

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH, MUMBAI  
COMPANY SCHEME PETITION NO. 153 OF 2017**

In the matter of Companies Act, 1956 (1 of 1956);

AND

In the matter of Section 230-232 of the Companies Act, 2013

AND

In the matter of Scheme of Amalgamation of Indo Rama Renewables Limited (Transferor/ Petitioner Company No. 1), Indo Rama Renewables Ramgarh Limited (Transferor/ Petitioner Company No. 2), Indo Rama Renewables Porbandar Limited (Transferor/ Petitioner Company No. 3) with Indo Rama Synthetics (India) Limited (Transferee/ Petitioner Company) and their Respective Shareholders

INDO RAMA RENEWABLES LIMITED )  
A Company duly incorporated under )  
The Companies Act, 1956 and having )  
its Registered Office at )  
31-A, MIDC Industrial Area, )  
Butibori-441122 )

.....Transferor/ Petitioner Company No. 1

INDO RAMA RENEWABLES RAMGARH LIMITED) )  
A Company duly incorporated under )  
The Companies Act, 1956 and having )  
its Registered Office at )  
31-A, MIDC Industrial Area, )  
Butibori-441122 )

.....Transferor/ Petitioner Company No. 2

INDO RAMA RENEWABLES PORBANDAR LIMITED) )  
A Company duly incorporated under )  
The Companies Act, 1956 and having )  
its Registered Office at )  
31-A, MIDC Industrial Area, )  
Butibori-441122 )

INDO RAMA SYNTHETICS (INDIA) LIMITED )  
A Company duly incorporated under )  
The Companies Act, 1956 and having )  
its Registered Office at )  
31-A, MIDC Industrial Area, )  
Butibori-441122 )

.....Transferee/ Petitioner Company

**Mr. Hemant Sethi, i/b Mr. Nitin Lalwani for Petitioners**

**CORAM: B.S.V. Prakash Kumar, Member (Judicial)**

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

**Date: 29<sup>th</sup> March, 2017**

1. Heard the learned counsel for the Petitioner Companies. No objector has come before this Tribunal to oppose the Petition and nor any party has controverted any averments made in the Petition.
2. The sanction of this Tribunal is sought under Sections 230 to 232 of the Companies Act, 2013, to the Scheme of Amalgamation of Indo Rama Renewables Limited Transferor/ Petitioner Company No. 1), Indo Rama Renewables Ramgarh Limited (Transferor/ Petitioner Company No. 2), Indo Rama Renewables Porbandar Limited (Transferor/ Petitioner Company No. 3) with Indo Rama Synthetics (India) Limited (Transferee/ Petitioner Company).
3. The Counsel for the Petitioner Companies submit that Transferor Company No.1, 2 & 3 is engaged in the business of generation, development, transmission and distribution of power and any other form of conventional, non-conventional, renewable and alternate energy. The Transferee Company is engaged in the business of manufacturing and supplying polyester in and outside India and generation, development, transmission and distribution of power.
4. The respective Boards of Directors are of the view that the proposed Scheme of Amalgamation is beneficial to the respective shareholders, employees and all stakeholders of the Petitioner Companies. The proposed Scheme of Arrangement is aimed at achieving the following business and commercial objectives:
  - a. Greater efficiency in resource management, cost savings resulting from rationalization, standardization and simplification of business processes.

- b. Improved organizational capability arising from pooling of financial, managerial and technical resources.
  - c. Re-aligning the business operations as part of overall business reorganization plan.
  - d. Avoiding un-necessary duplication of costs of administration, distribution, selling and marketing costs.
  - e. Maximize the overall shareholders value by strengthening its core competencies.
5. The Board of Directors of the Transferor Companies and the Transferee Company have approved the said Scheme of Amalgamation by passing necessary Board Resolutions which are annexed to the respective Company Scheme Petitions filed by the Petitioner Companies.
6. The Learned Counsel appearing on behalf of the Petitioner Companies further states that the Petitioner Companies have complied with all requirements as per directions of the Court / Tribunal and the necessary affidavits of compliance has been filed in the Court / Tribunal. Moreover, the Petitioner Companies through their Counsel undertake to comply with all statutory requirements, if any, as required under the Companies Act, 1956 / 2013 and the Rules made there under whichever is applicable. The said undertakings given by the Petitioner Companies are accepted.
7. The Official Liquidator has filed his report on 23<sup>rd</sup> March, 2017 stating that the affairs of the Transferor Companies have been conducted in a proper manner and that Transferor Companies may be ordered to be dissolved.
8. The Regional Director has filed his report dated 21<sup>st</sup> March 2017 stating therein that, save and except as stated below, it appears that the Scheme is not prejudicial to the interest of shareholders and public. In paragraph IV of the said Report, it is stated that:
- (a) *In addition to compliance of As -14 (IND AS-103) the Transferee Company shall pass such accounting entries which are necessary in connection with the scheme to comply with other applicable Accounting Standards such as AS -5 (IND- AS -8) etc.*
  - (b) *Regarding Clause 11 of the Scheme it is submitted that the surplus if any arising out of the scheme shall be credited to capital Reserve and deficit if any arising out of the same shall be debited to Goodwill Account and will not be adjusted against Profit & Loss Account/General Reserve of the Transferor/Transferee Company.*
  - (c) *As per Part-1 Definitions Clause 1.1(b) of the Scheme "the Appointed Date" means 1<sup>st</sup> April 2016 or such other date as may be directed by the Hon'ble High court of Bombay or any other competent authority. In this regard, it is submitted in terms of provisions of section 232(6) of the Companies Act, 2013 it should be 1<sup>st</sup> April, 2016;*

*(d) As per existing practice, the Petitioner Companies are required to serve Notice for Scheme of Arrangements to the Income Tax Department for their comments. It is appears that the company vide letter 27.02.2017 has served a copy of company petition No 153 /2017 along with relevant orders etc. to IT Department . Further this office has also issued reminder letter dated 20.03.2017 to the concerned Income Tax authorities .*

*(e) The tax implication if any arising out of the Scheme is subject to the final decision of the Income Tax Authorities. The approval of the Scheme by this Hon'ble Tribunal may not deter the Income Tax Authority to scrutinize the tax return filed by the Transferee Company after giving effect to the scheme. The decision of the Income Tax Authority is binding on the Petitioner Company.*

9. In so far as observations made in paragraph IV (a) of the Report of Regional Director is concerned, the Transferee Company through its Counsel undertakes that it shall pass such accounting entries which are necessary in connection with the scheme to comply with other applicable Accounting Standards such as AS-5 (IND AS-8) etc.
10. In so far as observations made in paragraph IV (b) of the Report of Regional Director is concerned the Transferee company through their Counsel undertakes that surplus if any arising out of the scheme shall be credited to capital Reserve and deficit if any arising out of the same shall be debited to Goodwill Account and will not be adjusted against Profit & Loss Account/General Reserve of the Transferor/Transferee Company.
11. In so far as observations made in paragraph IV (c) of the Report of Regional Director is concerned, it is submitted that Appointed date for the Scheme is 1<sup>st</sup> April, 2016.
12. In so far as observations made in paragraph IV (d)& (e) of the Report of Regional Director is concerned, the Petitioner Companies through their Counsel submit that the Petitioner Companies undertakes to comply with all applicable provisions of the Income Tax Act and all tax issues arising out of the Scheme will be met and answered in accordance with law.
13. The observations made by the Regional Director have been explained by the Petitioner Companies in paragraphs 9 to 12 above. The clarifications and undertakings given by the Petitioner Companies are hereby accepted.
14. From the material on record, the Scheme appears to be fair and reasonable and is not violative of any provisions of law and is not contrary to public policy.
15. Since all the requisite statutory compliances have been fulfilled, Company Scheme Petition No 153 of 2017 filed by the respective Petitioner Companies is made absolute in terms of prayer clause 13(i) of the Petition.

16. Petitioner Companies are directed to file a copy of this order along with a copy of the Scheme of Amalgamation with the concerned Registrar of Companies, electronically, along with E-Form INC-28, in addition to the physical copy within 30 days from the date of issuance of the order by the Registry.
17. The Petitioner Companies to lodge a copy of this order and the Scheme duly certified by the Deputy Director, National Company Law Tribunal, Mumbai Bench, with the concerned Superintendent of Stamps for the purpose of adjudication of stamp duty payable, if any, on the same within 60 days from the date of receipt of the order.
18. The Petitioner Companies to pay costs of Rs.25,000/- each to the Regional Director, Western Region, Mumbai and to the Official Liquidator, High Court, Bombay.
19. Costs to be paid within four weeks from the date of receipt of order.
20. All authorities concerned to act on a certified copy of this order along with the Scheme duly certified by the Deputy Director National Company Law Tribunal, Mumbai Bench.
21. Any person interested shall be at liberty to apply to the Tribunal in the above matter for any direction that may be necessary.

Sd/-

**B.S.V. Prakash Kumar, Member (Judicial)**

Sd/-

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