(2022) 05 NCLT CK 0031

In the National Company Law Tribunal

Case No : CA (CAA)/271/MB-IV/2021

HCC Concessions Limited Vs

Date of Decision : 10-05-2022

Acts Referred:
Companies Act, 2013 — Section 230, 230(1)(a), 230(1)(b), 230(5), 232
Companies (Compromises Arrangements and Amalgamations) Rules, 2016 — Rule 8
Arbitration and Conciliation Act, 1996 — Section 34

Citation : (2022) 05 NCLT CK 0031

Hon'ble Judges : Kishore Vemulapalli, Member (J);Rajesh Sharma, Member (T)

Bench : Division Bench

Advocate : Rohit Gupta, Ajit Singh Tawar

Final Decision : Disposed Of

Judgement

Rajesh Sharma, Member (Technical)

1. The Court is convened through video conferencing today.

2. The Learned Counsel for the Applicant Companies submits that the present Scheme is Amalgamation by way of 'Merger by Absorption' arrangement of HCC Concessions Limited ('First Transferor Company') and HCC Power Limited ('Second Transferor Company') and HCC Energy Limited ('Third Transferor Company') and Dhule Palesner Operations & Maintenance Limited ('Fourth Transferor Company') with HCC Infrastructure Company Limited ('Transferee Company') and their respective shareholders ('Scheme').

3. The First Applicant Company is engaged in business of carrying on infrastructure activities through separate Special Purpose Vehicles (SPVs) / subsidiaries and providing supervisory services etc. The Fifth Applicant Company holds 99% of the share capital and the Third Applicant Company holds 1% of the share capital of the First Transferor Company.

4. The Counsel further submits that the Second Applicant Company was primarily engaged in development of power business. Currently, the Second Applicant Company is not engaged in any active business. The Second Applicant Company

is a wholly owned subsidiary of the Fifth Applicant Company.

5. The Counsel further submits that the Third Applicant Company was primarily engaged in development of power business. Currently, the Third Applicant Company is not engaged in any active business. The Third Applicant Company is a wholly owned subsidiary of the Second Applicant Company.

6. The Counsel further submits that the Fourth Applicant Company was primarily engaged in the operation and maintenance of carriageway of Dhule Palesner Tollway Ltd. Currently, the Fourth Applicant Company is not engaged in any active business. The Fourth Applicant Company is a wholly owned subsidiary of the Fifth Applicant Company.

7. The Counsel further submits that the Fifth Applicant Company is engaged in the business of carrying on infrastructure activities, either on its own or through subsidiaries or SPV's.

8. The Counsel for the Applicant Companies submits that the Board of Directors of the First, Second, Third and Fourth Applicant Company in their meeting held on 9th day of November, 2021, has approved the proposed Scheme. The Board Resolution approving the Scheme for the Applicant Companies is annexed as 'Annexure C1 to C4', to the Company Scheme Application.

9. The Counsel for the Applicant Companies submits that the Board of Directors of the Fifth Applicant Company in its meeting held on 18th day of November, 2021, has approved the proposed Scheme. The Board Resolution approving the Scheme for the Applicant Company is annexed as 'Annexure C5', to the Company Scheme Application.

10. The Appointed Date for the Scheme of Amalgamation is 1st April, 2021.

11. The Authorized, Issued, Subscribed and Paid-up Share Capital of the Applicant Companies as on 31st Day of March, 2021 is as under:

a. The Authorized, Issued and Paid-Up Share Capital of the First Applicant Company is Rs.1400,00,00,000/- divided into 20,00,00,000 Equity Shares of Rs.10/- each amounting to Rs.200,00,00,000/- and 0.001% compulsorily convertible cumulative preference shares divided into 120,00,00,000 Preference shares of Rs.10/- each amounting to Rs.1200,00,00,000/-. The Issued, subscribed and paid-up Share Capital of the First Applicant Company is Rs.2,88,93,20,120/- divided into 29,46,651 Equity Shares of Rs.10/- each amounting to Rs.2,94,66,510/- and 0.001% compulsorily convertible cumulative preference shares divided into 28,59,85,361 Preference shares of Rs. 10/- each amounting to Rs.285,98,53,610/-.

b. The Authorized Share Capital of the Second Applicant Company is Rs. 1,00,00,000/- divided into 10,00,000 Equity Shares of Rs.10/- each. Issued, subscribed and paid-up Share Capital of the Second Applicant Company is Rs 50,00,000/-divided into 5,00,000 Equity Shares of Rs.10/- each.

c. The Authorized Share Capital of the Third Applicant Company is Rs. 5,00,000/- divided into 50,000 Equity Shares of Rs.10/- each. Issued, subscribed and paid-up Share Capital of the Third Applicant Company is Rs 5,00,000/- divided into 50,000 Equity Shares of Rs.10/- each.

d. The Authorized Share Capital of the Fourth Applicant Company is Rs. 1,00,00,000/- divided into 10,00,000 Equity Shares of Rs.10/- each. Issued, subscribed and paid-up Share Capital of the Fourth Applicant Company is Rs 50,00,000/-divided into 5,00,000 Equity Shares of Rs.10/- each.

e. The Authorized Share Capital of the Fifth Applicant Company is Rs. 15,00,00,000/- divided into 1,49,90,000 Equity Shares of Rs.10/- each amounting to Rs. 14,99,00,000/- and 0.1% Non - Cumulative Redeemable Preference Shares divided into 10,000 Preference shares of Rs. 10/- each amounting to Rs. 1,00,000/-. Issued, subscribed and paid-up Share Capital of the Fifth Applicant Company is Rs. 26,00,000/- divided into 2,50,000 Equity Shares of Rs.10/- each amounting to Rs. 25,00,000/- and 0.1% Non - Cumulative Redeemable Preference Shares divided into 10,000 Preference shares of Rs. 10/- each amounting to Rs. 1,00,000/-.

12. The comparative financial details of the Applicant Companies as annexed to the Additional Affidavit in support of Company Application dated 27th day of April 2022 as Annexure B as on 31.03.2021 is as under:

Amount Rs. In Lakhs

Particulars

First Transferor Company

Second Transferor Company

Third Transferor Company

Fourth Transferor Company

Transferee Company

Non-Current

Assets

61,953.82

24,590.40

24,386.63

13.99

92,075.80

Current Assets

3,330.00

8,374.33

8,315.44

12,160.00

1,624.09

Total Assets

65,283.82

32,964.73

32,702.07

12,173.99

93,699.89

Total Equity

61,181.81

(2,526.45)

(37.98)

(4,927.68)

38,532.82

Non-Current

Liabilities

814.69

-

-

-

43.15

Current

Liabilities

3,287.33

35,491.18

32,740.04

17,101.67

55,123.92

Total Equity

and Liabilities

65,283.82

32,964.73

32,702.07

12,173.99

93,699.89

Net-worth

61,181.81

(2,526.45)

(37.98)

(4,927.68)

38,532.82

Amount Rs. In Lakhs

Particulars

First Transferor Company

Second Transferor Company

Third Transferor Company

Fourth Transferor Company

Transferee Company

Income

Revenue from

Operations

360.00

-

-

-

216.00

Other Income

12,334.71

2,659.08

2,657.85

1,410.38

459.71

Total Income

12,694.71

2,659.08

2,657.85

1,410.38

675.71

Expenses

Employee benefits

expenses

473.76

-

-

-

-

Finance Costs

1,288.45

3,864.11

2,687.67

1,473.55

4,421.31

Depreciation and

amortization expenses

8.31

0.15

-

-

-

Other Expenses

1,288.62

452.82

1.16

1.59

1,497.69

Total Expenses

3,059.14

4,317.08

2,688.83

1,475.14

5,919.00

Profit/(Loss)

before exceptional items and tax

9,635.57

(1,658.00)

(30.98)

(64.76)

(5,243.29)

Exceptional item -

loss

(16,032.87)

-

-

1,304.30

-

(Loss) before Tax

(6,397.30)

(1,658.00)

(30.98)

(1,369.06)

(5,243.29)

Tax Expense

(94.72)

-

-

120.62

0.04

(Loss) after Tax

(6,302.58)

(1,658.00)

(30.98)

(1,489.68)

(5,243.33)

Other Comprehensive (Loss) for the year

(Net of Tax)

(14.60)

-

-

-

-

Total Comprehensive (Loss) for the

year, net of tax

(6,317.18)

(1,658.00)

(30.98)

(1,489.68)

(5,243.33)

Earnings per Equity Share (in

Rs.) :

(Face value of Rs. 10 per Equity

Share)

Basic

(184.64)

(331.60)

(61.95)

(297.94)

(2,097.33)

Diluted

(184.64)

(331.60)

(61.95)

(297.94)

(2,097.33)

13. The Counsel for the Applicant Companies further submits that the rationale for the Scheme of Merger by Absorption are as follows:

• The Scheme will achieve rationalization of costs by simplification of management structure leading to better administration and cost savings;

• It is also the intention of the Transferee Company's management to rationalize the group holding structure by way of reduction in the number of entities and streamline the structure;

• In addition, the proposed Scheme will result in significant reduction in the multiplicity of legal and regulatory compliances required at present to be carried out by the Transferor Companies;

• The proposed corporate restructuring mechanism by way of a scheme of merger will be beneficial, advantageous and not prejudicial to the interests of the shareholders, creditors and other stakeholders of the Transferor Companies and Transferee Company.

14. That Transferor Companies are direct and indirect wholly owned subsidiaries of the Transferee Company. Thus, on merger, neither any consideration will be paid nor any shares shall be issued by the Transferee Company to the shareholders of the Transferor Companies and consequent upon the merger, the

shares of the Transferor Companies held by the Transferee Company or its nominees directly or indirectly, shall stand cancelled. The detailed chart showcasing the relationship of the Applicant Companies is annexed to the Additional Affidavit in support of Company Application as Annexure D and the same is tabulated as under:

Sr.

No.

Holding

Company

Subsidiary

%

Holding

1.

Hindustan Construction Company Limited

HCC Infrastructure Company Limited (Transferee Company)

Raiganj Dalkhola Highways Limited

100%

10%

2.

HCC

HCC Concessions Limited

99%

Infrastructure

(First Transferor Company)

Company Limited

(Transferee

HCC Power Limited

Company)

(Second Transferor

100%

Company)

Dhule Palesner Operations

and Maintenance Limited

100%

(Fourth Transferor

Company)

HCC Operations &

100%

Maintenance Limited

3.

HCC Concessions Ltd

(First Transferor Company)

Baharampore Farakka Highways Limited

Raigan Dalkhola Highways Limited

100%

90%

Narmada Bridge Tollway Limited

Badarpur Faridabad

Tollway

100%

100%

4.

HCC Power Limited (Second Transferor Company)

HCC Energy Limited (Third Transferor Company)

100%

5.

HCC Energy Limited (Third Transferor Company)

HCC Concessions Limited (First Transferor Company)

1%

6.

Dhule Palesner Operations and Maintenance Limited

(Fourth Transferor

Company)

-

-

15. The Petitioner Companies shall ensure and affirm through an Additional Affidavit that all of their step-up holding companies and step-down subsidiary companies have issued notices of this Scheme to all concerned major stakeholders of theses step up holding and step-down subsidiary companies including NHAI, Head Office and concerned Regional Offices of NHAI. If any of the agreements/contracts executed by these companies have prior permission requirement, the same is to be obtained in advance before submission of Company Petition for this Scheme.

16. The Counsel for the First Applicant company submits that there are 8 (Eight) Equity Shareholders (including Nominee Shareholders) in the First Applicant Company and all of them have given their Consent in writing to the proposed Scheme. In view of the Consent Affidavits filed by all the Equity Shareholders, the meeting of the Equity Shareholders of the First Applicant Company, for the purpose of considering and, if thought fit, approving the proposed Scheme with or without modification(s) is hereby dispensed with. The consent affidavits are annexed as 'Annexure F1' collectively to the Company Scheme Application.

17. The Counsel for the Second Applicant company submits that there are 7 (Seven) Equity Shareholders (including nominee shareholders) in the Second Applicant Company and all of them have given their consent in writing to the proposed Scheme. In view of the Consent Affidavits filed by all the Equity Shareholders, the meeting of the Equity Shareholders of the Second Applicant Company, for the purpose of considering and, if thought fit, approving the proposed Scheme with or without modification(s) is hereby dispensed with. The Consent Affidavits are annexed as 'Annexure F2' collectively to the Company Scheme Application.

18. The Counsel for the Third Applicant company submits that there are 7 (Seven) Equity Shareholders (including nominee shareholders) in the Third Applicant Company and all of them have given their consent in writing to the proposed Scheme. In view of the Consent Affidavits filed by all the Equity Shareholders, the meeting of the Equity Shareholders of the Third Applicant Company, for the purpose of considering and, if thought fit, approving the proposed Scheme with or without modification(s) is hereby dispensed with. The Consent Affidavits are annexed as 'Annexure F3' collectively to the Company Scheme Application.

19. The Counsel for the Fourth Applicant company submits that there are 7 (Seven) Equity Shareholders (including nominee shareholders) in the Fourth Applicant Company and all of them have given their consent in writing to the

proposed Scheme. In view of the consent affidavits filed by all the Equity Shareholders, the meeting of the Equity Shareholders of the Fourth Applicant Company, for the purpose of considering and, if thought fit, approving the proposed Scheme with or without modification(s) is hereby dispensed with. The Consent Affidavits are annexed as 'Annexure F4' collectively to the Company Scheme Application.

20. The Counsel for the Fifth Applicant company submits that there are 7 (Seven) Equity Shareholders (including nominee shareholders) in the Fifth Applicant Company and all of them have given their consent in writing to the proposed Scheme. In view of the consent affidavits filed by all the Equity Shareholders, the meeting of the Equity Shareholders of the Fifth Applicant Company, for the purpose of considering and, if thought fit, approving the proposed Scheme with or without modification(s) is hereby dispensed with. The Consent Affidavits are annexed as 'Annexure F5' collectively to the Company Scheme Application.

21. The Counsel for the First Applicant company submits that there is 1 (one) Preference Shareholder in the First Applicant Company and has given its Consent in writing to the proposed Scheme. In view of the consent affidavit filed by the Preference Shareholder, the meeting of the Preference Shareholder of the First Applicant Company, for the purpose of considering and, if thought fit, approving the proposed Scheme with or without modification(s) is hereby dispensed with. The consent affidavit is annexed as 'Annexure I1' collectively to the Company Scheme Application.

22. The Counsel for the Fifth Applicant company submits that there is 1 (one) Preference Shareholder in the Fifth Applicant Company and has given its Consent in writing to the proposed Scheme. In view of the Consent Affidavit filed by the Preference Shareholder, the meeting of the Preference Shareholder of the Fifth Applicant Company, for the purpose of considering and, if thought fit, approving the proposed Scheme with or without modification(s) is hereby dispensed with. The Consent Affidavit is annexed as 'Annexure I2' to the Company Scheme Application.

23. The Counsel for the Applicant Companies submits that there are no Secured Creditors in the Applicant Companies. Therefore, the question of convening and holding of the meeting of Secured Creditors of the Applicant Companies does not arise.

24. The Counsel for the First Applicant company submits that there are 31 Unsecured Creditors in the First Applicant Company as on 30th September, 2021 amounting to Rs. 6,27,20,635.98/- (Rupees six crores twenty-seven lakhs and twenty thousand six hundred and thirty-five only). List of Unsecured Creditors of the First Applicant Company is annexed as 'Annexure K1' and certified list of Unsecured Creditors of the Applicant Company is annexed as 'Annexure L1' to the Company Scheme Application.

25. The Counsel for the Second Applicant company submits that there are 13 Unsecured Creditors in the Second Applicant Company as on 30th September, 2021 amounting to Rs. 62,58,15,759.05/- (Rupees sixty-two crores fifty-eight lakhs and fifteen thousand seven hundred and fifty-nine only). List of Unsecured Creditors of the Second Applicant Company is annexed as 'Annexure K2' and certified list of Unsecured Creditors of the Applicant Company is annexed as 'Annexure L2' to the Company Scheme Application.

26. The Counsel for the Third Applicant company submits that there are 9 Unsecured Creditors in the Third Applicant Company as on 30th September, 2021 amounting to Rs. 118,65,21,999.61/- (Rupees one hundred eighteen crores sixty-five lakhs twenty-one thousand nine hundred and ninety-nine only and paise sixty-one only). List of Unsecured Creditors of the Third Applicant Company is annexed as 'Annexure K3' and certified list of Unsecured Creditors of the Applicant Company is annexed as 'Annexure L3' to the Company Scheme Application.

27. The Counsel for the Forth Applicant Company submits that there are 7 unsecured creditors in the Fourth Applicant Company as on 30th September, 2021 amounting to Rs. 119,35,67,545/- (Rupees one hundred and nineteen crores thirty-five lakhs sixty-seven thousand five hundred and forty-five only). List of Unsecured Creditors of the Fourth Applicant Company is annexed as 'Annexure K4' and certified list of Unsecured Creditors of the Applicant Company is annexed as 'Annexure L4' to the Company Scheme Application.

28. The Counsel for the Fifth Applicant company submits that there are 19 unsecured creditors in the Fifth Applicant Company as on 30th September, 2021 amounting to Rs. 537,35,61,313 (Rupees five hundred and thirty-seven crores thirty-five lakhs sixty-one thousand three hundred and thirteen only). List of Unsecured Creditors of the Fifth Applicant Company is annexed as 'Annexure K5' and certified list of Unsecured Creditors of the Applicant Company is annexed as 'Annexure L5' to the Company Scheme Application.

29. The Counsel for the Applicant Companies submits that in view of above, convening and holding meeting of Unsecured Creditors of the Applicant Companies will not be required as the present Scheme is an arrangement between the Applicant Companies and their respective shareholders as contemplated under Section 230(1)(b) and not in accordance with the provisions of Section 230(1)(a) of the Companies Act, 2013 and there is no compromise or arrangement with any of the Unsecured Creditors as their rights are not affected. In view of the above, the meetings of the unsecured creditors of the Applicant Companies are dispensed with. The Applicant Companies will issue notice to all its unsecured Creditors by Registered Post-AD /Speed Post and through Email (to those creditors whose email addresses are duly registered with the Applicant Companies for the purpose of receiving such notices by email), at their last known address as per the records of the Applicant Companies, with a direction that they may submit their representations, if any, to the Tribunal within 30 days

and copy of such representations shall simultaneously be served upon the Applicant Companies.

30. The First Applicant Company to serve notice of the present Application complete with enclosures through Registered Post-AD/Speed Post and Hand Delivery and by E-mail on – (1) the Regional Director (Western region), Ministry of Corporate Affairs, Mumbai; (2) Registrar of Companies, Maharashtra, Mumbai; and (3) Income Tax Authority within whose jurisdiction the Applicant Company is assessed to tax, bearing PAN No. AACCH0024L at the Deputy Commissioner of Income-tax, Circle 15(1)(2), Aayakar Bhavan Mumbai – 400020 mumbai.dcit15.1.2@incometax.gov.in; (4) National Highway Authority of India, Head office and Concerned Regional Offices for the Agreement subsisting with NHAI of the Applicant Company and Subsidiary thereof and (5) GST Authority within whose jurisdiction the First Applicant Company is assessed to GST, bearing GSTIN 27AACCH0024L1ZU pursuant to Section 230(5) of the Companies Act, 2013 and Rule 8 of the Companies (Compromises Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from such authorities within 30 days of the date of receipt of the notice, it will be presumed that they have no objection to the proposed Scheme.

31. The Second Applicant Company to serve notice of the present Application complete with enclosures Registered Post-AD/Speed Post and Hand Delivery and by E-mail on – (1) the Regional Director (Western region), Ministry of Corporate Affairs, Mumbai; (2) Registrar of Companies, Maharashtra, Mumbai; (3) Income Tax Authority within whose jurisdiction the Applicant Company is assessed to tax, bearing PAN No. AACCH6733L at the Deputy Commissioner of Income-tax, Circle 15(1)(2), Aayakar Bhavan, Mumbai – 400 020 mumbai.dcit15.1.2@incometax.gov.in; and (4) GST Authority within whose jurisdiction the Second Applicant Company is assessed to GST, bearing GSTIN 27AACCH6733L1ZA pursuant to Section 230(5) of the Companies Act, 2013 and Rule 8 of the Companies (Compromises Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from such authorities within 30 days of the date of receipt of the notice, it will be presumed that they have no objection to the proposed Scheme.

32. The Third Applicant Company to serve notice of the present Application complete with enclosures Registered Post-AD/Speed Post and Hand Delivery and by E-mail on – (1) the Regional Director (Western region), Ministry of Corporate Affairs, Mumbai; (2) Registrar of Companies, Maharashtra, Mumbai; (3) Income Tax Authority within whose jurisdiction the Applicant Company is assessed to tax, bearing PAN No. AADCH6764L at the Deputy Commissioner of Income-tax, Circle 15(1)(2), Aayakar Bhavan, Mumbai – 400 020 mumbai.dcit15.1.2@incometax.gov.in; and (4) GST Authority within whose jurisdiction the Third Applicant Company is assessed to GST, bearing GSTIN 27AADCH6764L1Z2 pursuant to Section 230(5) of the Companies Act, 2013 and Rule 8 of the Companies (Compromises Arrangements and Amalgamations)

Rules, 2016. If no response is received by the Tribunal from such authorities within 30 days of the date of receipt of the notice, it will be presumed that they have no objection to the proposed Scheme.

33. The Fourth Applicant Company to serve notice of the present Application complete with enclosures Registered Post-AD/Speed Post and Hand Delivery and by E-mail on – (1) the Regional Director (Western region), Ministry of Corporate Affairs, Mumbai; (2) Registrar of Companies, Maharashtra, Mumbai; (3) Income Tax Authority within whose jurisdiction the Applicant Company is assessed to tax, bearing PAN No. AADCD8545R at the Income Tax Officer, Ward 15(1)(1), Aayakar Bhavan Mumbai – 400 020 mumbai.ito15.1.1@incometax.gov.in; (4) National Highway Authority of India, Head Office and Concerned Regional Offices for the Agreement subsisting with NHAI of the Applicant Company; and (5) GST Authority within whose jurisdiction the Fourth Applicant Company is assessed to GST, bearing GSTIN 27AADCD8545R1ZV pursuant to Section 230(5) of the Companies Act, 2013 and Rule 8 of the Companies (Compromises Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from such authorities within 30 days of the date of receipt of the notice, it will be presumed that they have no objection to the proposed Scheme.

34. The Fifth Applicant Company to serve notice of the present Application complete with enclosures on – (1) the Regional Director (Western region), Ministry of Corporate Affairs, Mumbai; (2) Registrar of Companies, Maharashtra, Mumbai; (3) Income Tax Authority within whose jurisdiction the Applicant Company is assessed to tax, bearing PAN No. AACCH5516M at the Deputy Commissioner of Income-tax, Circle 15(1)(2), Aayakar Bhavan, Mumbai – 400 020 mumbai.dcit15.1.2@incometax.gov.in; (4) National Highway Authority of India, Head Office and Concerned Regional Offices for the Agreement subsisting with NHAI of the Applicant Company and Subsidiary thereof; and (5) GST Authority within whose jurisdiction the Fifth Applicant Company is assessed to GST, bearing GSTIN 27AACCH5516M1ZD pursuant to Section 230(5) of the Companies Act, 2013 and Rule 8 of the Companies (Compromises Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from such authorities within 30 days of the date of receipt of the notice, it will be presumed that they have no objection to the proposed Scheme.

35. The Transferor Companies are directed to serve notice along with copy of scheme upon Official Liquidator, High Court Bombay the Hon’ble Tribunal is appointing Mr. Mahesh Pareek, Chartered Accountants having their office at E-802, Sterling Court, Road No. 16, M I D C, Andheri East, Near Hotel Suncity, Mumbai Suburban, Maharashtra ,400093 having E-mail: mpareek63@hotmail.com with a remuneration of Rs.2,00,000/-along with the applicable taxes for the services to assist the Official Liquidator to scrutinize books of accounts of the Applicant Companies for the last five years. The Official Liquidator may submit his representations, if any, within a period of thirty (30) days from the date of the receipt of such notice to the Tribunal and a copy of

such representation shall simultaneously be served upon the Applicant Companies, failing which, it shall be presumed that the Official Liquidator has no representations to make on the proposals.

36. That the Applicant Companies have filed the Additional Affidavit dated 30.03.2022 in support of the Company Application stating therein that:

a. The First Applicant Company i.e. HCC Concessions Limited, has issued Corporate Guarantee to Consortium Lenders of Baharampore-Farakka Highways Limited wherein Yes Bank is the lead Banker for an amount of Rs. 183,87,00,000/-. The First Applicant Company is directed to issue notice to Yes Bank through Registered Post-AD/Speed Post and Hand Delivery and by E-mail and obtain NoC from the Consortium lenders lend by YES bank. Apart from the First Applicant Company none of the other Applicant Companies have provided or received any Corporate Guarantees.

b. The First Applicant Company i.e. HCC Concessions Limited, has issued Bank Guarantee to National Highway Authority of India for an amount of Rs. 14,15,00,000/-. The First Applicant Company is directed to issue notice to National Highway Authority of India through Registered Post-AD/Speed Post and Hand Delivery and by E-mail to Head Office and concerned Regional Office of NHAI and obtain NoC from NHAL. Apart from the First Applicant Company none of the other Applicant Companies have provided or received any Bank Guarantees.

c. That none of the Applicant companies have executed any performance guarantees.

d. The Applicants have provided the List of Directors as Annexure C to the Additional Affidavit.

e. The Applicants have provided the List of Inter Corporate Deposits in descending order as Annexure E to the Additional Affidavit, further there are no common parties holding inter corporate deposits and are creditors of the Applicant Companies. The Applicant Companies further confirm that none of its creditors are given inter corporate deposits.

f. The Applicant companies have confirmed that there are no pending cases filed against the Applicant Companies under Insolvency and Bankruptcy Code, 2016 or any other Litigation apart from the one mentioned under Annexure F to the Additional Affidavit, stating therein that Appeals under the Income Tax Act, 1961 in respect of First Applicant Company are pending before the Commissioner of Income Tax for the net tax demand of Rs. 7,68,00,466/- for the Financial Year 2012-13 to 2017-18. Similarly, in respect of the Fifth Applicant Company Appeals under the Income Tax Act, 1961 are pending before the Commissioner of Income Tax for disallowance of loss for the financial year 2011-12, 2012-13, 2016-17 and 2017-18 and an Arbitration Appeal under Section 34 of the Arbitration and Conciliation Act is pending against the Arbitration Award dated 03.04.2017 before District and Sessions Court, Pune for an amount of Rs. 41,63,00,000/- including interest up to 22nd Day of February, 2022.

37. The Applicant Companies to host the notices directed herein, on their respective website, if any.

38. The Applicant Companies shall submit details of all Letters of Credit (LCs) sanctioned and utilised as well as Margin money details; if any.

39. That the Applicant Companies to file a joint Affidavit of Service with the Registry proving dispatch of notices to Creditors and Regulatory Authorities as stated above, and report to this Tribunal that the directions have been duly complied with.

