



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH- COURT-II**

**CA (CAA) No. 22/KB/2024**

*A petition under section 230(1) read with section 232(1) of the Companies Act, 2013, read with the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, and other applicable provisions of law.*

*In the Matter of:*

*(Scheme of Amalgamation: First Motion)*

**VEDANT FASHIONS LIMITED**, a company incorporated under the provisions of the Companies Act, 1956, having its Registered Office at having its Registered Office at Paridhan Garment Park, 19 Canal South Road, SDF 1, 4th Floor, A501-A502, Kolkata- 700015, CIN L51311WB2002PLC094677 within the aforesaid jurisdiction

**...Transferee Company/ Applicant Company No. 1**

*And*

**MANYAVAR CREATIONS PRIVATE LIMITED**, a company incorporated under the provisions of the Companies Act, 2013, having its Registered Office at 1st Floor, Unit No. 5, Part C, Block A, Srijan Industrial Logistics Park, NH6, Bombay Road, Howrah-711302, CIN U17299WB2017PTC219874 within the aforesaid jurisdiction.

**...Transferor Company / Applicant Company No. 2**

**Date of Pronouncement: 06/03/2024**

*Coram:*

**Smt. Bidisha Banerjee: Hon'ble Member (Judicial)**

**Shri D. Arvind: Hon'ble Member (Technical)**

*Appearances:*

**Mr. Kovid Mukherjee, PCS : For Petitioners**

**ORDER**

***Per: D. Arvind (Technical)***

1. The instant application has been filed in the first stage of the proceedings under Sections 230 and 232 of the Companies Act, 2013 for orders and directions with regard to dispensation of meetings of shareholders, and unsecured creditors in connection with the Scheme of Amalgamation of the Applicant no.2 (hereinafter referred to as the “Transferor Company”) with the Applicant no.1 (hereinafter referred to as the “Transferee Company”) whereby all the properties, assets, rights and claims whatsoever of the Transferor Company and its entire undertaking together with all its rights and obligations relating thereto are proposed to be transferred to and vest in the Transferee Company on the terms and conditions as fully stated in the said Scheme of Amalgamation from the Appointed Date as on **1st April, 2024**. A copy of the Scheme of Amalgamation has been annexed with the application as **Exhibit – “I”**.
2. Ld. Authorized Representative for the Applicant(s) submits that the shares of the Applicant Company No.1 are listed with National Stock Exchange of India Limited and BSE Limited. The Applicant Company No. 2 is wholly Owned Subsidiary of Applicant Company No.1.
3. Further, the Applicant(s) have the following classes of shareholders and creditors: -


<b>Applicant Company</b>	<b>Equity Shareholders</b>	<b>Unsecured Creditors</b>	<b>Secured Creditors</b>
Vedant Fashions Limited	74,379	784	98
Manyawar Creations Private Limited	2	18	NIL

4. It is submitted that the Board of Directors of the Applicant Companies in their respective meetings held on 25th January, 2024 approved the Scheme. Copy of the board resolution dated 25th January, 2024 of both the Applicant Companies are annexed with the application and marked as **Exhibit – “J”**.
5. The accounting treatment as proposed in the scheme is in conformity with the Indian Accounting Standard prescribed under Section 133 of the Companies Act, 2013 for which the Certificates from the Auditors of the Applicant Company No. 1 is annexed




with the application and marked as **Exhibit – “K”**.

6. In terms of Regulation 37(6) of Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, the requirement of taking prior approval of the stock exchanges in case of mergers involving wholly owned subsidiary companies have been dispensed with and only the listed holding company is required to file the Scheme of Amalgamation along with the board resolution passed by the Board of Directors of Transferee Company, approving such Scheme of Amalgamation with the stock exchanges for the purpose of disclosure. A copy of the said intimation to the stock exchanges by the Transferee Company is annexed with the application and marked as **Exhibit – “L”**.
7. All the Shareholders of the Applicant Company No. 2, have given their consent by way of affidavit to the proposed Scheme of Amalgamation and also consented to waive the holding and convening of the meetings of the shareholders of the Applicant Company concerned. Copies of the list of shareholders of the Applicant Companies along with Chartered Accountant Certificates and original consent affidavits of Shareholders of applicant Company No. 2 are annexed to the Company Application and marked as **Exhibit N and O** respectively.
8. 93.67% of the Unsecured Creditors of Applicant Company No. 2 have given their consent by way of affidavit to the proposed Scheme of Amalgamation and also consented to waive the holding and convening of the meetings of the unsecured creditors of the applicant Company concerned. Copies of the list of Secured & Unsecured Creditors of the Applicant Companies along with Chartered Accountant Certificates and original consent affidavits of Unsecured Creditors of applicant Company No. 2 are annexed to the Company Application and marked as **Exhibit M and P** respectively.
9. In so far as the Equity Shareholders of the Transferee Company are concerned, the proposed Scheme of Amalgamation is an amalgamation between the Transferee Company and its wholly owned subsidiary, wherein the Transferor Company along



with all assets and liabilities will be vested with the Transferee Company, without any consideration. The rights of the Equity Shareholders will not be affected as no fresh shares are purported to be issued or allotted pursuant to the Scheme of Amalgamation and accordingly, there would not be any dilution in their respective shareholdings in the Transferee Company. After the Scheme being sanctioned, no new shares are required to be issued to the members of the Transferor Company by the Transferee Company.

10. In so far as the Secured and unsecured Creditors of the Transferee Company are concerned, the Secured and unsecured Creditors of the Transferee Company are not in any manner affected by the Scheme of Amalgamation nor is there any compromise or arrangement envisaged in the Scheme of Amalgamation with the Secured and unsecured Creditors of the Transferee Company. The Scheme does not contemplate any variation in the rights of the Secured and unsecured Creditors of the Transferee Company in any manner whatsoever. Further, the Transferee Company is meeting the amounts payable to its creditors from the activities of the Transferee Company. Further the Scheme becoming effective, the Transferee Company shall continue with its existence and shall accordingly continue to meet the liabilities of its creditors as they arise in the normal course of business. In view of the above and the fact that there is no compromise or arrangement with the Secured and unsecured Creditors of the Applicant Company No. 1 and most of them are in the nature of creditors arising from activities of the Transferee Company. In view of this it is submitted that meeting of the Secured and unsecured Creditors of the Transferee Company be dispense with.
11. Further Ld. Authorized Representative for the Applicant Companies respectfully submits that submits that, in view of the above, no reconstruction or arrangement is proposed by the Applicant Companies either with its Equity Shareholders or with its Secured/Unsecured Creditors, and thus, it does not require to hold either Equity Shareholders meeting or Secured/Unsecured Creditors meeting for approval of the Scheme, in view of the ratio laid down by the Hon'ble High Court of Judicature at Bombay in the case of *Mahaamba*




*Investments Limited V/s. IDI Limited (2001) 105* Company Cases page 16 to 18 inter alia observed and held that if the Scheme of Amalgamation provides for no issue of equity shares to the members of the Transferor Company, being a wholly owned subsidiary of the Transferee Company and the creditors of the Transferee Company, are not likely to be affected by the Scheme, a separate Petition by the Transferee Company was not necessary. Further, the Hon'ble High Court of Bombay in an unreported judgement of *Bon Limited* dated March 12, 2010 in Company Scheme Petition No. 123 of 2010, reiterated that a separate petition by the Transferee Company would not be necessary, if the Scheme, by way of transfer of undertaking, does not (a) involve the re-organisation of the capital of the Transferee Company; and (b) affect the rights of the members or creditors of the Transferee Company, as between themselves and the Company. The said observations are squarely applicable to the proposed Scheme wherein the Transferor Company is merged into the Transferee Company and the Transferor Company is a wholly owned subsidiary of the Transferee Company. Similar View has also been taken by the Delhi High Court in the case of **Sharat Hardware Industries P. Ltd.**, in re (1978) 48 Com Cas 23, Hon'ble High Court of Madras in the case of **Santhanalakshmi Investments (P) Ltd.**, In re (2005) 129 Company Cases page 789 to 792 and the Hon'ble High Court of Andhra Pradesh in the case of **Nebula Motors Ltd.**, In re 45 SCL 143. In fact, Hon'ble Tribunal of Mumbai Bench has in its order dated 4 September, 2017, in **Company Scheme Application No. 243 of 2017** relating to amalgamation of wholly owned subsidiaries namely, *Windermere Properties Private Ltd, Haddock Properties Private Ltd, Gradeur Properties Private Limited, Winchester Properties Private Limited and Pentagram Properties Private Limited with Housing Development Finance Corporation Limited*, inter alia observed and held that when transferor companies are wholly owned subsidiaries of the transferee company and the financial position of the transferee is highly positive and merger is not affecting the rights of the applicant's shareholders or creditors, allowing transferee company to obtain approval without shareholders' approval is permissible under law and held that transferee company need not hold any meeting either with its creditors or members. Recently, a similar view was



taken by the Hon'ble NCLAT in the case of *Ambuja Cements Limited* Company Appeal (AT) No. 19 of 2021. The Authorized Representative for the Applicant Companies submits that the facts in the present case are similar to the facts of above case, therefore, no meeting of shareholders, secured creditors and unsecured creditors of the Applicant Companies is required to be convened and the same therefore be dispensed with.

12. Heard the Ld. Authorized Representative for the Applicant(s), perused the records, documents annexed to the application and affidavits filed in the instant proceedings and after hearing the submissions made on behalf of the applicants, the following Orders are passed: -

- a) In view of the Consents given in the affidavit form by all the equity shareholders of the Transferor Company, the requirement of convening and holding separate meetings of the shareholders of the Transferee Company and the Transferor Company is dispensed with.
- b) In view of the consents received from Unsecured Creditors in affidavit form by 93.67% of the Applicant Company No. 2 the requirement of convening and holding separate meetings of the Unsecured Creditors of the Transferor Company is dispensed with.
- c) The Transferor Company have NIL Secured Creditors, verified by Chartered Accountant certificate, the requirement of convening and holding separate meetings of the Secured Creditors of the Transferor Company does not arise.
- d) Since the rights of shareholders of the Transferee Company are not affected since there will be no issue of shares pursuant to the Scheme of Amalgamation and there would be absolutely no changes in the Issued, Subscribed and Paid-up equity share capital of the Transferee Company and the rights of the creditors of the Transferee Company are not affected since there will be no reduction in their claims and the assets of the Transferee



Company, post Scheme, will be more than sufficient to discharge their claims and the net worth of the Transferee Company is significantly positive. The Meeting of the Equity Shareholder; Secured Creditors and Unsecured Creditors of the Applicant Company No. 1 is dispensed with.

- e) Notice is to be advertised in the **Financial Express** in English and Bengali translation thereof in **Aaj Kal** in Kolkata Edition as per Rule 7 of The Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
- a) Notice under Section 230(5) of the Companies Act, 2013 along with all accompanying documents including copy of scheme and statement under provisions of the Companies Act, 2013 shall also be served to on the Regional Director (Eastern Region) - Ministry of Corporate Affairs, Kolkata and the Registrar of Companies - West Bengal and the Official Liquidator at Kolkata, Stock Exchange and the concerned Income Tax Authority having jurisdiction over the Applicant Companies indicating the PAN numbers of the respective Applicant Companies by sending the same by registered post or by speed post or by courier or by email or through hand delivery. The notice shall specify that representation, if any, should be filed before this Tribunal within 30 days from the date of receipt of the notice with a copy of such representation being simultaneously sent to the Ld. Authorized Representative of the said Applicant(s). If no such representation is received by the Tribunal within such period, it shall be presumed that such authorities have no representation to make on the said Scheme of Amalgamation. Such notice shall be sent pursuant to Section 230(5) of the Companies Act, 2013 read with Rule 8(2) of the Companies (Compromises, Arrangements and Amalgamations) Rules 2016 in Form No. CAA.3 of the said Rules with necessary variations, incorporating the directions herein.
- b) All the Applicant Companies before the date of hearing of the Confirmation



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petition shall file an affidavit of service of notices on the Authorities specified above by way of an affidavit of compliance.

13. The Company Application being **C.A. (CAA) No. 22/KB/2024** is **disposed of** accordingly.
14. No order as to costs.
15. Urgent certified copies of this Order, if applied for, be supplied to the parties upon compliances of all requisite formalities.

**D. Arvind**  
**Member (Technical)**

**Bidisha Banerjee**  
**Member (Judicial)**

**Order Signed on this 6<sup>th</sup> day of March,2024**

NKS(LRA)