(2021) 12 NCLT CK 0058

In the National Company Law Tribunal

Case No : CP (CAA) No. 02/GB/2021 in CA (CAA) No. 01/GB/2020

SLT Infracon Private Limited APPELLANT

Vs

Birch Vinimay Private Limited RESPONDENT

Date of Decision : 17-12-2021

Acts Referred:

Companies Act, 2013 — Section 230, 230(1), 230(3), 230(5), 230(6), 231, 232, 232(1), 232(3)(i)
National Company Law Tribunal Rules, 2016 — Rule 16, 16(d)

Citation : (2021) 12 NCLT CK 0058

Hon'ble Judges : Rohit Kapoor, Member (J);Prasanta Kumar Mohanty, Member (T)

Bench : Division Bench

Advocate : R. K. Agarwal

Final Decision : Disposed Of

Judgement

Prasanta Kumar Mohanty, Member (T)

1. The Petitioner Companies have preferred the present joint applications under Sections 230-232 of the Companies Act, 2013 seeking sanction of this Tribunal to a Composite Scheme of Amalgamation of SLT Infracon Private Limited,the Transferee Company with the Transferor Companies such as Birch Vinimay Private Limited , Indtigrated Suppliers Private Limited , Sinjan Developers Private Limited and Sinjan Realtors Private Limited whereby and where under the entire undertakings of the Transferor Companies together with all assets and liabilities relating thereto on going concerns are proposed to be transferred to and vested in the "Transferee Company" with effect from the Appointed Date as mentioned in the Scheme.

1. The Rationale of the proposed company Scheme is stated by the Petitioners as under:

i. The Transferee Company is presently engaged in Civil Engineering /

Construction activities inter-alia it has also made development of surplus funds in other investable instruments. Apart from pursuing the main object, all the Transferor Companies have made deployment of surplus funds in other investable instruments for the time being. The business of the Transformer Companies and the Transferee Company can be combined / adjusted and carried forwarded conveniently with combined strength;

ii. The amalgamation will enable the Transferee Company to consolidate its line of business by restructuring and re-organizing its business activities and Capital Structure;

iii. The amalgamation will enable the amalgamated company to broad base their business activities under the roof of the Transferee Company;

iv. The amalgamation will result in economy of scale including reduction in overhead expenses relating to management and administration in better and more productive utilization of various resources;

v. The business of the Companies can be conveniently and advantageously combined together and in general, business of the Company concerned will be carried on more economically and profitably under the said Scheme;

vi. The said Scheme of Amalgamation will enable the establishment of a larger company with larger resources and a larger capital base enabling further development of the business of the company concerned. The said scheme will also enable the Undertaking(s) and business of the said applicant company to obtain greater facilities possessed and enjoyed by one large company compared with a number of small companies for raising capital, securing and conducting trade on favorable terms and other benefits;

vii. The said scheme will contribute in furthering and fulfilling the objects of the Company concerned and in the growth and development of these business;

viii. The said scheme will strengthen and consolidate the position of the amalgamated company and will enable the amalgamated company to increase its profitability;

ix. The said scheme will enable the Undertakings concerned to pool their resources and to expand their activities;

x. The said scheme will enable the Companies concerned to rationalize and streamline their managements, business and finances and to eliminate duplication of work to their common advantages;

xi. The said scheme will have beneficial results for the Companies concerned, their shareholders, employees and all concerned.

2. The Petitioner Companies viz. SLT Infracon Private Limited; Birch Vinimay Private Limited; Indtigrated Suppliers Private Limited; Sinjan Developers Private Limited and Sinjan Realtors Private Limited in earlier Company Application i.e. CA

(CAA) No. 01/GB/2020 filed before this Tribunal, sought dispensation of meeting of its Equity Shareholders. The Learned counsel for the Applicants submitted that all shareholders of the respective companies had given their consents by way of Affidavits, Documents, Resolutions before this Tribunal, for dispensing with the meetings of the equity shareholders, as such, prayed to dispense with the convening and holding meetings of the shareholders.

3. This court vide its order dated 19th January, 2021, passed in CA (CAA) No. 01/GB/2020 have dispensed with the meetings of the Shareholders, Secured and Unsecured Creditors of the Applicant Companies as prayed for. This Tribunal also directed the petitioners for issuance of notices to :-

a. Central Government through Regional Director, North Eastern Region, Ministry of Corporate Affairs, Guwahati

b. Central Government through Regional Director, Eastern Region, Ministry of Corporate Affairs, Kolkata

c. The Registrar of Companies, NER, Guwahati

d. The Registrar of Companies, Kolkata

e. The Official Liquidator, NER, Guwahati

f. The Official Liquidator, Kolkata

g. The Income Tax Authorities, having jurisdictions over the affairs of the Companies.

4. The petitioners have submitted that pursuant to the order passed by the Hon'ble Guwahati Bench of the Tribunal dated 19th January, 2021 in Company Application No. C.A (CAA)/01/GB/2020, the Petitioner Companies have served a copy of the application together with a copy of the said order upon the Central Government through Regional Director, NER, Ministry of Corporate Affairs, Guwahati; Central Government through Regional Director, Eastern Region, Ministry of Corporate Affairs, Kolkata; The Registrar of Companies, NER, Guwahati; The Registrar of Companies, Kolkata; The Official Liquidator, NER, Guwahati; The Official Liquidator, Kolkata and Income Tax authorities having jurisdiction over the affairs of the Companies and Competition Commission of India.

5. Thereafter, the present Company Petition, i.e. C.P (CAA) No. 02/GB/2021, has been filed for sanction of the proposed company Scheme. This Tribunal admitted the aforesaid Company Petition for hearing and further directed for issuance of notices of hearing of the present company scheme petition to the statutory and regulatory authorities, i.e.

(a) Central Government through Regional Director, North Eastern Region, Ministry of Corporate Affairs, Guwahati

(b) Central Government through Regional Director, Eastern Region, Ministry of

Corporate Affairs, Kolkata

(c) The Registrar of Companies, NER, Guwahati

(d) The Registrar of Companies, Kolkata

(e) The Official Liquidator, NER, Guwahati

(f) The Official Liquidator, Kolkata

(g) The Income Tax Authorities, having jurisdictions over the affairs of the Companies.

This Tribunal further directed publications of notices of hearing of the petition in English daily, "Assam Tribune", and in Vernacular News Paper, "Dainik Assam" published from Guwahati, and in Telegraph (English) and "Ananda Bazar (Vernacular- Bengali)" published from Kolkata having wide circulations in the districts where the registered offices of the Petitioner Companies are situated stating PAN number of the Petitioners along with official website at least 30 days before the date fixed for hearing in terms of Rule 16 of NCLT Rules in Form NCLT 3A in respect of the aforesaid company Petition. The Petitioners have filed Affidavits in compliances of the said directions.

6. In response to the notices, the Regional Director (RD), Eastern Region, Ministry of Corporate Affairs, Kolkata with additional charge as Regional Director, NER, Guwahati has filed representation dated 28.10.2021; the Official Liquidator, NER, Guwahati has filed his report dated 27.10.2021; the Official Liquidator, Kolkata has filed his report dated 26.10.2021.

7. The Regional Director, Eastern Region, Kolkata with additional charge of Regional Director, NER, Guwahati has made the following observations in its representation:

Para 2 (a): That the Transferee Company is based at Assam, registered with the Registrar of Companies at Guwahati and all the transferor companies are based at Kolkata registered with Registrar of Companies, West Bengal. The Hon'ble NCLT, New Delhi, Principal Bench vide its order passed on 03/09/2019 under Rule 16 (d) of NCLT Rules, 2016 in CA/1689(PB)/2019 allowed the filing of the Joint Petitions at Guwahati Bench where the Transferee Company is located. Accordingly, this representation of the Central Government on the proposed scheme of amalgamation of above named petitioner companies is being filed before the NCLT, Guwahati Bench.

Para 2 (b): That on examination of the report of the Registrar of Companies, Guwahati dated 26.10.2021, it appears that all the transferor companies are registered under the jurisdiction of ROC, Kolkata. Further, no complaint and/or representation regarding the proposed scheme of Amalgamation has been received against the Transferee Company. The transferee company has filed Financial Statements up to the financial year ended on 31.03.2020.

Para 2 (c): That as per records as available in MCA BO Portal, it appears that all the Transferor Companies have also filed Financial Statements up to the financial year ended 31.03.2020.

Para 2 (d): That the Appointed Date stated in the proposed Scheme is 1st April, 2018. In terms of the Circular no. 09/2019 dated 21.08.2019 of the Ministry of Corporate Affairs, "where the 'appointed date' is chosen as a specific calendar date, it may precede the date of filing of the application for scheme of merger/ amalgamation in NCLT. However, if the appointed date is significantly ante dated beyond a year from the date of filing. The justification for the same would have to be specifically brought out in the scheme and it should not be against public interest'". It is not ascertainable from the documents provided by the Applicant whether the application for the scheme was filed before Hon'ble Tribunal within a year from 1st April, 2019. If the application for the scheme was filed with Hon'ble Tribunal after more than one year from the appointed date, the Hon'ble Tribunal may kindly direct the Applicant to bring out the justification for the appointed date being more than one year before date of filing of the application for the scheme.

Para 2 (e): That the Petitioner Company should undertake to comply with the provisions of Section 232 (3) (i) of the Companies Act, 2013 through appropriate affirmation.

Para 2 (f): That the Transferee Company should be directed to pay applicable stamp duty on the transfer of the immovable properties from the Transferor Companies to it.

Para 2 (g): In compliance of Accounting Standard-14 or IND-AS 103, as may be applicable, the Transferee Company shall pass such accounting entries which are necessary in connection with the scheme to comply with other applicable Accounting Standards such as AS-5 or IND-AS-8 etc.

Para 2 (h): the Hon'ble Tribunal may kindly seek the undertaking that this scheme is approved by the requisite majority of members and creditors as per section 230(6) of the Companies Act, 2013 in meeting duly held in terms of section 230(1) read with sub-sections (3) to (5) of Section 230 of the said Act and the Minutes thereof are duly placed on record.

Para 2 (i): The Hon'ble tribunal may kindly direct the Petitioners to file an affidavit to the extent that the Scheme enclosed to the Company Application and Company Petition are one and same and there is no discrepancy or no change is made.

Para 2 (j): The Petitioners under provisions of Section 230 (5) of the Companies Act, 2013 have to serve notices to concerned authorities which are likely to be affected by the Amalgamation or arrangement. Further, the approval of the scheme by the Hon'ble Tribunal may not deter such authorities to deal with any of the issues arising after giving effect to the scheme. The decision of such authorities shall be binding on the Petitioner Company (s) concerned.

8. The Official Liquidator, NER, Guwahati have made the following observations in his representation:

Para 2: That, all the Transferor Companies are registered under the jurisdiction of ROC, Kolkata. Only the Transferee Company SLT Infracon Private Limited is registered with ROC, Guwahati. Therefore, report of Official Liquidator, Gauhati High Court has been prepared based on the available records of his office and the documents submitted by the Transferee Company.

Para 3: That on receipt of the said petition, the Transferee Company was intimated vide this Office letter no. OL/GUW/MERGER/796 dated 01.02.2021 to furnish certain information/ records for the purpose of preparing the required report. But, the Transferee Company has furnished the information and records only on 30.09.2021.

Para 4: That, as per clause 1 of Part III of the scheme, upon coming into effect of the scheme and with effect from the appointed date, the undertaking, that is, the entire business of the Transferor Companies shall stand transferred to and be vested in the Transferee Company as a going concern without any further act or deed so as to become, as and from the Appointed Date, the undertaking of the Transferee Company.

Para 5: That, as per clause 7 of Part III of the scheme, any liabilities under the Income Tax Act, 1961 Service Tax/GST, Stamp Acts/Laws or other applicable laws/regulations related to the business of the Transferor Companies to the extent not provided for by tax provision in the accounts made as on the date immediately preceding the Appointed Date shall be transferred to the Transferee Company. Further, all taxes paid or payable by the Transferor Companies in respect of the operations on and from the Appointed Date, shall be on account of the Transferee Company.

Para 6: That, as per clause 8 of Part III of the Scheme, all the employees of the Transferor Companies who are in its employment as on the Effective Date shall become the employees of the Transferee Company with effect from the Effective Date without any break or interruption in service and on terms and conditions not less favorable than those on which they are engaged by the Transferor Companies.

Para 7: That, as per clause 10 of Part IV of the Scheme issue of new equity share by the Transferee Company shall be as follows:

a) Shareholders of Birch Vinimay Private Limited will be issued 17 equity shares of Rs. 10 each of Transferee Company credited as fully paid up, for every 1 equity

b) share of Rs. 10 each held by them in Birch Vinimay Private Limited.

c) Share Shareholders of Indtigrated Suppliers Private Limited will be issued 53 equity shares of Rs. 10 each of Transferee Company credited as fully paid up, for every 2 equity shares of Rs. 10 each held by them in Indtigrated Suppliers Private Limited.

d) Shareholders of Sinjan Developers Private Limited will be issued 66 equity shares of Rs. 10 each of Transferee Company credited as fully paid up, for every 1 equity share of Rs. 10 each held by them in Sinjan Developers Private Limited.

e) Shareholders of Sinjan Realtors Private Limited will be issued 304 equity shares of Rs. 10 each of Transferee Company credited as fully paid up, for every 1 equity share of Rs. 10 each held by them in Sinjan Developers Private Limited.

Para 8: That the appointed date of the Scheme was suggested for the 1st Day of April, 2018.

Para 9: That the Transferee Company M/s SLT INFRACON PRIVATE LIMITED was incorporated under the provisions of the Companies Act, 1956 on 22.03.2010. The company is having its Registered Office at Vill-Uttar Badarpur, P.O-Badarpurghat, P.S.- Algapur Hailakandi Assam-788803 which falls within the jurisdiction of this Office of Regional Director. The main objects of the Company include the following-

? To carry on the business of general and infrastructural development contractors and construction contracts.

? To enter into an agreement to take over the partnership firm named M/s Shyam Lal Tusnial existing and other such business

Para 10: That as per Clause 11 of Part IV of the scheme, upon the scheme becoming effective and with effect from the Appointed Date, the authorized Share capital of the Transferor Companies shall stand transferred to and be amalgamated with the authorized share capital of the Transferee Company. Accordingly, the authorized share capital of the Transferee Company shall stand enhanced to Rs. 15,63,00,000 divided into 1,56,30,000 equity shares of Rs. 10 each.

Para 11: That the Hon'ble NCLT, Guwahati Bench in Para 26 of its order dated 19.01.2021 said that "considering the consent affidavits filed on behalf of the shareholders, secured creditors as well as by the majority in debts value of unsecured creditors of the Applicant Companies to approve the proposed Company Scheme and by waiving their rights to participate in such meeting, the meetings of the Shareholders, Secured and Unsecured Creditors of the Applicant Companies are hereby dispensed with."

Para 12: That the Official Liquidator, Gauhati High Court has not received any complaint against the proposed scheme of amalgamation from any person/ party interested in the scheme in any manner till the date of filing of this report. Further, no complaint either from the stakeholder, shareholder, creditor or any other Govt. authority has been received by this office.

Para 13: that the report of the Official Liquidator is based on the documents submitted by the Transferee Company. The same have not been enclosed with the report as these are already on the records of the Hon'ble NCLT, Guwahati Bench.

Para 14: that the Official Liquidator on the basis of information submitted by the Transferee Company is of the view that the affairs of the aforesaid company does not appear to have been conducted in a manner prejudicial to the interest of its members or to public interest as per the provisions of the Companies Act, 1956/ Companies Act, 2013.

9. The Official Liquidator, Kolkata has made the following observations in its representation:

Para 3: That as per the Scheme, all the permanent employees of the TRANSFEROR COMPANIES who are in its employment as on the Effective Date shall become the permanent employees of the TRANSFEREE COMPANY with effect from the Effective Date without any break or interruption in service and on terms and conditions as to employment and remuneration not less favorable than those on which they are engaged or employed by the TRANSFEROR COMPANIES without any interruption of service as a result of this amalgamation and transfer.

Para 4: That as per Clause 10 of Part IV of the Scheme and Share Valuation Report submitted by SHRI ANIL KUMAR GUPTA, IBBI Registered Valuer the share exchange ratio is as follows:

"17 (Seventeen) Equity Shares of Rs. 10/- each credited as fully paid -up in the TRANSFEREE COMPANY for every 1 (One) Equity Share of Rs. 10/- each fully paid-up held by such Equity Shareholders in TRANSFEROR COMPANY NO. 1."

"53 (Fifty Three) Equity Shares of Rs. 10/- each credited as fully paid-up in the TRANSFEREE COMPANY for every 2 (Two) Equity Shares of Rs. 10/- each fully paid-up held by such Equity Shareholders in TRANSFEROR COMPANY NO. 2."

"66 (Sixty-Six) Equity Shares of Rs. 10/- each credited as fully paid-up in the TRANSFEREE COMPANY for every 1 (One) Equity Share of Rs. 10/- each fully paid-up held by such Equity Shareholder in TRANSFEROR COMPANY NO. 3."

"304 (Three Hundred and Four) Equity Shares of Rs. 10/- each credited as fully paid-up in the TRANSFEREE COMPANY for every 1 (One) Equity Share of Rs. 10/- each fully paid-up held by such Equity Shareholder in TRANSFEROR COMPANY NO. 4."

Para 5: That the appointed date of the Scheme is the 1st Day of April, 2018.

Para 6: That as per Paragraph 11 of Part IV of the Scheme, the Authorized Share Capital of the Transferor Companies shall be combined/merged with the Authorized Share Capital of the Transferee Company.

Para 7: That the Hon'ble NCLT, Guwahati bench vide its order dated 19th January, 2021 passed in Company Application No. CA (CAA) No. 01/GB/2020 was pleased to dispense with the meetings of Equity Shareholders of the Applicant Companies, was pleased to dispense with the meetings of Secured Creditors of the Transferee Company, was pleased to dispense with the meetings of Unsecured Creditors of the Transferee Company and the Transferor Company No. 3 and recorded that there is no requirement of holding meeting of the Secured Creditors of Transferor Companies and also recorded that there is no requirement of holding meeting of the Unsecured Creditors of Transferor Company No. 1 and Transferor Company No. 2 and Transferor Company No. 4 in view of NIL Creditors verified by Auditors Certificate.

Para 8: That the Official Liquidator has not received any complaint against the proposed Scheme of Amalgamation from any person/party interested in the Scheme in any manner till the date of filing of this report.

Para 9: That the report of Official Liquidator is based upon the documents/reply submitted by the Applicant Companies. Balance sheets, Memorandum and Article of Associations and other documents furnished by the petitioner companies have not been enclosed with the report as the same are already on records of NCLT.

Para 10: That the Official Liquidator on the basis of information submitted by the Petitioner Companies and is of the view that the affairs of the aforesaid Transferor Companies do not appear to have been conducted in a manner prejudicial to the interest of its members or to public interest as per the provisions of the Companies Act, 1956/ the Companies Act, 2013 whichever is applicable.

10. In response, an affidavit reply to the observations made by the Regional Director has been submitted by Shri Brajesh Tusnial, the Director of all the Applicant Companies dated 24.11.2021 clarifying the points as under:-

Para 2 (a): That the observations made by the Regional Director in his affidavit are merely informative in nature based on the orders passed by the Hon'ble NCLT, New Delhi, Principal Bench vide its order passed on 03/09/2019 under rule 16 (d) of NCLT Rules, 2016 in CA/1689(PB)/2019 allowing the filing of the Joint Petitions at Guwahati Bench where the Transferee Company is located. Hence no comments are offered.

Para 2 (b):That the Registrar of Companies, Guwahati vide its report dated 26.10.2021 addressed to the Regional Director has informed that the Registered Office of the Transferor Companies are under the Jurisdiction of Registrar of Companies, Kolkata. Further the Regional Director has also reported in his affidavit that no complaint and/or representation regarding the proposed scheme of Amalgamation has been received against the Transferee Company.

Para 2 (c): That the Regional Director has in his affidavit reported that the Transferor Companies have filed financial statements up to 31st March, 2020 stating up-to-date filing. Hence, no comments are offered.

Para 2 (d): That the Petitioner Companies hereby agree that the Appointed

Date be shifted from 01st April, 2018 to 01st April, 2021. The Board of Directors of the Petitioner Companies have passed resolutions agreeing to shift the Appointed Date from 1st April, 2018 to 1st April, 2021 so as to be in line with the Circular issued by the Ministry of Corporate Affairs.

Para 2 (e): That the Deponent duly authorized hereby affirms that the Transferee Company undertakes that it shall comply with the provisions of Sec 232 (3) (i) of the Companies Act, 2013 in regard to adjustment of fees upon clubbing of Authorized Share Capital(s) of the transferor Companies with the Authorized Share Capital of the Transferee Company in post-amalgamation and shall file a detailed statement thereof with the Registrar of Companies at the time of filing of INC-28.

Para 2 (f): That the Transferee Company undertakes that it shall pay applicable stamp duty on the transfer of the immovable properties from the Transferor Companies to it.

Para 2 (g): That the Transferee Company undertakes that it shall make due compliance of Accounting Standard-14 or IND-AS-103, as may be applicable to it and shall pass such accounting entries which are necessary in connection with the scheme to comply with other applicable Accounting Standards such as AS-5 or INDAS-8 etc.

Para 2 (h): That the equity Shareholders of the Transferee Company and the Transferor Companies have given their consents to the proposed Scheme of Amalgamation. Their Affidavits of consents have been annexed to the Company Application C.A (CAA) No. 01/GB/2020 being ANNEXURE O; ANNEXURE P; ANNEXURE Q; ANNEXURE R and ANNEXURE S.

The Secured Creditors and Unsecured Creditors of the Transferee Company have given their consents to the proposed Scheme of Amalgamation. Their affidavits of consents have been annexed to the Company Application C.A (CAA) No. 01/GB/2020 being ANNEXURE T.

The Transferor Company No. 1; Transferor Company No. 2; Transferor Company No. 3 and Transferor Company No. 4 all had NIL Secured Creditors duly verified by auditor's certificate all of which have been annexed to the Company Application C.A (CAA) No. 01/GB/2020 being ANNEXURE U; ANNEXURE V; ANNEXURE W and ANNEXURE X.

The Transferor Company No. 1; Transferor Company No. 2 and Transferor Company No. 4 all had NIL Unsecured Creditors duly verified by auditors certificate all of which have been annexed to the Company Application C.A (CAA) No. 01/GB/2020 being ANNEXURE U; ANNEXURE V and ANNEXURE X.

That 1 Unsecured Creditor representing 100% in value of the Unsecured Creditor of the Transferor Company No. 3 has given his affidavit of consent to the proposed Scheme of Amalgamation which is annexed to the Company Application C.A (CAA) No. 01/GB/2020 being ANNEXURE W.

Hence, the Scheme has the requisite approval of the shareholders and creditors.

Para 2 (i): That the deponent duly authorized by the Petitioner Companies hereby affirms that the Scheme enclosed to the Company Application and Company Petition are one and same and there is no discrepancy or change is made.

Para 2 (j): That the Petitioner Companies have complied with the directions contained in the order passed by the NCLT, Guwahati Bench and have effected service upon all Regulatory Authorities as directed in the order passed by the said Tribunal in their order at the dispensation stage and also at the time of second motion stage The Petitioners have filed affidavits of compliance.

The Petitioner Companies agree that decision of any authorities post sanctioning shall be binding on Transferee Company.

Copy of the Board resolutions passed by the Board of Directors of the Transferor Companies for shifting of Appointed Date have been annexed being ANNEUXRE B of the said affidavit.

11. Thus, We perused the above and examined the merits of the representations/ observation(s) made by the Regional Director, Eastern Region, Kolkata with additional charge of Regional Director, NER, Guwahati; Official Liquidator, NER, Guwahati and Official Liquidator, Eastern Region, Kolkata which have been dealt with by the Petitioner Companies by filling its clarifications/reply affidavit.

12. In the light of the above stated Replies, Affidavits and Assurances given, We feel that the representations/observation(s) made by the Regional Director, Eastern Region, Kolkata with additional charge of Regional Director, NER, Guwahati; Official Liquidator, NER, Guwahati and Official Liquidator, Eastern Region, Kolkata are properly answered and thus stand satisfied.

13. In the light of the above given facts and circumstances of the present Company scheme petition, We have perused the salient features, rationale and objects of the proposed company scheme of amalgamation, which has been annexed and form part of the present company petition. We duly considered the same in the light of well settled legal position that the Tribunal may examine the reasonableness of the Scheme which should be fair and equitable. The approval of a Scheme by its statutory majority itself is a strong evidence of its reasonableness and if such scheme appears to be bona fide and fair then the Tribunal will not act into its merits.

14. Considering the entire facts and circumstances of the present company Scheme, We find that all statutory requirements of the provisions of Sections 230-232 of the Act are satisfied. The present Company Amalgamation Scheme appears to be genuine and bona fide and it appears to be in the interest of its shareholders and creditors.

15. Hence, the present Company Amalgamation Scheme Petition deserves to be

allowed. Hence, it is allowed in terms of its prayers/reliefs clause. Consequently, the proposed company scheme of Amalgamation of SLT Infracon Private Limited, the Transferee Company with the Transferor Companies, Birch Vinimay Private Limited, Indtigrated Suppliers Private Limited, Sinjan Developers Private Limited and Sinjan Realtors Private Limited is hereby allowed with following terms and conditions:-

i. While Approving the Scheme, we make it clear that this order should not be construed as an order in any way granting exemptions from payment of Stamp Duty, taxes,GST or any other charges, if any, and payment in accordance with law.

ii. The whole of the property, rights and powers of Transferor Companies be transferred without further act or deed to the Transferee Company and accordingly the same shall ,pursuant to Section 232 of the Companies Act, 2013, be transferred to and vest in the Transferee Company for all the state and interest of the Transferor Companies therein but subject nevertheless to all charges now affecting the same; and

iii. All liabilities including taxes and charges, if any and duties of the Transferor Companies be transferred without further act or deed to the Transferee Company and accordingly the same shall pursuant to section 232 of the Companies Act, 2013, be transferred to and become the liabilities and duties of the Transferee Company without in any way obstructing compliance of depositing outstanding tax dues if any; and

iv. All proceedings now pending by or against the Transferor Companies, if any, be continued by or against the Transferee Company: and

v. All employees of the Transferor Companies will become employees of the Transferee Company without any break or interruption of service;

vi. The Appointed date is 01/04/2021

16. The legal fees and expenses of the office of the Official Liquidators are quantified at Rs 10,000/- (Rupees Ten Thousand only) each for the Liquidator of Guwahati and Kolkata in respect of the Petitioner Transferor Companies. The said fees to the Official Liquidators shall be paid by the Transferee Company within four weeks from the date of issuance of certified copy of the Order by the Tribunal.

17. The legal fees and expenses of the office of the Regional Directors, NER and Eastern Region,Kolkata are quantified at Rs 20,000/- (Rupees Twenty Thousand Only) each in respect of the Petitioner Companies. The said fees to the Regional Directors shall be paid by the Transferee Company within four weeks from the date of issuance of certified copy of the Order by the Tribunal.

18. Filing and issuance of drawn up orders are dispensed with. All concerned authorities to act on a copy of this order along with the Scheme of Amalgamation

duly authenticated by the Registrar of this Tribunal. The Registrar of this Tribunal shall issue the certified copy of this order along with the Scheme of Amalgamation immediately.

19. The Petitioner Companies are further directed to lodge a copy of this order, the schedule of immovable assets of the Transferor Companies as on the date of this order and the Scheme duly authenticated by the Registrar of Tribunal, with the concerned Superintendent of Stamps, for the purpose of adjudication of stamp duty, if any, on the same within 60 days from the date of the order.

20. The Petitioner Companies are further directed to file a copy of this order along with the copy of the Scheme of Amalgamation with the concerned Registrar of Companies, electronically, along with the Form INC-28 within 30 days from the date of issuance of the certified copy of the Order by the Tribunal in addition to physical copy as per relevant provisions of the Companies Act, 2013

21. With the aforesaid Directions, the present joint Company Petition is allowed and accordingly stands disposed of.

