(2020) 07 NCLT CK 0074

In the National Company Law Tribunal

Case No : Company Application (CAA) No. 21/Chd/Hry Of 2019

Powerscreen Media Private Limited And Ors — APPELLANT

Vs

Meru Minerals Private Limited — RESPONDENT

Date of Decision : 09-07-2020

Acts Referred:

Companies (Compromises, Arrangements And Amalgamations) Rules, 2016 — Rule 3(2), 8
Companies Act, 2013 — Section 133, 230, 231, 232

Citation : (2020) 07 NCLT CK 0074

Hon'ble Judges : Ajay Kumar Vatsavayi, J

Bench : Single Bench

Advocate : Ravi Sharma

Final Decision : Allowed

Judgement

Ajay Kumar Vatsavayi, J

1. This is a joint First Motion application filed by Applicant Companies; namely Powerscreen Media Private Limited (Transferor Company 1/Applicant Company 1), Jyestha Infrastructure Private Limited (Transferor Company 2/ Applicant Company 2), Calleis Real Estate Private Limited (Transferor Company 3/ Applicant Company 3), Calleis Properties Private Limited (Transferor Company 4/ Applicant Company 4), Calleis Constructions Private Limited (Transferor Company 5/ Applicant Company 5), Valerian Real Estate Private Limited (Transferor Company 6/ Applicant Company 6), Azalea Infrastructure Private Limited (Transferor Company 7/ Applicant Company 7), Karanbhumi Estates Private Limited (Transferor Company 8/ Applicant Company 8) and Kritikka Infrastructure Private Limited (Transferor Company 9/ Applicant Company 9) (jointly, described in short as "the Transferor Companies") and Meru Minerals Private Limited (Transferee Company/ Applicant Company 10), hereinafter as 'Applicant Companies' under Sections 230-232 and other applicable provisions of the Companies Act, 2013 (for brevity, the 'Act') read with Companies

(Compromises, Arrangements and Amalgamations) Rules, 2016 (for brevity, the 'Rules') in connection with the proposed Scheme of Amalgamation (for short, the 'Scheme'), Annexure -91 of the applicant companies as supported by affidavits of the Authorized Representatives of the Applicant Companies. The Joint Application is maintainable in terms of Rule 3(2) of the Rules.

2. It is stated that the Board of Directors of the Applicant Companies in their respective meetings held on 25.03.2019, unanimously approved the Scheme, subject to sanctioning of the same by this Tribunal. Copies of these Board Resolutions are at Annexures-3, 12, 21, 30, 39, 48, 57, 66, 75 and at Annexure 84 of the application respectively.

3. The Transferor Company No.1 was incorporated under the provisions of the Companies Act, 1956 on 02.04.2007 as a Private Limited Company with the Registrar of Companies, Delhi & Haryana under the name and style of Powerscreen Media Private Limited. Thereafter, the registered office of the company was shifted from Delhi to Haryana vide Certificate of Registration dated 23.02.2019 issued by Registrar of Companies, Delhi. The certificates of incorporation are at Annexure-1 of the petition.

4. The main objects of the Transferor Company No. 1 as set out in its Memorandum of Association (Annexure- 2) of the application are as follows:

"1. To carry on the business of radio, television, print, internet media in all aspects and to gather and disseminate knowledge and information of every kind and to take over, establish and carry on a service or services for receiving and dispatching news to form all parts of the world whether by cable, electric telegram, telephone, wireless, radio, etc. and to release such news and to dispose of the same in any part of the world and to develop and operate multimedia platforms for online conferencing, meetings, etc. using all possible media including "broadband Internet".

5. The authorized share capital of the Transferor Company No. 1 as on 01.10.2018 is Rs. 1,00,000/- comprising of 10,000 equity shares of Rs. 10/- each and the issued, subscribed and paid-up share capital is Rs. 1,00,000/- divided into 10,000 equity shares of Rs. 10/-each.

6. The Transferor Company No.2 was incorporated under the provisions of the Companies Act, 1956 on 31.08.2006 as a Private Limited Company with the Registrar of Companies, Delhi & Haryana under the name and style of Jyestha Infrastructure Private Limited. The registered office of the company was shifted from the State of Delhi to Haryana vide Certificate of Registration dated 23.02.2019 issued by Registrar of Companies, Delhi. The certificate of incorporation and registration are at Annexure-10 of the paper book.

7. The main objects of the Transferor Company No. 2 as set out in its Memorandum of Association (Annexure-11) of the application are as follows:

"1. To carry on the business as owners builders, colonisers, developers, promoters, proprietors, interior decorators, civil contractors, maintainer of residential, commercial and industrial buildings, mall, multiplexes, township projects, colonies, stone crusher, mill's and factory's sheds and buildings, workshop's buildings cinema's houses buildings and to deal in all kinds of immovable properties whether belonging to the Company or not." Etc.

8. The authorized share capital of the Transferor Company No.2 as on 31.01.2019 is Rs. 1,00,000/- comprising of 10,000 equity shares of Rs. 10/- each and the issued, subscribed and paid-up share capital is Rs. 1,00,000/- divided into 10,000 equity shares of Rs. 10/-each.

9. The Transferor Company No. 3 was incorporated under the provisions of the Companies Act, 1956 on 05.05.2011 as a Private Limited Company with the Deputy Registrar of Companies, NCT of Delhi & Haryana under the name and style of Calleis Real Estate Private Limited. The registered office of the company was shifted from the State of Delhi to Haryana vide Certificate of Registration dated 23.02.2019 issued by Registrar of Companies, Delhi. The certificate of incorporation and registration are at Annexure-19 of the paper book.

10. The main objects of the Transferor Company No. 3 as set out in its Memorandum of Association (Annexure-19) of the application are as follows:-

"1. To carry on the business of development of Infrastructure and to undertake infrastructure projects and to purchase, sell, develop, construct, hire or otherwise acquire and deal in all real or personal estate/properties." Etc.

11. As evident from the provisional accounts drawn upto 31.01.2019 (Annexure-26) the authorized share capital of the Transferor Company No.3 as on 31.01.2019 is Rs. 1,00,000/- comprising of 10,000 equity shares of Rs. 10/- each and the issued, subscribed and paid-up share capital is Rs. 1,00,000/- divided into 10,000 equity shares of Rs. 10/- each.

12. The Transferor Company No.4 was incorporated under the provisions of the Companies Act, 1956 on 05.05.2011 as a Private Limited Company with the Deputy Registrar of Companies, NCT of Delhi & Haryana under the name and style of Calleis Properties Private Limited. The registered office of the company was shifted from the State of Delhi to Haryana vide Certificate of Registration dated 23.02.2019 issued by Registrar of Companies, Delhi. The certificate of incorporation and registration are at Annexure-29 of the paper book.

13. The main objects of the Transferor Company No. 4 as set out in its Memorandum of Association (Annexure- 29) of the application are as follows:-

"1. To carry on the business of development of Infrastructure and to undertake infrastructure projects and to purchase, sell, develop, construct, hire or otherwise acquire and deal in all real or personal estate/ properties." Etc.

14. As evident from the provisional accounts drawn upto 31.01.2019 (Annexure-35) the authorized share capital of the Transferor company 4 as on

31.01.2019 is Rs. 1,00,000/- comprising of 10,000 equity shares of Rs. 10/- each and the issued, subscribed and paid-up share capital is Rs. 1,00,000/- divided into 10,000 equity shares of Rs. 10/-each.

15. The Transferor Company No.5 was incorporated under the provisions of the Companies Act, 1956 on 05.05.2011 as a Private Limited Company with the Assistant Registrar of Companies, NCT of Delhi & Haryana under the name and style of Calleis Constructions The registered office of the company was shifted from the State of Delhi to Haryana vide Certificate of Registration dated 23.02.2019 issued by Registrar of Companies, Delhi. The certificate of incorporation and registration are at Annexure-37 of the paper book.

16. The main objects of the Transferor Company No. 5 as set out in its Memorandum of Association (Annexure- 38) of the application are as follows: -

"1. To carry on the business of development of Infrastructure and to undertake infrastructure projects and to purchase, sell, develop, construct, hire or otherwise acquire and deal in all real or personal estate/ properties." Etc.

17. As evident from the provisional accounts drawn upto 31.01.2019 (Annexure-44) the authorized share capital of the Transferor company 5 as on 31.01.2019 is Rs. 1,00,000/- comprising of 10,000 equity shares of Rs. 10/- each and the issued, subscribed and paid-up share capital is Rs. 1,00,000/- divided into 10,000 equity shares of Rs. 10/-each.

18. The Transferor Company 6 was incorporated under the provisions of the Companies Act, 1956 on 07.10.2010 as a Private Limited Company with the Deputy Registrar of Companies, NCT of Delhi & Haryana under the name and style of Valerian Real Estate Private Limited. The registered office of the company was shifted from the State of Delhi to Haryana vide Certificate of Registration dated 23.02.2019 issued by Registrar of Companies, Delhi. The certificate of incorporation and registration are at Annexure-47 of the paper book.

19. As per the Memorandum and Articles of Association (Annexure-47), the main objects of the Transferor Company 6 are as follows: -

"1. To carry on the business of development of Infrastructure and to undertake infrastructure projects and to purchase, sell, develop, construct, hire or otherwise acquire and deal in all real or personal estate/ properties." Etc.

20. As evident from the provisional accounts drawn upto 31.01.2019 (Annexure-53) the authorized share capital of the Transferor company 6 as on 31.01.2019 is Rs. 1,00,000/- comprising of 10,000 equity shares of Rs. 10/- each and the issued, subscribed and paid-up share capital is Rs. 1,00,000/- divided into 10,000 equity shares of Rs. 10/- each.

21. The Transferor Company No.7 was incorporated under the provisions of the Companies Act, 1956 on 07.10.2010 as a Private Limited Company with the Assistant Registrar of Companies, NCT of Delhi & Haryana under the name and

style of Azalea Real Estate Private Limited. The name of the company was changed to Azalea Infrastructure Private Limited and a fresh certificate of incorporation dated 19.10.2010 was issued by the Registrar of Companies, NCT of Delhi and Haryana. Thereafter, the registered office of the company was shifted from the State of Delhi to Haryana vide Certificate of Registration dated 23.02.2019 issued by Registrar of Companies, Delhi. The certificates of incorporation and registration are at Annexure-56 of the paper book.

22. As per the Memorandum and Articles of Association (Annexure-56), the main objects of the Transferor Company No.7 are as follows: -

"1. To carry on the business of development of Infrastructure and to undertake infrastructure projects and to purchase, sell, develop, construct, hire or otherwise acquire and deal in all real or personal estate/ properties." Etc.

23. The authorized share capital of the Transferor Company No.7 as on 31.01.2019 is Rs. 1,00,000/- comprising of 10,000 equity shares of Rs. 10/- each and the issued, subscribed and paid-up share capital is Rs. 1,00,000/- divided into 10,000 equity shares of Rs. 10/-each.

24. The Transferor Company No.8 was incorporated under the provisions of the Companies Act, 1956 on 28.02.2008 as a Private Limited Company with the Registrar of Companies, Delhi & Haryana under the name and style of "Karanbhumi Estates Private Limited". Thereafter, the registered office of the company was shifted from the State of Delhi to Haryana vide Certificate of Registration dated 23.02.2019 issued by Registrar of Companies, Delhi. The certificate of incorporation and registration are at Annexure-65 of the paper book.

25. As per the Memorandum and Articles of Association (Annexure-65), the main objects of the Transferor Company 8 are as follows:-

"1. To acquire by purchase, lease, exchange or otherwise land, buildings and hereditaments of any tenure or description in India or abroad and any rights over or connected with land and turn then same to account as may seem expedient and in particular by preparing building sites and by constructing, reconstructing, hotels, restaurants, offices, flats houses, shops, factories, ware-houses, building, works and conveniences of all kinds and by consolidating or connecting, or subdividing properties and by leasing or disposing of the same." Etc.

26. As evident from the provisional accounts drawn upto 31.01.2019 (Annexure-71) the authorised equity share capital of the Transferor Company No.8 as on 31.01.2019 is Rs. 260,000,000/- comprising of 26,000,000 equity shares of Rs. 10/-each and the issued, subscribed and paid-up share capital is Rs. 250,100,000/- divided into 25,010,000 equity shares of Rs. 10/- each. Further, the authorised preference share capital of Transferor Company No.8 is Rs. 70,000,000/- comprising of 7,000,000 preference shares of Rs. 10/- each and the issued, subscribed and paid-up share capital is Rs. 60,230,000/- divided into 6,023,000 equity shares of Rs. 10/- each.

27. The Transferor Company No.9 was incorporated under the provisions of the Companies Act, 1956 on 30.09.2006 as a Private Limited Company with the Registrar of Companies, Delhi & Haryana under the name and style of "Kritikka Infrastructure Private Limited". The registered office of the company was shifted from the State of Delhi to Haryana vide Certificate of Registration dated 23.02.2019 issued by Registrar of Companies, Delhi. The certificate of incorporation and registration are at Annexure-74.

28. As per the Memorandum and Articles of Association (Annexure-74), the main objects of the Transferor Company 9 are as follows:-

"1. To carry on the business as owners builders, colonisers, developers, promoters, proprietors, interior decorators, civil contractors, maintainer of residential, commercial and industrial buildings, mall, multiplexes, township projects, colonies, stone crusher, mill's and factory's sheds and buildings, workshop's buildings cinema's houses buildings, hotels and to deal in all kinds of immovable properties whether belonging to the Company or not." Etc.

29. The authorized share capital of the Transferor Company No.9 as on 31.01.2019 is Rs. 1,00,000/- comprising of 10,000 equity shares of Rs. 10/- each and the issued, subscribed and paid-up share capital is Rs. 1,00,000/- divided into 10,000 equity shares of Rs. 10/- each.

30. The Transferee Company was incorporated under the provisions of the Companies Act, 1956 on 25.11.2003 as a Private Limited Company with the Registrar of Companies, Delhi & Haryana under the name and style of Meru Minerals Private Limited. The registered office of the company was shifted from the State of Delhi to Haryana vide Certificate of Registration dated 23.02.2019 issued by Registrar of Companies, Delhi. The certificate of incorporation and registration are at Annexure-83.

31. As per the Memorandum and Articles of Association (Annexure-83), the main objects of the Transferee Company are as follows: -

"1. To carry on in India or elsewhere business of prospecting, exploring, operating and working on mines, quarries, oil fields, wells and to set, crush, melt, manufacture, process, excavate, dig, break, acquire, develop, survey produce, prepare, remove, undertake, convert, load, unload, handle, transport, buy, sell, supply and to act as agent, broker, stockist, distributor, consultant, manager and to deal in all types of stones, rocks, ores, mines, mineral deposits, goods, substances and materials, to engage in preparation of feasibility studies, surveys and project report and implementation of the same in all types of construction." Etc.

32. As evident from the provisional accounts drawn upto 31.01.2019 (Annexure-89) the authorized share capital of the Transferee company as on 31.01.2019 is Rs. 45,100,000/- comprising of 4,510,000 equity shares of Rs. 10/- each and the issued, subscribed and paid-up share capital is Rs.

45,100,000/- divided into 4,510,000 equity shares of Rs. 10/-each.

33. It is stated that there has been no change in the share capital structure of the Applicant Companies as on date of filing of this scheme. It is also stated that the equity shares of the Applicant Companies are not listed on any Stock Exchange.

34. The registered office of the all the Applicant Companies are situated in the state of Haryana and therefore, the matter falls within the jurisdiction of this Tribunal.

35. This joint application has been filed with the following prayers: -

" i. To allow this application and approve & sanction the scheme of amalgamation proposed;

ii. To pass directions may be given as dispensation of the meeting of the Shareholders of the Transferor Companies and the Transferee Company;

iii. To pass directions may be given as to dispensation of the meeting of the Secured Creditors of the Transferor Companies and Transferee Company;

iv To pass directions may be given as to dispensation of the meeting of the Unsecured Creditors of the Transferor Companies and Transferee Company;

ii. To direct the Applicant Companies to circulate a copy of the petition with necessary documents to the relevant regulatory/statutory authorities applicable to the applicants;

iv. Pass such other and further order (s) as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case."

36. It is stated that there are no pending inquiry or investigation proceedings in respect of the Transferor Companies or Transferee Company. It is further submitted that the Scheme does not involve any reduction of share capital.

37. The Applicant Companies have furnished certificates from the Statutory Auditors stating that the accounting treatment specified in the aforesaid scheme is in compliance with all the applicable Accounting Standards prescribed under Section 133 of the Companies Act, 2013. These Certificates are appended with the application as Annexure A-93.

38. Learned Counsel for the Applicant Companies submitted that the Transferor Company No.1 has 2 two equity shareholders out of which there is 1 beneficial equity shareholder i.e. Transferee Company holding 9,999 shares being 99.99% in value. A copy of the list of shareholders of the Transferor Company No.1 and Shareholder's Consent/ no objection to the Scheme by way of affidavit of the Transferor Company No.1 are a part of Annexure- 4 of the application.

39. The Transferor Company No.1 has 3 Unsecured Creditors as on 31.01.2019. In this regard, a Certificate from Sumit Mohit & Company, Chartered

Accountants, certifying 3 Unsecured Creditors of the Transferor Company No.1 is annexed as Annexure-9 with application. All the Unsecured Creditors have given their consents/no objection to the scheme and for the dispensation of the meetings of the unsecured creditors by way of affidavits and the same are a part of Annexure-9.

40. Learned counsel for the Applicant Companies submitted that the Transferor Company No.2 has total 3 Equity Shareholders out of which there is only 1 beneficial equity shareholder i.e. Transferee Company holding 9,999 shares being 99.99% in value. A copy of the list of shareholders of the Transferor Company No. 2 along with consent affidavit of the shareholder to the scheme and for the dispensation of the meetings of the shareholders of the Transferor Company No.2 are a part of Annexure-13 of the application.

41. The Transferor Company No.2 has 1 unsecured creditor i.e. the Transferee Company having Rs. 5,45,86,02,000/- amount of unsecured credit as on 31.01.2019 and in this regard, a certificate from Sumit Mohit & Company, Chartered Accountants, certifying the Same is at Annexure A-18 of the application. The sole unsecured creditor has given its consent by way of affidavit to the scheme and for the dispensation of the meeting of the unsecured creditors by way of affidavit and the same are a part of Annexure-9.

42. Learned counsel for the Applicant Companies submitted that the Transferor Company No.3 has one beneficial equity shareholder i.e. Mr. Sameer Gehlaut holding 9,999 shares in total being 99.99% in value. A copy of the list of shareholders of the Transferor Company No. 3 along with consent affidavit of the shareholder to the scheme and for the dispensation of the meetings of the shareholders of the Transferor Company No.3 are a part of Annexure-22 of the application.

43. As per the list attached at Annexure-28, Transferor Company No.3 has one unsecured creditor namely Mr. Sameer Gehlaut having Rs. 2,47,15,00,000/- amount of unsecured debt who has given consent affidavit to the scheme and to the meeting of unsecured creditor attached as Annexure-28 of the application.

44. Learned counsel for the Applicant Companies submitted that the Transferor Company No.4 has one beneficial equity shareholder i.e. the Transferor Company No.3 holding 9,999 shares in total being 99.99% in value. A copy of the list of shareholders of the Transferor Company No. 4 along with consent affidavit of the shareholder giving its consent to the scheme and for the dispensation of the meetings of the shareholders of the Transferor Company No.4 are at Annexure-31 of the application.

45. As per the list attached at Annexure-36, Transferor Company No.4 has one unsecured creditor namely Mr. Sameer Gehlaut having Rs. 2,47,15,00,000/- amount of unsecured debt who has given consent affidavit to the scheme and to the meeting of unsecured creditor by way of affidavit attached as Annexure-36 of the application.

46. Learned counsel for the Applicant Companies submitted that the Transferor Company No.5 has one beneficial equity shareholder i.e. the Transferor Company No.3 holding 9,999 shares in total being 99.99% in value. A copy of the list of shareholders of the Transferor Company No. 5 along with consent affidavit of the shareholder giving its consent to the scheme and for the dispensation of the meetings of the shareholders of the Transferor Company No.4 are at Annexure-40 of the application.

47. As per list attached at Annexure-45, Transferor Company No.5 has one unsecured creditor i.e. the Transferor Company No.3 having Rs. 82,15,00,000/- amount of unsecured debt, who has given consent affidavit to the scheme and to the meeting of unsecured creditor by way of affidavit attached as Annexure-45 of the application.

48. Learned counsel for the Applicant Companies submitted that the Transferor Company No.6 has one beneficial equity shareholder namely Mr. Sameer Gehlaut holding 9,999 shares in total being 99.99% in value. A copy of the list of shareholders of the Transferor Company No.6 along with consent affidavit of the shareholder giving his consent to the scheme and for the dispensation of the meetings of the shareholders are at Annexure-49 of the application.

49. Further, it is stated that as per list attached at Annexure-54, Transferor Company No.6 has three unsecured creditors namely Mr. Sameer Gehlaut; M/s. Iphito Properties Pvt. Ltd. and M/s. Iphito Real Estate Pvt. Ltd. All the unsecured creditors have given their consent to the scheme and for the dispensation of the meeting of the unsecured creditors attached as part of document at Annexure 54 of the application.

50. Learned counsel for the Applicant Companies submitted that the Transferor Company No.7 has one beneficial equity shareholder i.e. Transferor Company No.6 holding 9,999 shares in total being 99.99% in value. A copy of the list of shareholders of the Transferor Company No.7 along with consent affidavit of the beneficial shareholder giving his consent to the scheme and for the dispensation of the meetings of the shareholders are at Annexure-58 of the application.

51. As per list attached at Annexure-63, Transferor Company No.7 has one unsecured creditor i.e. the Transferor Company No.6 having Rs. 10,87,71,000/- amount of unsecured debt, who has given consent to the scheme and to the meeting of unsecured creditor by way of affidavit attached as Annexure-45 of the application.

52. Learned counsel for the Applicant Companies submitted that the Transferor Company No.8 has one beneficial equity shareholder namely Mr. Sameer Gehlaut holding 9,999 shares in total being 99.99% in value. Also, Transferor company No.8 has 1 registered compulsorily convertible preference shareholder namely India Best Buy Private Limited holding 60,23,000 preference shares. A copy of the list of equity and preference shareholders of the Transferor Company No.6 along with consent of both the shareholders to the scheme and for the

dispensation of the meetings of the shareholders by way of affidavits are at Annexure-67 of the application.

53. As per the list of Sumit Mohit &Company, Chartered Accountants (Annexure -72), there are nil unsecured creditors in Transferor Company No.8 as on 31.01.2019

54. Learned Counsel for the Applicant Companies submitted that the Transferor Company No.9 has one beneficial equity shareholder i.e. the Transferor Company No.8 holding 9,999 shares in total being 99.99% in value. A copy of the list of equity shareholders of the Transferor Company No.9 along with consent affidavit of the beneficial shareholder to the scheme and for the dispensation of the meetings of the shareholders re at Annexure-76 of the application.

55. As per the list of Sumit Mohit &Company, Chartered Accountants (Annexure -81), there are nil unsecured creditors in Transferor Company No.9 as on 31.01.2019

56. Learned Counsel for the Applicant Companies submitted that the Transferee Company has one beneficial equity shareholder namely Mr. Sameer Gehlaut holding 99.99% in value of total equity shares. A copy of the list of equity shareholders of the Transferee Company along with consent affidavit of the beneficial shareholder giving his consent to the scheme and for the dispensation of the meetings of the shareholders are at Annexure-85 of the application

57. As per list attached at Annexure-90, Transferee Company has 4 unsecured creditors collectively holding Rs. 541877500/- of unsecured debt. All the unsecured creditors have given their consent to the scheme and for the dispensation of the meeting of the unsecured creditors of Transferee Company attached as part of document at Annexure-90 of the application.

58. Further, it is stated that the Transferee Company has only one secured creditor namely Reliance Corporate Advisory Services Limited having secured debt of Rs. 1,850,000,000/-. The secured creditor has given its consent to the scheme and for the meeting of the dispensation of the secured creditor by way of affidavit attached at Annexure- 90.

59. It has been submitted by the learned counsel for the Applicant Companies that as per the list attached at Annexures -9, 18, 27,36, 45, 54, 63, 72 and 81, all the Transferor Companies No.1 to 10 have nil secured creditors as on 31.01.2019.

60. Further, learned counsel for the Applicant Companies filed Board Resolutions in respect of consent given by different stakeholders in respect of all Applicant Companies vide Diary No. 625 dated 13.11.2019 and Diary No. 847 dated 31.01.2020.

61. We have heard the learned counsel for the Applicant Companies and perused the record carefully and the supporting documents/papers filed along with the

"Scheme" contemplated between the Applicant Companies.

62. The rationale and benefits of the scheme as mentioned in clause B of the scheme are as follows:

"a) The amalgamation will result in better, efficient and economical management, achieve cost savings, pooling of resources, reduction of corporate tiers, and rationalization of administrative expenses / services. The amalgamation will enable the Companies to pool their financial, commercial and other resources and considerable synergy of operations would be achieved.

b. The amalgamation will result in reducing the corporate tiers in the holding structure, enabling the Transferee Company achieve optimal capital structure, eliminate inefficient share capital instruments and achieve efficiency in terms of operations and profitability of the merged entity under the new standards and regime.

c. With the enhanced capabilities and resources at its disposal, the Transferee Company will have greater flexibility and strength and will be able to compete more effectively as a combined entity.

d. The Transferee Company as a consolidated entity after amalgamation will have better financial and business prospects. The Scheme would be beneficial to and in the best interest of the Shareholders & Creditors, if any, of the Transferor Companies and the Transferee Company. The Scheme shall not in any manner be prejudicial to the interests of concerned members / creditors or general public at large.

e. It would be advantageous to combine the activities of the Transferor Companies and the Transferee Company into a single Company and consolidate their business and assets. The amalgamation would provide beneficial synergy of operations from administrative point of view, and conserve administrative resources and cost overheads, and duplication of management efforts."

63. The Share Exchange Ratio under the 'Scheme' has been determined in accordance with the Report on Valuation of Shares & Share Exchange Ratio dated 18.03.2019, issued by M/s. N S Kumar & Co., Chartered Accountants, which have been accepted and approved by the Board of Directors of the respective Companies and the same has been annexed at Annexure A-92. It is, thus, represented by the learned counsel for the Applicants that based upon the above valuation report, the share exchange ratio is as follows: -

"a) To the equity shareholders of Calleis Real Estate Private Limited (CREPL): 28,188 (Twenty eight thousand one hundred and eighty eight) equity shares of Meru Minerals Private Limited (MMPL) of INR 10 each fully paid up shall be issued for every 100 (One hundred) equity shares held in CREPL of INR 10 each fully paid up.

b) To the equity shareholders of Vallerian Real Estate Private Limited (VREPL):

The estimated fair value of VREPL is negative, however in order for the scheme to comply with the relevant provisions of Companies Act and Income Tax Act we recommend that MMPL shall issue nominal 1 (One) equity share of INR 10 each fully paid up in exchange of all the outstanding equity shares of VREPL.

c). To the equity shareholders of Karanbhumi Estates Private Limited (KEPL): 25 (Twenty five) equity shares of Meru Minerals Private Limited (MMPL) of INR 10 each fully paid up shall be issued for every 100 (One hundred) equity shares held in KEPL of INR 10 each fully paid up.

d) To the preference shareholders of Karanbhumi Estates Private Limited (KEPl): 1 (One) compulsory convertible preference share of Meru Minerals Private Limited (MMPL) of INR 10 each fully paid up for every 1 (One) compulsory convertible preference share issued by KEPL of INR 10 each fully paid up having terms mutatis mutandis with the current existing terms of compulsory convertible preference shares issued by KEPL.

e) To the equity shareholders of Power Screen Media Private Limited (PSMPL): PSML being a wholly owned subsidiary of MMPL which is a Transferee company, the shares held by MMPL in PSMPL would get cancelled and no equity shares would be required to be issued to the equity shareholders of PSMPL for the proposed amalgamation.

f) To the equity shareholders of Jyestha Infrastructure Private Limited (JIPL): JIPL being a wholly owned subsidiary of MMPL which is a Transferee company, the shares held by MMPL in JIPL would get cancelled and no equity shares would be required to be issued to the equity shareholders of JIPL for the proposed amalgamation.

g) To the equity shareholders of Calleis Properties Private Limited (CPPL): CPPL being a wholly owned subsidiary of CREPL which is one of the transferor companies in the Scheme of Amalgamation (i.e. CREPL itself will get merged with MMPL, the transferee company) the shares held by CREPL in CPPL would get cancelled and no equity shares would be required to be issued to the equity shareholders of CPPL for the proposed amalgamation.

h) To the equity shareholders of Calleis Construction Private Limited (CCPL): CCPL being a wholly owned subsidiary of CREPL which is one of the transferor companies in the Scheme of Amalgamation (i.e. CREPL itself will get merged with MMPL, the transferee company) the shares held by CREPL in CCPL would get cancelled and no equity shares would be required to be issued to the equity shareholders of CCPL for the proposed amalgamation.

i) To the equity shareholders of Azalea Infrastructure Private Limited (AIPL): AIPL being a wholly owned subsidiary of VREPL which is one of the transferor companies in the Scheme of Amalgamation (i.e. VREPL itself will get merged with MMPL the transferee company) the shares held by VREPL in AIPL would get cancelled and no equity shares would be required to be issued to the equity shareholders of AIPL for the proposed amalgamation.

j) To the equity shareholders of Kritikka Infrastructure Private Limited (KIPL): KIPL being a wholly owned subsidiary of KEPL which is one of the transferor companies in the Scheme of Amalgamation (i.e. KEPL itself will get merged with MMPL the transferee company) the shares held by KEPL in KIPL would get cancelled and no equity shares would be required to be issued to the equity shareholders of KIPL for the proposed amalgamation."

64. The Authorized Representative further submitted pursuant to amalgamation of the Transferor Companies with the Transferee Company, the Transferee Company shall without any further act or deed, issue consideration to the shareholders of the Transferor Companies, whose name appears in their respective register of members as on the Record Date or to their respective heirs, executors, administrators or other legal representatives or other successors in title as may be recognized by the Board of Directors of the respective companies, up to extent mentioned above.

65. It is also stated that the Transferee Company shall issue its equivalent no of CCDS to the existing debenture holder of the Transferor Companies, at par value, and with same terms and conditions similar to those of the currently outstanding debentures.

66. The audited financial statements upto 31.03.2018, supplementary accounting statement upto 30.09.2018 and supplementary accounting statement upto 31.01.2019 of the Transferor Companies No.1 to 9 and Transferee Company are at Annexures- 6, 15, 24, 33, 42, 51, 60, 69, 78, 87; Annexures - 7, 16, 25, 34, 43, 52, 61, 70, 79, 88 and Annexures- 8, 17, 26, 35, 44, 53, 62, 71, 80, 89 respectively.

67. The Scheme also deals with and takes care of the interest of staff, workmen and employees of the Transferor Companies by virtue of Clause 11 which is as under: -

"TRANSFEROR COMPANIES' STAFF, WORKMEN & EMPLOYEES

11. Upon the coming into effect of this Scheme all the staff, workmen, employees of the Transferor Companies, if any, who are in its employment as on the Scheme coming into effect shall become the staff, workmen, employees or other labour of the Transferee Company with effect from the Appointed Date without any break or interruption in service and on terms and conditions as to employment and remuneration not less favourable than those on which they are engaged or employed by the Transferor Companies whereas there will be no effect on the employees of the Transferee Company."

68. It is also stated in clause 12.1 of the Scheme that If any suit, writ petition, appeal, revision or other proceedings of whatsoever nature (hereinafter called "the Proceedings") by or against the Transferor Companies is pending, the same shall not abate, be discontinued or be in any way prejudicially affected by reason

of the transfer of the Business of the Transferor Companies or because of anything contained in the Scheme, but the proceedings may be continued, prosecuted and enforced by or against the Transferee Company in the same manner and to the same extent as it would or might have been continued, prosecuted and enforced by or against the Transferor Companies as if the Scheme had not been made. On and from the Scheme coming into effect, the Transferee Company shall and may, if required, initiate any legal proceedings for and on behalf of the Transferor Companies.

69. The learned counsel for the Applicant-Companies filed affidavits of the authorized signatories of the Applicant Companies with regard to the Sectoral regulators of the applicant-companies, stating therein that apart from the statutory authorities, there are no other Sectoral regulators of any of the applicant-companies. The affidavits with regard to sectoral regulator is at Annexure -93 of the application.

70. As per the Scheme, the appointed date means 01.10.2018 or such other date as may be approved by Hon'ble NCLT or NCLAT or any other competent Court(s), judicial or quasi-judicial authority or any other competent authority having power to sanction the Scheme, as the case may be.

71. In view of the aforesaid discussion, the meetings of Equity Shareholders of Transferor Companies No.1 to 9 and of Transferee Company; Unsecured Creditors of the Transferor Companies No.1 to 7 and of Transferee Companies and secured creditors of Transferee Company are dispensed with. Since there are no unsecured creditors in Transferor Companies No. 8 & 9 and no secured creditors in the Transferor Companies No. 1 to 9, there is nothing to convene their meetings. However, Rule 8 of the Rules requires the notice of the meetings to be sent to the Statutory Authorities in Form CAA 3. Since the calling and convening of the meetings are being dispensed with, the applicants shall have to make a specific prayer while moving the second motion petition to issue the notice to those Statutory Authorities.

72. In view of the above, the First Motion Application stands allowed giving liberty to the Applicant Companies to file Second Motion Petition with a direction that the Applicant Companies shall make specific prayer for sending notices to the Central Government, Registrar of Companies, Income Tax Authorities and the Official Liquidator by disclosing the PAN numbers of all the Applicant Companies in the title of the Second Motion Petition so as to provide the proper opportunity to the Income Tax Department to respond and also filing an affidavit that there is no other Sectoral Regulator in respect of the Applicant Companies and also to the effect that the Scheme does not involve any corporate debt restructuring & buy back of shares.

