Redefining Business Services

May 10, 2025

To: **BSE Limited (BSE)** **Corporate Relationship Department** **Phiroze Jeejeebhoy Towers,** **25th Floor, Dalal Street,** **Mumbai - 400001** **BSE Scrip Code: 543996**	To: **National Stock Exchange of India Limited (NSE)** **Listing Department** **Exchange Plaza, 5th Floor, Plot No. C/1, G Block, Bandra Kurla Complex, Bandra (East),** **Mumbai — 400051** **NSE Code: UDS**

Dear Sir/Madam,

Sub: Sanction of the Scheme by the Hon'ble National Company Law Tribunal ("NCLT")

Ref: Scheme of Amalgamation between Updater Services Limited ('Transferee') and Stanworth Management Private Limited and Tangy Supplies & Solutions Private Limited (together referred to as 'Transferor Companies') of Transferor and their respective shareholders, pursuant to the provisions of Sections 230 to 232 of the Companies Act, 2013 and any other applicable provisions of the Companies Act, 2013. ("Scheme")

Further to our earlier intimation letters dated May 20, 2024, June 27, 2024, December 20, 2024, and January 06, 2025, and pursuant to Regulation 30 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, we wish to inform you that the Hon'ble National Company Law Tribunal (NCLT), Chennai Bench, has approved the Scheme of Amalgamation involving Updater Services Limited **(the "Transferee Company")** and Stanworth Management Private Limited and Tangy Supplies & Solutions Private Limited **(together, the "Transferor Companies")** through its order dated May 08, 2025.

The certified copy of the NCLT order was received on May 10, 2025. A copy of the approved Scheme is enclosed herewith as '***Annexure A'*** for your reference.

The merger will take effect from the appointed date as specified in the scheme, upon filing of the NCLT order with the Registrar of Companies through e-form INC-28. The Transferor Companies will stand dissolved thereafter.

Kindly take note of this and acknowledge receipt.

Yours faithfully,

For Updater Services Limited

SANDHYA
Digitally signed by SANDHYA
Date: 2025.05.10 19:02:28 +05'30'

Sandhya Saravanan
Company Secretary and Compliance Officer
A66492

IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH–I, CHENNAI

ATTENDANCE CUM ORDER SHEET OF THE HEARING
HELD ON **08.05.2025** THROUGH VIDEO CONFERENCING

PRESENT: **HON'BLE SHRI. SANJIV JAIN, MEMBER (JUDICIAL)**
HON'BLE SHRI. VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

APPLICATION NUMBER **:**

PETITION NUMBER : CA(CAA)/9(CHE)/2025

NAME OF THE PETITIONER(S) : Standworth Management Pvt. Ltd.

NAME OF THE RESPONDENT(S) :

UNDER SECTION : Sec 230-232 of CA, 2013

ORDER

Present: Shri.Pawan Jhabakh, Ld. Counsel for the Petitioner.

Vide separate order pronounced in the Open Court, Application is allowed and the Scheme is approved.

Sd/-
VENKATARAMAN SUBRAMANIAM
MEMBER (TECHNICAL)

Sd/-
SANJIV JAIN
MEMBER (JUDICIAL)

vs

Date: 08.05.2025

IN THE NATIONAL COMPANY LAW TRIBUNAL, DIVISION BENCH – I, CHENNAI

CA(CAA)/9/CHE/2025

(filed under Sections 233(6) and other applicable provisions of the Companies Act, 2013)

In the matter of Scheme of

Amalgamation of Stanworth Management Private Limited and Tangy Supplies & Solutions Private Limited with Updater Services Limited.

Stanworth Management Private Limited,
A company incorporated under Companies Act, 1956,
having its registered office at, 2/302A, UDS Salai,
Off Mahabalipuram Road, Thoraipakkam,
Chennai, Tamil Nadu, India-600097

...Applicant/Transferor Company (1)

Tangy Supplies & Solutions Private Limited,
A company incorporated under Companies
Act, 1956, having its registered office at
No. 1/4. Leelavathi Nagar, Sikkarayapuram, Mangadu,
Chennai, Tamil Nadu, India-600069

...Applicant/Transferor Company (2)

Updater Services Limited,
A company incorporated under Companies
Act, 1956, having its registered office at, First Floor,
No.42, Gandhi Mandapam Road, Kotturpuram,
Chennai, Tamil Nadu, India, 600085

Vs.

...Applicant/Transferee Company

The Regional Director,
Southern Region, Chennai, 5th Floor,
Shastri Bhawan, 26 Haddows Road, Chennai-600006

...Respondent

Order pronounced on ***8th May, 2025***

CORAM :

SANJIV JAIN, MEMBER (JUDICIAL)
VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

For Applicant : *Pawan Jhabakh, Advocate*
For Regional Director : *Avinash Krishnan Ravi, Advocate*

ORDER

1. Under consideration is a joint application filed by the Applicant Companies, namely, **STANWORTH MANAGEMENT PRIVATE LIMITED** (for brevity "Transferor Company 1"), **TANGY SUPPLIES & SOLUTIONS PRIVATE LIMITED** (for brevity "Transferor Company 2") and **UPDATER SERVICES LIMITED** (for brevity "Transferee Company") with its Shareholders under section 233(6) of the Companies Act, 2013, and other applicable provisions of the Companies Act, 2013 read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 in relation to the Scheme of Arrangement (Amalgamation) (hereinafter, the "Scheme") proposed by the Applicant Companies herein with its Shareholders. The said Scheme is appended as "Annexure A2" at Page Nos. 24 to 52 of the Application typeset. The reliefs sought by the Applicant Companies are as under,

a. That the Scheme of Amalgamation of Stanworth Management Private Limited and Tangy Supplies & Solutions Private Limited be approved by this Hon'ble Tribunal with the Appointed Date of 1 April 2024;

b. That the Applicant/Transferor Companies, Stanworth Management Private Limited and Tangy Supplies & Solutions Private Limited be dissolved without the process of winding up;

c. For such other orders as this Hon'ble Tribunal deems fit in the fact and circumstances of the case.

BRIEF FACTS OF THE CASE

2. It is stated that the Applicant Companies filed the Scheme of Amalgamation of Stanworth Management Private Limited and Tangy Supplies & Solutions Private Limited with Updater Services Limited pursuant to Section 233 of the Companies Act 2013, with the Regional Director, Ministry of Corporate Affairs. It is stated that the RD rejected the Scheme vide order dated 17.12.2024 for the reason that the Transferee Company has only received shareholders' approval to the extent of 76.69% which is below the requirement of approval of nine-tenths in value of shareholders set forth under Section 233 (1) (b) of the Companies Act 2013. Therefore, the present application has been filed under Section 233(6) of the Companies Act 2013, seeking the sanction and approval of the Scheme by this Tribunal.

3. It is stated that the Transferor Company 1 and Transferor Company 2 are wholly owned subsidiaries of the Transferee Company. Hence, the Applicant Companies adopted the process laid down under Section 233 of the Companies Act 2013. The Applicant Companies approved the Scheme through their Board of Directors on 20.05.2024.

4. It is stated that consequent to the filing of the Scheme with the Respondent, notices were issued to the Registrar of Companies and the Office of the Liquidator to file their objections/suggestions to the Scheme with the Respondent. Subsequent to the notices being served, the Liquidator and the Registrar of Companies filed their respective reports conveying that they have no objection to the Scheme.

5. It is stated that the requisite declaration of solvency, details of the statutory dues, accounting treatment certificates along with the statement of assets and liabilities, the Income Tax Assessment status and no prosecution certificate were filed with the Regional Director in compliance with the requirements of Section 233 of the Companies Act 2013. Along with the notices being issued, the Applicant Companies also provided requisite documents to evidence the approval of the creditors of the Applicant Companies satisfying the threshold of 90% as provided under section 233(1)(d) of the Companies Act 2013.

6. It is stated that the provisions of Section 233(1)(b) of the Companies Act 2013 provide that the Scheme is to be approved by the respective members at a general meeting holding at least 90% of the total number of shares. As far as the Applicant/Transferor Companies are concerned, the requirements of section 233(1)(b) of the Companies Act, 2013 were achieved as the entire issued, subscribed, and paid-up equity share capital of the Transferor Companies were held by the Transferee Company. As far as the Transferee Company and its members were concerned, notices were issued for voting by way of postal ballot on the

special business concerning the Scheme. The shareholders of the Transferee which voted on the Scheme comprised of 76.69% of the issued, subscribed, and paid-up capital of the Transferee Company. The Regional Director rejected the Scheme as the voting of members did not comprise of 90% of the issued, subscribed, and paid-up capital of the Transferee Company.

7. It is stated that the provisions of Section 233(1)(b) of the Companies Act, 2013 ought to be interpreted in a manner wherein the absence of the use of words "**total number of shares of the company**" would mean that total number of shares of members attending/voting at a general meeting and not members holding 90% of the issued, subscribed, and paid-up capital of the Transferee Company, rather than the ground of rejection adopted by the Regional Director. It is stated that the Transferee Company conducted shareholders meeting through remote e-voting mode and if the interpretation as prayed above is taken into consideration, the percentage of the approval received from shareholders shall be as follows:

S No	**Particulars**	**Total votes**	**Voted in favour**	**Voted against**
1	Total number of members voting	115	111	4
2	Number of votes cast by the members	5,13,43,662	5,13,43,461	201
3	**% of total number of votes cast**	**100.0000%**	**99.9996%**	**0.0004%**

8. It is stated that the Regional Director has taken into consideration the overall number of shares irrespective of whether the shareholder holding such shares have voted or not, to determine the percentage of approval received, which is as follows:

S.No	Particulars	Total votes	Voted in favour
1	Number of shares held by shareholders	6,69,48,366	5,13,43,461
2	% of total number of shares	100.0000%	76.6914%

9. It is stated that the Scheme has been approved by 99.9996% of the shareholders of the Transferee Company who were attending/voting, thereby satisfying the threshold requirements as laid down under the provisions of section 233(1)(b) of the Companies Act, 2013. It is stated that the rejection of the Scheme by the Regional Director is untenable in law.

10. It is stated that this Tribunal has adequate power under the provisions sub-section (6) of section 233 of the Companies Act, 2013 wherein the Scheme may be confirmed on an application made by any person. The Applicant Companies submit that there is no requirement for any further process under section 232 of the Companies Act 2013 to be undertaken by the Applicant Companies as the necessary approvals of all the stakeholders, shareholders, and regulators except by the Respondent herein have been obtained.

11. It is stated that severe prejudice would be caused to the stakeholders of the Applicant Companies if the Scheme is not confirmed by this Tribunal as the approval of the Scheme would enable greater integration, financial strength, simplification of group structure as well efficient use of infrastructure and resources.

REPORT FILED BY THE RESPONDENT

12. The Respondent, Regional Director, filed its Report vide ***S.R.No. 211*** dated ***05.03.2025.***

13. It is stated that Clause 22 of Part-1 of the Scheme provides the appointed date as 01.04.2024.

14. It is stated that the Transferee Company, a listed entity filed form CAA-11 under Section 233(2) of the Companies Act, 2013 read with Rule 25(4) of the Companies (Compromises, Arrangements, and Amalgamations) Rules, 2016 with the Respondent on 08.11.2024 seeking approval of the Scheme under Section 233 of the Companies Act, 2013.

15. It is stated that prior to the serving of CAA-11 to the Respondent, the Applicant Companies issued notices in CAA-9 to the Respondent, the Registrar of Companies, Tamil Nadu, Chennai, the Official Liquidator, High Court, Chennai and the Income Tax Department on 27.6.2024. The Income Tax Department did not send any objections to the Scheme. The Official Liquidator, Chennai vide Report dated 17.10.2024 reported no objections or suggestions to the Scheme of

Amalgamation in terms of Rule 25 of the Companies (Compromises), Arrangements and Amalgamations) Rules, 2016 subject to compliance of Section 233(1)(b) and 233(1)(d) of the Companies Act, 2013. Similarly, ROC, Chennai vide Report dated 22.11.2024 on receipt of Form CAA-11, has not made any adverse remarks on the above scheme of Amalgamation.

16. It is stated that Applicant Companies have submitted Form No. CAA-10 pursuant to Section 233(1)(c) of the Companies Act, 2013 duly certified by the Statutory Auditor as on 31.3.2024. As per their declarations, all the companies involved in the scheme are solvent and their net-worth is positive. In view of the above, the provision of Section 233(1)(c) of the Companies Act, 2013 is complied with. (Form CAA-10 for declaration of solvency along with certificate of statutory auditor for the Transferor Companies 1 and 2 and Transferee Company are attached in typed set of Company Application in page Nos. 53 to 69.)

17. The details of assets and liabilities as on 31.3.2024 are given below:

S.No.	Name of the Applicant Companies	Total Assets Rs. (In Rs. Million)	Total Liabilities (in Rs. Million)	Estimation surplus/Deficit (In Rs. Million)
1	M/s. Stanworth Management Private Limited	115.06	51.71	63.35

	(Transferor Company -1)			
2	M/s. Tangy Supplies & Solutions Private Limited (Transferor Company-2)	197.09	78.23	118.86
3	M/s. Updater Services Limited (Transferee Company)	11,898.31	5.517.87	6380.44

18. It is stated that there are secured and unsecured creditors in the Applicant Companies and more than 90% of the creditors have consented to the proposed Scheme of Amalgamation. The copies of the consented letter of Secured and Unsecured Creditors for Transferor 1 and 2 and Transferee Company are attached herewith in the typed set of Company Application at page Nos. 156 to 519. Thus, the companies involved in this Scheme have complied the provision of Section 233(1)(d) of the Companies Act, 2013.

19. It is stated that the Transferor Company 1 and Transferor Company 2 are wholly owned subsidiaries of the Transferee Company. Hence, 100% of shareholders of Transferor Company 1 and 2 have consented to the Scheme of Amalgamation under Section 233 of the Companies Act, 2013. Thus, the provision of Section 233(1)(b) of the

Companies Act, 2013 have been complied with by the Transferor Companies and Transferee Company.

20. It is stated that the Transferee Company is listed with BSE and NSE. The meeting of shareholders of Transferee Company was held on 03.11.2024 through remote e-voting mode. As per list of shareholders of Transferee Company as on 03.9.2024, there are 6,69,48,366 equity shares of Rs.10/- each, out of which only 5,13,43,461 equity shareholders voted in favour of the Scheme of Amalgamation i.e., 76.69% total value of shareholders voted in favour of the scheme of Amalgamation and 201 equity shareholders voted against the Scheme of Amalgamation. Since, the value of voting percentage is less than 90% of total value of shares for the proposed Scheme of Amalgamation, the Transferee Company has not satisfied the condition prescribed in the provision of Section 233(1)(b) of the Companies Act, 2013. Hence, the Respondent, rejected the proposed scheme of Amalgamation on 17.12.2024 with liberty to approach this Tribunal under Section 230-232 of the Companies Act, 2013.

21. It is stated that Clause 11 of Part-C of the Scheme provides that upon the Scheme becoming effective, since the Transferor Companies are wholly owned subsidiaries of the Transferee Company, all the equity shares, held by the Transferee Company and its nominees in the Transferor Companies shall be cancelled and extinguished. Accordingly, there will be no issues and allotment of equity shares of

the Transferee Company to the shareholders of the Transferor Companies upon this scheme becoming effective.

22. It is stated that Clause 13 of Part-D of the Scheme provides that upon the scheme becoming effective, the Transferee Company shall account for the Amalgamation of the Transferor Companies into the Transferee Company, in accordance with pooling of interest method mentioned in Appendix C to IND AS 103 - Business Combinations prescribed under 133 of the Act read with Companies (Indian Accounting Standards) Rules, 2015, as may be amended from time to time, relevant clarifications/guidelines issued by the Institute of Chartered Accountants of India in which all the assets and liabilities including reserves of the Transferor Companies are recorded at their carrying amount as appearing in the consolidated books of accounts of the Transferee Company and no adjustments shall be made to reflect their respective fair values or recognize any new assets or liabilities. The Statutory Auditor has certified that the company has complied with the provision of Section 133 of the Companies Act, 2013.

23. It is stated that Clause 7 of Part-B of the Scheme provides that upon the scheme becoming effective, all the staff, workmen and employees of the Transferor Companies in service on the effective date shall be deemed to have become staff, workmen and employees of the Transferee Company with effect from the Appointed Date, or the date of joining whichever is later, without any break or interruption in their service and on the basis on continuity services etc., and shall not be less

favourable than those applicable. The sufficient protection for employees of the Transferor Companies 1 and 2 has been provided in the scheme.

24. It is stated that Clause 12 of Part-C of the Scheme provides that upon the scheme becoming effective, the authorized capital of Transferee Company in terms of its MOA and AOA shall automatically stand enhanced without any further act, instrument or deed on the part of the Transferee Company, including payment of stamp duty and fees payable to the Registrar of Companies, and the MOA and AOA of the Transferee Company (relating to the authorized share capital) shall, without any further act, instrument or deed, be and stand altered, modified and amended, as provided in Clause 12.3 and the consent of the shareholders to the scheme shall be deemed to be sufficient for the purpose of effecting the amendment, and no further resolutions under Section 13, Section 14 and Section 61 or any other applicable provisions of the Companies Act, 2013, shall be required to be separately passed. It is submitted that this Tribunal, may direct the Applicant Company to pay additional fees if any arising out of the increasing the authorized capital of the Company and also file amended copy of MOA & AOA with ROC, Chennai in compliance with provisions of the Companies Act, 2013.

25. It is stated that Clause 17 of Part-E of the Scheme provides that upon the scheme becoming effective, the Transferor Companies being

wholly owned subsidiaries shall be dissolved without the process of winding up.

26. It is stated that as per Application along with typed set, in para 1116, the Transferee Company has issued notices to BSE and NSE vide letter dated 04.10.2024 along with Paper publications in Financial Express dated 4.10.2024 in "English" and Makkal Kural dated 4.10.2024 in "Tamil" in compliance with provisions of Regulation 47 of SEBI (Listing Obligations and Disclosures Requirements) Regulations, 2015.

27. It is stated that as per the report dated 22.11.2024 of ROC, Chennai, the Applicant Companies are regular in filing their statutory returns and have filed up to 31.03.2024. ROC, Chennai has further stated that there is no prosecution / complaint / inspection or investigation pending against the companies involved in the Scheme of Amalgamation.

28. It is stated that the Applicant Companies have to undertake to comply with the provisions of Section 240 of the Companies Act, 2013.

29. It is stated that the Scheme of Amalgamation filed with the application has been examined and the above submissions are made particularly the observation at Paras 9 & 13 of the report and this Tribunal at Chennai may dispose of the matters on merits and pass such order/orders as deemed fit and proper.

AFFIDAVITS IN RESPONSE TO THE REPORT OF REGIONAL DIRECTOR

30. The Applicant Companies filed an Affidavit in response to the Report of the Regional Director vide SR. No. 1180 dated 24.03.2025.

31. It is stated that the Respondent has not raised any objections to the Scheme, but has only made observations at paragraph 9 and 13 of the Report dated 04.03.2025.

32. It is stated that at paragraph 9, the Respondent has observed that the value of voting percentage is less than 90% of the total value of shares and that the Scheme of Amalgamation has not satisfied the condition as prescribed under section 233 (1) (b) of the Companies Act 2013, and therefore, the Scheme of Amalgamation was rejected. The said observation is a matter of record, and therefore, the Applicant Companies have approached this Tribunal by filing the present application.

33. It is stated that the interpretation drawn and the conclusion for rejecting the Scheme of Amalgamation is incorrect and not sustainable in law. The provisions of Section 233(1)(b) ought to be interpreted in a manner wherein the absence of the use of words "total number of shares of the company" would mean that total number of shares of members attending/voting at a general meeting and not members holding 90% of the issued, subscribed, and paid-up capital of the Transferee Company. The Scheme of Amalgamation has been approved by the Transferee

Company by 99.9996 % of the shareholders attending/voting, thereby meeting and satisfying the threshold requirements as laid down under the provisions of section 233(1)(b) of the Companies Act, 2013.

34. It is stated that it has been observed in paragraph 13 of the RD's Report that the Scheme provides for the change in authorized share capital of the Transferor Companies and the Transferee Company. Accordingly, it has been submitted that the Transferee Company may be directed to pay the fee involved in increasing its authorized share capital, if any, in accordance with the Companies Act, 2013 and file the amended Memorandum and Articles of Association with the Registrar of Companies, Chennai. **It is stated that the Transferee Company undertakes to pay any fee involved in increasing its authorized share capital, if any, as required under the Companies Act, 2013. Further, the Transferee Company also undertakes to file the amended Memorandum and Articles of Association with the Registrar of Companies, Chennai.**

FINDINGS OF THIS TRIBUNAL

35. Heard the parties and perused the documents placed on record.

36. The Applicants have filed the instant application seeking the Approval of the Scheme of Amalgamation of the Transferor Companies, Stanworth Management Private Limited and Tangy Supplies & Solutions Private Limited with the Transferee Company, Updater Services Limited. Since the Transferor Companies are wholly owned

subsidiaries of the Transferee Company, the Applicants adopted the fast-track merger process envisaged under Section 233 of the Companies Act, 2013 (hereinafter, the Act, 2013) and sought for the approval of the Regional Director, Respondent. However, the Respondent rejected the application filed the Applicant Companies for want of compliance under Section 233(1)(b) of the Act, 2013. Consequently, the Applicants have filed the present application under Section 233(6) seeking the approval of the Scheme of Amalgamation from this Tribunal.

37. Section 233 of the Companies Act, 2013 is extracted hereunder,

*"**233. Merger or amalgamation of certain companies.***

*(1) Notwithstanding the provisions of section 230 and section 232, a scheme of merger or amalgamation may be entered into between two or more small companies or **between a holding company and its wholly-owned subsidiary company or such other class or classes of companies** as may be prescribed, subject to the following, namely:*

(a) a notice of the proposed scheme inviting objections or suggestions, if any, from the Registrar and Official Liquidators where registered office of the respective companies are situated or persons affected by the scheme within thirty days is issued by the transferor company or companies and the transferee company;

(b) the objections and suggestions received are considered by the companies in their respective general meetings and the scheme is approved by the respective members or class of members at a general meeting holding at least ninety per cent of the total number of shares;

(c) each of the companies involved in the merger files a declaration of solvency, in the prescribed form, with the Registrar of the place where the registered office of the company is situated; and

(d) the scheme is approved by majority representing nine-tenths in value of the creditors or class of creditors of respective companies indicated in a meeting convened by the company by giving a notice of twenty-one days along with the scheme to its creditors for the purpose or otherwise approved in writing.

(2) The transferee company shall file a copy of the scheme so approved in the manner as may be prescribed, with the Central Government, Registrar and the Official Liquidator where the registered office of the company is situated.

(3) On the receipt of the scheme, if the Registrar or the Official Liquidator has no objections or suggestions to the scheme, the Central Government shall register the same and issue a confirmation thereof to the companies.

(4) If the Registrar or Official Liquidator has any objections or suggestions, he may communicate the same in writing to the Central Government within a period of thirty days:

Provided that if no such communication is made, it shall be presumed that he has no objection to the scheme.

(5) If the Central Government after receiving the objections or suggestions or for any reason is of the opinion that such a scheme is not in public interest or in the interest of the creditors, it may file an application before the Tribunal within a period of sixty days of the receipt of the scheme under sub-section (2) stating its objections and requesting that the Tribunal may consider the scheme under section 232.

(6) On receipt of an application from the Central Government or from any person, if the Tribunal, for reasons to be recorded in writing, is of the opinion that the scheme should be considered as per the procedure laid down in section 232, the Tribunal may

direct accordingly or it may confirm the scheme by passing such order as it deems fit:

Provided that if the Central Government does not have any objection to the scheme or it does not file any application under this section before the Tribunal, it shall be deemed that it has no objection to the scheme.

(7) A copy of the order under sub-section (6) confirming the scheme shall be communicated to the Registrar having jurisdiction over the transferee company and the persons concerned and the Registrar shall register the scheme and issue a confirmation thereof to the companies and such confirmation shall be communicated to the Registrars where transferor company or companies were situated.

(8) The registration of the scheme under sub-section (3) or sub-section (7) shall be deemed to have the effect of dissolution of the transferor company without process of winding up.

(9) The registration of the scheme shall have the following effects, namely:—

(a) transfer of property or liabilities of the transferor company to the transferee company so that the property becomes the property of the transferee company and the liabilities become the liabilities of the transferee company;

(b) the charges, if any, on the property of the transferor company shall be applicable and enforceable as if the charges were on the property of the transferee company;

(c) legal proceedings by or against the transferor company pending before any court of law shall be continued by or against the transferee company; and

(d) where the scheme provides for purchase of shares held by the dissenting shareholders or settlement of debt due to dissenting

creditors, such amount, to the extent it is unpaid, shall become the liability of the transferee company.

(10) A transferee company shall not on merger or amalgamation, hold any shares in its own name or in the name of any trust either on its behalf or on behalf of any of its subsidiary or associate company and all such shares shall be cancelled or extinguished on the merger or amalgamation.

(11) The transferee company shall file an application with the Registrar along with the scheme registered, indicating the revised authorised capital and pay the prescribed fees due on revised capital:

Provided that the fee, if any, paid by the transferor company on its authorised capital prior to its merger or amalgamation with the transferee company shall be set-off against the fees payable by the transferee company on its authorised capital enhanced by the merger or amalgamation.

(12) The provisions of this section shall mutatis mutandis apply to a company or companies specified in sub-section (1) in respect of a scheme of compromise or arrangement referred to in section 230 or division or transfer of a company referred to clause (b) of sub-section (1) of section 232.*

(13) The Central Government may provide for the merger or amalgamation of companies in such manner as may be prescribed.

(14) A company covered under this section may use the provisions of section 232 for the approval of any scheme for merger or amalgamation."

38. As per Section 233(5) of the Act, 2013, if the Central Government is of the opinion that a fast-track merger scheme is not in public interest, then it has to file an application before this Tribunal within 60 days from the date of receipt of the Scheme, so that the scheme may be considered by this Tribunal under Section 232. Further, under 233(6) of the Act,

2013, power is given to the Central Government **or any other person** to make an application before this Tribunal and the same may be considered as per the **procedure laid down in section 232, the Tribunal may direct accordingly** or it **may confirm the scheme** by passing such order as it deems fit.

39. This Tribunal also refers to Section 232 of the Companies Act, 2013,

" Section 232. Merger and amalgamation of companies

(1) Where an application is made to the Tribunal under section 230 for the sanctioning of a compromise or an arrangement proposed between a company and any such persons as are mentioned in that section, and it is shown to the Tribunal—

(a) that the compromise or arrangement has been proposed for the purposes of, or in connection with, a scheme for the reconstruction of the company or companies involving merger or the amalgamation of any two or more companies; and

(b) that under the scheme, the whole or any part of the undertaking, property or liabilities of any company (hereinafter referred to as the transferor company) is required to be transferred to another company (hereinafter referred to as the transferee company), or is proposed to be divided among and transferred to two or more companies, the Tribunal may on such application, order a meeting of the creditors or class of creditors or the members or class of members, as the case may be, to be called, held and conducted in such manner as the Tribunal may direct and the provisions of sub-sections (3) to (6) of section 230 shall apply mutatis mutandis.

(2) Where an order has been made by the Tribunal under sub-section (1), merging companies or the companies in respect of which a division is

proposed, shall also be required to circulate the following for the meeting so ordered by the Tribunal, namely:

(a) the draft of the proposed terms of the scheme drawn up and adopted by the directors of the merging company;

(b) confirmation that a copy of the draft scheme has been filed with the Registrar ;

(c) a report adopted by the directors of the merging companies explaining effect of compromise on each class of shareholders, key managerial personnel , promoters and non-promoter shareholders laying out in particular the share exchange ratio, specifying any special valuation difficulties;

(d) the report of the expert with regard to valuation, if any;

(e) a supplementary accounting statement if the last annual accounts of any of the merging company relate to a financial year ending more than six months before the first meeting of the company summoned for the purposes of approving the scheme.

(3) The Tribunal, after satisfying itself that the procedure specified in sub-sections (1) and (2) has been complied with, may, by order, sanction the compromise or arrangement or by a subsequent order, make provision for the following matters, namely:—

(a) the transfer to the transferee company of the whole or any part of the undertaking, property or liabilities of the transferor company from a date to be determined by the parties unless the Tribunal, for reasons to be recorded by it in writing, decides otherwise;

(b) the allotment or appropriation by the transferee company of any shares, debenture , policies or other like instruments in the company which, under the compromise or arrangement, are to be allotted or appropriated by that company to or for any person

Provided that a transferee company shall not, as a result of the compromise or arrangement, hold any shares in its own name or in the name of any trust whether on its behalf or on behalf of any of its subsidiary company or associate companies and any such shares shall be cancelled or extinguished;

(c) the continuation by or against the transferee company of any legal proceedings pending by or against any transferor company on the date of transfer;

(d) dissolution, without winding-up, of any transferor company;

(e) the provision to be made for any persons who, within such time and in such manner as the Tribunal directs, dissent from the compromise or arrangement;

(f) where share capital is held by any non-resident shareholder under the foreign direct investment norms or guidelines specified by the Central Government or in accordance with any law for the time being in force, the allotment of shares of the transferee company to such shareholder shall be in the manner specified in the order;

(g) the transfer of the employees of the transferor company to the transferee company;

(h) where the transferor company is a listed company and the transferee company is an unlisted company,—

(A) the transferee company shall remain an unlisted company until it becomes a listed company;

(B) if shareholders of the transferor company decide to opt out of the transferee company, provision shall be made for payment of the value of shares held by them and other benefits in accordance with a pre-determined price formula or after a valuation is made, and the arrangements under this provision may be made by the Tribunal:

Provided that the amount of payment or valuation under this clause for any share shall not be less than what has been specified by the Securities and Exchange Board under any regulations framed by it;

(i) where the transferor company is dissolved, the fee, if any, paid by the transferor company on its authorised capital shall be set-off against any fees payable by the transferee company on its authorised capital subsequent to the amalgamation; and

(j) such incidental, consequential and supplemental matters as are deemed necessary to secure that the merger or amalgamation is fully and effectively carried out:

Provided that no compromise or arrangement shall be sanctioned by the Tribunal unless a certificate by the company's auditor has been filed with the Tribunal to the effect that the accounting treatment, if any, proposed in the scheme of compromise or arrangement is in conformity with the accounting standards prescribed under section 133.

(4) Where an order under this section provides for the transfer of any property or liabilities, then, by virtue of the order, that property shall be transferred to the transferee company and the liabilities shall be transferred to and become the liabilities of the transferee company and any property may, if the order so directs, be freed from any charge which shall by virtue of the compromise or arrangement, cease to have effect.

(5) Every company in relation to which the order is made shall cause a certified copy of the order to be filed with the Registrar for registration within thirty days of the receipt of certified copy of the order.

(6) The scheme under this section shall clearly indicate an appointed date from which it shall be effective and the scheme shall be deemed to be effective from such date and not at a date subsequent to the appointed date.

(7) Every company in relation to which the order is made shall, until the completion of the scheme, file a statement in such form and within such time as may be prescribed with the Registrar every year duly certified by

a chartered accountant or a cost accountant or a company secretary in practice indicating whether the scheme is being complied with in accordance with the orders of the Tribunal or not.

(8) If a company fails to comply with sub-section (5), the company and every officer of the company who is in default shall be liable to a penalty of twenty thousand rupees, and where the failure is a continuing one, with a further penalty of one thousand rupees for each day after the first during which such failure continues, subject to a maximum of three lakh rupees.

Explanation.—For the purposes of this section,—

(i) in a scheme involving a merger, where under the scheme the undertaking, property and liabilities of one or more companies, including the company in respect of which the compromise or arrangement is proposed, are to be transferred to another existing company, it is a merger by absorption, or where the undertaking, property and liabilities of two or more companies, including the company in respect of which the compromise or arrangement is proposed, are to be transferred to a new company, whether or not a public company , it is a merger by formation of a new company;

(ii) references to merging companies are in relation to a merger by absorption, to the transferor and transferee companies, and, in relation to a merger by formation of a new company, to the transferor companies;

(iii) a scheme involves a division, where under the scheme the undertaking, property and liabilities of the company in respect of which the compromise or arrangement is proposed are to be divided among and transferred to two or more companies each of which is either an existing company or a new company; and (iv) property includes assets, rights and interests of every description and liabilities include debts and obligations of every description."

40. In the present case, the Respondent rejected the fast-track merger on the ground that only 76.69% of the total value of shareholders of the

Transferee Company had voted in favour of the Scheme, whereas, as per Section 233(1)(b) of the Act, 2013, the Scheme must be approved by shareholders holding at least 90% of the total value of shares. Per contra, the Applicants contend that, the voting threshold stipulated under Section 233(1)(b) of the Act, 2013 refers to 90% of the shareholders *present and voting* at the meeting and not the *total value of shareholders* of the Company.

41. In this regard, this Tribunal refers to the Report of the Company Law Committee, 2022 wherein the Committee considered an amendment to the framework of approval mechanism of fast-track mergers laid down under Section 233 of the Act, 2013. As per the report, the mandate requiring approval from shareholders holding 90% of *the total number of shares,* refers to the total share capital of the Company itself and not merely the shareholders present and voting in the meeting. The relevant paragraphs from the report are extracted for reference,

> *"20.12 Section 233 of CA-13 provides for a fast-track merger or amalgamation that may be entered into by two or more small companies, between a holding company and its wholly-owned subsidiary ("WOS"), or a prescribed class of companies. As per the section, the scheme is to be approved by shareholders holding at least ninety per cent of the total number of shares of the company.*
>
> *20.13 The threshold of approval by persons holding ninety per cent of total share capital has been considered onerous by stakeholders since the section requires approval by the persons holding ninety per cent of the company's total share capital and not ninety per cent of shareholders present and voting in the meeting. This threshold is particularly difficult to achieve in listed companies. Therefore, the consent threshold*

significantly delays the approval process, defeating the section's essence that seeks to expedite mergers.

20.14 Further, such a threshold requirement also means that if the shareholders present at the meeting hold at least ninety per cent of the share capital, irrespective of the majority by number voting against the scheme, it would still be approved. Hence, the interests of minority shareholders have not been adequately protected within this framework."

42. Hence, this Tribunal concurs with the view of the Respondent that the Applicant Companies have failed to satisfy the criteria for fast-track mergers as required under Section 233(1)(b) of the Act, 2013.

43. Nonetheless, in exercise of the powers vested with this Tribunal under Section 233(6) of the Act, 2013, we consider it necessary to examine whether the compliances required under Section 232 of the Act, 2013 have been fulfilled by the Applicants.

44. As per Section 232(1) of the Act, 2013, this Tribunal may order meeting of creditors or class of creditors as the case may be in accordance with Section 230(3) to 230(6) of the Act, 2013. The relevant portions of Section 230 is extracted for reference,

'230. Power to compromise or make arrangements with creditors and member

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(3) Where a meeting is proposed to be called in pursuance of an order of the Tribunal under subsection (1), a notice of such meeting shall be sent to all the creditors or class of creditors and to all the members or class of members and the debenture-holders of the company, individually at the address registered with the company which shall be accompanied by a statement disclosing the details of the compromise or arrangement, a copy of the valuation report, if any, and explaining their effect on creditors, key managerial personnel, promoters and non-promoter members, and the debenture-holders and the effect of the compromise or arrangement on any material interests of the directors of the company or the debenture trustees, and such other matters as may be prescribed:

Provided that such notice and other documents shall also be placed on the website of the company, if any, and in case of a listed company, these documents shall be sent to the Securities and Exchange Board and stock exchange where the securities of the companies are listed, for placing on their website and shall also be published in newspapers in such manner as may be prescribed:

Provided further that where the notice for the meeting is also issued by way of an advertisement, it shall indicate the time within which copies of the compromise or arrangement shall be made available to the concerned persons free of charge from the registered office of the company.

(4) A notice under sub-section (3) shall provide that the persons to whom the notice is sent may vote in the meeting either themselves or through proxies or by postal ballot to the adoption of the compromise or arrangement within one month from the date of receipt of such notice:

Provided that any objection to the compromise or arrangement shall be made only by persons holding not less than ten per cent. of the shareholding or having outstanding debt amounting to not less than five per cent. of the total outstanding debt as per the latest audited financial statement.

(5) A notice under sub-section (3) along with all the documents in such form as may be prescribed shall also be sent to the Central Government,

the income-tax authorities, the Reserve Bank of India, the Securities and Exchange Board, the Registrar, the respective stock exchanges, the Official Liquidator, the Competition Commission of India established under sub-section (1) of section 7 of the Competition Act, 2002 (12 of 2003), if necessary, and such other sectoral regulators or authorities which are likely to be affected by the compromise or arrangement and shall require that representations, if any, to be made by them shall be made within a period of thirty days from the date of receipt of such notice, failing which, it shall be presumed that they have no representations to make on the proposals.

(6) Where, at a meeting held in pursuance of sub-section (1), majority of persons representing three fourths in value of the creditors, or class of creditors or members or class of members, as the case may be, voting in person or by proxy or by postal ballot, agree to any compromise or arrangement and if such compromise or arrangement is sanctioned by the Tribunal by an order, the same shall be binding on the company, all the creditors, or class of creditors or members or class of members, as the case may be, or, in case of a company being wound up, on the liquidator 2[appointed under this act or under the Insolvency and Bankruptcy Code, 2016 (31 of 2016), as the case may be,] and the contributories of the company… "

<u>Meeting of equity shareholders of Transferee Company</u>

45. As per Section 230(3) of the Act, 2013, notice of the meeting to creditors and members, has to be served individually at the address registered with the company along with relevant documents stipulated under section 230(3) and Section 232(2) of the Act, 2013. The notice along with the relevant documents must be placed on the website of the Company. Additionally, in case of listed company, the notice must also be placed on the website SEBI and BSE/NSE. The relevant documents are,

a. Statement disclosing the details of the compromise or arrangement,
b. A copy of the valuation report, if any, explaining its effect on creditors, key managerial personnel, promoters and non-promoter members, and the debenture-holders and the effect of the compromise or arrangement on any material interests of the directors of the company or the debenture trustees,
c. The draft of the proposed terms of the scheme drawn up and adopted by the directors of the merging company;
d. Confirmation that a copy of the draft scheme has been filed with the Registrar;
e. A report adopted by the directors of the merging companies explaining effect of compromise on each class of shareholders, key managerial personnel, promoters and non-promoter shareholders laying out in particular the share exchange ratio, specifying any special valuation difficulties;
f. A supplementary accounting statement if the last annual accounts of any of the merging company relate to a financial year ending more than six months before the first meeting of the company summoned for the purposes of approving the scheme.

46. Additionally, listed companies are also bound by SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (hereinafter, Listing Regulations, 2015) which imposes obligations regarding Scheme of Arrangement involving companies listed in stock exchanges. As per Regulation 37 of the Listing Regulations, 2015, listed

entities desirous of undertaking scheme of arrangement or involved in a scheme of arrangement are obligated to file the draft scheme with Stock Exchanges for obtaining observation Letter/ no-objection Letter, before filing such scheme with any court or Tribunal. However, as per sub-regulation 6, Regulation 37 does not apply for merger of a wholly owned subsidiary with its holding company. Further, Regulation 94 of the Listing Regulations, 2015, prescribes the Stock Exchanges to forward such draft schemes to SEBI in the manner prescribed by SEBI. The SEBI circular bearing number CFD/DIL3/CIR/2017/21 dated 10.03.2017, prescribes detailed requirements to be complied with by listed companies before submission of Scheme for sanction before the Tribunal. However, as per para 7 of the Circular, the provisions prescribed under this circular do not apply to schemes which solely provides for merger of wholly owned subsidiary with a parent company. However, such draft schemes shall still be filed with the Stock Exchanges for the purpose of disclosures and the Stock Exchanges shall disseminate the scheme documents on their websites

47. In the present case, the Transferee Company is a listed entity and is the sole shareholder of the Transferor Companies. Hence, it would suffice if the Transferee Company files the draft scheme with the relevant Stock Exchanges and places on the websites of such Stock Exchanges.

48. The need for convening meetings of equity shareholders of Transferee Company in case of amalgamation of wholly owned

subsidiary company with holding company has been examined by the NCLT, Ahmedabad Bench, in the case of ***Vodafone Idea Ltd. (CA (CAA) No.96 of 2019).*** The case of ***Vodafone Idea Ltd (supra)***, involved the amalgamation of wholly owned subsidiary with its parent company and rights of the shareholders of the Applicant Transferee Company were not affected as no new shares were proposed to be issued to the shareholders of the Transferor Companies. Further, there was no re-organisation of the share capital. Considering the above, the NCLT, Ahmedabad Bench dispensed with the meeting of the equity shareholders of the Transferee Company. The relevant portions of the judgment are extracted below,

> *"13. It is submitted that the Applicant Transferee Company is a listed Public Limited Company and both the Transferor Companies being the wholly owned subsidiary of the Applicant Transferee Company; no shares are required to be issued or allotted as consideration for the proposed amalgamation. It is submitted that in the instant case there is no arrangement by the Applicant Transferee Company with its shareholders. Further, the rights of the shareholders of the Applicant Transferee Company are not affected as no new shares are being issued to the shareholders of the Transferor Companies and the proposed Scheme does not involve any re organisation of the share Capital. In the circumstances, as there is no arrangement with the Equity Shareholders of the Applicant Transferee Company, the rights of the said shareholders are not affected by the present Scheme and therefore, no meeting of the Equity Shareholders of the Applicant Transferee Company is required to*

be convened. In view of the given facts, this Bench is of the view that there is no requirement to convene and hold the meeting of the Equity Shareholders of the Applicant Transferee Company and accordingly, the meeting of Equity Shareholders of the Applicant Transferee Company is hereby dispensed.......

17. Considering the averments as mentioned above and having considered the entire facts on record that both the Transferor Companies are wholly owned subsidiaries of the Applicant Transferee Company and as no compromise is offered by the Applicant Transferee Company under the Scheme of Amalgamation to the creditors and considering the fact that the net worth of the Companies including the Applicant Transferee Company is positive, it is deemed appropriate to order that meetings of the Secured Creditors (including secured debenture holders) and Unsecured Creditors (including unsecured debenture holders) of the Applicant Transferee Company are not required to be held and are hereby dispensed with."

49. The Principal Bench of the Hon'ble NCLAT in the case of ***Ambuja Cements Limited (Company Appeal (AT) No. 19 of 2021),*** upheld the decision of the NCLT, Ahmedabad in the case of ***Vodafone Idea Ltd (supra).***

50. In view of the judgments discussed above, it is seen that the need for convening meeting of equity shareholders of the Transferee Company does not arise. Nonetheless, the Transferee Company has

conducted meeting of its equity shareholders for obtaining sanction of the Scheme.

51. It is seen from the certified list of equity shareholders, that the Transferee Company has a total of 32,205 shareholders holding 6,69,48,366 shares. (The certified list of equity shareholders is annexed as Annexure A15 of the Application)

52. It is seen that the Transferee Company has undertaken the following compliances before conducting meeting of its equity shareholders,

S. No	Comments	Page No. in the Application
1.	The Transferee Company published postal ballot notice in Financial Express (English) and Makkal Kural (Tamil) on 04.10.2024	Pgs. 1116 to 1117
2.	Notice of the Scheme was also issued to BSE and NSE vide letter dated 04.10.2024.	Pgs. 1118 to 1119
3.	As per the explanatory statement, copy of the following documents will be open for inspection at the Registered Office of the Company and website of the Company a. Notice to the Registrar of Companies and Official Liquidator in Form CAA — 9; b. Memorandum and Articles of Association of the Applicants c. Copies of Audited Financial Statements of the Applicants for	Pgs. 1120 to 1141

	the financial year ended on 31st March 2024; d. Declaration of Solvency of the Applicants; e. Copy of Board Resolutions passed by the respective Board of Directors of the Applicants; f. The certificate issued by Auditor of the Company to the effect that the accounting treatment proposed in the Scheme Of Amalgamation is in conformity with the Accounting Standards prescribed under Section 133 of the Companies Act, 2013; and g. Copy of the Scheme of Amalgamation Further, the following documents pertaining to the Transferee Company were attached to the Notice and Explanatory Statement. a. Scheme Of Amalgamation as Annexure I as per Rule 25(3) Of the Companies (Compromise, Arrangements and Amalgamations) Rules, 2016 b. Declaration of Solvency by the Company in Form CAA 10 as Annexure 11 as per Rule of the Companies (Compromise, Arrangements and Amalgamations) Rules, 2016,	

53. Section 230(6) of the Act, 2013, prescribes that when a meeting is held pursuant to the directions of this Tribunal, majority of persons representing three-fourths of the value of the creditors, or class of creditors or members or class of members, as the case may be, voting in person or by proxy or by postal ballot, must agree to the proposed Scheme. It is seen from the results of the postal ballot, that the total number of votes polled are 76.6914 % of total number of shares held by the shareholders of the Company. Out of the total number of votes polled, 99.9996% voted in favour of the Scheme and 0.0004% voted against the Scheme. Since, shareholders holding 99.9996% of the total value of shares present and voting in the meeting have consented to the Scheme, the criteria under Section 230(6) of the Act, 2013 is fulfilled. (The details of the voting results and the scrutinizer's report are placed at Pgs. 1142 to 1149 of the Application.

Consent of equity shareholders of Transferor Companies

54. As per Section 230(9) of the Act, 2013, this Tribunal has the power to dispense with the meeting of creditors, if such creditors having at least ninety percent value agree and confirm by affidavit to the Scheme.

55. The Companies Act, 2013, does not provide for dispensation with the meeting of equity shareholders of the companies involved in any scheme of compromise or arrangement. To understand the reason for conducting the meeting of equity shareholders for any proposed scheme of compromise or arrangement, we find it relevant to refer to Report of

the Standing Committee on Finance (2011-2012), wherein the Ministry of Corporate Affairs while disagreeing with the recommendations of the Committee to dispense with the meeting of members of a company under Section 230, has stated that meetings of equity shareholders is essential so that the information about the merger, amalgamation should be there in the knowledge of the members. The relevant portion is extracted for reference,

Sl. No.	Recommendation of the Committee (Para Number)	Clause in the Companies Bill, 2009	Clause in the Companies Bill, 2011	Comments
5.	Meeting to decide scheme of merger and amalgamation: If written consent is received from the requisite number of members or creditors, the requirement to hold a meeting could be dispensed with. [15.16]	201	230	Meeting should be held so that the information about the merger, amalgamation should be there in the knowledge of the members.

56. While considering the suggestions received in response to its press communication, the Ministry has further elaborated that meeting of equity shareholders is essential to ensure corporate democracy and the principle of participation in decision making. The relevant portions of the report are reproduced hereunder,

Sl. No.	Clause/ title/Issue	Suggestion	Comments of Ministry
1	2	3	4
119.	230(9): Dispensing with the meeting of Creditors in compromise	A similar provision may be provided dispensing with the meeting of shareholders of closely held companies if they agree and confirm by affidavit the scheme of compromise and arrangement.	The members and creditors stand on different footing so far as protection of their interests are concerned. The meetings of members are considered to be essential for such important matters to ensure corporate democracy and principle of participation in important decision makings.

57. It is seen that Applicant Companies have placed on record the details of equity shareholders certified by Shiva Kumar G & Associates, Chartered Accountants. The Transferor Companies have only one equity shareholder i.e., the Transferee Company. (The certified list of equity shareholders is annexed as Annexure A13, A14 of the Application)

58. The Extraordinary General Meeting of the Transferor Company 1 was held on 04.11.2024 wherein the shareholders passed a resolution **unanimously** approving the Scheme. (The minutes of the meeting is placed as Pgs. 1068 to 1073 of the Application)

59. The Extraordinary General Meeting of the Transferor Company 2 was held on 04.11.2024 wherein the shareholders passed a resolution

unanimously approving the Scheme. (The minutes of the meeting is placed as Pgs. 1092 to 1095 of the Application)

60. Since the sole member of the Transferor Companies i.e., the Transferee Company, has passed a resolution granting approval for the Scheme, this Tribunal is of the opinion that the objective of conducting meetings of equity shareholders to ensure that such shareholders are informed about the Scheme is fulfilled. Therefore, we do not deem it necessary to direct any further meetings of the equity shareholders of the Transferor Companies under Section 232(1) of the Act, 2013.

Consent of the creditors

61. Pursuant to the powers vested with this Tribunal under Section 230(9) of the Act, 2013, we now consider whether the meeting of creditors of the Applicants can be dispensed with.

62. It is seen that Certificate of Creditor's Consent has been issued by Mohamed Safwan & Co, Chartered Accountants for the Applicant Companies as proof of consent given by the Creditors. (The Certificate pertaining to the Applicants is annexed as Annexure A9, A10 and A11 of the Application)

63. The particulars of the creditors consent for each of the Applicant Companies are tabulated below,

S. No	Company	Secured Creditor	Unsecured Creditor	Annexure
1	Transferor Company 1	There is **one (1)** Secured Creditor representing **100%** of the total value of the secured creditors who has given consent to the Scheme.	There are **Fourteen (14)** Unsecured Creditors out of which eleven (11) creditors representing **91.40%** of the total value of unsecured creditors have given their consent to the Scheme.	The consent letter is annexed as Annexure A12a of the Application
2	Transferor Company 2	NIL	There are **One Hundred and Eighty-One (181)** Unsecured Creditors out of which One Hundred and Twenty (120) creditors representing **91.77%** of the total value of unsecured creditors have given their consent to the Scheme.	The consent letter is annexed as Annexure A12b of the Application
3	Transferee Company	Three (3) Secured Creditors representing **100%** of the total value of the secured creditors who have given consent to the Scheme.	There are **Seven Hundred and Twenty (720)** Unsecured Creditors out of which One Hundred and Forty-One (141) creditors representing	The consent letter is annexed as Annexure A12c of the Application

			90.14% of the total value of unsecured creditors have given their consent to the Scheme.	

64. Considering that the more than 90% of value of secured and unsecured creditors of the Applicants have given their consent to the Scheme, we do not deem it necessary to direct any further meetings of creditors of the Applicants under Section 232(1) of the Act, 2013.

Public notice

65. It is seen that the Transferee Company has issued notice of the Scheme by way of paper publication in Financial Express (English) and Makkal Kural (Tamil) on 04.10.2024. Notice of the Scheme was issued to the relevant stock exchanges i.e., BSE and NSE. The Scheme was also placed on the website of the Applicants for the perusal of the public. It is seen that based on the documents on record, no objections to Scheme have been received in response to such public notice.

Approval of regulatory authorities:

66. As per Section 230(5), notice of the Scheme is to be issued to the following authorities

a. Central Government
b. The income-tax authorities
c. The Reserve Bank of India

d. The Securities and Exchange Board
e. The Registrar
f. The respective stock exchanges
g. The Official Liquidator, the Competition Commission of India
h. Other Sectoral regulators or authorities

67. It is observed that the Applicants have issued notice to Regional Director (Southern Region), Registrar of Companies, Official Liquidator and the Deputy Commission of Income Tax in Form CAA-9 inviting objections to the Scheme. (The notices are annexed as Annexure A6 a, b and c of the Application).

68. The Regional Director (Southern Region) has not expressed any objections for the sanctioning of the Scheme in its report bearing ***S.R.No. 211*** dated ***05.03.2025.***

69. Further, the Registrar of Companies and the Official Liquidator have also not submitted any objections to the Scheme in their submissions made before the Respondent. (The communications of the Registrar of Companies and the Official Liquidator to the Respondent is placed at Pgs. 1174 to 1180 of the Application)

70. Despite service of notice to the Department of Income Tax in Form CAA 9, no representation has been made against the approval of the Scheme. This Tribunal in terms of Section 230(5) of the Companies Act, 2013 presumes that the Department of Income Tax does not have any objection to the sanction of the Scheme. Deemed Consent. In Company Petition CAA-284/ND/2018 vide Order dated 12.11.2018, the NCLT New

Delhi has made the following observations with regard to the right of the IT Department in the Scheme of Amalgamation,

> *"taking into consideration the clauses contained in the Scheme in relation to liability to tax and also as insisted upon by the Income Tax and in terms of the decision in RE: Vodafone Essar Gujarat Limited v. Department of Income Tax (2013)353 ITR 222 (Guj) and the same being also affirmed by the Hon'ble Supreme Court and as reported in (2016) 66 taxmann.com.374(SC) from which it is seen that at the time of declining the SLPs filed by the revenue, however stating to the following effect vide its order dated April 15,2015 that the Department is entitled to take out appropriate proceedings for recovery of any statutory dues from the transferor or transferee or any other person who is liable for payment of such tax dues, the said protection be afforded is granted. With the above observations, the petition stands allowed and the scheme of amalgamation is sanctioned."*

Other compliances under Section 232:

71. As per Section 232(3) of the Act, 2013, Transferee company shall not, as a result of the compromise or arrangement, hold any shares in its own name or in the name of any trust whether on its behalf or on behalf of any of its subsidiary company or associate companies and any such shares shall be cancelled or extinguished. As per Clause 11 of Part C of the Scheme, all the equity shares held by the Transferee Company and its nominees in respect of Transferor Companies shall be cancelled and extinguished upon the scheme becoming effective.

72. Further, the Applicant are required to place on record certificate by the Company's Auditor to the effect that the accounting treatment, if any, proposed in the Scheme of compromise or arrangement is in conformity with the accounting standards prescribed under Section 133 of the Act, 2013. The certificate of the Statutory Auditor of the Applicants with respect to the accounting treatment adopted under the Scheme is annexed and marked as Annexure A5 a, b and c of the Application.

OBSERVATIONS OF THIS TRIBUNAL PERTAINING TO THE SCHEME

73. Since the Transferor Companies are wholly owned subsidiaries of the Transferee Company, Clause 11 of the Scheme provides that all the equity shares of the Transferor Companies held by the Transferee Company and its nominees shall be cancelled and extinguished upon the scheme becoming effective. Consequently, no equity shares of the Transferee Company will be issued and allotted to the shareholders of the Transferor Companies upon the Scheme becoming effective. Hence, the need for valuation of the Applicants does not arise.

74. As per Clause 12, upon the Scheme coming into effect, the authorised share capital of the Transferee Company shall stand enhanced to an amount of Rs. 77,10,00,000 divided into 7,71,00,000 equity shares of Rs. 10 each and the capital clause being Clause V of the

Memorandum of Association of the Transferee Company shall stand substituted.

75. Clause 17 provides that the Transferor Companies being wholly owned subsidiaries shall be dissolved without the process of winding up on the Scheme becoming effective in accordance with the provisions of the Act, 2013 and the Rules made thereunder.

76. After analyzing the Scheme in detail, this Tribunal is of the considered view that the scheme as contemplated amongst the Applicant Companies is in compliance with Section 232 of the Act, 2013

77. In the absence of any other objections having been placed on record before this Tribunal and since all the requisite statutory compliances having been fulfilled, **this Tribunal sanctions the Scheme of Amalgamation (Arrangement) appended as "Annexure – A2" with the Company Petition as well as the prayer made therein.**

78. Notwithstanding the above, if there is any deficiency found or, violation committed qua any enactment, statutory rule or regulation, the sanction granted by this Tribunal will not come in the way of action being taken, albeit, in accordance with law, against the concerned persons, directors and officials of the petitioners.

79. While approving the Scheme as above, it is clarified that this order should not be construed as an order in any way granting exemption from payment of stamp duty, taxes or any other charges, if any, payment

is due or required in accordance with law or in respect to any permission/compliance with any other requirement which may be specifically required under any law.

80. **THIS TRIBUNAL DO FURTHER ORDER:**

(i) That all assets of the Transferor Companies shall, pursuant to section 232(3) of the Companies Act, 2013 without further act or deed be transferred and vested in the Transferee Company.

(ii) That all the debts, liabilities, duties and obligations of the Transferor Companies shall pursuant to Section 232(3) of the Companies Act, 2013 without further act or deed be transferred to the Transferee Company and accordingly the same become the liabilities and duties of the Transferee Company.

(iii) That the Appointed date for the Scheme shall be **01.04.2024** as mentioned in Clause 2.2 of the SCHEME itself.

(iv) That all proceedings now pending by or against the Transferor Companies be continued by or against the Transferee Company.

(v) That all the employees of the Transferor Companies in service on date immediately preceding the date on which the Scheme finally takes effect shall become the employees of the Transferee Company without any break or interruption in their service.

(vi) That the Transferee Company shall file the revised Memorandum and Articles of Association with the Registrar of Companies and further make the requisite payments of the differential fee (if any) for the enhancement of authorized capital of the Transferee Company after setting off the fees paid by the Transferor Companies.

(vii) That the Transferor Companies and the Transferee Company, shall within thirty days of the date of receipt of this order cause a certified copy of this order to be delivered to the Registrar of Companies for registration.

(viii) That any person interested shall be at liberty to apply to the Tribunal in the above matter for any directions that may be necessary.

81. Accordingly, the Company Application stands **allowed** on the aforementioned terms.

-Sd-	**-Sd-**
VENKATARAMAN SUBRAMANIAM	**SANJIV JAIN**
MEMBER (TECHNICAL)	MEMBER (JUDICIAL)