



**NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH**  
**COURT III**

19. C.P.(CAA)/71/MB/2023  
IN  
C.A.(CAA)/229/MB/2022  
CORAM: SHRI. H.V. SUBBA RAO, MEMBER (J)  
MS. MADHU SINHA, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL  
COMPANY LAW TRIBUNAL ON **18.05.2023**

NAME OF THE PARTIES: JSW Ispat Special Products Limited

SECTION 230(I) OF COMPANIES ACT, 2013

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**ORDER**

Mr. Hemant Sethi a/w Ms. Tanaya Sethi, counsel for the Applicant are present through physical hearing and Ms. Rupa Sutar, representative of Regional Director is present through virtual hearing.

**C.P.(CAA)/71/MB/2023**

Heard the counsel appearing for the Applicant and Ms. Rupa Sutar, representative of Regional Director reported no objection.

Accordingly, the above petition is **allowed. Detail order would follow:**

Sd/-  
MADHU SINHA  
Member (Technical)  
Shubham

Sd/-  
H.V. SUBBA RAO  
Member (Judicial)



**IN THE NATIONAL COMPANY LAW TRIBUNAL,**

**MUMBAI BENCH, COURT III**

**CP(CAA)/ 71/MB/ 2023**

**CONNECTED WITH**

**CA (CAA)/ 229/ MB/ 2022**

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

And

In the matter of Scheme of Arrangement of JSW Ispat Special Products Limited ('JISPL' or 'the Transferor Company') and Mivaan Steels Limited ('MSL' or 'the Transferee Company') and their respective Shareholders and Creditors ('the Scheme' or 'this Scheme')

**JSW Ispat Special Products Limited**

CIN : L02710MH1990PLC363582

...First Petitioner Company/ Transferor Company

**Mivaan Steels Limited**

CIN : U27100MH2021PLC371388

...Second Petitioner Company/ Transferee Company  
(Collectively referred to as the 'Petitioner Companies')

Order delivered on: 18.05.2023

*Coram:*

**Hon'ble Shri H.V. Subba Rao : Member (Judicial)**

**Hon'ble Smt. Madhu Sinha : Member (Technical)**

*Appearances (via videoconferencing):*

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

For the Regional Director (WR) : Ms. Rupa Sutar, Deputy Director

ORDER


1. The Court is convened by videoconference today.
2. Heard Learned Counsel for the Petitioner Companies. No objector has come before this Tribunal to oppose the Scheme nor has any party controverted any averments made in the Petition.
3. The sanction of this Tribunal is sought under Sections 230 to 232 and other applicable provisions of the Companies Act, 2013 to the said Scheme of Arrangement of JSW Ispat Special Products Limited ('JISPL' or 'the Transferor Company') and Mivaan Steels Limited ('MSL' or 'the Transferee Company') and their respective Shareholders and Creditors.
4. Learned Counsel for the Petitioner Companies state that the Board of Directors of the First Petitioner/Transferor Company has approved the proposed Scheme in its meeting held on February 16, 2022 and the Board of Directors of the Second Petitioner/Transferee Company has approved the Scheme on February 25, 2022. The Appointed Date of the Scheme means the close of business hours on March 31, 2022.
5. The Learned Counsel for the Petitioner Companies states that the rationale for the Scheme is as follows:  
*The Scheme shall be implemented by the Transferor Company along with the Transferee Company (in its capacity as a wholly owned subsidiary of the Transferor Company) on a slump sale basis.*
  - a) *The management of the Transferor Company believes that the Specified Undertaking forms part of the business of the Transferor Company, and*

*that the Specified Undertaking and the Remaining Undertaking, each require dedicated management focus and business strategies to ensure that the respective businesses are given the right impetus for growth and to maximize value for all stakeholders*

- b) The Specified Undertaking comprises of certain manufacturing, mining and other facilities that includes a sponge iron manufacturing plant with a capacity of 0.3 MTPA, ferro alloy plant and steel manufacturing plant with a capacity of 0.25 MTPA, which caters to the commodity grade market*
- c) The strategic focus of the Specified Undertaking (which is to be transferred to the Transferee Company pursuant to the Scheme) is on commodity steel products that caters to the structural and construction sectors with comparatively lower volume of production and serving customers predominantly around its operating area; whereas, the Transferor Company's strategic focus for its Remaining Undertaking is on special steel products catering to HT grades, IBR grades, RDSO grades, automotive, high manganese grades, cold rolling grades and API grades with comparatively higher volume of production serving customers in the exports and domestic markets covering Northern, Eastern and parts of Western region of India.*
- d) The transfer of the Specified Undertaking to the Transferee Company will enhance the ability of the Transferor Company and Transferee Company to explore and leverage strategic opportunities for their respective business/ undertakings, including fund raising prospects, with the aim of maximizing value.*
- e) With a view to achieve dedicated management focus on the respective grades of products and customer segments, facilitate strategic opportunities and to maximize the value of each of the Remaining Undertaking*

*and the Specified Undertaking, the management of the Transferor Company proposes to transfer the Specified Undertaking, and vest such Specified Undertaking into the Transferee Company (in its capacity as a wholly owned subsidiary of Transferor Company).*

- f) *The management of the Transferor Company and the Transferee Company believe that the transfer of the Specified Undertaking from the Transferor Company and vesting of such Specified Undertaking into the Transferee Company is in the larger interest of the shareholders, creditors and employees of the Transferor Company and the Transferee Company and will enhance the prospects of the future growth of the Transferor Company and the Transferee Company, and is likely to result in the following benefits for the Transferor Company and the Transferee Company:*
- i) *enabling the Transferor Company and Transferee Company to focus on their core business strategies and plans with dedicated management focus on their respective grades of products and customer segments;*
  - ii) *facilitating strategic opportunities for the Transferor Company and Transferee Company;*
  - iii) *creating and enhancing stakeholders' value by unlocking the intrinsic value and growth potential for the respective businesses of the Transferor Company and Transferee Company;*
  - iv) *enhancing ability of each of the Transferor Company and the Transferee Company to raise necessary funds and resources for their respective businesses independently;*
  - v) *imparting better management focus, facilitating administrative convenience and ensuring optimum utilization of various resources of the Transferor Company and Transferee Company;*

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- vi) *increasing efficiencies in management, control and administration of the affairs of the Transferor Company and Transferee Company;*
- vii) *no adverse impact on the operations of the Specified Undertaking or Remaining Undertaking is envisaged on account of this Scheme; and*
- viii) *achieving an optimum capital structure with commensurate assets which is likely to enhance the business prospects of the Transferor Company as well as the Transferee Company.*
6. Learned Counsel for the Petitioner Companies submits that the Petition has been filed in consonance with sections 230 to 232 of the Act along with the order dated December 01, 2022 passed by this Tribunal in CA(CAA)/229/MB/2022.
7. The Counsel for the Petitioner Companies further submits that the First Petitioner/Transferor Company is engaged in the business of manufacturing and dealing in steel and allied products. The Second Petitioner/Transferee Company is recently incorporated and yet to commence operations. Its main objects are to inter-alia manufacture, mine, produce, process, trade or otherwise deal in steel, iron, metal, alloy and such products.
8. Learned Counsel appearing on behalf of the Petitioner Companies has stated that the Petitioner Companies have complied with all requirements as per directions of this Tribunal and they have made requisite filings to demonstrate compliance with this Tribunal. Moreover, the Petitioner Companies undertake to comply with all the statutory requirements, if and to the extent applicable, as may be required under the Companies Act, 2013 and the rules made thereunder. The said undertaking is accepted.

9. The Regional Director (Western Region) has filed its report dated April 17, 2023 inter-alia stating in paragraphs 2(a) to 2(m). In response to the observations made by the Regional Director, the Petitioner Companies have also given necessary clarifications and undertakings vide their rejoinder affidavit dated May 11, 2023. The observations made by the Regional Director and the clarifications and undertakings given by the Petitioner Companies are summarized in the table below:

<b>Para No. (2)</b>	<b>Regional Director Report/ Observations dated April 17, 2023</b>	<b>Response of the Petitioner Companies</b>
(a)	<p><i>That on examination of the report of the Registrar of Companies, Mumbai dated 24/03/2023 for Petitioner Companies (Annexed as Annexure A-1) that the Petitioner Companies falls within the jurisdiction of ROC, Mumbai. It is submitted that no complaint and /or representation regarding the proposed scheme of Amalgamation has been received against the Petitioner Companies. Further, the Petitioner Companies has filed Financial Statements upto 31/03/2022. The ROC has further submitted that in his report dated 24/03/2023 which are as under :-</i></p> <p><i>i. That the ROC Mumbai in his report dated 24/03/2023 has also stated that No Inquiry, Inspection, Investigations, Prosecutions and Complaints under CA, 2013 have been pending against the Petitioner Companies.</i></p>	<p>So far as the observation in paragraph 2(a)(i), 2(a)(ii)(a) &amp; 2(a)(ii)(c) of the Report of the Regional Director is concerned, the Petitioner Companies submits that it is the facts of the case.</p> <p>So far as the observation in paragraph 2(a)(ii)(b) of the Report of the Regional Director is concerned, the Petitioner Companies confirm that notices have been served to the unsecured creditors of the Transferor Company.</p> <p>So far as the observation in paragraph 2(a)(ii)(d) of the Report of the Regional Director is concerned, the Petitioner</p>



<p><i>ii. Further ROC has mentioned as follows:-</i></p> <p><i>a. NOC given by BSE and NSE dated 18.08.2022.</i></p> <p><i>b. Notice should be served to the unsecured creditors of the Transferor Company.</i></p> <p><i>c. 4 charges are open of Transferor Company.</i></p> <p><i>d. As per provisions of section 232(3)(i) of CA, 2013 where the transferor company is dissolved, the fee, if any, paid by the transferor company on its authorized capital shall be set off against any fees payable by the transferee company on its authorized capital shall be set off against any fees payable by the transferee company on its authorized capital subsequent to the amalgamation. Therefore, remaining fee, if any after setting off the fees already paid by the transferor company on its authorized capital, must be paid by the transferee company on the increased authorized capital subsequent to amalgamation.</i></p> <p><i>e. Interest of creditors should be protected.</i></p> <p><i>Hence, the Petitioner Companies shall undertake to provide detail reply against observations mentioned above.</i></p>	<p>Companies submits that the present scheme is a Scheme of Arrangement of the Transferor Company and the Transferee Company involving the transfer of the Specified Undertaking of the Transferor Company to the Transferee Company through a Slump Sale. Hence, post this Scheme becoming effective the Transferor Company shall not be dissolved and the provisions of section 232(3)(i) of the Companies Act, 2013 shall not be applicable to the present scheme.</p> <p>So far as the observation in paragraph 2(a)(ii)(e) of the Report of the Regional Director is concerned, the Petitioner Companies submits that the interest of creditors will be protected.</p>
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<p>(b)</p>	<p><i>Transferee Company should undertake to comply with the provisions of section 232(3)(i) of the Companies Act, 2013 through appropriate affirmation in respect of fees payable by Transferee Company for increase of share capital on account of merger transfer of companies.</i></p>	<p>So far as the observation in paragraph 2(b) of the Report of the Regional Director is concerned, the Petitioner Companies submits that the present scheme is a Scheme of Arrangement of the Transferor Company and the Transferee Company involving the transfer of the Specified Undertaking of the Transferor Company to the Transferee Company through a Slump Sale. Hence, post this Scheme becoming effective the Transferor Company shall not be dissolved and the provisions of section 232(3)(i) of the Companies Act, 2013 shall not be applicable to the present scheme. Further, the Transferee Company shall pay appropriate fee on its increase in authorised share capital whenever required pursuant to the Scheme.</p>
<p>(c)</p>	<p><i>In compliance of Accounting Standard-14 or IND-AS 103, as may be applicable, the transferee company shall pass such accounting entries which are necessary in connection with the scheme to comply</i></p>	<p>So far as the observation in paragraph 2(c) of the Report of the Regional Director is concerned, the Petitioner Companies submits that the Petitioner Companies undertakes</p>



	<p><i>with other applicable Accounting Standards including AS-5 or IND AS-8 etc.</i></p>	<p>that in addition to compliance of IND AS 103 for accounting treatment, if applicable, the Petitioner Companies shall pass such accounting entries as may be necessary in connection with the Scheme to comply with other applicable accounting standards such as IND AS-8 as applicable.</p>
(d)	<p><i>The Hon'ble Tribunal may kindly direct the Petitioner Companies to file an affidavit to the extent that the Scheme enclosed to the Company Application and Company Petition are one and same and there is no discrepancy, or no change is made.</i></p>	<p>So far as the observation in paragraph 2(d) of the Report of the Regional Director is concerned, the Petitioner Companies submits that the Scheme enclosed to the Company Application and Company Petition are one and same and there is no discrepancy, and no change is made.</p>
(e)	<p><i>The Petitioner Companies under provisions of section 230(5) of the Companies Act 2013 have to serve notices to concerned authorities which are likely to be affected by the Amalgamation or arrangement. Further, the approval of the scheme by the Hon'ble Tribunal may not deter such authorities to deal with any of the issues arising after giving effect to the</i></p>	<p>So far as the observation in paragraph 2(e) of the Report of the Regional Director is concerned, the Petitioner Companies confirm that notices have been served to the concerned authorities which are likely to be affected by the Scheme of Arrangement.</p>

	<p><i>scheme. The decision of such authorities shall be binding on the petitioner companies concerned.</i></p>	<p>Further, the Petitioner Companies state that the approval of the Scheme by this Hon'ble Tribunal may not deter such authorities to deal with any of the issue arising after giving effect to the Scheme and the decision of such authorities not disputed by the Petitioner Companies is binding on the Petitioner Companies.</p>
(f)	<p><i>As per Definition of the Scheme "Appointed Date" means the close of business hours on March 31, 2022, or such other time and date as may be fixed or approved by the Tribunal, being the time and date with effect from which this Scheme will be deemed to be effective;</i></p> <p><i>"Effective Date" means the date on which all of the conditions and matters referred to in Clause 19 of this Scheme have occurred or been fulfilled. References in this Scheme to the date of "coming into effect of this Scheme", the "effectiveness of this Scheme", the "Scheme coming into effect" and other similar expressions, shall mean the Effective Date;</i></p> <p><i>It is submitted that the Petitioners may be asked to comply with the requirements as clarified vide circular no. F. No.</i></p>	<p>So far as the observation in paragraph 2(f) of the Report of the Regional Director is concerned, the Petitioner Companies submits that the Appointed Date is the close of business hours on March 31, 2022. Further, the Petitioner Companies confirms and undertakes that upon the order sanctioning this Scheme as passed by the Hon'ble Tribunal, is filed by Petitioner Companies with Registrar of Companies, Mumbai, the Scheme shall take effect from the Appointed date and the same will be in compliance with the clarifications issued vide circular no. F. No. 7/12/2019/CL-1</p>

	<i>7/12/2019/CL-I dated 21.08.2019 issued by the Ministry of Corporate Affairs.</i>	dated 21.08.2019 issued by the Ministry of the Corporate Affairs.
(g)	<i>Petitioner Companies shall undertake to comply with the directions of Income tax department, if any.</i>	So far as the observation in paragraph 2(g) of the Report of the Regional Director is concerned, the Petitioner Companies undertake that no specific directions have been received from the income tax department.
(h)	<i>Petitioner Companies shall undertake to comply with the directions of the concerned sectoral Regulatory, if any.</i>	So far as the observation in paragraph 2(h) of the Report of the Regional Director is concerned, the Petitioner Companies undertake to comply with directions of Sectoral Authorities, if any.
(i)	<i>Petitioner Companies has foreign shareholders, hence Petitioner Companies shall undertake to comply with Rules, Regulation and guidelines of RBI, FEMA, FERA.</i>	So far as the observation in paragraph 2(i) of the Report of the Regional Director is concerned, the Petitioner Companies undertake to comply with the Rules, Regulations and guidelines of RBI, FEMA and FERA, to the extent applicable.



(j)	<p><i>Transferor Company is a Public Listed Company, hence Petitioner Companies shall undertake to comply with listing/SEBI LODR Regulations with observations of BSE &amp; NSE, if any, in this regard.</i></p>	<p>So far as the observation in paragraph 2(j) of the Report of the Regional Director is concerned, the Petitioner Companies have complied and undertakes to comply with the listing/LODR Regulations with observations of BSE &amp; NSE, if any, in this regard, to the extent applicable.</p>			
(k)	<p><i>As per shareholding pattern as on 31.03.2022 submitted by the Petitioner company, details of shareholding is as follows :-</i></p>				
	<p><i>Sr. No.</i></p>	<p><i>Petitioner Company</i></p>	<p><i>Name of Shareholder</i></p>	<p><i>% of shares held</i></p>	<p><i>Remark</i></p>
1.	<p><i>JSW Ispat Special Products Limited</i></p>	<p><i>Creixent Special Steels Limited</i></p>	<p><i>48.12%</i></p>	<p><i>No Form BEN-2 has been filed by any of the Petitioner Companies as per records available at MCA21 Portal</i></p>	
		<p><i>Aion Investments Private Limited</i></p>	<p><i>21.18%</i></p>		
2.	<p><i>Mivaan Steels Limited</i></p>	<p><i>JSW Ispat Special Products Limited</i></p>	<p><i>100%</i></p>		
<p><i>No Form BEN-2 has been filed by any of the Petitioner Company as per records available at MCA21 Portal, hence Petitioner Companies shall undertake to comply with the provisions of section 90 of Companies Act, 2013 r/w. Companies (Significant Beneficial Owners) Amendment Rules, 2019,</i></p>					

*thereunder and to file Form BEN-2 for declaring name of the significant beneficial owner with concerned ROC.*

***Response of Petitioner Companies***

So far as the observation in paragraph 2(k) of the Report of the Regional Director is concerned, the First Petitioner Company states that as on 31<sup>st</sup> March 2022, Aion Investments Private Limited is not a shareholder of the First Petitioner Company. Further, Aion Investments Private II Limited is declared as a promoter but does not hold any shares in the First Petitioner Company as on 31<sup>st</sup> March 2022.

Further, Creixent Special Steels Limited is a shareholder of the First Petitioner Company holding ~48.12% in the equity share capital of the First Petitioner Company as on 31<sup>st</sup> March 2022. However, there is no individual shareholder with a majority stake in Creixent Special Steels Limited (*as per the provisions of Section 90 of the Companies Act, 2013 read with the rules made thereunder*).

The First Petitioner Company further states that it is a public listed company and, as on 31<sup>st</sup> March 2022, [~46.83%] of its equity share capital is held by public shareholders. The First Petitioner Company has not received any significant beneficial ownership related declaration (*as per the provisions of Section 90 of the Companies Act, 2013 read with the rules made thereunder*) from its public shareholders or any other shareholder.

The First Petitioner Company accordingly states that it is not required to file Form BEN-2 (*as per the provisions of Section 90 of the Companies Act, 2013 read with the rules made thereunder*).

Further, JSW Ispat Special Products Limited (i.e., the First Petitioner Company) is holding 100% in the share capital of the Second Petitioner Company. As there is no individual shareholder with a majority stake in the First Petitioner Company (*as per the provisions of Section 90 of the*



	<p><i>Companies Act, 2013 read with the rules made thereunder) nor has it received any significant beneficial ownership related declaration (as per the provisions of Section 90 of the Companies Act, 2013 read with the rules made thereunder), the requirement to file Form BEN-2 is not applicable for the Second Petitioner Company (as per the provisions of Section 90 of the Companies Act, 2013 read with the rules made thereunder)</i></p>
(1)	<p><i>It is observed from financial statements as on 31.03.2022 of JSW Ispat Special Products Limited has issued shares at Security Premium and collected total premium amounting to Rs. 1114.46 CR but Form 2 or PAS 3 is not appearing in MCA-21 Portal. Therefore, the company may clarify the status of filling of return of allotment.</i></p> <p><b><i>Response of Petitioner Companies</i></b></p> <p>So far as the observation in paragraph 2(l) of the Report of the Regional Director is concerned, the First Petitioner Company states that there is securities premium balance of INR 1114.46 crores as at 31<sup>st</sup> March 2022 which has accumulated over the years. In the financial year 2018-19, a consortium of AION Investments Private II Limited, (AION) and JSW Steel Limited (JSW Steel), acquired a majority stake in the First Petitioner Company through the Corporate Insolvency Resolution Process (CIRP) under the Insolvency &amp; Bankruptcy Code 2016 (IBC). Post-acquisition of stake, the Board was reconstituted and new management was put in place and since then has not issued any shares at premium. Based on data available with the First Petitioner Company, details of Form 2/ PAS-3 are as below:</p>



Sr No.	Date of Issue	No. of Shares Issued	Issue Price	Type of Issue	Share premium	Form 2/ PAS 3 filed	SRN/ Receipt No	Remarks
1	31/11/1994	310,000	40.00	Preferential to Promoters.	9,300,000.00	Form 2	-	Form not available with the Company
2	31-10-00	1,833,300	30.00	Preferential to Promoters.	36,666,000.00	Form 2	89802	
3	15-09-03	950,000	100.00	Preferential to Promoters.	85,500,000.00	Form 2	140491	
4	03-06-04	3,527,353	100.00	Preferential to Citi Corp	317,461,770.00	Form 2	157078	
5	31-03-05	1,000,000	120.00	Warrant Conv. of Promoters.	110,000,000.00	Form 2	176659	
6	30-11-05	1,000,000	120.00	Warrant Conv. of Promoters.	110,000,000.00	Form 2	-	Form not available with the Company
7	19-04-06	1,659,125	236.94	Conversion of FCCB	376,521,827.50	Form 2	203508	
8	25-04-06	184,347	236.94	Conversion of FCCB	41,835,708.18	Form 2	203508	
9	24-07-07	553,041	236.94	Conversion of FCCB	125,507,124.54	Form 2	A19886753	
10	26-07-07	368,694	236.94	Conversion of FCCB	83,671,416.36	Form 2	A19902113	
11	28-07-07	92,173	236.94	Conversion of FCCB	20,917,740.62	Form 2	A19903673	
12	01-08-07	184,347	236.94	Conversion of FCCB	41,835,708.18	Form 2	A19951961	
13	12-09-07	553,042	236.94	Conversion of FCCB	125,507,351.48	Form 2	A23854730	
14	04-10-07	276,520	236.94	Conversion of FCCB	62,753,448.80	Form 2	A23852031	
15	22-10-07	570,405	317.20	Conversion of FCCB	175,228,416.00	Form 2	A26387662	
16	23-10-07	1,253,560	236.94	Conversion of FCCB	284,487,921.00	Form 2	A26388157	
17	25-10-07	92,173	236.94	Conversion of FCCB	20,918,109.00	Form 2	A26388637	
18	07-11-07	695,617	317.20	Conversion of FCCB	213,693,542.40	Form 2	A26389213	
19	23-11-07	1,825,037	236.94	Conversion of FCCB	414,181,197.00	Form 2	A28125136	
20	23-11-07	278,246	317.20	Conversion of FCCB	85,477,171.20	Form 2	A28126373	
21	14-12-07	571,476	236.94	Conversion of FCCB	129,693,049.00	Form 2	A29898137	
22	14-12-07	278,247	317.20	Conversion of FCCB	85,477,478.40	Form 2	A29898657	
23	01-01-08	276,521	236.94	Conversion of FCCB	62,754,782.00	Form 2	A30657126	
24	01-01-08	667,792	317.20	Conversion of FCCB	205,145,702.40	Form 2	A30658645	
25	07-01-08	1,290,431	236.94	Conversion of FCCB	292,855,573.00	Form 2	A31549793	
26	10-01-08	1,043,425	317.20	Conversion of FCCB	320,540,160.00	Form 2	A31537954	
27	11-01-08	1,290,431	236.94	Conversion of FCCB	292,855,573.00	Form 2	A31379613	
28	11-01-08	139,123	317.20	Conversion of FCCB	42,738,585.60	Form 2	A31549546	
29	14-01-08	375,633	317.20	Conversion of FCCB	115,394,457.60	Form 2	A31550080	
30	12-02-08	589,910	236.94	Conversion of FCCB	133,876,535.00	Form 2	A33209255	
31	12-02-08	389,545	317.20	Conversion of FCCB	119,668,224.00	Form 2	A33209552	
32	12-05-08	139,123	317.20	Conversion of FCCB	42,738,585.60	Form 2	A31549546	





33	30-05-08	1,112,988	317.20	Conversion of FCCB	341,909,913.60	Form 2	A38776720	
34	31-03-10	4,300,000	201.50	Warrant Conv. <u>of Pro.</u>	823,450,000.00	Form 2	A82558446	
35	08-11-10	194,772	317.20	Conversion of FCCB	59,833,958.40	Form 2	A98160054	
36	13-12-10	306,071	317.20	Conversion of FCCB	94,025,011.20	Form 2	B02579589	
37	20-12-10	4,722,539	-	Allotment upon Merger	42,005,534.38	Form 2		SRN not available with the Company
38	22-12-10	4,700,000	201.50	Conversion of Warrants	900,050,000.00	Form 2	B03119757	
39	04-02-11	1,711,218	317.20	Conversion of FCCB	525,686,169.60	Form 2	B05166038	
40	25-02-11	445,194	317.20	Conversion of FCCB	136,763,596.80	Form 2	B10637825	
41	04/06/2012 till 27/12/2012	1,892,385	324.20(Avg)	<u>Equity</u> (buy Back)	-190,445,180	N.A.		
42	30-10-13	2,094,000	Merger	<u>Equity</u> (Merger)(Balance)	371,685,000	PAS 3	S29153947	
43	31-12-15	32,550,758	40.00	<u>Allotment</u> (Private Placement)	976,522,740.00	PAS-3	S45396504	
44	31-12-15	102,391,803	34.20	<u>Allotment</u> (Banks under SDR)	2,477,881,632.60			
<b>TOTAL</b>					<b>11,144,571,534.44</b>			

Further, based on the above data, the First Petitioner Company states that as on date no such notices have been received from the Income Tax Department on the above matter.

(m)

*It is submitted that CBDT vide circular dated 17.03.2023 (copy enclosed) appointed following nodal officer for Income Tax Department for the region of Mumbai & Goa which is as follows:-*

*Pr. CCIT, Mumbai*

*Address:- 3<sup>rd</sup> Floor, Aayakar Bhawan, Maharishi Karve Road, Mumbai – 400 020*

*Phone No. 022 - 22017654*

So far as the observation in paragraph 2(m) of the Report of the Regional Director is concerned, the Petitioner Companies have served a notice u/s 230(5) of the Companies Act, 2013 and of final hearing to the respective jurisdictional assessing officer. However, none of the Petitioner Companies have received any response from the Income Tax Department. Nonetheless, the Petitioner Com-



	<p><i>Email: <u><a href="mailto:Mumbai.pccit@incometax.gov.in">Mumbai.pccit@incometax.gov.in</a></u></i></p> <p><i>Hence, Hon'ble NCLT may seek the comments of Income tax department, if any.</i></p>	<p>panies undertakes that the approval of the Scheme by the NCLT will not deter the rights of the Income Tax department to deal with any of the issues arising after giving effect to the scheme and the Transferee Company shall deal in the proceedings appropriately in the course of applicable law.</p>
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10. The Observations made by the Regional Director have been explained and the clarifications and undertakings given by the Petitioner Companies have been explained in above table. So far as the observation in paragraph 2(k) of the Report of the Regional Director is concerned, the Petitioner Companies further undertakes to comply with the provisions of section 90 of the Companies Act, 2013 read with relevant rules as and when applicable and ROC is at liberty to issue show notice to the Petitioner Companies in case of default in filing Form BEN-2. The Petitioner Companies will be at liberty to defend in accordance with law.
11. The Ld. Authorized Representative for the Regional Director, Ms. Rupa Sutar, Deputy Director, appeared in person and reported that most of the observations made by the Regional Director are routine in nature, and the Regional Director has no serious objection for approving the above Scheme. The clarifications and undertakings given by the Petitioner Companies in response to the said Report are accepted by this Tribunal.
12. From the material on record and after perusing the clarifications and submissions of the Petitioner Companies, the Scheme appears to be fair and reasonable and does not violate any provisions of law and is not contrary to public policy.

13. Upon coming into effect of this Scheme and in consideration of the transfer and vesting of the Specified Undertaking in the Transferee Company in terms of the Scheme, based on the valuation report from PWC Business Consulting Services LLP dated February 16, 2022 and March 16, 2022, the Transferee Company shall, without any further application, act, instrument or deed, issue 44,31,10,000 (Forty Four Crores Thirty One Lacs and Ten Thousand) fully paid-up unsecured convertible debentures (“CDs”) having face value of INR 10 (Rupees Ten) each, aggregating to INR 443,11,00,000 (Rupees Four Hundred and Forty Three Crores and Eleven Lacs only) to the Transferor Company, and the CDs (subject to its terms) shall be convertible into equity shares of the Transferee Company (each having a face value of INR 10 (Rupees Ten)) based on a 1:1 ratio and such CDs shall have such terms as mutually agreed between the Transferor Company and Transferee Company, subject to Applicable Law and Clause 23 of the Scheme.
14. Since all the requisite statutory compliances have been fulfilled CP(CAA)/71/MB /2023 is made absolute in terms of the prayer clauses of the said Company Scheme Petition. Hence ordered.

### **ORDER**

- a) The said Scheme of Arrangement is hereby sanctioned and declared the same to be binding on the Petitioner Companies and their respective shareholders.
- b) The Scheme is hereby sanctioned with the Appointed Date of the Scheme as the close of business hours on March 31, 2022.
- c) The Petitioner Companies are directed to lodge a certified copy of this Order along with a copy of the Scheme with the concerned Registrar

of Companies, electronically in e-Form INC-28, within 30 (thirty) days from the date of receipt of the order by the Registry, duly certified by the Joint/ Deputy/ Assistant Registrar of this Tribunal.

- d) The Petitioner Companies are directed to lodge a certified copy of this Order and the Scheme duly authenticated by the Joint/ Deputy/ Assistant Registrar of this Tribunal, with the concerned Superintendent of Stamps for adjudication of stamp duty payable, if any, within 60 (sixty) working days from the date of receipt of certified copy of the Order from the Registry of this Tribunal.
- e) All concerned regulatory authorities to act on a copy of this Order along with Scheme duly certified by the Joint/ Deputy/ Assistant Registrar, National Company Law Tribunal, Mumbai Bench.
- f) Any person interested is at liberty to apply to this Tribunal in the above matters for any directions that may be necessary.
- g) Any concerned Authorities are at liberty to approach this Tribunal for any further clarification as may be necessary.
- h) Ordered accordingly. CP (CAA) No. 71 of 2023 is allowed and disposed-off. Files to be consigned to Records.

SD/-

**Madhu Sinha**

**Member (Technical)**

SD/-

**H.V. Subba Rao**

**Member (Judicial)**