

CSA NO 1071 OF 2017

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH**

CSA NO 1071 OF 2017

In the matter of the Companies Act, 2013

And

In the matter of Sections 230 to Section 232 read with
Section 66 and other applicable provisions of the
Companies Act, 2013

And

In the matter of Composite Scheme of Arrangement and
Amalgamation between Zee Digital Convergence Limited
("ZDCL" or "First Demerged Company"); India Webportal
Private Limited ("IWPL" or "Second Demerged
Company"); Zee Unimedia Limited ("ZUL" or "Third
Demerged Company"); Sarthak Entertainment Private
Limited ("SEPL" or "Transferor Company"); Zee
Entertainment Enterprises Limited ("ZEEL" or "Resulting
Company" or "Transferee Company") and their respective
Shareholders ("Composite Scheme")

Zee Digital Convergence Limited, a Company incorporated }
under the provisions of the Companies Act, 1956 with }
Corporate Identity No. U64200MH2004PLC148772 and }
having its Registered Office at Continental Building, }
135, Dr. Annie Besant Road, Worli, Mumbai – 400 018. }

... First Applicant Company

AND

India Webportal Private Limited, a Company incorporated }
under the provisions of the Companies Act, 1956 with }
Corporate Identity No. U72900MH2010PTC201526 and }
having its Registered Office at Continental Building, }
135, Dr. Annie Besant Road, Worli, Mumbai – 400 018. }

... Second Applicant Company

AND

Zee Unimedia Limited, a Company incorporated }
under the provisions of the Companies Act, 2013 with }
Corporate Identity No. U74120MH2016PLC274857 and }

having its Registered Office at 16th Floor, 'A' Wing, }
 Marathon Futurex, N M Joshi Marg, Lower Parel, }
 Mumbai – 400 013. }

... Third Applicant Company

AND

Sarthak Entertainment Private Limited, a Company }
 incorporated under the provisions of the Companies Act, }
 1956 with Corporate Identity No. U92100MH2008PTC301041 }
 and having its Registered Office at 18th Floor, A Wing, }
 Marathon Futurex, N M Joshi Marg, Lower Parel, }
 Mumbai – 400 013. }

... Fourth Applicant Company

AND

Zee Entertainment Enterprises Limited, a Company incorporated }
 under the provisions of the Companies Act, 1956 with }
 Corporate Identity No. L92132MH1982PLC028767 and }
 having its Registered Office at 18th Floor, 'A' Wing, }
 Marathon Futurex, N M Joshi Marg, Lower Parel, }
 Mumbai – 400 013. }

... Fifth Applicant Company

The First Applicant Company, the Second Applicant Company, the Third Applicant Company, the Fourth Applicant Company and the Fifth Applicant Company defined hitherto above are collectively referred to as the "**Applicant Companies**".

Order delivered on 21st December, 2017

CORAM: M. K. Shrawat, Member (Judicial)

V. Nallasenapathy, Member(Technical)

For the Applicant: Mr. Hemant Sethi i/b Hemant Sethi& Co.

Per: **V. Nallasenapathy, Member(Technical)**

ORDER

- I. The Counsel for the Applicant Companies states that the present Composite Scheme is an arrangement and amalgamation between Zee Digital Convergence Limited ("the First Demerged Company"); India Webportal Private Limited ("the Second Demerged Company"); Zee Unimedia Limited ("the Third Demerged Company"); Sarthak Entertainment Private Limited ("the Transferor

Company”); Zee Entertainment Enterprises Limited (“the Resulting Company” or “the Transferee Company”) and their respective Shareholders (“Composite Scheme”) under the provisions of Sections 230 to Section 232 read with Section 66 and other applicable provisions of the Companies Act, 2013.

II. The Counsel for the Applicant Companies further submit that:

- (a) The First Applicant Company is engaged in digital media and entertainment business pertaining to delivery of media content using Over the Top Technology (“OTT”) and other technology(ies) including but not limited to live television, video on demand, pay per view or any other mode, to any internet enabled devices, including but not limited to mobile devices, laptop, tablets, desktop, computing devices, portable hand held devices etc, and Mobile Short Code (SMS) business.
- (b) The Second Applicant Company is engaged in media content management business *inter alia* by creation, conversion, digitization and distribution of media content through webportals, and providing digital infrastructure, application, facilities etc, providing E-mail platform and holds investment in 51% subsidiary Idea Shop Web & Media Pvt Ltd.
- (c) The Third Applicant Company is engaged in the media advertisement sale services business of selling advertisement space on various media platforms comprising of television, print and digital media.
- (d) The Fourth Applicant Company is engaged in the business of broadcasting of a general entertainment satellite television channel in Odiya language & sale of media content i.e. programs / film rights.
- (e) The Fifth Applicant Company is engaged in the business of broadcasting of general entertainment satellite television channels in various languages; acting as distributor for other television channels; and sale of media content

including programs / films / music etc. The Equity and Preference Shares (other than Series B Unlisted Preference Shares) of the Fifth Applicant Company are listed on BSE Limited ("BSE") and National Stock Exchange of India ("NSE").

III. The Counsel for the Applicant Companies further submit that the present Composite Scheme *inter alia* proposes for:

- (a) Demerger of Digital Media & Entertainment Business of the First Applicant Company ("Demerged Undertaking 1") vesting with the Fifth Applicant Company;
- (b) Demerger of Media Content Management Business of the Second Applicant Company ("Demerged Undertaking 2") vesting with the Fifth Applicant Company;
- (c) Demerger of Media Advertisement Sale Services Business of the Third Applicant Company ("Demerged Undertaking 3") vesting with the Fifth Applicant Company; &
- (d) Amalgamation of the Fourth Applicant Company with the Fifth Applicant Company,

with effect from Appointed Date of April 1, 2017 and as an integral part of the Scheme, cancellation of the paid-up Equity share capital and reduction of Securities Premium Account, if any respectively of the First, Second and the Third Applicant Companies, in accordance with the provisions of Section 66 of the Companies Act, 2013.

IV. The Counsel for the Applicant Companies further submit that the rationale for the Composite Scheme is as under:

- (a) Rationale for Demerger of the Demerged Undertakings of the Demerged Companies to the Resulting Company:

The proposed demerger once completed would achieve the following benefits:

- (i) Consolidation of digital media business done through various subsidiaries under the Fifth Applicant Company for deriving the business synergies;
 - (ii) Reduction of inter-company transactions;
 - (iii) Efficient cash flow management;
 - (iv) Elimination of duplication in costs of administration; and
 - (v) Reduction of overhead costs.
- (b) Rationale for Amalgamation of the Transferor Company with the Resulting Company:

The proposed amalgamation would accomplish the following benefits:

- (i) Consolidation of the Fourth Applicant Company with the Fifth Applicant Company will result in consolidation of all regional general entertainment channels operated by the Fifth Applicant Company and its subsidiaries, directly within the Fifth Applicant Company;
- (ii) Reducing administrative costs; and
- (iii) Achieving operational and management efficiency.

It is believed that the proposed Composite Scheme will allow a more focused growth strategy which would be in the best interests of all the stakeholders.

- V. The Counsel for the Applicant Companies further submit that the First Applicant Company, the Second Applicant Company, the Third Applicant Company and the Fourth Applicant Company are wholly owned subsidiaries of the Fifth Applicant Company and their entire share capital is owned and controlled by the Fifth Applicant Company.

VI. Based on the above submissions of the Counsel and the Application of the Applicant Companies and upon hearing the Counsel of the Applicant Companies and reading Joint Application, IT IS ORDERED THAT:-

1. That the meeting of the Equity Shareholders of the First Applicant Company be convened and held at 16th Floor A Wing, Marathon Futurex, N M Joshi Marg, Lower Parel, Mumbai 400 013 on Wednesday, 31st day of January, 2018 at 09:30 AM, for the purpose of considering and, if thought fit, approving with or without modification(s) the proposed arrangement and amalgamation embodied in the Composite Scheme of Arrangement and Amalgamation between Zee Digital Convergence Limited; India Webportal Private Limited; Zee Unimedia Limited; Sarthak Entertainment Private Limited; Zee Entertainment Enterprises Limited and their respective Shareholders.
2. That the meeting of the Equity Shareholders of the Second Applicant Company be convened and held at 16th Floor A Wing, Marathon Futurex, N M Joshi Marg, Lower Parel, Mumbai 400 on Wednesday, 31st day of January, 2018 at 10:30 AM, for the purpose of considering and, if thought fit, approving with or without modification(s) the proposed arrangement and amalgamation embodied in the Composite Scheme of Arrangement and Amalgamation between Zee Digital Convergence Limited; India Webportal Private Limited; Zee Unimedia Limited; Sarthak Entertainment Private Limited; Zee Entertainment Enterprises Limited and their respective Shareholders.
3. That the meeting of the Equity Shareholders of the Third Applicant Company be convened and held at the registered office of the Third Applicant Company at 16th Floor A Wing, Marathon Futurex, N M Joshi

Marg, Lower Parel, Mumbai 400 on Wednesday, 31st day of January, 2018 at 11:30 AM, for the purpose of considering and, if thought fit, approving with or without modification(s) the proposed arrangement and amalgamation embodied in the Composite Scheme of Arrangement and Amalgamation between Zee Digital Convergence Limited; India Webportal Private Limited; Zee Unimedia Limited; Sarthak Entertainment Private Limited; Zee Entertainment Enterprises Limited and their respective Shareholders.

4. That the meeting of the Equity Shareholders of the Fourth Applicant Company be convened and held at the registered office of the Fourth Applicant Company at 16th Floor A Wing, Marathon Futurex, N M Joshi Marg, Lower Parel, Mumbai 400 on Wednesday, 31st day of January, 2018 at 12:30 PM, for the purpose of considering and, if thought fit, approving with or without modification(s) the proposed arrangement and amalgamation embodied in the Composite Scheme of Arrangement and Amalgamation between Zee Digital Convergence Limited; India Webportal Private Limited; Zee Unimedia Limited; Sarthak Entertainment Private Limited; Zee Entertainment Enterprises Limited and their respective Shareholders.
5. That at least one month before the said Meetings of the Equity Shareholders of the First Applicant Company, the Second Applicant Company, the Third Applicant Company and the Fourth Applicant Company to be held as aforesaid, a notice convening the said Meetings at the place, date and time as aforesaid, together with a copy of the Composite Scheme, a copy of statement disclosing all material facts as required under Section 230(3) of the Companies Act 2013 read with Rule

6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 notified on 14th December, 2016 along with Ballot Form and the prescribed Form of Proxy be sent by Hand Delivery or by Courier / Registered Post / Speed Post or through Email (to those shareholders whose email addresses are duly registered with the respective Applicant Companies, except the Fifth Applicant Company, for the purpose of receiving such notices by email), addressed to each of the Equity Shareholders of the First Applicant Company, the Second Applicant Company, the Third Applicant Company and the Fourth Applicant Company respectively, at their last known address or email addresses as per the records of the respective Applicant Companies.

6. That the Notice of the aforesaid Meetings, indicating the place, date and time of said Meetings be published and advertised in two local newspapers viz. "Financial Express" in English and "Navshakti" in Marathi, both circulated in Mumbai, by the First Applicant Company, the Second Applicant Company, the Third Applicant Company and in two local newspapers viz. "Free Press Journal" in English and "Navshakti" in Marathi, both circulated in Mumbai, by the Fourth Applicant Company, not less than 30 days before the date fixed for the said Meetings, stating that copies of the Composite Scheme and the statement required to be furnished pursuant to Section 230(3) of the Companies Act 2013 read with Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 along with the Form of Proxy can be obtained free of charge at the Registered Office of the respective Applicant Companies as aforesaid and / or at the office of its Advocates, M/s Hemant Sethi & Co., 1602 Nav Parmanu, Behind Amar Cinema, Chembur, Mumbai – 400 071.

7. That Mr Punit Goenka, Director and in his absence Mr Himanshu Mody, Director and in his absence Mr Bharat Kedia, Director of the First Applicant Company, shall be the Chairman of the aforesaid meeting of the Equity Shareholders of the First Applicant Company to be held at 16th Floor, A Wing, Marathon Futurex, N M Joshi Marg, Lower Parel, Mumbai 400 on Wednesday, 31st day of January, 2018 at 09:30 AM or any adjournment or adjournments thereof.
8. That Mr Bharat Kedia, Director and in his absence Mr Sundeep Mehta, Director and in his absence, Mr Rajiv Singh, Director of the Second Applicant Company, shall be the Chairman of the aforesaid meeting of the Equity Shareholders of the Second Applicant Company to be held at 16th Floor A Wing, Marathon Futurex, N M Joshi Marg, Lower Parel, Mumbai 400 013 on Wednesday, 31st day of January, 2018 at 10:30 AM or any adjournment or adjournments thereof.
9. That Mr M Lakshminarayanan, Director and in his absence Mr Bharat Kedia, Director and in his absence Mr Atul Das, Director of the Third Applicant Company, shall be the Chairman of the aforesaid meeting of the Equity Shareholders of the Third Applicant Company to be held at the registered office of the Third Applicant Company at 16th Floor A Wing, Marathon Futurex, N M Joshi Marg, Lower Parel, Mumbai 400 013 on Wednesday, 31st day of January, 2018 at 11:30 AM or any adjournment or adjournments thereof.
10. That Mr M Lakshminarayanan, Director and in his absence Mr Bharat Kedia, Director and in his absence Mr Vikas Somani, Director of the

Fourth Applicant Company, shall be the Chairman of the aforesaid meeting of the Equity Shareholders of the Fourth Applicant Company to be held at 16th Floor A Wing, Marathon Futurex, N M Joshi Marg, Lower Parel, Mumbai 400 013 on Wednesday, 31st day of January, 2018 at 12:30 PM or any adjournment or adjournments thereof.

11. That the Chairman appointed for the respective Meetings to issue the advertisement and send out the notices of the Meetings . The said Chairman shall have all powers as per Articles of Association and also under the Companies Act, 2013 in relation to the conduct of the Meetings, including for deciding procedural questions that may arise or at any adjournment thereof or any other matter including an amendment to the Composite Scheme or resolution, if any, proposed at the meeting by any person(s) eligible to vote at the aforesaid Meetings.
12. That the quorum of the aforesaid meetings of the Equity Shareholders of the First Applicant Company, the Second Applicant Company, the Third Applicant Company and the Fourth Applicant Company shall be as prescribed under Section 103 of the Companies Act, 2013.
13. That in connection with the First Applicant Company, the Second Applicant Company, the Third Applicant Company and the Fourth Applicant Company, the voting shall be allowed on the proposed Composite Scheme by voting in person or by proxy. That voting by proxy or authorized representative in case of body corporate be permitted, provided that a proxy in the prescribed form / authorisation duly signed by the person entitled to attend and vote at the meeting, is filed with the First Applicant Company, the Second Applicant Company, the Third

Applicant Company and the Fourth Applicant Company, at their respective Registered Offices not later than 48 hours before the aforesaid Meetings.

14. That the value and number of the shares held by each Equity Shareholder of the First Applicant Company, the Second Applicant Company, the Third Applicant Company and the Fourth Applicant Company, shall be in accordance with the Books / Register of Members of the respective Applicant Companies and/or records maintained by their Depositories, if any, and where the entries in the Register of Members / Depository records are disputed, the Chairman of the aforesaid Meetings shall determine the value for the purpose of the aforesaid Meetings and his decision in that behalf would be final.
15. That Mr. Pushpal Sanghavi failing him Mr. Vinod Thakurdesai Shareholder(s) of the First Applicant Company, is hereby appointed as Scrutinizer of the meeting of Equity shareholders of the First Applicant Company proposed to be held at 16th Floor A Wing, Marathon Futurex, N M Joshi Marg, Lower Parel, Mumbai 400 013 on Wednesday January 31 2018 at 09:30 AM or any adjournment(s) thereof.
16. That M Lakshminarayanan and failing him Mr. Atul Das Shareholder(s) of Second Applicant Company, is hereby appointed as Scrutinizer of the meeting of Equity shareholders of the Second Applicant Company proposed to be held at 16th Floor A Wing, Marathon Futurex, N M Joshi Marg, Lower Parel, Mumbai 400 013 on Wednesday January 31, 2018 at 10:30 AM or any adjournment(s) thereof.

17. That Mrs Armin Adajania and failing her Mr. Pushpal Sanghavi Shareholder(s) of Third Applicant Company, is hereby appointed as Scrutinizer of the meeting of Equity shareholders of the Third Applicant Company proposed to be held at the registered office of the Third Applicant Company at 16th Floor A Wing, Marathon Futurex, N M Joshi Marg, Lower Parel, Mumbai 400 013 on Wednesday January 31, 2018 at 11:30 AM or any adjournment(s) thereof.
18. That Mr Pushpal Sanghavi and failing him Mr. Mihir Modi Shareholder(s) of the Fourth Applicant Company, is hereby appointed as Scrutinizer of the meeting of Equity shareholders of the Fourth Applicant Company proposed to be held at 16th Floor A Wing, Marathon Futurex, N M Joshi Marg, Lower Parel, Mumbai 400 013 on Wednesday January 31 2018 at 12:30 PM or any adjournment(s) thereof.
19. That the Chairman of the Meetings of the First Applicant Company, the Second Applicant Company, the Third Applicant Company and the Fourth Applicant Company, to file an affidavit not less than seven (7) days before the date fixed for the holding of the respective Meetings and do report this Tribunal that the direction regarding the issue of notices and the advertisement have been duly complied with.
20. That the Chairman of the Meetings of the First Applicant Company, the Second Applicant Company, the Third Applicant Company and the Fourth Applicant Company, to report to this Tribunal, the results of the aforesaid Meetings within thirty days of the conclusion of the respective Meetings.

21. That the First Applicant Company is directed to serve notices of meeting of the Equity Shareholders of the First Applicant Company along with copy of Composite Scheme upon:- (i) the Central Government through the office of Regional Director, Western region, Mumbai, (ii) the Registrar of Companies, Mumbai, (iii) concerned Income Tax Authority within whose jurisdiction the First Applicant Company's assessments are made with an intimation that they may, if they so wish, submit their representations, if any, within a period of thirty days from the date of receipt of such notice to the Tribunal with copy of such representations shall simultaneously be served upon the First Applicant Company, failing which, it shall be presumed that the authorities have no representations to make on the proposed arrangement embodied in the Composite Scheme.
22. That the Second Applicant Company is directed to serve notices of meeting of the Equity Shareholders of the Second Applicant Company along with copy of Composite Scheme upon:- (i) the Central Government through the office of Regional Director, Western region, Mumbai, (ii) Registrar of Companies, Mumbai, (iii) concerned Income Tax Authority within whose jurisdiction the Second Applicant Company's assessments are made with an intimation that they may, if they so wish, submit their representations, if any, within a period of thirty days from the date of receipt of such notice to the Tribunal with copy of such representations shall simultaneously be served upon the Second Applicant Company, failing which, it shall be presumed that the authorities have no representations to make on the proposed arrangement embodied in the Composite Scheme.
23. That the Third Applicant Company is directed to serve notices of meeting

of the Equity Shareholders of the Third Applicant Company along with copy of Composite Scheme upon:- (i) the Central Government through the office of Regional Director, Western region, Mumbai, (ii) Registrar of Companies, Mumbai, (iii) concerned Income Tax Authority within whose jurisdiction the Third Applicant Company's assessments are made with an intimation that they may, if they so wish, submit their representations, if any, within a period of thirty days from the date of receipt of such notice to the Tribunal with copy of such representations shall simultaneously be served upon the Third Applicant Company, failing which, it shall be presumed that the authorities have no representations to make on the proposed arrangement embodied in the Composite Scheme.

24. That the Fourth Applicant Company is directed to serve notices of meeting of the Equity Shareholders of the Fourth Applicant Company along with copy of Composite Scheme upon:- (i) the Central Government through the office of Regional Director, Western region, Mumbai, (ii) Registrar of Companies, Mumbai, (iii) the Ministry of Information and Broadcasting, and (iv) concerned Income Tax Authority within whose jurisdiction the Applicant Company's assessments are made with an intimation that they may, if they so wish, submit their representations, if any, within a period of thirty days from the date of receipt of such notice to the Tribunal with copy of such representations shall simultaneously be served upon the Fourth Applicant Company, failing which, it shall be presumed that the authorities have no representations to make on the proposed arrangement embodied in the Composite Scheme.
25. The Fourth Applicant Company is also directed to serve a notice of

meeting of the Equity Shareholders the Fourth Applicant Company along with the copy of the Composite Scheme upon the Official Liquidator. M/s Gondalia & Mandviwala, Chartered Accountants are hereby appointed to assist the Official Liquidator to scrutinize books of Accounts of the Fourth Applicant Company for the last 5 years. The fees of the Chartered Accountant is fixed at Rs. 60,000/- to be paid within a period three weeks from today. The Official Liquidator may submit his representations, if any, within a period of thirty days from the date of receipt of such notice to the Tribunal and a copy of such representations shall simultaneously be served upon the Fourth Applicant Company, failing which, it shall be presumed that the Official Liquidator have no representations to make on the proposed arrangement embodied in the Composite Scheme.

26. The Counsel for the Applicant Companies submit that there are no Secured Creditors in the First Applicant Company. Hence, the question of convening and holding the meeting of Secured Creditors of the First Applicant Company does not arise. The Counsel for the Applicant Companies further submit that since the Composite Scheme is an arrangement and amalgamation between the Applicant Companies and their respective Shareholders as contemplated under section 230(1)(b) of the Companies Act, 2013, and not in accordance with the provisions of Section 230(1)(a) of the Companies Act, 2013 as there is no compromise or arrangement with the Unsecured Creditors, as no sacrifice is called for. The rights of the Unsecured Creditors will not be affected as all the Unsecured Creditors would be paid off in the ordinary course of business. Accordingly, it is respectfully submitted that there is no requirement of convening a meeting of the Unsecured Creditors for the First Applicant Company. Hence, only a meeting of the Equity Shareholders of the First

Applicant Company is proposed to be held in accordance with the provisions of Section 230(1)(b) of the Companies Act, 2013. This bench hereby directs the First Applicant Company to issue notice of the meeting of the Equity Shareholders of the First Applicant Company to its Unsecured Creditors, which are due and payable, having an outstanding balance of Rs.5,00,000/- or more as on 30th September 2017 as required under section 230(3) of the Companies Act 2013 with a direction that they may submit their representations, if any, to the Tribunal and copy of such representations shall simultaneously be served upon the First Applicant Company.

27. The Counsel for the Applicant Companies submit that there are no Secured Creditors in the Second Applicant Company. Hence, the question of convening and holding of the meeting of Secured Creditors of the Second Applicant Company does not arise. The Counsel for the Applicant Companies further submit that since the Composite Scheme is an arrangement and amalgamation between the Applicant Companies and their respective Shareholders as contemplated under section 230(1)(b) of the Companies Act, 2013, and not in accordance with the provisions of Section 230(1)(a) of the Companies Act, 2013 as there is no compromise or arrangement with the Unsecured Creditors, as no sacrifice is called for. The rights of the Unsecured Creditors will not be affected as all the Unsecured Creditors would be paid off in the ordinary course of business. Accordingly, it is respectfully submitted that there is no requirement of convening a meeting of the Unsecured Creditors for the Second Applicant Company. Hence, only a meeting of the Equity Shareholders of the Second Applicant Company is proposed to be held in accordance with the provisions of Section 230(1)(b) of the Companies Act, 2013. This bench

hereby directs the Second Applicant Company to issue notice of the meeting of the Equity Shareholders of the Second Applicant Company to its Unsecured Creditors, which are due and payable, having an outstanding balance of Rs. 5,00,000/- or more as on 30th September 2017 as required under section 230(3) of the Companies Act 2013 with a direction that they may submit their representations, if any, to the Tribunal and copy of such representations shall simultaneously be served upon the Second Applicant Company.

28. The Counsel for the Applicant Companies further submit that since the Composite Scheme is an arrangement and amalgamation between the Applicant Companies and their respective Shareholders as contemplated under section 230(1)(b) of the Companies Act, 2013, and not in accordance with the provisions of Section 230(1)(a) of the Companies Act, 2013 as there is no compromise or arrangement with the Secured or Unsecured Creditors as no sacrifice is called for. The rights of the Secured or Unsecured Creditors will not be affected as all the Unsecured Creditors would be paid off in the ordinary course of business. There is no dilution in securities provided to the Secured Creditors who will continue to hold charge over the respective assets post sanctioning of the Composite Scheme. Accordingly, since there is no compromise or arrangement with either the Secured Creditors or the Unsecured Creditors, it is respectfully submitted that there is no requirement of convening a meeting of the Unsecured Creditors of the Third Applicant Company. Accordingly, only a meeting of the Equity Shareholders of the Third Applicant Company, is proposed to be held in accordance with the provisions of Section 230(1)(b) of the Companies Act, 2013. This bench hereby directs the Third Applicant Company to issue notice of the meeting of the Equity

Shareholders of the Third Applicant Company to all its Secured Creditors and to its Unsecured Creditors, which are due and payable, having an outstanding balance of Rs. 5,00,000/- or more as on 30th September 2017 as required under section 230(3) of the Companies Act 2013 with a direction that they may submit their representations, if any, to the Tribunal and copy of such representations shall simultaneously be served upon the Third Applicant Company.

29. The Counsel for the Applicant Companies submit that there are no Secured Creditors in the Fourth Applicant Company. Hence, the question of convening and holding of the meeting of Secured Creditors of the Fourth Applicant Company does not arise. The Counsel for the Applicant Companies further submit that since the Composite Scheme is an arrangement and amalgamation between the Applicant Companies and their respective Shareholders as contemplated under section 230(1)(b) of the Companies Act, 2013, and not in accordance with the provisions of Section 230(1)(a) of the Companies Act, 2013 as there is no compromise or arrangement with the Unsecured Creditors, as no sacrifice is called for. The rights of the Unsecured Creditors will not be affected as all the Unsecured Creditors would be paid off in the ordinary course of business. Accordingly, it is respectfully submitted that there is no requirement of convening a meeting of the Unsecured Creditors for the Fourth Applicant Company. Hence, only a meeting of the Equity Shareholders of the Fourth Applicant Company is proposed to be held in accordance with the provisions of Section 230(1)(b) of the Companies Act, 2013. This bench hereby directs the Fourth Applicant Company to issue notice of the meeting of the Equity Shareholders of the Fourth Applicant Company to its Unsecured Creditors, which are due and payable, having an

outstanding balance of Rs. 5,00,000 or more as on 30th September 2017 as required under section 230(3) of the Companies Act 2013 with a direction that they may submit their representations, if any, to the Tribunal and copy of such representations shall simultaneously be served upon the Fourth Applicant Company.

30. The Counsel for the Applicant Companies respectfully submit that:

- (a) The Fifth Applicant Company is the holding company of the First Applicant Company, the Second Applicant Company, the Third Applicant Company and the Fourth Applicant Company aforementioned.
- (b) Even after the demerger of the respective Demerged Undertakings from the First Applicant Company, the Second Applicant Company, the Third Applicant Company and vesting with the Fifth Applicant Company and amalgamation of the Fourth Applicant Company with the Fifth Applicant Company, no new shares are purported to be issued by the Fifth Applicant Company because the Fifth Applicant Company itself is the 100% shareholder of the First Applicant Company, the Second Applicant Company, the Third Applicant Company and the Fourth Applicant Company. Accordingly, there will not be any change in the shareholding of the Fifth Applicant Company post the Composite Scheme becoming effective and hence, the proposed Composite Scheme will not result in any dilution in shareholding of the shareholders of the Fifth Applicant Company.
- (c) The net worth of the Fifth Applicant Company is highly positive of approx. Rs. 4,184.4 crores. The assets of the Fifth Applicant Company are more than sufficient to discharge all its liabilities including those that will be vested in pursuance of the Composite

Scheme.

- (d) There is no compromise or arrangement either with the Equity or Preference Shareholders of the Fifth Applicant Company or with the Creditors of the Fifth Applicant Company. Therefore, the proposed Composite Scheme is not prejudicial to the interest of the Equity or Preference Shareholders or the Creditors of the Fifth Applicant Company.
31. The Counsel for the Applicant Companies submits that, in view of the above, no reconstruction or arrangement is proposed by the Fifth Applicant Company either with its Shareholders or with its Creditors, and thus, it does not require to hold either Shareholders' meeting or Creditors' meeting for approval of the proposed Composite Scheme, in view of the ratio laid down by this Tribunal in **CSA NO 243 of 2017 in the matter of Housing Development Finance Corporation Limited**. The Counsel for the Applicant Companies submits that the facts in the present case are similar to the facts of above case, therefore, no meeting of Shareholders and Creditors of the Fifth Applicant Company is required to be convened. The Counsel for the Applicant Companies further clarifies that the Fifth Applicant Company will file petition and comply with the provisions of service of notices upon all Regulatory authorities.
32. That the Fifth Applicant Company is directed to serve notice along with copy of Composite Scheme upon:- (i) the Central Government through the office of Regional Director, Western region, Mumbai, (ii) Registrar of Companies, Mumbai, (iii) Ministry of Information and Broadcasting, and (iv) concerned Income Tax Authority within whose jurisdiction the Applicant Company's assessments are made with an intimation that they

may, if they so wish, submit their representations, if any, within a period of thirty days from the date of receipt of such notice with the Tribunal with copy of such representations simultaneously served upon the Fifth Applicant Company, failing which, it shall be presumed that the authorities have no representations to make on the proposed arrangement embodied in the Composite Scheme.

33. That the First Applicant Company, the Second Applicant Company, the Third Applicant Company and the Fourth Applicant Company are directed to file affidavit of service in the Registry proving dispatch of notices upon Shareholders, Creditors and all Regulatory authorities as stated in clause 10, 11, 26 to 30 and 31 to 34 above.
34. That the Fifth Applicant Company is hereby directed to file affidavit of service in the Registry proving dispatch of notices to all the Regulatory authorities as stated in clause 36 above.

Sd/-

V. Nallasenapathy, Member(T)

Date: 21.12.2017

Sd/-

M. K. Shrawat, Member (J)