

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD**

**Company Application No. CA(CAA)No. 09/ALD of 2021**  
(Under Section 230 & 232 of the Companies Act, 2013)

**In the Matter of:**

1. **Gulshan Holdings Private Limited**, a private limited company incorporated under the Companies Act, 1956 and having its registered office at 9th K.M., Jansath Road, Muzaffarnagar – 251001, Uttar Pradesh  
.....Applicant Company No. 1/Transferor Company No. 1
2. **East Delhi Importers & Exporters Private Limited**, a private limited company incorporated under the Companies Act, 1956 and having its registered office at 9th K.M., Jansath Road, Muzaffarnagar – 251001, Uttar Pradesh  
..... Applicant Company No. 2/Transferor Company No. 2

AND

3. **Gulshan Polyols Limited**, a public limited company incorporated under the Companies Act, 1956 and having its registered office at 9th K.M., Jansath Road, Muzaffarnagar – 251001, Uttar Pradesh  
.....Applicant Company No. 3/Transferee Company

**ORDER DELIVERED ON: 14.07.2021**

**CORAM: Justice(Retd) Rajesh Dayal Khare; Member(Judicial)**

For the Applicant Companies : Ankit Kumar Singh, PCS

**ORDER**

**Per se: Justice(Retd) Rajesh Dayal Khare; Member(Judicial)**

1. The counsel for the Applicant Companies submits that that the present Scheme is a Scheme of Amalgamation of Gulshan Holdings Private Limited ("GHPL" or "the Transferor Company No. 1" or "Applicant Company No. 1") and East Delhi Importers & Exporters Private Limited ("EDIEPL" or "the Transferor Company No. 2" or "Applicant Company No. 2") with Gulshan Polyols Limited ("GPL" or "the Transferee Company" or "Applicant Company No. 3") and their respective Shareholders ("Scheme") under the provisions of Sections 230 to 232 of the Companies Act, 2013.
2. The counsel for the Applicant Companies submits that this 1<sup>st</sup> motion Application under Sections 230 & 232 of the companies Act, 2013 (herein after referred to as the "Act") read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (herein after referred to as "the Rules") is filed by the Applicants

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Numbers 1 to 3 Companies seeking directions of this Tribunal to convene separate meetings of Secured Creditors, Un-secured Creditors and Equity Shareholders of the Transferee Company, to consider and, if deem fit, to approve the proposed Scheme of Amalgamation; and to dispense with the requirement of convening meetings of Equity Shareholders, Secured Creditors and Un-secured Creditors of the Transferor Companies No. 1 to 2; and Preference Shareholders of the Transferee Company. The Applicant No. 1 to 2 Companies are the Transferor Companies No. 1 to 2, whereas the Applicant No. 3 is the Transferee Company as stated in the proposed Scheme and in the Application.

3. The counsel for the Applicant Companies submits that the Transferor Company No. 1 is a private limited company registered under the provisions of the Companies Act, 1956. The Authorised Share Capital of the Transferor Company No. 1 is ₹5,55,00,000 divided into 55,500 Equity Shares of ₹1,000 each. The present Issued, Subscribed and Paid-up Share Capital of the Company is ₹7,07,000 divided into 707 Equity Shares of ₹1,000 each. The Main Objects of the Transferor Company No. 1 are set out in its Memorandum and Article of Association annexed with the Application and marked as *Annexure A-2 (Colly.)*.

Presently, the Transferor Company No. 1 is engaged in the business of acquiring, investing and holding shares in companies having similar objects or companies providing value benefit, and guaranteeing the payment of money unsecured or secured by or payable under or in respect of contractual obligations.

4. The counsel for the Applicant Companies submits that Transferor Company No. 2 is a private limited company registered under the provisions of the Companies Act, 1956. The Authorised Share Capital of the Transferor Company No. 2 is ₹1,00,000 divided into 10,000 Equity Shares of ₹10 each. The present Issued, Subscribed and Paid-up Share Capital of the Company is ₹1,00,000 divided into 10,000 Equity Shares of ₹10 each. The Main Objects of the Transferor Company No. 2 are set out in its Memorandum and Article of Association annexed with the Application and marked as *Annexure A-5 (Colly.)*.

Presently, the Transferor Company No. 2 is engaged in the business of importing, exporting, dealing and trading multi-products which includes but not limited to textile products, chemicals, sugar and related products, engineering goods, molasses, grains, glassware, alcohol, oils, paper and related products, wood and timber etc. Further, the Company is engaged in the business as general carriers, transporters and freight forwarders, and exporting, importing, trading and dealing in the computer software, programmes, computer hardware and peripherals.

5. The counsel for the Applicant Companies submits that the Transferee Company is a public limited company registered under the provisions of the Companies Act, 1956. The Authorised Share Capital of the Transferee Company is ₹37,25,00,000 divided into 22,50,00,000 Equity Shares of ₹1 each aggregating to ₹22,50,00,000; 2,50,000 Redeemable Preference Shares (0%) of ₹10 each aggregating to ₹25,00,000; and 14,50,000 Redeemable Preference Shares (0-10%) of ₹100 each aggregating to

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14,50,00,000. The present Issued, Subscribed and Paid-up Share Capital of the Company is ₹14,44,17,020 divided into 4,69,17,020 Equity Shares of ₹1 each aggregating to ₹4,69,17,020; and 9,75,000 Redeemable Preference Shares (8%) of ₹100 each aggregating to 9,75,00,000. The equity shares of the Transferee are listed on National Stock Exchange of India Limited and BSE Limited. The Main Objects of the Transferee Company are set out in its Memorandum and Article of Association annexed with the Application and marked as *Annexure A-8 (Colly.)*.

Presently, the Transferee Company is engaged in the business of manufacturing multi-products such as starch sugar, high fructose rice syrup, brown rice syrup, rice syrup solids, calcium carbonate, agro based animal feed and alcohol. Further, the Transferee Company is engaged in installing onsite PCC plants.

6. The Counsel for the Applicant Companies submits that the Transferor Company No. 1 is a promoter holding company of the Transferee Company. The Transferor Company No. 2 is a promoter company of the Transferee Company. The registered office of the Applicant Companies is situated at 9th K.M., Jansath Road, Muzaffarnagar – 251001, Uttar Pradesh.
7. The Counsel for the Applicant Companies further submits that the Scheme has been approved by the board of directors of the Applicant Companies in their meetings held on 06<sup>th</sup> August, 2020 and the Appointed Date of the Scheme is fixed as 1<sup>st</sup> April, 2020.
8. The Counsel for the Applicant Companies further submits that the Applicant Companies have filed the Audited Financial Statements for the financial year ended 31<sup>st</sup> March, 2020 along with audited financial statements for the half year ended on 30<sup>th</sup> September, 2020.
9. The Counsel for the Applicant Companies further submits that Board of Directors and management of the Applicant Companies have proposed the Scheme for the following reasons or rationale:
  - a. *Ensuring a streamlined group structure by reducing the number of legal entities;*
  - b. *Reducing the multiplicity of legal and regulatory compliances required at present;*
  - c. *Eliminating duplicative communication and coordination efforts across multiple entities;*
  - d. *Rationalising cost by eliminating multiple record keeping and administrative functions;*
  - e. *Help in achieving improved operational efficiency and optimum advantages and synergy in operations by combining the activities of the Transferor Companies*

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*with the Transferee Company. Accordingly, the Scheme would strengthen and complement the businesses of the Companies;*

- f. The amalgamated entity will benefit from optimum utilization of manpower through improved organizational capacity and leadership, arising from the combination of people from the Transferor Companies and Transferee Company which have diverse skills, talent, management expertise, enlarged knowledge base and vast experience to compete successfully in an increased competitive industry;*
  - g. The amalgamated entity shall reduce fixed costs by removing duplicate departments, operations and lower the cost of the Company relative to the same revenue stream and shall thus increase the profit margins;*
  - h. Under a liberalised, fast changing and highly competitive environment, this amalgamation shall strengthen the business of the Transferor Companies and the Transferee Company by pooling up the resources, land, investment and assets for common purpose and hence optimum utilization;*
  - i. The amalgamation will result in better economic control, increased financial strength and flexibility and enhance the ability of the amalgamated entity to undertake large projects, thereby contributing to enhancement of future business potential;*
  - j. The amalgamation would not only lead to simplification of the shareholding structure and reduction of the shareholding tiers, but also demonstrate the promoter group direct commitment to and engagement with the Transferee Company;*
  - k. The amalgamation would lead to infusion of investments in forms of bank deposits, bank balance, securities etc. into the Transferee Company which will enhance the capability of the Transferee Company to undertake operations at an enhanced business potential.*
- 10.** It is stated that no proceeding for inspection, inquiry or investigation under the provisions of the Companies Act, 2013, or under the provisions of the Companies Act, 1956 is pending against any of the Applicant Companies.
  - 11.** It is stated by the Applicant Companies that the proposed Scheme of Amalgamation does not envisage any buy back of shares.
  - 12.** The learned Counsel for the Applicant Companies filed details of Shareholders, Secured Creditors and Un-secured Creditors detailed below:

**The Transferor Company No. 1**

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- i. The Transferor Company No. 1 has 5 (five) **Equity Shareholders** and all have given their consents by way of deposing individual affidavits.
- ii. The Transferor Company No. 1 has no **Secured Creditors as on date**. As on 30.09.2020, the Transferor Company No. 1 has 1 secured creditor. There is no outstanding liability as on date and the said loan has been fully adjusted with up-to-date mark up. The Transferor Company No.1 has fully repaid the outstanding dues of the secured creditor and the secured creditor is having no charge on any of the assets of the Transferor Company No.1. The said Secured Creditor has given its no outstanding dues confirmation by way of Affidavit.
- iii. The Transferor Company No. 1 has 1 (one) **Un-secured Creditor** and he has given his consent by way of deposing individual affidavit.

#### **The Transferor Company No. 2**

- i. The Transferor Company No. 2 has **3 (three) Equity Shareholders** and all have given their consents by way of deposing individual affidavits.
- ii. The Transferor Company No. 2 has no **Secured Creditors**.
- iii. The Transferor Company No. 2 has no **Un-Secured Creditors**.

#### **The Transferee Company**

- i. The Transferee Company is listed public limited company and has 14,758 (fourteen thousand seven hundred and fifty-eight) **Equity Shareholders as on 30<sup>th</sup> September, 2020**. The Transferee Company is proposing to convene a physical meeting of its Equity Shareholders with e-voting facilities, under the supervision of this Tribunal to consider and approve the proposed Scheme of Amalgamation.
- ii. The Transferee Company has 1 (one) **Preference Shareholder** and he has given his consent by way of deposing individual affidavit.
- iii. The Transferee Company has 2 (two) **Secured Creditors as on date**. As on 30.09.2020, the Transferee Company had 3 (three) secured creditors. Out of those 3 (three) of the secured creditors of the Transferee Company as on 30.09.2020, 1 (one) secured creditor with name "Gulshan Mercantile Urban Co-Operative Bank Limited" has been paid off all the outstanding dues. The said Secured Creditors has given its no outstanding dues confirmation by way of Affidavit. The Transferee Company is proposing to convene a physical meeting of its Secured Creditors, under the supervision of this Tribunal to consider and approve the proposed Scheme.

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iv. The Transferee Company has about 634 (six hundred and thirty-four) **Un-secured Creditors as on 30<sup>th</sup> September, 2020**. The Transferee Company is proposing to convene a physical meeting of its Un-secured Creditors, under the supervision of this Tribunal to consider and approve the proposed Scheme of Amalgamation.

13. The Applicants have stated that the accounting treatment proposed in the Scheme is in conformity with the accounting standards prescribed under Section 133 of the Companies Act, 2013. Certificates from the respective Statutory Auditors of the Applicant Companies have been filed along with the Application.

14. Learned Counsel- CS Ankit Kumar Singh, appearing for the Applicant Companies, made the following contentions with respect to the dispensation of the requirement of convening meetings of the following persons:

- A. All the Equity Shareholders of the Transferor Companies No. 1 to 2 have given their written consents by way of affidavits. Therefore, the requirement of convening meetings of the Equity Shareholders of the Transferor Companies No. 1 to 2 may be dispensed with.
- B. All the Preference Shareholders of the Transferee Company have given their written consents by way of affidavits. Therefore, the requirement of convening meeting of the Preference Shareholders of the Transferee Company may be dispensed with.
- C. There is no Secured Creditor in the Transferor Companies No. 1 to 2. Therefore, there is no need to convene meetings of the Secured Creditor of the Transferor Companies No. 1 to 2.
- D. The Un-secured Creditors of the Transferor Companies No. 1 have given their written consents by way of affidavits. Further, Transferor Company No. 2 does not have any Un-secured Creditors. Therefore, the requirement of convening meeting of the Un-secured Creditors of the Transferor Companies No. 1 to 2 may be dispensed with.

15. Further, Learned Counsel- CS Ankit Kumar Singh, appearing for the Applicants, requested to convene the following meetings under the supervision of this Tribunal, for the purpose of considering and if deem fit, approving the proposed Scheme of Amalgamation:

- a. To convene a physical meeting of Secured Creditors of the Transferee Company, under the supervision of the Tribunal.
- b. To convene a physical meeting of Un-secured Creditors of the Transferee Company, under the supervision of the Tribunal.
- c. To convene a physical meeting of Equity Shareholders of the Transferee Company with facility of e-voting, under the supervision of the Tribunal.

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16. This Tribunal directs that, in view of the consent affidavits given by the Equity Shareholders of the Transferor Companies No. 1 to 2, the requirement of convening meetings of the Equity Shareholders of the Transferor Companies No. 1 to 2, for the purpose of considering and if thought fit approving the proposed Scheme, is dispensed with.
17. This Tribunal directs that, in view of the consent affidavits given by the Preference Shareholders of the Transferee Company, the requirement of convening meeting of the Preference Shareholders of the Transferee Company, for the purpose of considering and if thought fit approving the proposed Scheme, is dispensed with.
18. As stated, there is no Secured Creditor in the Transferor Companies No. 1 to 2, accordingly, the requirement of convening the meetings of the Secured Creditors of the Transferor Companies No. 1 to 2, for the purpose of considering and if thought fit approving the proposed Scheme, is dispensed with.
19. This Tribunal directs that, in view of the consent affidavits given by the Un-secured Creditors of the Transferor Companies No. 1 and the fact that Transferor Company No. 2 does not have any Un-secured Creditors, the requirement of convening meetings of the Un-secured Creditors of the Transferor Companies No. 1 to 2, for the purpose of considering and if thought fit approving the proposed Scheme, is dispensed with.
20. This Tribunal directs conduct of meetings of shareholders and creditors of the Applicant Company No. 3 as follows:
- (a) A meeting of the Equity Shareholders of the Applicant Company No. 3 be convened and held at Solitaire INN Hotel, 6 Mile Stone, Meerut Road, National Highway 58, Muzaffarnagar, Uttar Pradesh-251002 on 18<sup>th</sup> September, 2021 at 12.00 p.m. for the purpose of considering and, if thought fit, approving with or without modification(s) the proposed amalgamation embodied in the Scheme.
  - (b) The Applicant Company No. 3 being a listed public limited company, is governed by the **SEBI circular no. CFD/DIL3/CIR/2017/21 dated 10th March, 2017** and is required to provide the facility of e-voting to its shareholders. Accordingly, voting by the Equity Shareholders of the Applicant Company No. 3 to the Scheme shall be carried out through e-voting, indicating the day, the date, and the time as aforesaid.
  - (c) A meeting of the Un-secured Creditors of the Applicant Company No. 3 be convened and held at Solitaire INN Hotel, 6 Mile Stone, Meerut Road, National Highway 58, Muzaffarnagar, Uttar Pradesh-251002 on

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18<sup>th</sup> September, 2021 at 1.00p.m. for the purpose of considering and, if thought fit, approving with or without modification(s) the proposed amalgamation embodied in the Scheme.

- (d) A meeting of the Secured Creditors of the Applicant Company No. 3 be convened and held at Solitaire INN Hotel, 6 Mile Stone, Meerut Road, National Highway 58, Muzaffarnagar, Uttar Pradesh-251002 on 18<sup>th</sup> September, 2021 at 2.00 p.m. for the purpose of considering and, if thought fit, approving with or without modification(s) the proposed amalgamation embodied in the Scheme.

21. This Tribunal further issues directions with regard to notices as follows:

- (a) That at least 30 (thirty) days before the said Meeting of the Equity Shareholders or Secured Creditors or Unsecured Secured, as the case may be of the Applicant Company No. 3 to be held as aforesaid, a Notice convening the said Meeting at the day, date and time as aforesaid, together with a copy of the Scheme, a copy of Explanatory Statement disclosing all material facts as required under Section 230(3) of the Companies Act, 2013 read with Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rule, 2016 notified on 14<sup>th</sup> December, 2016 and the prescribed form of Proxy shall be sent by email to those Equity Shareholders, Secured Creditors and Unsecured Creditors subsisting as on March 31, 2021 in the books and accounts of the Company whose email addresses are duly registered with the Applicant Company No. 3, addressed to each of the shareholders or creditors, at their last known email addresses as per the records of the of the Applicant Company No.3. In case of such Equity Shareholders, Secured Creditors and Un-secured Creditors whose e-mail ids are not available with the Company, publication of notice in newspapers as mentioned below and putting the notice on the web-site of the Company, will be sufficient compliance.
- (b) That at least 30 (thirty) days before the said Meeting of the Equity Shareholders or Secured Creditors or Unsecured Secured, as may be applicable of the Applicant Company No. 3 to be held as aforesaid, a Notice convening the said Meeting at the day, date and time as aforesaid be published once each in '**Financial Express**' in English and '**Jansatta**' in Hindi, both having wide circulation in the State of Uttar Pradesh, and stating that copies of the Scheme and the said statement required to be furnished pursuant to section 230 (3) of the Companies Act, 2013 can be obtained free of charge at the Registered Office of the Transferee Company situated at 9th K.M., Jansath Road, Muzaffarnagar – 251001, Uttar Pradesh or by emailing the Applicant Company No. 3 at [cs@gulshanindia.com](mailto:cs@gulshanindia.com).

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- (c) That the aforesaid notices shall also state that Form of Proxy can be obtained free of charge at the Registered Office of the Transferee Company situated at 9th K.M., Jansath Road, Muzaffarnagar – 251001, Uttar Pradesh or by emailing the Applicant Company No. 3 at [cs@gulshanindia.com](mailto:cs@gulshanindia.com).
22. This Tribunal hereby appoints Chairpersons for the meetings aforesaid is as follows:
- (a) Mr. Rajeev Goel, Advocate (Mobile No: 9311411839; Email: [rajeev391@gmail.com](mailto:rajeev391@gmail.com)) shall be the common Chairperson for the above said meetings or in respect of any adjournment thereof and his/her remuneration to act as the Chairperson is fixed at Rs. 1,00,000/- (Rupees One Lakh Only) on consolidated basis for all the above said meetings.
- (b) Mr. Anadi Krishna Narayan Advocate (Mobile No: 9838645884; Email : [anadvocates@gmail.com](mailto:anadvocates@gmail.com)) shall be the common Alternate Chairperson for the above said meetings or in respect of any adjournment thereof and his/her remuneration to act as the Alternate Chairperson is fixed at Rs. 1,00,000(Rupees One Lakh Only) on consolidated basis for all the above said meetings.
- (c) Mr. Shashi Kant Gupta, Company Secretary in practice, (Mobile No. 9415042137, E-mail: [skgupta1903@gmail.com](mailto:skgupta1903@gmail.com)) is appointed as the common Scrutinizer for the above said meetings or in respect of any adjournment thereof and his remuneration to act as the Scrutinizer is fixed at Rs. 75,000/- (Rupees Seventy Five Thousand Only) on consolidated basis for all the above said meetings.
- (d) That the quorum of the aforesaid Meeting of the Equity Shareholders of the Applicant Company No. 3 shall be as prescribed under Section 103 of the Companies Act, 2013 present in person or proxy or Authorized representatives.
- (e) That the quorum for the aforesaid meeting of the Secured Creditors of the Transferee Company shall be 2 in number present in person or proxies or Authorized representatives.
- (f) That the quorum for the aforesaid meeting of the Un-secured Creditors of the Transferee Company shall be 5 in number as prescribed for Shareholders under Section 103 of the Companies Act, 2013 present in person or proxies or Authorized representatives.
- (g) That the value and number of the shares of each Shareholder shall be in accordance with the books / registers of the Applicant Company No. 3 or

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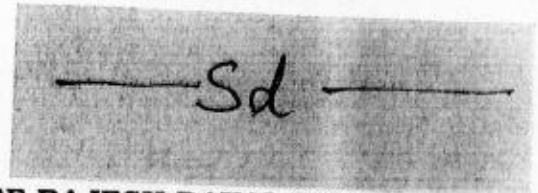
depository records and where the entries in the books / register / depository records are disputed, the Chairperson of the meeting shall determine the value for the purpose of the aforesaid meeting and his/her decision in that behalf would be final.

- (h) The number or value of the Secured Creditors and Un-secured Creditors shall be in accordance with the records or registers of the Applicant Company and where the entries in the records or registers are disputed, the Chairperson of the meetings shall determine the number or value, as the case may be for purpose of the meetings.
  - (i) The said Chairperson shall have all powers pursuant to sections 230 and 232 of the Companies Act, 2013 read with other applicable provisions of the Companies Act, 2013, the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, Companies (Management and Administration) Rules, 2014 and MCA Circulars, to the extent necessary and applicable, in relation to the conduct of the meeting including for deciding procedural questions that may arise at the meeting or at any adjournment thereof or any other matter including, an amendment to the Scheme or resolution, if any, proposed at the meeting by any person(s).
  - (j) In case if the Quorum as noted above is not present at the meetings, then the meetings shall be adjourned by half an hour, and thereafter the persons present and voting shall be deemed to constitute the quorum. For the purpose of quorum valid proxies/Authorised Representatives shall also be considered.
  - (k) That voting by proxy/authorized representative be permitted, provided that a proxy in the prescribed form duly signed by the person entitled to attend and vote at the meetings, are filed with the Applicant Company No. 3 at its Registered Office, not later than 48 hours before the aforesaid meeting vide Rule 10 of the Companies (CAA) Rules, 2016 read with Section 105 of the Act.
- 23.** In compliance of sub section(5) of Section 230 of the Act and Rule 8 of the Companies (CAA) Rules, 2016, the Applicant Companies shall send notice under sub section (3) of Section 230 read with Rule 6 of the Rules with a copy of the Scheme of Amalgamation, the explanatory statement and the disclosures mentioned in Rule 6 to (a) the Central Government through the office of the Regional Director, Northern Region, Ministry of Corporate Affairs, New Delhi; (b) the Registrar of Companies, Uttar Pradesh, Kanpur; and (c) The Official Liquidator, Uttar Pradesh, Allahabad; and (d) the Income Tax Authority within whose jurisdiction the respective Applicant Companies are assessed to tax, clearly indicating the PAN of the concerned company;. The

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said notices be sent either by Registered Post or by Speed Post or by Courier or by Hand Delivery or through e-mail at the Offices of the authorities as required by sub rule (2) of Rule 8 of the Rules. The aforesaid authorities, who desire to make any representation under sub section (5) of section 230 shall send the same to this Tribunal within a period of 30 (thirty) days from the date of receipt of such notice, failing which it shall be deemed that they have no representation to make on the proposed Scheme. As prayed in the Application, the Tribunal dispense with the requirement of service of notice under Section 230(3) read with Section 230(5) of the Companies Act, 2013 to the Securities and Exchange Board of India as well as the National Stock Exchange of India Limited and the BSE Limited, the stock exchanges on which the equity shares of the Transferee Company are listed in view of the observations of the National Stock Exchange of India Limited and the BSE Limited given in no objection/no adverse observation letter enclosed in the Application;

24. The Applicant Companies to file Affidavits not less than 7 (seven) days before the date fixed for the holding of the meetings and to report to this Tribunal that the directions regarding issuance of notices and advertisement of the meetings have been duly complied with as per Rule 12 of the Companies (CAA) Rules, 2016.
25. It is further ordered that the Chairperson shall report to this Tribunal on the result of the meetings in Form No. CAA-4, duly verified by his affidavit, as per Rule 14 of the Companies (CAA) Rules, 2016 within 7 (seven) working days from the date of conclusion of the aforesaid meetings.
26. With the above directions CA(CAA) No. 09/ALD of 2021 is disposed of accordingly.



**JUSTICE RAJESH DAYAL KHARE**  
**MEMBER (J)**

**Date: 14.07.2021**

Swati Gupta  
(LRA)