NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT – II
CHENNAI

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL, CHENNAI BENCH, HELD ON 10.03.2026 AT 10.30 A.M. THROUGH VIDEO CONFERENCING:

PRESENT: SHRI. JYOTI KUMAR TRIPATHI, HON'BLE MEMBER (JUDICIAL)
SHRI. RAVICHANDRAN RAMASAMY, HON'BLE MEMBER (TECHNICAL)

PETITION NUMBER	**: CP/CAA/65/2024**
APPLICATION NUMBER	**: CA(CAA)/32/2024**
NAME OF THE APPLICANT	**: Ind Eco Ventures Ltd**
NAME OF THE RESPONDENT(S)	**: ROC, Chennai**
UNDER SECTION	**: Sec 230-232 of CA, 2013**

ORDER

Vide separate order pronounced in open court, **C.P.(CAA)/65(CHE)2024** is Allowed.

Sd/-	**Sd/-**
RAVICHANDRAN RAMASAMY	**JYOTI KUMAR TRIPATHI**
Member (Technical)	**Member (Judicial)**

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IN THE NATIONAL COMPANY LAW TRIBUNAL, DIVISION BENCH - II, CHENNAI

CP (CAA) / 65 (CHE) / 2024

In

CA (CAA) / 32 (CHE) / 2024

(Filed under Sections 230 to 232 of the Companies Act, 2013)

In the matter of Scheme of Arrangement and Amalgamation between Ind Eco Ventures Limited (Transferor Company) and Indowind Energy Limited (Transferee Company) and their respective Shareholders and Creditors and their respective Shareholders

IND ECO VENTURES LIMITED,
CIN: U24231TN1982PLC009345,
Having its Registered Office at
Kothari Building, 4th Floor,
114, M G road, Nungambakkam,
Chennai, Tamil Nadu – 600 034,

... 1st Petitioner / Transferor Company

With

INDOWIND ENERGY LIMITED,
CIN: L40108TN1995PLC032311,
Having its Registered Office at
Kothari Building, 4th Floor,
114, M G road, Nungambakkam,
Chennai, Tamil Nadu – 600 034,

...2nd Petitioner / Transferee Company

Order Pronounced on ***10th March 202***

CORAM

Shri. JYOTI KUMAR TRIPATHI, MEMBER (JUDICIAL)
Shri. RAVICHANDRAN RAMASAMY, MEMBER (TECHNICAL)

Present: -

For Petitioner : Mr. R. Kannan, Advocate
For Income Tax Depart. : Mr. Raj Jhabakh
For Official Liquidator : Mr. B. Palani
For Reginal Director : Mr. Avinash Krishnan Ravi

ORDER

(Hearing Conducted though Hybrid Mode)

1. This Joint Company Petition has been filed by **IND ECO VENTURES LIMITED** *(hereinafter referred as 1st Petitioner Company / Transferor Company),* and **INDOWIND ENERGY LIMITED** *(hereinafter referred as Petitioner Company / Resulting Company / Transferee Company)* under section 230-232 of the Companies Act, 2013, and other applicable provisions of the Companies Act, 2013 read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (for brevity 'the Rules') for approval of the Scheme of Amalgamation (*hereinafter referred to as the '**SCHEME**'*) proposed between the Petitioners Company.

2. **1ST MOTION APPLICATION**

The Petitioner Companies had filed First Motion Application vide CA (CAA) / 32 (CHE) / 2024 and sought directions for Dispensation/ Convening the meeting of its Members/ Shareholders and Creditors regarding approval of the proposed Scheme. Based on the submissions, this Tribunal vide Order dated 02.09.2025 has ordered to dispense of the meetings of Equity Shareholders/ Members, Secured & Unsecured Creditors of the Petitioner Companies.

3. **SCHEME SUMMARY**

The Scheme provides for the Amalgamation of M **IND ECO VENTURES LIMITED** With **INDOWIND ENERGY LIMITED** their respective Shareholders and Creditors. Both the Petitioner Companies come under the jurisdiction of this Tribunal.

4. **RATIONALE OF THE SCHEME**

The rationale and benefits of the Scheme are briefed in Clause C and D of the Preamble of the Scheme as follows,

RATIONALE FOR THE SCHEME OF AMALGAMATION:

a) simplification of the holding structure of Transferee Company which would provide the combined ability to integrate and innovate the offerings of the Transferee Company which shall result in building a sustainable business;

b) access to new markets, customers and channels which would lead to an increase in market penetration and market competitiveness of the Transferee Company;

c) reduction in management overlaps and elimination of legal and regulatory compliances and associated costs thereof;

d) optimisation of the allocated capital & availability of funds that can be deployed more efficiently to pursue operational growth opportunities;

f) savings of operational costs which has become critical for long-term sustainability and will also lead to optimum utilization of resources;

g) elimination of the need for inter-company transactions between the Transferor Company and the Transferee Company; and

h) post scheme, the Transferee Company would be in a better position to support and finance the organic and inorganic expansion of the businesses.

It is stated that the Board of Directors of both the Petitioner Companies have proposed the Scheme of Amalgamation. This Scheme provides for various other matters consequential or otherwise integrally connected herewith.

5. In the second motion Petition filed by the Petitioner Companies, this Tribunal vide order dated 11.12.2024 directed the Petitioner Companies to issue notice to the Statutory / Regulatory Authorities concerned as well as directed to issue paper publication.

6. In compliance with the said directions issued by this Tribunal, the Petitioner Companies effected paper publications in ***"Trinity Mirror"*** in English (All India Edition) and ***"Makkal Kural"*** in Tamil (Tamil Nadu Edition). The notices were also served to

(i) Regional Director, Southern Region, Chennai,

(ii) Official Liquidator,

(iii) Registrar of Companies, Chennai,

(iv) Income Tax Department,

(v) Securities and Exchange Board of India (SEBI),

(vi) National Stock Exchange of India (NSE),

(vii) BSE Limited (BSE) and other regulators

Pursuant to the service of notice of the petitions, the following statutory authorities have responded.

8. **STATUTORY / REGULATORY AUTHORITIES**

8.1. REGIONAL DIRECTOR

8.1.1. The Regional Director (RD), Southern Region to whom the notice was served, has filed its report on 04.03.2025 and has expressed its 'Observations' in an interim report as follows,

"3) It is further submitted that Clause 1.1(d) of Part-A of the Scheme provides the appointed date as 1st April, 2023.

4) It is further submitted that Transferee Company is listed entity and listed on BSE and NSE.

5) It is respectfully submitted that the Hon'ble NCLT, Chennai Bench vide its order dated 2.9.2024 in CA(CAA)/32/(CHE)/2024, has dispensed with holding of meeting of shareholders of Transferor Company as all the shareholders have consented to the proposed Scheme of Amalgamation.

….

11) It is respectfully submitted that clause 3 of Part-B of the Scheme it provides that the Transferor Company is a wholly-owned subsidiary of the Transferee Company and Transferee Company along with its nominee shareholders hold all the equity shares issued by the Transferor Company. On amalgamation of the Transferor and Transferee Company, no shares shall be issued or allotted in respect of the holding of the shares by the Transferee Company in Transferor Company. upon the scheme becoming effective, the share certificates, if any, and or the shares in an electronic form representing the shares held by the Transferee Company in the Transferor Company shall stand cancelled and extinguished without my further application, act, or deed for cancellation thereof by Transferee Company.

12) It is respectfully submitted that Clause 5 of Part-C of the Scheme provides that upon the Scheme becoming effective, since the transaction involves entities that are *ultimately controlled by the same party before and after the transaction, the Transferee Company shall account for amalgamation in its books of account in accordance with Appendix-C 'Business combinations of entities under common control of the Indian Accounting Standard (Ind AS) 103 for Business Combination prescribed under Section 133 of the Companies Act, 2013, as notified under the Companies (Indian Accounting Standard) Rules, 2015 and generally accepted accounting principles, as may be amended from time to time.*

13) It is respectfully submitted that clause 13 of Part-D of the Scheme provides that upon the scheme becoming effective, all staff, workmen and employees of the Transferor Company, in service on such date, shall become the staff and employees of Transferee Company without any interruption or break in their service and on the basis of continuity of service and terms and conditions of their employment with Transferee Company shall not become favourable than those applicable to them with reference to Transferor Company.

14) It is respectfully submitted that clause 12 of Part-D of the Scheme provides that upon the scheme becoming effective, the Transferor Company shall be dissolved without winding up on the effective date.

15) It is respectfully submitted that the report of RoC, Chennai is awaited. On receipt of the Report of ROC further report in the matter will be submitted including the status of prosecution / technical scrutiny / inspection / complaints pending against the Transferor and Transferee Company. However, as per available records of this Directorate, an Inquiry under Section 206(4) of the Companies Act, 2013 was ordered against the Transferor Company in the year 2019 and Inquiry report was submitted was submitted to the Ministry and Instruction received from the .Ministry has been conveyed to the ROC. The status of Action taken against the company is yet be received. Therefore, it is requested that the Hon'ble NCLT, Chennai Bench may kindly permit this Directorate to file further report on the scheme of Amalgamation on receipt of report from RoC, Chennai.

17) In view of the above, the Hon'ble Tribunal may be pleased to permit the Regional Director, Southern Region, Chennai to file a further report on receipt of the report from Roc, Chennai and thereafter Tribunal may dispose of the matters on merits and pass such order/orders as deemed fit and proper."

8.1.2. The Regional Director (RD), Southern Region has filed its report on 20.05.2025 and has expressed its 'Observations' as follows,

"3) It is further submitted that since the report of Roc, Chennai was awaited, an Interim report dated 5.3.2025 was filed before the Hon'ble NLCT, Chennai Bench on

5.3.2025. Copy of the said Interim report is attached herewith for kind perusal of the Hon'ble Tribunal and the same may be read as part and parcel of this report.

4) It is further submitted that a letter dated 5.3.2025 received from Roc, Chennai on the above proposed Scheme of Amalgamation under Section 230-232 of the Companies Act, 2013. It is stated that an Inquiry under Section 206(4) of the Companies Act, 2013 was ordered against the Transferor Company M/s. Indo Eco Ventures Limited in the year 2019 and Roc, Chennai has observed violations of Section 118(10), 134(3), 143(3), 77, 82, 12(2), 186, 129 read with Schedule-III Division I Part | 6M, 129 read with AS-18, 129(3 Counts), Section 129 read with Schedule-IlI of the Companies Act, 2013(3 Counts) and 139 of the Companies Act, 2013. In this connection, Roc has submitted that notices to the company and its directors were issued on 20.1.2023 and the company has furnished replies vide letters dated 20.01.2023, 5.4.2024, 31.12.2024, 8.1.2025, which are not satisfactory. Therefore, Roc, Chennai vide letter dated 20.2.2025 has issued an advisory to the Transferor Company with an advice to compound under Section 441 of the Companies Act, 2013 for the offences committed under Section 129 and 139 of the Companies Act, 2013.

5) Since, the Transferor Company at present being a non-compliant under the Companies Act, 2013 and its application/scheme is not deserved to be considered for amalgamating with the Transferee Company.

6) In light of the observations of Roc, Chennai, it is submitted that since, the Transferor has not filed the compounding application under Section 441 of the Companies Act, 2013, the proposed scheme of Amalgamation does not deserve to be considered for Amalgamating with the Transferee Company."

8.1.3. The Regional Director (RD), Southern Region has filed its report on 02.12.2025 and has expressed its 'Observations' as follows,

"2. That Shri. N.K. Haribabu, Whole-time Director cum CFO of the Transferee company has submitted a copy of the Undertaking by way of an Affidavit dated 29.11.2025 filed before this Hon'ble Tribunal undertaking that the Transferor company M/s. Ind Eco Ventures Limited, had filed 5(five) compounding applications

before the Regional Director Southern Region, Chennai for violations of Section 129 of the Companies Act, 2013 and Section 139 of the Companies Act, 2013. Out of the 5 Compounding applications, the Regional Director has passed orders in respect of 4 offences as on today and the 5th Compounding application is pending for consideration. The applicants have duly remitted the compounding fees in accordance with the said orders.

3. Further, the Whole Time Director of the transferee company in the above said undertaking had stated that Clause 8 of Part D of the Scheme provides that that all pending litigations involving the Transferor Company shall stand Transferred to and be continued by the Transferee Company upon sanction and effectiveness of the Scheme and undertakes to cooperate with respect to the remaining 1 (one) compounding application filed for violation of Section 129 of the Companies Act, 2013 which is under consideration before the Regional Director."

8.1.4. The Regional Director (RD), Southern Region has filed its report on 15.12.2025 and has expressed its 'Observations' in the final report as follows,

"2. That in response to this Directorate letter dated 27.11.2025, Registrar of Companies, Chennai vide letter dated 05.12.2025 has submitted Action Taken Report on instructions issued by the Ministry/this Directorate in the matter of Inquiry and supplementary Inquiry report in respect of Transferor Company MIs. Ind Eco Ventures Private Limited. Copy of the ROC letter dated 05.12.2025 is attached as Annexure A. wherein, it is seen that all action points have been dealt with/initiated in respect to instructions issued by the Ministry/Directorate in the matter of Inquiry/ supplementary Inquiry conducted against the Transferor Company M/s. Ind Eco Ventures Private Limited. In this regard, Transferee Company may be directed to undertake under Section 240 of the Companies Act, 2013 that liability in respect of offences committed by the Transferor Company and its Officers in default prior to its merger/ amalgamation shall continue after such merger/ amalgamation."

8.2. INCOME TAX DEPARTMENT

8.2.1. The Income Tax Department to whom the notice was served and has filed its report on 04.10.2025 and has expressed its 'Observations' as follows:

> *"3. In addition to the above and without prejudice to the objections in the letter attached, it is submitted that the requirement to send the notice to the concerned department is a procedural requirement and as such does not impact the right of the Department to proceed in accordance with the provisions of the Income Tax Act, 1961. Therefore, it is submitted that this Hon'ble Tribunal, may take the objections on record without prejudice to the rights 2 of the Department to take all appropriate proceedings under the provisions of the Income Tax Act, 1961 to protect the interest of the Government revenue including the right to reopen the assessment. Further it is submitted that by filing of this Memo and the report of the Assessing Officer, the Income Tax Department shall not have deemed to waive its rights to undertake all proceedings under the Income Tax Act, 1961.*
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> *4. Reliance is placed on the judgment of the Supreme Court in Marshall Sons & Co India Ltd Vs Income Tax Officer (AIR1997SC1763 & MANU/SC/0407/1997), wherein the Hon'ble Court has held in para 17 of its Judgement as under:*
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> > *"We, however, make it clear that we have not expressed any opinion on the plea of the learned Counsel for the Revenue that the amalgamation itself is a device designed to evade the taxes legitimately payable by the subsidiary company. If the Income Tax authorities think that, they are entitled to raise this question in the proceedings under the Income Tax Act, it is open to them to do so by way of a separate proceeding according to law."*
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> *In line with the judgment of Hon'ble Supreme Court, it is stated that the Income Tax Department therefore reserves their right to proceed against the Petitioner Companies through independent proceedings under the provisions of the Income Tax and it is reiterated that filing of the present memo shall not in any manner amount to waiving its rights to proceed against the Petitioner Companies and pass orders in accordance with law.*
>
> *It is prayed that this Hon'ble Tribunal maybe please to take the memo and the letter on record and consider the same as the representation of the Income Tax Department as per Section 230 of Companies Act, 2013 and pass such other order(s) as this Hon'ble Tribunal may think fit in the facts and circumstances of the case."*

5. In this regard, this office conveys "**no objection**" to the scheme of amalgamation subject to the condition that the scheme of arrangement should not flout any provisions of Income Tax Act, 1961 and any rules under Income Tax Rule 1962 and subject to fulfilment of conditions specified in scheme of amalgamation. If any part of the scheme is found to be repugnant to the Income tax Act 1961 and Income Tax Rule 1962, the same is to be treated as void ab initio. The department also requests that the transferee company M/s. Indowind Energy Limited shall discharge all its responsibilities and liabilities emanating in respect of the proceedings pending/completed/likely to arise in respect of transferor company, M/s. Ind Eco Ventures Limited.

6. The continuation of the proceedings of assessment or recovery or any other statutory action will be subject to the provisions of the Income Tax Act and the assessee companies will not quote the approved scheme as a ground to oppose such continuation of proceedings. In the event of the failure of the assessee to notify the department of the approval of the scheme, the same will preclude the assessee companies from raising any technical grounds on the validity of the proceedings.

7. The refund of tax which has already been determined but not issued either to the transferor company/amalgamating company or to the amalgamated company will be issued in the name of respective companies only, as per the extant technical limitations of the system. The amalgamated company shall ensure that no technical glitches arise due to any name mismatch by changing the name of the account or closure of the bank accounts. The department is not liable to pay any interest due to the delay attributable to the assessee in informing such changes. The assessee will make all such claims in respect of grant of refund/interest on refund to the Income Tax Authorities only. The petitioners will not claim any right under this scheme in respect of calculation of any period of delay attributable to the assessee while granting interest u/s 244A of the Act.

8. Any credit in respect of which tax at source was deducted/collected on inter-company transactions will be dealt with under the extant provisions of the Income Tax Act depending on the date of remittance of such TDS/TCS remitted into the government account.

9. It is submitted that the transferee/transferor company shall not transfer any of the assets as part of the scheme of the amalgamation without express approval of the assessing officer as per the provisions of section 281 of the Act.

8.2.2. It is stated that in the present scheme of Amalgamation even though the Transferor Company gets dissolved, the liabilities of the same will be delved upon this Petitioner Company/ Transferee Company and therefore the Income Tax Department can proceed with their proceedings if any and approval of this Scheme does not cause any prejudice.

8.3. OFFICIAL LIQUIDATOR

8.3.1. The Official Liquidator to whom the notice was served, has filed its report on 16.07.2025 and has expressed its 'Observations' and 'No Objection' to the Scheme as follows,

"2.It is submitted that the said Chartered Accountant firm has verified the books and accounts and other records of the Transferor Company for the period from 2021-2022 and 2022-2023 (2 years only) and submitted their report dated 28/4/2025 received on 21/05/2025. Copy of the report of the Chartered Accountant 21/5/2025 is enclosed and marked as Annexure-4 for kind perusal of this Hon'ble Tribunal. Chartered Accountant submitted revised report dated 28/4/2025 on 27/5/2025 incorporating financial information for 3 years (2020-2021 to 2022-2023). Copy of the revised report dated 27/5/2025 is enclosed and marked as Annexure-3 for kind perusal of this Hon'ble Tribunal. However, the revised report also does not contain confirmation of scrutinizing the financial statements & returns filed with ROC for 2020-2021, as per scope of work and accordingly further report on the same is being called for from the Chartered Accountant.

3. That in accordance with the basis of notice served on 30/01/2025 to the Official Liquidator by the Transferor Company and also considering the conclusion made by the Chartered Accountants in their revised report dated 28/4/2025 received on 27/5/2025 as detailed above in para 2 of the report, the specific representation of Official Liquidator in respect of Transferor Company is humbly submitted as follows:-

(i) Notice to the Sectoral Regulator MNRE / State Government / TNERC:

That, the Background of the companies involved in the scheme disclosed vide Clause B of the Scheme to the effect that both companies in the scheme are an independent renewable energy based power generation companies owning and operating of wind farms etc. Accordingly, this Hon'ble Tribunal may be pleased to direct the companies to serve notice on the sectoral regulator viz., Ministry of New and Renewable Energy (MNRE) and to the State Government concerned / TN Electricity Regulatory Commission (ERC) / concerned State ERC, as applicable, considering the definition of 'Appropriate Authority' as provided in Clause 1.1(e) of the scheme and with reference to permits as defined in clause 1.1(p) of the scheme and as further detailed in clause 9 of the scheme and with reference to clause 17.1.4 of the scheme providing for additional condition precedent to make the scheme effective only after obtaining such sanction/approvals from Appropriate Authority;

(ii) Holding Vs Wholly owned Subsidiary relationship does not exist as on Amalgamation Date:

That, the Background of the companies involved in the scheme disclosed vide Clause B of the Scheme read with Clause 3 (consideration) of the scheme to the effect that the transferor company is a wholly owned subsidiary of the transferee company i.e. there exists subsisting relationship of holding and wholly owned subsidiary between the two companies in the scheme, however, this clause is silent as to whether such relationship subsists as on Appointed Date (1.4.2023) and subsequently as well, as it requires to subsist such relationship as on relevant Appointed Date and subsequently as well as the undertaking of transferor company that exists as on Appointed date (as duly provided in clause 1.1(b) and 2.1.1 of the scheme) will get transferred to and vested into the transferee company upon sanction of the scheme and scheme do not provide for allotment of shares as consideration (clause 3 of the scheme) for such transfer and vesting of undertaking as on Appointed Date. However, it is noticed from Note No.3 (Share Capital) of audited financials of the transferor company as on 31.3.2023 that the shares of the transferor company were not held by the transferee company (5% or more) as on 31.3.2023 (Appointed date 1.4.2023) instead it was disclosed in the audited financials that another company (not part of the scheme) namely Loyal Credit and Investment Limited is the holding company for the transferor company. Hence, the transferee company is not the holding company for the transferor company as on 31.3.2023 / Appointed Date 1.4.2023, as disclosed in the scheme. Further, there are no details disclosed about the acquisition of shares of Transferor Company by the transferee company on 1.4.2023 along with details of proof of payment of consideration through bank statement evidence. Hence, the present scheme without such subsisting relationship of holding and wholly owned subsidiary as on appointed date (1.4.2023) but with no consideration on the ground of such relationship, need amendment providing for issue of consideration to the shareholders of the transferor company after getting the expert report on valuation as per section 232(2)(d) of the Companies Act, 2013. Hence, this Hon'ble Tribunal may be pleased to direct the companies to amend the scheme providing for consideration after obtaining valuation report. Further the sub-clause (a) of Clause C (Rationale of the scheme) of the scheme also need deletion as it refers to simplification of holding structure of Transferee Company. Further, clause 4 of the scheme providing for cancellation of shares held by the transferee company into Transferor Company does not arise and hence need deletion. Hence, this Hon'ble Tribunal may be pleased to direct the companies to delete Clause C(a) and 4 of the *scheme. The copy of Note No.3 of audited financials of Transferor Company as at 31.3.2023 is enclosed and marked as Annexure-1.*

(iii) Dispensation of meeting of shareholders / creditors sought on the ground of holding Vs wholly owned subsidiary, which is incorrect:

Issue of existence of Separate class of Creditors (FCCB) is not disclosed:

That, the para no. 13 of the order dated 2.9.2024 passed by this Hon'ble Tribunal against the Company Application dated 28.3.2024 refers to the submission made by the companies to this Hon'ble Tribunal to the effect that the proposed scheme is between holding and its subsidiary company and as per ratio of Hon'ble NCLAT judgement in Mohit Agro, meeting of equity shareholders can be dispensed with and the same is allowed by this Hon'ble Tribunal accordingly in terms of para no. 14.B.a of the said order, ibid. However, it is noticed that as on amalgamation date relevant for the scheme to proceed without payment of any consideration, there is no subsisting relationship of holding and subsidiary between the two companies in the scheme. Further, the details of creditors in Foreign Currency Convertible Bonds (FCCB) as a separate class in respect of Transferee Company were not found to be disclosed to this Hon'ble Tribunal before seeking dispensation of creditors' meeting. Hence, this Hon'ble Tribunal may be pleased to direct the companies to clarify the same to this Hon'ble Tribunal or to order the meeting of shareholders of transferee company (a listed entity) or to order meeting of creditors of FCCB holders (creditors) or such other meetings as deem fit in accordance with law.

(iv) NoC not obtained from Stock Exchanges:

That, there is no NoC obtained by the transferee company from the stock exchanges (BSE and NSE) before filing the scheme through Company Application in April 2025, in compliance with Rule 37(2) of SEBI (LODRO Regulations as amended, as it is noticed that the copy of such NoC was not found part of type set of documents forming part of Company Application / Company Petition as the same should be filed to this Hon'ble Tribunal as per Regulation 37(3), ibid. The claim of the companies that it need not comply with Regulation 37 in view of exception provided in Regulation 37(6) as applicable at the relevant time, since the scheme is between holding and wholly owned subsidiary is incorrect as explained in sub-para (ii) above, and hence it need to obtain NoC from both the stock exchanges. Further, such exception is based on the condition that the proposed scheme solely provide for such merger between holding and wholly owned subsidiary, however, in this case, scheme also provide for reduction of share capital of transferee company (listed entity) as detailed in sub-para (xi) below, and hence the exception is not applicable being not a case of merger solely without any reduction of share capital etc. Hence, this Hon'ble

Tribunal may be pleased to direct the companies to file full details of the scheme explaining the ingredients of reduction of share capital of listed entity included in the scheme to SEBI / BSE / NSE along with details of actual position of no such relationship of holding and wholly owned subsidiary as on amalgamation date, and obtain NoC from BSE and NSE and proceed with de novo filing of company application as per SEBI (LODR) regulations, ibid.

(v) Mismatch in the details of shareholding disclosed in scheme with audited financial statements, also within financial statements, etc;

Share capital structure as on Amalgamation date not furnished in the scheme:

That, the Note No.3 (Share capital) of the audited financials of the transferor company disclose that there is Class I equity shares with voting rights under the names of shareholders holding 5% or more classification, without commensurate comparable details of Class I and other than Class I, under the 3 sub-headings viz., 'Authorised', Issued' and 'Subscribed and fully paid up'. Further, the number of shares held by one Mr. K.V.Bala were shown as 8,10,000 at one place and as 12,04,410 in another place in same Note No.3 of audited financials of transferor company as at 31.3.2023. Further, the details of share capital of Transferor Company as disclosed in Clause 1.5.1 of the Scheme do not match with the share capital Note No.3 of audited financials regarding number of shares of transferor company as at 31.3.2023. As per audited financials, ibid, the number of shares (Authorised) are 5,31,80,000 shares @ Rs 5 each, whereas in the scheme it was disclosed as 2,65,90,000 no. of shares @ Rs 10 each. Similarly, the number of shares of issued, subscribed and paid up are disclosed in the scheme as 44,30,319 no. of equity shares whereas it was found to be 88,60,638 no. of shares @Rs 5 each as per audited financials. These shareholding details shall be disclosed in the Balance Sheet as per Section 129 of the Companies Act, 2013 read with Schedule III (Division I, Part I- non-Ind AS), however, the audited financials of the transferor company disclose such important details of its shareholding with incomplete details / inconsistent details and further the scheme disclose totally different figures for number of shares of transferor company. Hence, this Hon'ble Tribunal may be pleased to direct the companies to furnish clarification with reference to the mismatch ete in content of Note No.3 of audited financials to this Hon'ble Tribunal with correct details and disclosures and information about shareholding with supporting documentary evidence. Further, this Hon'ble Tribunal may be pleased to direct the companies to amend the Clause 1.5.1 of the scheme with correct number of equity shares of Transferor Company and also providing the details of share capital structure as on appointed date (1.4.2023) *as well in the said clause. The copy of Note No.3 of audited financials of Transferor Company as at 31.3.2023 is enclosed and marked as Annexure-1.*

(vi) Whether the transferor company also was a listed entity:

That, as per SEBI website (https://www.sebi.gov.in/sebi_data/attachdocs/1311154815888.pdf), the transferor company has filed Draft Red Herring Prospectus (containing details of Class I shares and Class II shares, with lock in period etc) in the year 2011 or so, and further it is noticed that there may have been an ISIN code for transferor company as INE456M01029 with BSE, however no such details were found in the scheme about the transferee company's background as part of the scheme. Hence this Hon'ble Tribunal may be pleased to direct the companies to furnish the clarification as to whether the transferor company was a listed entity previously along with full details of full terms and conditions of each class of shares.

(vii) Clarification on the status of Charge in favour of Andhra Bank:

That, as per Index of Charges downloaded from MCA21 portal in respect of the Transferor Company (Ind Eco Ventures Limited), there is open charge in favour of Andhra Bank (now merged with Union Bank of India) for an amount of Rs 80 lakh subsisting since 5.12.2000 and hence the said bank is a secured creditor of the transferor company as on date of filing the Company Application dated. However, as per disclosure vide para no.11 of the Details of the Company Application as part of Typed Set of Company Application (read with Annexure-H thereto) filed before this Hon'ble Tribunal, it was disclosed to the effect that there is only 1 secured creditor namely Indowind Energy Limited (Transferee Company). Hence this Hon'ble Tribunal may be pleased to direct the companies to clarify the same to this Hon'ble Tribunal, along with documentary evidence. The copy of Index of charges is enclosed and marked as Annexure-2.

(viii) Employee protection undertaking:

That, the clause 1.1(l) of Part A of the Scheme seeks to protect the employees only if they are in service on effective date, and hence, this Hon'ble Tribunal may be pleased to direct the companies to submit an undertaking to this Hon'ble Tribunal to the effect that there would be no retrenchment of any employee who were in service as on Appointed Date (1.4.2023) as well except in the event of their resignation on their own before the Effective Date. Further, it is noticed that the content of clause 1.1(l) refers to 'effective date' which is at variance with another clause 13.1 which refers to 'on such date' and it is also at variance with another clause 1.1(b)(vi) which refers to 'date immediately preceding the approval or sanction of the scheme'. Hence, this Hon'ble Tribunal may be pleased to direct the companies to amend the scheme to ensure that the employees are defined/referred similarly at all places in the scheme *without variance and duly protecting the employees existed as on appointed date as well without retrenchment.*

(ix) Auto modification of scheme without prior consent of Tribunal:

That, the second and last sub para under Clause 1.3 of the Part A of the scheme (Compliance with Tax Law) providing for auto modification of content of the scheme, post its sanction by this Hon'ble Tribunal, it is submitted that such auto modification of the content of the scheme to be in compliance with Income Tax Law, without the previous approval / sanction of this Hon'ble Tribunal will be in violation of section 231(1)(b) of the Companies Act, 2013 so as to ensure that no such auto as every modification of the content of the Scheme requires approval by this Hon'ble Tribunal. Hence, this Hon'ble Tribunal may be pleased to direct the Transferor and Transferee Companies to delete / modify the the 2ad and last sub para under Clause 1.3 of Part A of the scheme by way of amendment to the scheme proposed, amendment/modification of the Scheme takes place, post its sanction by this Hon'ble Tribunal or to submit an undertaking to this Hon'ble Tribunal to the effect that such auto modification of the content of the scheme will not be implemented without prior approval of this Hon'ble Tribunal.

(x) Transferor company has no business left as on amalgamation date and no assets left capable of doing business on its own:

That the scheme disclose that the company is into the business of owning and operating wind mills etc. Hence to carry on such business it require land and building to install wind mills. However, as per the audited financial statements (Note No.10 - Fixed Assets), it is noticed that the transferor company has sold / disposed of its entire freehold land and buildings during the year 2022-23 leaving no such land / buildings remain with transferor company as on appointed date 1.4.2023. Further, the statutory auditor vide his report (Annexure-A to auditor's report) para no. i.(c) has reported that the company does not have any immovable properties as at the Balance Sheet date i.e. 31.3.2023 (a day prior to appointed date 1.4.2023). Further, the Balance Sheet Size of the Transferor Company as at 31.3.2023 / appointed date 1.4.2023 is Rs 84.33 Cr as is evident from the audited financial statements. However, it is noticed that out of total assets of Rs 84.33 Cr, an amount of Rs74.55 Cr representing 88.40% is Goodwill as part of such assets and further out of remaining assets, an amount of Rs 3.02 Cr (3.6 %) represents balances kept with Government authorities. Hence, there are no core assets left in Transferor Company to carry out business of Transferor Company from amalgamation date 1.4.2023. Hence, there is no business left of the transferor company as on appointed date that sought to be carried on by the transferee company upon merger in view of *nonexistence of land and buildings forming part of wind mill business of the transferor company. Hence, this Hon'ble Tribunal may be pleased to direct the companics to furnish the clarification on the same along with details of parties to whom assets sold during 2022-23 and sale price, valuation report ete and details of revenue from operations etc during next FY 2023-24 and 2024-25 along with copies of audited financial statements for 2023-24 and unaudited / audited financial statements for 2024-25 in respect of transferor company.*

(xi) Accounting not in compliance with Ind AS-103, No business, No business combination, and No business combination under common control etc:

That the clause 5.1 of the scheme disclose to the effect that the transaction (transfer and vesting of undertaking of transferor company as existed on amalgamation date (1.4.2023) into transferee company) involves entities that are ultimately controlled by the same party before and after the transaction, and hence propose to account it in accordance with Appendix-C of Ind AS 103. Whereas it is noticed that before the transaction date (1.4.2023), the transferor company is not controlled by the transferee company as the transferor company is not a subsidiary of transferee company instead the transferor company was a subsidiary of another entity namely Loyal Credit & Investments Ltd which is not part of the scheme and nothing is disclosed in the scheme about such other entity part of transferee company's control. Hence, the said disclosure in clause 5.1 of the scheme is incorrect disclosure which needs amendment. Since they were not under common control before the business combination (transaction with date 1.4.2023), it is not meeting the criteria of 'common control business combination' as provided under Appendix C of Ind AS-103. Further, in the absence of any business of Transferor Company that is left to be carried on by the transferee company as detailed in sub-para (x) above, it is not meeting the criteria/definition of business given in Ind AS-103. Hence there is no business in this scheme that meet the definition given in Ind AS-103 and accordingly there is no business combination as well as defined therein. Hence, there is no business, business combination, and common control business combination in this case, hence it is not falling under the criteria of Ind AS-103 Appendix-C, accordingly it require amendment of clause 5.1 of the scheme. Hence, this Hon'ble Tribunal may be pleased to direct the companies to amend the clause 5.1 of the scheme and consequently to amend clauses 5.1.1 to 5.1.7 of the scheme.

(xii) Winding up proceedings against the transferee company:

That the clause 23.1 of the scheme discloses details about winding up petition allowed by the Hon'ble High Court Madras against the transferee company during FY 2020-21 i.e. before the appointed date 1.4.2023 and it is further disclosed to the effect that *such admission of winding up petition was ordered for status quo vide intra court appeal and appeal proceedings are pending. It is a case where the transferor company seeks to merge with the transferee company which is facing winding up proceedings (only status quo ordered) and hence it defacto may become a case of dissolution of transferor company as well with winding up (post-merger) through the process of winding up of transferee company and hence the disclosure of 'dissolution of transferor company without process of winding up' in clause 12 also become incorrect subject to the orders of the Hon'ble High Court of the Madras, so far passed or to be passed. Hence, this Hon'ble Tribunal may be pleased to direct the companies to furnish the latest status of the same along with copies of all orders passed by the Company Court and the Division Bench of the Hon'ble High Court of Madras, in order to verify the implication of those orders on the continuity of the transferee company or its winding up.*

(xiii) Issue of Notice to RBI:

That the clause 23.1 of the scheme discloses about obtaining NoC from RBI regarding restructuring of terms of Foreign Currency Convertible Bond (FCCB) and whose implementation is still pending as issuance of equity shares in change for the conversion of FCCB is on hold due to winding up proceedings before Hon'ble High Court. Hence, this Hon'ble Tribunal may be pleased to direct the companies to issue notice to RBI.

(xiv) Details about FCCB issue and its restructure and consents from FCCB holders/ their trustee pending:

That the clause 23.1 of the scheme disclose sto the effect that the company has issued FCCB during the year 2007 and its conversion into equity shares is on hold and hence they constitute a separate class of creditors as such for the purpose of the proposed scheme and to obtain their consents for the scheme. Hence, this Hon'ble Tribunal may be pleased to direct the companies to disclose the value involved in the FCCB issue along with complete details of issue and its restructure, and to obtain consents from the bond holders/their trustee if any for the scheme and furnish the same to this Hon'ble Tribunal.

(xv) Income tax litigation before Hon'ble High Court Madras:

That the clause 23.2 of the scheme discloses about the income tax department appeal filed against the transferor company pending before Hon'ble High Court Madras. Hence, this Hon'ble Tribunal may be pleased to direct the companies to furnish the value involved in the case, latest status of the pending case along with copies of all orders passed by the Hon'ble High Court of Madras, in order to verify the implication of those orders on the content of the scheme, if any.

(xvi) Pending investigation / inspection proceedings under Companies Act, 2013:
That the clause 23.3 of the scheme discloses about the receipt of show cause notices from RoC, Chennai regarding violations in financial statements of Transferor Company which is stated to be pending before the RoC (adjudicating officer). This clause is classified under pending litigations. However, it appears they are part of pending investigation / inspection proceedings against the transferor company under the provisions of Companies Act, 2013. As per section 230(2)(a) of the Companies Act, 2013, the details of pendency of any investigation or proceedings against the company to be disclosed to the Hon'ble Tribunal through Company Application, however, it is noticed that the details of Company Application do not contain any such details classified as pending investigation / other proceedings. Hence, this Hon'ble Tribunal may be pleased to direct the companies to disclose about full details about the pending inspection / investigation proceedings and copies of show cause notices received and their replies etc, if any, and furnish the same to this Hon'ble Tribunal to verify implication on the scheme, if any. Further whether it is a case of compounding / adjudication of penalty or both need be clarified by the companies. It is also noticed that the violations in financial statements are found in financials of Transferor Company in the subsequent year 2022-23 as well as reported in this report.
(xvii) Scheme at the stage of inconclusive proceedings which are significant:
That in view of the details of various issues ranging from admission of winding up petition during FY 2020-21 against transferee company and pending inspection / investigation proceedings under Companies Act, 2013 against the transferor company, as disclosed under pending litigations heading in Clause 23 of the Scheme, the proposed scheme at this stage may not be allowed till conclusion of the same. Hon'ble Tribunal may be pleased to decide the same on merits.
(xviii) Sale of Assets on loss, a potential prejudicial transaction:
That the Note No.19 - Other Expenses of the audited Financials of the transferor company for the year 2021-22 disclose to the effect that it incurred loss of Rs 2.41 Cr as loss on sale of assets. Further, the financial statements for the 2022-23 in respect of Transferor Company disclose similar loss on sale of assets / slump sale to the tune of Rs 85.50 lakh. Hence, the details of such transactions, parties with whom such transactions took place along with details of KMP or not, book value, sale price and market value involved along with copy of valuation report etc in support of the such sale of assets /slump sale need be verified to ensure it is not a prejudicial transaction or it is not a case of diversion of asset to related parties / others not at arm's length

transaction. Hence, this Hon'ble Tribunal may be pleased to direct the companies to furnish the above details with clarification to this Hon'ble Tribunal.

(xix) Note 24.40 (pending litigations) of financial statements not furnished;

Board Report against audited financial statements not furnished:

That the Independent Auditors' Report (Statutory Auditor's Report) dated 21.8.2023 in respect of financial statements of the Transferor Company disclose in its para no. 2.(7)(a) to the effect that the company has disclosed details regarding pending litigations in Note No.24.40 of the financial statements, which would impact its financial position. However, from the typed set of documents received by the Official Liquidator it is found that there is no such Note No.24.40 of the financial statements showing such details of litigations that may impact is financial position. Hence, this Hon'ble Tribunal may be pleased to direct the companies to clarify the same, along with the copy of Board's Report for the 3 years (2020-21, 2021-22, and 2022-23) upto the Appointed Date 1.4.2023.

(xx) Loans and advances given, a potential prejudicial transaction:

That the statutory auditors vide para no. iii.(c) to (e) of their report (annexure- A to their report) dated 21.8.2023 against the financial statements of the transferor company have reported that the transferor company has not decided the schedule of repayment of principal and interest, has not stipulated the terms or period of repayment ete in respect of loans or advances given by the transferor company to others. Hence, this Hon'ble Tribunal may be pleased to direct the companies to furnish the clarification on the same along with reasons and amount involved and outstanding as on appointed Date.

(xxi) Scheme contain ingredients of reduction of share capital of listed entity (Transferee Company) but the same is not provided in the scheme:

That the Note 12 Non current investments of audited financial statements as at 31.3.2023 (appointed date 1.4.2024) disclose to the effect that the transferor company holds 8 lakh no. of shares of transferee company (listed entity) with market value of Rs 1.28 Cr and book value of Rs 0.47 Cr, and accordingly upon merger of the proposed scheme, there will be reduction of share capital of the transferee company to that extent. However, the scheme is silent and do not enable or do not provide for such reduction of share capital as part of the scheme. Hence, this Hon'ble Tribunal may be pleased to direct the companies to amend the scheme providing for reduction of share capital of Transferee Company as part of the scheme.

(xxii) Appointed date is ante dated beyond one year:

That, as per para 6(c) of General Circular No.09/2019 dated 21.8.2019 issued by the Ministry of Corporate Affairs, if appointed date (in this case, 1.4.2023) is *significantly ante-dated beyond a year from the date of filing the Company Application (April 2024 in this case, subject to confirmation by the companies), then the justification for the same would have to be specifically brought out in the scheme itself and it should not be against public interest. However, it is noticed that there is no justification is given in the scheme. Further, it is silent as to whether the companies have significantly ante dated the appointed date to more than one year prior to the filing of the scheme in April 2024, to avoid lapse of any carry forward of losses of transferor company or otherwise, in either case may hit public interest aspect specified in the MCA Circular, ibid. This may be clarified by the companies to this Hon'ble Tribunal.*

(xxiii) Clerical/typo error in content of the scheme:

That the clause 1.1(j) and (k) of the scheme are missing in chronology, a typo error that may be rectified by the companies.

4. Therefore, it is submitted that the Official Liquidator is of the humble opinion that the affairs of the Transferor Company appear to have not been conducted in a manner prejudicial to the interest of its members or to public interest subject to representation at para 3 above, and subject to verification of various details of information/clarifications etc. pending to be received as detailed in para 3 above and further report of Chartered Accountant to be received for 2020-21 as stated in para 2 (page 2) above.

5. In view of the above, the Official Liquidator humbly submits that the above facts for consideration of this Hon'ble Tribunal and prays for the following orders:-

a. To take this report on record and consider the report of M/s. Manian & Narayanan, Chartered Accountants and issue directions to the Transferor and Transferee Companies, as deem fit;

b. To fix remuneration payable to the auditor who has scrutinized the affairs of the Transferor Company for the period of last 2 years i.e. 2021-2022 & 2022-2023, subject to filing further report for year 2020-2021;

c. To direct the Applicant Company to deposit such remuneration / fee within the stipulated period as may be prescribed by this Hon'ble Tribunal,

d. And pass such order/orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case."

8.4. REPLY TO THE STATUTORY OBJECTIONS

The Petitioner companies have filed their response to the statutory objections and the same is extracted below:

"Reply to the Regional Director:

4. During the hearing on May 28, 2025, the Regional Director submitted that RoC Chennai, in its letter dated 05.03.2025, reported multiple violations by the Transferor Company under Sections 118(10), 134(3), 143(3), 77, 82, 12(1), 186, 129 (including Schedule-III and AS-18, with multiple counts), and 139 of the Companies Act, 2013 for FY 2016–17 and 2017–18, based on a 2019 inquiry under Section 206(4). Notices were issued on 20.01.2023, and responses were furnished on 20.01.2023, 05.04.2024, 31.12.2024, and 08.01.2025, but were found unsatisfactory. Accordingly, RoC, via letter dated 20.02.2025, advised the company to compound under Section 441. As the Transferor Company failed to do so, the proposed Scheme of Amalgamation is not considered fit for approval. The said order is attached as **Annexure – 2**.
5. The Transferor Company has since filed the necessary Compounding Applications with the office of the Regional Director – Southern Division and Registrar of Companies - Chennai, covering the following sections of the Companies Act, 2013:

S. No	Compounding Application – Relevant Section	SRN	Filing Date
1	Section 129 r/w Sch III Div I Para 6M	N30601611	May 06, 2025
2	Section 139	N30600654	May 06, 2025
3	Section 129 r/w Sch III & AS-18 (FY 2016–17)	N30666648	May 09, 2025
4	Section 129	N30879019	May 23, 2025
5	Section 129 r/w Sch III	N31201163	June 10, 2025

6. Proof of submission of the above Compounding Applications with the Registrar of Companies and Regional Director is annexed herewith as **Annexure – 3**.
7. It is submitted that four Compounding Applications had already been filed prior to the May 28 hearing, contrary to the claim that no applications had been filed. The pending application was also filed on June 10, 2025.
8. The alleged violations were related to FY 2016 – 17 and 2017 – 18 and primarily pertain to presentation inconsistencies and not suppression. The Transferor Company submits that there was no willful misrepresentation of facts in its financial statements. Any non-disclosure is due to inadvertence and oversight, and not due to any malafide intention or willful default.

11. The Transferor Company respectfully submits to this Hon'ble Tribunal that Part D, Clause 23.3 of the Scheme of Amalgamation expressly discloses the receipt of Show Cause Notices from the office of the Assistant Registrar of Companies, Chennai, pertaining to disclosures made in the financial statements for the financial years 2016–17 and 2017–18. The said matter is presently pending adjudication before the Adjudicating Officer (i.e. Registrar of Companies – Chennai). A copy of the Scheme of Amalgamation is annexed herewith as **Annexure – 4** for the kind perusal of this Hon'ble Tribunal.

12. The Transferor Company respectfully draws the attention of this Hon'ble Tribunal to Part D, Clause 8 of the Scheme of Amalgamation, which unequivocally provides that all pending litigations involving the Transferor Company shall stand transferred to, and be continued by, the Transferee Company upon the sanction and effectiveness of the Scheme.

13. The Transferor Company undertakes to fully cooperate with all ongoing proceedings with the office of the Regional Director – Southern Division and Registrar of Companies - Chennai and shall not treat the Scheme as a mechanism to delay or obstruct such processes.

17. The Transferee Company holds 100% share capital of the Transferor Company. The Transferee Company is listed with National Stock Exchange and BSE Limited. The Transferor Company and the Transferee Company are under common control. Since this Scheme of Amalgamation is between the Holding Company and its Wholly-owned Subsidiary, Regulation 37 (6) of SEBI (LODR), 2015 provides relaxation for compliance with Regulation 37 of SEBI (LODR), 2015.

18. The Transferor Company would like to inform that, the Income Tax Department vide report dated February 21 2025 issued by the Income Tax officer Corporate Ward 2 (3) Chennai, has provided No-objection to the proposed Scheme of Amalgamation, despite the income tax department having filed an appeal for the AY 2010 - 11 with the Hon'ble High Court of Judicature at Madras challenging the order passed by the Income Tax Appellate Tribunal – Chennai Bench during the FY 2022-23. Currently, the appeal is pending (lis pendens).

19. During the hearing held on May 28, 2025, this Hon'ble Bench observed that the Income Tax Department had stated that neither the Transferee nor the Transferor Company shall transfer any assets forming part of the Scheme of Amalgamation without obtaining the prior approval of the Assessing Officer, in accordance with the provisions of Section

281 of the Income-tax Act, 1961. This Hon'ble Bench accordingly directed the Applicant Companies to file an appropriate response to the said observation.

20. The Applicant Companies respectfully submit that, under the proposed Scheme of Amalgamation, only the assets and liabilities of the Transferor Company are proposed to be transferred to the Transferee Company upon the sanction of this Hon'ble Tribunal. Accordingly, requirement of prior approval of the Assessing Officer under Section 281 of the Income-tax Act, 1961, would pertain solely to the Transferor Company, and not to the Transferee Company.

21. In continuation thereof, the Transferor Company hereby undertakes to file Form I.T.N.S. 281, duly capturing all requisite particulars pertaining to the Transferor Company, with the Assessing Officer having jurisdiction over the Transferor Company, in compliance with the provisions of Section 281 of the Income-tax Act, 1961.

Reply to the Official Liquidator:

Company Response:

The Transferor Company and the Transferee Company have not commissioned any projects registered with the Ministry of New and Renewable Energy (MNRE). All projects undertaken by both companies are implemented either under the III Party or under the Sale to Board Scheme (collectively referred to as the "Schemes"). Under the agreements executed for these Schemes, there is no contractual or statutory obligation for either company to obtain in-principle approval from MNRE or the Tamil Nadu Electricity Regulatory Commission (TNERC) to undertake the proposed Scheme of Amalgamation.

The Electricity Regulatory Commissions are constituted under the Electricity Act, 2003. Section 86 of the Act prescribes the functions of the State Electricity Commissions, which primarily include:

- *determine the tariff for generation, supply, transmission and wheeling of electricity, wholesale, bulk or retail, as the case may be, within the State:*
  - *Provided that where open access has been permitted to a category of consumers under section 42, the State Commission shall determine only the wheeling charges and surcharge thereon, if any, for the said category of consumers;*
- *regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State;*
- *facilitate intra-State transmission and wheeling of electricity;*
- *issue licences to persons seeking to act as transmission licensees, distribution licensees and electricity traders with respect to their operations within the State;*
- *promote co-generation and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licensee;*
- *adjudicate upon the disputes between the licensees, and generating companies and to refer any dispute for arbitration;*
- *levy fee for the purposes of this Act;*

- *specify State Grid Code consistent with the Grid Code specified under clause (h) of sub-section (1) of section 79;*
- *specify or enforce standards with respect to quality, continuity and reliability of service by licensees;*
- *fix the trading margin in the intra-State trading of electricity, if considered, necessary; and*
- *discharge such other functions as may be assigned to it under this Act.*

The Electricity Act, 2003 does not contemplate approval or vet Schemes of Amalgamation under the Companies Act, 2013 by the State Electricity Commissions, including TNERC. The role of the Commissions is regulatory in nature, similar to the Securities and Exchange Board of India (SEBI) in the securities market. In the case of SEBI, Schemes of Amalgamation of listed companies are reviewed by stock exchanges, not by SEBI directly.

Further, the definition of "Appropriate Authority" in Clause 1.1(e) of the Scheme refers to authorities from whom statutory or regulatory approvals are required in connection with the implementation of the Scheme. Since no such approval is required from either MNRE or TNERC for the proposed amalgamation, these entities do not fall within the scope of "Appropriate Authority" for this transaction. Similarly, the term "Permits" as defined in Clause 1.1(p) of the Scheme refers to authorisations necessary for the business operations, and not to general regulatory oversight. Clauses 9 and 17.1.4 of the Scheme, when read in this context, require approvals only where mandated by law or contract, which is not the case here.

Accordingly, it is our considered view that there is no legal requirement to serve notice on MNRE or TNERC in connection with the proposed Scheme of Amalgamation.

Company Response:

We respectfully submit that the Board of Directors of the Transferee Company, at its meeting held on January 06, 2023, resolved and intimated to the Stock Exchange its intention to acquire 100% of the equity share capital of the Transferor Company for a cash consideration of ₹8.98 Crores, with a proposed completion timeline on or before March 31, 2023. A copy of the relevant stock exchange disclosures is annexed hereto as **Annexure – 1.**

Pursuant to the aforesaid resolution, the Transferee Company discharged the entire consideration to the shareholders of the Transferor Company on January 10, 2023. The bank statement and the corresponding tally journal evidencing such payment are collectively annexed herewith as **Annexure – 2.**

It is pertinent to note that the Transferor Company being an Unlisted Public Company, in terms of the Rule 9B of the Companies (Prospectus and Allotment of Securities) Rules, 2014, any transfer of equity shares of the Transferor Company could only be effected in dematerialized form. While the Transferor Company had already obtained an ISIN, its shareholders had not dematerialized their equity holdings. The Transferor Company, in coordination with its shareholders, facilitated the dematerialization process and executed the transfers progressively, as and when the shareholders dematerialized their shares. The depository participant's statements evidencing such transfers are annexed hereto as **Annexure – 3.**

Accordingly, while the electronic transfer of equity shares of the Transferor Company into the name of the Transferee Company was not fully completed as on March 31, 2023, the commercial acquisition had, in fact, been consummated prior to the said date, with the entire consideration having been paid and recorded in the books of the Transferee Company as an advance towards share acquisition. The delay in completing the legal transfer of shares was solely attributable to procedural constraints, including dematerialization formalities, which were beyond the control of either Companies.

It is emphasized that the Scheme of Amalgamation was placed before the Boards of the Transferor and Transferee Companies for deliberation only after 100% of the equity shares of the Transferor Company had been electronically transferred in favor of the Transferee Company.

The Scheme of Amalgamation was approved by the Boards of both Transferor and Transferee Companies on November 07, 2023, and the merger application was filed on March 30, 2024, with the Hon'ble National Company Law Tribunal – Chennai Bench April 1, 2023 being specified as the Appointed Date.

In terms of General Circular No. 09/2019 dated August 21, 2019, issued by the Ministry of Corporate Affairs, the "Appointed Date" shall mean the date specified in the Scheme of Arrangement from which the scheme shall be effective, which may either be (i) a specific calendar date, or (ii) a date linked to the occurrence of an event as provided in the scheme.

The Companies had, in good faith, adopted the former approach and designated April 1, 2023 as the Appointed Date. The same was not adopted with any mala fide intent, nor for the purpose of securing any undue tax benefit, but solely to ensure conformity with the requirements of the said Circular.

Subsequently, in order to bring finality and clarity to the determination of the Appointed Date, the Boards of Directors of both the Transferor and Transferee Companies, at their meetings held on August 12, 2025, resolved to amend the Appointed Date under the Scheme to April 1, 2024. The extracts of the relevant Board Resolutions are enclosed in **Annexure – 4**. The updated Scheme of Amalgamation giving effect to the change of Appointed date is attached as **Annexure – 5**.

Given that, as on the revised Appointed Date of April 1, 2024, the Transferor Company stands as a wholly-owned subsidiary of the Transferee Company, there arises no requirement for issuance of equity shares or for valuation. Consequently, the proposed amendment to sub-clause (a) of Clause C (Rationale of the Scheme) does not arise.

Further, in light of the established holding–subsidiary relationship, Clause 4 of the Scheme retains full applicability and must necessarily be incorporated in the Scheme.

Company Response:

We respectfully submit that the Transferee Company acquired 100% of the equity share capital of the Transferor Company for ₹8.98 Crores (Refer **Annexure – 1**), consideration having been fully paid on January 10, 2023 (Refer **Annexure – 2**). While procedural requirements of dematerialization delayed the legal transfer of shares, the commercial acquisition stood concluded prior to March 31, 2023. The Scheme of Amalgamation, initially filed with April 1, 2023 as the Appointed Date, has since been amended by resolutions of both Boards on August 12, 2025 to reflect April 1, 2024 as the revised Appointed Date, with supporting documents annexed herewith (Refer **Annexure – 4**).

As on the revised Appointed Date of April 1, 2024, the Transferor Company is a wholly-owned subsidiary of the Transferee Company. Accordingly, there are no outside shareholders of the Transferor Company to whom any consideration is payable.

Accordingly, the Scheme has been drawn up in conformity with law and established judicial principles.

Reference to FCCB, the Transferee Company issued Foreign Currency Convertible Bond in the year 2007. In the year 2009, 99% of the bondholders provided consent for the restructured terms, consequently, the company initiated the requisite Statutory procedure for implementing the same. The Company also obtained NOC from the Reserve Bank of India for the restructured terms of FCCB on 02nd July 2010. After a period of 2 years, a section of Bondholders filed a Winding-up petition against the Company before the Honorable High Court of Madras under section 433 of the Companies Act of 1956. The proceeding of which has been under process since 2011 was allowed by the Honorable High Court of Madras during the FY 2020 – 21. However, the Company has filed an appeal before the Bench of the High Court of Madras during the FY 2020- 21.

Since 99% of the bondholders provided consent for the restructured terms and RBI provided NOC for the restructured terms of the FCCB, the liability ceased to be reflected as an unsecured debt obligation and has since been classified as "Other Equity" in the books of the Transferee Company. Accordingly, FCCB holders were not treated as a separate class of creditors for the purpose of seeking dispensation of creditors' meeting, as they are no longer recorded as creditors in the accounts of the Company.

It is respectfully submitted that the Bondholders have withdrawn the winding up petition previously filed against the Transferee Company before the Hon'ble High Court of Madras, and the Hon'ble High Court has duly passed an order in this regard. A copy of the order passed by the Hon'ble High Court of Madras is annexed hereto and marked as ***Annexure – 6***. In consequence of such withdrawal, all interim and prior orders have merged into the withdrawal order and have no further legal force or effect.

Company Response:

It is respectfully submitted that the Transferee Company acquired 100% of the equity share capital of the Transferor Company, with the entire consideration having been discharged on January 10, 2023. While certain procedural requirements relating to dematerialization delayed the legal transfer of shares, the commercial acquisition stood concluded prior to March 31, 2023. Accordingly, when the Scheme of Amalgamation was first approved by the Boards of both the Transferor and Transferee Companies on November 7, 2023, the Transferor Company was already a wholly-owned subsidiary of the Transferee Company.

On this basis, the Companies had originally fixed April 1, 2023 as the Appointed Date, consistent with the commercial substance of the transaction. It is humbly submitted that the adoption of April 1, 2023 as the Appointed Date was not with any mala fide intent, but solely to align with the Ministry of Corporate Affairs' General Circular No. 09/2019 dated August 21, 2019, which, inter alia, clarifies at Para 6(c) that the "Appointed Date" may be either (i) a specific calendar date, or (ii) a date linked to the occurrence of an event as provided in the scheme. In the present case, the Companies consciously adopted the former approach and designated April 1, 2023 as a specific calendar date.

In order to bring finality and quietus to the matter, the Boards of both Companies, by resolutions passed on August 12, 2025, have consciously amended the Scheme to revise the Appointed Date from April 1, 2023 to April 1, 2024. As on the revised Appointed Date, the Transferor Company stood as wholly-owned subsidiary of the Transferee Company. Therefore, the Scheme fully qualifies for the exemption provided under Regulation 37(6) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, and accordingly, no NoC from the Stock Exchanges are required.

With specific reference to the issue of cancellation, it appears that the Regulator is referring to the 8,00,000 equity shares of the Transferee Company earlier held by the Transferor Company. We wish to humbly clarify that the Transferor Company divested its entire holding of such shares during the financial year 2023–24, in two tranches:

- 3,52,891 equity shares sold on September 25, 2023; and
- 4,47,109 equity shares sold on March 20, 2024.

The corresponding contract notes evidencing the aforesaid transactions are annexed hereto and marked as ***Annexure – 7***. Consequently, as on the revised Appointed Date of April 1, 2024, there remained no inter-se shareholding between the Transferor and Transferee Companies. Hence, the question of cancellation or extinguishment of any such shares under Section 232(3)(b) of the Companies Act, 2013 does not arise.

Company Response:

We wish to humbly submit that, as on 31.03.2023, the Transferor Company had only one class of equity shares with voting rights. The reference to "Class I equity shares" in Note No.3 of the audited financials was a matter of nomenclature and does not denote the existence of a separate class of shares.

We wish to humbly submit that, as on 31.03.2023, the Transferor Company has only one Class of Equity Shares. Also, the Transferor Company didn't issue any equity shares between FY 2022-23 until today and the Transferor Company doesn't have any intention to issue fresh equity shares.

With respect to query on the shareholding of Mr. K.V. Bala, we wish to submit that Mr. K. V. Bala was holding 12,04,410 equity shares of the Company. The same can be evidenced from the Shareholding pattern filed by the Transferor Company through E-form MGT – 7 filed vide SRN: F95867602 dated May 31, 2024. The shareholding pattern which was attached in the said E-form MGT – 7 is attached herewith as **Annexure – 8.**

With reference to the figure of 8,10,000 shares noted by the kind office, we wish to respectfully submit, based on our diligence, that the said 8,10,000 shares have at all times been consistently attributed in the audited financial statements to another shareholder, namely *Soura Capital Private Limited*. We further submit that, due to an inadvertent clerical oversight, the shareholding of Mr. K.V. Bala was reflected as 11,76,960 shares in one column of the audited financials, instead of the correct figure of 12,04,410 shares. This inadvertent error was purely a matter of reporting and not attributable to any malafide intent.

As regards the reconciliation of share capital, the Authorised Share Capital of the Transferor Company as on 31.03.2023 was 5,31,80,000 equity shares of ₹5 each, while the issued, subscribed and fully paid-up share capital was 88,60,638 equity shares of ₹5 each. Pursuant to the resolution passed in the Extra-Ordinary General Meeting held on 31.01.2024, the equity shares were consolidated from a face value of ₹5 each to a face value of ₹10 each. Accordingly, post consolidation, the issued, subscribed and fully paid-up share capital stood at 44,30,319 equity shares of ₹10 each. The Scheme refers to the share capital of the Transferor Company on the basis of **post-consolidation numbers (FV ₹10 each)**. A Certified True Copy of the said resolution is enclosed herewith as ***Annexure – 9***.

In view of the above, the disclosures in Clause 1.5.1 of the Scheme correctly reflects the share capital of the Transferor Company on post-consolidation basis, which is relevant since the revised appointed date under the Scheme is 01.04.2024, subsequent to the consolidation. Accordingly, no modification to the Scheme is required.

Company Response:

We respectfully submit that while the Transferor Company had filed a Draft Red Herring Prospectus in the year 2011, the Company did not proceed with the process of listing its equity shares on BSE Limited or any other stock exchange. The Transferor Company has, at all times, remained an **unlisted public company**, and has never held the status of a listed entity. This position is duly evident from the Corporate Identification Number (CIN) of the Company [U24231TN1982PLC009345], which clearly denotes its classification, and further stands corroborated by the MCA Master Data extract, annexed hereto as **Annexure – 10.**

With respect to the reference made to an ISIN code (INE456M01029) appearing on the SEBI website, we respectfully submit that the said ISIN was duly **deactivated on December 17, 2021,** and the acknowledgment of such deactivation is annexed hereto and marked as ***Annexure – 11***.

It is further submitted that, in compliance with the requirements of the Ministry of Corporate Affairs vide **Notification No. G.S.R. 853(E) dated September 10, 2018,** the Company, being an unlisted public company, was mandated to obtain an ISIN for its equity shares. Accordingly, the Company had created an ISIN with CDSL, details of which are annexed hereto as ***Annexure – 12***.

Subsequently, pursuant to the resolution passed at the Extra-Ordinary General Meeting of the Company held on **January 31, 2024,** the equity shares of the Company were consolidated from a face value of ₹5 each to ₹10 each. Consequent to such consolidation, CDSL has allotted a **fresh ISIN** for the equity shares of the Company, details of which are annexed hereto as ***Annexure – 13***.

Company Response:

Reference to the subject matter, the Transferor Company received a Show Cause Notice from the office of Registrar of Companies – Tamil Nadu vide **F.NO.ROC/CHN/009345/ S.82/P.16/INQUIRY FOLLOWUP/2021 dated 19th January 2023.**

Following is the snapshot of the response provided by the Transferor Company to referred Show Cause Notice:

"We wish to bring to your attention that during FY 2000-01, the company did not avail of any secured loan. On analysing the company's books of accounts, we hereby confirm that the company had an Unsecured Loan to the tune of Rs. 1,30,00,000 Crores as of 31.03.2001. We h/w attach the Certified true copy of the signed balance sheet page alone for your perusal.

Further, we also explored the MCA portal and found that the charge relates to an OD facility availed from Andhra Bank. Considering the information available and internal evaluation, we are of the view that the mentioned Charge ID belongs to one of our associate companies, Indowind Energy Limited. We have attached Form No: 8 and Form 13 filed by Indowind Energy Limited, along with the cash counter receipt issued by the office of the Registrar of Companies, to support our claim".

With reference to the observation regarding an "open charge" in favour of Andhra Bank (now Union Bank of India) appearing in the Index of Charges of the Transferor Company on the MCA21 portal, it is respectfully submitted that the Transferor Company had not availed any secured loan during the Financial Year 2000–01. The books of accounts for that year reflect only an unsecured loan of ₹1,30,00,000/-, and a certified true copy of the relevant balance sheet extract is annexed as ***Annexure – 14***.

Upon verification of the MCA portal and internal evaluation, it was found that the charge in question pertains to an overdraft facility availed from Andhra Bank by the **Transferee Company** and not by the Transferor Company. In support of this, copies of Form No. 8 and Form No. 13 filed by the Transferee Company, along with the corresponding cash counter receipts issued by the Registrar of Companies, are annexed hereto and collectively marked as **Annexure – 15.**

The said facility has already been duly satisfied by the Transferee Company in the ordinary course in April 2001, and no liability subsists in respect thereof. It is further submitted that due to a technical error in the MCA system, the said charge is being reflected against the Transferor Company instead of the Transferee Company.

In view of the above, the disclosure made in Para 11 of the Company Application (read with Annexure H thereto), stating that the only secured creditor the Transferee Company, is factually correct and complete. It is therefore humbly prayed that your kind office may kindly take on record that the charge reflected in the MCA portal against the Transferor Company is erroneous.

Company Response:

At the outset, it is respectfully submitted that, the intention of the Scheme includes safeguarding the interest of all employees, without causing any retrenchment, except in the event of resignation or termination or disciplinary action or performance related termination in the ordinary course of business.

With reference to Clause 1.1(l) of Part A of the Scheme, the expression "Effective Date" has been used to ensure continuity of service for employees on and from such date. However, we submit that there is no intent to exclude or adversely affect employees who are in service as on the revised Appointed Date (01.04.2024).

It is further submitted that the reference in Clause 13.1 ("on such date") and Clause 1.1(b) ("date immediately preceding the approval or sanction of the Scheme") are technical usages in the context of defining operative timelines and do not, in any manner, dilute the protection afforded to employees.

Without prejudice, and in order to dispel any ambiguity, the Petitioner Companies undertake before this Hon'ble Tribunal that:

1. That all employees of the **Transferor Company** who are in service as on the revised Appointed Date (01.04.2024) shall continue in service on the same terms and conditions as applicable to them prior to the Scheme, without any interruption, break, or retrenchment merely by reason of sanction or implementation of the Scheme.
2. That no retrenchment of any employee of the **Transferor Company** shall be effected either on the revised Appointed Date or the Effective Date of the Scheme, except in the ordinary course of business (such as resignation, retirement, disciplinary action, or performance-related termination) and strictly in compliance with the applicable law.
3. That in the event of any variance or ambiguity between clauses of the Scheme referring to the Appointed Date and/or the Effective Date, the Transferor Company confirms and undertakes that the interpretation most beneficial to its employees shall apply, ensuring their protection and continuity of service.

An undertaking to this effect is duly executed as annexed hereto as an ***Annexure – 16***.

Company Response:

At the outset, the Petitioner Companies respectfully submit that the intention behind Clause 1.3 of Part A of the Scheme was only to ensure compliance with the provisions of the Income-tax Act, 1961, as amended from time to time, and not to permit any modification of the Scheme without the sanction of this Hon'ble Tribunal.

It is submitted that the phraseology employed in the second and last sub-paras of Clause 1.3 may have created an unintended impression of "automatic modification" or delegation of power to the Boards of the Companies to amend the Scheme post sanction. The Companies submit that this was never the intent and they are conscious that any modification of the Tribunal-sanctioned Scheme is permissible only under Section 231(1)(b) of the Companies Act, 2013 with the prior approval of this Hon'ble Tribunal.

For the avoidance of doubt, the Boards of Directors of both the Transferor and Transferee Companies, at their meetings held on August 12, 2025, resolved to amend the Clause 1.3. The revised Clause 1.3 is drafted below:

"Apart from meeting the commercial and business interests of the parties as specified hereinbefore, this Scheme, in so far as it relates to the Amalgamation, has been drawn up to comply with the conditions relating to "Amalgamation" as specified under the Income-tax Act, 1961, including Section 2(1B), Section 47, Section 2(42A), Section 49 and Section 72A and all other relevant provisions of the Income-tax Act, 1961 or any statutory modification, amendment or re-enactment thereof.

Notwithstanding anything contained in this Scheme, the Transferor Company and the Transferee Company shall at all times comply with the provisions of the Income-tax Act, 1961, as may be in force from time to time. To the extent of any inconsistency between this Scheme and the applicable provisions of the Income-tax Act, the provisions of the Income-tax Act shall prevail and be binding on the parties.

For the avoidance of doubt, such compliance with the provisions of law shall not be construed as a modification of this Scheme requiring a separate sanction of the Hon'ble Tribunal under Section 231 of the Companies Act, 2013, unless such compliance necessitates an express amendment to the terms of this Scheme".

The updated Scheme of Amalgamation giving effect to the change of Clause 1.3 is attached as an Annexure – 5.

Company Response:

It is humbly submitted that prior to becoming a wholly-owned subsidiary of the Transferee Company, the Transferor Company was engaged in multiple lines of business, namely, power generation, agriculture, and livestock farming. In order to align with the core business of the Transferee Company, which is exclusively engaged in the business of power generation, the Transferor Company was mandated to divest all non-core businesses not connected with the business of power generation.

In furtherance of the above, the Transferor Company, which at that time was a closely held public company with no public shareholders, convened an Extraordinary General Meeting ("EGM") on September 30, 2022, wherein the shareholders duly passed a resolution authorizing the Board of Directors to sell and transfer the Agriculture Division and Livestock Farming Division to a related party. The said resolution was duly filed with the Registrar of Companies vide SRN: AA3665254. The Copy of the payment acknowledgement is annexed hereto as ***Annexure – 17***.

It is further submitted that the Agriculture and Livestock divisions were consistently incurring operational losses, as is evident from the audited financial statements of the Transferor Company. The land forming part of the Agriculture and Livestock divisions was situated in a rural area, and the sale consideration was determined based on the prevailing guideline value, which represents the fair market value of such assets and is a standard and recognized practice for property transactions. While the Agriculture and Livestock divisions were reflected in the books at a value of ₹2.36 Crores (comprising land of ₹1.44 Crores and other assets of ₹0.92 Crores), the guideline value of the land was ₹1.38 Crores, and the other assets of the divisions, which were part of a loss-making unit, were valued at ₹0.12 Crores. Accordingly, the overall sale consideration was duly determined on the basis of fair market value and in compliance with applicable legal requirements.

With respect to the statutory auditor's remark, it is respectfully clarified that the extract of Annexure A, Para (i)(c) of the audit report merely states: *"According to the information and explanations given to us, the Company does not have any immovable properties of land and buildings which are freehold, held in the name of the Company as at the balance sheet date."* The said remark does not state, as inferred by your kind office, that the Company does not have any immovable property whatsoever. In fact, the Company continues to own and operate its core wind energy generation assets, which are installed on leasehold lands, as elaborated hereinbelow.

Also, it is respectfully submitted that the Transferor Company has an installed capacity of 6.0 MW (1.5 MW × 4 units) in the State of Karnataka and 3.675 MW (0.250 MW × 12 units and 0.225 MW × 3 units) in the State of Tamil Nadu. These Wind Energy Generators ("WEGs") were set up on ***leasehold land***, as is the standard industry practice, and at no point did the Transferor Company own freehold land for the purpose of establishing WEGs. As such, ownership of land is not a precondition to carrying on the business of power generation.

As is evident from Note No. 10 of the audited financial statements for the year ended 31.03.2023, the Transferor Company continues to hold plant and equipment with a written-down value of ₹2.27 Crores, representing its wind energy generation assets, which constitute the core business assets of the Company. The goodwill of ₹74.55 Crores reflected in the audited financials is an accounting entry arising out of a prior Scheme of Arrangement duly sanctioned by the Hon'ble NCLT, Chennai Bench, on 06.09.2019 in CP/864 & 865/CAA/2019, and does not in any manner affect the subsistence of the Company's core business.

It is further submitted that the Transferor Company has continued its power generation operations on and after the appointed date of 01.04.2023, and has generated operating revenues during FY 2023–24 and FY 2024–25. The audited financial statements for FY 2023–24 and the audited financial statements for FY 2024–25 are being enclosed herewith for the kind perusal of this Hon'ble Tribunal as ***Annexure – 18***.

In the light of above, it is respectfully submitted that while the Transferor Company has divested its non-core businesses along with the associated land and assets, its core business of wind power generation remains intact and fully operational with dedicated plant and equipment situated on leasehold land. The Company continues to generate revenues from its wind energy assets, thereby ensuring continuity of business as on and subsequent to the appointed date.

Company Response:

We respectfully submit that the Transferee Company acquired 100% of the equity share capital of the Transferor Company for ₹8.98 Crores (Refer **Annexure – 1**), consideration having been fully paid on January 10, 2023 (Refer **Annexure – 2**). While procedural requirements of dematerialization delayed the legal transfer of shares, the commercial acquisition stood concluded prior to March 31, 2023. The Scheme of Amalgamation, initially filed with April 1, 2023 as the Appointed Date, has since been amended by resolutions of both Boards on August 12, 2025 to reflect April 1, 2024 as the revised Appointed Date, with supporting documents annexed herewith (Refer **Annexure – 4**).

This revision was carried out only for procedural consistency in the scheme timeline and does not in any manner alter the fact that, substantively, the Transferor Company was already a wholly-owned subsidiary of the Transferee Company prior to the revised Appointed Date. Accordingly, the requirements of a common control business combination under Appendix C of Ind AS 103 are satisfied, and Clause 5.1 of the Scheme continues to remain valid.

With respect to the further observation that the Transferor Company does not constitute a "business" within the meaning of Ind AS 103, it is respectfully submitted that the Transferor Company continues to operate its wind energy generation assets comprising 6.0 MW capacity in Karnataka and 3.675 MW capacity in Tamil Nadu, with such assets being recorded under Plant and Equipment with a written down value of ₹2.27 Crores as on 31.03.2023. These assets are actively engaged in the generation and sale of electricity, yielding operating revenues during FY 2023–24 and FY 2024–25, as evidenced by the audited financial statements for FY 2023–24 and provisional/unaudited financial statements for FY 2024–25, annexed herewith as ***Annexure – 18***. The Company has the necessary inputs (wind energy assets and related infrastructure), processes (operation and maintenance contracts, power evacuation arrangements, and statutory compliances), and outputs (electricity sales and revenue) that squarely meet the definition of "business" under Appendix A to Ind AS 103.

In light of the above, it is humbly submitted that Clause 5.1 of the Scheme, read with the revised Appointed Date of April 1, 2024, correctly reflects the transaction as a business combination under common control within the meaning of Appendix C of Ind AS 103. We therefore pray that the Hon'ble Tribunal may be pleased to take the above on record and permit Clause 5.1 and its sub-clauses to remain operative, subject to the revised Appointed Date.

Company Response:

It is respectfully submitted that the Bondholders have withdrawn the winding up petition previously filed against the Transferee Company before the Hon'ble High Court of Madras, and the Hon'ble High Court has duly passed an order in this regard. A copy of the order passed by the Hon'ble High Court of Madras is annexed hereto and marked as ***Annexure – 6***. In consequence of such withdrawal, all interim and prior orders have merged into the withdrawal order and have no further legal force or effect.

The said order has been duly filed before the Hon'ble National Company Law Tribunal vide Diary No. 667 dated February 18, 2025. Further, the said order was also filed with your esteemed office on February 17, 2025. The Acknowledgement is attached herewith as ***Annexure – 19***.

It is further submitted that, consequent to the withdrawal of the said winding up petition and the order of the Hon'ble High Court, there are no subsisting winding up proceedings or impediments against the Transferee Company, thereby removing any adverse legal proceedings that could affect the present Scheme.

Accordingly, there are no subsisting winding up proceedings or insolvency-related impediments against the Transferee Company. Clause 23.1 of the Scheme stands as a full and fair disclosure of past proceedings, and Clause 1.5.1 (dissolution without winding up) remains legally correct and unaffected.

Company Response:

It is respectfully submitted that Clause 23.1 of the Scheme merely recites that the Transferee Company obtained No Objection from the Reserve Bank of India in the context of Foreign Currency Convertible Bonds (FCCBs). The Transferor and Transferee Companies are not entities regulated by the Reserve Bank of India, and the Scheme of Arrangement per se does not require any approval, consent, or notice from the Reserve Bank of India.

It is further submitted that the issuance and restructuring of FCCBs is governed by the applicable provisions under FEMA and SEBI Regulations, and wherever necessary, the Transferee Company has complied/will comply with the extant regulatory requirements at the time of implementation of FCCB restructuring. The reference in Clause 23.1 is therefore procedural in nature and does not render the Reserve Bank of India either a stakeholder or an approving authority in respect of the Scheme presently before this Hon'ble Tribunal.

Accordingly, it is humbly prayed that no notice is required to be issued to the Reserve Bank of India in the present proceedings.

Company Response:

Since 99% of the bondholders provided consent for the restructured terms and RBI provided NOC for the restructured terms of the FCCB, the liability ceased to be reflected as an unsecured debt obligation and has since been classified as **"Other Equity"** in the books of the Transferee Company. Accordingly, FCCB holders were not treated as a separate class of creditors for the purpose of seeking dispensation of creditors' meeting, as they are no longer recorded as creditors in the accounts of the Company.

In the First Motion Application for the present Scheme of Amalgamation filed before this Hon'ble Tribunal, the Transferor and Transferee Companies have categorically submitted that the Scheme does not involve any compromise/arrangement with any creditor of the Company, that the net worth would remain positive, and that no creditor would be compromised. Further, the rights and liabilities of secured and unsecured creditors are not being affected in any manner by way of the Scheme, as no new shares are being issued by the Transferor Company and no compromise is offered to any class of creditors of the Transferee Company.

Reliance is also placed on:

- The orders of the Hon'ble NCLT – Chennai Bench in *MM Forgings Limited* [CA (CAA)/51(CHE)/2023], and
- The judgment of the Hon'ble NCLAT in *Mohit Agro Commodities Processing Private Limited and Another* [Company Appeal (AT) No. 59 of 2021],

wherein it has been consistently held that, in cases of amalgamations between a holding company and its wholly owned subsidiary, meetings of equity shareholders, secured creditors, and unsecured creditors may be dispensed with where the rights of such stakeholders are not prejudicially affected.

This position is further fortified by the Hon'ble NCLAT's observation in *DLF Phase IV Commercial Developers Limited and Ors.* [Company Appeal (AT) No. 180 of 2019], wherein it was held that when the Scheme does not in any way prejudice the creditors or shareholders, a separate application for convening meetings is not necessary.

In the present case, the Hon'ble NCLT, vide its order dated September 02, 2024, has already dispensed with the requirement of convening meetings of all three classes of stakeholders, namely:

a. **Equity Shareholders** – 71,635 in number,
b. **Secured Creditors** – 4 in number, and
c. **Unsecured Creditors** – 45 in number.

The said order clearly records that, in light of the Scheme being between a holding company and its wholly owned subsidiary, and considering that the rights of stakeholders are not being adversely impacted, no such meetings are required.

Therefore, relying on the aforesaid orders, we respectfully submit that, since the present Scheme of Amalgamation does not involve any compromise or arrangement with any class of creditors, the net worth remains positive, and creditors are not prejudicially affected, no separate consent of FCCB holders is required for the approval of the Scheme.

Company Response:

With reference to the subject matter, we wish to respectfully submit that the Income Tax Department has preferred an appeal before the Hon'ble High Court of Madras challenging the order dated October 19, 2022 passed by the Hon'ble ITAT – Chennai Bench, a Second Appellate authority, in favor of the Transferor Company. The Hon'ble High Court has admitted the appeal, the hearing are yet to commence.

As disclosed in the Auditor's Report of the Transferor Company for FY 2022–23, the amount involved in the aforesaid appeal is ₹4.99 crores. This represents the demand arising from the order of the ITAT which is under challenge by the Department. We clarify that no further crystallisation of liability has occurred since the appeal has not yet been admitted. A snapshot of the case history available in the public domain is annexed hereto and marked as **Annexure – 20.**

Further, we wish to bring to your kind attention that the Income Tax Department has already furnished its No-Objection for the proposed Scheme of Amalgamation, subject to the requirement that the Transferor Company obtain express written approval of the Assessing Officer under Section 281 of the Income Tax Act, 1961. The said No-Objection was submitted before your kind office on May 26, 2025, and a copy thereof, together with proof of submission, is annexed hereto and marked as ***Annexure – 21***. Pursuant thereto, the Transferor Company filed an application under Section 281, and the Department has since passed an order confirming that it has no objection to the transfer of immovable assets of the Transferor Company. The said order was submitted before your kind office on July 15, 2025, and a copy thereof, together with proof of submission, is annexed hereto and marked as ***Annexure – 22***.

We respectfully submit that Part D, Clause 8 of the Scheme of Amalgamation expressly provides that all pending litigations involving the Transferor Company shall stand transferred to, and be continued by, the Transferee Company upon the Scheme becoming effective. Accordingly, any eventual outcome of the aforesaid income tax proceedings, including financial impact if any, will be duly assumed and discharged by the Transferee Company.

Company Response:

It is respectfully submitted that, since the proceedings are pending, the relevant documents were not annexed along with the Company Application. We wish to bring to your attention that the Registrar of Companies, Tamil Nadu, is already a respondent to the present Scheme of Amalgamation of the Transferor Company with the Transferee Company, and the Regional Directorate – Southern Division is also a party to these proceedings.

Reference to query related to whether it is a case of compounding / adjudication of penalty or both, we wish to clarify that this is a case of *compounding under Section 441 of the Companies Act, 2013*

The predominant issues raised in the show cause notices relate to discrepancies in disclosures, without any material impact on the going concern status of the Transferor Company. The alleged violations pertain to FY 2016–17 and 2017–18 and are primarily with respect to presentation inconsistencies rather than suppression of information. The Transferor Company respectfully submits that there was no willful misrepresentation in its financial statements and that any non-disclosure was inadvertent and due to oversight, without any malafide intention or willful default.

Pursuant to the show cause notices and the responses filed by the Transferor Company, the Ministry directed the Company to seek compounding under Section 441 of the Companies Act, 2013. Subsequently, the office of the Registrar of Companies – Tamil Nadu communicated that, in the event of failure to file compounding applications, prosecution proceedings would be initiated against the Company. A copy of the said notice is annexed hereto and marked as ***Annexure – 23***, and the response of the Transferor Company thereto is annexed hereto and marked as ***Annexure – 24***. In its reply, the Transferor Company defended the observations relating to Section 186 of the Companies Act, 2013, while also agreeing to file compounding applications in respect of the remaining matters. Accordingly, the Company commenced filing the compounding applications.

However, to the surprise of both the Transferor and the Transferee Company, during the hearing held on May 28, 2025, the learned counsel for the Regional Director submitted that no compounding applications had been filed and contended that the Scheme therefore did not deserve consideration. This Hon'ble Tribunal thereupon directed the Transferor Company to respond within two weeks. We understand that your kind office was also present during the said hearing.

In compliance, the Transferor Company filed its detailed response with your kind office on June 13, 2025. The snapshot of the response is reproduced below for ready reference:

"The Hon'ble Tribunal was earlier informed that the report of the RoC, Chennai, on prosecutions, inspections, and complaints was awaited. Subsequently, the RoC reported multiple violations by the Transferor Company for FY 2016–17 and 2017–18 based on a Section 206(4) inquiry, and advised compounding under Section 441. Contrary to the claim of non-compliance, the Transferor Company ***has filed the requisite Compounding Applications*** *covering all such violations, with proof of submission placed on record. The alleged lapses relate only to disclosure and presentation inconsistencies, without any willful suppression or public prejudice, as the*

Company was a closely held public company with only promoter shareholders during the relevant period. The Scheme of Amalgamation expressly discloses the pending proceedings, provides that all litigations and liabilities shall stand transferred to the Transferee Company, and has been unanimously approved by shareholders and creditors. The Transferee Company, being the listed holding company and 100% shareholder of the Transferor Company, has undertaken to fully cooperate with regulatory authorities. The Scheme falls within the exemption under Regulation 37(6) of SEBI (LODR), 2015, and does not affect public interest".

As iterated above, Part D, Clause 8 of the Scheme of Amalgamation expressly provides that all pending litigations involving the Transferor Company shall stand transferred to, and be continued by, the Transferee Company upon the Scheme becoming effective. Accordingly, any eventual outcome of the aforesaid investigation, including financial impact if any, will be duly assumed and discharged by the Transferee Company.

Company Response:

Reference to the Winding-up petition as highlighted in the Company response for Query xii, the Bondholders have withdrawn the winding up petition previously filed against the Transferee Company before the Hon'ble High Court of Madras, and the Hon'ble High Court has duly passed an order in this regard. A copy of the order passed by the Hon'ble High Court of Madras is annexed hereto and marked as ***Annexure – 6***.

Reference to pending inspection / investigation proceedings under Companies Act, 2013 against the transferor company, attention is drawn to our response for ***Query xvi***.

The Scheme itself expressly provides that all pending litigations and liabilities of the Transferor Company shall, upon sanction and effectiveness, stand transferred to and be continued by the Transferee Company.

It is further submitted that the Scheme has been duly approved by the shareholders and creditors, and its implementation would be in the best interest of all stakeholders. Accordingly, there remains no subsisting impediment to the consideration and sanction of the Scheme on merits, it being understood that the outcome of the said proceedings, as and when concluded, shall be fully binding on and complied with by the Transferee Company in terms of the Scheme.

Company Response:

It is humbly submitted that prior to becoming a wholly-owned subsidiary of the Transferee Company (10.01.2023), the Transferor Company was a closely held public company with no public shareholders.

The Transferor Company engaged in multiple lines of business, namely, power generation, agriculture, and livestock farming.

It is respectfully submitted that the losses disclosed in Note No. 19 of the audited financials for FY 2021–22 and FY 2022–23 pertain to the sale of non-core assets and divestment of loss-making divisions, and do not constitute transactions prejudicial to the interests of the Company or its stakeholders.

With respect to FY 2021–22, the loss of ₹2.41 Crores relates to the sale of a non-core asset comprising land and building, which was not used in the core businesses of power generation, agriculture, or livestock farming. The said asset, which came to the Transferor Company pursuant to a scheme of amalgamation in FY 2013–14, was constructed in 2010 and carried at book value without depreciation. Since the forms part of Non-core Assets, the management decided to divest the same. The transaction was duly reported under Note 20.1 of the audited financials and can be verified at Volume II, Page 233 of the typeset documents filed with your office. The asset was purchased by Ms. Prathadevi, one of the promoters of the Transferor Company (as on November 2021) holding 1,84,660 equity shares (2.08%) of the Transferor Company, for a consideration of ₹2 Crores.

With respect to FY 2022–23, the details have already been set out in our response to ***Query (x)***, and the same may be read in conjunction herewith. By way of summary, the Transferor Company, then a closely held public company with no public shareholders, was engaged in multiple lines of business including power generation, agriculture, and livestock farming. In alignment with the core business of the Transferee Company, which is exclusively engaged in power generation, the Transferor Company was mandated to divest all non-core divisions.

It is further submitted that the Agriculture and Livestock divisions were consistently incurring operational losses. The land, forming part of these divisions, was located in a rural area, and the sale consideration was determined based on the prevailing guideline value, being the accepted fair market value. While the divisions were reflected in the books at a value of ₹2.36 Crores (land ₹1.44 Crores and other assets ₹0.92 Crores), the guideline value of the land was ₹1.38 Crores, and the other assets of the divisions, being part of a loss-making unit, were valued at ₹0.12 Crores. Accordingly, the overall sale consideration was duly determined on the basis of fair market value. The transaction was carried out transparently, with due approval of the Board and shareholders, and in compliance with applicable statutory requirements.

It is further submitted that neither the Companies Act, 2013 nor the Income Tax Act, 1961 prescribes a mandatory requirement for obtaining an independent valuation report in the case of a sale of assets. Under the Companies Act, 2013, the requirement for valuation by a registered valuer is specifically contemplated under Section 247, and under the Income Tax Act, 1961, such requirement is envisaged under Section 56. Both provisions are confined to the context of issuance or allotment of shares, and are silent as regards sale or transfer of assets. Accordingly, in the absence of any statutory mandate, no valuation report was obtained, and the consideration was determined with reference to the prevailing guideline value, which constitutes a recognized benchmark of fair market value for property transactions.

In light of the above, it is respectfully submitted that both transactions were undertaken bona fide, in the ordinary course of restructuring to align with the core business of the Transferee Company. The consideration was determined in a transparent and bona fide manner, strictly in line with prevailing guideline values, thereby ensuring that the transactions were at arm's length and not prejudicial to the interests of creditors or the public.

Company Response:

It is respectfully submitted that the reference to "Note No. 24.40" in para 7 (a) of the Independent Auditor's Report dated 21.08.2023 is an inadvertent clerical error. The correct reference is to **Note No. 24.4** of the audited financial statements of the Transferor Company, which sets out the disclosures relating to **contingent liabilities and contingent assets, including pending litigations.** Attention is invited to **page 262 of the typed set of documents** already filed before this Hon'ble Tribunal, wherein the said disclosure has been made.

The disclosure has been carried out in accordance with **Accounting Standard (AS) 29 – Provisions, Contingent Liabilities and Contingent Assets**, read with Schedule III to the Companies Act, 2013, which requires pending litigations to be reported as contingent liabilities, as such matters are sub judice and cannot be recognized as liabilities until final adjudication. The difference is therefore only a matter of erroneous numbering in the Auditor's Report and does not indicate any omission or suppression of information.

With reference to the further direction of your kind office, the **Board's Reports of the Transferor Company for the financial years 2020–21, 2021–22, 2022–23, and 2023–24** is annexed herewith as ***Annexure - 25***. The report for FY 2023–24 is being furnished in light of the revised Appointed Date of 01.04.2024.

Accordingly, it is respectfully submitted that the disclosure requirements in relation to pending litigations have been fully complied with, and the inadvertent clerical reference in the Auditor's Report does not in any way affect the financial position presented or the Scheme under consideration.

Company Response:

As on the Appointed Date (01.04.2023), the amount outstanding in respect of such **advances** to Others (Unsecured – considered good) was ₹43.59 Lakhs, and as on the Revised Appointed Date (01.04.2024), ₹44.07 Lakhs. These were **interest-free, unsecured advances repayable on demand**, and therefore no schedule for repayment of principal or interest were stipulated. The arrangement was made on the basis of commercial understanding with the concerned parties, with recovery envisaged as and when demanded rather than through fixed instalments.

The transactions were duly recorded in the books of account, disclosed in the audited financial statements, and carried out in compliance with applicable governance requirements. Accordingly, it is respectfully submitted that these advances do not represent prejudicial transactions and are not detrimental to the interests of the Company or its stakeholders.

Company Response:

Attention is drawn to our response to ***Query (iv)***. We wish to humbly clarify that the Transferor Company divested its entire holding of such shares during the financial year 2023–24, in two tranches:

- 3,52,891 equity shares sold on September 25, 2023; and
- 4,47,109 equity shares sold on March 20, 2024.

The corresponding contract notes evidencing the aforesaid transactions are annexed hereto and marked as ***Annexure – 7***. Consequently, as on the revised Appointed Date of April 1, 2024, there remained no inter-se shareholding between the Transferor and Transferee Companies. Hence, the question of cancellation or extinguishment of any such shares under Section 232(3)(b) of the Companies Act, 2013 does not arise.

Company Response:

It is respectfully submitted that the appointed date under the Scheme was originally proposed as **01.04.2023,** and the Scheme was duly approved by the respective Boards of Directors on **November 7, 2023.** The Company Application was filed on **March 30, 2024.** Accordingly, the appointed date was **well within one year** from the date of filing of the Application, and therefore, fully in compliance with para 6(c) of General Circular No. 09/2019 dated 21.08.2019. The Companies had, in good faith, adopted this approach and designated **April 1, 2023** as the Appointed Date. The same was **not adopted with any mala fide intent, nor for the purpose of securing any undue tax benefit**, but solely to ensure conformity with the requirements of the said Circular.

Without prejudice to the above, and in order to obviate any doubt or perceived inconsistency, the Boards of the Transferor and Transferee Companies, by way of resolutions, have further revised the appointed date to **01.04.2024**, i.e., a date subsequent to the filing of the Application. It is further clarified that the appointed date was determined purely based on commercial and operational considerations.

It is therefore respectfully submitted that the appointed date is in full conformity with the MCA Circular and does not give rise to any public interest concern.

Company Response:

It is respectfully submitted that the observation of your good office is respectfully acknowledged. The omission of clauses 1.1(j) and 1.1(k) in the original draft Scheme was purely a typographical error without any substantive impact on the interpretation or operation of the Scheme.

The Companies have already taken corrective action, and the revised Scheme of Amalgamation, annexed hereto and marked as ***Annexure – 5***, incorporates the said clauses in proper chronology. The inadvertent error stands rectified, and there is no change in the commercial intent, structure, or effect of the Scheme as approved by the shareholders and creditors.

Accordingly, the omission may kindly be treated as cured by the filing of the revised Scheme, and no further prejudice is caused to any stakeholder.

Reply to the Income Tax Department:

I, K.K. DINAKAR S/o. K. Krishna Rao, aged about 62 years residing at 7A, Thirumurugan Salai, Chitalapakkam, Chennai-600064 do hereby solemnly affirm and sincerely state as follows:

1. I am the Authorized Signatory of Ind Eco Ventures Limited, the Applicant Company - 1, in the above matter and am duly authorized to make this affidavit.
2. As directed by this Hon'ble Tribunal, the Income Tax report dated February 21 2025 issued by the Income Tax officer Corporate Ward 2 (3) Chennai, to the proposed Scheme of Amalgamation of Ind Eco Ventures Limited with Indowind Energy Limited is attached herewith.

9. ACCOUNTING TREATMENT

It is stated that the certificates issued by the Statutory Auditors certifying the Accounting Treatment of the petitioner companies are in compliance with Section 133 of the Companies Act, 2013 are placed on record.

10. OBSERVATIONS OF THIS TRIBUNAL

10.1. This Tribunal is of the view that the scheme as contemplated by the Petitioner companies seems to be *prima facie* not, in any way detrimental to the interest of the members of the Companies. In view of the absence of any material objections from any statutory authorities and since all the requisite statutory compliances have been fulfilled, this Tribunal sanctions the Scheme of Amalgamation as well as the prayer made therein.

10.2. Notwithstanding the above, if there is any deficiency found or, the 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 the law, against the concerned persons, directors and officials of the petitioners.

10.3. While approving the Scheme as above, it is clarified that this order should not be construed as an order in any way granting 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.

11. THIS TRIBUNAL DO FURTHER ORDER

(i) That all properties, rights and interests of the Transferor Companies shall, pursuant to Section 232(3) of the Companies Act, 2013 without further act or deed be transferred to and vest in or be deemed to have been transferred and vested in the Resulting Company in terms of the Scheme.

(ii) That all the liabilities, powers, engagements, obligations and duties of the Transferor Companies shall pursuant to Section 232(3) of the Companies Act, 2013 without further act or deed be transferred to and vest in or be deemed to have been transferred and vested in the Resulting Company in terms of the Scheme.

(iii) That the 'Appointed Date' for the Scheme shall be **01.04.2023** for the Amalgamation as mentioned in Clause 1 (d) Part A of the Scheme.

(iv) That the 'Effective Date' shall be defined as per the Clause 1(i) Part A of the scheme as extracted below:

"(i) Effective date means the date on which the last of the conditions mentioned in Clause 17 of the Scheme is fulfilled and the Scheme is made effective with effect from the Appointed Date. Any references in this Scheme to the "date of coming into effect of this Scheme" or "Effectiveness of the Scheme" or "Scheme taking effect" shall mean the Effective Date; "Effective Date" means the date on which the last of the conditions."

(v) That the 'Record Date' for the Scheme shall be defined as per the Scheme.

(vi) That all proceedings now pending by or against the Petitioner Companies shall be continued by the Resultant Company.

(vii) That all the employees/workmen of the Petitioner Companies in service on the date immediately preceding the date on which the Scheme finally takes effect shall become the employees of the Resultant Company without any break or interruption in their service with all the benefits.

(viii) That the Resultant Company shall file the revised Memorandum and Articles of Association with the Registrar of Companies, concerned and further make the requisite payments of the differential fee (if any) for the enhancement of authorized capital of the Resultant Company after setting off the fees paid by the Petitioner Companies.

(ix) That the Petitioner Companies, shall within thirty days of the date of 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, the Registrar of Companies shall place all documents relating to the 1st Petitioner Company registered with him on the file kept by him in relation to 2nd Petitioner Company shall be consolidated accordingly.

(x) That any person interested shall be at liberty to apply to the Tribunal in the above matter for any directions that may be necessary.

13. Accordingly, the Company Petition **CP (CAA) / 65 (CHE) / 2024** stands **Allowed** on the aforementioned terms and is disposed of.

-Sd-	-Sd-
RAVICHANDRAN RAMASAMY	**JYOTI KUMAR TRIPATHI**
MEMBER (TECHNICAL)	MEMBER (JUDICIAL)