangal Exim Pvt Ltd

.....Applicant

.....Respondent

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Operational Creditor : Learned Proxy Counsel, Mr. Arpit Singhvi
For the Corporate Debtor :

ORDER

Learned Proxy Counsel for the Corporate Debtor submitted that due to some personal difficulties the regular counsel was not in a position to appear today.

Matter stands adjourned to 13.09.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Sweta

-SD-
(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 107
CP(IB) 133 of 2019

Order under Section 9 IBC

IN THE MATTER OF:

Tapan Engineers & Fabrication
V/s
Archon Engicon Ltd

.....Applicant

.....Respondent

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Operational Creditor : Learned Counsel, Ms. Geeta Lundwani
For the Corporate Debtor :

ORDER

None appeared for the Corporate Debtor.

Corporate Debtor documents are yet to be uploaded on E-portal.

Last chance is given to the Corporate Debtor to upload their documents on E-portal within a week failing which matter shall be disposed of without considering the physical copies of the documents.

Matter to appear for further consideration on 04.10.2021.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Sweta

-SD-

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 108
CP(IB) 209 of 2019

Order under Section 9 IBC

IN THE MATTER OF:

Sakar Rub-Tech Pvt Ltd

.....Applicant

V/s

Technomart Engineers Pvt Ltd

.....Respondent

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)

Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Operational Creditor

: Learned Counsel, Mr. Prashant B Patel

For the Corporate Debtor

: Learned Counsel, Mr. Kamlesh Vaidankar

ORDER

Pleadings are complete. Documents are available on E-portal.

Parties are directed to file written notes of arguments (not more than four pages) within seven days.

Matter to appear for further consideration on 27.09.2021.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

—SD—
(MADAN B GOSAVI)
MEMBER (JUDICIAL)

Sweta

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 106
CP(IB) 224 of 2019

Order under Section 9 IBC

IN THE MATTER OF:

Harmony Multimedia Pvt Ltd
V/s
Karington Club & Resort Ltd

.....Applicant

.....Respondent

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Operational Creditor : Learned PCS, Mr. Dhiren R Dave
For the Corporate Debtor :

ORDER

No one appeared for the Corporate Debtor. Matter is already ex-parte against the Corporate Debtor.

Documents of Operational Creditor is uploaded on E-portal.

Learned Counsel for the Operational Creditor is directed to file written notes of arguments (not more than three pages).

Matter stands adjourned to 20.09.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Sweta

-SD-
(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 109
CP(IB) 239 of 2019

Order under Section 9 IBC

IN THE MATTER OF:

Power2SME Pvt Ltd

.....Applicant

V/s

Superdrawn Wire Industries Pvt Ltd

.....Respondent

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)

Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Operational Creditor :

For the Corporate Debtor :

Learned Counsel, Mr. Mohit Gupta

ORDER

In spite of our directions Corporate Debtor did not upload the documents.

Last chance is given to the Corporate Debtor to upload their documents on E-portal within three days from today failing which appropriate order shall be pass.

Both parties are directed to file written notes of arguments (not more than three pages).

Matter to appear for further consideration on 14.09.2021.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Sweta

-SD-
(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 110
CP(IB) 251 of 2019

Order under Section 9 IBC

IN THE MATTER OF:

Shah Paper Mills Ltd

.....Applicant

V/s

Shree Rama Newsprint & Papers Ltd

.....Respondent

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)

Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Operational Creditor : Learned Counsel on behalf of Jayakar & Partners
appeared

For the Corporate Debtor : Learned Counsel on behalf of Thakkar and Pahwa
appeared

ORDER

Documents are available on E-portal.

Both parties are directed to file written notes of arguments (not more than three pages)
within seven days.

Matter to appear for further consideration on 27.09.2021.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Sweta

-SD-

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 111
CP(IB) 383 of 2019

Order under Section 9 IBC

IN THE MATTER OF:

Kanada Hiren Mahendrabhai
V/s
Bansal Infracon Pvt Ltd

.....Applicant

.....Respondent

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Ld. PCS Mr. Vinit Nagar
For the Respondent : None


ORDER

Learned Counsel appearing for the Operational Creditor seeks some time to collect documents from Registry so he can make arguments because he has been recently appointed.

No one appears for the Corporate Debtor and the documents of the Corporate Debtor are yet to be uploaded. As a last chance, we direct Corporate Debtor to upload documents on e-portal within seven days failing which appropriate order shall be passed.

List for further consideration on 28.09.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 112
CP(IB) 397 of 2019

Order under Section 9 IBC

IN THE MATTER OF:

Bench Mark Infotech Services Pvt Ltd
V/s
Shani Peripherals Pvt Ltd

.....Applicant

.....Respondent

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Ld. Adv. Mr. Jaimin R DAVE
For the Respondent : None

ORDER

It is clear from the e-portal that documents of the Operational Creditor are uploaded but the documents of the Corporate Debtor are yet to be uploaded.

Corporate Debtor is directed to upload the documents on e-portal within seven days from today.

Both the parties are also directed to file their written notes of arguments (not more than four pages) within seven days.

List the matter for further consideration on 04.10.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

-SD-

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 113
CP(IB) 25 of 2020

Order under Section 9 IBC

IN THE MATTER OF:

Sagar Polytechnik Ltd

V/s

PDC Infraprojects Pvt Ltd

.....Applicant

.....Respondent

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)

Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Ld. Adv. Mr. Jainish Shah

For the Respondent : Ld. Adv. Mr. Lalit M Patel

ORDER

Pleadings are complete.

Documents of both the sides are uploaded on e-portal.

Learned Counsels for both sides are directed to file their written notes of arguments (not more than four pages) within seven days so that matter can be disposed of.

List the matter for further consideration on 04.10.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

-SD-
(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 114
CP(IB) 85 of 2020

Order under Section 9 IBC

IN THE MATTER OF:

Aakruti Enterprise

.....Applicant

V/s

Hubtown Bus Terminal (Ahmedabad) Pvt Ltd

.....Respondent

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)

Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Ld. Adv. Mr. Tarak Damani

For the Respondent : Ld. Adv. Mr. Dev on behalf of Ld. Adv. Mr. Arjun Sheth

ORDER

Pleadings are complete.

Learned Counsel for the Corporate Debtor seeks adjournment on the ground that talks of settlement are under process.

Both the parties are directed to file written notes of arguments (not more than three pages) within seven days.

Matter to appear for further consideration on 04.10.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

-SD-

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 115
CP(IB) 115 of 2020

Order under Section 9 IBC

IN THE MATTER OF:

Mercury Car Rentals Pvt Ltd

.....Applicant

V/s

Shiva Industrial Security Agency (Gujarat) Ltd

.....Respondent

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)

Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Ld. Adv. Mr. Tirth Nayak

For the Respondent : Ld. Adv. Ms. Kanchan Yadav

ORDER

Pleadings are complete.

Learned Counsels for both sides seek some time to upload the documents on e-portal. Time is granted. It is to be filed within seven days without fail.

Learned Counsel for the Operational Creditor further seeks liberty to file rejoinder. Liberty is granted. It is to be filed within seven days (not more than three pages) by giving copy to other side.

Learned Counsels for both sides are directed to file their written notes of arguments (not more than four pages) within seven days.

List the matter for further consideration on 05.10.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

-SD-
(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 116
CP(IB) 263 of 2020

Order under Section 9 IBC

IN THE MATTER OF:

Fakirsons Papchem Pvt Ltd
V/s
Hitkari Packaging Pvt Ltd

.....Applicant

.....Respondent

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Ld. Adv. Mr. Jaimin R Dave
For the Respondent : Ld. Adv. Mr. Vatsal R Patel

ORDER

Pleadings are complete.

Written notes of Corporate Debtor are already available on e-portal.

Learned Counsel for the Operational Creditor is directed to file written notes of arguments (not more than four pages) within seven days.

List the matter for further consideration on 05.10.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

-SD-
(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 117
CP(IB) 379 of 2020

Order under Section 9 IBC

IN THE MATTER OF:

Tirupati Starch & Chemicals Ltd
V/s
Saurashtra Specialities Pvt Ltd

.....Applicant

.....Respondent

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Ld. PCS. Mr. Pratik Tripathi
For the Respondent : Ld. Adv. Mr. Jaimin R Dave

ORDER

Pleadings are complete.

Documents of both sides are uploaded on e-portal.

Both the parties are directed to file their written notes of arguments (not more than three pages) within seven days.

Matter to appear for further consideration on 18.10.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

-SD-
(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 118
CP(IB) 405 of 2020

Order under Section 9 IBC

IN THE MATTER OF:

Giriraj Hume Pipe Industries
V/s
Ashish Infracon Pvt Ltd

.....Applicant

.....Respondent

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Ld. Adv. Mr. Hardik Paranjape
For the Respondent : Ld. Adv. Mr. Dhruvit Shah

ORDER

Pleadings are complete.

Documents of both sides are uploaded on e-portal.

Both the parties are directed to file written notes of arguments (not more than three pages) within seven days.

List the matter for further consideration on 18.10.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

-SD -
(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 119
C.P(IB)/15(AHM)2021

Order under Section 9 IBC

IN THE MATTER OF:

Windlass Engineers & Services Pvt Ltd
V/s
Anupam Industries Ltd

.....Applicant

.....Respondent

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Ld. Adv. Mr. Nisarg Shah
For the Respondent : Ld. Adv. Mr. Kamlesh Vaidankar

ORDER

Pleadings are complete.

Documents of both sides are uploaded on e-portal.

Learned Counsel for the Operational Creditor seeks permission to file rejoinder only on the additional document filed by the Corporate Debtor in its reply. Permission is granted. It is to be filed within seven days by giving copy to other side.

Both the parties are directed to file written notes of arguments (not more than four pages) within seven days.

List the matter for further consideration on 18.10.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

-SD-
(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 120
C.P.(IB)/33(AHM)2021

Order under Section 9 IBC

IN THE MATTER OF:

Ambica Auxiliaries Pvt Ltd

.....Applicant

V/s

Jay Geegev Processors Pvt Ltd

.....Respondent

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)

Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : None

For the Respondent : None

ORDER

No one appears for both the sides.

It is seen from the e-portal that documents of the Corporate Debtor are not uploaded. Last opportunity is given to Corporate Debtor to upload the documents on e-portal within seven days failing which appropriate order shall be passed.

Operational Creditor is directed to file written notes of arguments (not more than three pages) within seven days.

List the matter for further consideration on 25.10.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

-SD-
(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 121
C.P.(IB)/37(AHM)2021

Order under Section 9 IBC

IN THE MATTER OF:

Mayur Mistry
V/s
Sadhana Paper Converter Pvt Ltd

.....Applicant

.....Respondent

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Ld. Adv. Mr. Kamlesh Vaidankar
For the Respondent : None


ORDER

Documents of both the sides are uploaded on e-portal.

Learned Counsel for the Operational Creditor submits that debt is admitted by the Corporate Debtor. Learned Counsel is directed to file written notes of arguments (not more than four pages) and ensure that MCA data and the details regarding any DRT proceedings against the Corporate Debtor to the extent possible are brought on record.

List the matter for further consideration on 25.10.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 122
IA/592(AHM)2021
IA 601 of 2019
IA 584 of 2020
IA 585 of 2020
in
CP(IB) 5 of 2017

Order under Section 7 IBC

IN THE MATTER OF:

Hero Fincorp Ltd

.....Applicant

V/s

Steel Konnect (India) Pvt Ltd

.....Respondent

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)

Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant

: Ld. Adv. Ms. Natasha D Shah (IA/592(AHM)2021

For the Liquidator

: Ld. Adv. Mr. Jaimin R Dave

For the Respondent

:

ORDER

IA/592(AHM)2021

This application is filed for restoration of IA 222 of 2021 which was disposed of vide order dated 19.07.2021.

Learned Counsel Ms. Natasha D Shah appearing on behalf of Applicant submitted that on 19.07.2021 she was present, however, inadvertently her presence could not be marked. Hence, for want of prosecution, application was disposed of.

We have gone through the records and heard Learned Counsel for the Applicant. We restore IA 222 of 2021 at its original stage. Accordingly, IA/592(AHM)2021 is allowed and stands disposed of.

IA 601 of 2019

This application is connected with IA 222 of 2021, hence, both will be heard together.

IA 584 of 2020 and IA 585 of 2020

Both applications pertain to preferential and fraudulent transactions.

sen

Notice has been issued through paper publication. Affidavit of service has been filed on behalf of the Liquidator which is on record.

List all the IAs for further consideration on 26.10.2021.



(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)



(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 123
IA/391(AHM)2021
in
CP(IB) 37 of 2017

Order under Section 10 IBC

IN THE MATTER OF:

PSL Ltd
V/s
Edelweiss Assets Reconstruction Co Ltd & Ors

.....Applicant

.....Respondent

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Ld. Adv. Mr. Gaurav Mitra
For the IRP/RP : IP Mr. Nitin Jain
For the Respondent : Ld. Adv. Mr. Alok Dhir
For the Financial Creditor : Ld. Adv. Mr. Baiju Bhagat

ORDER


IA/391(AHM)2021

This application was earlier heard and reserved for order. Today, this application is fixed for clarifications.

Clarifications have been submitted orally on behalf of the Liquidator. Learned Counsel for the Liquidator is directed to file written notes of arguments by way of additional affidavit within three days.

The matter is heard and reserved for order.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 124

IA 710 of 2019 in CP(IB) 39 & 40 of 2017

Order under Section 60(5) IBC

IN THE MATTER OF:

Balaji Trust

.....Applicant

V/s

Arcelor Mittal Nippon Steel India Ltd

.....Respondent

Order delivered on 31.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)

Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Mr. Saurabh Soparkar, Sr. Adv. with Mr. Aditya Yagnic, Adv.

For the IRP/RP :

For the Respondent : Mr. Ashim Sood, Adv.

ORDER

Pursis is filed for impleadment of Resolution Applicant in place of Resolution Professional in IA 710 of 2019. Learned Counsel Mr. Ashim Sood appeared for Resolution applicant and opposed this application and requested for time to submit his reply. 14 days' time is granted is granted to file reply. Rejoinder, if any, within 14 days thereafter. We direct parties to upload their respective pleadings / documents on E-Portal within **Seven (7) days**, if already not uploaded.

List the matter for further consideration on 01.11.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Prakash

-SD-
(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 125
IA 389 of 2019
in
CP(IB) 137 of 2018

Order under Section 7 IBC

IN THE MATTER OF:

Bank of India
V/s
Diamond Power Infrastructure Ltd

.....Applicant

.....Respondent

Order delivered on 31.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Mr. Masoom Shah, Adv.
For the IRP/RP : Mr. Prashant Jain, RP
For the Respondent : Mr. Kunal Vaishnav, Adv.

ORDER

Learned Counsel for the Respondent states that reply is filed, however, the same has not come on E-portal. Learned Counsel for the Respondent is directed to upload the same within 7 days on E-portal from today. Pleadings are complete. Both parties are directed to file written notes not more than 5 pages within 7 days.

List the matter for further consideration on 26.10.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Prakash

-SD-
(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 126
IA 870 of 2020
IA 940 of 2020
IA/198(AHM)2021
in
CP(IB) 161 of 2017

Order under Section 7 IBC

IN THE MATTER OF:

BMW India Financial Services Pvt Ltd
V/s
Parsoli Motor Works Pvt Ltd

.....Applicant

.....Respondent

Order delivered on 31.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Mr. Kunal Tandon, Adv.
For the IRP/RP :
For the Respondent : Mr. Arjun Sheth, Adv.

ORDER

Learned Counsel for the Suspended Management appeared and submitted that order of admission of Corporate Debtor in CIRP has been challenged before the Hon'ble NCLAT which is coming for hearing on 21.09.2021. Hence, all applications pending in this matter, stand adjourned to 18.10.2021. We direct parties to upload their respective pleadings / documents on E-Portal within **Seven (7) days**, if already not uploaded.

List the matter for further consideration on 18.10.2021.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Prakash

-SD-

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 127
IA/336(AHM)2021
in
CP(IB) 279 of 2018

Order under Section 7 IBC

IN THE MATTER OF:

Andhra Bank
V/s
Krishna Knitwear Technology Ltd

.....Applicant

.....Respondent

Order delivered on 31.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Ms. E. Shailaja Pillai, Adv.
For the IRP/RP :
For the Respondent : Mr. Tirth Nayak, Adv.

ORDER

In this matter, CIRP has been stayed by the Hon'ble NCLAT and the matter is being consider by Hon'ble NCLAT on 28.09.2021, hence, this application stands adjourned.

List the matter for further consideration on 25.10.2021.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Prakash

-SD-
(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 128
IA/318(AHM)2021
in
CP(IB) 261 of 2018

Order under Section 7 IBC

IN THE MATTER OF:

Central Bank of India
V/s
Sunlight Extrusion Pvt Ltd

.....Applicant

.....Respondent

Order delivered on 31.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant :
For the IRP/RP : Mr. Vishal Dave, Adv.
For the Respondent :

ORDER

IA 318 of 2021 is filed by the Resolution Professional seeking direction against the Income Tax Department who have appropriated certain sum of money belonging to Corporate Debtor during moratorium inspite of fact that their claim has been admitted by the Resolution Professional. Income Tax Department is yet to respond. Last opportunity is given to the Income Tax Department to file their reply or representation in the matter within 14 days. Learned Counsel for the Resolution Professional has been confronted with certain aspects of the matter for which he says that he will make necessary submission on the next date of hearing. We direct parties to upload their respective pleadings / documents on E-Portal within **Seven (7) days**, if already not uploaded.

List the matter for further consideration on 18.10.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Prakash

-SD-

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 129
IA/448(AHM)2021
in
CP(IB) 309 of 2018

Order under Section 10 IBC

IN THE MATTER OF:

Vaman Textiles Pvt Ltd

.....Applicant

Order delivered on 31.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Mr. Jaimin Dave, Adv.
For the IRP/RP :
For the Respondent :

ORDER

IA 448 of 2021 is filed for obtaining information as regard to certain immovable properties from the Suspended Management of the Corporate Debtor. This application has been filed under Section 10 of IBC, 2016. It is expected from the Suspended Management to provide necessary details promptly otherwise it can be inferred that the application under Section 10 of IBC, 2016 was filed for purpose other than insolvency resolution of the Corporate Debtor. Reply of the Respondent is awaited. Last chance is given to Respondent, to submit their reply within 10 days from today. Applicant is directed to provide copy of this order to the Suspended Management so that appropriate orders, in case of non-compliance by the Suspended Management, we pass in the next date of hearing. We direct parties to upload their respective pleadings / documents on E-Portal within **Seven (7) days**, if already not uploaded.

List the matter for further consideration on 18.10.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Prakash

—SD—
(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 130
IA/463(AHM)2021
in
CP(IB) 327 of 2019

Order under Section 9 IBC

IN THE MATTER OF:

Jaydevbhai Rajubhai Rathod
V/s
Shree Saibaba Ispat (India) Pvt Ltd

.....Applicant

.....Respondent

Order delivered on 31.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant :
For the IRP/RP :
For the Respondent :

ORDER

Learned Counsel Mr. Arjun Padhiyar appeared for liquidator. IA 463 of 2021 is filed under Section 54 of IBC, 2016 for dissolution of the Corporate Debtor. On perusal of the record, it is found that notice to the Income Tax department has not been served. Learned Counsel for liquidator is directed to serve notice to the Income Tax Department by Speed-post and by e-mail and to file affidavit within two weeks. We direct liquidator to upload respective pleadings / documents on E-Portal within **Seven (7) days**, if already not uploaded.

List the matter for further consideration on 01.11.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Prakash

-SD-
(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 131
IA/254(AHM)2021
IA/255(AHM)2021
in
CP(IB) 503 of 2019

Order under Section 9 IBC

IN THE MATTER OF:

Huhtamaki PPL Ltd
V/s
Manpasand Beverages Ltd

.....Applicant

.....Respondent

Order delivered on 31.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Mr. Salil Thakore, Adv.
For the IRP/RP :
For the Respondent :


ORDER

In these matter, Hon'ble Supreme Court has passed an order of status quo on CIRP of the Corporate Debtor, hence, both these application stand adjourned. We direct the parties to upload their respective pleadings / documents on E-Portal within **Seven (7) days**, if already not uploaded.

List the matter for further consideration on 25.10.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Prakash


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 132
IA/578(AHM)2021
IA/230(AHM)2021
IA/274(AHM)2021
IA/333(AHM)2021
IA/530(AHM)2021
in
CP(IB) 289 of 2020

Order under Section 7 IBC

IN THE MATTER OF:

Bank of Maharashtra
V/s
Afcan Impex Pvt Ltd

.....Applicant

.....Respondent

Order delivered on 31.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant :
For the IRP/RP : Mr. Abishek Anand, Adv.
For the Respondent : Mr. Nandish Chudger, Adv.

ORDER

IA 578 of 2021 has been filed for extension of CIRP period by further 90 days from the date of expiry of 180 days from 16.08.2021. As 5 expression of interests have been received and 3 resolution plans have been submitted, hence, there are substantial chances of resolution of the Corporate Debtor. In view of this, extension period as prayed is extended by 90 days from 16.08.2021. Prayer for exclusion shall be considered at the appropriate time. Accordingly, **IA 578 of 2021 stands allowed and disposed of in terms indicated above.**

IA 230 of 2021 and IA 274 of 2021 pertain to claims and counter claims as regard to non-cooperation by Suspended Management of the Corporate Debtor and Suspended Management claimed that Resolution Professional is not functioning in accordance with the provision of law. We direct parties to upload their respective pleadings / documents on E-Portal within **Seven (7) days**, if already not uploaded, if already uploaded, there are directed to coordinate with registry department so that these records come on DMS. All parties are directed to file written notes in each not more than 5 pages so that matter can be disposed of.

IA 333 of 2021 pertain to confirmation of appointment of IRP as Resolution Professional which has been done, hence, **IA 333 of 2021 becomes infructuous and stands disposed of.**

IA 530 of 2021 is filed by the Suspended Management against the Resolution Professional alleging that Resolution Professional did not disclose certain court proceeding in Information Memorandum. Resolution Professional has filed reply. Resolution Professional as well as Suspended Management are directed to file written notes not more than 3 pages so that matter can be disposed of.

List, IA 230 of 2021, IA 274 of 2021 and IA 530 of 2021 stand adjourned for further consideration on 18.10.2021.



(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Prakash

-SD-
(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 133
IA 399 of 2019
in
CP(IB) 388 of 2018

Order under Section 7 IBC

IN THE MATTER OF:

Central Bank of India
V/s
Cure Life Care Pvt Ltd

.....Applicant

.....Respondent

Order delivered on 31.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Ms. Natasha Shah, Adv.
For the IRP/RP :
For the Respondent : Mr. Dhiren Dave, PCS for orig. Financial Creditor.
Mr. Masoom Shah, Adv.

ORDER

IA 399 of 2019 is filed under Section 12A of IBC, 2016. This matter was heard and release for clarification due to reliance placed by one of the party in order of Hon'ble NCLAT. The legal issues involved in this application are in consideration before Hon'ble Supreme Court.

IR, if any, ^{to be} continue till next date of hearing.

List the matter for further consideration on 15.11.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Prakash

-SD-
(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 134
C.A.(CAA)/45(AHM)2021

Order under Section 230-232

IN THE MATTER OF:

Gameanax Studio Pvt Ltd

.....Applicant

Order delivered on 31.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Mr. Tirth Nayak, Adv.
For the IRP/RP :
For the Respondent :

ORDER

When this matter is taken up for hearing, it transpires that board resolution of the unsecured creditor is not on record. Applicant is directed to bring the same on record.

List the matter for further consideration on 06.09.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Prakash

-SD-
(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 135

C.P.(CAA)/7(AHM)2021 in CA(CAA) 85 of 2020

Order under Section 230-232

IN THE MATTER OF:

Mahavan Consultants Pvt Ltd
Ranjaka Consultants Pvt Ltd
Dinkardas Consultants Pvt Ltd
Devaki Nandan Advisory Pvt Ltd

.....Applicant

Order delivered on 31.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Mr. Prashant Patel, Adv.
For the IRP/RP :
For the Respondent :

ORDER

Heard Learned Counsel for the Petitioner.

The order is reserved.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Prakash

-SD-

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 136

C.P.(CAA)/11(AHM)2021 in CA(CAA) 7 of 2020

Order under Section 230-232

IN THE MATTER OF:

Prema Constructions Pvt Ltd

.....Applicant

Order delivered on 31.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Mr. Anuj Trivedi, Adv.
For the IRP/RP :
For the Respondent :

ORDER

Learned Counsel for the Petitioner submitted that he will provide convenience chart covering the aspect regarding valuation as well as details of properties to be transferred within 3 days.

List the matter for further consideration on 07.09.2021.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Prakash

-SD-

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 137
Appeal/5(AHM)2021

Order under Section 252(3)

IN THE MATTER OF:

Hitesh Kothari
(Apurva Sthapatya Pvt Ltd)
V/s
ROC Gujarat

.....Applicant

.....Respondent

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : PCS, Mr. Vinit Nagar.

ORDER

The physical copies of the required documents are yet to be filed. Hence, the matter stands adjourned for further consideration on 07.09.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

-SD-
(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 138
Appeal/13(AHM)2021

Order under Section 252(3)

IN THE MATTER OF:

Ushaben Panchal
(Neha Organic & Chemicals (Gujarat) Pvt Ltd)
V/s
ROC Gujarat

.....Applicant

.....Respondent

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Advocate, Ms. Natasha D Shah.

ORDER

The matter was heard and reserved for order. However, was relisted for certain clarifications. The learned counsel for the Appellant submitted that all the relevant documents are on record.

Heard the learned counsel for the Appellant.

The Order is reserved.


(VIRENDR KUMAR GUPTA)
MEMBER (TECHNICAL)

-SD-
(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 139
Co.Appeal 29 of 2019

Order under Section 59, 58(4) of Co.Act, 2013

IN THE MATTER OF:

Ramkishore Boob
V/s
Mishtann Foods Ltd

.....Applicant

.....Respondent

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Advocate, Mr. Manoj Kumar Mishra.
For the Respondent : Advocate, Mr. Vishal Dave.

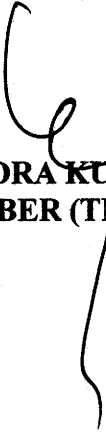
ORDER

The documents of the Appellant, though it is claimed that have been filed on E-portal/DMS, have not come on E-portal. Hence, the learned counsel for the Appellant is directed to coordinate with Registry/IT Department to bring the same on E-portal.

The Registry is also directed to extend full support to the Appellant in doing so. The documents of Respondents are already on E-portal.

The written submissions are already on record. Once the documents come on E-portal, the matter can be disposed of after considering the arguments in a very brief manner.

List the matter for further consideration on 25.10.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

-SD-

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 140
Co.Appeal 30 of 2019

Order under Section 59,58(4) of Co.Act 2013

IN THE MATTER OF:

Shardadevi Boob

.....Applicant

V/s

Mishtann Foods Ltd

.....Respondent

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)

Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Advocate, Mr. Manoj Kumar Mishra.

For the Respondent : Advocate, Mr. Vishal Dave.

ORDER

The documents of the Appellant, though it is claimed that have been filed on E-portal/DMS, have not come on E-portal. Hence, the learned counsel for the Appellant is directed to coordinate with Registry/IT Department to bring the same on E-portal.

The Registry is also directed to extend full support to the Appellant in doing so. The documents of Respondents are already on E-portal.

The written submissions are already on record. Once the documents come on E-portal, the matter can be disposed of after considering the arguments in a very brief manner.

List the matter for further consideration on 25.10.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

-SD-

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 141
Co.Appeal 31 of 2019

Order under Section 59, 58(4) of Co.Act, 2013

IN THE MATTER OF:

Shardadevi Boob

.....Applicant

V/s

Mishtann Foods Ltd

.....Respondent

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)

Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Advocate, Mr. Manoj Kumar Mishra.

For the Respondent : Advocate, Mr. Vishal Dave.

ORDER

The documents of the Appellant, though it is claimed that have been filed on E-portal/DMS, have not come on E-portal. Hence, the learned counsel for the Appellant is directed to coordinate with Registry/IT Department to bring the same on E-portal.

The Registry is also directed to extend full support to the Appellant in doing so. The documents of Respondents are already on E-portal.

The written submissions are already on record. Once the documents come on E-portal, the matter can be disposed of after considering the arguments in a very brief manner.

List the matter for further consideration on 25.10.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

-SD-

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 142
Co.Appeal 79 of 2019

Order under Section Sec 59 of Co.Act 2013

IN THE MATTER OF:

Shailesh Duggappa Sanil
V/s
Mishtann Foods Ltd

.....Applicant

.....Respondent

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Advocate, Mr. Manoj Kumar Mishra.
For the Respondent : Advocate, Mr. Vishal Dave.

ORDER

The documents of the Appellant, though it is claimed that have been filed on E-portal/DMS, have not come on E-portal. Hence, the learned counsel for the Appellant is directed to coordinate with Registry/IT Department to bring the same on E-portal.

The Registry is also directed to extend full support to the Appellant in doing so. The documents of Respondents are already on E-portal.

The written submissions are already on record. Once the documents come on E-portal, the matter can be disposed of after considering the arguments in a very brief manner.

List the matter for further consideration on 25.10.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

-SD-
(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 143
Co.Appeal 318 of 2019

Order under Section 59 of Co.act,2013

IN THE MATTER OF:

Bharati P Bharmakshatriya
V/s
Mishtann Foods Ltd

.....Applicant

.....Respondent

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Advocate, Mr. Manoj Kumar Mishra.
For the Respondent : Advocate, Mr. Vishal Dave.

ORDER

The documents of the Appellant, though it is claimed that have been filed on E-portal/DMS, have not come on E-portal. Hence, the learned counsel for the Appellant is directed to coordinate with Registry/IT Department to bring the same on E-portal.

The Registry is also directed to extend full support to the Appellant in doing so. The documents of Respondents are already on E-portal.

The written submissions are already on record. Once the documents come on E-portal, the matter can be disposed of after considering the arguments in a very brief manner.

List the matter for further consideration on 25.10.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

-SD-
(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 144
Appeal/1(AHM)2021
Comp.App/25(AHM)2021

Order under Section 59 of Co.Act,2013

IN THE MATTER OF:

Manoj Laljibhai Baldha
V/s
Akshar Spintex & Ors

.....Applicant

.....Respondent

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : CS, Mr. Niraj Trivedi.
For the Respondent : Advocate, Mr. Arjun Sheth for R 1-5.
Advocate, Mr. Jaimin Dave for R-6.

ORDER


Appeal/1(AHM)2021

This appeal has been filed by the Appellant for not taking the reply of the Respondents on record as the same has been filed belatedly.

We have heard the learned counsel. However, for the interest of justice, we take the reply of Respondents Nos. 1, 5, 6 on record. Copy of the same has been provided to the Applicant.

The Applicant may file rejoinder, if any, within 7 days.

List the matter for further consideration on 22.11.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

-SD-
(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 145

IA 2/2017 with IA 3/2017 with TP 19 of 2016(CP 49 of 2011)

Order under Section 397-398

IN THE MATTER OF:

Dilip Narpatlal Shah & Ors
V/s
Millenium Knit Pvt Ltd & Ors

.....Applicant

.....Respondent

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Advocate, Ms. Aishwarya Reddy.
For the Respondent : Sr. Advocate, Mr. Navin Pahwa for R- 1 to R-3.

ORDER

The Documents of both the sides are not on E-portal, though it is submitted by some of the Respondents that they have uploaded the records on E-portal.

The learned counsel for the Petitioner also states that the pleadings and documents have been uploaded but have not come on record.

Both the sides are directed to take appropriate steps to bring the documents on E-portal/DMS with the help of Registry.

The parties may also file notes of arguments, not more than 8 pages, since the matter pertains to Section 397-398 of the Companies Act, 2013, if already not filed.

The matter stands adjourned to 16.11.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

-SD-
(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 146
CP 7 of 2020

Order under Section 241-242

IN THE MATTER OF:

Vijay Shobhalal Shah & Ors
V/s
Suvas Reality Pvt Ltd & Ors

.....Applicant

.....Respondent

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Advocate, Mr. Arjun Sheth.

ORDER

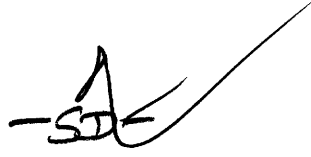
The instant speaking to minutes is filed to amend the daily proceeding order dated 28.06.2021 wherein presence of the Advocate for the Respondent was not marked though in the other connected petition i.e. CP 100/2018 on the same date presence of the Respondent, being Petitioner, was marked.

Learned counsel for the Respondent in CP fairly stated this fact, however, he submitted that there were certain aspects involved which require further consideration for which separate IA is to be filed.

Accordingly, we modify our daily proceeding order dated 28.06.2021 by marking the presence of Advocate, Ms. Hirva Dave on behalf of Respondent. Amended order be uploaded accordingly.

Speaking to minutes stands allowed and disposed of accordingly.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 147
CP 100 of 2018
IA 99 of 2019
IA 165 of 2019
IA 572 of 2019
IA 573 of 2019
IA 161 of 2020

Order under Section 241-242

IN THE MATTER OF:

Kailashchandra Ramgopal Lohiya
V/s
Suvas Reality Pvt Ltd & Ors

.....Applicant

.....Respondent

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Advocate, Mr. Jaimin Dave.
For the Respondent : Sr. Advocate, Mr. Navin Pahwa a.w. Advocate, Mr. Arjun Sheth.

ORDER

One Company Application No. 43/2021 has been filed by the Petitioner in CP 100/2018, which is yet to be listed a.w. CP and connected IAs herewith.

The Registry is directed to tag the same with this bunch of applications. 

Learned Sr. Counsel for the Org. Respondent appeared and submitted that against stand of the Petitioner of withdrawal from the settlement, an appeal has been filed against order of this authority in permitting petitioner.

List the matter for further consideration on 07.09.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

-SD-
(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 148
CP 39 of 2019
IA 391 of 2019

Order under Section 241

IN THE MATTER OF:

Dahyabhai Maganbhai Patel
V/s
Prasthan Infrastructure Pvt Ltd & Ors

.....Applicant

.....Respondent

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Advocate, Mr. Naishal Modi.
For the Respondent : Advocate, Mr. Parth Shah for Respondent No. 6.
Advocate, Ms. Helly Parikh on behalf of R-7

ORDER

The parties have not filed their documents on E-portal in spite of our earlier directions.

Last chance is being given to upload the same within 7 days from today. Parties are also directed to file written notes so that matter can be taken up for further consideration on 15.11.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

-SD-
(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 149
CP/19(AHM)2021
Mis.A/10(AHM)2021

Order under Section 241-242 Co.Act,2013

IN THE MATTER OF:

Rahul Vijaybhai Kansara & Ors
V/s
Naran Lala Pvt Ltd & Ors

.....Applicant

.....Respondent

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Advocate, Ms. Natasha Shah.
For the Respondent : Advocate, Ms. Divya Papaiyawala.

ORDER

At the request of the Applicant who is seeking interim relief, the matter for hearing on the aspect of interim relief stands adjourned to 07.09.2021.

Both the parties are at liberty to coordinate for their physical presence in the court.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

-SD-
(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 150
CP/1(AHM)2021

Order under Section 131 Co.Act, 2013

IN THE MATTER OF:

Premier Looms Manufactures Pvt Ltd
V/s
Secretary Ministry of Corporat Affairs & Anr

.....Applicant

.....Respondent

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)


PRESENTS:

For the Applicant : Advocate, Ms. Natasha Shah.
For the Respondent : None.

ORDER

The report of the RD is awaited. Hence, the matter stands adjourned for further consideration on 26.10.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 151
CP(IB) 59 of 2019

Order under Section 7 IBC

IN THE MATTER OF:

IDBI Bank Ltd
V/s
Doshion Pvt Ltd

.....Applicant

.....Respondent

Order delivered on 31.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant :
For the Respondent :

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open court vide separate sheet.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT 1**

CP (IB) No.59/7/NCLT/AHM/2019

In the matter of :

An application filed under Section 7 of the Insolvency and Bankruptcy Code, 2016

In the matter between:

M/s. IDBI Bank Ltd

CIN: L65190MH2004GOI148838

Having address at:

IDBI Tower, W.T.C. Complex,

Cuffe Parade,

Mumbai-400005

....Financial Creditor

Versus

M/s. Doshion Private Limited

CIN: U24110GJ1995PTC025307

Having address at:

Building No. 12A (House No. 13),

Sigma Corporate, Behind Rajpath Club,

Off. S. G. Road, Bodakdev,

Ahmedabad, Gujarat-380054.

.....Corporate Debtor

Order Reserved On : 24th day of August, 2021

Order Pronounced On : 31st day of August, 2021

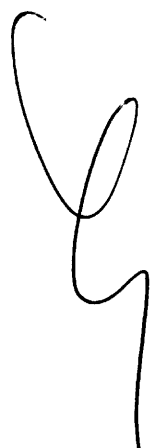
**Coram: MADAN B. GOSAVI, MEMBER (J)
VIRENDRA KUMAR GUPTA, MEMBER (T)**

PRESENTS:

For the Financial Creditor: Adv. Mr. Akshat Khare

For the Corporate Debtor : Sr. Adv. Mr. Rashesh Sanjanwala

a.w. Adv. Mr. Shashvata U Shukla



ORDER

[Per: VIRENDRA KUMAR GUPTA, MEMBER (T)]

1. This application has been filed under Section 7 of Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “**IBC, 2016**”) by Financial Creditor-IDBI Bank for initiation of Corporate Insolvency Resolution Process (hereinafter referred to as “**CIRP**”) against the Corporate Debtor-Doshion Private Limited. The amount of debt in default has been claimed at Rs.1,32,39,46,351.04/- (Rupees One Hundred Thirty Two Crore Thirty Nine Lakh Forty Six Thousand Three Hundred Fifty One and Paisa Four Only).
2. At the time of hearing of the matter, it was pointed by the Learned Senior Counsel for the Corporate Debtor that Corporate Debtor was negotiating with the Bank by enhancing its OTS proposal, however, Learned Counsel for the Financial Creditor categorically stated that it was under instructions from Applicant-Financial Creditor to pursue this application as all efforts of negotiated settlement of OTS had been rejected by Applicant-Financial Creditor. Hence, we proceed to hear the matter.



3. The facts, in brief, are that the Financial Creditor is one of the members of the consortium who lent money to the Corporate Debtor from time to time. The Corporate Debtor failed to pay the loan, hence, its account was classified as NPA. Thereafter, the proceedings under Section 7 of IBC, 2016 have been initiated in December, 2018.

4. Learned Counsel for the Financial Creditor appeared and submitted that first issue which was to be addressed was whether the application was filed within the limitation or not? In this regard, the Learned Counsel stated that it is not in dispute that the account of the Corporate Debtor had been classified as NPA on 29.10.2015 and application had been filed on 21.12.2018, hence, marginally beyond three years from the date of account being classified as NPA. However, such application is well within the limitation in view of Section 18 of the Limitation Act, 1963 for the reason that Corporate Debtor on 06.09.2018 had submitted One Time Settlement (hereinafter referred to as "**OTS**") proposal wherein not only debt had been acknowledged but its liability to pay had also been accepted. In this regard, Learned Counsel drew our attention to page 27 and 28 of additional rebuttal affidavit. Learned Counsel also

placed reliance on the decision of Hon'ble Supreme Court in the case of Dena Bank vs. C. Shivakumar Reddy and Ors in Appeal No. 1650 of 2020 dated 04.08.2021 reported in MANU/SC/0502/2021 wherein the Hon'ble Supreme Court had held that provisions of Section 18 of Limitation Act, 1963 to proceedings under IBC, 2016 were applicable and the OTS proposal would amount to acknowledgement in terms of such provision of law. Learned Counsel specifically drew our attention to para 141 of the said order wherein the Hon'ble Supreme Court had categorically held that why an offer of OTS of a live claim, made within the period of limitation, could not be construed as an acknowledgement to attract Section 18 of the Limitation Act, 1963. Accordingly, Learned Counsel for the Financial Creditor prayed that application be admitted. As regard to completeness of application, it was submitted that application was complete in all respects and had been filed by the authorised person. He further pleaded that the necessary documents were enclosed in the rebuttal affidavit to show the competency of such person to file this application. It was also submitted that name of Interim Resolution Professional (hereinafter referred to as "IRP") had also been proposed whose

consent has been on record, hence, same person may be appointed as IRP.

5. Learned Senior Counsel appeared on behalf of Corporate Debtor and submitted that there was no dispute as regard to applicability of provisions of Section 18 of Limitation Act, 1963 to the proceedings initiated under Section 7 of IBC, 2016, however, it was a settled judicial proposition that every proposition of law had to be applied to the facts of the case and in the facts of this case so-called reliance of one time settlement proposal by Corporate Debtor could not amount to acknowledgement of debt within the meaning of provisions of Section 18 of Limitation Act, 1963. For this purpose, Learned Senior Counsel stated that this proposal was "without prejudice" and in the letter itself it had also been mentioned by the Corporate Debtor that it does not amount to acknowledgement of dues, hence, such OTS proposal could not be construed as an acknowledgement of debt. Learned Senior Counsel took second plea that no Board resolution had been filed by the Financial Creditor originally and when the validity of authority of the person who filed this application was challenged, in the rebuttal, the Financial Creditor had filed

certain documents which were also not sufficient to establish that the person who filed this application was properly authorised. It was emphasized that in such circumstances, application was liable to be dismissed as not maintainable. He also drew our attention to the documents relied on by the Financial Creditor to counter this plea of the Corporate Debtor. Learned Senior Counsel further stated that the OTS proposal was for a definite amount and the Corporate Debtor was ready to pay the same even as on date, hence, only to this extent the effect of OTS proposal was to be taken cognizance.

6. In the rejoinder, Learned Counsel for the Financial Creditor stated that the Corporate Debtor could not approbate and reprobate at the same time i.e. either the Corporate Debtor should own or disown OTS proposal and it cannot take plea that certain part of this proposal were applicable and other parts were not applicable and not to be recognized. As regard to authority of the person, it was submitted that the Financial Creditor was a scheduled Bank and Bank booklet of delegation of authority/powers to its officers had been issued which was a general instruction and applicable for legal proceedings to be initiated for recovery of loans at various forums. He

emphasized to the fact that the person who signed the application was of the AGM rank and authority was given to him by the General Manager which was also placed on record. Hence, there was no merit in the plea of the Corporate Debtor that application should be dismissed for the reason that it has not been filed by authorised person.

7. We have considered the submissions made by both the sides and material on record. As far as facts relating to disbursement of amount of loan and date of classification of NPA are concerned, there is not dispute. It is also not in dispute that the Financial Creditor is claiming extension of limitation period on account of OTS proposal given by the Corporate Debtor before the expiry of original period of three years from the date of such classification. As far as aspect of extension of limitation is concerned, it is now settled that the provisions of Section 18 of Limitation Act, 1963 are applicable to proceedings under IBC, 2016. This position has also been accepted by the Corporate Debtor as well. However, the Corporate Debtor has taken pleas that OTS proposal dated 06.09.2018 could not be construed as acknowledgement for the purpose of extension of limitation as it is "without prejudice" and also contains a

categorical statement that this proposal could not be construed as acceptance of dues by the Corporate Debtor. For dealing with these contentions, we consider it pertinent to reproduce the provisions of Section 18 of Limitation Act, 1963 as under:

Section 18 in The Limitation Act, 1963

18. Effect of acknowledgment in writing.—(1) Where, before the expiration of the prescribed period for a suit of application in respect of any property or right, an acknowledgment of liability in respect of such property or right has been made in writing signed by the party against whom such property or right is claimed, or by any person through whom he derives his title or liability, a fresh period of limitation shall be computed from the time when the acknowledgment was so signed.(2) Where the writing containing the acknowledgment is undated, oral evidence may be given of the time when it was signed; but subject to the provisions of the Indian Evidence Act, 1872 (1 of 1872), oral evidence of its contents shall not be received.

Explanation.—For the purposes of this section,—

(a) an acknowledgment may be sufficient though it omits to specify the exact nature of the property or right, or avers that the time for payment, delivery, performance or enjoyment has not yet come or is accompanied by a refusal to pay, deliver, perform or permit to enjoy, or is coupled with a claim to set-off, or is addressed to a person other than a person entitled to the property or right;

(b) the word “signed” means signed either personally or by an agent duly authorised in this behalf; and

(c) an application for the execution of a decree or order shall not be deemed to be an application in respect of any property or right.

8. From the perusal of provisions of Section 18(1) of Limitation Act, 1963, it transpires that a fresh period of limitation in respect of live claim i.e. enforceable liability to pay subsisting as on the date of acknowledgement is obtained to initiate legal proceedings against a debtor. In various judicial decisions, it

has been held that provisions of Section 18 of Limitation Act, 1963 have to be construed liberally so that party having legal rights do not suffer by an unreasonable approach of the party liable to pay. It is also to be noted that explanation (a) defines that what could constitute as an acknowledgement of liability given in writing. In the present case, OTS proposal has been given in writing whereby the Corporate Debtor has requested to consider its position and accept a particular sum as full and final settlement of its liability towards the applicant-financial creditor. As per explanation (a), even a refusal to pay may amount to acknowledgement whereas in the present case a specific amount has been offered which by itself is sufficient to bring such proposal into the category of acknowledgement. As regard to use of words "without prejudice", the general proposition of law is that "without prejudice" rule applies to actual dispute existing between writer of letter and recipient and such letter attempts to negotiate a resolution or settlement of that dispute whereas in the present case there is no dispute between the party as the amount of liability or disbursement of liability or any other legal infirmity is attached to such loan, hence, on this preliminary ground itself, in the case of OTS

proposal, these words cannot be applied and taken recourse to by the Corporate Debtor in IBC, 2016 proceedings. Even otherwise, the use of words “without prejudice”, in such circumstances, is not of any help to the cause of the Corporate Debtor because of the fact that explanation (a) to Section 18 of Limitation Act, 1963 is widely worded and it would include a letter of settlement proposal which is marked “without prejudice” and such letter is being used for the purpose of extension of limitation period only and not for proving any other facts relating to outstanding liability. The Hon'ble Supreme Court in the case of ITC Limited vs. Blue Coast Hotels Limited order dated 19.01.2018 in somewhat similar circumstances has rejected the similar plea by the party liable to make the payment. The Hon'ble Supreme Court earlier also in the case of Tarapore & Company vs Cochin Shipyard Ltd. Cochin & Anr vide order dated 06.03.1984 has also held so. Apart from the above two decisions, there are other judicial precedents as well which are against this plea taken by the Corporate Debtor. As regard to second aspect raised by the Corporate Debtor, we have gone through the contents of OTS proposal wherein company, in the last para, has categorically

stated that this OTS proposal is best possible resolution considering the current situation of the company and the promoters and it is requested to accept the same and approve accordingly. It has also been mentioned that they have committed themselves to comply with the terms of the proposal, hence, picking one substance from the proposal cannot override the whole context and intent of the Corporate Debtor. Accordingly, this contention is also rejected. Before leaving, we may also point out that in view of this OTS proposal we have not gone into the aspect of such liability appearing in the balance sheet of the Corporate Debtor for various years which would certainly extend the limitation period for the purpose of filing application under Section 7 of IBC, 2016. This aspect has also been now put to rest by the Hon'ble Supreme Court in the case of Asset Reconstruction Company vs. Bishal Jaiswal has held that presentation of liability in the balance sheet, which is duly signed by the Directors of the company, would amount to acknowledgement of liability within the meaning of provisions of Section 18 of Limitation Act, 1963.

9. As far as issue of authorisation of person who filed this application is concerned, we have gone through the documents

produced before us. The Financial Creditor is a scheduled Bank and has got define procedures for delegating authorities to various categories of officers in a structured manner. The person, who has filed this application, is holding the post of Assistant General Manager and has been authorised by the officer of the rank of General Manager. We have also gone through Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 framed by the Central Government. The application has been duly signed by such person and no specific requirement has been prescribed in such rules that the Board resolution must be filed along with the application for each signatory. In the case of a Bank, it is also not possible for each application to be signed by a distinct person, a specific Board resolution should be passed. Further, standard circulars/delegation of powers notification has been issued and the person who has signed this application falls into the category of the person authorised to file such applications. Even otherwise, no material has been brought on record to show that application has been filed malafide or on its own volition of such person as no enquiry has been made by the Corporate Debtor with the concerned of Higher Authorities

as regard to validity of this application. In case of economic laws where health of national economy depends upon the speedy recovery of the money as well as to protect the general public depositors, such technical pleas need not to be given undue weightage which is being sought herein. Hence, the same is rejected.

10. The name of the IRP is proposed whose consent is on record. No material has been brought on record to show that any disciplinary proceedings are pending against such proposed person. Accordingly, we appoint proposed Insolvency Professional to act as IRP. In our opinion, application is otherwise complete and defect free. Liability to pay exceeds the threshold limit for initiation proceedings under Section 7 of IBC, 2016, hence, we admit this application and order as under:

ORDER

1. Corporate Debtor M/s. Doshion Private Limited is admitted in Corporate Insolvency Resolution Process under Section 7 of Insolvency and Bankruptcy Code, 2016.

2. We appoint Mr. Ramchandra Dallaram Choudhary, Registration No. IBBI/IPA-001/IP-P00157/2017-2018/10326, having address at: 9-C, Vardan Complex, Near Vimal House, Lakhudi Citcile, Navrangpura, Ahmedabad- 380014, under section 13(1) (c) of the IB Code as IRP.
3. That the Moratorium under Section 14 of the Code shall come to effect from 17.02.2021 till the completion of Corporate Insolvency Resolution Process or until this Bench approves the Resolution Plan under Sub- Section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33, as the case may be.
4. That the Adjudicating Authority hereby prohibits the institution of suits or continuation of pending suit or proceedings against the Corporate Debtor including execution of any judgment, decree or order in any Court of law and further prohibits a Tribunals, Arbitration Panels or other Authority(s), transferring, encumbering,

alienating or disposing (of by the Corporate Debtor) any of Corporate Debtor assets or any legal right or beneficial interest therein; any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property including any action under the SARFAESI Act, 2002 the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.

5. Further, litigation or any application, if any, is pending before any competent Court of law under the provisions of the SARFAESI Act and RDB Act, prior to pronouncement of this order such proceedings are expected to be dealt with in accordance with law i.e., Section 14 and Section 238 of the Insolvency & Bankruptcy Code, 2016.
6. That the supply of essential goods or services to Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during

the Moratorium, period. The Corporate Debtor to provide effective assistance to the IRP as and when he takes charge of assets and management of the Corporate Debtor.

7. The IRP so appointed shall make Public announcement of Corporate Insolvency Resolution Process (CIRP) be made immediately as specified under Section 13 of the Code and by calling for submissions of claim under Section 15 of the Code.
8. The IRP shall perform all his functions as contemplated, *inter-alia*, by Sections 17, 18, 20 & 21 of the Code. It is further made clear that all personnel connected with Corporate Debtor, its Promoter or any other person associated with management of the Corporate Debtor are under legal obligation as per Section 19 of the Code to extend every assistance and co-operation to the Interim Resolution Professional. Where any personnel of the Corporate Debtor, its Promoter

or any other person required to assist or co-operate with IRP, do not assist or Co-operate, the IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.

9. The IRP shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor Company' and manage the operations of the Corporate Debtor Company as a going concern as a part of obligation imposed by Section 20 of the Insolvency & Bankruptcy Code, 2016.
10. We direct the Financial Creditor / Applicant to pay the IRP a sum of Rs. **2,00,000/- (Rs. Two lakh)** as fees & expenses till the COC decides about his fees / expenses.
11. The Registry is directed to communicate this order to the Financial Creditor, Corporate Debtor and to the Interim Resolution Professional and



the concerned Registrar of Companies, after completion of necessary formalities, within three working days and upload the same on website immediately after pronouncement of the order.

12. The commencement of Corporate Insolvency Resolution Process (CIRP) shall be effective from the date of this order.

13. Accordingly, CP (IB) No. 59/7/NCLT/2019 is allowed and stands disposed of.



(Virendra Kumar Gupta)
Member (Technical)



(Madan B. Gosavi)
Member (Judicial)

Signed on this, the 31st day of August, 2021.

Rajeev Sen/ Stenographer

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 152
CP(IB) 385 of 2020

Order under Section 7 IBC

IN THE MATTER OF:

State Bank of India

.....Applicant

V/s

Shreebhav Polyweaves Pvt Ltd

.....Respondent

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)

Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant :

For the IRP/RP :

For the Respondent :

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open court vide separate sheet.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD**

C.P.(IB) 385/NCLT/AHM/2020

[An Application under Section 7 of the Insolvency and Bankruptcy Code, 2016]

In the matter of:

State Bank of India,
Corporate Centre, Madam Cama Road,
Nariman Point, Mumbai-400031
and one of the branches at and known as
Stressed Assets Management Branch,
2nd Floor, Paramsiddhi Complex,
Nr. Mahakant Building, Opp. V.S. Hospital, Ellisbridge,
Ahmedabad-380006

.... Financial Creditor

Versus

Shreebhav Polyweaves Pvt. Ltd.
238-240, Unity Estate,
Next to Batliboi Ltd., Bhestan,
Surat, Gujarat-395023.

...Corporate Debtor

**Order Reserved on 16.08.2021
Order delivered on 31.08.2021**

**Coram: MADAN B. GOSAVI, MEMBER (J)
VIRENDRA KUMAR GUPTA, MEMBER (T)**

Appearance...

For the Applicant : Advocate, Mr. Biju A Nair.



For the Respondent : Advocate, Mr. Mohit Gupta.

ORDER

[Per : VIRENDRA KUMAR GUPTA, MEMBER (T)]

- 1) This application has been filed by Financial Creditor, namely, State Bank of India under Section 7 of Insolvency & Bankruptcy Code, 2016 (hereinafter referred to as “**IBC, 2016**”) for initiation of Corporate Insolvency Resolution Process (hereinafter referred to as “**CIRP**”) against the Corporate Debtor, namely, Shreebhav Polyweaves Pvt. Ltd. The amount of default has been stated as Rs. 25,21,71,006.79/- and date of default has been stated as 08.12.2018 being 90 days prior to declaration of account of the Corporate Debtor as NPA on 09.03.2019.
- 2) The learned counsel for the Applicant/Financial Creditor appeared and submitted that various loans were granted from time to time. Necessary documentation was done as regard to such facilities. It is also pleaded that last sanctioned letter for grant/continuation of facilities was executed on

24.07.2018. It was also pleaded that the Application has been filed on 02.12.2020, hence, within limitation.

- 3) The learned counsel for the Respondent appeared and submitted that the person who filed the application was not authorised to file the application and for this proposition, the learned counsel has referred to Regulation 76, 77 and 79 of State Bank of India General Regulations, 1955 and based upon its interpretation such regulations do not authorise to file application under Section 7 of IBC, 2016. It has also been pleaded that there is a breach of Rule 4(3) of (Application to Adjudicating Authority) Rules, 2016 to serve the same both on Corporate Debtor as well as IBBI and which has not been done. Hence, the prescribed manner has not been followed which ought to have been. Thus, making this application not maintainable. For this proposition, the learned counsel has placed reliance on the decision of the Hon'ble Supreme Court in the case of *Deepak Babaria V. State of Gujarat*, (2014) 3 SCC 502.

- 4) In the rejoinder, the learned counsel for the Financial Creditor has pointed out that in terms of Gazette notification dated 02.05.1987, the said executive had every authority to sign the present application and accordingly the same has been filed and an affidavit to that effect has also been enclosed.
- 5) As regard to service of copy of the Application to the Corporate Debtor, it was contended that said fact had not been disputed, however, the only plea which has been made is that the copy of the same was not served on IBBI, which is a procedural requirement and does not affect the rights of the Corporate Debtor in any manner, hence, the same being of directory nature, cannot make this application as not maintainable.
- 6) We have considered the submissions made by both the sides and material on record.
- 7) As far as amount of disbursement of loan is concerned that is not in dispute. Further, it is also not in dispute that account of the Corporate Debtor has been declared NPA as

on 09.03.2019. The aspect of limitation has also not been disputed. Thus, there is a debt which is due, both in law and in fact and the applicant is complete in all respects except two points raised on behalf of Corporate Debtor. As far as first ground of validity of authorization is concerned, we have gone through the said regulations which are wide enough to grant such power to the person who has signed the application on behalf of State Bank of India being the Financial Creditor. It is also not in dispute that the said person is an officer of the Financial Creditor. Further, it is not the case of the Corporate Debtor that such Financial Creditor did not want to proceed with this application or application had been filed in violation of norms of the Bank.

- 8) The Respondent has not reproduced the Regulation 79 of said Regulations which by itself goes to show that it is just technical plea to avoid its liability and which is in our view without any substance, particularly when there is an enforcement of rights of a Financial Creditor under economic law. Even otherwise, banking business cannot be interpreted in a narrow manner as contended by the Respondent as

business of banking includes not only granting of loans but recovery thereof as well. Thus, this plea of the Corporate Debtor is rejected.

- 9) As far as second plea of non-service of copy of application to the IBBI is concerned, we are unable to comprehend as to how it affects the maintainability of this application, as the same has admittedly been served on the Corporate Debtor. As far as non-compliance of Rule 4 towards IBBI is concerned, the proper forum to be approached is IBBI who can take appropriate action against Financial Creditor. We may also point out that NCLT, being Adjudicating Authority, carries out its function under Section 424 of the Companies Act, 2013 and is governed by principles of natural justice. Hence, technical compliances, in strict sense, may not vitiate any proceeding unless it is so fundamental that makes the initiation of CIRP either malicious, fraudulent or totally without jurisdiction. This is not the case here. The name of the name of the IRP has already been proposed whose consent along with declaration as per prescribed procedure is also on record. It is also noted that no material has been

brought on record to show that any disciplinary proceeding is pending against proposed IRP or said person is otherwise not eligible to become IRP.

10) Accordingly, we admit this application and order as under:

ORDER

1. Corporate Debtor M/s Shreebhav Polyweaves Private Limited, is admitted in Corporate Insolvency Resolution Process under Section 7 of Insolvency and Bankruptcy Code, 2016.
2. We appoint Mr. Nirav Anupam Tarkas, registration no. IBBI/IPA-02/IP-N-00776/2018-2019/12375, having address 201-209 B.N Chambers, Respondent Company Dutt Road, Opposite Welcom Hotel, Vadodara-390007, Guarat, under section 13(1) (c) of the IB Code as IRP.
3. That the Moratorium under Section 14 of the Code shall come to effect from 31.08.2021 till the completion of Corporate Insolvency Resolution Process or until this Bench approves the Resolution Plan under Sub- Section

(1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33, as the case may be.

4. That the Bench hereby prohibits the institution of suits or continuation of pending suit or proceedings against the Corporate Debtor including execution of any judgment, decree or order in any Court of law. Tribunal, Arbitration Panel or other Authority(s), transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein; any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property including any action under the SARFAESI Act, 2002 the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.
5. Further, litigation or any application, if any, is pending before any competent Court of law under the provisions of the SARFAESI Act and RDB Act, prior to

pronouncement of this order such proceedings are expected to be dealt with in accordance with law r.w. Section 14 and Section 238 of the Insolvency & Bankruptcy Code, 2016.

6. That the supply of essential goods or services to Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during the Moratorium, period. The Corporate Debtor to provide effective assistance to the IRP as and when he takes charge of the Corporate Debtor.
7. The IRP so appointed shall make Public announcement of Corporate Insolvency Resolution Process (CIRP) be made immediately as specified under Section 13 of the Code and by calling for submissions of claim under Section 15 of the Code.
8. The IRP shall perform all his functions as contemplated, *inter-alia*, by Sections 17,18,20 & 21 of the Code. It is further made clear that all personnel connected with Corporate Debtor, its Promoter or any other person

associated with management of the Corporate Debtor are under legal obligation under Section 19 of the Code extend every assistance and co-operation to the Interim Resolution Professional. Where any personnel of the Corporate Debtor, its Promoter or any other person required to assist or co-operate with IRP, do not assist or Co-operate, IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.

9. The IRP shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor Company' and manage the operations of the Corporate Debtor Company as a going concern as a part of obligation imposed by Section 20 of the Insolvency & Bankruptcy Code, 2016.
10. We direct the Financial Creditor / Applicant to pay the IRP a sum of Rs. 2,00,000/- (Rs. Two lakh) as fees & expenses till the COC decides about his fees / expenses.

11. The Registry is directed to communicate a copy of this order to the Petitioner-Financial Creditor, Corporate Debtor and to the Interim Resolution Professional and the concerned Registrar of Companies, after completion of necessary formalities, within three working days and upload the same on website immediately after pronouncement of the order.
12. The commencement of Corporate Insolvency Resolution Process (CIRP) shall be effective from the date of this order.
13. CP(IB) No. 385/7/NCLT/AHM/2020 is allowed and stands disposed of.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 153

IA/532(AHM)2021 in CP(IB) 563 of 2018

Order under Section 60(5) r.w rule 11 of NCLT rules 2016

IN THE MATTER OF:

Citi Securities & Financial Services Pvt Ltd
V/s

.....Applicant

Chandra Prakash Jain RP of E-complex Pvt Ltd

.....Respondent

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

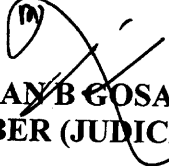
For the Applicant :
For the IRP/RP :
For the Respondent :

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open court vide separate sheet.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT 1**

IA No. 532 of 2021 in CP (IB) No.563 of 2018

In the matter of :

[An application filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 r.w. Rule 11 of NCLT Rules, 2016 seeking appropriate directions against the Respondent for re-inclusion of Applicant in Committee of Creditors].

In the matter between:

Citi Securities & Financial Services Pvt. Ltd.

Having address at:

Cama Building, 1st Floor,
Dalal Street, Fort, Mumbai,
MH-400001, India

....Applicant

Versus

Chandra Prakash Jain

Resolution Professional of

M/s. E-Complex Private Limited

Having address at:

D-501, Ganesh Meridian,
Opp. Gujarat High Court, S.G. Road,
Ahmedabad-380060

....Respondent

Order Reserved On : 23th day of August, 2021

Order Pronounced On : 31st day of August, 2021

**Coram: MADAN B. GOSAVI, MEMBER (J)
VIRENDRA KUMAR GUPTA, MEMBER (T)**

PRESENTS:

For the Applicant : Ld. Sr. Adv. Mr. Rashesh Sanjanwala

For the RP : Ld. Adv. Mr. Monaal Davawala

For the COC : Ld. Adv. Ms. Suchitra Valjee

For the Creditors : Ld. Adv. Mr. Maulik Nanavati

ORDER

[Per: VIRENDRA KUMAR GUPTA, MEMBER (T)]

1. This application has been filed under Section 60(5) of Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "**IBC, 2016**") r.w. Rule 11 of NCLT Rules, 2016 for direction to Resolution Professional to include the applicant in COC of the Corporate Debtor M/s. E-Complex Pvt. Ltd.
2. The facts, in brief, are that the applicant's claim as Financial Creditor was admitted by IRP and applicant was included in Committee of Creditors (hereinafter referred to as "**COC**"). The applicant was also assigned voting rights in proportion to debts owed by the Corporate Debtor to the Applicant-Financial Creditor. Subsequently, during the course of verification, it was noted by RP that it was a case of assignment of debt by the original Financial Creditor who was a related party of the Corporate Debtor at the time of granting of loan. The RP required the applicant to furnish details of assignment deed. It was noted that original Financial Creditor had assigned the debt of worth Rs. 210 crores approximately to the Applicant- Financial Creditor at Rs. 10 crores approximately vide deed of assignment dated

01.03.2019. It was further noted that in the petition filed under Section 9 of IBC, 2016 against the Corporate Debtor in CP (IB) No. 563/9/NCLT/AHM/2018, the Corporate Debtor had appeared for the first time on 24.02.2019. Thus, on the basis of sequence of events, RP formed a view that there was no opportunity for the assignee to do basic due diligence. RP further formed the view that value and propose of the assignment appeared to be malafide, hence, RP decided to exclude the applicant from COC. In doing so, the RP also took legal opinion.

3. Learned Senior Counsel appeared on behalf of applicant and submitted that original Financial Creditor (assignor) and applicant (assignee) have never been a related party and assignee is into the business of purchase of assets/loans and the said transaction was entered into ordinary course of business at arm's length price, hence, to treat it as a device with malafide intent to hijack the Corporate Insolvency Resolution Process (hereinafter referred to as "**CIRP**") was not at all justified and tenable in law. Learned Senior Counsel further emphasized on the fact that the deed of assignment had been executed on 01.03.2019 i.e., much

before the Corporate Debtor was admitted into CIRP vide order of this Adjudicating Authority dated 09.12.2020. Hence, on the date of assignment of debt, it could not be said that Corporate Debtor was already undergoing of CIRP and, therefore, a deed of assignment was a device adopted by original Financial Creditor (assignor) to control CIRP indirectly. Learned Senior Counsel, thereafter, placed strong reliance on the order of the Hon'ble Supreme Court in the case of Phoenix Arc Private Limited vs. Spade Financial Services Limited and Ors in Civil Appeal Nos. 2842 and 3063 of 2020 dated 01.02.2021 reported in MANU/SC/0045/2021 and drew our attention to para 91 to 96 to contend that in the present case the debt had been legitimately taken over and, therefore, applicant was eligible to be re-included in COC with voting rights.

4. Learned Counsel appearing on behalf of RP, after narrating the basic facts, submitted that the assignment of debt had been done after filing of application under Section 9 of IBC, 2016 by an Operational Creditor and, therefore, original Financial Creditor (assignor) being a related party adopted this mechanism to control the CIRP of the Corporate Debtor.

It was claimed that the action of RP was based upon the legal opinion as well as on the decision of Hon'ble NCLAT in the case of Pankaj Yadav and Ors vs. State Bank of India in Company Appeal (AT) (Insolvency) No. 28 of 2018 dated 07.08.2018. It was also claimed that the debt worth of Rs. 210 crores approximately arrived at Rs. 10 crores only, hence, it could not be said to be at arm's length price.

5. We have considered the submissions made by both the sides and material on record. It noted that the applicant was originally included in COC with voting rights. The applicant also attended first two COC meeting held in the course of CIRP of the Corporate Debtor. It is also noted that the applicant also requested RP to not to exclude the applicant from COC till legal opinion sought by the applicant is obtained and provided to RP/COC as legal opinion taken by RP was not acceptable. In spite of that, the RP has excluded the applicant from COC vide a letter dated 13.02.2021. The first question which arises for our consideration is whether a person even though it may be a related party can be excluded from COC altogether or may be allowed to participate in COC meetings without having any voting

rights. The proviso to Section 21(2) of IBC, 2016 clearly states that a related party of the Corporate Debtor shall not have any right of representation, participation or voting in a meeting of the COC which by itself is sufficient to indicate that such creditor will be entitled to attend the meetings of the COC. This position is also clear from Clause-6 of declaration in Form-C which specifically points so. Thus, such action of excluding the applicant altogether from COC and not inviting him to COC meetings, even, if it is assumed that such parties to be considered as related party, is against the provisions of law.

6. Next question which arise for our consideration is what is the effect of assignment of a debt for initiation of insolvency proceedings under IBC, 2016 and thereafter. The assignment of debt per se is neither barred nor it vitiates proceedings under IBC as such. Section 5(7) of IBC, 2016 defines the Financial Creditor which includes a person to whom a debt has been legally assigned or transferred to. Further, as per Rule 4(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, when an application is filed under Section 7 of IBC, 2016 by an

assignee of a financial debt, copy of deed of assignment or transfer agreement needs to be enclosed. Thus, as far as initiation of insolvency proceedings is concerned, this can be done by an assignee also. In case, any other Financial Creditor or Operational Creditor for Corporate Person have initiated proceedings under Section 7, 9 or 10 of IBC, 2016, assignment of debt during CIRP can also take place. As per Regulation 28 of CIRP Regulations, 2016, in the event of assignment of transfer of debt during insolvency resolution process period, assignor as well as assignee will have to provide the terms of such assignment or transfer and identity of assignee or transferee which shall be taken note by the RP who will also notify the same to all participants of COC as well as to the Adjudicating Authority. Further, as per Section 21(5) only limitation which has been prescribed is that, in case of an assignment of operational debt, Financial Creditor, the assignee or transferee shall be considered as an Operational Creditor only to the extent of such assignment or transfer. This provision makes the legislative intent clear that the Operational Creditor by virtue of such assignment or transfer cannot get its status

altered so as to get itself included in COC which is otherwise comprised of Financial Creditors only in normal circumstances. Other limitation for a Financial Creditor, being a related party, is that it shall not be taken into consideration for ascertaining the quorum as per Regulation 22 of CIRP Regulations, 2016 as quorum is to be ascertained based upon the voting rights. Thus, considering this legal position as discussed above, after initiation of insolvency proceedings and admission of a Corporate Debtor into CIRP, assignment of transfer of debt can take place with all the consequence thereof as prescribed under IBC, 2016 or CIRP Regulations, 2016. Accordingly, it can safely concluded that commercial reality of assignment of debts in actual business situations have been considered by legislature and suitable provisions have been made in IBC, 2016 and regulations made there-under.

7. Having discussed the broad legal framework, now, we again come back to the facts of the case. One contention of the RP to exclude the applicant from COC is that deed of assignment had been executed on 01.03.2019 few days after the participation of the Corporate Debtor in proceeding

under Section 9 of IBC, 2016 initiated by the Operational Creditor against the Corporate Debtor. We are unable to understand as to how the participation of the Corporate Debtor in the proceedings related to such Corporate Debtor can be considered as an event which triggered such assignment as the original Financial Creditor (assignor) was not a party to such proceedings. Further, on the date of execution of deed of assignment i.e. 01.03.2019 which is much prior to the date of admission of the Corporate Debtor into CIRP i.e. 09.12.2020, how, it could be assumed that Corporate Debtor would certainly be get admitted into CIRP. RP has not brought any material on record to show that application under Section 9 of IBC, 2016 was collusive one or the Corporate Debtor had admitted the partly debt so that it could be considered in such a way. We have also gone through the order of this Adjudicating Authority in CP (IB) 563/9/NCLT/AHM/2018 filed under Section 9 of IBC, 2016 by an Operational Creditor and it is noted therefrom that a strong plea of pre-existing dispute was made on behalf of the Corporate Debtor and in spite of that the Corporate Debtor was admitted into CIRP on one of the grounds that

undisputed amount exceeded Rs. 1 Lac, being the threshold limit for initiation of CIRP against the Corporate Debtor. Thus, this contention of the RP is devoid of any merits. The RP has taken other view that the transaction is not at arm's length. In this regard, it is noted that assignor and assignee are not a related party and have never been a related party. Further, the assignee is engaged in the business of purchase and taking over of distress assets and loans and, therefore, the valuation of debt considering the factors like nature and security or probability of recovery of amount of debt, these transactions take place in normal course of business. The ARCs generally acquire/purchase such assets at minimum value so that they can make profit. Further, as far as Corporate Debtor is concerned, its liability has remained at the original amount, hence, it does not affect the Corporate Debtor in any manner. Thus, the fact whether assignee deed did not do due diligence or could not do so due to short span of time is immaterial to doubt the intentions. Accordingly, we do not find any merit in this plea of the RP as well.

8. In the legal opinion, reliance has been placed on the decision of Hon'ble NCLAT in the case of Pankaj Yadav (supra). However, that case, in our considered opinion, does not help the cause of the RP at all for the reason that in that case the assignor was Corporate Applicant within the meaning of provisions of Section 5(5) of IBC, 2016 and application had been filed under Section 10 of IBC, 2016 by the Corporate Person itself whereas in the present case, as stated earlier, the Operational Creditor and Corporate Debtor have not acted in collusive manner. Further, in the case of Pankaj Yadav (supra), the assignment had been made to non-institutional financial entity i.e. one individual by the assignor, being a related party of the Corporate Debtor and in that situation it was found by both Adjudicating Authority as well as Hon'ble NCLAT that such exercise had been done to derail the CIRP and for the benefit of the assignor who was a related party. In the present case, assignee is an business entity engaged into this period of activity and application has been filed under Section 9 of IBC,2016, hence, ratio of this decision cannot be applied.

9. We have also gone through the legal opinion obtained by RP, however, in such opinion, for determination of a party as a related party, specific provisions as contained in Section 5(24) have been reproduced but it has not been stated that assignee is a related party in terms thereof. On the contrary, in the legal opinion obtained by the applicant herein which has also been provided to RP, a categorical opinion has been given on this aspect. Even, in the case of Phoenix Arc Private Limited (supra) the Hon'ble Supreme Court in para 59 of MANU/SC/0045/2021 held as under:

59. The term 'related party' has also been defined by Parliament in the Companies Act, 2013 for all corporations. The definition of the expression has also been expanded for listed entities by the Securities Exchange Board of India by amendment to the Equity Listing Agreement to include elements mentioned under applicable accounting standards. However, in the present case, we are assessing its definition only under the IBC, which is exhaustive. The purpose of defining the term separately under different statutes is not to avoid inconsistency but because the purpose of each of them is different. Hence, while understanding the meaning of 'related party' in the context of the IBC, it is important to keep in mind that it was defined to ensure that those entities which are related to the Corporate Debtor can be identified clearly, since their presence can often negatively affect the insolvency process.

10. Thus, considering the observation of Hon'ble Supreme Court and, in our view, the order of Hon'ble NCLAT in the case Pankaj Yadav (supra) is not more valid in law for considering the aspect of a related party as now it cannot be said that

any disability attached to the assignor would automatically pass on to the assignee.

11. Further, last question which needs to be considered, is whether such deed of assignment can be considered an act with malafide intent to dominate the CIRP by the original Financial Creditor (assignor) indirectly. In this regard, it is noted that as evident that original Financial Creditor (assignor) is into financial crunches and having various issues which are known to the world and various assets have been sold by the assignor, hence, it cannot be said that the sole purpose of such transaction is to control the CIRP of the Corporate Debtor. Even otherwise, as stated earlier, every transaction of assignment may not be termed as malifide as it would create an absurd situation which cannot be the intent of the legislature. In this regard, observations of the Hon'ble Supreme Court in the case of Phoenix Arc (supra) in para 92 to 95 are relevant which read as under:

92 However, if such an interpretation is given to the first proviso of Section 21(2), all financial creditors would stand excluded if they were a 'related party' of the corporate debtor at the time when the financial debt was created. This may arguably lead to absurd conclusions for entities which have legitimately taken over the debt of related parties, or

where the related party entity had stopped being a 'related party' long ago.

93 In this regard, it is relevant to note the observations in the Insolvency Law Committee Report of 2020 clarifying the eligibility of third-party assignees of the debt of a related party creditor, to be members of the CoC. It was observed: "11.09 ... As a third-party assignee, who by itself is not a related party, would not have any such conflict of interest, it should not be disabled from participating in the CoC. Further, the aforesaid disability is not related to the debt itself but is based on the relationship existing between a related party creditor and the corporate debtor. Therefore, as the disability imposed under the first proviso to Section 21(2) pertains to the related party financial creditor and not to the debt it is owed, the Committee agreed that it is clear that when a related party financial creditor assigns her debt to a third party in good faith, such third party should not be disqualified from participating, voting or being represented in a meeting of the CoC. 11.10. However, the Committee discussed that in certain cases, a related party creditor may assign its debts with the intention of circumventing the disability imposed under the first proviso to Section 21(2) by indirectly participating in the CoC through the assignee. As a related party is expressly prohibited from participating in the CoC, it cannot do so indirectly by assigning its debt to a third-party assignee for the purposes of circumventing this restriction. Therefore, in order to prevent any misuse, the Committee recommended that prior to including an assignee of a related party financial creditor within the CoC, the resolution professional should verify that the assignee is not a related party of the corporate debtor. In cases where it may be proved that a related party financial creditor had assigned or transferred its debts to a third party in bad faith or with a fraudulent intent to vitiate the proceedings under the Code, the assignee should be treated akin to a related party financial creditor under the first proviso to Section 21(2)." (emphasis supplied)

94 Thus, it has been clarified that the exclusion under the first proviso to Section 21(2) is related not to the debt itself but to the relationship existing between a related party financial creditor and the corporate debtor. As such, the financial creditor who in praesenti is not a related party, would not be debarred from being a member of the CoC. However, in case where the related party financial creditor divests itself of its shareholding or ceases to become a related party in a business capacity with the sole intention of participating the CoC and sabotage the CIRP, by diluting the vote share of other creditors or otherwise, it would be in keeping with the object and purpose of the first proviso to

Section 21(2), to consider the former related party creditor, as one debarred under the first proviso.

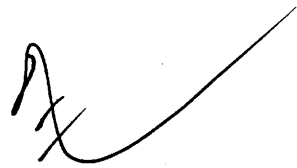
95 Hence, while the default rule under the first proviso to Section 21(2) is that only those financial creditors that are related parties in praesenti would be debarred from the CoC, those related party financial creditors that cease to be related parties in order to circumvent the exclusion under the first proviso to Section 21(2), should also be considered as being covered by the exclusion thereunder. Mr Kaul has argued, correctly in our opinion, that if this interpretation is not given to the first proviso of Section 21(2), then a related party financial creditor can devise a mechanism to remove its label of a 'related party' before the Corporate Debtor undergoes CIRP, so as to be able to enter the CoC and influence its decision making at the cost of other financial creditors.

12. On the basis of above observations of Hon'ble Supreme Court which have taken into consideration, the report of Insolvency Law Committee of 2020, in our opinion, such transaction cannot be considered as undertaken in bad faith or with fraudulent intent to vitiate the proceedings under the Code. Further, except making hypothetical observations, RP has also failed to bring any material on record to support this aspect.

13. We have also gone through the pleadings and documents produced before us. We have also taken note of submissions made before us during the course of hearing. Accordingly, we find that the IRP/RP has not commented upon the legal opinion provided by the applicant to him nor any minutes of

meetings to show that such report was deliberated by COC. Subsequently, this fact also goes to show that IRP/RP was determined to exclude the applicant from COC as in normal circumstances where two different legal opinions come, it is expected from RP to take third legal opinion. We also consider it pertinent to observe that after the decision of Hon'ble Supreme Court in the case of Phoenix Arc (Supra), RP/COC should have reviewed the situation once again so that CIRP could be completed in time and for the benefit of all stakeholders. Accordingly, we quash the decision of RP whereby RP has excluded the applicant from COC and direct RP to include the applicant in COC with voting rights to be computed in proportion to financial debt owed by the Corporate Debtor as per the provisions of law and re-constitute COC accordingly. Interim order shall stand vacated after reconstitution of COC as determined by us.


14. In the result, application stands allowed and disposed of in terms indicated above.



15. Urgent certified copy of this order, if applied for, be issued to all concerned parties upon compliance with all requisite formalities.



**VIRENDRA KUMAR GUPTA
MEMBER (TECHNICAL)**



**MADAN B. GOSAVI
MEMBER (JUDICIAL)**

Signed on this, the 31th day of August, 2021.

Rajeev Sen/Stenographer

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 154

C.P.(CAA)/13(AHM)2021 in CA(CAA) 79 of 2020

Order under Section 230-232

IN THE MATTER OF:

RajeshriAvas Developers Pvt Ltd
Bhanushri Realities Pvt Ltd
Iaziz Ceramics Pvt Ltd
Maruti Probuild Pvt Ltd
Meer Infrastructure Pvt Ltd
Rachna Organizers Pvt Ltd
Kailashpati Property Holders Pvt Ltd

.....Applicant

Order delivered on ..31/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant :
For the IRP/RP :
For the Respondent :

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open court vide separate sheet.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

-SD-
(MADAN B GOSAVI)
MEMBER (JUDICIAL)

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD
COURT-1**

*(A Company Petition under section 230-232 of the Companies Act,
2013 for the scheme of merger and amalgamation)*

**CP (CAA.) NO. 13 OF 2021 IN
CA (CAA.) NO. 79 OF 2020**

In the matter of:

M/s RajeshriAvas Developers Pvt.

Ltd. CIN U65910GJ1995PTC027230,

having its registered office at A-9

Anupam Colony LBS Road,

Bapunagar, Ahmedabad 382350,

Gujarat

...Petitioner Transferor Company 1

M/s Bhanushri Realities Pvt. Ltd.

CIN: U70109GJ2009PTC057193,

having its registered office at A-9,

Anupam Colony, Opp. Chirag

Diamond, LBS Road, Bapunagar

Ahmedabad 380024, Gujarat

...Petitioner Transferor Company 2

M/s Laziz Ceramics Private Limited

CIN: U26933GJ2010PTC063337,
having its registered office at A/9
Anupam Colony, Opp. Chirag
Diamond LBS Road, Bapunagar,
Ahmedabad 380024, Gujarat

...Petitioner Transferor Company 3

M/s Maruti Probuild Pvt. Ltd.

CIN: U45201GJ2008PTC054279,
having its registered office at A-9,
Anupam Colony, Opp. Chirag
Diamond, L.B.S. Road, Bapunagar,
Ahmedabad 380024, Gujarat

...Petitioner Transferor Company 4

M/s Meer Infrastructure Pvt. Ltd.

CIN: U45200GJ2010PTC062260,
having its registered office at A-9,
Anupam Colony, Opp. Chirag
Diamond, L.B.S. Road, Bapunagar,
Ahmedabad 380024, Gujarat

...Petitioner Transferor Company 5

M/s Rachana Organisers Pvt. Ltd.

CIN: U45201GJ2008PTC053131,
having its registered office at A-9,
Anupam Colony, Opp. Chirag
Diamond, L.B.S. Road, Bapunagar,
Ahmedabad 380024, Gujarat

...Petitioner Transferor Company 6

**M/s Kailashpati Property Holders
Pvt. Ltd.**

CIN: U45200GJ2005PTC047133
having its registered office at A/9,
Anupam Colony, Opp. Chirag
Diamond, Lal BhadurShastri Road,
Bapunagar, Ahmedabad 380024,
Gujarat

...Petitioner Transferee Company

Delivered on: 31.08.2021

**Coram: Madan B. Gosavi (Member Judicial)
Virendra Kumar Gupta (Member Technical)**

Appearance:

Petitioner :Ld. Advocate, Ms. Dharmishta N. Raval a.w. Ld.
Advocate Mr. Yuvraj G. Thakore appeared for the
Petitioner Companies.

ORDER

[PER BENCH]

1. This joint petition has been filed by seven petitioner companies under sections 230-232 of the Companies Act, 2013 (hereinafter referred to as 'the Act') read with Companies (Compromise, Arrangement and Amalgamations) Rules, 2016 (hereinafter referred to as 'the rules') seeking sanction of the

proposed Composite Scheme of Arrangement Between M/s Rajeshri Avas Developers Private Limited ('RADPL' or 'Petitioner Transferor Company 1'), M/s Bhanushri Realities Private Limited ('BRPL' or 'Petitioner Transferor Company 2'), M/s Laziz Ceramics Private Limited ('LCPL' or 'Petitioner Transferor Company 3'), M/s Maruti Probuild Private Limited ('MPPL' or 'Petitioner Transferor Company 4'), M/s Meer Infrastructure Private Limited ('MIPL' or 'Petitioner Transferor Company 5'), M/s Rachana Organisers Private Limited ('ROPL' or 'Petitioner Transferor Company 6') with M/s Kailashpati Property Holders Private Limited ('KPHPL' or 'Petitioner Transferee Company') and their respective Shareholders and Creditors, the scheme shall be effective from the date of appointment as mentioned in the scheme.

2. Upon coming into effect of the proposed Scheme, the entire business of the Transferor Companies together with all its rights and obligations as per the Scheme shall without any further act or deed be transferred to and vested in the Transferee Company under Sections 230-232 of the Companies Act, 2013 and the Rules made thereunder.

3. The Board of Directors of the Petitioner Companies resolved in their respective meetings, subject to such approvals of the equity shareholders, creditors and subject to such directions and sanctions by this Tribunal or any other competent authority as may be required under law and subject to such permission of the Central Government and other authorities that may be necessary, the amalgamation is implemented on the broad basis referred to in the Scheme.
4. The Petitioner Companies had filed a joint application being CA (CAA) No. 79 of 2020 before this Tribunal, sought directions for dispensation for holding and conducting the meetings of the Equity Shareholders, Secured Creditors and Unsecured Creditors of all the Petitioner Companies.
5. This Tribunal allowed the Company Application vide order dated 5th February 2021 inter alia, granted dispensation from holding of the meetings of Equity Shareholders, Secured Creditors and Unsecured Creditors of all the Petitioner Companies.
6. The Tribunal in its order dated 5th February 2021 had directed the Petitioner Companies to issue notices in Form No. CAA.3

to (i) the Central Government through the Regional Director, North Western Region; (ii) the Registrar of Companies, Gujarat; (iii) the Income-tax authorities and (iv) the Official Liquidator asking them to make representations, if any, within 30 days from the date of receipt of such notice, and in case no representation is received by this Tribunal within the stipulated period of 30 days, it would be presumed that the authorities have no representation to make.

7. In compliance with the order dated 5th February 2021 of this Tribunal, the Petitioner Companies sent the notice of hearing to the Central Government through the Regional Director, North-western Region, the Registrar of Companies, Gujarat, the concerned Income-tax Department concerned and Official Liquidator. The Petitioner Companies have filed an affidavit confirming the proof of service of notice on the aforesaid authorities.

8. Thereafter, the Petitioner Companies have filed the joint Petition bearing CP(CAA) No. 13 of 2021, before this Tribunal seeking sanction of the Scheme. This Tribunal by an order dated 30.03.2021, admitted the petition and directed to the Petitioner Companies to send the notice of date of hearing to (i)

Regional Director, Northern Western Region, (ii) Registrar of Companies, Gujarat (iii) Official Liquidator (iv) Concerned Income Tax Department and further directed that notice of hearing should be advertised in English newspaper "**Free Press Gujarati**" Ahmedabad Edition and Gujarati translation thereof in "**Lokmitra**" Ahmedabad Edition not less than 10 days before the date fixed for hearing, calling for their objections, if any, on or before the date of hearing.

9. In compliance with the order dated 30th March 2021, passed by this Tribunal, the Petitioner Companies sent the notice of date of hearing to the aforesaid authorities on 14.04.2021 and publication were also been made in the newspapers as directed by this Tribunal on 30.03.2021. The Petitioner Companies have also filed an affidavit of service a.w. a publication report on 12.04.2021 before this tribunal.
10. The Petitioner Companies have annexed the Valutation Report at Annexure-G of this petition.
11. In response to the notice of the petition, The Regional Director, (NWR), (hereinafter referred to as "**RD**") filed its observations on 10.03.2021 and made the following observations:

- i. The first observation of the RD concerning the enhancement of share capital of the transferee company on the scheme comes into effect, the authorized share capital of the Transferee Company will be enhanced Rs. 1,15,00,000/-. Hence, the RD prayed from this Tribunal to direct the Petitioner Transferee Company to pay the difference amount of fees and stamp duty on the enhanced Authorized Share Capital, if any in compliance with Section 232(3)(i) of the Companies Act, 2013.
- ii. The second observation of the RD, that there is no proper method in the Scheme for accounting treatment relating to compliance of AS-14 and all the entries in the Books of the Transferee Company shall be made according to the Pooling of interest method and under the Accounting Standard 14 issued by the Institute of Chartered Accountant of India and other normally accepted accounting principles. Hence, the RD prayed from this Tribunal to direct the Petitioner Company to comply and undertake with compliance of the AS 14 and to place on record all the relevant facts of the matter.

- iii. The third observation of the RD, that there are no Secured Creditors in Applicant Transferor Company as per para 9 of an order dated 05.02.2021 passed by this Tribunal, however, as per secured charge index/register available on the MCA21 portal, the Applicant Transferor Company No. 1 RajeshriAvas Developers Pvt. Ltd. having 1 Secured Charge dated 10.05.2019 amounting to Rs. 38,85,00,000/- in favour of State Bank of India, Regional Business Office, I, Gandhinagar as of date. Hence, the RD prayed from this Tribunal to direct the Petitioner of the Transferor Company no.1 to place on record all the relevant facts of the matter.
- iv. The RD further referred to the observations made by the ROC in its report dated 08.03.2021, that as per clause 8.2 of the scheme provides to change of Main Objects Clause of the Transferee Company. Hence, the ROC prayed from this Tribunal to direct the Petitioner Transferee Company to comply with section 13 of the Act and file the MGT-14 e -form as to require for alteration of Main Objects of the Transferee Company a.w. with requisite fees. The observations already made by RD are not required to be mentioned.

12. In response to the notice, the Official Liquidator filed its observations on 20.04.2021, wherein, the OL made the same observations that are already made by RD and ROC in its report. Hence, observations already made by RD and ROC are not required to be mentioned. However, the OL prayed from this Tribunal to direct the Petitioner Transferor Companies to preserve its books of accounts, papers and records and shall not be disposed of without prior permission of the Central Government as per the provisions of section 239 of the Companies Act, 2013. The OL further prayed from this Tribunal may direct the Petitioner Transferee Company to comply with all the applicable provisions of law and shall not to absolve from any of their pending statutory liabilities.

13. In response to the representation made by the Regional Director, the Petitioner Companies have filed an affidavit giving their response to all the observations of the Regional Director.

i. In response to the first observations of the RD, Petitioner Transferee Company undertakes to pay such difference of the number of fees as due and payable on account of

enhanced Authorised Capital and undertakes to comply with the provisions of Section 232(3)(i) of the Companies Act, 2013.

- ii. In response to the second observation of the RD, the Petitioner Transferee Company undertakes that all the entries in the books of the Transferee Company shall be made according to the pooling of interest method and in accordance with the Accounting Standard - 14 issued by the ICAI. The Petitioner Companies have also placed on record the Certificate by the Statutory Auditors of the Petitioner Companies issued under Section 133 of the Companies Act. Annexed herewith and marked as **Annexure - R1** is the copy of the Certificate by the Statutory Auditors of the Petitioner Companies issued under Section 133 of the Companies Act.
- iii. In response to the third observation of the RD, it is stated that there is one charge registered on the MCA Portal. It is submitted that the said charge is in respect of the third-party guarantee given by the Petitioner Transferor Company No. 1. However, to date, the said guarantee has not been

availed or encashed. It is submitted that as per the Generally Accepted Accounting Principles, it would not qualify as a 'secured creditor' since it has issued only a guarantee and there is no financial line of credit that can be used by the Petitioner Transferor Company No. 1 to borrow actual funds. Annexed herewith and marked as **Annexure R2** is the copy of the Master Data available on the website of the Ministry of Corporate Affairs.

iv. In response to the observations made by the Registrar of Companies in its Report, The Petitioner Transferee Company undertakes as under:

- The Petitioner Transferee Company further undertakes that as mentioned in Clause 8.2 of the Scheme the consent by the Shareholders of Petitioner Transferee Company to the Scheme shall be deemed to be sufficient and the Petitioner Transferee Company will not be required to take separate consent of the Equity Shareholders and no separate resolutions will be required to be passed as per Section 13 of the Companies Act, 2013. However, the Petitioner

Transferee Company undertakes to file necessary prescribed forms and make the payment of requisite/additional fees, if payable. It is further submitted that under the accepted principles of Single window clearance, the Petitioner Companies are not required to carry out the separate procedure as submitted by the RD under the provisions of Section 13 and 14 of the Companies Act, 2013.

14. In light of the above, this Tribunal is of the view that the observation made by the Regional Director, ROC and Official Liquidator stands satisfied.
15. No representation is received from the Income Tax Department.
16. The Petitioner Companies submitted that the accounting treatment specified in the Scheme conforms with the accounting standards prescribed under Section 133 of the Companies Act, 2013.
17. The petitioner companies submitted that no investigation has been instituted or is pending concerning the Petitioner

Companies under Chapter XIV of the Act or under the corresponding provisions under Section 210 to 226 Companies Act, 2013 as well as Section 235 to 251 of the Companies Act, 1956. Further, no proceedings are pending under the Companies Act, 2013 or under the corresponding provisions of the Companies Act, 1956 against the Petitioner Companies.

18. It is further submitted that as per the knowledge of the Petitioner Companies no winding-up proceedings have been filed or are pending against the Petitioner Companies under the Companies Act, 2013 or the corresponding provisions of the Companies Act, 1956.

19. It was submitted by the Petitioner that the provisions of the Competition Act, 2002 are not applicable in the present case. It was further submitted that none of the Petitioner Companies is registered with RBI as an NBFC and there are no foreign shareholders in the Transferor Companies, hence, notice to RBI is also not required.

20. It has been stated by the Ld. Advocate for the Petitioner Companies that the Scheme is not against the public interest. It will not adversely impact any creditors, whether secured or unsecured of the petitioner companies.
21. Heard the Ld. Counsel for the Petitioner Companies and gone through the entire records and facts and circumstances of the case. It appears that the requirements of the provisions of Sections 230 to 232 of the Companies Act, 2013 are satisfied. The Scheme appears to be genuine and bona fide and in the interest of the shareholders and creditors. Hence, the present Petition is allowed with the following directions;

ORDER

- I. The Scheme of Amalgamation, which is annexed herewith as **ANNEXURE - A**, is hereby sanctioned and it is declared that the same shall be binding on the Petitioner Companies i.e., M/s Rajeshri Avas Developers Private Limited, M/s Bhanushri Realities Private Limited, M/s Laziz Ceramics Private Limited, M/s MarutiProbuild Private Limited, M/s Meer Infrastructure Private Limited, M/s Rachana Organisers Private Limited and M/s Kailashpati Property Holders Private Limited, their Equity

Shareholders, Secured Creditors and Unsecured Creditors and all concerned under the Scheme.

- II. It is declared that the Petitioner Transferor Companies M/s Rajeshri Avas Developers Private Limited, M/s Bhanushri Realities Private Limited, M/s Laziz Ceramics Private Limited, M/s Maruti Probuild Private Limited, M/s Meer Infrastructure Private Limited and M/s RachanaOrgansiers Private Limited stands dissolved without winding up.
- III. All the property, rights and powers of the Transferor Companies specified in the schedule hereto and all the other property, rights and powers of the TransferorCompanies be transferred without further act or deed to the Transferee Company and accordingly the same shall according to section 232 of the Act, be transferred to and vested in the Transferee Company for all the estate and interest of the TransferorCompany therein but subject nevertheless to all charges now affecting the same [other than (here set out any charges which under the compromise or arrangement are to cease to have an effect)].
- IV. It is also directed to the Transferee Company to comply with the provisions of sections 13 and 14 of the Companies Act,2013 for alteration of the main object of the company, if not complied. It is

further directed to the Transferee Company to file the necessary prescribed form and make the payment of requisite/additional fees, if payable as per the provisions of sections 13 and 14 of companies Act, 2013.

- V. All the liabilities and duties of all the Transferor Companies be transferred without further act or deed to the Transferee Company and accordingly the same shall under section 232 of the Act, be Transferee Company to and become the liabilities and duties of the Transferee Company.
- VI. All proceedings now pending by or against the Transferor Companies be continued by or against the Transferee Company.
- VII. The Transferor Companies shall within thirty days of the date of the receipt of this order cause a certified copy of this order to be delivered to the Registrar of Companies for registration and on such certified copy being so delivered the Transferor Companies shall be dissolved and the Registrar of Companies shall place all documents relating to the Transferor Companies and registered with him on the file kept by him concerning the Transferee Company and the files relating to the said all companies shall be consolidated accordingly.

SCHEDULE

List of Assets forming part of the Transferor Company (i.e. RajeshriAvas Developers Private Limited) to be transferred to the Transferee Company (i.e. Kailashpati Property Holders Private Limited) under the Scheme of Arrangement

Free-hold properties of the Transferor Company

| <u>Sr. No</u> | <u>Survey Number</u> | <u>Area in SQ Mtr</u> | <u>Description</u> |
|----------------------|-----------------------------|------------------------------|---------------------------|
| <u>Nil</u> | | | |
| | | | |

Lease Hold properties of the Transferor Company

| <u>Sr. No</u> | <u>Name of the Owner</u> | <u>Address of Property</u> |
|----------------------|---------------------------------|-----------------------------------|
| <u>Nil</u> | | |
| | | |

Details of Plant and Machinery to be Transferred

| <u>Sr. No</u> | <u>Nature of Property</u> | <u>Description (as of 31 March 2020)</u> |
|----------------------|----------------------------------|---|
| <u>Nil</u> | | |
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Details of Registrations

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| <u>PAN Number</u> | AAACR9139G |
| <u>GST Number</u> | |
| <u>Professional Tax Number</u> | |
| <u>ESIC Number</u> | |
| <u>Details of Other Registration</u> | |

Other Stocks, shares, debentures, any other charges inaction of the Transferor Company

| <u>Sr. No</u> | <u>Particulars</u> | <u>Number of Shares</u> | <u>Face Value / Share</u> | <u>Total Face Value</u> |
|----------------------|---------------------------|--------------------------------|----------------------------------|--------------------------------|
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List of Assets and Liabilities to be transferred from the Transferor Company to the Transferee Company

| <u>Liabilities</u> | <u>Amount</u> |
|---------------------------|----------------------|
| | |

| | |
|---------------------------|----------------------|
| Borrowings | |
| Trade Payables | (11,905) |
| Other current liabilities | 1,20,000 |
| Short term provisions | 17,790 |
| Share Capital | 7,26,200 |
| Reserves | 3,11,75,700 |
| | |
| <u>Assets</u> | <u>Amount</u> |
| Fixed Assets | 1,17,646 |
| Non-Current Investments | |
| Current Investments | |
| Trade Receivables | |
| Cash and Cash equivalents | 2,74,432 |
| Loans and advances | 3,16,35,707 |
| | |

List of Assets forming part of the Transferor Company (i.e. Bhanushri Realities Private Limited) to be transferred to the Transferee Company (i.e. Kailashpati Property Holders Private Limited) under the Scheme of Arrangement

Free-hold properties of the Transferor Company

| <u>Sr. No</u> | <u>Survey Number</u> | <u>Area in SQ Mtr</u> | <u>Description</u> |
|----------------------|-----------------------------|------------------------------|---------------------------|
| <u>Nil</u> | | | |

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Lease Hold properties of the Transferor Company

| <u>Sr. No</u> | <u>Name of the Owner</u> | <u>Address of Property</u> |
|----------------------|---------------------------------|-----------------------------------|
| <u>Nil</u> | | |
| | | |

Details of Plant and Machinery to be Transferred

| <u>Sr. No</u> | <u>Nature of Property</u> | <u>Description (as of 31 March 2020)</u> |
|----------------------|----------------------------------|---|
| <u>Nil</u> | | |
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Details of Registrations

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| <u>PAN Number</u> | AADCB7857J |
| <u>GST Number</u> | |

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| <u>Professional Tax Number</u> | |
| <u>ESIC Number</u> | |
| <u>Details of Other Registration</u> | |

Other Stocks, shares, debentures, any other charges in action of the Transferor Company

| <u>Sr. No</u> | <u>Particulars</u> | <u>Number of Shares</u> | <u>Face Value / Share</u> | <u>Total Face Value</u> |
|----------------------|---------------------------|--------------------------------|----------------------------------|--------------------------------|
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List of Assets and Liabilities to be transferred from the Transferor Company to the Transferee Company

| <u>Liabilities</u> | <u>Amount</u> |
|---------------------------|----------------------|
| Borrowings | 105,000 |
| Trade Payables | 28,004 |
| Other current liabilities | 61,51,000 |
| Short term provisions | 18,033 |
| Share Capital | 3,00,000 |
| Reserves | 23,66,017 |
| | |
| <u>Assets</u> | <u>Amount</u> |
| Fixed Assets | 48,749 |
| Non-Current Investments | |

| | |
|---------------------------|-----------|
| Current Investments | |
| Trade Receivables | |
| Cash and Cash equivalents | 531,467 |
| Loans and advances | 83,87,838 |
| | |

List of Assets forming part of the Transferor Company (i.e. Laziz Ceramics Private Limited) to be transferred to the Transferee Company (i.e. Kailashpati Property Holders Private Limited) under the Scheme of Arrangement

Free-hold properties of the Transferor Company

| <u>Sr. No</u> | <u>Survey Number</u> | <u>Area in SQ Mtr</u> | <u>Description</u> |
|----------------------|-----------------------------|------------------------------|---------------------------|
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Lease Hold properties of the Transferor Company

| <u>Sr. No</u> | <u>Name of the Owner</u> | <u>Address of Property</u> |
|----------------------|---------------------------------|-----------------------------------|
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| | | |

Details of Plant and Machinery to be Transferred

| <u>Sr. No</u> | <u>Nature of Property</u> | <u>Description (as of</u> |
|----------------------|----------------------------------|----------------------------------|
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| | | 31 March 2020) |
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Details of Registrations

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| <u>PAN Number</u> | AABCL9389B |
| <u>GST Number</u> | |
| <u>Professional Tax Number</u> | |
| <u>ESIC Number</u> | |
| <u>Details of Other Registration</u> | |

Other Stocks, shares, debentures, any other charges inaction of the Transferor Company

| <u>Sr. No</u> | <u>Particulars</u> | <u>Number of Shares</u> | <u>Face Value / Share</u> | <u>Total Face Value</u> |
|----------------------|---------------------------|--------------------------------|----------------------------------|--------------------------------|
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List of Assets and Liabilities to be transferred from the Transferor Company to the Transferee Company

| <u>Liabilities</u> | <u>Amount</u> |
|---------------------------|----------------------|
| Borrowings | |
| Trade Payables | 7,800 |
| Other current liabilities | |
| Short term provisions | 4,412 |
| Share Capital | 1,00,000 |
| Reserves | 5,33,956 |
| | |
| <u>Assets</u> | <u>Amount</u> |
| Fixed Assets | |
| Non-Current Investments | 15,000 |
| Current Investments | |
| Trade Receivables | |
| Cash and Cash equivalents | 24,208 |
| Loans and advances | 6,05,386 |
| Other Assets | 1,574 |

List of Assets forming part of the Transferor Company (i.e. MarutiProbuild Private Limited) to be transferred to the Transferee Company (i.e. Kailashpati Property Holders Private Limited) under the Scheme of Arrangement.

Free-hold properties of the Transferor Company

| <u>Sr. No</u> | <u>Survey Number</u> | <u>Area in SQ Mtr</u> | <u>Description</u> |
|----------------------|-----------------------------|------------------------------|---------------------------|
| <u>Nil</u> | | | |
| | | | |

Lease Hold properties of the Transferor Company

| <u>Sr. No</u> | <u>Name of the Owner</u> | <u>Address of Property</u> |
|----------------------|---------------------------------|-----------------------------------|
| <u>Nil</u> | | |
| | | |

Details of Plant and Machinery to be Transferred

| <u>Sr. No</u> | <u>Nature of Property</u> | <u>Description (as of 31 March 2020)</u> |
|----------------------|----------------------------------|---|
| <u>Nil</u> | | |
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Details of Registrations

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| <u>PAN Number</u> | AAF6292E |
| <u>GST Number</u> | |
| <u>Professional Tax Number</u> | |
| <u>ESIC Number</u> | |
| <u>Details of Other Registration</u> | |

Other Stocks, shares, debentures, any other charges inaction of the Transferor Company

| <u>Sr. No</u> | <u>Particulars</u> | <u>Number of Shares</u> | <u>Face Value / Share</u> | <u>Total Face Value</u> |
|----------------------|---------------------------|--------------------------------|----------------------------------|--------------------------------|
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List of Assets and Liabilities to be transferred from the Transferor Company to the Transferee Company

| <u>Liabilities</u> | <u>Amount</u> |
|---------------------------|----------------------|
| Borrowings | |
| Trade Payables | 7,526 |
| Other current liabilities | |
| Short term provisions | 18,440 |
| Share Capital | 4,20,000 |
| Reserves | 52,64,590 |

| <u>Assets</u> | <u>Amount</u> |
|---------------------------|----------------------|
| Fixed Assets | 9,675 |
| Non-Current Investments | |
| Current Investments | |
| Trade Receivables | |
| Cash and Cash equivalents | 1,68,327 |
| Loans and advances | 55,32,554 |
| | |

List of Assets forming part of the Transferor Company (i.e. Meer Infrastructure Private Limited) to be transferred to the Transferee Company (i.e. Kailashpati Property Holders Private Limited) under the Scheme of Arrangement

Free-hold properties of the Transferor Company

| <u>Sr. No</u> | <u>Survey Number</u> | <u>Area in SQ Mtr</u> | <u>Description</u> |
|----------------------|-----------------------------|------------------------------|---------------------------|
| <u>Nil</u> | | | |
| | | | |

Lease Hold properties of the Transferor Company

| <u>Sr. No</u> | <u>Name of the Owner</u> | <u>Address of Property</u> |
|----------------------|---------------------------------|-----------------------------------|
| <u>Nil</u> | | |
| | | |

Details of Plant and Machinery to be Transferred

| <u>Sr. No</u> | <u>Nature of Property</u> | <u>Description (as of 31 March 2020)</u> |
|----------------------|----------------------------------|---|
| <u>Nil</u> | | |
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Details of Registrations

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| <u>PAN Number</u> | AAGCM8686H |
| <u>GST Number</u> | |
| <u>Professional Tax Number</u> | |
| <u>ESIC Number</u> | |
| <u>Details of Other Registration</u> | |

Other Stocks, shares, debentures, any other charges inaction of the Transferor Company

| <u>Sr. No</u> | <u>Particulars</u> | <u>Number of</u> | <u>Face Value</u> | <u>Total Face</u> |
|----------------------|---------------------------|-------------------------|--------------------------|--------------------------|
| | | | | |

| | | <u>Shares</u> | <u>/ Share</u> | <u>Value</u> |
|--|--|---------------|----------------|--------------|
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List of Assets and Liabilities to be transferred from the Transferor Company to the Transferee Company

| <u>Liabilities</u> | <u>Amount</u> |
|---------------------------|---------------|
| Borrowings | 3,21,37,370 |
| Trade Payables | 1,763 |
| Other current liabilities | |
| Short term provisions | 12,074 |
| Share Capital | 1,00,000 |
| Reserves | 72,363 |
| | |
| <u>Assets</u> | <u>Amount</u> |
| Fixed Assets | |
| Non-Current Investments | |
| Current Investments | |
| Trade Receivables | |
| Cash and Cash equivalents | 92,155 |
| Loans and advances | 3,10,00,000 |
| Other Assets | 12,31,414 |

List of Assets forming part of the Transferor Company (i.e. Rachana Organisers Private Limited) to be transferred to the Transferee Company (i.e. Kailashpati Property Holders Private Limited) under the Scheme of Arrangement

Free-hold properties of the Transferor Company

| <u>Sr. No</u> | <u>Survey Number</u> | <u>Area in SQ Mtr</u> | <u>Description</u> |
|---------------|----------------------|-----------------------|--------------------|
| <u>Nil</u> | | | |
| | | | |

Lease Hold properties of the Transferor Company

| <u>Sr. No</u> | <u>Name of the Owner</u> | <u>Address of Property</u> |
|---------------|--------------------------|----------------------------|
| <u>Nil</u> | | |
| | | |

Details of Plant and Machinery to be Transferred

| <u>Sr. No</u> | <u>Nature of Property</u> | <u>Description (as of 31 March 2020)</u> |
|---------------|---------------------------|--|
| <u>Nil</u> | | |
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Details of Registrations

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|---|------------|
| <u>PAN Number</u> | AADCR9047A |
| <u>GST Number</u> | |
| <u>Professional Tax Number</u> | |
| <u>ESIC Number</u> | |
| <u>Details of Other Registration</u> | |

Other Stocks, shares, debentures, any other charges inaction of the Transferor Company

| <u>Sr. No</u> | <u>Particulars</u> | <u>Number of Shares</u> | <u>Face Value / Share</u> | <u>Total Face Value</u> |
|----------------------|---------------------------|--------------------------------|----------------------------------|--------------------------------|
| | | | | |
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List of Assets and Liabilities to be transferred from the Transferor Company to the Transferee Company

| <u>Liabilities</u> | <u>Amount</u> |
|---------------------------|----------------------|
| Borrowings | |
| Trade Payables | (655) |

| | |
|---------------------------|----------------------|
| Other current liabilities | |
| Short term provisions | 9,367 |
| Share Capital | 5,45,000 |
| Reserves | 3,16,11,426 |
| | |
| <u>Assets</u> | <u>Amount</u> |
| Fixed Assets | 9,384 |
| Non-Current Investments | 4,04,118 |
| Current Investments | |
| Trade Receivables | |
| Cash and Cash equivalents | 1,09,596 |
| Loans and advances | 3,16,42,039 |
| | |

VIII. It is further ordered that the Petitioner Companies shall comply with Rule 17(2) of Companies (Compromise, Arrangements, and Amalgamations) Rules, 2016 for the filing of the order, for confirmation of the Scheme in Form INC-28 with the Registrar of Companies.

IX. The legal fees and expenses of the office of the Regional Director are quantified to the tune of **Rs. 10,000/-** in respect of the Scheme for both the Petitioner Companies.

- X. The legal fees and expenses of the office of the Official Liquidator are quantified to the tune of **Rs. 10,000/-** in respect of the Scheme for the Petitioner Transferor Companies.
- XI. The aforementioned legal fees and expenses to the Regional Director and Official Liquidator shall be paid by the Petitioner Transferee Company.
- XII. All concerned authorities to act on a copy of this order along with the Composite Scheme of Merger and Amalgamation duly authenticated by the Registrar of this Tribunal. The Registrar of this Tribunal shall issue an authenticated copy of this Order along with the Composite Scheme of Arrangement immediately.
- XIII. The Transferor Companies is directed to lodge a copy of this Order and the approved Scheme attached herewith as **Annexure "A,"** duly authenticated by the Registrar of this Tribunal, with the concerned superintendent of Stamps, for adjudication of stamp duty, if any, within 60 days from the date of the Order.
- XIV. The Transferor Companies is directed to file a copy of this Order along with a copy of the Scheme of Amalgamation duly authenticated by the Registrar of this Tribunal, with the

Registrar of Companies, Ahmedabad electronically, along with Form INC-28 in addition to physical copy as per relevant provisions of the Act.

- XV. Any person interested shall be at liberty to apply to this Tribunal in the above matter for any direction(s) that may be necessary.
- XVI. With the above directions the present petition bearing no. CP(CAA) No. 13 of 2021 in CA(CAA) No. 79 of 2020 is disposed of. No order as to costs.



(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)



(MADAN B. GOSAVI)
MEMBER (JUDICIAL)

Abhishek

COMPOSITE SCHEME OF ARRANGEMENT
BETWEEN
RAJESHRI AVAS DEVELOPERS PRIVATE LIMITED
AND
BHANUSHRI REALITIES PRIVATE LIMITED
AND
LAZIZ CERAMICS PRIVATE LIMITED
AND
MARUTI PROBULD PRIVATE LIMITED
AND
MEER INFRASTRUCTURE PRIVATE LIMITED
AND
RACHANA ORGANSIERS PRIVATE LIMITED
AND
KAILASHPATI PROPERTY HOLDERS PRIVATE LIMITED
AND
THEIR RESPECTIVE SHAREHOLDERS AND CREDITORS
UNDER SECTIONS 230-232 AND OTHER APPLICABLE PROVISIONS
OF THE COMPANIES ACT, 2013

PREAMBLE

This Composite Scheme of Arrangement provides for:
Amalgamation of Rajeshri Avas Developers Private Limited, Bhanushri Realities Private Limited, Laziz Ceramics Private Limited, Maruti Probuld Private Limited, Rachana Organsiers Private Limited and Meer Infrastructure Private Limited with Kailashpati Property Holders Private Limited with effect from the Appointed Date, pursuant to the provisions of Sections 230 to 232 and other relevant provisions of the Companies Act, 2013 on the agreed terms and conditions as set out herein.

(A) DESCRIPTION OF COMPANIES:

a. Rajeshri Avas Developers Private Limited:-

Rajeshri Avas Developers Private Limited (hereinafter referred to as 'RADPL') is a private limited company having CIN: U65910GJ1995PTC027230, incorporated on 28th August, 1995 under the provisions of Companies Act, 1956 with the Registrar of Companies, Gujarat. It is registered to carry on business as consultant, advisor, supervisor, contractor, sub contractor of all types of



construction and development work. The registered office of RADPL is situated at A-9 Anupam Colony Lalbahadurshastri Stadium Road Bapunagar Ahmedabad 382350, in the state of Gujarat.

b. Bhanushri Realities Private Limited:-

Bhanushri Realities Private Limited (hereinafter referred to as 'BRPL') is a private limited company having CIN: U70109GJ2009PTC057193, incorporated on 9th June, 2009 under the provisions of Companies Act, 1956 with the Registrar of Companies, Gujarat. It is registered to carry on business to promote, organizers, developers, and agents of lands, estate, property and to purchase and sell of such properties. The registered office of BRPL is situated at A-9, Anupam Colony, Opp. Chirag Diamond, LBS Road, Bapunagar Ahmedabad 380024, in the state of Gujarat.

c. Laziz Ceramics Private Limited:-

Laziz Ceramics Private Limited (hereinafter referred to as 'LCPL') is a private limited company having CIN: U26933GJ2010PTC063337, incorporated on 22th December, 2010 under the provisions of Companies Act, 1956 with the Registrar of Companies, Gujarat. It is registered to produce, manufacture, refine, treat, cure, process, prepare, import, export, purchase, sell and deal in all kinds of ceramic products. The registered office of LCPL is situated at A/9 Anupam Colony, Opp. Chirag Diamond LBS Road, Bapunagar, Ahmedabad 380024, in the state of Gujarat.

d. Maruti Probuild Private Limited:-

Maruti Probuild Private Limited (hereinafter referred to as 'MPPL') is a private limited company having CIN: U45201GJ2008PTC054279, incorporated on 23th June, 2008 under the provisions of Companies Act, 1956 with the Registrar of Companies, Gujarat. It is registered to carry on business to promote, organizers, developers, and agents of lands, estate, property and to purchase and sell of such properties. The registered office of MPPL is situated at A-9, Anupam Colony, Opp. Chirag Diamond, L.B.S. Road, Bapunagar, Ahmedabad 380024, in the state of Gujarat.



e. Rachana Organisers Private Limited:-

Rachana Organisers Private Limited (hereinafter referred to as 'ROPL') is a private limited company having CIN: U45201GJ2008PTC053131, incorporated on 04th March, 2008 under the provisions of Companies Act, 1956 with the Registrar of Companies, Gujarat. It is registered to carry on business to plan, design, build, construct, own, operate, maintain and sell industrial/technology parks/estates either alone or jointly. The registered office of ROPL is situated A-9, Anupam Colony, Opp. Chirag Diamond, L.B.S. Road, Bapunagar, Ahmedabad 380024, in the state of Gujarat.

f. Meer Infrastructure Private Limited:-

Meer Infrastructure Private Limited (hereinafter referred to as 'MIPL') is a private limited company having CIN: U45200GJ2010PTC062260, incorporated on 9th September, 2010 under the provisions of Companies Act, 1956 with the Registrar of Companies, Gujarat. It is registered to carry on business to promote, organizers, developers, and agents of lands, estate, property and to purchase and sell of such properties. The registered office of MIPL is situated at A-9, Anupam Colony, Opp. Chirag Diamond, L.B.S. Road, Bapunagar, Ahmedabad 380024, in the state of Gujarat.

g. Kailashpati Property Holders Private Limited:-

Kailashpati Property Holders Private Limited (hereinafter referred to as 'KPHPL' or 'the Transferee Company') is a private limited company having CIN: U45200GJ2005PTC047133 and incorporated on 24th November, 2005 under the provisions of Companies Act, 1956 with the Registrar of Companies, Gujarat. It is registered to carry on business to purchase, develop, hold, sale real estates, land, properties and act to as real estate, developer, organizer builder, contractor, designer, architect, decorator of contractor and to purchase, sell, hold or deal in all types of immovable properties. The registered office of KPHPL is situated at A/9, Anupam Colony, Opp. Chirag Diamond, Lal Bhadur Shastri Road, Bapunagar, Ahmedabad 380024, in the state of Gujarat.

(B) RATIONALE FOR AMALGAMATION:

The Board of Directors of each of the said companies have considered and proposed the present Composite Scheme of Arrangement between RADPL, BRPL, LCPL, MPPL, ROPL, MIPL and KPHPL under the



provisions of Sections 230 to 232 and other relevant provisions of the Companies Act, 2013.

The proposed Composite Scheme of Arrangement would *interalia* result into the following benefits to the Companies and all other stakeholders including the shareholders, creditors and employees and will be in the long-term interest of the Companies, employees and other stakeholders:

- Consolidation of businesses and operations;
- Optimum utilisation of various resources;
- Strengthening of financial position with wider capital base and increased leverage capacity of the merged / combined entity;
- Streamlining the current organization structure, achieving administrative and operational convenience;
- Synergies arising out of consolidation of business, such as enhancement of net-worth of the combined entities / businesses which shall lead to better ability to leverage the business including reduction in cost of capital;
- Greater administrative efficiency and enhanced productivity; and
- Reduction in multiplicity of legal and regulatory compliances.

The Composite Scheme does not adversely affect the stakeholders and creditors of any of the companies.

(C) PARTS OF THE SCHEME

The Scheme is divided into the following parts:

- PART I** Definitions, Share Capital & Date of taking Effect;
- PART II** Amalgamation of RADPL, BRPL, LCPL, MPPL, ROPL, MIPL with KPHPL; and
- PART III** Common Clauses and General terms and conditions.

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(D) OPERATION OF SCHEME

- (a) The Transferee Company shall issue and allot, shares to the shareholders of the Transferor Companies as consideration for the amalgamation. The provisions of Part II of the Scheme have been drawn up to comply and fall within the definition and conditions relating to "Amalgamation" as specified under Section 2(1B), Section 47, Section 72A and other relevant sections of the IT Act. The brought forward losses and depreciation under IT Act of the Transferor Companies, if any, would be carried forward and available to the Transferee Company subject to the relevant provisions of the IT Act. If any terms or provisions of the Scheme are found or interpreted to be inconsistent with the provisions of Section 2(1B) of the IT Act at a later date including resulting from an amendment of law or for any other reason whatsoever, the provisions of Section 2(1B) of the IT Act shall prevail and the Scheme shall stand modified to the extent necessary to comply with Section 2(1B) of the IT Act. Such modifications will, however, not affect the other clauses of the Scheme.
- (b) The Transferor Companies are proposed to be amalgamated with the Transferee Company pursuant to the applicable provisions of the Companies Act, 2013 and/or any other applicable laws to achieve the above-mentioned objectives.

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PART I

DEFINITIONS, SHARE CAPITAL & DATE OF TAKING EFFECT

1. **DEFINITIONS**

In this Scheme, unless inconsistent with the subject or context, the following expressions shall have the meanings mentioned herein below:

1.1 **"Act" or "the Act"** means the Companies Act, 2013 and rules and regulations made there under as may be applicable, including any statutory modification, re-enactments or amendments thereof.

1.2 **"Applicable Law"** means any statute, notification, bye laws, rules, regulations, guidelines, rule of common law, policy, code, directives, ordinance, orders or instructions having the force of law enacted or issued by any Appropriate Authority including any statutory modification or re-enactment thereof for the time being in force.

1.3 **"Appointed Date"** shall mean 1st April, 2020 or such other date as may be approved by the National Company Law Tribunal ('NCLT') or any other appropriate authority.

1.4 **"Appropriate Authority"** means any governmental, statutory, departmental or public body or authority in India including National Company Law Tribunal in India (NCLT) and the High Court of Gujarat at Ahmedabad.

1.5 **"Effective Date"** means the date on which the certified copy of the order of NCLT sanctioning the Scheme is filed with the Registrar of Companies, Gujarat, at Ahmedabad. Any reference in this Scheme to "upon the Scheme becoming effective" "upon the coming into effect of the Scheme" or "effectiveness of the Scheme" or "upon the Scheme coming into effect" shall mean the Effective Date.

1.6 **"Parties" or "Parties to the Scheme"** shall mean collectively the Transferee Company and the Transferor Companies and **"Party"** shall mean each of them, individually.



- 1.7 **"Record Date"** means such date as may be mutually fixed by the Board of Directors or any authorized committee / person thereof of RADPL, BRPL, LCPL, MPPL, ROPL, MIPL and KPHPL to determine the shareholders of RADPL, BRPL, LCPL, MPPL, ROPL, MIPL to whom shares of KPHPL shall be issued and allotted under the Scheme.
- 1.8 **"Scheme" or "the Scheme" or "this Scheme"** means this Scheme of Arrangement in its present form as submitted in accordance with the provisions of Sections 230 to 232 of the Act or with any modification(s), if any, made under clause 20 of the Scheme or with such other modification / amendments as the NCLT or any other Government Authority may direct.
- 1.9 **"Transferee Company" or "KPHPL"** means Kailashpati Property Holders Private Limited.
- 1.10 **"Transferor Companies"** means Rajeshri Avas Developers Private Limited (RADPL), Bhanushri Realities Private Limited (BRPL), Laziz Ceramics Private Limited (LCPL), Maruti Probuild Private Limited (MPPL), Rachana Organsiers Private Limited (ROPL) and Meer Infrastructure Private Limited (MIPL) collectively and **"Transferor Company"** shall mean each of them, individually.
- 1.11 **"The Tribunal" or "NCLT"** means National Company Law Tribunal at Ahmedabad as and when applicable.
- 1.12 **"Undertaking of Transferor Companies"** shall mean the entire business and the whole of the Undertaking of the Transferor Companies, as a going concern, all their assets, rights, licenses and powers, and all their debts, outstandings, liabilities, duties, obligations and employees as on the Appointed Date including, but not in any way limited to the following:
- (a) All the assets and properties of the Transferor Companies including, without limitation, offices, buildings and structures, capital work-in-progress, freehold, leasehold and any other title, interests or right in such immovable assets, furniture, fixtures, office equipment, computers, plant and machineries, equipment, interests, appliances, tools, accessories, installations and all stocks on the Appointed Date;



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- (b) All investments (including shares, scripts, stocks, bonds, debentures, debenture stock, units of mutual funds and other securities), if any, including dividends declared or interest accrued thereon of the Transferor Companies.
- (c) All the debts, liabilities, duties and obligations of the Transferor Companies as on the Appointed Date both present and future, whether provided for or not in the books of accounts or disclosed in the balance sheet, whether secured or unsecured, all guarantees, assurances, commitments and obligations of any kind, nature or description, whether fixed, contingent or absolute, asserted or unasserted, matured or unmatured, liquidated or unliquidated, accrued or not accrued, known or unknown, due or to become due, whenever or however arising pertaining to the Transferor Companies;
- (d) Without prejudice to the generality of sub-clauses (a), (b) and (c) above, the Undertaking of the Transferor Companies shall include:
- (i) all movable and immovable properties, reserves, assets, including lease-hold rights, tenancy rights, industrial and other licenses, registrations, permits, authorisations, trademarks, patents and other industrial and intellectual properties, electrical connections, telephones, telex, facsimile and other communication facilities and equipment, rights and benefits of all agreements, pending applications and all other interests, rights and powers of every kind, nature and description whatsoever, privileges, liberties, easements, advantages, benefits and approvals of the Transferor Companies;
 - (ii) all current assets including inventories, sundry debtors, receivables, cash and bank accounts (including bank balances), fixed deposits, loans and advances, actionable claims, bills of exchanges and debit notes of the Transferor Companies;
 - (iii) all agreements, contracts, arrangements, understandings, engagements, deed0073 and instruments including lease/license agreements, joint development agreements, tenancy rights, equipment purchase agreements, and other agreements with the customers, purchase and other agreements/contracts with the supplier/manufacturer of



goods/service providers and all rights, title, interests, claims and benefits there under of the Transferor Companies;

- (iv) all application monies, advance monies, earnest monies and/or security deposits paid or deemed to have been paid and payments against other entitlements of the Transferor Companies;
- (v) all intellectual property rights (including applications for registrations of the same and the right to use such intellectual property rights), trade and service names and marks, patents, copyrights, and other intellectual property rights of any nature whatsoever, trade secrets, confidential information, domain names, books, records, files, papers, software licences (whether proprietary or otherwise), data, and all other records and documents, whether in physical or electronic form relating to the business activities and operations of the Transferor Companies; and
- (vi) Amounts claimed by the Transferor Companies whether or not so recorded in the books of account of the Transferor Companies from any person including Governmental Authority, under any law, act or rule in force, as refund of any tax, duty, cess or of any excess payment;
- (vii) Right to any claim not preferred or made by the Transferor Companies in respect of any refund of tax, duty, cess or other charge, including any erroneous or excess payment thereof made by the Transferor Companies and any interest thereon, with regard to any law, act or rule or scheme made by the Governmental Authority, and in respect of set-off, carry forward of un-absorbed losses, deferred revenue expenditure, deduction, exemption, rebate, allowance, amortization benefit, etc. under the IT Act, or taxation laws of other countries, or any other or like benefits under the said acts or under and in accordance with any law or act, whether in India or anywhere outside India; and
- (viii) all the employees of the Transferor Companies.

All terms and words not defined in this Scheme shall, unless repugnant or contrary to the context or meaning thereof, have the same meaning ascribed to them under the Act and other applicable laws, rules, regulations, bye-laws, as the case may be or any statutory modifications or re-enactment



thereof from time to time. In this Part, unless the context otherwise requires:

- a. the words denoting the singular shall include the plural and vice versa;
- b. headings and bold typefaces are only for convenience and shall be ignored for the purpose of interpretation;
- c. references to the word "include" or "including" shall be construed without limitation;
- d. a reference to an article, clause, section, paragraph or schedule is, unless indicated to the contrary, a reference to an article, clause, section, paragraph or schedule of this Scheme;
- e. reference to a document includes an amendment or supplement to, or replacement or novation of, that document;

2. DATE OF TAKING EFFECT AND OPERATIVE DATE

The Scheme set out herein in its present form or with any modifications approved or imposed or directed by the NCLT or made as per Clause 20 of the Scheme shall have legal effect and force or be effective from the Appointed Date and shall be operative from the Effective Date.

The Composite Scheme shall be effective upon sanction of the NCLT. However, failure of any one part for lack of necessary approval from the shareholders / creditors / statutory regulatory authorities or for any other reason that the Board of Directors may deem fit than this shall not result in the whole Scheme failing. It shall be open to the concerned Board of Directors to consent to sever such part(s) of the Composite Scheme and implement the rest of the Scheme with such modification.

3. SHARE CAPITAL OF THE COMPANIES

The capital structure of the companies involved are as under:

- 3.1 The authorised, issued, subscribed and paid up share capital of RADPL as on March 31, 2020 is as under:

| Particulars | Amount (in Rs.) |
|--|------------------|
| <u>Authorized Share Capital</u> | |
| 2,00,000 Equity shares of Rs. 10/- each | 20,00,000 |
| <u>Issued, subscribed and paid-up Equity Share Capital</u> | |
| 72,620 Equity shares of Rs. 10/- each | 7,26,200 |



3.2 The authorised, issued, subscribed and paid up share capital of BRPL as on March 31, 2020 is as under:

| Particulars | Amount (in Rs.) |
|--|-------------------------|
| <u>Authorized Share Capital</u> | |
| 1,00,000 Equity shares of Rs. 10/- each | 10,00,000 |
| <u>Issued, subscribed and paid-up Equity Share Capital</u> | |
| 30,000 Equity shares of Rs. 10/- each | 3,00,000. |

3.3 The authorised, issued, subscribed and paid up share capital of LCPL as on March 31, 2020 is as under:

| Particulars | Amount (in Rs.) |
|--|-------------------------|
| <u>Authorized Share Capital</u> | |
| 1,00,000 Equity shares of Rs. 10/- each | 10,00,000 |
| <u>Issued, subscribed and paid-up Equity Share Capital</u> | |
| 10,000 Equity shares of Rs. 10/- each | 1,00,000 |

3.4 The authorised, issued, subscribed and paid up share capital of MPPL as on March 31, 2020 is as under:

| Particulars | Amount (in Rs.) |
|--|------------------------|
| <u>Authorized Share Capital</u> | |
| 50,000 Equity shares of Rs. 10/- each | 5,00,000 |
| <u>Issued, subscribed and paid-up Equity Share Capital</u> | |
| 42,000 Equity shares of Rs. 10/- each | 4,20,000 |

3.5 The authorised, issued, subscribed and paid up share capital of MIPL as on March 31, 2020 is as under:

| Particulars | Amount (in Rs.) |
|--|-------------------------|
| <u>Authorized Share Capital</u> | |
| 1,00,000 Equity shares of Rs. 10/- each | 10,00,000 |
| <u>Issued, subscribed and paid-up Equity Share Capital</u> | |
| 10,000 Equity shares of Rs. 10/- each | 1,00,000 |



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3.6 The authorised, issued, subscribed and paid up share capital of ROPL as on March 31, 2020 is as under:

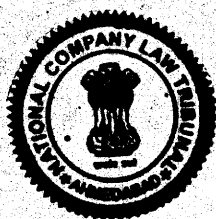
| Particulars | Amount (in Rs.) |
|--|------------------|
| <u>Authorized Share Capital</u> | |
| 1,00,000 Equity shares of Rs. 10/- each | 10,00,000 |
| <u>Issued, subscribed and paid-up Equity Share Capital</u> | |
| 54,500 Equity shares of Rs. 10/- each | 5,45,000 |

3.7 The authorised, issued, subscribed and paid up share capital of KPHPL on March 31, 2020 is as under:

| Particulars | Amount (in Rs.) |
|--|------------------|
| <u>Authorized Share Capital</u> | |
| 5,00,000 Equity shares of Rs. 10/- each | 50,00,000 |
| <u>Issued, subscribed and paid-up Equity Share Capital</u> | |
| 4,85,995 Equity shares of Rs. 10/- each | 48,59,950 |

There are no changes in the Capital Structure of any of the Companies after 31st March, 2020.

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PART II
AMALGAMATION OF RADPL, BRPL, LCPL, MPPL,
ROPL AND MIPL WITH KPHPL

- 4. TRANSFER AND VESTING OF THE UNDERTAKING OF RADPL, BRPL, LCPL, MPPL, ROPL AND MIPL WITH KPHPL**
- 4.1. Upon the Scheme being effective and subject to the provisions of this Scheme in relation to the mode of transfer and vesting, the Undertaking of the Transferor Companies shall, pursuant to provisions of Section 230 to 232 of the Act and all other applicable provisions of the Act and in compliance of Section 2(1B) of the IT Act, without any further act, instrument or deed, be and stand transferred to and vested in, and/or be deemed to have been and stand transferred to and vested in Transferee Company, so as to become, on and from the Appointed Date, the estate, assets, rights, title, interest and authorities of Transferee Company as part of and consequent upon the amalgamation.
- 4.2. Without prejudice to the generality of above, in so far as the immovable properties of the Transferor Companies are concerned, upon the Scheme becoming effective, all the rights of the Transferor Companies in immovable properties shall stand transferred to the Transferee Company automatically without requirement of execution of any further documents for registering the name of the Transferee Company as owner thereof and the regulatory authorities, including Sub-registrar of Assurances, Talati, Tehsildar, Municipality, etc. shall make necessary mutation entries and changes in the land or revenue records to reflect the name of the Transferee Company as owner of the immovable properties.
- 4.3. Upon the Scheme becoming effective, with respect to the assets forming part of the Undertaking of the Transferor Companies that are movable in nature or are otherwise capable of being transferred by manual delivery or by paying over or endorsement and/or delivery, the same shall stand transferred and vest in, without any further act or execution of an instrument with the intent of vesting such assets in Transferee Company as on the Appointed Date. The vesting pursuant to this sub-clause shall be deemed to have occurred by manual delivery or endorsement and delivery, as appropriate to the property



being vested, and the title to such property shall be deemed to have transferred and vested accordingly.

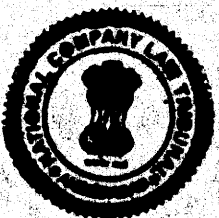
4.4. With respect to the assets of the Undertaking of the Transferor Companies other than those referred to in above, including sundry debtors, receivables, bills, credits, outstanding loans and advances, if any, recoverable in cash or in kind or for value to be received, bank balances, development rights, advances paid to any parties for acquisition of development rights, earnest money and deposits, if any, with government, semi-government, local and other authorities and bodies or with any company or other person, the same shall, without any further act, instrument or deed, with effect from the Appointed Date, be transferred to and vested in and/or be deemed to be transferred to and vested in Transferee Company pursuant to the provisions of Section 230 to 232 of the Act. It is hereby clarified that all the investments made by Transferor Companies and all the rights, title and interests of Transferor Companies in any leasehold properties in relation to the Undertaking of the Transferor Companies shall, pursuant to provisions of Section 230 to 232 of the Act and the provisions of this Scheme, without any further act or deed, be transferred to and vested in or be deemed to have been transferred to and vested in Transferee Company.

4.5. With effect from the Appointed Date, any statutory licenses, permissions or approvals or consents held by the Undertaking of Transferor Companies shall stand transferred to or vested in the Transferee Company without any further act or deed, and shall be appropriately mutated by the statutory authorities concerned therewith in favour of the Transferee Company. The benefit of all statutory and regulatory permissions, environmental approvals and consents, registrations or other licenses and consents shall vest in and become available to the Transferee Company pursuant to the Scheme. In so far as the various incentives, subsidies, rehabilitation Schemes, special status and other benefits or privileges including in respect of the benefits under income tax (including MAT Credit), excise (including modified value added tax, central value added tax), sales tax (including deferment of any tax), service tax, goods and services tax etc, granted by any Government body, local authority or by any other person, enjoyed or availed of by Undertaking of the



Transferor Companies are concerned, the same shall vest with and be available to the Transferee Company on the same terms and conditions.

- 4.6. Upon the coming into effect of this Scheme and with effect from the Appointed Date, all income, expense, debts, liabilities, including, without limitation, all secured and unsecured debts, sundry creditors, contingent liabilities, duties, obligations of the Undertaking of Transferor Companies, of every kind, nature and description whatsoever and howsoever arising, raised, incurred or utilised for its business activities and operations, shall, pursuant to the sanction of this Scheme by the NCLT and under the provisions of Sections 230 to 232 and other applicable provisions, if any, of the Act, without any further act, instrument, deed, matter or thing being made, done or executed, be transferred to and vested in, or be deemed to have been transferred to and vested in, the Transferee Company and shall be assumed by the Transferee Company to the extent they are outstanding as on the Effective Date so as to become, as on and from the Appointed Date, the liabilities, debts, duties and obligations of the Transferee Company on the same terms and conditions as were applicable to the Transferor Companies, and the Transferee Company shall meet, discharge and satisfy the liabilities and it shall not be necessary to obtain the consent of any third party or other person who is a party to any contract or arrangement by virtue of which such liabilities have arisen in order to give effect to the provisions of this clause.
- 4.7. All debts, liabilities, duties and obligations of the Undertaking of Transferor Companies shall, as on the Appointed Date, whether or not provided in the books of the Transferor Companies, and all debts, duties, liabilities and obligations incurred or which arise or accrue to the Transferor Companies on or after the Appointed Date till the Effective Date shall become and be deemed to be the debts, loans raised and used, duties, liabilities and obligations incurred by the Transferee Company by virtue of this Scheme.
- 4.8. Where any such debts, liabilities, duties and obligations of the Undertaking of Transferor Companies as on the Appointed Date have been discharged by the Transferor Companies on or after the



Appointed Date and prior to the Effective Date, such discharge shall be deemed to be for and on account of the Transferee Company upon the coming into effect of this Scheme.

- 4.9. All loans raised and utilised and all liabilities, duties and obligations incurred or undertaken by the Undertaking of Transferor Companies on or after the Appointed Date and prior to the Effective Date shall be deemed to have been raised, used, incurred or undertaken for and on behalf of the Transferee Company and to the extent they are outstanding on the Effective Date, shall, upon the coming into effect of this Scheme and under the provisions of Sections 230 to 232 of the Act, without any further act, instrument or deed be and stand transferred to and vested in and be deemed to have been transferred to and vested in the Transferee Company and shall become the loans and liabilities, duties and obligations of the Transferee Company which shall meet, discharge and satisfy the same.
- 4.10. The transfer and vesting of the Undertaking of the Transferor Companies into the Transferee Company shall be subject to the existing securities, charges, mortgages and other encumbrances if any, subsisting over or in respect of the property and assets or any part thereof forming part of the Transferor Companies to the extent such securities, charges, mortgages, encumbrances are created to secure the liabilities forming part of the Transferor Companies. All existing securities, mortgages, charges, liens or other encumbrances, if any, as on the Appointed Date and created by the Transferor Companies, after the Appointed Date but prior to the Effective Date, over the properties and other assets comprised in the Undertaking or any part thereof transferred to the Transferee Company by virtue of this Scheme and in so far as such securities, mortgages, charges, liens or other encumbrances secure or relate to liabilities of the Transferor Companies, the same shall, after the Effective Date, continue to relate and attach to such assets or any part thereof to which they are related or attached prior to the Effective Date and are transferred to the Transferee Company, and such securities, mortgages, charges, liens or other encumbrances shall not relate or attach to any of the other assets of the Transferee Company.



- 4.11. Further, where any document in case of any encumbrance, charge and/or right created by the Transferor Companies, is transferred to or replaced by the Transferee Company, no duty (including stamp duty), levy, expense, charge and/or cess of any nature will be payable by the Transferee Company at the time of replacement and/or modification of the encumbrance, charge and/or right with any Governmental authority (including Registrar of Companies) or any other person as the case maybe and the duty and other levies already paid by the Transferor Companies shall be deemed to have been paid by the Transferee Company.
- 4.12. The existing encumbrances over the properties and other assets of the Transferee Company or any part thereof which relate to the liabilities and obligations of the Transferee Company prior to the Effective Date shall continue to relate only to such assets and properties and shall not extend or attach to any of the assets and properties of the Transferor Companies transferred to and vested in the Transferee Company by virtue of this Scheme.
- 4.13. For the avoidance of doubt, it is clarified that upon the coming into effect of this Scheme, in accordance with the provisions of relevant laws, consents, permissions, licences, certificates, authorities (including for the operation of bank accounts), powers of attorney given by, issued to or executed in favour of Transferor Companies, and the rights and benefits under the same, and all quality certifications and approvals, trademarks, brands, patents and domain names, copyrights, industrial designs, trade secrets and other intellectual property and all other interests relating to the goods or services being dealt with by Transferor Companies shall, be transferred to and vested in Transferee Company.
- 4.14. Upon the Scheme being effective, with effect from Appointed Date, in so far as the various incentives, tax exemption and benefits, subsidies, grants, special status and other benefits or privileges including in respect of income tax (including Minimum Alternative Tax), excise (including Modvat / Cenvat), customs, VAT, sales tax, service tax, goods and service tax ('GST') etc., granted by any Appropriate Authority, enjoyed or availed of by Transferor Companies are concerned, the same shall, without any further act or deed, stand



transferred to and vest with and be available to Transferee Company on the same terms and conditions.

- 4.15. Any amount including refund under the Tax Laws due to Transferor Companies consequent to the assessment proceedings or otherwise and which have not been received by the Transferor Companies as on the date immediately preceding the Appointed Date shall also belong to and be receivable by Transferee Company upon the Scheme being effective.

5. PERMITS, CONSENTS, LICENSES AND TAX BENEFITS:

- 5.1 All the licenses, permits, quotas, approvals (including, but not limited to, environmental approvals, statutory and regulatory approvals), no-objection certificates, incentives, permissions, registrations, tax exemptions, accumulated tax losses, unabsorbed depreciation, MAT Credit entitlement, tax benefits including benefits under Chapter VI-A of the IT Act, concessions or deferrals, subsidies, rights, claims, leases, tenancy rights, liberties, rehabilitation Schemes, special status and other benefits or privileges enjoyed or conferred upon or held or availed by, and all rights and benefits that have accrued or may accrue to, the Transferor Companies before or after the Appointed Date and prior to the Effective Date, pursuant to the provisions of Section 230 to 232 of the Act and all other applicable provisions, if any, shall without any further act, instrument or deed, cost or charge, be transferred to and vest in or be deemed to have been transferred to and vested in and be available to the Transferee Company so as to become on and from the Appointed Date the licenses, permits, quotas, approvals (including, but not limited to, environmental approvals, statutory and regulatory approvals), no-objection certificates, incentives, permissions, registrations, tax exemptions, accumulated tax losses, unabsorbed depreciation, MAT Credit entitlement, tax benefits including benefits under Chapter VI-A of the IT Act, concessions or deferrals, subsidies, rights, claims, leases, tenancy rights, liberties, rehabilitation Schemes, special status and other benefits or privileges of Transferee Company and shall remain valid, effective and enforceable on the same terms and conditions to the extent permissible in law.



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5.2 Upon the Effective Date and until the licenses, permit, quotas, approvals, (including, but not limited to, environmental approvals, statutory and regulatory approvals), no-objection certificates, incentives, permissions, registrations, tax exemptions, accumulated tax losses, unabsorbed depreciation, MAT Credit entitlement, tax benefits including benefits under Chapter VI-A of the IT Act, concessions or deferrals, subsidies, rights, claims, leases, tenancy rights, liberties, rehabilitation Schemes, special status are transferred, vested, recorded, effected and / or perfected, in the records of the Appropriate Authorities, in favour of the Transferee Company, the Transferee Company is authorized to carry on business in the name and style of the Transferor Companies and under the relevant license and or permit and/or approval, as the case may be, and the Transferee Company shall keep a record and/or account of such transactions, as if the Transferor Companies has not been amalgamated.

6. CONSIDERATION

6.1 Upon this Scheme becoming effective and in consideration of the transfer of and vesting of the Undertaking of the Transferor Companies in the Transferee Company pursuant to this Scheme, Transferee Company shall without any further application, act, instrument or deed, issue and allot shares credited as fully paid up, to the extent indicated below, to each equity shareholder of Transferor Companies, whose name appears in the Register of Members of the Transferor Companies on the Record Date of the Scheme or to such of their respective heirs, executors, administrators or other legal representatives or other successors in title as may be recognized by the respective Board of Directors, in the following manner:

In respect of amalgamation of RADPL with KPHPL

For every 46 (rounded off) equity shares of RADPL having face value of INR 10/- each fully paid up 100 equity shares of KPHPL to be issued having face value INR 10/- each fully paid up.

In respect of amalgamation of BRPL with KPHPL

For every 225 (rounded off) equity shares of BRPL having face value of INR 10/- each fully paid up 100 equity shares of KPHPL to be issued having face value INR 10/- each fully paid up.

In respect of amalgamation of LCPL with KPHPL

For every 316 (rounded off) equity shares of LCPL having face value of INR 10/- each fully paid up 100 equity shares of KPHPL to be issued having face value INR 10/- each fully paid up.



In respect of amalgamation of MPPL with KPHPL

For every 148 (rounded off) equity shares of MPPL having face value of INR 10/- each fully paid up 100 equity shares of KPHPL to be issued having face value INR 10/- each fully paid up.

In respect of amalgamation of ROPL with KPHPL

For every 34 (rounded off) equity shares of ROPL having face value of INR 10/- each fully paid up 100 equity shares of KPHPL to be issued having face value INR 10/- each fully paid up.

In respect of amalgamation of MIPL with KPHPL

For every 1161 (rounded off) equity shares of MIPL having face value of INR 10/- each fully paid up 100 equity shares of KPHPL to be issued having face value INR 10/- each fully paid up.

- 6.2 The Equity Shares to be issued by the Transferee Company to the shareholders of the Transferor Companies shall be in physical form. In respect of fractional entitlement to a shareholder, the same shall be rounded off to the next nearest integer and in case if the fraction is less than half, it shall be rounded down to the nearest lower integer
- 6.3 Upon issuance and allotment of Equity Shares by the Transferee Company to the shareholders of the Transferor Companies, the share certificates representing shares held in Transferor Companies shall stand automatically cancelled / extinguished.
- 6.4 Upon Scheme being effective, Transferee Company shall, if necessary and to the extent required, increase its Authorized Share Capital to facilitate issue of Shares under this Scheme by following the requisite procedure under applicable provisions of the Act and the resolution approving the Scheme shall be deemed to be the approval of increase in the authorized share capital of the Transferee Company.
- 6.5 The approval of this Scheme by the shareholders of the Transferor Companies and Transferee company shall be deemed to be in due compliance of the provisions of Section 42, 62 and other relevant and applicable provisions of the Act for the issue and allotment of Shares by the Transferee Company as provided in the Scheme. It is clarified that there shall be no need to pass a separate shareholders' resolution as required under Section 42 and Section 62 of the Act.

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7. ACCOUNTING TREATMENT IN THE BOOKS AND FINANCIAL STATEMENTS OF TRANSFEREE COMPANY

On the Scheme becoming effective and with effect from the Appointed Date, Transferee Company shall account for the amalgamation in its books in accordance with the Accounting Standard 14, as notified under Section 133 of the Act, as under:

- 7.1 All assets and liabilities of Transferor Companies transferred to Transferee Company under the Scheme shall be recorded in the books of account of Transferee Company at the book value as recorded in books of account of Transferor Companies as on the Appointed Date. Fixed assets and investments of the Transferor Companies shall be recorded by the Transferee Company in its books of account at their fair value
- 7.2 The aggregate face value of the Equity Shares issued and allotted under Clause 6 shall be credited to the Equity Share Capital Account of the Transferee Company.
- 7.3 In case of any differences in accounting policies between the Transferee Company and the Transferor Companies, the accounting policies followed by the Transferee Company shall prevail to ensure that the Financial Statements reflect the financial position on the basis of consistent accounting policies.
- 7.4 Upon coming into effect of this Scheme, to the extent that there are inter-company loans, advances, deposits, balances or other obligations inter-se between Transferor Companies and / or between the Transferor Companies and the Transferee Company, the obligations in respect thereof shall come to an end and corresponding effect shall be given in the books of accounts and records of the Transferee Company. For the removal of doubt, it is clarified that in view of the above there would be no accrual of interest or other charges in respect of any such inter-company investments, loans, advances, deposits, balances or other obligations.
- 7.5 Any excess or deficit of the amount of the consideration over the value of the net assets acquired by the Transferee Company, after



considering the effect of clauses 7.3 and 7.4 above, shall be recognized as Goodwill and / or Capital Reserve, as the case may be. ("value of the net assets acquired" shall be computed as the value of assets less the value of liabilities of the Transferor Companies as recorded in the books of the Transferee Company in terms of Clause 7.1 above).

- 7.6 To comply with the provisions of the Act along applicable Accounting Standards, the IT Act and other relevant laws, the Transferee Company (by its Board of Directors) may alter or modify the provisions of the Clauses 7.1 to 7.5, as they may deem fit and consider necessary, to settle any question arising out of the Scheme.

8. CONSOLIDATION OF AUTHORISED CAPITAL AND AMENDMENT TO MEMORANDUM OF ASSOCIATION OF THE TRANSFEE COMPANY

8.1 Capital Clause:

- (i) Upon this Scheme becoming effective, the Authorised Share Capital of the Transferor Companies as mentioned in Clause 3.1 to 3.6 representing equity share capital, on the effective date, shall be added to the Authorised Share Capital of the Transferee Company, as on the effective date, without any further act or deed and without any further payment of any duty or the registration fees. For this purpose, the stamp duty and ROC fees already paid on the authorised capital of the Transferor Companies shall be utilised and applied to the increased authorised share capital of Transferee Company and there would be no requirement for any other further payment of stamp duty and / or ROC fees by Transferee Company for increase in the authorised share capital to that extent. The authorised share capital of Transferee Company will thus be increased to that effect by virtue of the Scheme becoming effective and no separate procedure shall be required to be followed under the Act.
- (ii) It is hereby further provided that the above referred amendment, viz. Change in the Capital Clause shall become operative on the Scheme being effective.



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- (iii) Under the accepted principle of Single Window Clearance, it is hereby provided that the aforesaid alteration in the Memorandum of Association of the Transferee Company viz. Change in the Capital Clause referred above, shall become operative on the Scheme being effective by virtue of the fact that the Shareholders of Transferee Company, while approving the Scheme as a whole, by virtue of written consent letters, have also resolved and accorded the relevant consents as required respectively under Sections 13, 14, 61 and 64 of the Companies Act, 2013 or any other provisions of the Act and shall not be required to pass separate resolutions as required under the Act.

8.2 Object Clause:

- i) Upon the Scheme becoming effective, the Main Objects of the Transferor Companies shall be added to the Main Objects of the Transferee Company.
- ii) In order to carry on the activities currently being carried on by the Transferor Companies upon the approval of the Scheme by the members of the respective companies and the Transferee Company pursuant to Sections 230 to 232 of the Act, it shall be deemed that the members of the Transferee Company have also resolved and accorded all relevant consents under Section 13 or any other provisions of the Act for the commencement of any business or activities currently being carried on by the Transferor Companies in relation to the objects contained in the Memorandum of Association of the Transferee Company, to the extent the same may be considered applicable. In particular, the Transferee Company would be allowed to commence the business added as above with effect from the Appointed Date. It is clarified that there will be no need to pass a separate resolution as required under Section 13 or any other provisions of the Act.
- iii) Under the accepted principle of Single Window Clearance, it is hereby provided that the above referred amendment in the Memorandum and Articles of Association of the Transferee Company, viz. Change in Object Clause as mentioned in this sub-clause shall become operative on the scheme being effective by virtue of the fact that the shareholders of the Transferee Company, while approving the scheme as a whole, have also resolved and accorded the relevant consents as



required respectively under Sections 13 and 14 of the Companies Act, 2013 or any other provisions of the Act and it shall not be required to pass separate resolutions as required under the Act, nor any additional fees (including fees and charges to the relevant Registrar of Companies) or stamp duty, shall be payable by the Transferee Company.

9. DISSOLUTION OF THE TRANSFEROR COMPANIES

On and from the Effective Date, Transferor Companies shall stand dissolved without being wound up.

10. BUSINESS AND PROPERTY IN TRUST AND CONDUCT OF BUSINESS FOR TRANSFEEE COMPANY

Unless otherwise stated herein under, with effect from the Appointed Date and up to and including the Effective Date:

10.1 The Transferor Companies shall be deemed to have been carrying on and shall carry on its business and activities and shall be deemed to have held and stood possessed of and shall hold and stand possessed of the Undertaking of the Transferor Companies for and on account of, and in trust for Transferee Company and shall account for the same to the Transferee Company. The Transferor Companies hereby undertakes to hold the said Undertaking with utmost prudence until the Effective Date on behalf of the Transferee Company.

10.2 With effect from the date of the meeting of the Board of Directors of the Transferor Companies approving the Scheme and up to and including the Effective Date, the Transferor Companies shall preserve and carry on their businesses and activities with reasonable diligence and business prudence and shall not, without the prior consent in writing of any of the persons authorised by the Board of Directors of Transferee Company, alter or diversify their respective businesses or venture into any new business, undertake any additional financial commitments of any nature whatsoever, borrow any amounts nor incur any other liabilities or expenditure, issue any additional guarantees, indemnities, letters of comfort or commitments or sell, transfer, alienate, charge, mortgage, encumber or otherwise deal with its assets or any part thereof, except in the ordinary course of business, or pursuant to any pre-existing obligations undertaken by



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the Transferor Companies prior to the date of acceptance of the Scheme by their respective Boards.

- 10.3 All the profits, income, taxes (including MAT credit, advance tax paid and tax deducted/collected at source) accruing to the Transferor Companies, or any costs, charges, expenditure, accumulated losses etc. arising or incurred or suffered by the Transferor Companies, shall for all purpose be treated and be deemed to be and accrue as the profits, income, taxes (including MAT credit, advance tax paid and tax deducted/collected at source) or any costs, charges, expenditure accumulated losses, costs, charges or expenditure of Transferee Company, as the case may be.
- 10.4 With effect from the date of the meeting of the Board of Directors of the Transferor Companies approving the Scheme and up to and including the Effective Date, the Transferor Companies shall not, without the prior consent in writing of any of persons authorised by the Board of Directors of Transferee Company, undertake (i) any material decision in relation to their businesses and affairs and operations (ii) any agreement or transaction, other than an agreement or transaction in the ordinary course of business; (iii) any new business, or discontinue any existing business or change the installed capacity of facilities.
- 10.5 With effect from the date the meeting of the Board of Directors of the Transferor Companies approving the Scheme and up to and including the Effective Date, the Transferor Companies shall not vary the terms and conditions of employment of any of their employees, without the prior consent in writing of any of the persons authorised by the Board of Directors of Transferee Company, except in the ordinary course of business or pursuant to any pre-existing obligation undertaken by the Transferor Companies prior to the date of the said Board meeting.
- 10.6 With effect from the date the meeting of the Board of Directors of the Transferor Companies approving the Scheme and up to and including the Effective Date, the Transferor Companies and Transferee Company shall not, without the prior written approval of the Board of Directors of the other, make any change in their capital structure i.e.



Share Capital, whether by way of increase, decrease, reduction, re-classification, sub-division or consolidation, re-organisation, or in any other manner which may, in anyway, affect the share exchange ratio as provided in this Scheme.

10.7 The Transferee Company shall be entitled to depute its employees and/or representatives to the office of the Transferor Companies to ensure compliance with the provisions of this Scheme.

10.8 The Transferee Company shall be entitled, pending the sanction of the Scheme, to apply to the concerned authorities and all other agencies, departments and authorities concerned as are necessary under any law for such consents, approvals and sanctions which Transferee Company may require to carry on the business of the Transferor Companies and to give effect to the Scheme.

11. LEGAL PROCEEDINGS

11.1 Upon the Scheme becoming effective, if any suit, cause of actions, appeal or other legal, quasi-judicial, arbitral or other administrative proceedings of whatever nature (hereinafter referred to as 'Proceedings' by or against the Transferor Companies pending and/or arising before the Effective Date shall not abate or be discontinued or be in any way prejudicially affected by reason of the transfer of the Transferor Companies pursuant to this Scheme or by anything contained in this Scheme but the Proceedings shall be continued and enforced by or against the Transferee Company, as the case may be in the same manner and to the same extent as they would or might have been continued and enforced by or against the Transferor Companies as if the Scheme had not been made. On and from the Effective Date, the Transferee Company may initiate any Proceedings which were earlier in the name of the Transferor Companies.

11.2 The Transferee Company undertakes to have, all respective legal or other proceedings initiated by or against the Transferor Companies, transferred into its name and to have the same continued, prosecuted and enforced by or against Transferee Company, as the case may be, to the exclusion of Transferor Companies.



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11.3 The transfer and vesting of the Transferor Companies under the Scheme and the continuation of the Proceedings by or against the Transferee Company under the above sub-clauses shall not affect any transaction or proceedings already completed by the Transferor Companies on or after the Appointed Date and prior to this Scheme becoming effective to the end and intent that the Transferee Company accepts all acts, deeds and things done and executed by and/or on behalf of the Transferor Companies as acts, deeds and things being done and executed by and on behalf of the Transferee Company.

12. VALIDITY OF EXISTING RESOLUTIONS, ETC

Upon the coming into effect of this Scheme, the resolutions of the Transferor Companies, as are considered necessary by the Board of Directors of Transferee Company and which are valid and subsisting on the Effective Date shall continue to be valid and subsisting and be considered as resolutions of Transferee Company and if any such resolutions have any monetary limits approved under the provisions of the Act, or any other applicable statutory provisions, then said limits as are considered necessary by the Board of Directors of Transferee Company shall be added to the limits, if any, under like resolutions passed by Transferee Company and shall constitute the aggregate of the said limits in Transferee Company.

13. CONTRACTS, DEEDS, ETC.

13.1 Notwithstanding anything to the contrary contained in the contract, deed, bond, agreement or any other instrument, but subject to the other provisions of this Scheme, all contracts, deeds, bonds, agreements and other instruments, if any, of whatsoever nature and subsisting or having effect on the Effective Date and relating to the Transferor Companies shall continue in full force and effect against or in favour of Transferee Company and may be enforced effectively by or against Transferee Company as fully and effectually as if, instead of the Transferor Companies, the Transferee Company had been a party thereto.

13.2 The Transferee Company shall, at any time after the coming into effect of this Scheme in accordance with the provisions hereof, if so required, under any law or otherwise, be entitled to enter into, or issue or execute deeds, writings, confirmations, novations,



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declarations, or other documents with, or in favour of any party to any contract or arrangement to which the Transferor Companies is a party or any writings as may be necessary to be executed in order to give formal effect to the above provisions. The Transferee Company shall, be deemed to be authorized to execute any such writings on behalf of Transferor Companies and to carry out or perform all such formalities or compliances required for the purposes referred to above on the part of Transferor Companies.

14. SAVING OF CONCLUDED TRANSACTIONS

Subject to the terms of the Scheme, the transfer of the Undertaking, licences, permits, registrations, memberships and approvals as specified under this Scheme and the continuance of Proceedings by or against the Transferee Company under clause 11 "Legal Proceedings" above shall not affect any transaction or Proceedings already concluded by the Transferor Companies on or before the Appointed Date, or after the Appointed Date till the Effective Date, to the end and intent that the Transferee Company accepts and adopts all acts, deeds and things made, done and executed by the Transferor Companies as acts, deeds and things made, done and executed by or on behalf of the Transferee Company.

15. STAFF, WORKMEN & EMPLOYEES

15.1 Upon the coming into effect of this Scheme, all the employees of Transferor Companies who are in such employment as on the Effective Date shall become the employees of the Transferee Company from Appointed Date or their respective joining date, whichever is later and, subject to the provisions of this Scheme, on terms and conditions not less favourable than those on which they are engaged by Transferor Companies and without any interruption of or break in service as a result of the amalgamation of Transferor Companies.

15.2 It is expressly provided that, on the Scheme becoming effective, the Provident Fund, Gratuity Fund, Superannuation Fund or any other Special Fund or Trusts, if any, created or existing for the benefit of the staff and employees of Transferor Companies or all purposes whatsoever in relation to the administration or operation of such Fund or Funds or in relation to the obligation to make contributions to the said Fund or Funds in accordance with the provisions thereof



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as per the terms provided in the respective Trust Deeds, if any, to the end and intent that all rights, duties, powers and obligations of Transferor Companies in relation to such Fund or Funds shall become those of the Transferee Company. It is clarified that the services of the employees of Transferor Companies will be treated as having been continuous and not interrupted for the purpose of the said fund or funds.

16. TAX CREDITS

16.1 Transferee Company will be the successor of Transferor Companies. Hence, it will be deemed that the benefit of any tax credits whether central, state or local, availed by Transferor Companies and the obligations if any for payment of the tax on any assets of Transferor Companies shall be deemed to have been availed by Transferee Company or as the case may be deemed to be the obligations of Transferee Company. Consequently, and as the Scheme does not contemplate removal of any asset by Transferee Company from the premises in which it is installed, no reversal of any tax credit needs to be made.

16.2 With effect from the Appointed Date and upon the Scheme becoming effective, all taxes, duties, cess payable/receivable by the Transferor Companies including all or any refunds/credit including minimum alternate tax credit/claims relating thereto shall be treated as the asset/liability or refunds/credit including minimum alternate tax credit/claims, as the case may be, of Transferee Company. Transferee Company shall be entitled to get credit/claim refund regarding any tax paid and/or tax deduction at source certificates on or after the Appointed Date by the Transferor Companies.

16.3 The Transferor Companies and the Transferee Company are expressly permitted to revise their respective tax returns including tax deducted at source (TDS) certificates/ returns and to claim refunds, advance tax credits, excise and service tax credits, GST Credits, set off, etc. notwithstanding the statutory period of revision and filing of any return, on the basis of the accounts of Transferor Companies as vested with Transferee Company upon coming into effect of this Scheme, and its right to make such revisions in the related tax



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returns and related certificates, as applicable, and the right to claim refunds, adjustments, credits, set-offs, advance tax credits pursuant to the sanction of this Scheme and the Scheme becoming effective is expressly reserved.

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PART IV

COMMON CLAUSES AND GENERAL TERMS AND CONDITIONS

17. APPLICATIONS TO NCLT OR OTHER APPROPRIATE AUTHORITIES

17.1 RADPL, BRPL, LCPL, MPPL, MIPL, ROPL and KPHPL shall, with all reasonable dispatch, make necessary applications to NCLT or such other appropriate authority, for seeking order for dispensing with or convening, holding and conducting of, meeting of the members and/or creditors of the RADPL, BRPL, LCPL, MPPL, MIPL, ROPL and KPHPL as may be directed by the NCLT or such other appropriate authority for sanction of this Scheme and all matters ancillary or incidental thereto.

17.2 On the Scheme being approved by the requisite majorities of the members and / or creditors of RADPL, BRPL, LCPL, MPPL, MIPL, ROPL and KPHPL respectively, whether at a meeting or otherwise, as prescribed under the law and / or as directed by the NCLT or such other appropriate authority, RADPL, BRPL, LCPL, MPPL, MIPL, ROPL and KPHPL shall, with all reasonable dispatch, apply to the NCLT or such other appropriate authority for sanctioning of the Scheme under Section 230 to 232 of the Act, and for such other order or orders, as the NCLT or such other authority may deemed fit for carrying this Scheme into effect.

18. SCHEME CONDITIONAL ON APPROVALS / SANCTIONS

The Scheme is and shall be conditional upon and subject to the followings:

18.1 The Scheme being approved by respective requisite majorities in numbers and value of such classes of persons including the members and creditors (where applicable) of the companies as required under the Act unless waived or dispensed with by the NCLT;

18.2 The Scheme being sanctioned by the NCLT under Section 230 to 232 or other applicable provisions of the Act and / or any Appropriate Authority; and



18.3 Certified Copies of the Order of the NCLT or such other Appropriate Authority, as maybe applicable, sanctioning this Scheme being filed with the Registrar of Companies, Gujarat.

19. EFFECT OF NON-RECEIPT OF APPROVAL / SANCTIONS

19.1 In the event of any of the said sanctions and approvals referred to in above clause not being obtained and/or complied with and/or satisfied and/or this Scheme not being sanctioned by the NCLT and/or order or orders not being passed as aforesaid, this Scheme shall stand revoked, cancelled and be of no effect and in that event, no rights and liabilities whatsoever shall accrue to or be incurred inter se between RADPL, BRPL, LCPL, MPPL, MIPL, ROPL and KPHPL or their respective shareholders or creditors or employees or any other person and save and except in respect of any act or deed done prior thereto as is contemplated hereunder or as to any right, liability or obligation which has arisen or accrued pursuant thereto and which shall be governed and be preserved or worked out in accordance with the applicable law and in such case, each party shall bear its own costs unless otherwise mutually agreed.

19.2 If any clause of this Scheme is invalid, ruled illegal by any Court of competent jurisdiction, or unenforceable under present or future laws, then it is the intention of the Parties that such part shall be severable from the remainder of this Scheme, and this Scheme shall not be affected thereby, unless the deletion of such Clause shall cause this Scheme to become materially adverse to any party, in which case the Board of Directors of the companies involved in the Scheme shall attempt to bring about a modification in this Scheme, as will best preserve for the parties the benefits, and obligations of this Scheme, including, but not limited to, such clause.

20. MODIFICATIONS/AMENDMENTS TO THE SCHEME

20.1 The Transferor Companies and the Transferee Company, through their respective Boards of Directors or such other person as may be authorized by the respective Board of Directors, may make and/or give their consent to (a) any modifications or amendments to the Scheme; or (b) any conditions or limitations which the NCLT and any other competent authority may deem fit to suggest, impose, direct; (c)



effect any other modification or amendment which the NCLT and any other competent authority may consider necessary or desirable; and (d) to do all acts, deeds and things as may be necessary, desirable or expedient for carrying the Scheme into effect.

20.2 For the purpose of giving effect to this Scheme or to any modifications or amendments thereof or additions thereto, the delegates of the Transferor Companies and/or Transferee Company may give and are hereby authorized to determine and give all such directions as are necessary including directions for settling or removing any question of doubt or difficulty that may arise and such determination or directions, as the case may be, shall be binding on all parties, in the same manner as if the same were specifically incorporated in this Scheme.

20.3 The Transferor Companies and/or Transferee Company acting through their respective Boards of Directors each shall be at liberty to withdraw from this Scheme in case any condition or alteration imposed by the NCLT or any authority/person or the lenders is unacceptable to any of them or otherwise if so mutually agreed.

21. GENERAL TERMS AND CLAUSES

21.1 Upon the Scheme being effective, the Transferee Company is expressly permitted to revise its financial statements to give effect to the provisions of the Scheme.

21.2 Upon coming into effect of this Scheme, Transferee Company is expressly permitted to revise its Income-tax returns, sales tax returns, excise & CENVAT returns, service tax returns, GST returns, other tax returns, etc. to the extent required. Transferee Company shall be entitled to get credit/claim refund regarding any tax paid and/or tax deduction at source certificates on or after the Appointed Date by the Transferor Companies.

21.3 It is hereby clarified that submission of the Scheme to the NCLT and to Appropriate Authorities for their respective approvals is without prejudice to all rights, interests, titles or defences that the Transferee Company and the Transferor Companies may have under or pursuant to all appropriate and applicable Laws.



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22. COST / CHARGES AND EXPENSES

All costs, charges and expenses including stamp duty and registration fee of any deed, document, instrument or NCLT's order including this Scheme or in relation to or in connection with negotiations leading up to the Scheme and of carrying out and implementing the terms and provisions of this Scheme and incidental to the completion of arrangement in pursuance of this Scheme shall be borne and paid as may be decided by mutual agreement between the Transferor Companies and the Transferee Company.

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