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BEFORE THE NATIONAL COMPANY LAW TRIBUNAL

KOLKATA BENCH

CP (CAA)No. 88 / KB / 2018

Connected with

CA (CAA) No. 378 / KB / 2017

In the matter of the Company Act, 2013, Section –230-232

AND

In the matter of: Suraj Buildcon Pvt. Ltd. & Ors.

Certified Copy of the Order dated 04.07.2018 passed by this Bench

Form No. CAA.7

[Pursuant to section 232 and rule 20]

IN THE NATIONAL COMPANY LAW TRIBUNAL

KOLKATA BENCH

C.P.(CAA) NO 88/KB/2018

CONNECTED WITH

C.A(CAA) NO 378/KB/ 2017

In the matter of :

A petition for sanction of Scheme of Amalgamation made under Sections 230 to 232 and other applicable provisions of the Companies Act , 2013 read with the Companies (Compromises, Arrangements and Amalgamations Rules) , 2016

-And-

In the matter of :

SURAJ BUILDCON PRIVATE LIMITED, a company incorporated under the provisions of the Companies Act, 1956 and having its Registered Office at Shanti Square, 2nd Mile, Sevoke Road, Darjeeling, Siliguri-734001 in State of West Bengal within the aforesaid jurisdiction

-AND-

KAMAKHYA INFRAREALTY PRIVATE LIMITED, a company incorporated under the provisions of the Companies Act, 1956 and having its Registered Office at Prakashdeep Building, 3rd Floor, Sevoke Road, P.O. & P.S. Siliguri-734001 in State of West Bengal within the aforesaid jurisdiction

-AND-

MADHU VYAPAR PRIVATE LIMITED, a company incorporated under the provisions of the Companies Act, 1956 and having its Registered Office at Shanti Square, 2nd Mile, Sevoke Road, Darjeeling, Siliguri-734001 in State of West Bengal within the afore jurisdiction

-AND-

NILKAMAL VINIMAY PRIVATE LIMITED, a company incorporated under provisions of the Companies Act, 1956 and having its Registered Office at S Square, 2nd Mile, Sevoke Road, Darjeeling, Siliguri -734001 in State of West Be within the aforesaid jurisdiction

In the matter of:

1. **SURAJ BUILDCON PRIVATE LIMITED** : **(TRANSFEREE COMPANY)**
2. **KAMAKHYA INFRAREALTY PRIVATE LIMITED** : **(TRANSFEROR COMPANY NO 1)**
3. **MADHU VYAPAR PRIVATE LIMITED** : **(TRANSFEROR COMPANY NO 2)**
4. **NILKAMAL VINIMAY PRIVATE LIMITED** : **(TRANSFEROR COMPANY NO 3)**

...... **PETITIONE**

Order Under Sections 230 and 232 of the Companies Act,2013

1. The above Company Petition coming on for further hearing on the 22nd 2018 and upon hearing the advocate appearing for the Petitioners and hearing Deputy Director of Regional Directorate, Eastern Region representin Central Government the final order was passed on the 04th July, 2018.

2. **This joint petition has been filed for sanctioning of the proposed Sch of Amalgamation of** KAMAKHYA INFRAREALTY PRIVATE LIMITED, the Petitioner No 2 above named (herein after referred to as " TRANSFEROR COMPANY NO 1 ") ,MADHU VYAPAR PRIVATE LIMITED , the Petitioner No3 a named (herein after referred to as " TRANSFEROR COMPANY NO 2"),NILKA VINIMAY PRIVATE LIMITED, the Petitioner No 4 above named (herein after referred to as " TRANSFEROR COMPANY NO 3 "),and SURAJ BUILDCON PR LIMITED, being the petitioner No 1 above named (herein after referred to a " TRANSFEREE COMPANY ").

3. The object of this Petition is to ultimately obtain sanction of the Hon'ble Tribunal to the Scheme of Amalgamation whereby and where under the entire undertaking of the TRANSFEROR COMPANIES together with all assets and liabilities relating thereto ongoing concern basis are proposed to be transferred to and vested in the TRANSFEREE COMPANY with Transfer Date or Appointed Date being **1st April, 2016**on the terms and conditions fully stated in the Scheme of Amalgamation a copy whereof is annexed hereto to this petition .

4. It is stated in the Petition that the Transferee Company as well as the Transferor Companies is presently engaged in real estate activities which includes trading in real estate as well promoting and developing real estate. The business of the Transferor Companies and the Transferee Company can be combined and carried forward conveniently with combined strength.

5. The Amalgamation will enable the Transferee Company to consolidate is line of business by restructuring and reorganising its business activities and capital structure.

6. The Amalgamation will result in economy of scale including reduction in overhead expenses relating to management and administration in better and more productive utilisation of various resources.

7. It has also been stated in the Petition that the Scheme of Amalgamation will enable the Companies concerned to rationalise and streamline their management, business and finances and to eliminate duplication of work to their common advantages.

8. The Scheme of Amalgamation will have beneficial results for the Companies concerned, their shareholders, employees and all concerned.

9. The Board of Directors of the Transferor Companies and the Transferee Company have, at their respective Board meetings held on 1st March, 2017, passed resolution approving the Scheme of Amalgamation of Kamakhya Infrarealty Private Limited, Madhu Vyapar Private Limited and Nilkamal Vinimay Private Limited with Suraj Buildcon Private Limited.

10. The copy of the resolution passed by the Board of Director of the Transferee Company and the Transferor Companies approving the Scheme of Amalgamation is annexed with the Petition and marked as Annexure "O".

11. The report of the Valuation of shares of the Transferor Companies and th Transferee Company prepared by the Chartered Accountants for arriving at fa Exchange Ratio is annexed with the Petition and marked with Annexure "N".

12. It has been stated in the Petition that there are no proceedings pending und Sections 235 to 251 of the Companies Act, 1956 and Section 217, 219, 221, 224 a 225 of the Companies Act, 2013 against any of the Petitioner Companies.

13. It is also stated that the assets of the Petitioner Companies are sufficient meet all their liabilities and the said Scheme of Amalgamation will not adversely affe the rights of any of the Creditors of any of the Petitioner Companies in any mann whatsoever.

14. The Petitioner Companies have made due provisions for payment of all t liabilities as and when the same will fall due.

15. The Statutory Auditors of the Transferee Company have certified that t Accounting treatment proposed in terms of Clause 11 of Part III of the Scheme Amalgamation is in conformity with the Accounting Standards prescribed under Secti 133 of the Companies Act, 2013.

16. The copy of the said certificate issued by the Statutory Auditors is annexed w the Petition and marked as Letter "Q".

17. The Total number of Equity shareholders in the Transferee Company and t Transferor Companies are annexed with the Petition and marked with letter "R".

18. The copy of the Statutory Auditor of the Transferee Company and the Transfe Company have certified the list of Unsecured Creditor and NIL Secured Creditors wh is annexed with the Petition and marked with Letter "S".

19. Pursuant to this Tribunal order dated 11TH September , 2017 passed in Compa Application No. CA(CAA) No. 378/KB/2017, holding of meeting of the equ shareholders of the Petitioner Companies and the holding of meeting of unsecu creditors of the Petitioner Companies were dispensed with in view of the writt consent by way of affidavit by all the shareholders and by all the Unsecured Credit of the Petitioner Companies adopting the Scheme of Amalgamation witho modification.

20. The Tribunal also recorded that there was no requirement for holding of meeting of the secured creditors as there was No Secured Creditors of the Petitioner Companies.

21. Pursuant to the aforesaid Order of this Tribunal dated 11th September, 2017, passed in Company Application No. CA(CAA) No. 378/KB/2017, the Petitioner Companies have served a copy of the Application together with a copy of the Order of this Tribunal upon the Income Tax authorities having jurisdiction over the affairs of the Petitioner Companies, Central Government, Regional Director, Eastern Region, Ministry of Corporate Affairs, Registrar of Companies, West Bengal and the Official Liquidator, Calcutta High Court.

22. The Copy of the acknowledgement evidencing service upon the said authorities is enclosed with the Petition and marked with Letter Annexure "P".

23. In compliance, the Petitioner Companies had filed an Affidavit of service affirmed on 27th October, 2017.

24. After such due compliance, the petitioners have made the instant petition bearing No. CP (CAA) NO. 88/KB/2018 before this Tribunal, among other things, seeking final sanction to the proposed Scheme of Amalgamation and for orders facilitating and giving effect to the same.

25. Further, upon filing of this Petition bearing C.P. (CAA) No. 88/KB/2018, connected with CA(CAA) No. 378/KB/2017, this Tribunal had passed an Order dated 27th February, 2018 directing the Petitioner Companies for publication to be effected of the hearing of the Petition and issuance of

notices of this Petition to the concerned statutory authorities for t[illegible] representations/objections, if any.

26. Pursuant to the order passed by this Tribunal on 27th February, 2018 in CP(C[illegible] No. 88/KB/2018, the Petitioner Companies have filed affidavit of Complia[illegible] duly affirmed on 29th March, 2018 evidencing publication made once each [illegible] "Business Standard", in English and "Aajkal" in Bengali dated 11th March, 20[illegible] and serving copy of the Petition upon the upon the Central Government a[illegible] other Regulatory Authorities having jurisdiction over the affairs of the Petitio[illegible] Companies.

27. The Regional Director , Eastern Region , Ministry of Corporate Affairs has, v[illegible] his affidavit affirmed on 21st June, 2018 has reported as below :

" (a) That it is submitted that on the examination of the rep[illegible] dated 06-12-2017 of the Registrar of Companies , West Bengal it appears t[illegible] no complaint and/or representation has been received against the propos[illegible] Scheme of Amalgamation. The petitioner Companies are also up-dated in fi[illegible] their statutory returns . It is further submitted that on examination of t[illegible] proposed Scheme of Amalgamation , it appears that the prosecutions have be[illegible] launched against the Petitioner Companies being M/s. Kamakhya Infrarealty P[illegible] Ltd. vide Case No. C/2091/2014 under Section 166 of the Companies Act, 19[illegible] and M/s. Nilkamal Vinimay Pvt. Ltd. vide Case No. C/2168/2014 under Secti[illegible] 166 and M/s. Madhu Vyapar Pvt. Ltd. vide Case No. C/1981/2014 under Secti[illegible] 166 of the Companies Act, 1956. Cases are pending before the Ld. CJM, Alipor[illegible]

A copy of the ROC, West Bengal attached herewith for kind perusal [illegible] the Hon'ble NCLT.

(b) It is submitted that as per instructions of the Ministry of Corpora[illegible] Affairs, New Delhi, a copy of the Scheme was forwarded to the Income T[illegible] Department on 06-10-2017 with a request to forward th[illegible] comments/observations/objections, if any, but the said authority has till date not forwarded any reply about the proposed Scheme."

28. The Official Liquidator attached to Hon'ble High Court, Calcutta vide his report dated 11th April, 2018 has observed that after scrutiny of the report submitted by the Chartered Accountant appointed by him and other relevant papers and records etc., submitted by the Advocate-on-Record of the Petitioners, the Official Liquidator is of the opinion that the affairs of the Transferor Companies, **namely, Kamakhya Infrarealty Private Limited, Madhu Vyapar Private Limited and Nilkamal Vinimay Private Limited,** have not been conducted in a manner prejudicial to the interest of their members or to public.

29. Heard the arguments of Ld. Counsels for the Petitioner Companies and authorized representative of Regional Director, Eastern Region, Ministry of Corporate Affairs at Kolkata. In view of the facts stated above and absence of any objection and since all requisite compliance has been fulfilled, the following orders in terms prayers made in the petition, with modification by this Tribunal are passed :

THIS TRIBUNAL DOTH ORDER

a. The Scheme of Amalgamation mentioned in this Petition being Annexure "A" of the Petition is sanctioned by this Tribunal to be binding with effect from 1st April, 2016 on **KAMAKHYA INFRAREALTY PRIVATE LIMITED, MADHU VYAPAR PRIVATE**

LIMITED and **NILKAMAL VINIMAY PRIVATE LIMITED** w **SURAJ BUILDCON PRIVATE LIMITED**and their shareholders a all concerned;

b. All the properties, rights and interest of **KAMAKHY INFRAREALTY PRIVATE LIMITED, MADHU VYAPAR PRIVAT LIMITED** and **NILKAMAL VINIMAY PRIVATE LIMITED**a transferred to and vested in without further act or deed in **SUR BUILDCON PRIVATE LIMITED**and accordingly, the same sha pursuant to Section 232 of the Companies Act, 2013 and re with Companies (Compromises, Arrangements and Amalgamatio Rules, 2016, be transferred to and vested in **SURAJ BUILDCO PRIVATE LIMITED** for all the estate and interest of **KAMAKHY INFRAREALTY PRIVATE LIMITED, MADHU VYAPAR PRIVAT LIMITED** and **NILKAMAL VINIMAY PRIVATE LIMITED**b subject nevertheless to all charges, now affecting the same;

c. All the liabilities and duties of **KAMAKHYA INFRAREALT PRIVATE LIMITED, MADHU VYAPAR PRIVATE LIMITED** a **NILKAMAL VINIMAY PRIVATE LIMITED**are transferred witho further act or deed to **SURAJ BUILDCON PRIVATE LIMITED** a accordingly the same shall pursuant to Section 232 of t Companies Act, 2013 and read with Companies (Compromis Arrangements and Amalgamation) Rules, 2016 be transferred and become the liabilities and duties of **SURAJ BUILDCO PRIVATE LIMITED;**

d. That all the proceedings and/or suit appeals now pending by against **KAMAKHYA INFRAREALTY PRIVATE LIMITE**

MADHU VYAPAR PRIVATE LIMITED and **NILKAMAL VINIMAY PRIVATE LIMITED** shall be continued by or against **SURAJ BUILDCON PRIVATE LIMITED;**

e. The Transferee Company do issue and allot shares to the shareholders of **KAMAKHYA INFRAREALTY PRIVATE LIMITED, MADHU VYAPAR PRIVATE LIMITED** and **NILKAMAL VINIMAY PRIVATE LIMITED** as envisaged in the said Scheme of Amalgamation and for that, if necessary, to increase the authorized share capital;

f. The schedule of assets in respect of **KAMAKHYA INFRAREALTY PRIVATE LIMITED, MADHU VYAPAR PRIVATE LIMITED** and **NILKAMAL VINIMAY PRIVATE LIMITED** be filed within a period of 60 days from the date of this order ;

g. TheTransferor Companies namely **KAMAKHYA INFRAREALTY PRIVATE LIMITED, MADHU VYAPAR PRIVATE LIMITED** and **NILKAMAL VINIMAY PRIVATE LIMITED**shall stand dissolved from the appointed date ;

h. **SURAJ BUILDCON PRIVATE LIMITED, KAMAKHYA INFRAREALTY PRIVATE LIMITED, MADHU VYAPAR PRIVATE LIMITED** and **NILKAMAL VINIMAY PRIVATE LIMITED**shall within 30 days after the date of obtaining the Certified Copy of this order cause certified copies of this order to be delivered to the Registrar of Companies, West Bengal for registration respectively and on such certified copy being so delivered, the Transferor Companies shall be dissolved 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 company shall be consolidated accordingly;

30. Any person interested shall be at liberty to apply before this Tribunal in the above matter for such directions as may be necessary.

31. In the event of the petitioner companies supplying the legible computerized print out of the scheme and schedule of assets in acceptable form to the department, the department will append such computerized print out upon verification to be certified copy of the order without insisting on hand written copy thereof.

32. Accordingly, the Company Petition CP(CAA) No. 88/KB/2018 connected with Company Application CA(CAA) No. 378/KB/2017 stands disposed of.

Witness:

Sri Madan B. Gosavi, Hon'ble Member (Judicial) at Kolkata aforesaid on the 04th June 2018.

Mr. M.K. Maroti, CA of petitioners.

Ms. Tia Inla Deputy Director, C/o. Regional Director, Eastern Region, Ministry of Corporate Affairs, Government of India

<u>Schedule of Assets</u>

First Part-I

(As per Annexure)

Second Part-II

(As per Annexure)

Third Part-III

(As per Annexure)

Registrar-in-charge

National Company Law Tribunal

Kolkata Bench

Dated, the 27th day of August, 2018

SCHEME OF AMALGAMATION

Of

KAMAKHYA INFRAREALTY PRIVATE LIMITED,

AND

MADHU VYAPAR PRIVATE LIMITED,

AND

NILKAMAL VINIMAY PRIVATE LIMITED,

- WITH -

SURAJ BUILDCON PRIVATE LIMITED;

PART - I

DEFINITION: For the purpose of this Scheme:

1. **"KAMAKHYA"** means KAMAKHYA INFRAREALTY PRIVATE LIMITED, a company incorporated under the provisions of the Companies Act, 1956(CIN:U70109WB2011PTC164218) and having its Registered Office at Prakashdeep Building, 3rd Floor, Sevoke Road, P.O. & P.S. Siliguri – 734001, in the State of West Bengal;

2. **"MADHU "** means MADHU VYAPAR PRIVATE LIMITED, a company incorporated under the provisions of the Companies Act,1956(CIN: U51109WB2008PTC123640) and having its Registered Office at Shanti Square, 2nd Mile, Sevoke Road, Darjeeling, Siliguri -734001 in the State of West Bengal;

3. **"NILKAMAL"** means NILKAMAL VINIMAY PRIVATE LIMITED, a company incorporated under the provisions of the Companies Act, 1956(CIN:U51909WB2009PTC132944) and having its Registered Office at Shanti Square, 2nd Mile, Sevoke Road, Darjeeling, Siliguri - 734001, in the State of West Bengal;

4. **"THE TRANSFEREE COMPANY"** means **SURAJ BUILDCON PRIVATE LIMITED**, a company incorporated under the provisions of the Companies Act, 1956 (CIN:U45400WB2007PTC115248) and having its Registered Office at Shanti Square, 2nd Mile, Sevoke Road, Darjeeling, Siliguri -734001, in the State of West Bengal;

5. **"THE TRANSFEROR COMPANIES"** means **'KAMAKHYA', 'MADHU'** and **'NILKAMAL'** or any of them as the context may mean and require.

6. **"TRANSFER DATE" OR "APPOINTED DATE" means the 1st day of April, 2016.**

7. **"EFFECTIVE DATE" means the date when the certified copy of the order sanctioning the Scheme of Amalgamation is filed with the Registrar of Companies, West Bengal, by the TRANSFEROR COMPANIES and the TRANSFEREE COMPANY.**

8. **"SCHEME" or "THE SCHEME" or "THIS SCHEME"** means this Scheme of Amalgamation in its present form submitted to the Hon'ble National Company Law Tribunal, Bench at Kolkata with any modification(s) made under clause no.3 of Part-IV of this Scheme.

9. **"THE ACT"** means the Companies Act, 2013 as applicable including any statutory modifications, re-enactments or amendments thereof.

10. **"THE TRIBUNAL" or "THE HON'BLE NATIONAL COMPANY LAW TRIBUNAL"** shall mean the Hon'ble National Company Law Tribunal, Kolkata Bench.

11. **"UNDERTAKINGS OF THE TRANSFEROR COMPANIES"** means and includes:-
    - (i) All the properties, assets and liabilities of the **TRANSFEROR COMPANIES** immediately before the **TRANSFER DATE.**
    - (ii) Without prejudice to the generality of the foregoing clause, the said undertaking shall include all rights, powers, interests, authorities, privileges, liberties and all properties and assets, moveable or immovable, real or personal, corporeal or incorporeal, in possession or reversion, present or contingent or of whatsoever nature and wherever situate including land, buildings, office equipments, vehicles, inventories, sundry debtors, cash and bank balances, loans and advances, leases,

tenancy and agency rights and all other interests and rights in or arising out of such properties together with all licences, trade marks, import entitlements and other quotas, if any, held/applied for or as may be obtained hereafter by the TRANSFEROR COMPANIES or which the TRANSFEROR COMPANIES are entitled to and all debts, liabilities, duties and obligations of the TRANSFEROR COMPANIES of whatsoever kind.

12. Word(s) and expression(s) elsewhere defined in the Scheme will have the meaning(s) respectively ascribed.

W H E R E A S:

1. **The TRANFEROR COMPANIES as well as the TRANSFEREE COMPANY are** engaged in real estate activities which includes trading in real estate as well promoting and developing real estate.

2. The business carried on by the **TRANSFEROR COMPANIES** is similar to and can be combined with the business carried on by the **TRANSFEREE COMPANY**.

3. For the purposes of better, efficient and economical management, control and running of the business of the undertakings concerned and for administrative convenience and to obtain advantage of economy of large scale and to broad base the present business, the present Scheme is proposed to amalgamate the **TRANSFEROR COMPANIES** with the **TRANSFEREE COMPANY**.

PART - II

PRESENT CAPITAL STRUCTURE:

A. The Authorised Share Capital of **'KAMAKHYA'** is Rs. 2,00,00,000/- divided into 20,00,000 Equity Shares of Rs.10/- each. The Issued, Subscribed & Paid-up Share Capital is Rs. 1,26,00,000/- divided into 12,60,000 Equity Shares of Rs.10/- each fully paid-up.

B. The Authorised Share Capital of **'MADHU'** is Rs.6,00,000/- divided into 60,000 Equity Shares of Rs.10/- each. The Issued, Subscribed

& Paid-up Share Capital is Rs.5,05,000/- divided into 50,500 Equity Shares of Rs.10/- each fully paid-up.

C. The Authorised Share Capital of **'NILKAMAL'** is Rs.8,00,000/- divided into 80,000 Equity Shares of Rs.10/- each. The Issued, Subscribed & Paid-up Share Capital is Rs.7,60,000/- divided into 76,000 Equity Shares of Rs.10/- each fully paid-up.

D. The Authorised Share Capital of The **TRANSFEREE COMPANY** is Rs.2,00,00,000/- divided into 20,00,000 Equity Shares of Rs.10/- each. The Issued, Subscribed & Paid-up Share Capital is Rs. 1,29,00,000/- divided into 12,90,000 Equity Shares of Rs.10/- each fully paid-up.

PART – III

TRANSFER OF UNDERTAKINGS

1. With effect from the Transfer Date, the undertakings of the **TRANSFEROR COMPANIES** together with their assets and liabilities shall without further act or deed be transferred to and be vested in or deemed to have been transferred to and vested in the **TRANSFEREE COMPANY** pursuant to Section 232 of the Companies Act, 2013 (hereinafter called "the Act") subject however, to all charges, lien, mortgages, if any, then affecting the same or any part thereof as per the Orders of the Hon'ble National Company Law Tribunal, Bench at Kolkata provided, however that such charges, lien, mortgages, encumbrances shall be confined only to the related assets or part thereof as may be encumbered by the Transferor Companies and transferred to and vested in the **TRANSFEREE COMPANY** on and from the **TRANSFER DATE** and no such encumbrances shall extend over or apply to any other asset(s) or property(ies) of the **TRANSFEREE COMPANY.** Any reference in any security documents or arrangements (to which any of the **TRANSFEROR COMPANY** is a party) to any asset(s) property(ies) of that **TRANSFEROR COMPANY** it shall be so construed to the end and intent that such security shall not extend or be deemed to extend to any of the other asset(s) or property(ies) of the **TRANSFEREE COMPANY.**

2. The benefit of all statutory and regulatory permissions, licences from Government & Semi-Government or Autonomous Bodies etc. including all statutory licences, permissions or approvals or consents to carry on the operations in the **TRANSFEROR COMPANIES** shall vest in and become available to **TRANSFEREE COMPANY** pursuant to the Scheme and shall always be deemed to have been issued to the **TRANSFEREE COMPANY** and the concerned statutory authorities and licensors shall endorse and/or mutate and/or record the same, upon the filing of this Scheme as sanctioned with such authorities and licensors, so as to empower and facilitate the transfer and vesting of the undertakings of the **TRANSFEROR COMPANIES** in the **TRANSFEREE COMPANY.**

3. It is expressly provided that in respect of such assets as are movable in nature including investments or are otherwise capable of transfer by manual delivery or by endorsement and delivery, the same shall be so transferred without requiring any deed or instrument for the same and shall become the property of the **TRANSFEREE COMPANY** accordingly.

4. Upon the coming into effect of the Scheme, all motor vehicles and land & buildings, if any, of any nature whatsoever comprised in or relatable to the **TRANSFEROR COMPANIES** shall vest in the **TRANSFEREE COMPANY** and the appropriate Governmental and Registration Authorities shall mutate and register the vehicles and land & buildings in the name of the **TRANSFEREE COMPANY** as if the vehicles, land & buildings had originally been registered in the name of the **TRANSFEREE COMPANY**, subject to compliance of provisions of Indian Stamp Act, 1899 as applicable to the State of West Bengal.

5. All taxes paid or payable by the **TRANSFEROR COMPANIES** in respect of the operations and/or the profits of the business before the **TRANSFER DATE** shall be on account of the **TRANSFEROR COMPANIES** and, in so far as it relates to the tax payment, whether by way of deduction at source, advance tax or otherwise howsoever, by the **TRANSFEROR COMPANIES** in respect of the profits or activities or operation of the business after the **TRANSFER DATE**, the same shall be deemed to be the

corresponding item paid by **TRANSFEREE COMPANY**, and, shall, in all proceedings, be dealt with accordingly.

LEGAL PROCEEDINGS

6. If any suit, appeal or any other proceedings of whatsoever nature (hereinafter called "The Proceedings") by or against the **TRANSFEROR COMPANIES** are pending, the same shall not abate, be discontinued or be in any way prejudicially affected by reason of the transfer of the Undertakings of the **TRANSFEROR COMPANIES** or any thing contained in this scheme but the proceedings may be continued, prosecuted and enforced by or against the **TRANSFEREE COMPANY** in the same manner and to the same extent as it would be or might have been continued, prosecuted and enforced by or against the **TRANSFEROR COMPANIES** if this Scheme had not been made.

7. The Transfer and vesting of assets and liabilities under Clause No.1 to 5 hereof and the continuance of the proceedings by or against the **TRANSFEREE COMPANY** under Clause No.6 hereof shall not affect any transactions or proceedings already concluded by the **TRANSFEROR COMPANIES** on and after the **TRANSFER DATE** to the end and intent that the **TRANSFEREE COMPANY** accepts and adopts all acts, deeds and things done and executed by or on behalf of the **TRANSFEROR COMPANIES** as acts, deeds and things done and executed by or on behalf of the **TRANSFEREE COMPANY**.

CONTRACTS, DEEDS, BONDS AND OTHER INSTRUMENTS

8. Subject to the provisions contained in this Scheme, all contracts, deeds bonds, agreements and other documents and instruments of whatsoever nature to which the **TRANSFEROR COMPANIES** are party subsisting or having effect immediately before the amalgamation shall remain in full force and effect against or in favour of the **TRANSFEREE COMPANY** and may be enforced as fully and effectively, as if instead of the **TRANSFEROR COMPANIES**, the **TRANSFEREE COMPANY** had been a party thereto.

TRANSFEROR COMPANIES' STAFF, WORKMEN AND EMPLOYEES

9. The **TRANSFEREE COMPANY** shall takeover all the employees in service on the effective date of the **TRANSFEROR COMPANIES** without interruption and on terms no less favorable to them as then applicable to them. The service of the said employees with the **TRANSFEROR COMPANIES** prior to such taking over will not be treated as having been broken for the purpose of Provident fund, gratuity and other benefits but will be reckoned for all purposes from the date of their respective appointment with the respective **TRANSFEROR COMPANIES**.

ISSUE OF SHARES BY THE TRANSFEREE COMPANY

10. Upon the Scheme being sanctioned by the Hon'ble National Company Law Tribunal , Bench at Kolkata and upon transfer being taken place as stipulated under different Clauses hereof :-

(a) The TRANSFEREE COMPANY shall without further application, act or deed issue and allot to the Shareholders of the TRANSFEROR COMPANIES whose names are recorded in the register of members on the Record Date in the manner following:

(i) To every Equity Shareholder of KAMAKHYA, 1 (one) Equity Shares of Rs.10/- credited as fully paid-up in the TRANSFEREE COMPANY for every 1 (one) Equity Shares of Rs.10/- each fully paid-up held by such Equity Shareholder in KAMAKHYA.

(ii) To every Equity Shareholder of MADHU, 16 (Sixteen) Equity Shares of Rs.10/- credited as fully paid-up in the TRANSFEREE COMPANY for every 1 (One) Equity Shares of Rs.10/- each fully paid-up held by such Equity Shareholder in MADHU.

(iii) To every Equity Shareholder of NILKAMAL, 9 (Nine) Equity Shares of Rs.10/- credited as fully paid-up in the TRANSFEREE COMPANY for every 1 (One) Equity Shares of Rs.10/- each fully paid-up held by such Equity Shareholder in NILKAMAL.

(b) All the Equity Shares of TRANSFEREE COMPANY to be issued and allotted to every member of TRANSFEROR COMPANIES as aforesaid shall rank pari-passu in all respects with the existing Equity Shares in the TRANSFEREE COMPANY;

(c) No certificate(s) shall be issued in respect of fractional entitlements, if any, to which the shareholder of the Transferor Companies may be entitled on issue and allotment of shares of the TRANSFEREE COMPANY in terms of Clauses 10(a) above. The Board of Directors of the TRANSFEREE COMPANY shall, instead consolidate the fractional entitlements of each the Transferor Companies separately and there upon issue and allot Equity Shares in lieu thereof to a Director or nominee of such Transferor Company or such other person as the Board of Directors of the TRANSFEREE COMPANY shall appoint in this behalf who shall hold the shares interest on behalf of the members of the Transferor Companies entitled to fractional entitlements with the express understanding that such director(s), nominee(s) or person(s) shall sell the same to such person at such price, as they deem fit and pay the net sale proceeds to the TRANSFEREE COMPANY who shall thereupon distribute such net sale proceeds to their members in proportion to their respective fractional entitlements;

(d) Upon this Scheme becoming finally effective, the existing Share Certificates held by the Shareholders of the TRANSFEROR COMPANIES shall automatically stand cancelled. The TRANSFEREE COMPANY shall directly issue and dispatch the new Share Certificates to the Shareholders of the TRANSFEROR COMPANIES with respect to their entitlement of Shares in the TRANSFEREE COMPANY in terms and in accordance with the provisions of the Scheme;

(e) All the shareholders of the TRANSFEROR COMPANIES shall accept the Share(s) of the TRANSFEREE COMPANY to be allotted in terms of this Scheme as sanctioned by Hon'ble National Company Law Tribunal , Bench at Kolkata in lieu of their existing shareholdings in the TRANSFEROR COMPANIES;

(f) All the shares held by the TRANSFEREE COMPANY in the TRANSFEROR COMPANIES or by the TRANSFEROR COMPANIES in the TRANSFEREE COMPANY or by the TRANSFEROR COMPANIES interse shall stand cancelled;

ACCOUNTING TREATMENT

11. The account shall be taken of the Assets and Liabilities of the **TRANSFEROR COMPANIES** as on the date immediately preceding the **TRANSFER DATE** and all the Assets and Liabilities of the respective **TRANSFEROR COMPANIES** shall be incorporated in the Books of Account of the **TRANSFEREE COMPANY** at the respective Book Values thereof as appearing in the Books of Account of the respective **TRANSFEROR COMPANIES**. All the entries in the Books of the **TRANSFEREE COMPANY** shall be made in accordance with the Accounting Standard-14 issued by the Institute of Chartered Accountants of India and other normally accepted accounting principles.

TAX TREATMENT

12. Any tax liabilities under the Income tax Act, 1961, or other applicable laws/regulations dealing with taxes/duties/levies (hereinafter in this clause referred to as "Tax Laws") allocable or related to the **TRANSFEROR COMPANIES** to the extent not provided for or covered by tax provision in the accounts made as on the date immediately preceding the Transfer Date shall be transferred to the TRANSFEREE COMPANY. Any surplus in the provision for taxation/duties/levies account including advance tax and TDS as on the date immediately preceding the Transfer

Date will also be transferred to the account of the TRANSFEREE COMPANY.

13. Any refund under the Tax Laws due to the TRANSFEROR COMPANIES consequent to the assessments made on the TRANSFEROR COMPANIES shall also belong to and be received by the TRANSFEREE COMPANY.

PART – IV

APPLICATIONS TO THE NATIONAL COMPANY LAW TRIBUNAL

1. The TRANSFEROR COMPANIES and the TRANSFEREE COMPANY shall apply to the Hon'ble National Company Law Tribunal, Bench at Kolkata for obtaining the sanction of this Scheme and for the consequent dissolution without winding up of the TRANSFEROR COMPANIES.

2. Subject to orders being made by the Hon'ble National Company Law Tribunal, Bench at Kolkata the TRANSFEROR COMPANIES shall be dissolved without winding up;

MODIFICATIONS / AMMENDMENTS TO THE SCHEME

3. The Board of Directors of the TRANSFEROR COMPANIES and the TRANSFEREE COMPANY or any person authorised by them may assent on behalf of all concerned to any modification to this Scheme of Amalgamation or to any condition which the Hon'ble National Company Law Tribunal , Bench at Kolkata or the Government or any other authorities may impose.

SCHEME CONDITIONAL ON APPROVALS / SANCTIONS

4. This Scheme is conditional upon and subject to the followings:

   (a) The Scheme being sanctioned by the Hon'ble National Company Law Tribunal, Bench at Kolkata.

   (b) The certified copy of the order of the Hon'ble National Company Law Tribunal, Bench at Kolkata sanctioning the Scheme, being filed with the Registrar of Companies, West Bengal by the TRANSFEREE COMPANY and the TRANSFEROR COMPANIES.

CONDUCT OF BUSINESS

5. Until the Scheme is sanctioned and transfer is effected as aforesaid, the TRANSFEROR COMPANIES shall carry on their business in the usual course and shall be deemed to be carrying on the said businesses for and on behalf of the TRANSFEREE COMPANY with effect from the Transfer Date.

6. Any profit or income accruing or arising to the Transferor Company(ies) and all costs, charges and expenses incurred and/or all accrued losses and also all losses arising or suffered by them since the Transfer Date shall for all purposes be treated as the income, profits, costs, charges expenses or losses as the case may be of the TRANSFEREE COMPANY.

EFFECT ON NON RECEIPT OF APPROVALS / SANCTIONS

7. In the event of any of the said sanctions/ approvals not being obtained and or the Scheme not being sanctioned by the Hon'ble National Company Law Tribunal, Bench at Kolkata and/or the order or orders not being passed as aforesaid, the Scheme shall become null and void and each party shall bear and pay its respective costs, charges and expenses for and in connection with the Scheme.

EXPENSES CONNECTED WITH THE SCHEME

8. All costs, charges and expenses of the **TRANSFEROR COMPANIES** and the **TRANSFEREE COMPANY** respectively in relation to or in connection with the Scheme and of carrying out and implementing / completing the terms and provisions of the Scheme and or incidental to the completion of amalgamation of the said Undertakings of the **TRANSFEROR COMPANIES** shall be to the account of the **TRANSFEREE COMPANY**.

MISCELLANEOUS

9. Upon sanction of the Scheme, the Authorised Share Capital of **TRANSFEREE COMPANY** shall stand enhanced by an amount of Rs.2,14,00,000/- being the combined Authorised Share Capital of the **TRANSFEROR COMPANIES**. The revised/enhanced Authorized Share Capital of the **TRANSFEREE COMPANY** shall be Rs.4,14,00,000/- and its Memorandum of Association shall automatically stand amended accordingly. It is hereby clarified that the consent of the shareholders to the Scheme shall be deemed to be sufficient for the purpose of effecting this amendment and no further resolution under Section 13, Section 61 and Section 64 or any other applicable provisions of The Companies Act, 2013 would be required to be separately

passed, nor any registration fees/stamp duty etc shall be payable by the **TRANSFEREE COMPANY**.

The **TRANSFEROR COMPANIES** and the **TRANSFEREE COMPANY** shall have liberty to apply to the Hon'ble National Company Law Tribunal, Bench at Kolkata for necessary direction to remove all difficulties, if any, in implementing the Scheme.

The **TRANSFEREE COMPANY** shall increase its Authorised Share Capital for the purpose of implementation of this Scheme, if necessary.

The TRANSFEROR COMPANIES and the TRANSFEREE COMPANY shall also take such other steps as may be necessary or expedient to give full and formal effect to the provisions of this Scheme.

SCHEDULE OF ASSETS

Schedule of Assets as at 31st March 2016 of Kamakhya Infrarealty Private Limited Madhu Vyapar Private Limited Nilkamal Vinimay Private Limited (the Transferor Companies), to be transferred to and vested in Suraj Buildcon Private Limited (the Transferee Company).

Part – I

A short description of the freehold properties of :

1. Kamakhya Infrarealty Private Limited - Nil
2. Madhu Vyapar Private Limited - Nil
3. Nilkamal Vinimay Private Limited - Nil

Part-II

A short description of the Leasehold properties of :

1. Kamakhya Infrarealty Private Limited - Nil
2. Madhu Vyapar Private Limited - Nil
3. Nilkamal Vinimay Private Limited - Nil

Part-III

(Short description of all stocks, shares, debentures and other charges-in-action of the Kamakhya Infrarealty Private Limited)

		Total
ASSETS		
(A) Stock in Trade (WIP)		92,70,732.00
(B) Cash and Cash Equivalents		2,30,391.25
(C) Short Term Loan & Advances Chaturbhuj Vintrade Pvt. Ltd.		30,80,550.00
(D) Other Current Assets		30,000.00
	Total	1,26,11,673.25

		Total
LIABILITIES		
(A) Long Term Borrowings Unsecured		2,50,000.00
(B) Other Current Liabilities Audit Fees Payables		5,000.00
	Total	2,55,000.00

(Short description of all stocks, shares, debentures and other charges-in-action of the Madhu Vyapar Private Limited)

	Total
ASSETS	
(A) Trade Investments Shinestar Advisory Pvt. Ltd.	6,00,000.00

(B) Stock in Trade (WIP)			33,46,939.00
(C) Cash and Cash Equivalents			34,78,299.00
(D) Short Term Loan & Advances			
Pyramid Comosales Pvt. Ltd.	2,00,000.00		
Liberal Merchants Pvt. Ltd.	8,37,800.00		
Pawansathi Vanijya Pvt. Ltd.	3,00,000.00		13,37,800.00
		Total	87,63,038.00

LIABILITIES

		Total
(A) Long Term Borrowings Unsecured		6,28,500.00
(B) Other Current Liabilities Audit Fees Payables		5,000.00
	Total	6,33,500.00

Short description of all stocks, shares, debentures and other charges-in-action of the Nilkamal Vinimay Private Limited)

ASSETS

		Total
(A) Investments in Equity Shares Tulsa Mercantiles Pvt. Ltd.		56,00,000.00
(B) Stock in Trade (WIP)		9,85,008.00
(C) Cash and Cash Equivalents		3,02,867.50
(D) Other Current Assets TDS – 2011-12		26,712.00
	Total	69,14,587.50

LIABILITIES

		Total
(A) Long Term Borrowings For Director		2,50,000.00
(B) Other Current Liabilities Audit Fees Payables		5,000.00
	Total	2,55,000.00

National Company Law Tribunal
Kolkata Bench

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Kolkata Bench