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**IN THE NATIONAL COMPANY LAW  
TRIBUNAL DIVISION BENCH, (COURT NO. – II)  
KOLKATA**

COMPANY PETITION (CAA) NO. 53/ KB /2023  
CONNECTED WITH  
COMPANY APPLICATION (CAA) NO. 168/KB/2022

*A Petition under Section 230(6) read with Section 232(3) 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:**

**A Scheme of Arrangement of (Final Motion)**

**Century Plyboards (India) Limited**, a company incorporated under Companies Act, 1956 and being a Company within the meaning of the Companies Act, 2013, having Corporate Identification Number L20101WB1982PLC034435 and having its registered office at P-15/1, Taratala Road, Kolkata - 700088 in the State of West Bengal.

**...Petitioner No. 1 /Transferor Company**

**And**

**Century Infra Limited**, a company incorporated under the Companies Act, 2013 and being a Company within the meaning of the Companies Act, 2013, having Corporate Identification Number U63030WB2021PLC250586 and having its registered office at P-15/1, Taratala Road, Kolkata - 700088 in the State of West Bengal.

**...Petitioner No. 2/Transferee Company**

**CORRIGENDUM ORDER**

The Instant Application was allowed on 17<sup>th</sup> October 2023 thereby sanctioning a scheme of arrangement of the Petitioner No. 1 Company with the Petitioner No. 2 Company whereunder the Container Freight Station Undertaking of the Transferor Company is to be transferred and vested in the Transferee Company as a going concern on a slump sale basis with effect from the appointed date i.e. 1<sup>st</sup> April 2022. A corrigendum to the order was

issued on 20<sup>th</sup> October, 2023 by this Tribunal to fix certain typographical errors that had inadvertently crept in the order.

Upon mentioning order dated 17<sup>th</sup> October 2023, Ld. Counsel for the Petitioner asked for certain modification due to inadvertent typographical errors. We therefore amend as follows:

1.

<b>Erroneous Contentions of the Order</b>	<b>Amended Contentions</b>
The Transferor Company and the Transferee Company shall each within thirty days of the date of the receipt of this order, cause a certified copy thereof to be delivered to the Registrar of Companies for registration and on such certified copies being so delivered, the Transferor Companies shall be dissolved with effect from the date or last of the dates of filing of the certified copies of the order and the Registrar of Companies shall place all documents relating to the Transferor Companies and registered with him on the file kept by him in relation to the Transferee Company and the files relating to the said companies shall be consolidated accordingly.	<b>The Transferor Company and the Transferee Company shall each within thirty days of the date of the receipt of this order, cause a certified copy thereof to be delivered to the Registrar of Companies for registration.</b>

2. Rest of the order dated 17<sup>th</sup> October 2023 will remain unchanged.

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

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

Singed on this the 31<sup>st</sup> Day of January, 2024

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, (COURT NO. – II)  
KOLKATA**

COMPANY PETITION (CAA) NO. 53/ KB /2023  
Connected With  
COMPANY APPLICATION (CAA) NO. 168/KB/2022

*A Petition under Section 230-232 of the Companies Act, 2013.*

**IN THE MATTER OF:**

**Century Plyboards (India) Limited,**  
CIN: L20101WB1982PLC034435.

**...Petitioner No. 1 /Transferor Company  
And**

**Century Infra Limited,**  
CIN: U63030WB2021PLC250586.

**...Petitioner No. 2/Transferee Company**

**CORAM:**

**SMT. BIDISHA BANERJEE, MEMBER (JUDICIAL)**

**SHRI ARVIND DEVANATHAN, MEMBER (TECHNICAL)**

**CORRIGENDUM**

1. This Order has been pronounced on **October 17, 2023**.
2. In this Order, we have found some typographical errors and hence this Corrigendum to the Order dated **October 17, 2023** is hereby issued, as under:

<b>S N</b>	<b>Para</b>	<b>Erroneous contention, as recorded in the said order</b>	<b>Instead of, it may be read as</b>
<b>1.</b>	<b>8(b)</b>	<i>all the property, rights and powers of the Transferor Company including those described in the Schedule of Assets herein, be transferred from the said Appointed Date, without further act or deed, to the Transferee Company and, accordingly, the same shall pursuant to Section 232(4) of the Companies Act, 2013, be transferred to and vest in the Transferee Company for all the estate and interest of the Transferor Companies therein but subject nevertheless to all charges now affecting the</i>	<b>all the property, rights and powers of the Transferor Company relating to the Container Freight Station Service Undertaking</b> including those described in the Schedule of Assets herein, be transferred from the said Appointed Date, without further act or deed, to the Transferee Company and, accordingly, the same shall pursuant to Section 232(4) of the Companies Act, 2013, be transferred to and vest in the Transferee Company for all the estate and interest of the Transferor Company <b>relating to the Container Freight Station Service Undertaking</b> therein but subject nevertheless to all charges now

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, (COURT NO. – II)  
KOLKATA**

COMPANY PETITION (CAA) NO. 53/ KB /2023  
Connected With  
COMPANY APPLICATION (CAA) NO. 168/KB/2022

		<i>same, as provided in the Scheme;</i>	affecting the same, as provided in the Scheme;
<b>2.</b>	<b>8(c)</b>	<i>all the debts, guarantees, liabilities, duties and obligations of the Transferor Company be transferred from the said Appointed Date, without further act or deed to the Transferee Company and, accordingly, the same shall pursuant to Section 232(4) of the Companies Act, 2013, be transferred to and become the debts, liabilities, duties and obligations of the Transferee Company;</i>	all the debts, guarantees, liabilities, duties and obligations of the Transferor Company <b>relating to the Container Freight Station Service Undertaking</b> be transferred from the said Appointed Date, without further act or deed to the Transferee Company and, accordingly, the same shall pursuant to Section 232(4) of the Companies Act, 2013, be transferred to and become the debts, liabilities, duties and obligations of the Transferee Company;
<b>3.</b>	<b>8(d)</b>	<i>All the workmen and employees of the Transferor Company shall be engaged by the Transferee Company, as provided in the Scheme. All the obligations/ liabilities of the Transferor Companies with regard to their workmen and employees shall be the responsibilities of the Transferee Company;</i>	All the workmen and employees of the Transferor Company <b>relating to the Container Freight Station Service Undertaking</b> shall be engaged by the Transferee Company, as provided in the Scheme. All the obligations/ liabilities of the Transferor <b>Company</b> with regard to <b>such</b> workmen and employees shall be the responsibilities of the Transferee Company;
<b>4.</b>	<b>8(e)</b>	<i>all proceedings and/or suits and/or appeals now pending by or against the Transferor Company be continued by or against the Transferee Company, as provided in the Scheme; and the sanctioning of the scheme by this tribunal shall not come in the way of any proceedings pending/ contemplated against any of the petitioner companies, for which the relevant records shall be preserved by the Transferee company who is any way responsible for</i>	all proceedings and/or suits and/or appeals now pending by or against the Transferor Company <b>relating to the Container Freight Station Service Undertaking</b> be continued by or against the Transferee Company, as provided in the Scheme; and the sanctioning of the scheme by this tribunal shall not come in the way of any proceedings pending/ contemplated <b>relating to the Container Freight Station Service Undertaking</b> of the <b>Transferor Company</b> , for which the relevant records shall be preserved by the Transferee company who is any way

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, (COURT NO. – II)  
KOLKATA**

COMPANY PETITION (CAA) NO. 53/ KB /2023  
Connected With  
COMPANY APPLICATION (CAA) NO. 168/KB/2022

		<i>attending to any such proceedings on behalf of the constituent companies.</i>	responsible for attending to any such proceedings on behalf of the constituent companies.
5.	8(f)	<i>In case of any default including any Provisions of Income Tax Act in this respect of the Transferor Company the Income Tax department, the Registrar of Companies, West Bengal, and all other Statutory Department shall be at liberty to initiate appropriate proceedings against the Transferee Company, which after the sanction of the scheme by this Tribunal is in any case responsible for the liabilities/non-compliance of the Transferor Companies also. The transferee company shall preserve all the records of the transferor companies as per the requirement of the Companies act 2013, in this regard.</i>	In case of any default including any Provisions of Income Tax Act in this respect of <b>the Container Freight Station Service Undertaking</b> of the Transferor Company the Income Tax department, the Registrar of Companies, West Bengal, and all other Statutory Department shall be at liberty to initiate appropriate proceedings against the Transferee Company, which after the sanction of the scheme by this Tribunal is in any case responsible for the liabilities/non-compliance <b>relating to the Container Freight Station Service Undertaking of the Transferor Company</b> also. The transferee company shall preserve all the records <b>relating to the Container Freight Station Service Undertaking of the Transferor Company</b> as per the requirement of the Companies act 2013, in this regard.
6.	8(g)	<i>With effect from the Appointed Date and up to and including the Effective Date, all legal, arbitration, and tax assessment proceedings/appeals of whatsoever nature by or against the Transferor Companies pending and/or arising on or after the Appointed Date shall be continued and/or enforced by or against the Transferee Company. Any compounding/penalties/liabilities/taxes required to be done on behalf of the Transferor</i>	With effect from the Appointed Date and up to and including the Effective Date, all legal, arbitration, and tax assessment proceedings/appeals of whatsoever nature <b>relating to the Container Freight Station Service Undertaking</b> by or against the Transferor <b>Company</b> pending and/or arising on or after the Appointed Date shall be continued and/or enforced by or against the Transferee Company. Any compounding/penalties/liabilities/taxes <b>relating to the Container Freight Station Service Undertaking</b> required to be done on behalf of the Transferor Company for any violation

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, (COURT NO. – II)  
KOLKATA**

COMPANY PETITION (CAA) NO. 53/ KB /2023  
Connected With  
COMPANY APPLICATION (CAA) NO. 168/KB/2022

		<i>Companies for any violation of the Companies' Act shall be the responsibility of the Transferee Company. The Transferee Company shall also preserve the necessary records in respect of any such pending proceedings, at least till the culmination of such proceedings.</i>	of the Companies Act shall be the responsibility of the Transferee Company. The Transferee Company shall also preserve the necessary records in respect of any such pending proceedings, at least till the culmination of such proceedings.
7.	<b>8(h)</b>	<i>The Transferee Company do without further application issue and allot to the shareholders of the Transferor Companies, the shares in the Transferee Company to which they are entitled in terms of the Scheme;</i>	The Transferee Company do without further application issue and allot to the <b>Transferor Company</b> , the shares in the Transferee Company to which they are entitled in terms of the Scheme;
8.	<b>8(i)</b>	<i>Leave is granted to the Petitioners to file the Schedule of assets and liabilities of the Transferor Companies in the form as prescribed in the Schedule to Form No. CAA7 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 within three weeks from the date of receiving a copy of this order;</i>	Leave is granted to the Petitioners to file the Schedule of assets of the <b>Transferor Company</b> in the form as prescribed in the Schedule to Form No. CAA7 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 within three weeks from the date of receiving a copy of this order;

3. Rest of the order shall remain unchanged. This corrigendum order to be read along with the original Order dated **October 17, 2023**.

**Arvind Devanathan**  
**Member (Technical)**

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

**This Corrigendum is signed on 20<sup>th</sup> Day of October, 2023**

Bose, R. K. [LRA]



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, (COURT NO. – II)  
KOLKATA**

**COMPANY PETITION (CAA) NO. 53/ KB /2023  
CONNECTED WITH  
COMPANY APPLICATION (CAA) NO. 168/KB/2022**

*A Petition under Section 230(6) read with Section 232(3) 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:**

**A Scheme of Arrangement of (Final Motion)**

**Century Plyboards (India) Limited**, a company incorporated under Companies Act, 1956 and being a Company within the meaning of the Companies Act, 2013, having Corporate Identification Number L20101WB1982PLC034435 and having its registered office at P-15/1, Taratala Road, Kolkata - 700088 in the State of West Bengal.

**...Petitioner No. 1 /Transferor Company**

**And**

**Century Infra Limited**, a company incorporated under the Companies Act, 2013 and being a Company within the meaning of the Companies Act, 2013, having Corporate Identification Number U63030WB2021PLC250586 and having its registered office at P-15/1, Taratala Road, Kolkata - 700088 in the State of West Bengal.

**...Petitioner No. 2/Transferee Company**

**IN THE MATTER OF:**

1. Century Plyboards (India) Limited
2. Century Infra Limited

**... Petitioners**

**Date of Hearing: 27<sup>th</sup> September, 2023.  
Date of Pronouncement: 17<sup>th</sup> October, 2023.**

**CORAM:**

**SMT. BIDISHA BANERJEE, MEMBER (JUDICIAL)  
SHRI ARVIND DEVANATHAN, MEMBER (TECHNICAL)**

**Appearance:**

1. Sri Joy Saha, Ld. Sr. Advocate
2. Sri. Vikram Wadehra, Ld. Advocate
3. Sri. Mayukh Roy, Ld. Advocate

**.... For the Petitioners**



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, (COURT NO. – II)  
KOLKATA**

Company Petition (CAA) No. 53/ KB /2023  
Connected with  
Company Application (CAA) No. 168/KB/2022

**ORDER**

**Per: Arvind Devanathan, Member (Technical)**


1. This Court congregated through hybrid mode.
2. The instant petition has been filed under Section 230(6) read with Section 232(3) of the Companies Act, 2013 for sanction of the Scheme of Arrangement of Century Plyboards (India) Limited, the Petitioner No. 1 [hereinafter referred to as the "Transferor Company"], with Century Infra Limited, the Petitioner No. 2 [hereinafter referred to as the "Transferee Company"] whereby and whereunder the Container Freight Station Undertaking of the Transferor Company is to be transferred and vested in the Transferee Company as a going concern on a Slump Sale basis with effect from the Appointed Date i.e. 1<sup>st</sup> April 2022, in the manner and on terms and conditions stated in the said Scheme of Arrangement ("**Scheme**").

The Copy of the said Scheme of Arrangement is annexed to the Company Petition being – **Annexure –A, at Page No. 40-92.**

3. The Board of Directors of the Petitioner Companies at their Board Meetings, held on 20<sup>th</sup> July 2022 approved and resolved to carry out the said Scheme of Arrangement. The copies of the resolution passed by the Petitioner Companies are annexed with the Company Petition being- **Annexure- D, at Page No. 105 - 118.**
4. By an order dated 10<sup>th</sup> February 2023 in Company Application (CAA) No. 168/KB/2022, this Tribunal made the following directions with regard to meetings of shareholders and creditors under Section 230(1) read with Section 232(1) of the Act:-
  - i. Meeting of the shareholders of the Transferee Company, are hereby dispensed with, in view of the consents by way of affidavit given by all the shareholders of the Transferee Company.
  - ii. In view of the fact that there are NIL secured creditors and NIL unsecured creditors of the Transferee Company, the question of holding meeting of the secured or unsecured creditors of the Transferee Company does not arise.

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, (COURT NO. – II)  
KOLKATA**

Company Petition (CAA) No. 53/ KB /2023  
Connected with  
Company Application (CAA) No. 168/KB/2022

- 
- iii. Meeting of the Secured Creditors of the Transferor Company is dispensed with in view of the fact that 99.82% of the secured creditor(s) in value of the Transferor Company have given their written consent by way of affidavit for dispensation of the meeting.
  - iv. Meeting of the Equity Shareholders of the Transferor Company was directed to be held on 20<sup>th</sup> March 2023, for the purpose of considering and if thought fit, approving with or without modification(s), the scheme of the Applicants.
  - v. Meeting of the Unsecured Creditors of the Transferor Company was directed to be held on 20<sup>th</sup> March 2023, for the purpose of considering and if thought fit, approving with or without modification(s), the scheme of the Applicants.
5. In pursuance of the aforesaid order dated 10<sup>th</sup> February 2023, Mr. Avishek Guha was appointed as the Chairperson of the meetings as directed by this Hon'ble Tribunal and that the said meeting of the Equity Shareholders of the Transferor Company was duly held on 20<sup>th</sup> March 2023 at 10:00 A.M. and the meeting of the Unsecured Creditors of the Transferor Company was held on 20<sup>th</sup> March 2023 at 03:00 P.M. The Ld. Counsel submits that the said meeting of the Equity Shareholders of the Transferor Company was attended through video conferencing by 82 Equity Shareholders of the Transferor Company holding 15,85,99,377 (Fifteen Crores Eighty Five Lakhs Ninety Nine Thousand Three Hundred and Seventy Seven) Equity shares and following were the voting results:
- i. 285 Equity Shareholders (through remote e-voting as well as e-voting at the meeting) of the Transferor Company representing 20,01,31,416 Equity Shares voted in favour of the said resolution
  - ii. 8 Equity Shareholder representing 35 Equity Shares voted against the said resolution.
  - iii. Other than above, votes cast by 4 Equity Shareholders representing 1,01,648 Equity Shares were considered as invalid due to non-receipt of authorisation

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, (COURT NO. – II)  
KOLKATA**

Company Petition (CAA) No. 53/ KB /2023  
Connected with  
Company Application (CAA) No. 168/KB/2022

under section 113 of the Companies Act, 2013. All invalid votes were cast in favor of the resolution.

- iv. Therefore, 99.99998% of the Equity Shareholders voted in favour of approving the Scheme of Arrangement.

Further, the meeting of the Unsecured Creditors of the Transferor company was attended (through video conferencing) by 43 Unsecured Creditors of the Transferor Company, aggregating to outstanding amount of INR 16,13,49,733 (Sixteen Crores Thirteen Lakhs Forty-Nine Thousand Seven Hundred and Thirty Three) and following were the voting results:

- i. 50 Unsecured Creditors (through remote e-voting as well as e-voting at the meeting) representing outstanding amount of INR 17,78,52,469 Unsecured Creditors voted in favour of the said resolution.
  - ii. No Unsecured Creditors voted against the said resolution.
  - iii. Other than above, votes cast by 10 Unsecured Creditors representing 1,23,38,932 value of votes were considered as invalid due to non-receipt of authorisation under section 113 of the Companies Act. All the invalid votes were cast in the favour of the resolution.
- v. Therefore, 100% of the Unsecured Creditors voted in favour of approving the Scheme of Arrangement.

Thus, the said meetings of the Equity Shareholders and Unsecured Creditors of the Transferor Company duly approved the Scheme by the requisite majority.

The Chairperson's Report affirmed on 28th March 2023 proving compliance, as aforesaid, has already been filed by the Petitioner Companies before this Learned Tribunal and forms part of the Petition at **Annexure 'T'** at page nos. **416 to 455**.

6. Consequently, the Ld. Senior Counsel for the Petitioner Companies has presented the instant petition for sanction of the Scheme. By an order dated 14<sup>th</sup> June, 2023, the Petition was admitted by this Tribunal and fixed for hearing on 20<sup>th</sup> July 2023 upon issuance of notices to the Statutory/Sectoral Authorities and advertisement of

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, (COURT NO. – II)  
KOLKATA**

Company Petition (CAA) No. 53/ KB /2023  
Connected with  
Company Application (CAA) No. 168/KB/2022

the date of hearing. In compliance with the said order dated 14<sup>th</sup> June 2023, the Petitioner has duly served such notices on the (i) the Central Government, through Regional Director, Eastern region, Ministry of Corporate Affairs, Kolkata; (ii) Registrar of Companies, Kolkata, West Bengal; (iii) BSE Limited; (iv) National Stock Exchange of India Limited; (v) Securities and Exchange Board of India; (vi) Official Liquidator having jurisdiction over the Petitioner Company; (vii) Income Tax Assessing Officer and the Chief Commissioner of Income Tax having jurisdiction over the respective applicant companies on 16<sup>th</sup> June 2023. The Petitioner Company has also published such advertisements once each in the 'Business standard' in English and 'Aajkaal' in Bengali in their respective issues dated 19<sup>th</sup> June, 2023. Affidavits of compliance in this regard have also been filed by them 5<sup>th</sup> July 2023.

7. The Central Government, through Regional Director, Eastern Region, Ministry of Corporate Affairs, Kolkata ("RD") filed their representation dated 19<sup>th</sup> July 2023 before this Tribunal. The observations of the RD have been dealt with by the Petitioners by their Rejoinder affidavit dated 20<sup>th</sup> July 2023 (hereinafter referred as "Rejoinder"). The responses of the Petitioners to the observations made by the RD are as under:

**Paragraph 2(a) of the RD Affidavit:**

*That it is submitted that as per available record, it appears that no complaint and/or representation has been received against the proposed Scheme of Amalgamation. Further, all the petitioner companies are updated in filing their Financial Statements and Annual Returns for the financial year 31/03/2022.*

**Paragraph 2(b) of the RD Affidavit**

*It is submitted that Transferor Company, Century Plyboards (India) Limited is listed on the National Stock Exchange of India limited (NSE) and BSE Limited (BSE). The NSE vide its letter dated 10/10/2022 and the BSE vide its letter dated 10/10/2022 issued their 'No Objection'/No Adverse Observation' to the Transferor Company. Further, in the said letters, it is also stated that the validity of those 'Observation Letter' shall be six months from October 10, 2022, within which the*

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, (COURT NO. – II)  
KOLKATA**

Company Petition (CAA) No. 53/ KB /2023  
Connected with  
Company Application (CAA) No. 168/KB/2022

*Scheme shall be submitted to NCLT. Copies of those letters collectively marked as Annexure-1 is enclosed herewith for perusal and ready reference.*

**Response of the RD observation: -**

With regard to statements in Paragraph 2 (a) and (b) of the said affidavit, we humbly say that the statements contained therein, are affirmations and submissions by the respondent to this Hon'ble Tribunal and do not require any reply on the same.

**Paragraph 2(c) of the RD Affidavit**

*The Petitioner Companies should be directed to provide list/ details of Assets, if any, to be transferred from the Transferor Companies to the Transferee Company upon sanctioning of the proposed Scheme.*

**Response of the RD observation: -**

With regard to para 2(c) of the said affidavit, we humbly submit that the list / details of assets of the Transferor Company to be transferred to Transferee Company upon sanctioning of the proposed scheme shall be submitted before the Hon'ble NCLT within the period of 30 days of the receipt of the certified copy of the final order or such as directed by the Hon'ble NCLT, Kolkata.

**Paragraph 2(d) of the RD Affidavit**

*That the Petitioner company should undertake to comply with the provisions of section 232(3)(i) of the Companies Act, 2013 through appropriate affirmation.*

**Response of the RD observation: -**

With regard to the para 2(d) of the said affidavit we humbly submit that the Applicants shall comply with the provisions of section 232(3)(i) of the Companies Act, 2013, as applicable. Further, we humbly submit that the additional fees, if any payable for the increase in authorized share capital of the Transferee Company shall be duly paid by Transferee Company upon the Scheme becoming effective.

**Paragraph 2(e) of the RD Affidavit**

*That the Transferee Company should be directed to pay applicable stamp duty on the transfer of the immovable properties from the Transferor Companies to the Transferee Company.*

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, (COURT NO. – II)  
KOLKATA**

Company Petition (CAA) No. 53/ KB /2023  
Connected with  
Company Application (CAA) No. 168/KB/2022

**Response of the RD observation: -**

With regard to para 2(e) of the said affidavit, in relation to the observations made by the Learned Regional Director in relation to the payment of stamp duty on the transfer of immovable properties from the Transferor Company to the Transferee Company, we humbly submit that the Stamp duty, if any, payable on the transfer of immovable property pursuant to the Scheme shall be duly paid by Transferee Company upon the Scheme becoming effective.

**Paragraph 2(f) of the RD Affidavit**

*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.*

**Response of the RD observation: -**

With further reference to para 2(f) of the said affidavit, we confirm that the Scheme as enclosed with the Company Application and the Scheme as enclosed with the Company Petition are one and same and that there is no discrepancy or changes in the Scheme enclosed with the Company Application vis-à-vis the scheme enclosed with the Company Petition.

**Paragraph 2(g) of the RD Affidavit**

*It is submitted that as per instructions of the Ministry of Corporate Affairs, New Delhi, a copy of the scheme was forwarded to the Income Tax Department on 02/03/2023 for their views/observation in the matter. However, no such views/observation in the matter from the Income Tax Department has been received yet. Hon'ble Tribunal may peruse the same and issue order as deemed fit and proper.*

**Response of the RD observation: -**

With regard to statements in Paragraph 2 (g) of the said affidavit, we humbly say that the statements contained therein, are submissions by the respondent to this Hon'ble Tribunal and do not require any reply on the same.

8. Heard submissions made by the Ld. Senior Counsel appearing for the Petitioners. However, the RD (ER) has not appeared during the hearing, but we have recorded his Reported Affidavit filed before the Registry. Upon perusing the records, RD Report and

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, (COURT NO. – II)  
KOLKATA**

Company Petition (CAA) No. 53/ KB /2023  
Connected with  
Company Application (CAA) No. 168/KB/2022

documents in the instant proceedings and considering the submissions, we allow the petition and make the following orders: -

- (a) The Scheme of Arrangement being **Annexure "A"** herein, be and is hereby sanctioned by this Tribunal to be binding with effect from **1st April, 2022**, being the Appointed Date of the Scheme of Arrangement on **Century Plyboards (India) Limited and Century Infra Limited** and their respective shareholders and creditors, as the case may be, and all others concerned;
- (b) all the property, rights and powers of the Transferor Company including those described in the Schedule of Assets herein, be transferred from the said Appointed Date, without further act or deed, to the Transferee Company and, accordingly, the same shall pursuant to Section 232(4) of the Companies Act, 2013, be transferred to and vest in the Transferee Company for all the estate and interest of the Transferor Companies therein but subject nevertheless to all charges now affecting the same, as provided in the Scheme;
- (c) all the debts, guarantees, liabilities, duties and obligations of the Transferor Company be transferred from the said Appointed Date, without further act or deed to the Transferee Company and, accordingly, the same shall pursuant to Section 232(4) of the Companies Act, 2013, be transferred to and become the debts, liabilities, duties and obligations of the Transferee Company;
- (d) All the workmen and employees of the Transferor Company shall be engaged by the Transferee Company, as provided in the Scheme. All the obligations/ liabilities of the Transferor Companies with regard to their workmen and employees shall be the responsibilities of the Transferee Company;
- (e) all proceedings and/or suits and/or appeals now pending by or against the Transferor Company be continued by or against the Transferee Company, as provided in the Scheme; and the sanctioning of the scheme by this tribunal shall not come in the way

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, (COURT NO. – II)  
KOLKATA**

Company Petition (CAA) No. 53/ KB /2023  
Connected with  
Company Application (CAA) No. 168/KB/2022

of any proceedings pending/ contemplated against any of the petitioner companies, for which the relevant records shall be preserved by the Transferee company who is in any way responsible for attending to any such proceedings on behalf of the constituent companies.

- (f) In case of any default including any Provisions of Income Tax Act in this respect of the Transferor Company the Income Tax department, the Registrar of Companies, West Bengal, and all other Statutory Department shall be at liberty to initiate appropriate proceedings against the Transferee Company, which after the sanction of the scheme by this Tribunal is in any case responsible for the liabilities/non-compliance of the Transferor Companies also. The transferee company shall preserve all the records of the transferor companies as per the requirement of the Companies act 2013, in this regard.
- (g) With effect from the Appointed Date and up to and including the Effective Date, all legal, arbitration, and tax assessment proceedings/appeals of whatsoever nature by or against the Transferor Companies pending and/or arising on or after the Appointed Date shall be continued and/or enforced by or against the Transferee Company. Any compounding/penalties/liabilities/taxes required to be done on behalf of the Transferor Companies for any violation of the Companies' Act shall be the responsibility of the Transferee Company. The Transferee Company shall also preserve the necessary records in respect of any such pending proceedings, at least till the culmination of such proceedings.
- (h) The Transferee Company do without further application issue and allot to the shareholders of the Transferor Companies, the shares in the Transferee Company to which they are entitled in terms of the Scheme;
- (i) Leave is granted to the Petitioners to file the Schedule of assets and liabilities of the Transferor Companies in the form as prescribed in the Schedule to Form No. CAA7



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, (COURT NO. – II)  
KOLKATA**

Company Petition (CAA) No. 53/ KB /2023  
Connected with  
Company Application (CAA) No. 168/KB/2022

of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 within three weeks from the date of receiving a copy of this order;

- (j) That any person/authority interested/aggrieved shall be at liberty to apply to this Tribunal in the above matter for any directions that may be necessary.
- (k) The Transferor Company and the Transferee Company shall each within thirty days of the date of the receipt of this order, cause a certified copy thereof to be delivered to the Registrar of Companies for registration and on such certified copies being so delivered, the Transferor Companies shall be dissolved with effect from the date or last of the dates of filing of the certified copies of the order and the Registrar of Companies shall place all documents relating to the Transferor Companies and registered with him on the file kept by him in relation to the Transferee Company and the files relating to the said companies shall be consolidated accordingly.
9. Further, it is evident that the Official Liquidator, Kolkata has not filed its Report, however, the Petitioners have served notice upon the OL Office and also made paper publications in compliance of the Order dated June 14, 2023. Thus, any affair of the Petitioner Companies appears in a manner prejudicial to the interest of its members or to the public interest as per the Companies Act, 2013, the appropriate authority shall have the liberty to proceed against the Transferee Company and this Scheme shall not come in the way of the proceedings or any other proceedings. In this context, we would rely upon the judgment passed by **the Hon'ble Apex Court** in the case of *Religare Finvest Limited v. State of NCT of Delhi, Criminal Appeal No(s). 2242 OF 2023* reported in MANU/SC/1004/2023 that:

**“32. Every scheme of amalgamation is statutory and sanctioned under the Banking Act. Such amalgamation is to ensure that the interests of the depositors, the creditors and others who had invested, or given credit to in the erstwhile bank, before its sickness, and that the general public are**

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*protected. It aims at securing larger public interest and health of the banking industry. Late intervention into the affairs of a bank can result in a "run" on it, resulting in serious loss of confidence in the intricately woven banking and financial system. If one sees this and the overall objective of the scheme, it is to ensure recovery of what are the bank's dues and ensuring protection of the creditors. Clause 3 (3) of the scheme, therefore, has to be considered from this backdrop. In this context, the express mention of directors and such other individuals in the proviso means that it is to that extent only that prosecutions or other criminal proceedings can continue; in the ordinary sense, criminal liability can neither be attributed to DBS nor its directors, brought in after the amalgamation, whose appointments were approved by the RBI."*

**(Emphasis Added)**

10. The Petitioners shall supply a legible print out of the scheme and schedule of assets and liabilities in an acceptable form to the department and the department will append such printout, upon verification to the certified copy of the order.
11. The Company Petition being **Company Petition (CAA) No. 53/KB/2023** connected with **Company Application 168/KB/2022** is disposed of accordingly.
12. Certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

**Arvind Devanathan**  
**Member (Technical)**

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

**This Order is signed on the 17th Day of October, 2023**

Bose, R. K. [LRA]