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08/09/25

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IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
DIVISION BENCH
COURT - 1

ITEM No.301

C.P.(CAA)/57(AHM)2024 In C.A.(CAA)/33(AHM)2024

Under Section 230-232 of Companies Act, 2013

IN THE MATTER OF:

Sunrise Silichem Industries Pvt. Ltd
Comfia Industries Pvt. Ltd
Sunrise Glass Industries Pvt. Ltd

.....Applicant

Order delivered on: 04/09/2025

Coram:

Mr. Shammi Khan, Hon'ble Member(J)
Mr. Sanjeev Sharma, Hon'ble Member(T)

ORDER
(Hybrid Mode)

The case is fixed for pronouncement of order. The order is pronounced in the open court, vide separate sheet.



-Sd- [Signature]

SANJEEV SHARMA
MEMBER (TECHNICAL)

-Sd- [Signature]

SHAMMI KHAN
MEMBER (JUDICIAL)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT-I, AHMEDABAD**

CP(CAA)/57(AHM)2024

in

CA(CAA)/33(AHM)2024

[Company Petition under Sections 230 to 232 of the Companies Act, 2013 and other applicable provisions of the Companies Act, 2013 and Companies (Compromise, Arrangement and Amalgamation) Rules, 2016]

**In the matter of Composite Scheme of Arrangement in the
nature of Amalgamation**

**Sunrise Silichem Industries Pvt.
Ltd.**

(CIN: U26999GJ2016PTC091638)

A company incorporated under the Companies Act, 2013, having its registered office at Block No. 39 & 40, Near Rama Paper Mill Coloney, Barbodhan-Tena Road, Olpad, Surat-395005, Gujarat

..... Petitioner Company
No.1/

Transferor Company No.1

And

Comfia Industries Pvt. Ltd.

(CIN: U26999GJ2016PTC091719)

A company incorporated under the Companies Act, 2013, having its registered office at Block No. 67, 68, 87 & 88, Barbodhan- Tena Road, Village Tena, Taluka Olpad, Surat-395003, in the state of Gujarat

..... Petitioner Company
No.2/

Transferor Company No.2

With

Sunrise Glass Industries Pvt. Ltd.
(CIN: U26100GJ2009PTC057678)

A company incorporated under the Companies Act, 2013, having its registered office at 'Block No. 41 & 46, Near Rama News Print Ltd Colony, Barbodan- Tena Road, Vill- Tena, Taluka Olpad, Surat 395005 in the state of Gujarat

..... Petitioner Company
No.3/
Transferee Company

Order Pronounced On:04.09.2025

CORAM:

MR. SHAMMI KHAN, HON'BLE MEMBER (JUDICIAL)

MR. SANJEEV SHARMA, HON'BLE MEMBER (TECHNICAL)

APPEARANCE:-

For the Petitioner Companies	: Ms. Dharmishta Raval, Advocate
For the Regional Director	: Mr. Shiv Pal Singh, Deputy Director
For the Income Tax Department	: Ms. Kinjal Vyas. Proxy. Advocate
For the Official Liquidator	: Mr. Sandip Tupe, Technical Assistant
For GAIL	: Mr. Akshat Khare, Advocate
For ONGC	: Mr. Saumitra Chaturvedi, Advocate



ORDER
Per Bench

1. The present joint Company Petition has been filed by three Companies viz., Sunrise Silichem Industries Private

Limited (Petitioner Company No.1/Transferor Company No.1), Comfia Industries Private Limited (Petitioner Company No.2/Transferor Company No.2) and Sunrise Glass Industries Private Limited (Petitioner Company No.3/Transferee Company) under Sections 230 and 232 of the Companies Act 2013 read with Companies (Compromise, Arrangement and Amalgamations) Rules, 2016, seeking approval of the proposed Composite Scheme of Arrangement in the nature of Amalgamation (Scheme) with effect from **01.04.2024**, being the Appointed Date as mentioned in the Scheme. The said Scheme is annexed as "**Annexure-I**" to the Company Petition (Pages 359 to 386 of the Petition).

2. Affidavit dated 26.10.2024, in support of the present Company Petition, was sworn by Upesh Hasmukhbhai Thakkar, Director/Authorized Signatory of the Petitioner Companies. The authorized representative being duly authorized vide Board Resolutions dated 03.05.2024 (**Annexure-H Colly**) of the Petitioner Companies.

3. The proposed Scheme, *inter alia*, provides for Amalgamation of Transferor Companies i.e. Sunrise Silichem Industries Private Limited and Comfia Industries Private Limited with Transferee Company i.e. Sunrise Glass Industries Private Limited, with effect from the Appointed Date 01.04.2024, in accordance with



Sections 230 to 232 and other applicable provisions of the Companies Act, 2013.

4. Sunrise Silichem Industries Private Limited

- 4.1** It is Private Limited company incorporated on 22.04.2016 under the provisions of Companies Act, 2013, upon conversion of M/s. Sunrise Silichem Industries, a partnership firm (formerly known as R. P. Woods Products) into 'Sunrise Silichem Industries Private Limited'. The CIN is: U26999GJ2016PTC091638. Its registered office was shifted from 251, Shrinagar Society, Gokulnagar, Himatnagar, Sabarkantha, Gujarat 383001 to Block No. 40, Behind Sunrise Glass Private Limited, Village-Tena, Taluka-Olpad, Tena, Surat, Gujarat 394540 vide certificate dated 23.04.2016. Thereafter, the Registered office of the Company has been shifted from Block No.40, Behind Sunrise Glass Private Limited, Village Tena, Taluka - Olpad, Tena, Surat, Gujarat 394540 to Block No. 39 & 40, Near Rama Paper Mill Coloney, Barbodhan-Tena Road, Olpad, Surat 395005, vide certificate dated 25.03.2019. The registered office of the Company is situated at Block No. 39 & 40, Near Rama Paper Mill Coloney, Barbodhan- Tena Road, Olpad, Surat-395005. It is engaged in the business of manufacturing of glass container (bottles) used for liquor, food, beverages, cosmetics, & perfumery. The Company has one manufacturing facility at Olpad, Surat. The authorized, issued, subscribed and paid-up share capital



as on 31.03.2024 of Transferor Company No.1, was as under:-

Particulars	Amount in Rs.
Authorised Capital	
2,00,00,000 equity shares of Rs.10 each	20,00,00,000
Total	20,00,00,000
Issued, Subscribed and Paid-up Share Capital	
1,47,27,550 equity shares of Rs.10 each fully paid up	14,72,75,500
Total	14,72,75,500

There is no change in the authorized, issues, subscribed and paid up share capital of Transferor Company No.1, after the aforesaid date.

- 4.2** Sunrise Silichem Industries Private Limited / Transferor Company No.1 had a revenue from operations of Rs. 14177.09 lakhs and profit before tax of Rs. 1667.01 lakhs during the financial year 2023-2024. The reserve and surplus of the Company as on 31.03.2024 was of Rs.4573.09 lakhs.

5. Comfia Industries Private Limited

- 5.1** It is Private Limited company incorporated on 28.04.2016 under the provisions of Companies Act, 2013 upon conversion of M/s. Comfia Industries, a partnership firm into a Comfia Industries Private Limited. The CIN is U26999GJ2016PTC091719. The registered office of the Company was shifted from 251, Shrinagar Society, Gokulnagar, Himatnagar, Sabarkantha, Gujarat 383001

to Property No. 1/12/133/42/2/A, Opp. Bhimnath Flat, Nr. Sarvoday Bank, Mehsana Gujarat 384002 vide certificate dated 29.04.2016. Thereafter, the registered office of the Company was shifted from Property No. 1/12/133/42/2/A, Opp. Bhimnath Flat, Nr. Sarvoday Bank, Mehsana - Gujarat 384002 to Block No. 67, 68, 87 & 88, Barbodhan- Tena Road, Village Tena, Taluka Olpad, Surat 395003 vide certificate dated 22.01.2022. The registered office of the Company is situated at Block No. 67, 68, 87 & 88, Barbodhan- Tena Road, Village Tena, Taluka Olpad, Surat -395003. The Company is engaged in manufacturing of Sodium Silicate Glass/Liquid and glass bottles. The authorized, issued, subscribed and paid-up share capital as on 31.03.2024 of Transferor Company No.2, was as under:-


Particulars	Amount in Rs.
Authorised Capital	
30,00,000 equity shares of Rs.10 each	3,00,00,000
Total	3,00,00,000
Issued, Subscribed and Paid-up Share Capital	
19,98,750 equity shares of Rs.10 each fully paid up	1,99,87,500
Total	1,99,87,500

There is no change in the authorized, issued, subscribed and paid-up share capital of Transferor Company No.2, after the aforesaid date.

5.2 Comfia Industries Private Limited/ Transferor Company No.2 had a revenue from operations of Rs.21116.40 lakhs and profit before tax of Rs. 441.24 lakhs during the financial year 2023-2024. The reserve and surplus of the Company as on 31.03.2024 was of Rs. 2916.70 lakhs.

6. Sunrise Glass Industries Private Limited/ Transferee Company

6.1 It is a Private Limited company incorporated on 31.07.2009 under Companies Act, 1956. The CIN is U26100GJ2009PTC057678. The registered office of the Company was shifted from 310, Shupath, Near Bus Stand, Vadaj, Ahmedabad 380009, Gujarat to Block No. 41 & 46, Near Rama News Print Ltd Colony, Barbodan-Tena Road, Vill-Tena, Taluka Olpad, Surat -395005 vide certificate dated 05.06.2010. The registered office of the Company is situated at Block No. 41 & 46, Near Rama News Print Ltd Colony, Barbodan-Tena Road, Vill-Tena, Taluka-Olpad, Surat 395005. The Company is engaged in the business of manufacturing of glass containers (bottles) used for liquor, pharmaceuticals, foods & beverages. The Company has one manufacturing facility at Surat. The authorized, issued, subscribed and paid-up share capital as on 31.03.2024 of Transferee Company was as under:-



Particulars	Amount in Rs.
Authorised Capital	
2,40,00,000 equity shares of Rs.10 each	24,00,00,000
Total	24,00,00,000
Issued, Subscribed and Paid-up Share	

Capital	
2,39,60,000 equity shares of Rs.10 each fully paid up	23,96,00,000
Total	23,96,00,000

There is no change in the authorized, issued, subscribed and paid-up share capital of Transferee Company, after the aforesaid date.

6.2 Sunrise Glass Industries Private Limited / Transferee Company had a revenue from operations of Rs. 20643.75 lakhs and profit before tax of Rs. 40117.06 lakhs during the financial year 2023-2024. The reserve and surplus of the Company as on 31.03.2024 was of Rs. 7468.17 lakhs.

7. The Petitioner Companies had filed a joint Company Application before this Tribunal, being CA(CAA)/33(AHM)2024. The said company application was allowed by this Tribunal, vide order dated 30.08.2024. By the said order, this Tribunal directed to convene and hold meetings of equity shareholders, secured creditors and unsecured creditors of Transferor Company No.1, secured creditors and unsecured creditors of Transferor Company No.2, equity shareholders, secured creditors and unsecured creditors of Transferee Company, for the purpose of considering and, if thought fit, approving the Scheme of Amalgamation with or without modification (s). Further, dispensed with the meeting of equity shareholders of



Transferor Company No.2. There were no preference shareholders in the applicant companies. This Tribunal had appointed Mr. V. Nallasenapathy, Ex-Member, NCLT, as the Chairman of aforesaid meetings as well as appointed Mr. Rajeev Chawla, Advocate as Scrutinizer of aforesaid meetings and gave further directions to comply with various stipulations contained in the order including filing of the Chairman's Report. Further, directed for issuance of notice to Central Government through the Regional Director, to the Registrar of Companies, Gujarat, the Official Liquidator (for Transferor Companies) and to the concerned Income Tax Department and copy to the Principal Chief Commissioner of Income Tax Office as well as other Sectorial Regulators who may have significant bearing on the operation of the applicant companies.



8.

In compliance to the aforesaid order dated 30.08.2024, the authorised signatory of the applicant companies has filed an affidavit dated 07.10.2024 on 08.10.2024, vide inward diary no. D7650, regarding proof of service of notice to the equity shareholders of the Transferor Company No.1 and Transferee Company as well as secured creditors and unsecured creditors of the Transferor Companies and the Transferee Company as well as proof of paper publication. The petitioner companies also filed affidavit dated 07.10.2024 on 08.10.2024, vide inward diary no. D7650 along with

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proof of service of notice to Central Government through the Regional Director, Registrar of Companies, Ahmedabad, Income Tax Authorities and the Official Liquidator.

9. The Chairman of the aforesaid meetings has filed his report in affidavit dated 15.10.2024 on 21.10.2024, vide inward dairy no. D7996 (Pages 487 to 542 of the Petition). On perusal of the reports of the Chairman, the equity shareholders, secured creditors and unsecured creditors who attended the meetings unanimously approved the proposed Scheme.

10. **RATIONALE OF THE SCHEME**

A copy of the Scheme is available as **Annexure-I** (Pages 359 to 386) of the Company Petition. The Scheme provides for amalgamation of Transferor Companies / Sunrise Silichem Industries Private Limited and Comfia Industries Private Limited with Transferee Company i.e. Sunrise Glass Industries Ltd. The appointed date is 01.04.2024.

The petitioner companies have provided the following rationale for the Scheme:-

- i) Simplification of group structure by eliminating multiple companies engaged in manufacturing of same products, thus enabling greater management focus, control and governance Compliance by streamlining of operations and asset utilization.

- ii) Greater efficiency in cash management of the amalgamated entity, and unfettered access to cash flow generated by the combined business which can be deployed more efficiently to fund organic and inorganic growth opportunities, to maximize shareholder value.
- iii) Cost savings are expected to flow from more focused operational efforts, rationalization, standardization and simplification of business processes, productivity improvements, improved procurement, usage of common resource pool like human resource, administration, finance, accounts, legal, technology and other related functions, leading to elimination of duplication and rationalization of administrative expenses.
- iv) Healthier and larger balance sheet of amalgamated entity is expected to improve the credit profile, thereby enhancing the competitive positioning.
- v) The Scheme will help amalgamated entity in sharpening its competitiveness and developing its core competencies, in the long term, through cost savings and benefit of economies of scale. It would result in greater integration, greater financial strength and flexibility of the amalgamated entity which will improve the competitive position of the combined entity.
- vi) The amalgamated entity will be in a better position to bargain with the suppliers as it will be able to



place large order for raw materials, consumables etc. The amalgamated entity will be able to accept and execute large orders from its major customers.

- vii) The amalgamated entity will have large manufacturing capacity and as such it will have better synergy of operations and thereby it will achieve more capacity utilization. It would result in cost efficiency and thereby increase its profitability.
- viii) The market share of the amalgamated entity will increase. It would result in better brand positioning in the competitive environment.
- ix) The implementation of strategy of marketing, operations, production, logistics and finance would be cost effective and smooth in the amalgamated entity.
- x) The amalgamated entity will have proper logistics planning. It would result in reducing of inventory of raw materials and finished goods and thereby saving on interest cost and reducing risk of fluctuating price of raw materials and finished goods.

11. After complying with all the directions given in the order dated 30.08.2024 passed in CA(CAA)/33(AHM)2024 by this Tribunal, the Second Motion Petition was filed by the Petitioner Companies on 29.10.2024, vide Inward Diary No. E2886, seeking sanction of the proposed Scheme.



41°

12. This Tribunal vide order dated 28.11.2024, passed in CP(CAA)/57(AHM)2024, directed the Petitioner Companies to issue notice to the Statutory/Regulatory Authorities viz. (i) the Central Government through the office of the Regional Director, (North Western Region), Ministry of Corporate Affairs (MCA) (ii) the Registrar of Companies, Gujarat, (MCA) (iii) the Official Liquidator and (iv) the jurisdictional Income-Tax office having jurisdiction over the companies indicating specifically their Permanent Account No. (PAN) in the communication as well as other sectorial Regulators, if any, who may govern the working of the respective Companies involved in the Scheme. This Tribunal had also directed the Petitioner Companies for paper publication to be made in "Indian Express" in English and Vernacular Language in "Sandesh" both in Surat edition.

13. In compliance of order dated 28.11.2024, Petitioner Companies filed affidavit of service and publication dated 17.01.2025, vide inward dairy No. D332, on 20.01.2025 in respect of service of notice upon the statutory/regulatory authorities along with proof of service as well as proof of publication of notice of hearing of the petition in "Indian Express" in English and in "Sandesh" in Vernacular language both in Surat edition on 07.01.2025.

14. Pursuant to the service of notice upon the statutory/regulatory authorities, following authorities have responded:-

**STATUTORY/REGULATORY AUTHORITIES
OBSERVATION & RESPONSE THEREOF**

In response to the notice served upon the Regional Director (RD), a representation/report was filed by the RD, North-Western Region, on 24.11.2024, vide Inward Diary No.R587, along with report of the Registrar of Companies (RoC) dated 19.11.2024. They have made some observations in their reports. The petitioner companies filed an affidavit in reply dated 21.01.2025, vide Inward Diary No.D405, on 22.01.2025 in response to the representation/reports of RD and RoC.

RD's Observation

- i) Para-6(i), as per the Scheme, the authorized share capital of the petitioner Transferor Companies amounting to Rs.23,00,00,000/- will be added to the authorized share capital of the petitioner transferee company and the consolidated authorized share capital of the transferee company post-merger will be Rs.47,00,00,000/-. In compliance with the provisions of Section 232 (3) (i) of the Companies Act, 2013 the petitioner transferee company is under statutory obligation to pay the difference amount of fees, if any which is payable on the enhanced Authorized Capital

of Rs.47,00,00,000/- and the fees which have already been paid by all the petitioner companies at the time of registration / increase in authorized capital.

Response of the petitioner companies: The petitioner companies undertake to make the payment on enhanced authorize capital in accordance with law, if required in further.

- ii) Para-6(ii), to direct the petitioner companies to file an affidavit to the extent that the Scheme enclosed to the company application and company petition is one and same and there is no discrepancy or change is made.

Response of the petitioner companies:

It is submitted that the Scheme enclosed with the company application and company petition is one and the same.


- iii) Para-6(iii), to direct the petitioner companies to file an affidavit to the extent that no CIRP proceedings under IBC and/or winding up petition against applicant companies are pending.

Response of the petitioner companies: It is submitted that there are no CIRP, IBC and/or winding up proceedings pending against any of the applicant companies.

iv) Para-6(iv), as per report of RoC office, annual accounts for FY ended on 31.03.2024 have not filed by applicant companies on MCA portal which was already due for filing, further annual report for FY ended on 31.03.2024 will be due on 31.12.2024 for filing by applicant companies. The Tribunal may therefore be pleased to direct applicant companies to file the same on MCA portal and place on record the filing proof in the matter.

Response of the petitioner companies: It is submitted that the petitioner companies have already filed the annual report along with Challan thereof (in Form AOC-4 and MGT-7) for financial year 31.03.2024 which is enclosed and marked as Annexure-C to the reply in affidavit

The RD in the representation further submitted that this Tribunal may be pleased to direct the Petitioner Companies:

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- (i) To direct the petitioner companies to preserve its books of accounts, papers and records and shall not be disposed of without prior permission of Central Government as per the provisions of Section 239 of the Companies Act, 2013.
 - vi) To ensure statutory compliance of all applicable laws and on sanctioning of the present scheme, the

petitioner companies shall not be absolved from any of its statutory liabilities, in any manner.

- vii) Necessary Stamp Duty on transfer of property/assets, if any, is to be paid to the respective authorities before implementation of the Scheme.
- vii) The petitioner companies to comply with the provisions of Section 232(5) of the Act with respect to filing certified copy of the order sanctioning the scheme with Registrar of Companies within 30 days from the date of passing order.
- viii) The petitioner companies shall undertake to comply with the Income Tax/GST law and any demand/taxes payable on implementation of the said scheme as per law.

Response of the petitioner companies: The petitioner companies undertake to preserve its books of accounts, papers and records, which shall not be disposed of without prior permission of Central Government as per the provision of Section 239 of the Companies Act, 2013 and the petitioner companies undertake to ensure statutory compliance of all applicant laws. The petitioner companies further undertake that on sanctioning of the Scheme, it shall not be absolved from any of its statutory liabilities, if any manner. The petitioner companies undertake to make the necessary payment of stamp




41

duty, income/GST laws and legal fees as may be payable under law.

RoC's Observation and reply of the petitioner companies:-

- i)) Para-14(3), as per para-7(iv) of the order dated 30.08.2024 passed in CA(CAA)/33(AHM)2024 by this Tribunal in respect of Transferor Company No.1 regarding Secured Creditors, wherein it has mentioned that there are three secured creditors having value of debt of Rs.25,91,71,365/- as on 29.02.2024. However, on perusal of Index of Charge available under the MCA's website, there are 05 open charge IDs in favour of 02 secured creditors. The details of open charge IDs/Charger Holders are as under:-



Sr. No.	SRN	Charge ID	Charge Holder Name	Date of Creation	Date of Modification	Amount in Rs.
1	T74862731	100528870	Federal Bank Ltd.	04.01.2022	-	1,76,00,000
2	R72606973	100388975	Federal Bank Ltd.	27.10.2020	-	3,50,00,000
3	F01431352	100074045	Federal Bank Ltd.	30.12.2016	27.04.2022	31,26,00,000
4	G32153777	100069348	The Federal Bank Ltd.	09.12.2016	-	26,00,00,000
5	AA1119305	100065308	HDFC Bank Ltd.	29.11.2016	27.10.2022	42,79,90,678
					Total	1,05,31,90,678

In view of the above, this Tribunal may kindly issue suitable directions to the Transferor Company No.1 to place on record all the relevant facts regarding due compliance of the provisions of Section 77 of the Companies Act, 2013 read with Rules made thereunder.

Response of the petitioner companies: It is submitted that in respect of Transferor Company No.1 the Secured Creditors as per the certificate received from Statutory Auditor on 19.09.2024 for the period ended 31.08.2024 the Secured Creditors are 3 (Three) and One Secured Creditor Punjab National Bank ("PNB") outstanding for Rs.6,09,063/- was for hire purchase of motor car and the said Bank had not insisted for filling of Charge with ROC, hence the charge register shows only 2 (Two) Secured Creditors. Then after the Transferee Company No.1 has paid the above said loan on 06.09.2024 and NOC has been issued by the said Bank has been Annexed as Annexure-A. It is further submitted that in respect of Transferor Company No. 1 regarding Secured Creditors as per the Statutory Auditor Certificate dated 19.09.2024 there are only 2 (Two) Secured Creditors having outstanding value of Rs.9,49,05,584/- as on 31.08.2024 which is enclosed as Annexure-B.

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- i) Para-14(4), the applicant companies have to undertake to comply with Section 232(3)(i) of the Companies Act and the amalgamated company must be paid the differential fees, if any, after setting off the fee already paid by amalgamating company on its authorized capital.

Response of the petitioner companies: The petitioner companies undertake to comply with the provision of Section 232(5) of the Companies Act, 2013 with respect to filing of certified copy of order sanctioning the Scheme with the Registrar of Companies within 30 days from the date of passing order.

- ii) Para-14(5), to direct the Transferor Companies and Transferee Company to file the Annual Return and Balance Sheet for the financial year 2023-24 before the implementation of the Scheme, if allowed by this Tribunal.

Response of the petitioner companies: It is submitted that the petitioner companies have already filed Annual Return and Balance Sheet for the financial year 2023-24 with RoC. Copy of Challan of Form AOC-4 and Form MGT-7, are attached to the reply as Annexure-C.

- iii) Para-14(6), to direct the applicant companies to preserve its books of accounts, papers and records and shall not be disposed of without prior permission of Central Government as per the provision of Section 239 of the Companies Act, 2013.

Response of the petitioner companies: The petitioner companies undertake to preserve the its

books of accounts, papers and records and they shall not be disposed of without prior permission of Central Government as per the provision of Section 239 of the Companies Act, 2013.

- iv) Para-14(7), as per Section 240 of the Companies Act, 2013, the liability in respect of offences committed under the Companies Act by the Officers in default, of the Transferor Company prior to Merger, Amalgamation or Acquisition shall continue after such Merger, Amalgamation or Acquisition.
- v) Para-14(8), to direct the petitioner companies to ensure Statutory compliance of all applicable laws and also on sanctioning of the present Scheme, the Transferor Companies shall not be absolved from any of its Statutory liabilities, in any manner.
- Response of the petitioner companies to para-14(7)& (8): The petitioner companies undertake to ensure Statutory compliance of all applicable laws. Further, the petitioner companies undertake that on sanctioning of the Scheme, it shall not be absolved from any of its statutory liabilities, in any manner.
- vi) Para-14(9), necessary stamp duty on transfer of property/Assets, if any, is to be paid to the respective Authorities before implementation of the Scheme.



21⁰

Response of the petitioner companies: The petitioner companies undertake to pay the stamp duty on transfer of property/assets.

- vii) Para-19(10), to direct the petitioner companies involved in the scheme to comply with the provisions of Section 232(5) of the Companies Act, 2013 with respect to file certified copy of order sanctioning the scheme with Registrar of Companies within 30 days from the date of passing order.


Response of the petitioner companies: It is submitted that the petitioner companies will file the certified copy of the order within 30 days from the date of passing of the order.

15. The Official Liquidator

In response to the notice served upon the Official Liquidator (RD), separate representation/reports both dated 03.01.2025 was filed by the OL on 07.01.2025 vide Inward Diary No.R4, in respect of the Transferor Companies. The petitioner companies filed an affidavit in response dated 17.01.2025 on 22.01.2025, vide Inward Diary No. D404, in response to the representation of the OL.

OL's Observation

- i) The Transferor Companies have filed its Audited Annual Accounts (Balance Sheet) with the Registrar of Companies up to 31.03.2023. The Transferor Companies have not accepted any Deposits u/s 73 of the Companies Act, 2013 and maintaining of cost record is not applicable to the company. It is further stated that the Transferor Companies are not required to register with RBI as a NBFC and assessments have been completed up to A.Y. 2022-23. The Income Tax Assessment of the Transferor Companies has been completed up to A.Y. 2017-18.
- ii) To direct the Transferor Companies to preserve its books of accounts, papers and records and shall not be disposed of without prior permission of Central Government as per the provisions of Section 239 of the Companies Act, 2013.



Response of the petitioner companies: The petitioner companies undertake to preserve its books of accounts, papers and records and the same shall not be disposed off without the prior permission of Central Government as per the provisions of Section 239 of the Companies Act, 2013.

- iii) To direct the Transferor Companies to ensure Statutory compliance of all applicable laws and on sanctioning of the present Scheme, the Transferor Companies shall not be absolved from any of its Statutory liabilities, in any manner.

Response of the petitioner companies: The petitioner companies undertake to ensure statutory compliances of all applicable laws. Further, the petitioner companies undertake that on sanctioning of the Scheme, it shall not be absolved from any of its statutory liabilities, in any manner.

- iv) The Transferor Companies may be dissolved without following the process of winding-up in terms of sub-section 3(d) of Section 232 of the Companies Act, 2013. Further, the Transferor Companies being dissolved the fee, if any, paid by the Transferor Companies on its Authorized Share Capital shall be set-off against any fees payable by the Transferee Company on its Authorized Capital subsequent to the amalgamation in terms of sub section 3(i) of Section 232 of the Companies Act, 2013.

Response of the petitioner companies: The petitioner companies undertake to abide and comply by the terms of sub section 3(i) of Section 232 of the Companies Act, 2013 to the extent applicable.

- v) To direct the petitioner companies to lodge a certified copy of the order along with the scheme, with the concerned Superintendent of Stamps for the purpose of adjudication of stamp duty payable, if any.

Response of the petitioner companies: The petitioner companies undertake to lodge a certified copy of the



order along with the Scheme, with the concerned Superintendent of Stamps for the purposes of adjudication of stamp duty payable, if any.

- vi) The direct the companies involved in the scheme to comply with the provision of Section 232(5) of the Companies Act, 2013 with respect to filing of certified copy of order sanctioning the scheme with Registrar of Companies within 30 days from the date of passing order.

Response of the petitioner companies: The petitioner companies undertake to comply with the provisions of Section 232(5) of the Companies Act, 2013 with respect to filing of certified copy of the order sanctioning the Scheme with the Registrar of Companies within 30 days from the date of passing of the order by this Tribunal.



16. Income Tax Department

In response to the notice served upon the Income Tax Department, it filed a report dated 03.03.2025, 05.03.2025 and 28.02.2025, vide Inward Diary Nos. R110 and R117, respectively. As per the reports submitted, an outstanding demand of Rs.1,08,462/- is pending against M/s. Sunrise Silichem Industries Ltd. (Transferor Company No.1). There is no outstanding demand against M/s. Comfia Industries Ltd. (Transferor Company No. 2). However, an appeal proceeding

pertaining to the Assessment Year 2017-18 is currently pending before the Learned Commissioner of Income Tax (Appeals), which remains unresolved. The Income Tax Department has stated that on account of the fact that Income Tax dues are pending and are payable by the Transferor Company and the Transferee Company and there is an objection to the Scheme.

Petitioner Companies' response to the Report of Income Tax Department

The Petitioner Companies filed affidavit dated 09.04.2025, along with annexures, on 16.04.2025, vide Inward Diary No. D2483, in response to the reports of Income Tax Department. In the said Affidavit, it is stated as follows:-

- a) The Petitioner Transferor Company No.1 has paid the outstanding dues and proof of payment has been annexed and the Income Tax Officer has also stated that only Rs. 54/- payable outstanding.
- b) With reference to Transferor Company No. 2 it is stated that an Appeal against the dues demanded by the Income Tax Department has been filed and is pending and that the Income Tax Department already adjusted the entire amount of Rs. 70,36,290/- against the refund due and payable and hence even otherwise no dues are payable by the Transferor Company.
- c) With reference to the Transferee Company, it is stated that a rectification application has been filed



50

and the rectification application is pending before the appropriate authority. In view of the matter the Petitioner Companies have given undertaking that the cases pending against the Petitioner Transferor Companies will continue and will not abate and they have also given an undertaking to make the payment of Income Tax dues in accordance with law.

17. During the hearing on 17.04.2025, Ld. Counsel for the applicant companies has drawn the attention of this Tribunal to the observations of the Income Tax Department dealt in para-6 of the response affidavit, which is reproduced hereinunder:-

“with reference to the observation contained in clause 3.6.3 of the Income Tax Report, the petitioner companies submit that there is no tax matters pending vis a vis the Transferee Company. However, the petitioner companies undertake that on the Scheme becoming effective, any suit, cause of actions, appeal or other legal, quasi-judicial, arbitral or other administrative proceedings of whatever nature (“Proceedings”) by or against any of the Transferor Companies pending and/or arising before the Effective Date shall not abate or be discontinued or be in any way prejudicially affected by reason of the transfer of the undertaking of the Transferor Companies. The Transferee Company undertakes to have, all respective legal or other proceedings initiated


by or against the Transferor Companies, transferred into its name and to have the same continued, prosecuted and enforced by or against the Transferee Company, as the case may be, to the exclusion of the Transferor Companies; and the Petitioner Companies undertake to make the payment of Income Tax in accordance with law”

18. This matter was listed for clarification on 24.04.2025 as the applicant companies have not produced on record proof of service of notice upon Oil and Natural Gas Corporation Ltd. (ONGC) and GAIL (India) Ltd. (GAIL). In compliance of the order dated 24.04.2025, clarification affidavit dated 30.04.2025, filed on the same day, vide inward no. D2878 wherein it is submitted that;

- (i) the petitioner companies are procuring Gas and have executed separate Gas supply agreements with ONGC and Transferor Company No.2 has entered into a contract with GAIL.
- (ii) ONGC is an unsecured creditor of Transferor Company No.1 and the Transferee Company
- (iii) GAIL is an unsecured creditor of Transferor Company No.2
- (iv) In pursuance to the Order passed by the Hon'ble Tribunal on 30.08.2024, whereby this Tribunal has directed the Petitioner Companies to convene the meeting inter-alia of Unsecured Creditors notices including corrigendum were issued to the

Unsecured Creditors including ONGC as well as GAIL India Limited.

- (vi) It is submitted that the Hon'ble Tribunal may kindly take into consideration the fact that ONGC and GAIL India Limited are not the sectorial regulators but are Companies listed on the Stock Exchange. However, they are supplies of Gas to the Petitioner Companies who are manufacturing glass bottles such as Flint wine bottles, food jars, sauce bottles, milk bottles, bottles for pharmaceuticals and water bottles which can be used by various manufactures for packing perfume, etc.



In view of the above, at the request of Ld. Counsel for the applicant companies, this Tribunal, vide order dated 24.04.2025, directed the applicant companies to issue notice to ONGC and GAIL. In compliance with the order dated 24.04.2025, the applicant companies filed affidavit of service dated 23.06.2025 on 26.06.2025, vide inward no. D4183.

19. In response to the notice issued by this Tribunal to GAIL (India) Ltd. (GAIL), it has filed an affidavit affirmed on 23.06.2025, on 25.06.2025, vide inward no. D4193, placing on record the agreements entered into between GAIL and Petitioner Transferor Company No.2 for supply of LNG by GAIL and their objections to the scheme of

Amalgamation. GAIL has also filed a rebuttal affidavit affirmed on 06.08.2025 reiterating their objection to the Scheme.

19.1 GAIL in its reply submitted as follows:-

(A) Transferor Company No.2 M/s. Comfia Industries Pvt. Ltd. had entered into LNG Supply Agreement dated 31.08.2021 (LSA-1), LNG Supply Agreement dated 03.11.2021 (LSA-2) and LNG Supply Agreement dated 03.11.2021 (LSA-3) with GAIL for the sale of LNG by GAIL to Transferor Company No.2.

I. It is further submitted that Transferor Company No.2 failed to off take annual contracted quantity of gas under both LSA-1 and LSA-2 since contract year 2023. Therefore, GAIL was constrained to raise a demand under take or pay liability as per details below:-

(i) By claim letter dated 08.07.2024 demanding an amount of Rs. 2,33,91,772/- for contract year 2023 under LSA-1.

(ii) By claim letter dated 08.07.2024 demanding an amount of Rs.7,46,43,131/- for contract year 2023 under LSA-2.

(iii) By claim letter dated 26.02.2025 demanding Rs.2,44,36,844/- for contract year 2024 under LSA-2

Thus, the total demand raised works out to Rs.12,24,71,747/- (excluding applicable interest



under the contracts) under both LSA-1 and LSA-2 against the Transferor Company No.2

(B) It is further submitted the following in its reply:-

(i) There is an outstanding due of Rs.12,24,71,747/- (excluding applicable interest under the contracts) under both LSA-1 & LSA-2. Unless and until the demand dues of GAIL are not repaid in full by Transferor Company No.2, the present scheme of amalgamation may not be approved by this Hon'ble NCLT. This Tribunal may be pleased to direct the Transferor Company No.2 to clear entire dues immediately before seeking approval of the proposed scheme of amalgamation.

(ii) The details of all the contracts executed between GAIL and Transferor Company No.2 are not specifically mentioned in the proposed scheme thereby casts a shadow of doubt about bonafides of Transferor Company No.2. Notwithstanding the above, as per available records, presently there are only two contracts (LSA-2 and LSA-3) executed between GAIL and Transferor Company No.2.

(iii) There is an ongoing litigation between M/s. Gujarat Gas Ltd. and GAIL involving Transferor Company No.2 before the Hon'ble Petroleum and Natural Gas Regulatory Board (PNGRB) with



respect to supply of LNG to the factory of Transferor Company No.2. The matter is sub-judice and the next date of hearing is fixed on 23.09.2025. The litigation is not brought to the notice of this Tribunal which indicates that Transferor Company No.2 has not approached this Tribunal with clean hands.

- (C) In view of the above, it is submitted that Transferor Company No.2 is required to pay its entire dues prior to the approval of scheme of amalgamation, amend the Scheme of amalgamation by specifically incorporating the contracts of GAIL and also mention about the ongoing litigation involving Transferor Company No.2

19.1 The petitioner Companies have filed rejoinder affirmed on 16.07.2025 and sur-rejoinder affirmed on 13.08.2025 to the affidavits of GAIL having diary nos. D4812, on 17.07.2025, and D5548, on dealing with the objection of GAIL



19.2 In the Rejoinder of the petitioner companies, it is submitted that GAIL has raised objection to the scheme primarily on the following three grounds:-

- (i) That an amount of Rs.12,24,71,747/- is due and payable to GAIL by the Petitioner Transferor

Company No.2 on account of "Take or Pay obligation" arising out of an Agreement for supply of LNG entered into between the Petitioner Transferor Company No. 2 and GAIL. As per GAIL, the claim letters dated 08.07.2024 and 26.02.2025 have been sent to Petitioner Transferor Company No.2 raising a total demand of Rs. 12,24,71,747/-. Hence, as long as the outstanding dues of GAIL are not paid the Scheme of Amalgamation may not be proved by the Hon'ble NCLT.

- (ii) As there is no specific mention of the said dues by the Petitioner Transferor Company No. 2 there is a shadow of doubt about the bonafies of Petitioner Transferor Company No. 2.
- (iii) There is ongoing litigation between the M/s. Gujarat Gas Limited and GAIL and has disclosures regarding the same is not made by the Petitioner Transferor Company - 2 and hence the Scheme may not be approved

19.3 It is submitted that the GAIL in its affidavit stated that they will be initiating recovery proceedings against the Petitioner Transferor Company No.2 including but not limited to arbitration and other legal remedies.

19.4 It is submitted by the petitioner companies that the Petitioner Transferor Company No. 2 has acknowledged GAIL as an Unsecured Creditor. The Petitioner

Transferor Company No. 2 had convened the meeting of the Unsecured Creditors for approving the Scheme of Amalgamation on 14.10.2024 at 12.30 via video conferencing. Notices of the said meeting were sent by E-mail on 12.09.2024 (mm04651@gail.co.in) and also sent reminder by a separate Email dated 09.10.2024 to GAIL's officer on her E-mail ID (sanakhan@gail.co.in). It is submitted that information regarding the convening the meeting of the Unsecured Creditors was also personally conveyed by the Officers of the Petitioner Transferor Company No.2 to GAIL. Hence, GAIL has been personally informed, digitally informed and also has been informed by agency appointed by Transferor Company No. 2 for sending E-mail i.e. Central Depository Services Limited on 12.09.2024 regarding the convening of the meeting of the Unsecured Creditors. The proof of service to GAIL is annexed as **Annexure-R/1**. However, GAIL did not remain present in the meeting of the Unsecured Creditors. The Scheme of Amalgamation has been approved by the requisite majority of the persons present and voting.



19.5 It is submitted that as notices were sent to the Petitioner Transferor Company No.2 regarding the meeting of the Unsecured Creditors of the Petitioner Transferor Company No.2 it is proof of the fact that in the books of the Petitioner Transferor Company No. 2, GAIL is shown as an Unsecured Creditor. Hence, the submission of the

GAIL that the Petitioner Transferor Company No. 2 has not recorded any liability with respect to the demand of GAIL is denied.

19.6 It is submitted that the Petitioner Transferor Company No. 2 has placed on record the audited balance sheet of the year 2022-23 and 2023-24 and unaudited provisional balance sheet up to 31.08.2024. The claim letters have been written by GAIL and have been received by the Petitioner Transferor Company No. 2 after the Balance sheet date i.e. 31.03.2024 were produced by the Petitioner Transferor Company No. 2 before this Hon'ble Tribunal. It is further submitted that the balance sheet of the Petitioner Transferor Company No. 2 for the F.Y. 2023-24 was prepared and signed in accordance with applicable Accounting Standards and the Company will disclose the GAIL's claim as liability in the financials reports and balance sheet of the Petitioner Transferor Company No. 2 for the financial year 2024-25.

19.7 With reference to the objection of the GAIL that as long as entire dues of GAIL are not paid, the Scheme should not be approved it is submitted that the Petitioner Transferee Company undertakes to make the payment of the Petitioner Transferor Company No.2, which are due and payable on the sanctioning of the Scheme.

19.8 The petitioner companies reproduced clause-4, 4.9,

4.10, 4.11, 4.12, 6 and 6.2 of the proposed Scheme.

19.9 It is submitted that the above clauses are proof of the fact that the Transferee Company has undertaken to take over the liabilities of the Petitioner Transferor Companies. Therefore, even if the Scheme is sanctioned, the liability of the Petitioner Transferor Companies will be taken over by the Transferee Company who will not be adversely prejudiced.

19.20 It is further submitted that the liabilities which arise on account of litigation between M/s. Gujarat Gas Limited and GAIL involving the Petitioner Transferor Company No. 2 on Scheme of Amalgamation being sanctioned become the liabilities of the Petitioner Transferee Company. Hence, the fact that there is ongoing litigation between M/s. Gujarat Gas Limited and GAIL will not have any adverse effect on the rights of GAIL.



19.21 GAIL in its rebuttal affidavit submitted as under:-

- (i) As per LNG Supply Agreement dated 31.08.2021 and LNG Supply Agreement dated 03.11.2021, the address for GAIL is its registered address in New Delhi and the signatory is Zonal /Chief General Manager / General Manager and there is no email address specified in agreements for official communications. Hence, sending alleged email cannot said to be sufficient communication

of meetings which would have resulted into assignment of LNG supply contract.

(ii) The alleged email dated 12.09.2024 was sent by Central Depository Services India Ltd. and not by Transferor Company No.2 and thus there was no reason for GAIL to respond it. The copy of alleged email dated 12.09.2024 has not been placed on record by Transferor Company No.2 and thus GAIL cannot verify the contents of such email.

(iii) Further, the alleged email dated 09.10.2024 was issued to Ms. Sana Khan, Chief Manager (Marketing) of GAIL who was dealing with execution of contract. The contents of the said email only speak about convening a meeting of unsecured creditors and it does not specify the intimation of scheme of amalgamation resulting in assignment of executed contract. So, there was no reason for any officer to either reply to the said email or to attend such meeting.

(iv) The applicant had produced on record the Audited Report of FY 2023-24 of Transferor Company No.2 and unaudited balance sheet for FY 2024-25. But the audited balance sheet placed on record does not reflect the dues of GAIL.

(v) It is further submitted that the Transferor

Company No.2 had stated in its rejoinder that Transferee Company had undertaken over all liabilities of Transferor Company No.2 by relying clause nos. 4,1.9,4.9, 4.10, 4.11, 4.12, 6.1 and 6.2 of the Scheme. In reply, it is submitted as follows:-

(a) Clause no.1.9 defines Undertaking which would include liabilities and obligation as on the appointed date whether provided or not provided in the books of account. But, despite having received demand from GAIL, the Transferor Company No.2 had not acknowledged GAIL's demand in audited account for FY 23-24 and unaudited report for FY 24-25 thereby meaning "on an appointed date", the transferee company might dispute such demands on premise of no recording of demand in balance sheet of Transferor Company No.2. Therefore, dues of GAIL would not form part of the undertaking which is proposed to be transferred in the amalgamation scheme.

(b) The clause nos. 4,4.9,4.10,4,11 and 4.12 are related to transfer of liabilities, but it is dependent on recording of such liabilities on appointed date. This again relates to not recording of GAIL's dues in books of account



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of Transferor Company No.2

- (c) The clause 6.1 and 6.2 are related to transfer of legal proceedings. But as on date, GAIL is yet to initiate legal proceedings against Transferor Company No.2 and after amalgamation, the Transferee Company would rely said clause to state that as on appointed date no litigation was pending then GAIL cannot initiate fresh legal proceedings Transferee Company.

In view of the above, it is prayed that the objections filed by GAIL may be considered and the scheme of amalgamation may be rejected with direction to Transferor Company No. 2 to clear the dues of GAIL forthwith



19.22

The petitioner companies in their Sur-Rejoinder wherein it is submitted as under:-

- (i) GAIL India Ltd. has not denied the submission of petitioner companies that GAIL is neither a statutory authority nor a sectorial generator. Hence, the submission of the petitioner companies that GAIL is neither a sectorial regulator nor a statutory authority is confirmed.

- (ii) GAIL has stated that they have not received sufficient communication of meeting of the

unsecured creditors of Transferor Company No.2. The petitioner companies submitted that prior to sending notice of the meeting of the Unsecured Creditors, one Mr. Bhavesh Sapariya (the employee of the Transferor Company No.2) had telephonic conversation with the Chief Manager Gas Marketing of Gujarat Zonal Office of GAIL regarding the email id on which the notice of convening the meeting of the Unsecured Creditors should be forwarded by the Petitioner Transferor Company No. 2. The telephonic conversation took place and the email id on which the notice of the meeting was to be sent was given as MM04651@GAIL.CO.IN.

- (iii) The CDSL intermediary who has certificate of registration from Securities and Exchange Board of India was appointed as an agency to send all the notices for the meetings of all the three Petitioner Companies. Accordingly, CDSL sent an email to GAIL at the email id given by the officer of GAIL i.e. MM04651@GAIL.CO.IN sending information and notice regarding meeting and e-voting along with the explanatory statement. The Petitioner Company has received confirmation from CDSL that the email was delivered to GAIL India Limited. Copy of the delivery report given by CDSL to the Petitioner Transferor Company No.2, is annexed as Annexure-R/1.

(iv) Information regarding the meetings including meeting of the Unsecured Creditors of the Petitioner Transferor Company No. 2 was also published in the newspaper (one Gujarati and one English) between 13th to 16th of September, 2024. Hence, the public was made aware regarding notice of meeting of the Unsecured Creditors among others of the Petitioner Transferor Company No. 2

(v) A letter dated 08.10.2024 was sent to Mr. Anant Khobragade and a reminder email dated 09.10.2024 regarding the convening of the meeting was also additionally sent by the Petitioner Transferor Company No 2 to Ms. Sana Khan and marked cc to Mr. Anant Khobragade (Chief Zonal Officer), who has affirmed rebuttal Affidavit filed on behalf of the GAIL. Copies of the reminder email sent on 09.10.2024 to GAIL including Mr. Anant Khobragade, are annexed as Annexure:R/2 (colly.). The said email was accompanied by attachments which contained notice regarding the meeting of the Unsecured Creditors. In spite of the fact that the email was delivered to Mr. Anant Khobragade, he has now filed an Affidavit in rebuttal submitting that the alleged email cannot be said to be sufficient communication of meeting.

(vi) However, GAIL remained absent in the meeting. Hence, it is now not open for GAIL to raise any

objection. The resolution for approving the Scheme has been passed by majority of the Unsecured Creditors, who were present and voting at the meeting and it is now not open for any unsecured creditor to raise any objection. It is submitted that since GAIL is neither sectoral regulator nor a statutory authority but is only Unsecured Creditor, having not attended the meeting, at the stage of final hearing of the Petition GAIL cannot raise any objections specifically since no objections have been raised by GAIL in the Unsecured Creditors meeting.

(vii) It is further submitted that GAIL India Limited has also made submissions regarding the outstanding dues of GAIL India Limited not being acknowledged and reflected in the balance sheet of the Petitioner Transferor Company No.2. With reference to the same, the Petitioner Transferor Company No. 2 has made the following submissions:-

- a) It is submitted that the Petitioner Transferor Company No. 2 has received provisional invoices on 08.07.2024 regarding the take or pay deficiency quantity. Two invoices were received by the Petitioner Transferor Company No. 2 on 08.07.2024. One additional without prejudice invoice was received on 26.02.2025 by the Petitioner Transferor Company No. 2. Copies of the invoices/letters dated



08.07.2024 and 26.02.2025 are annexed as Annexure-R/3 (Colly).

b) It is submitted that in pursuance to the provisional invoices/letters dated 08.07.2024 as well as 26.02.2025, the Petitioner Transferor Company No. 2 had submitted letter for waiver with GAIL seeking waiver of the amount of dues claimed by GAIL under take or Pay claim. Copy of the waiver letter filed by the Petitioner Transferor Company No. 2 is annexed as Annexure – R/4. It is further submitted that the waiver letter was rejected by GAIL on 12.06.2025. The said correspondence of rejection is also been signed by Chief Manager Gas Marketing of Gujarat Zonal Office.

c) It is submitted that the provisional invoice were received after 31.03.2024 and hence, audited balance sheet for the year 2023-24 did not contain details of the provisional invoices and claims put forward by GAIL. However, in the provisional balance sheet 2024-25 the dues of GAIL are reflected. Copy of the provisional balance sheet of the Petitioner Transferor Company No. 2 as on 31.03.2025, is annexed as Annexure-R/5.

(viii) The petitioner companies undertake to pay the dues of GAIL in accordance with law irrespective of the fact whether the dues of GAIL are accounted for in the balance sheet of Transferor Company No.2. Copy of the undertaking is annexed as Annexure-R/6.

(ix) The petitioner companies submitted that in view of the above, the objections raised by GAIL India Ltd may kindly be ignored and the Scheme of Amalgamation may kindly be sanctioned.

20. In response to the notice issued by this Tribunal to Oil & Natural Gas Corporation Ltd. (ONGC) has filed an affidavit in reply affirmed on 12.08.2025, on 13.08.2025, vide inward no. D5522, placing on record the agreements entered into between ONGC and all the petitioner companies for supply of Gas.

20.1 ONGC in its reply submitted that the following agreements are entered into between ONGC and Transferor Companies and the Transferee Company:-

A. Agreements with Transferor Company No.1 i.e. M/s. Sunrise Silichem Industries Pvt. Ltd.

(i) Agreement dated 22.09.2023 and 26.03.2024 for purchase of 28,000 and 14,600 Standard Cubic Meter of Gas per Day at the gas price prescribed under the respective agreements;



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7

- (ii) The term of each of the two agreements is for two (2) years starting from 01.10.2023 and 01.04.2024 respectively.

B. Agreement with Transferor Company No.2 i.e. M/s. Comfia Industries Pvt. Ltd.

- (i) Agreement dated 24.11.2023 and 26.03.2024 for purchase of 12,000 and 10,500 Standard Cubic Meter of Gas per day at the gas price prescribed under the respective agreements;
- (ii) The term of each of the two agreements is for two (2) years starting from 01.12.2023 and 01.04.2024 respectively.

C. Agreement with the Transferee Company i.e. M/s. Sunrise Glass Industries Pvt. Ltd.

- (i) Agreement dated 24.11.2023 and 26.03.2024 for purchase of 10,500 and 40,500 Standard Cubic Meter of Gas per day at the gas price prescribed under the respective agreements;
- (ii) The term of each of the two agreements is for two (2) years starting from 01.12.2023 and 01.04.2024 respectively

Copies of the aforesaid agreements are annexed to the reply as Annexure-A (Colly), Annexure-B (Colly) and Annexure-C (Colly.)

20.2 It is submitted that the petitioner companies, vide letter dated 17.05.2024, have intimated ONGC with respect to

the proposed Scheme and sought approval of ONGC. In response to the letter of the petitioner companies dated 17.05.2024, ONGC vide emails dated 29.05.2024 requested the petitioner companies to provide documents and also requested to provide reply to the queries sought therein. It is further submitted that ONGC vide aforesaid email amongst other queries specifically asked the following three queries:-

- a) Which company will off-take the gas from ONGC subsequent to the merger?
- b) Whether the usage of the Gas will remain the same? And
- c) Which company shall make the payment towards the raised bills?

20.3 It is further submitted that the aforesaid email, the petitioner companies vide letters dated 18.07.2024 submitted as follows:

- a) The Transferee Company will off-take the gas from ONGC as per the aforementioned Gas Supply Agreements placed at Annexures-A Colly, Annexure-B Colly and Annexure-C Colly, respectively, the Transferor Companies will stand merged with the Transferee Company.
- b) The usage of the gas will remain the same as mentioned in aforementioned Gas Supply Agreements; and
- c) All the payments towards raised bill, including bills raised upon the two transferor companies in



accordance with the Gas Supply Agreements placed at Annexures A Colly and B Colly shall be payable by the Transferee Company.

20.4 It is submitted that in view of the above, ONGC sent an email dated 22.07.2024 to the Transferee Company and sought an undertaking from the Transferee Company to the effect that whether the Transferee Company will undertake to perform all the obligations of each of the Transferor Companies post the merger.

20.5 It is further submitted that in response to the aforesaid email, the Transferee Company sent a letter dated 08.08.2024 to ONGC. The Transferee Company, by way of the aforesaid letter, undertook that it will perform all the obligations of each of the Transferor Companies and further undertook to make regular payments, towards gas supply, to ONGC in accordance with each of the aforementioned Gas Supply Agreements.

20.6 It is submitted that the primary allocation of Gas to the Transferor Companies and the Transferee Company was done by Ministry of Petroleum and Natural Gas as per the Guidelines dated 11.03.2010 and not by ONGC directly. Thus, ONGC by way of letter date 19.11.2024 addressed to Section Officer (GP-II), Ministry of Petroleum and Natural Gas has sought approval of the Ministry for merger of Transferor Companies with the Transferee

Company. The approval is still pending. Copy of the aforesaid letter is annexed to the reply as Annexure-I.

20.7 It is further submitted that in view of the aforementioned facts and circumstances, ONGC raises objections to the proposed scheme of amalgamation due to following reasons:-

- A. As the primary allocation to the petitioner companies was done by the Ministry of Petroleum and Natural Gas, thus approval of Ministry of Petroleum and Natural Gas for the proposed scheme of amalgamation is necessary. ONGC vide letter dated 19.11.2024 has already forward the request of the petitioner companies to the Ministry of Petroleum and Natural Gas and the same is still pending approval.
- B. The details of the aforementioned Gas Supply Agreements which are placed at Annexure A-Colly, B-Colly and C-Colly respectively, executed between ONGC and the petitioner companies are not specifically mentioned in the proposed scheme of amalgamation.
- C. ONGC is a government Company under S.617 of the Companies Act, 1956 read with s. 2(45) of the Companies Act, 2013. The President of India is the major shareholders of the ONGC and also has the



power to nominate the Director in the Board of Directors of ONGC. Thus, it is of utmost importance that the director of ONGC and dues if any or dues which may arise in future need to be secured as the same may lead to loss to public exchequer.

- D. The Take of Pay Obligation of ONGC has already been acknowledged and accepted by this Hon'ble Tribunal in the case of Essar Steel And Alok Industries wherein the claim towards said liability had been admitted as operational debt in CIRP proceedings. Hence, claims if any, or any future claims of ONGC arising out of the Gas Supply Agreements as mentioned above, against the Transferor Companies and the Transferee Company are required to be secured prior to approval of the Scheme of Amalgamation. It is submitted that if in future any of the 3 petitioner companies, i.e. the Transferor Companies and the Transferee Company, fail to take or pay their contractual liability then it would have a cascading effect which in turn can affect the energy needs of our country. Therefore, it is stated herein that the Transferee Company herein is required to secure the payment of all and any future dues arising out of the aforementioned Gas Supply Agreement which are annexed as Annexure A Colly, B Colly and and C Colly respectively, prior to the approval of the proposed scheme of amalgamation

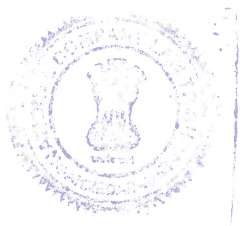


and amend the proposed scheme of amalgamation by incorporating the contracts executed between the two transferor companies and ONGC and the transferee company and ONGC.

20.8 The petitioner companies have filed their affidavit in response/rejoinder affirmed on 19.08.2025, vide inward no. D5660, on 20.08.2025 to the reply of ONGC, wherein it is submitted as follows:-

a) The Transferee Company vide its letter dated 08.08.2024 to ONGC has undertaken to make the payments in accordance with the Gas Supply Agreements and pointing out that a copy of the letter dated 08.08.2024 is annexed by ONGC in its affidavit as Annexure-A. It is further submitted by the petitioner companies that no dues are payable to ONGC by the Transferor Companies and the extract of the ledger account (Annexure-R/1) of all the three petitioner companies which substantiate that no moneys are due and payable by any of the petitioner companies.

b) It is submitted that ONGC has raised an objection to the proposed scheme of amalgamation stating that the petitioner companies have been allocated Gas by the Ministry of Petroleum and Natural Gas, the approval of the Ministry of Petroleum and Natural Gas will be necessary. ONGC has vide its letter



49

dated 19.11.2024 forwarded the request of the Petitioner Companies seeking approval from the Ministry of Petroleum and Natural Gas.

c) It is submitted that the Petitioner Companies have also written to ONGC and are corresponding with the Ministry of Petroleum and Natural Gas seeking their consent of allocation of Gas to the Transferee Company and to the Scheme of Amalgamation. The Petitioner Companies have written letter to the ONGC on 17.05.2024 seeking their approval for the Scheme of Amalgamation. It is submitted that the scheme be approved as no dues are outstanding and the petitioner transferee company has already undertaken to comply with all the obligations of the Petitioner Transferor Companies

d) The petitioner companies reproduced clause-4, clause 1.9, 4.9, 4.10, 4.11, 4.12 and 6 of the proposed Scheme of Amalgamation.

e) It is submitted that because of the undertaking to make the payment and the above clauses, it is not necessary to amend the Scheme to incorporate the agreements entered into between the petitioner companies and the ONGC.

The petitioner companies submitted that in view of the above, the Scheme may kindly be approved.

21. No representations or objections have been received from any other sectorial or regulatory authorities in respect of the petitioner companies or against the proposed scheme.

22. Valuation Report

Copy of Valuation Report dated 22.04.2024 prepared by Sejal Ronak Agrawal, Registered Valuer, Registration No. IBBI/RV/06/2020/13106, is annexed to the company petition at page no. 329 to 346.

23. Accounting Treatment

24. The petitioner companies submitted that the Statutory Auditors have certified that the accounting treatment proposed in terms of Clause-13 of the Scheme is in conformity with the applicable Accounting Standards. Copies of the certificates dated 21.05.2025 issued by the Statutory Auditors of the petitioner companies, are filed on 18.11.2024, vide inward no. DD430 (387/A to 387F.). The accounting treatment under the Scheme shall be in conformity with Indian Accounting Standards notified under Section 133 of the Companies Act, 2013.



25. It is submitted that there are no proceedings/investigation pending against any of the petitioner companies under Sections 210-217, 219, 220, 223, 224, 225, 226 and 227 of the Act and / or Sections 235 to 251 of the Act and the like.

26. It is further submitted that there are no winding up petitions and/or any proceedings under the Insolvency and Bankruptcy Code, pending against any of the petitioner companies.

27. It is submitted that Scheme will not prejudicially affect anyone nor will public interest in any manner be adversely affected.

28. It is further submitted that no winding up proceedings have been filed or are pending against the petitioner companies under the Act or corresponding provisions of the Companies Act, 1956 or the Companies Act, 2013 or Insolvency proceedings under the provisions of Insolvency and Bankruptcy Code, 2016, are pending on the date of filing of this company petition.



29. OBSERVATION OF THIS TRIBUNAL

29.1 Before advertizing to the reports of the Regional Director, Registrar of Companies, Income Tax Department, Official Liquidator, Oil and Natural Gas Corporation Ltd. (ONGC) and GAIL (India) Ltd. (GAIL), we consider necessary to summarise the facts of the cases involved in the Scheme.

29.2 The Appointed Date of the Scheme is 01.04.2024.

29.3 The Scheme involves Merger of Transferor Companies i.e., Sunrise Silichem Industries Pvt. Ltd. and Comfia Industries Pvt. Ltd. with Transferee Company i.e.

Sunrise Glass Industries Pvt. Ltd. with effect from the Appointed Date 01.04.2024.

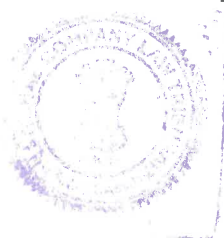
29.4 Companies involved in the Scheme

- (i) In the Scheme presented in the company petition Sunrise Silichem Industries Pvt. Ltd has been designated as **Transferor Company No.1.**
- (ii) In the Scheme presented in the company petition Comfia Industries Pvt. Ltd. has been designated as **Transferor Company No.2.**
- (iii) In the Scheme presented in the company petition Sunrise Glass Industries Pvt. Ltd. has been designated as **Transferee Company.**

29.5 Consideration

Paragraph 12.1 to 12.6 (page 378) of the Scheme deals with the Consideration of Merger.

29.6 We have gone through the Company Petition, Scheme, Representation/Report of the Regional Director, report of the Registrar of Companies, representation of Official Liquidator in respect of Transferor Companies and report of Income Tax Department, reply of Oil and Natural Gas Corporation Ltd. (ONGC) and GAIL (India) Ltd. (GAIL) as well as the response of the Petitioner Companies in respect of the Representation/Report of the RD, RoC, OL, Income Tax Department, ONGC and GAIL.



41°

29.7 After analysing the Scheme in detail, this Tribunal is of the considered view that the Scheme as contemplated between the Companies seems to be prima facie beneficial to the Companies and will not be in any way detrimental to the interest of the shareholders and the creditors of the Companies. Considering the record placed before this Tribunal and since all the requisite statutory compliances have been fulfilled by the Petitioner Companies, this Tribunal sanctions the proposed Scheme as well as the prayer made therein subject to the findings/directions given in this order. The Tribunal further finds that the Scheme does not prejudice the rights of shareholders, creditors, or statutory authorities. In short, the proposed Scheme provides for Amalgamation by way Merger of Transferor Companies i.e. Sunrise Silichem Industries Pvt. Ltd. and Comfia Industries Pvt. Ltd. with Transferee Company i.e. Sunrise Glass Industries Pvt. Ltd. (Transferee Company) and their respective creditors and shareholders with effect from the Appointed Date 01.04.2024.



29.8 The Learned Counsel for the Petitioner Companies submitted that no investigation proceedings are pending against the Petitioner Companies under the provisions of the Companies Act, 1956 or the Companies Act, 2013, and no proceedings for oppression or mismanagement have been filed before this Tribunal or the erstwhile Company Law Board.

29.9 Notwithstanding the above, if there is any deficiency found or, violation committed qua any enactment, statutory rule or regulation, the sanction granted by this Tribunal will not come in the way of action being taken, albeit, in accordance with law, against the concerned persons, directors and officials of the petitioner company. Any application for modification or clarification of this order may be made under Section 232(7) of the Companies Act, 2013.

29.10 The petitioner transferor company no.2 has gas supply agreement with GAIL. The transferor company also has supply agreement with the ONGC. We have considered the replies filed by both GAIL and ONGC and their objections have been considered. Considering the undertaking given by petitioner companies that all the dues will be paid by the transferee company, we are of the view that the concerns, if any, of the GAIL and ONGC are taken care of by the replies as noted in this order. The petitioner companies undertaken that they will comply with the undertakings given to GAIL and ONGC.

29.11 While approving the Scheme as above, it is clarified that this order should not be construed as an order in any way granting approval of any loan assignments or

exemption from payment of stamp duty, taxes or any other charges, if any, payment is due or required in accordance with law or in respect to any permission/compliance with any other requirement which may be specifically required under any law.

29.12 Further, it becomes relevant to discuss that in Company **Petition CAA-284/ND/2018** vide **Order** dated 12.11.2018, the NCLT New Delhi has made the following observations with regard to the right of the Income Tax Department in the Scheme of Amalgamation:

*"taking into consideration the clauses contained in the Scheme in relation to liability to tax and also as insisted upon by the Income Tax and in terms of the decision in re **Vodafone Essar Gujarat Limited v. Department of Income Tax (2013) 353 ITR 222 (Guj)** and the same being also affirmed by the Hon'ble Supreme Court and as reported in **(2016) 66 taxmann.com374 (SC)** from which it is seen that at the time of declining the SLPs filed by the revenue, however stating to the following effect vide its order dated April 15,2015 that the Department is entitled to take out appropriate proceedings for recovery of any statutory dues from the Petitioner or transferee or any other person who is liable for payment of such tax dues, the said protection be afforded is granted. With the above observations, the petition stands allowed and the scheme of amalgamation is sanctioned.*

30. THIS TRIBUNAL DO FURTHER ORDER:

- (i) The Scheme of Amalgamation annexed as ***Annexure 'I'*** to the Company Petition is hereby sanctioned, and it is declared that same shall be binding on the Petitioner Companies and its Shareholders and Creditors and all concerned under the Scheme.
- (ii) The Appointed Date for the Scheme shall be **01.04.2024.**
- (iii) The petitioner Transferor Companies viz., Sunrise Silichem Industries Pvt. Ltd. and Comfia Industries Pvt. Ltd. shall be dissolved without winding up.
- (iv) The approval of the Scheme will not be foreclosing the right of the Income Tax Department to take any decision as per the provisions of the Income Tax Act, 1961, against the Petitioner Companies.
- (v) The approval of the Scheme does not affect the authorities' right to proceed with pending cases, if any, against the Petitioner Companies.
- (vi) The Transferee Company has undertaken to pay the outstanding dues of GAIL (India) Ltd. as per the agreement executed by GAIL (India) Ltd. and Transferor Company No.2. If the Transferee



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Company fails to repay the dues, GAIL is at liberty to take appropriate action against Transferee Company to recover its dues, in accordance with law.

- (vii) All the properties rights and powers of the Undertakings of the Transferor Companies and all the other property, rights and powers of the Transferor Companies be transferred without any further act or deed to the Transferee Company and accordingly the same shall, pursuant to Section 232 of the Act, 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, if any.



- (viii) All licenses, permissions, permits, approvals, certificates, clearances, authorities, leases, tenancy, assignments, rights, claims, liberties, special status, other benefits or privileges and any power of attorney relating to the Transferor Companies shall stand transferred to and vested in the Transferee Company, without any further act or deed. The Transferee Company shall be bound by the terms thereof, the obligations and duties thereunder, and the rights and benefits under the same shall be available to the Transferee Company.

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- (ix) All the liabilities and duties of the Transferor Companies shall be transferred, without further act or deed, to the Transferee Company, and accordingly, the same shall pursuant to Sections 230 & 232 of the Companies Act, 2013, be transferred to and become the liabilities and duties of the Transferee Company.
- (x) All contracts, agreements, insurance policies, bonds and all other instruments of whatsoever nature or description, of the Transferor Companies, shall stand transferred to and vested in the Transferee Company and be in full force and effect in favour of the Transferee Company and may be enforced by or against it as fully and effectually against the Transferee Company.
- (xi) All proceedings, if any, now pending by or against the Transferor Companies shall be continued by or against the Transferee Company.
- (xii) All workers / employees of the Transferor Companies shall be deemed to become the workers / employees of the Transferee Company with effect from the Appointed Date, and shall stand absorbed in the Transferee Company in accordance with the Scheme without any interruption of service and on terms and conditions no less favourable than those on which



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they are engaged by the Transferor Companies, as on the Effective Date.

(xiii) All taxes paid or payable by the Transferor Companies including existing and future incentives, unveiled credits and exemptions, the benefit of carried forward losses and other statutory benefits, which shall be available to and vest in the Transferee Company. The Tax liability of the Transferor Companies shall become a liability of the Transferee Company, and any proceedings against the Transferor Companies shall continue against the Transferee Company. It is stated that any credit/exemption/relief, etc., as discussed, will be subject to the provisions of the Income Tax Act, 196.



(xiv) The petitioner companies are directed to comply with the observations of the Regional Director and the Registrar of Companies in their representation. The petitioner companies shall:

- a) Preserve their books of accounts, papers, and records and not dispose of them without prior permission of the Central Government, as per Section 239 of the Companies Act, 2013.
- b) The sanction of the Scheme shall not absolve the petitioner companies from any statutory liabilities, and all books of accounts, papers,

17⁰

and records shall be preserved as per Section 239 of the Companies Act, 2013, without disposal unless permitted by the Central Government.

- c) File a certified copy of this order with the Registrar of Companies within 30 days of receipt, as per Section 232(5) of the Companies Act, 2013.

(xv) **Consideration**

The Transferee Company shall without any further application, act, instrument or deed, issue and allot to each shareholder of the Transferor Company whose name is recorded in the register of members of the Transferor Company on the Record Date in the following Ratio ("Share Exchange Ratio"):

"01 (One) Equity Share of Rs. 10/- each fully paid up of the Transferee Company for every 01 (One) Equity Share of Rs. 10/- each fully paid up held in Transferor Company 1." of Rs. 10/- each fully paid up held in Transferor Company - 1."

"3127 (Three Thousand One Hundred Twenty-Seven) Equity Share of Rs. 10/- each fully paid up of the Transferee Company for every 1000 (One

Thousand) Equity Shares of Rs. 10/- each fully paid up held in Transferor Company - 2."

(xvi) The Petitioner Companies are further directed to file a copy of this order along with a copy of the Scheme with the concerned Registrar of Companies, electronically, along with e-form INC-28 in addition to a physical copy within 30 days from the date of issuance of the certified copy of the Order by the Registry as per relevant provisions of the Act.

(xvii) The Petitioner Companies within thirty days of the date of the receipt of this order, cause a certified copy of this order to be delivered to the Registrar of Companies for registration and on such certified copy being so delivered, on such certified copy being so delivered, the entire Undertakings of the Transferor Companies shall stand transferred to the Transferee Company and the Registrar of Companies shall place all documents relating to the entire Undertakings of the Transferor Companies to the respective files kept by him in relation to the Transferee Company.

(xviii) All concerned Authorities shall act on the copy of this order along with the Scheme annexed at **Annexure-I** of the Company Petition. The



Registrar of this Tribunal shall issue the certified copy of this order within 7 days of its pronouncement.

(xix) The Petitioner Companies are directed to lodge a copy of this Order and the approved Scheme as annexed at **Annexure-I**, duly Certified by the Registrar of this Tribunal, with the concerned Superintendent of Stamps, for adjudication of stamp duty within 30 days from the date of this Order, and pay requisite stamp duty payable, if any, within 60 days from the date of adjudication in accordance with the applicable stamp duty laws.

(xx) The legal fees and expenses of the office of the Regional Director are quantified at Rs. 40,000/-, to be paid collectively by the Petitioner Companies. The said fees shall be paid by the Transferee Company.

(xxi) The legal fees and expenses of the office of the Official Liquidator are quantified at Rs. 30,000/- in respect of the Transferor Companies. The said fees of the Official Liquidator shall be paid by the Transferee Company.

(xxii) The Statutory Auditors of the Petitioner Companies are hereby directed to ensure that the Accounting Treatment as a result of this order is carried out in accordance with the provisions of

Section 133 of the Companies Act, 2013, and as per the draft treatment as proposed in the Scheme. They are further directed to disclose their observations in this regard in the next Annual Audit Report/Audit Report of the Petitioner Companies.

- (xxiii) The Income Tax Department will be free to examine the aspect of any tax payable as a result of the sanction of the Scheme and if it is found that the Scheme of Arrangement ultimately results in tax avoidance or is not in accordance with the applicable provisions of Income Tax Act, then the Income Tax Department shall be at liberty to initiate appropriate course of action as per law. Any sanction of the Scheme of Arrangement under Sections 230-232 of the Companies Act, 2013 shall not adversely affect the rights of Income Tax Department or any past, present or future proceedings and the sanction of the scheme shall not come in its way for the appropriate course of action as per law for the tax liabilities, if any. The Income Tax Department is free to examine the valuation of the companies as given in the valuation report and share exchange ratio and take necessary action, if any, as per law.



21

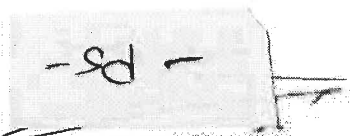
(xxiv) Any person aggrieved shall be at liberty to apply to this Tribunal for any directions that may be necessary.

31. Accordingly, Company Petition i.e. **CP(CAA)/57(AHM)2024** in **CA(CAA)/33(AHM)2024**, stands allowed and disposed of in terms of the aforementioned terms.

32. The Registry is directed to send a copy of this order to the Regional Director, the Registrar of Companies, the Official Liquidator, and the Income Tax Department, Oil and Natural Gas Corporation Ltd. and GAIL (India) Ltd., within seven days from the date of this order, through e-mail and place proof on the file.




SANJEEV SHARMA
MEMBER (TECHNICAL)


SHAMMI KHAN
MEMBER (JUDICIAL)

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Prepared by Bhuvik

Signature [Signature]

Date 08/09/25

Certified to be True Copy of the Original


Assistant Registrar
NCLT, Ahmedabad Bench
Ahmedabad

