

ORDER

The modification is carried in the order Dated 10.04.2017 passed by this bench in Company Application (CAA) No. 23(PB)2017 by allowing the Company Application No. 111(PB)/2017 and the changes are effected at the appropriate pages by replacing page numbers 8,9,10,11,33,34,35 and 36. Let the amended order be issued.

25.05.2017

Sd/-

(CHIEF JUSTICE M.M. KUMAR)
PRESIDENT

Sd/-

(R. VARADHARAJAN)
MEMBER (J)

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
PRINCIPAL BENCH
NEW DELHI**

Company Application (CAA) No. 23(PB)/2017

Present: CHIEF JUSTICE (Rtd.) SHRI M.M.KUMAR, HON'BLE PRESIDENT

& SHRI R.VARADHARAJAN, MEMBER (JUDICIAL)

In the matter of:

Sections 230-232 and other applicable provisions of the Companies Act, 2013 read with Companies (Compromises, Arrangements, and Amalgamations) Rules, 2016. (1st motion)

AND

**IN THE MATTER OF SCHEME OF AMALGAMATION
OF**

Solaris Industrial Chemicals Limited

(AMALGAMATING COMPANY/APPLICANT COMPANY NO.1)

AND

Salient financial Solutions limited

(AMALGAMATING COMPANY/APPLICANT COMPANY NO.2)

AND

Avantha Power & Infrastructure Limited

(AMALGAMATINGCOMPANY/APPLICANT COMPANY NO.3)

AND

TKS Developers Limited

(AMALGAMATINGCOMPANY/APPLICANT COMPANY NO.4)

WITH

Avantha Holdings Limited

(AMALGAMATEDCOMPANY/APPLICANT COMPANY NO.5)

WITH

Their respective Shareholders and Creditors

MEMO OF PARTIES

1) SOLARIS INDUSTRIAL CHEMICALS LIMITED

Company registered under the Companies Act, 1956

Having Registered Office at:

Thapar House, 124, Janpath.

New Delhi-110 001

Through its authorized representative and Director: Mr. Mohd. Suhail

CIN NO: U24119DL2003PLC122993

.....Applicant Company No.1 / Amalgamating Company

2) SALIENT FINANCIAL SOLUTIONS LIMITED

Company registered under the Companies Act, 1956

Having Registered Office at:

Thapar House, 124, Janpath.

New Delhi-110 001

Through its authorized representative and Director: Mr. Mohd. Suhail

CIN NO: U67190DL2007PLC157850

.....Applicant Company No.2 / Amalgamating Company

3) AVANTHA POWER & INFRASTRUCTURE LIMITED

Company registered under the Companies Act, 1956

Having Registered Office at:

Thapar House, 124, Janpath.

New Delhi-110 001

Through its authorized representative and Director: Mr. Mohd. Suhail

CIN NO: U40101DL2005PLC138906

.....Applicant Company No.3 / Amalgamating Company

4) TKS DEVELOPERS LIMITED

Company registered under the Companies Act, 1956

Having Registered Office at:

Thapar House, 124, Janpath.

New Delhi-110 001

Through its authorized representative and Director: Mr. Mohd. Suhail

CIN NO: U15520DL1992PLC204244

.....Applicant Company No.4/ Amalgamating Company

5) AVANTHA HOLDINGS LIMITED

Company registered under the Companies Act, 1956

Having Registered Office at:

Thapar House, 124, Janpath.

New Delhi-110 001

Through its authorized representative and Director: Mr. Mohd. Suhail

CIN NO: U67120DL1998PLC198627

.....Applicant Company/Amalgamated Company

**Counsel for the Applicants: ANIRUDH DAS Shardul Amarchand
mangaldas &co.**



Order

This is an application filed by the applicant companies herein, namely Solaris Industrial Chemicals Limited (for brevity "Applicant Company No.1/ Amalgamating CompanyNo.1) Salient financial Solutions limited (for brevity "Applicant Company / Amalgamating CompanyNo.2") Avantha Power & Infrastructure Limited (Applicant Company / Amalgamating CompanyNo.3), TKS Developers Limited (Applicant Company / Amalgamating CompanyNo.4), with Avantha Holdings Limited (Applicant Company / Amalgamated Company) under Sections 230 to 232 and other applicable provisions of the Companies Act, 2013 (for brevity 'The Act') read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (for brevity 'The Rules') in relation to the Scheme of Amalgamation (for brevity 'The SCHEME') proposed between the applicants. The said Scheme is also annexed as Annexure "C" to the application. The applicants above named have preferred the instant joint application for the following purpose as is evident from the reliefs sought for in the Application, namely: -




- i. *Dispensing with the requirement of convening the meeting of the Shareholders of the Applicant/Amalgamating Company 1, 2, 4 and the Applicant/Amalgamated Company, to consider the Scheme;*
- ii. *Directing convening of the meeting of the Equity Shareholders of the Applicant/Amalgamating Company 3, to consider the Scheme;*
- iii. *Directing convening of the meeting of the Secured Creditors of the Applicant/Amalgamating Company 2, Applicant/Amalgamating Company 2 and the Applicant/Amalgamated Company, to consider the Scheme.*
- iv. *Dispensing with the requirement of convening the meeting of the Unsecured Creditors of the Applicant/Amalgamating Company 1 and 2, to consider the Scheme;*
- v. *Directing convening of the meeting of the Unsecured Creditors of the Applicant/Amalgamating Company 3, 4 and the Applicant/Amalgamated Company, to consider the Scheme ;*
- vi. *Directions for sending individual notice to the Equity shareholders of the Applicant/Amalgamating Company 3;*
- vii. *Directions for sending individual notice to the Secured Creditors of Applicant/Amalgamating Company 2, Applicant/Amalgamating Company 3 and Applicant/Amalgamated Company;*

AP

Q

viii. *directions for sending individual notice to the Unsecured Creditors of the Applicant/Amalgamating Company 3, 4 and the Applicant/Amalgamated Company ;*

ix. *Directing publication of the notice of meetings in the newspapers, "Indian Express" (English, Delhi Edition) and "Jansatta" (Hindi, Delhi Edition).*

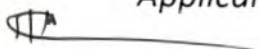
x. *Directions for the appointment of Chairperson and Alternate Chairperson for the aforesaid meetings who shall report the result thereof to this Hon'ble Tribunal.*

xi. *Direct service of Notice of this Application on the Regional Director, Ministry of Corporate Affairs, B-2, Wing, 2nd floor, Paryawaran Bhavan, CGO Complex, New Delhi-110 003.*

xii) *Direct service of notice of this Application on the Registrar of Companies at 4th Floor, IFCI Tower, 61, Nehru Place, New Delhi-110019.*

xiii) *Direct service of the notice of this Application on the office of the Official Liquidator, Lok Nayak Bhavan, 8th floor, Khan Market, New Delhi-110 001.*

xiv) *Direct service of notice of this Application with respect to the Applicant/Amalgamating Company 1 on the office of the Income Tax*





Department, Income Tax Officer, Ward 24(1). C.R. Building, IP Estate, New Delhi-110002.

xv. direct service of notice of this Application with respect to the Applicant/Amalgamating Company 2 on the office of the Income Tax Department, ACIT Circle 22 (1), Room No.226, CR Building, IP Estate, New Delhi- 110 002.

xvi. direct service of notice of this Application with respect to the Applicant/Amalgamating Company 3 on the office of the Income Tax Department, DCIT, Circle 3 (2) , Room No.380B, CR Building, IP Estate, New Delhi – 110 002 ;

xvii. direct service of notice of this Application with respect to the Applicant/Amalgamating Company 4 on the office of the Income Tax Department, Income Tax Officer, Ward 12(3), Kokatta.

xviii. direct service of notice of this Application with respect to the Applicant/Amalgamated Company on the office of the Income Tax Department, ACIT, Circle 5, Saraf Chambers, Mount Road, Sadar, Nagpur – 440001 ;

xix. pass such further and other orders as deemed proper in the facts and circumstances of the case.

RTM

Q

2) An Affidavit in support of the application sworn for and on behalf of all the Amalgamating and Amalgamated Companies has been filed by Mr. Vinu R Kalra, being the authorized Signatory of the respective Companies along with the application. Counsel for the joint applicants took us through the averments made in the application as well as the typed set of documents annexed there with. Learned Counsel represents that the Scheme does not contemplate any corporate debt restructuring exercise as contemplated under Section 230(2) of the Act. It is further represented that a joint application filed by the applicants are maintainable in view of Rule 3(2) of the Rules and it is also represented that the registered office of all the applicant companies are situated within the territorial jurisdiction of this Tribunal and fall within domain of Registrar of Companies, NCT, New Delhi & Haryana.


3) In relation to Solaris Industrial Chemicals Limited being the Amalgamating Company No.1, in the Scheme marked as Annexure – “C”, it is represented that it has Seven Equity Shareholders holding 50,000/- (fifty Thousand) shares as on 21.02.2017. It is further represented by the counsel for Applicants that the Amalgamating Company No.1 has no Secured Creditor and two Unsecured Creditor as on 31st January, 2017. In relation to Equity Shareholders, and Unsecured Creditors since consent from all of them have been obtained for the proposed Scheme, a prayer has been made for



dispensing with holding of various meetings. In relation to the Secured Creditors, there is no requirement of holding the meetings as there are no Secured Creditors.


4) In relation to Salient Financial Solutions Limited being the Amalgamating Company No.2 in the Scheme marked as Annexure- "C", Learned Counsel represents that company is having Seven Equity Shareholders holding 50,000(fifty thousand) shares as on 08.02.2017 from whom consent letters have been obtained and are placed on record. It is further represented by the counsel for Applicants that the Amalgamating Company No.2 as on 31.01.2017 has one Secured and three Unsecured Creditors. In relation to the Equity Shareholders and Unsecured Creditors Transferor Company No.2 seeks dispensing with holding of meeting for the purpose of obtaining their approval to the proposed Scheme of Amalgamation in view of consent having been obtained. While in relation to Secured Creditors Applicant Company/ Amalgamating Company No.2 is seeking directions for convening and holding of the respective meetings for seeking their approval to the proposed Scheme.

5) In relation to Avantha Power & Infrastructure Limited being the Amalgamating Company No.3 in the Scheme marked as Annexure-"C",

 Learned Counsel represents that company has 17 Equity Shareholders

holding 92,18,86,655(Ninety two crore eighteen lakh eighty six thousand six hundred fifty five) shares as on 31.01.2017 .It is further represented by the counsel for Applicants that the Amalgamating CompanyNo.3 as on 31.03.2016 has two Secured and Six Unsecured Creditor. In relation with Equity Shareholder, Secured and Unsecured Creditors Applicant / Amalgamating CompanyNo.3 is seeking directions for convening and holding of the respective meetings for seeking their approval to the proposed Scheme.

- 6) In relation to TKS Developers Limited being the Amalgamating CompanyNo.4 in the Scheme marked as Annexure-“C”, Learned Counsel represents that company has Eight Equity Shareholders holding 526,933,478(Fifty two crore six nine lakh thirty three thousand four hundred seventy eight) shares as on 31.01.2017 from whom consent letters have been obtained and are placed on record. It is further represented by the counsel for Applicants that the Amalgamating CompanyNo.4 is on 31.03.2016 has no Secured and only One Unsecured Creditor. In relation to the Equity Shareholders Amalgamating CompanyNo.4 seeks dispensing with holding of meeting for the purpose of obtaining their approval to the proposed Scheme of Amalgamation in view of consent having been obtained from all the Equity Shareholders of the Amalgamating CompanyNo.4. In relation to the Secured Creditors, there is

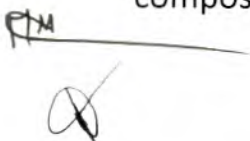
 _____



no requirement of holding the meetings as there are no Secured Creditors. While in relation to Unsecured Creditors Applicant / Amalgamating Company No.4 is seeking directions for convening and holding of the respective meetings for seeking their approval to the proposed Scheme.

7) In relation to Avantha Holdings Limited being the Amalgamated Company/ Applicant Company in the Scheme marked as Annexure-“C”, Learned Counsel represents that company has Eight Equity Shareholders and Two Preference Shareholder as on 21.02.2017 from whom consent letters have been obtained and are placed on record. It is further represented by the counsel for Applicants that the Amalgamated Company has Eight Secured and 64 Unsecured Creditors. In relation to the Equity Shareholders, Transferee Company seeks dispensing with holding of meeting for the purpose of obtaining their approval to the proposed Scheme of Amalgamation in view of consent having been obtained from all the Equity Shareholders of the Amalgamated Company. While in relation to Secured and Unsecured Creditors Applicant / Amalgamated Company is seeking directions for convening and holding of the respective meetings for seeking their approval to the proposed Scheme.

8) The provisions of Section 233 of the Act would not apply as the Scheme is a composite Scheme which contemplates the Amalgamation of Amalgamating

Handwritten signature and initials, possibly 'RM', with a horizontal line extending to the right and a circular mark below it.

Companies No.1 to 4 with Amalgamated Company. Even if it's applicable; there is an option with the applicant to choose the forum of NCLT or RD. Therefore, there is no bar to approach NCLT. It is pertinent to mention here that the amalgamating Company No. 4 is a wholly owned subsidiary company of amalgamating Company No.3.

- 9) The above joint application has been filed on 06.03.2017 and this Tribunal hence proceeds to entertain the above joint application filed under the 2013 Act. Further, the registered office of all the applicant Companies are situated within New Delhi and subject to the territorial jurisdiction of Registrar of Companies, NCT, New Delhi as well as that of this Tribunal.
- 10) We have perused the application and the connected documents / papers filed along with the Scheme of Amalgamation contemplated between the Applicant companies.
- 11) From the certificate of incorporation filed, it is evident that the Amalgamating Company No.1 was incorporated under the name and style of Solaris Industrial Chemicals Limited on 10th November 2003, under the Companies Act, 1956 as a Private Company with limited liability. The authorized capital of the Applicant Company No.1, is Rs. 2,00,00,000/- (Two Crore) divided into 20,00,000 (Twenty Lakh) equity shares of Rs. 10/- each

and 3,00,00,000 (Three Crore) preference shares divided into 3,00,000(Three Lakh) preference shares of Rs. 100 each. The issued, subscribed and Paid- up capital of the company is Rs. 5, 00,000/- (Five Lakh) divided into 50,000(Fifty Thousand) Equity Shares of Rs 10/- each.

12) The main objects of the Applicant/Amalgamating Company 1 are as follows :

1. To manufacture , produce, refine process, buy, sell, export, import or otherwise deal in all classes and kinds of chemicals organic and inorganic of every description including heavy and industrial chemicals, petro-chemicals, agro chemicals, industrial and other preparations, intermediates, derivatives and by products thereof, articles and compounds, paints, pigments and varnishes, essence, drugs, dye-ware, paint and colour grinders.

2. To provide , manufacture and deal in alkalies and acids of every description and kind tannins, earths, caustics soda, chlorine, all variants of nitro-cellulose, sulphuric, nitro, hydro, chloride, phosphoric and other acids, sodium triply phosphate, dicalcium, phosphate hydrate and other phosphates, salt, kestra, bromine and bromine chemicals derivatives and by products of all such products,





3. To manufacture, buy sell, import, export or otherwise deal in detergents, synthetic cleaners, detergent in liquid form or in the form of powder, cake or flake and in all other allied products.”

13) From the certificate of incorporation filed, it is evident that the Transferor Company No.2 was incorporated under the name and style of Salient Financial Solutions Limited on 13th January 2007, under the Companies Act, 1956 as a Private Company with limited liability. The authorized capital of the Applicant Company No.1, is Rs. 5,00,000/- (Five Lakh) divided into 50,000(Fifty Thousand) equity shares of Rs. 10/- each. The issued, subscribed and Paid- up capital of the company is Rs. 5, 00,000/- (Five Lakh) divided into 50,000(Fifty Thousand) Equity Shares of Rs 10/- each.

14) The main objects of the Amalgamating CompanyNo.2 as stated in the application are-

a) To carry on in India or elsewhere business process outsourcing services in all forms of Financial Solutions, Mortgage Solutions, Finance and Accounting, Financial services, Investment and market, various accounts, receivables and other Accounting related functions, knowledge processes, Health Care, Human Resources, processing of payroll, ticketing, Customer relationship management, Employees relocation, Content Management, Research and Analysis and other



Sales and Procurement outsourcing & General Administrative related functions, processes, other administrative functions etc.

- b) To carry on the business of and/or to develop and enter into contracts, joint venture or strategic alliance with individual, companies, partnership and/or abroad for developing, providing, availing internet web or other allied services, to offer business process outsourcing with the help of information technology and telecommunication services, Online Customers Care, E-mail support, IT helpdesk, IT enables services, internet application development, data warehousing, customer service consulting, technical support, data entry and processing, medical transcription, Customer Relationship Management solutions, Transaction processing, research and development on new technologies relating to computer applications, information processing and to provide consultancy in all areas of information technology, other Back Office processing Solutions and/or for achieving any of the objects given here.
- c) To carry on the business of providing education, training, consultancy and other related services on any or all aspects of software, telecommunication and computer hardware and web technologies and to establish, maintain and run call centres, data centers, technology , parks bureaus, institutions', research institutions,



colleges and schools and conduct courses and programmes for providing full range of information hardware maintenance, computer consultancy, software development , data processing, software exports, software engineering, networking, networking solutions, CAD conversion services, engineering software services, network services, computer education and training, depute personnel to develop and design software in India or abroad and hiring out men, machine and time.

- d) To carry on the business of developing, marketing, importing, exporting, distributing & licensing computer software, firmware & programs of any and all description particular those used in for or in connection with electronic information and data processing and computer based systems and providing software, hardware, programs & data processing consultancy services for developing, collecting, starting, processing and transmitting data and software of every kind and of providing solutions including software and data processing for any industry or discipline and to undertake all activities related to it, to bring any solution so developed to a marketable state for any customer in India or outside India and hence, to act as a solution originator, provider, creator, developer and manager and trader of products and services and

undertake software or information processing projects under various



arrangements independently or with other companies in India or abroad.

- e) To carry on the business of publishing multimedia websites including text, audio, video, graphics, animation and other forms of information representation.
- f) To develop and manage and distribution of network of resellers, distributors, partners for providing in whole or part the services mentioned above.

15) From the certificate of incorporation filed, it is evident that the Amalgamating Company No.3 was incorporated with Registrar of Companies, NCT of Delhi & Haryana under the name of Bilt Power Limited on 20th July, 2005 under the name of which later on 2nd April 2008 changed to Avantha Power & Infrastructure Limited and continues to be known under the said name and style. The authorized capital of the Transferor Company No. 3 is Rs.15,00,00,00,000/- (Fifteen Hundred crore) divided into 1,50,00,00,000 (One Fifty Crore) equity shares of Rs. 10/- each. The issued, subscribed and Paid-up capital of the company is Rs.9,21,88,66,550/- (Nine hundred twenty one crore eighty eight lakh sixty six thousand five hundred fifty) divided into

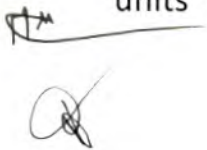
RTI



92,18,86,655/- (Ninety two crore eighteen lakh eighty six thousand six hundred fifty five) equity shares of Rs.10/- each.

16) The main objects of the Amalgamating Company No.3 as stated in the application are-

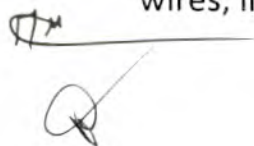
- a) To generate, accumulate, transmit, distribute, purchase sell and supply electricity , power or any other energy whether from conventional sources such as thermal, hydel, oil, gas, lignite, bio-mass, coal, diesel, nuclear or baggasse or from non-conventional sources such as wind, waste, solar and geo-thermal and tidal waves.
- b) To promote, own acquire, erect, construct, commission, establish, maintain, improve, manage, operate, alter, carry on, control, take on hire, lease power plants, co-generation power plants, energy conservations projects, power houses, transmission and distribution systems for generation, distribution, transmission and supply of electricity, power or any other energy, function as a licensee, acquire concessions, facilities or licenses or deal in electrical power or any other form of energy and to buy, sell, supply, exchange, market the same to the State Electricity Boards, State Governments, appropriate authorities, licensees, specific industrial units and other consumers for industrial, commercial, agricultural,



household or any other purpose in India and elsewhere including operation/maintenance and supply of facilities for the aforesaid purposes on a commercial basis to the customers or bulk distributors and to construct, lay-down, establish, power/energy generating stations, including buildings, structures, works, machineries, equipment's, cables and to undertake or to carry on the business of managing, owning, controlling, erecting, maintaining, commissioning, operating, running, leasing or transferring to third person, power/energy plants and to act as consultants and advisors in relation to the business aforementioned.

c) To establish captive power plants on a cooperative basis or otherwise, for industrial and other consumers and supply power either directly or through the transmission lines of the state electricity boards or other authorities by entering into appropriate arrangements and do all incidental acts and things necessary for the attainment of the foregoing objects.

d) To carry on the business of general electric power supply company or any other power kind of power supply in all the branches, and to construct, lay down, establish, fix and carry out all necessary power stations, cables, wires, lines, accumulators, lamps and works and to generate accumulate,



distribute and supply electricity and to light cities, towns, streets, docks, markets, theatres, buildings and places both public and private.

- e) To carry on the business of infrastructure development and infrastructure projects including business of real estate developers, constructors, surveyors, installers, assemblers, manufacturers, researchers, designers, maintainers, buyers, sellers, hirers, exporters, importers, distributors, agents, dealers, improves covering survey, civil, structural and electrical works required for any infrastructure projects and to construct , develop, acquire, hold, mortgage, lease, take on lease, exchange or otherwise deal in ports, roads, land, buildings, hotels, houses, flats bungalows shops, hereditaments etc. of any tenure or freehold for residential , business or other purposes.
- f) To carry on the business of a holding company for establishing subsidiaries, making majority or minority investments, and/or to promote technical collaborations in companies operating in any kind of activity and in specific but not limited to investment in entities engages in the power sector.
- g) To engage in the business of purchasing, procuring , selling, improving, exporting trading or otherwise dealing in all forms of electrical power or energy, both conventional and non-conventional, and ancillary activities,





on a competitive basis and commercial lines throughout India and/or abroad, and to plan, promote develop and establish an efficient and reliable power trading and distributing system, policies and procedures towards procurement, transfer/wheeling of power from the power producers/generating transmission companies within India and/or abroad.

- h) To establish, organize, manage, run, charter, conduct contract, develop handle own operate and to do business as carriers, fleet carriers, transporters operators in all its branches on land, air and water for transporting, coal, coke, ash and other ancillary or by products of every kind, on all routes and lines on National and International level subject to law in force by purchasing, hiring on lease or otherwise, maintaining operating and organizing all sorts of carriers like trucks, lorries, trawlers, dumpers, coaches, station wagons, tankers, tractors, haulers, jeeps, trailers, motor buses omnibuses, motor taxies, railways, tramways, aircrafts , hovercrafts, ships vessels, boats, barges and so on whether propelled by petrol, diesel, gas, electricity steam oil, atomic power or any other form of power.
- i) To carry on in India and elsewhere the trade or business of logistics operation and management in respect of coal, coke, ash and other





ancillary or by products or every kind including but not limited to all sorts of loading, unloading, freight, transport, clearances, insurance warehousing, distribution, supply chain management and logistics management etc.

- j) To trade, deal in and undertake the manufacture of building blocks, slaps, bricks, tiles, pipes cement lime and building construction materials and requisites whether from sand clay, soil fly ash, concrete of any kind of other material.
- k) To carry on all or any of the business of real estate developers, infrastructure development including development of Special Economic zones, builders, contractors, architects, decorators and furnishers and to construct on, develop acquire, hold mortgage, lease take on lease, exchange or otherwise deal in land buildings hotels houses flats, shops hereditaments of any tenure or freehold for residential, business or other purposes.
- l) To explore, prospect, take on lease or on royalty basis or otherwise acquire mines, mining rights and lands or any interest therein in India or elsewhere and to quarry, mine, dress, reduce, draw, extract, caline , smelt, refine, manufacture, process and otherwise acquire, buy, sell or otherwise dispose off and deal in all types, qualities and descriptions of

PT*

Q

coal, ores, metal and mineral substances and to carry on its business of metallurgists, founders and engineers”.

17) From the certificate of incorporation filed, it is evident that the Amalgamating Company No.4 was incorporated in the State of West Bengal under the 1956 Act on 16 November 1992 under the name of Bausch Distilleries Limited vide Certificate of Incorporation issued by the Registrar of Companies, West Bengal which later on 24th October 2007 changed to TKS Developer Limited vide fresh certificate of Incorporation issued by the Deputy Registrar of Companies, West Bengal. The Registered Office of the Applicant/ Amalgamating Company No. 4 was changed from the State of west Bengal to Delhi vide Certificate of Registration dated 17th June 2010 issued by the Deputy Registrar of Companies, NCT of Delhi and Haryana. The authorized capital of the Transferor Company No. 4 is Rs.6,60,00,00,000/- (Six Hundred Sixty Crore) divided into 66,00,00,000 (Sixty six crore) equity shares of Rs. 10/- each. The issued, subscribed and Paid- up capital of the company is Rs.5,26,93,34,780/- (Five Hundred Twenty Six Crore Ninety three lakh thirty four thousand seven hundred eighty) divided into 52,69,33,478/- (Fifty two crore sixty nine lakh thirty three thousand four hundred seventy eight) equity shares of Rs.10/- each.



18) The main objects of the Amalgamating Company No.4 as stated in the application are-

a) To carry on in India or elsewhere the business of prospecting exploring, operating and working on means, quarries and to win, cruse, smelt, manufacture, process, excavate, dig. Break, acquire, develop, exercise, turn to account, survey produce, prepare, transport, buy, sell import, export, supply and to act as agent broker adatia, stockiest, distributor, consultant, contractor, manager operator or otherwise, deal in all sorts or present and future ores, minerals, deposits, goods, substances & minerals, including sand, stones, soils, chalk, clay bentonite, boryles, calcite and coal, lignite, rock phosphate, brimstone, brine, bauxite, limestone, precious, semi-precious and other stones, gold, silver diamonds, iron, aluminium, titanium, vanadium, mica, chrome, copper, gypsum, retile, sulphate, tin zinc, zircon, tungsten, silicon, brass and other allied and materials, by products, mixtures, blends, residues and substances and to do all incidental, acts and things necessary for the attainment of objects and these presents.

b) To search survey, discover and find out and to acquire by cession, grant, purchase, barter, lease, licence, decrees and tenders, the allotment or





otherwise of land and water area from Government, semi government, Local authorities, private bodies, corporation and other persons, such rights powers and privileges whatsoever for obtaining mines, cast mines quarries, deposits etc. for the accomplishment of the above objects”.

- 19) From the certificate of incorporation filed, it is evident that the Amalgamated Company/ Applicant Company was incorporated in the State of Maharashtra under the provision of the Act on 29 May 1998 under the name of BILT Investments Limited vide certificate of Incorporation issued by the Asst. Register of Companies, Maharashtra which later on 19th July 2001 was changed to BILT Trading & Infrastructure Limited. On 18th July 2002 its name was further changed to New Quest Corporation Limited which again on 02nd September 2002 further changed to NewQuest Corporation Limited which again on 4th March 2005 further changed to NewQuest Corporation Limited. Later on 28th July 2009 it was further changed to Avantha Holdings Limited on 28 July 2009 issued by the Register of Companies, Amalgamating Company Maharashtra, Mumbai. The Registered Office of the Petitioner/ Amalgamated Company was changed from the State of Maharashtra to the NCLT of Delhi and Haryana vide certificate issued by the Deputy Registrar of Companies, NCT of Delhi and Haryana dated 02nd February 2010. The

authorized capital of the Transferee Company is Rs.55,85,00,000/- (fifty five crore eighty five lakh) divided into 55,85,000 (fifty five lakh eighty five thousand) equity shares of Rs. 100/- each, Preference shares of 2,98,02,00,000/- (Two hundred ninety eight crore two lakh) divided into 2,98,02,000 (Two crore ninety eight lakh two thousand) preference share of Rs.100 each and unclassified shares of Rs. 22,00,00,000/- (Twenty two crore) divided into 22,00,000 (Twenty two lakh) unclassified shares of Rs. 100 each. The issued, subscribed and Paid- up capital of the company is Rs.4,53,90,900 (Four crore fifty-three lakh ninety thousand nine hundred) divided into 4,53,909 (Four lakh fifty three thousand nine hundred nine) equity shares of Rs.100/- each. The cumulative fully redeemable share of Rs. 50,00,000 (Fifty lakh) divided into 50,000(Fifty thousand) 8% cumulative fully redeemable optionally convertible preference shares of Rs100 each fully paid-up and Rs. 40,00,00,000/- (Forty crore) redeemable cumulative non- convertible preference share divided into Rs. 40,00,000/- (Forty Lakh) 8.5% redeemable cumulative non-convertible preference shares of Rs.100 each of fully paid-up.

20) The main objects of the Amalgamated Company as stated in the application are-





"1. To carry on business as architects, contractors and builders of all kinds of works and to undertake repairs, maintenance, overhauling and other contracts as may be required by clients in connection with the working of any factory, undertaking or other establishment.

2. To act as agents and brokers for sellers, buyers, exporters, importers, merchants, tradesman, insurers and otherwise to undertake and carry out agency work and commission business.

2a. To carry on business as importers, exporters, buyers and sellers of an merchants and dealers in merchandize, goods, materials, and machinery of all kinds , spare parts, accessories and equipment, and of jewellery, ornaments, bullion, precious and semi-precious stones.

2b. To carry on the business of healthcare services including to establish, run and manager health centres, Yoga centres, maternity & family planning units, hospitals, blood banks, poly clinics, natural cure centres , pathological laboratories, medical & other research centres and similar establishments of any description.

2c. To carry on the business of manufacturing, producing, exporting, importing, buying, selling, developing, designing, processing, investigating, installing, repairing, maintaining, reconditioning, supporting, distributing or otherwise to deal in all sorts of medicines, pharmaceuticals,

chemicals, injections, drugs, apparatus, instruments, and other allied goods & articles.

2d. To carry on the business of educational activities including to run schools, colleges, boarding houses, institutions, for primary, secondary & higher education in the fields of commerce, arts, science, engineering, medical, pharmacy, mining, military, music, dance, acting, sports, journalism, management, social welfare and industry.

2e. To carry on the business of developing, cultivating, harvesting, extracting, purifying, manufacturing, exporting, importing and dealing in biotechnological products and processes, algae and microalgae grown in both fresh and saline water, seaweeds and marine products, marine chemicals grown under intensive culture, genetic engineering, tissue culture or otherwise and other products including enzymes, fine chemicals, specially chemicals, pesticides, insecticides and all or any related products.

2f. To carry on the business as manufacturers, distributors, importers, exporters, buyers, sellers, agents, stockists and to market, store and deal in all kinds of chemicals, organic and inorganic, alkalis, acids of every description and kind, tannins, earths, caustic soda chlorine, citric acid or any mixtures, derivatives and compound thereof.



2g. To plan, promote, develop, organize , carry on the business of operation or aircraft, air transport services and airline operators, schedules or non-scheduled for the carriage, transporting by air of persons, passengers, mail, freight and cargo or for any other purpose including aerial work for commercial or other purpose, inland or international, to carry out all forms of aerial flights and services within and outside India, to provide personalized air transport to the Company executives and tourist groups, from within and outside India to provide joy rides.

2h. To establish and carry on in India or elsewhere the business to own, manage, run, establish, install and build workshops, service stations, hangers etc. and to handle , service, overhaul, construct, assemble, recondition, improve, clean, repair, shape, paint, turn to account, weld, renovate, import, export, buy, sell, equip maintain, insure, keep in safe custody, lease, charter, and let or hire aeroplanes, helicopters, hovercrafts, all other types of aircrafts, vehicles or other machines spare parts, components, accessories, fittings, consumables and incidental goods for the foregoing purpose, to establish, carry on, acquire, undertake, promote, run, manage, own, lease, commercialize, handle, operate , maintain and develop in India or elsewhere, the business to act as caterers, flight caterers or caterers to any other surface transport.

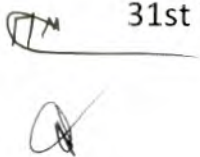


2i. To manufacture, export, import, buy, sell and deal in sacks, paper sacks, sack crafts containers, drums, boxes, cartons, casks, tubes, crates, bottles, bottle stoppers, vials, packing, packages, wrapping, wrappers, paper bags and envelopes of all kinds and fittings therefore made from paper and board including card board and plywood, plastics, Bakelite, celluloid, cell phone, metal foils, alloys, glass, wood, veneers, packing materials of all kinds and descriptions and such other similar materials whether composite or synthetic, for trade and industries of all descriptions.

2j. To give guarantees and carry on and transact every kind of guarantee and counter guarantee business and in particular the payment of any principal moneys, interest or other moneys secured by or payable under any debentures, bonds, debenture-stocks, mortgages, charges, contracts, obligations and securities, loans and credit facilities due/payable by other and the payment of dividends on and the repayment of the capital of stocks and shares of all kinds and descriptions or the performance of any other obligations.

21) All the applicants have filed their respective Memorandum and Articles of Association as well as the last available audited financial statements as on

31st March, 2016.



22) The Scheme of Amalgamation contemplates that the amalgamation of Transferor Companies with Transferee Company would achieve reduction in multiple corporate structures, synergy in business operations and greater work efficiency by consolidating operations of all the companies under one roof. This consolidation would lead to economies of scale, financial advantages and smooth functioning of the businesses. The Transferee Company would smoothly takeover the affairs of all the Transferor Companies and there may not arise any operational difficulty in the process of taking over the businesses. The Scheme envisages the amalgamation of all the Transferor Companies with the Transferee Company to enable the companies to harness and optimise the resources in the best interest of their respective stakeholders.

23) The Board of Directors of the Companies No. 1,3,4, vide separate meetings held on 07.02.2017 and board of director of Amalgamating Company 2 on 08.02.2017 have unanimously passed resolutions and approved the proposed Scheme of Amalgamation as contemplated above and copies of resolutions have also been placed on record by the companies.

24) All the companies have submitted that no investigation proceedings are pending against them either under Sections 235 to 251 of the Companies Act, 1956 or any other law.





25) Taking into consideration the joint application and the documents filed therewith, we propose to issue the following directions with respect to calling, convening and holding of the meetings of the shareholders, Secured and Unsecured Creditors or dispensing with the same as well as issue of notices including paper publication which are as follow:-

a) In relation to the Amalgamating Company No.1/ Applicant Company:

(i) With respect to Equity shareholders:

Meeting of the Equity Shareholders of the Amalgamating Company No.1 / Applicant Company is dispensed with as consent letters have been received from all the Equity Shareholders of Amalgamating Company 1/ Applicant Company and are placed on record.

(ii) With respect to Secured Creditors:

Necessity for convening the meeting of Secured Creditors does not arise as there is no Secured Creditor in the Amalgamating Company1/ Applicant Company.

(iii) With respect to Unsecured Creditors:

Meeting of the Unsecured Creditors of the Amalgamating CompanyNo.1/ Applicant Company No.1 is dispensed with as consent letters have been





received from all the Unsecured Creditors of Amalgamating Company No. 1/ Applicant Company and are placed on record.

b) In relation to the Amalgamating Company No.2/ Applicant Company:

(i) With respect to Equity shareholders:

Meeting of the Equity Shareholders of the Amalgamating Company No. 2/ Applicant Company is dispensed with as consent letters received from all the Equity Shareholders of Amalgamating Company No. 2/ Applicant Company are placed on record.

(ii) With respect to Secured Creditors:

Meeting of members of the Amalgamating Company No.2 / Applicant Company, be held at Claridges Hotel, Dr. A.P.J Abdul Kalam Road, New Delhi-110011 on 24th June 2017 at 10:00 A.M, subject to the notice of meeting being issued. The quorum for the Equity Shareholders Meeting shall be 1 in number.

(iii) With respect to Unsecured Creditors:

Meeting of the Unsecured Creditors of the Amalgamating Company No.2/ Applicant Company is dispensed with as consent letters received from





both the Unsecured Creditors of Amalgamating Company No.2/ Applicant Company are placed on record.

c) In relation to the Amalgamating Company No.3/ Applicant Company:

(i) With respect to Equity shareholders:

Meeting of members of the Amalgamating Company No.3/ Applicant Company, be held at Claridges Hotel, Dr. A.P.J Abdul Kalam Road, New Delhi-110011, on 24th June 2017 at 11:00 A.M, subject to the notice of meeting being issued. The quorum for the Equity Shareholders Meeting shall be 5 in number.

(ii) With respect to Secured Creditors:

Meeting of members of the Secured Creditors of Amalgamating Company No.3/ Applicant Company, be held at Claridges Hotel, Dr. A.P.J Abdul Kalam Road, New Delhi-110011, on 24th June 2017 at 12:00 P.M, subject to the notice of meeting being issued. The quorum for the Secured Creditors Meeting shall be 1 in number.

(iii) With respect to Unsecured Creditors:

Meeting of members of the Amalgamating Company No.3/ Applicant Company, be held at Claridges Hotel, Dr. A.P.J Abdul Kalam Road, New





Delhi-110011, on 24th June 2017 at 1:00 P.M ,subject to the notice of meeting being issued. The quorum for the Unsecured Creditors Meeting shall be 2 in number.

d) In relation to the Amalgamating CompanyNo.4/ Applicant Company:

(i) With respect to Equity shareholders:


Meeting of the Equity Shareholders of the Amalgamating CompanyNo.4/ Applicant Company is dispensed with as consent letters received from all the equity shareholders of Amalgamating CompanyNo.4/ Applicant Company are placed on record.

(ii) With respect to Secured Creditors:

Necessity for convening the meeting of Secured Creditors does not arise as there is no Secured Creditor in the Amalgamating CompanyNo.4/ Applicant Company.

(iii) With respect to Unsecured Creditors:

Meeting of members of the Amalgamating CompanyNo.4/ Applicant Company, be held at Claridges Hotel, Dr. A.P.J Abdul Kalam Road, New Delhi-110011, on 24th June 2017 at 02:30 P.M, subject to the notice of meeting being issued. The quorum for the Unsecured Creditors Meeting

 shall be 1 in number.



E) In relation to Amalgamated Company/ Applicant Company :

(i) With respect to Equity shareholders:


Meeting of the Equity Shareholders of the Amalgamated Company/ Applicant Company is dispensed with as consent letters received from all the equity shareholders of Amalgamated Company / Applicant Company are placed on record.

(ii) With respect to Secured Creditors:

Meeting of members of the Amalgamated Company / Applicant Company, be held at be held at Claridges Hotel, Dr. A.P.J Abdul Kalam Road, New Delhi-110011, on 24th June 2017 at 03:30 P.M, subject to the notice of meeting being issued. The quorum for the Secured Creditors Meeting shall be 4 in number.

(iii) With respect to Unsecured Creditors: s

Meeting of members of the Amalgamated Company/ Applicant Company, be held at be held at Claridges Hotel, Dr. A.P.J Abdul Kalam Road, New Delhi-110011, on 24th June 2017 at 04:30 P.M, subject to the notice of meeting being issued. The quorum for the Unsecured Creditors Meeting

 shall be 22 in number.



F) In case the quorum as noted above for the above meetings of the Applicant Companies are not present, then the meetings shall be adjourned for half an hour, and thereafter the persons present and voting shall be deemed to constitute the quorum. For the purpose of computing the quorum the valid proxies shall also be considered, if the proxy in the prescribed form, duly signed by the person entitled to attend and vote at the meeting, is filed with the registered office of the applicant companies at least 48 hours before the meetings. The Chairperson and Alternate Chairperson appointed herein along with Scrutinizer shall ensure that the proxy registers are properly maintained.

G) Hon'ble Mr. Justice V.S. Aggarwal (Mobile: 09891175550) is appointed as the Chairperson and Sh. Jaideep Tandon, Advocate (9810070237) is appointed as the Alternate Chairperson for the meeting of Equity Shareholders, Unsecured and Secured Creditors as has been directed to be convened by this Tribunal in respect of the Applicant Companies.

H) The fee of the Chairperson for the aforesaid meetings shall be Rs. Two Lakh and the fee of the Alternate Chairperson shall be Rs. 100,000/- in addition to meeting their incidental expenses. Sh. Vivek Goel, PCA (Mobile: 9815522553) is appointed as a Scrutinizer and would be entitled to fee of Rs. 1,00,000/- for his

services in addition to meeting his incidental expenses. The Chairpersons will



file their reports within two weeks from the date of holding of the above said meetings.

I) That individual notices of the said meetings shall be sent by the Applicant Companies through registered post or speed post or through courier or through e-mail , 30 days in advance before the scheduled date of the meeting, indicating the day, date, the place and the time as aforesaid, together with a copy of Scheme of Amalgamation, copy of explanatory statement, required to be sent under the Companies Act, 2013 and the prescribed form of proxy shall also be sent along and in addition to the above any other documents as may be prescribed under the Act may also be duly sent with the notice.

J) That the Applicant Companies shall publish advertisement with a gap of at least 30 clear days before the aforesaid meetings, indicating the day, date and the place and time as aforesaid, to be published in the English Daily , "The Statesman"(Delhi Edition), Hindi Daily, "Jansatta"(Delhi Edition) stating that the copies of Scheme of Amalgamation, the Explanatory Statement required to be furnished pursuant to Section 230 of the Act, and the form of proxy shall be provided free of charge at the registered office of the Applicant Companies.

K) Voting shall be allowed on the proposed Scheme by voting in person, by proxy, through postal ballot or through electronic means as may be applicable

to the respective companies under the Act and Rules framed there under. The

Chairperson shall be responsible to report the result of the meeting within two weeks of the conclusion of the meeting with a vote on the proposed scheme.

L) The companies shall individually send notice to Central Government, the Income Tax Authorities RBI and, concerned Registrar of Companies who may have significant bearing on the operation of the applicant companies along with copy of required documents and disclosures required under the provisions of Companies Act, 2013 read with the Rules.

M) The applicant companies further shall furnish copy of the Scheme free of charge within 1 day of any requisition for the Scheme made by every creditor or member of both the companies entitled to attend the meetings as aforesaid.

N) The authorized representative of the Applicant Companies shall furnish an affidavit of service of notice of meetings and publication of advertisement and compliance of all directions contained herein at least a week before the proposed meetings.

O) All the aforesaid directions are to be complied with strictly in accordance with

the applicable law including forms and formats contained in the Companies

Q

(Compromises, Arrangements, Amalgamations) Rules, 2016 as well as the provisions of the Companies Act, 2013 by the Applicants.

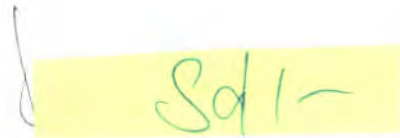
The application stands allowed on the aforesaid terms.

25.05.2017

10.04.2017



**(CHIEF JUSTICE (Rtd.) M.M.KUMAR)
PRESIDENT**



**(R.VARADHARAJAN)
MEMBER, (JUDICIAL)**