

IN THE NATIONAL COMPANY LAW TRIBUNAL, BENGALURU BENCH
[Through Physical hearing/VC Mode (Hybrid)]

ITEM No.7
CP (CAA) No.22/BB/2025

IN THE MATTER OF:

Kirloskar Electric Company Ltd.,

... Petitioner

Petition under Section 230-232 of C.A 2013

Order delivered on: 30.04.2026

CORAM:

SHRI. SUNIL KUMAR AGGARWAL
HON'BLE MEMBER (JUDICIAL)

SHRI. RADHAKRISHNA SREEPADA
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Petitioner : Shri Hemanth Sethi

ORDER

1. Heard Ld. Counsel for the Petitioner.
2. **C.P (CAA) No. 22/BB/2025 is allowed by separate order. File be consigned to records.**

-Sd-

RADHAKRISHNA SREEPADA
MEMBER (TECHNICAL)

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-Sd-

SUNIL KUMAR AGGARWAL
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, BENGALURU BENCH

C.P.(CAA) No.22/BB/2025

Under Sections 230 & 232 & other Applicable provisions of the Companies Act, 2013 read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

IN THE MATTER OF:

1.Kelbuzz Trading Company Limited,

Flat No. A-23, Navarathna Apartment,
17th Cross, Malleswaram West,
Bengaluru - 560055

...

**Petitioner Company No.1
Transferor Company No.2**

2.Luxquisite Parkland Private Limited,

Flat No. A-23, Navarathna Apartment,
17th Cross, Malleswaram West,
Bengaluru - 560055

...

**Petitioner Company No.2
Transferor Company No.2**

3. SLPKG Estate Holdings Pvt. Ltd.,

Flat No. A-23, Navarathna Apartment,
17th Cross, Malleswaram West,
Bengaluru - 560055

...

**Petitioner Company No.3
Transferor Company No.3**

4. SKG Terra Promenade Pv.t Ltd.,

Flat No. A-23, Navarathna Apartment,
17th Cross, Malleswaram West,
Bengaluru - 560055

...

**Petitioner Company No.4
Transferor Company No.4**

5. Kirloskar Electric Company Ltd.,

19, 2nd Main Road, Peenya 1st Stage,
Phase-I Peenya,
Bengaluru - 560058

...

**Petitioner Company No.5
Transferee Company**

Order delivered on: 30.04.2026

CORAM: Shri Sunil Kumar Aggarwal, Hon'ble Member (Judicial)
Shri Radhakrishna Sreepada, Hon'ble Member (Technical)

COUNSELS PRESENT:

For the Petitioner : Shri Hemanth Sethi
For RoC/RD : Ms. Teju
For I.T Department : Shri Ganesh Ghale

ORDER

- 1.** This is a second motion petition filed on 30.06.2025 for sanction of Scheme of Arrangement, enclosed as Annexure A to the petition so as to be made binding upon the Equity Shareholders and Optionally Convertible Redeemable Preference Shareholders of the Petitioner Company.
- 2.** In the first Motion Application bearing **C.A (CAA) No. 02/BB/2025** meetings of the equity shareholders, secured creditors and unsecured creditors of the Petitioner Companies were dispensed with vide order dated 24.04.2025.
- 3.** When the Petition was listed on 25.07.2025, through Physical Hearing, the following directions were issued: -

"3. In view thereof, issue notice in Form CAA3 to the authorities specified in Section 230(5) for submitting their representation if any.

4 (a) Petitioner (s) are directed to take steps for issuance of notice to the Central Government, through the Ministry of Corporate Affairs to the Jurisdictional Regional Director(s) Ministry of Corporate Affairs.

5(b). Notice to the Regional Director to be sent on on rd.ser@mca.gov.in.

5 (c). Notice to the RoC to be sent on roc.bangalore@mca.gov.in

5(d) Notice to the Official Liquidator to be sent on ol.bangalore@mca.gov.in.

5 (e) Notice to the Income Tax Authorities to be sent on bangalore.pccit@incometax.gov.in

5(f). Notice to the Statutory Regulators/Sectoral Regulators, if applicable, be issued.

5. Notice is also directed to be published in two prominently circulating national daily newspapers namely "Business Standard" in English and "Kannada Prabha" in Kannada in terms of Rule 7 of the Companies (Companies Arrangements and Amalgamation) Rules, 2016.

6. All the authorities on receipt of the notice, are enjoined to file their representation, if any, within 30 days of the date of receipt of the notice. In case, no representation is received, it will be presumed that they have no objections to the proposal.

7. List case on 18.09.2025.

4. Pursuant to the direction, the Petitioner Companies have filed copy of proof of service of notice to the authorities vide memo Dy.No. 5132, 5133, 5134, 5135 & 5136 dated 17.09.2025, along with copies of newspaper publication English newspaper, and one in Kannada newspaper.
5. The main objects, dates of Incorporation, authorized, issued and paid-up share capital, rationale of the scheme and interest of employees have been considered during the first motion proceedings. The Board Resolution of the Petitioner Company approving the Scheme is **Annexure-V1-V5**.
6. It is submitted that the Certificate of Statutory Auditors of the Transferee Company stating that accounting treatment as provided for in the Scheme of Amalgamation is in compliance with all applicable Accounting Standards specified under Section 133 of Companies Act, 2013 read with Rule 7 of Companies (Accounts) Rules, 2014 as **Annexure - CC**.
7. The latest audited financial statement as on 31.03.2024 of the Petitioner Company and the audited Financial Statements as on 31.12.2024 are **Annexure-D, E, H, I, L, M, P, Q, T & U**. Its Valuation Report is **Annexure - A4**.

8. As per the Scheme, the "Appointed Date" means 01.04.2024 for the purpose of this Scheme and for Income Tax Act, 1961.

9. Report of the ROC/RD:

The Regional Director (RD) and the Registrar of Companies (ROC) have filed their common report vide Dairy No.6510 dated 21.11.2025 making following observations:

3.The RD received a letter No. RoCB/CAA-230-232/C.P(CAA)22/BB/2025/2839 dated 04.11.2025 from the Registrar of Companies, Karnataka, Bengaluru pointing out certain observation as under:

- a) As per the latest shareholders list attached to the last Annual Return filed as on 31/3/2024 of the Transferor Company -1, Kirloskar Electric Company Limited, a Body Corporate, holds major Equity Shares of 99.9999% and Mr. Prakash Purushothom (Nominee of Kirloskar electric Company Limited) holds Equity Shares of 0.00001 % in the Transferor Company-1.
- b) As per the latest shareholders list attached to the last Annual Return filed as on 31/03/2024 of the Transferor Company-2, Kirloskar Electric Company Limited, a Body Corporate, holds Major Equity Shares of 99.9999% and Mr. Prakash Purushothom (Nominee of Kirloskar electric Company Limited) holds Equity Shares of 0.00001 % in the Transferor Company-2.
- c) As per the latest shareholders list attached to the last Annual Return filed as on 31/03/2024 of the Transferor Company-3, Kirloskar Electric Company Limited, a Body Corporate, holds Major Equity Shares of 99.999% and Mr. Prakash Purushothom

- (Nominee of Kirloskar electric Company Limited) holds Equity Shares of 0.005 % in the Transferor Company-3.
- d) As per the latest shareholders list attached to the last Annual Return filed as on 31.03.2024 of the Transferor Company-4, Kirloskar Electric Company Limited, a Body Corporate, holds Major Equity Shares of 99.995% and Mr. Prakash Purushothom (Nominee of Kirloskar electric Company Limited) holds Equity Shares of 0.00005% in the Transferor Company-4.
- e) As per Clause 4.3 of Part A of the Scheme, the appointed date is 1st April, 2024.
- f) As per MCA records, the Transferor Company-1, originally incorporated on 05.12.2014 as a Private Limited Company with the name Kellbuzz Trading Private Limited under the jurisdiction of Registrar of Companies, Karnataka.
- g) As per MCA records, the Transferor Company-2, originally incorporated on 02.12.2014 as a Private Limited Company with the name Luxquisite Parkland Private Limited under the jurisdiction of Registrar of Companies, Karnataka.
- h) As per MCA records, the Transferor Company-3, originally incorporated on 02.12.2014 as a Private Limited Company with the name SLPKG Estate Holdings Private Limited under the jurisdiction of Registrar of Companies, Karnataka.
- i) As per MCA records, the Transferor Company-4, originally incorporated on 03.12.2014 as a Private Limited Company with the name SKG Terra Promenade Private Limited under the jurisdiction of Registrar of Companies, Karnataka.
- j) As per the Scheme, the Transferee Company originally incorporated on 26.07.1946 with the name Kirloskar Electric Company Limited under the jurisdiction of Registrar of Companies, Karnataka.

- k) As per MCA records, there are Common Directors in the Transferor Companies and Transferee Company.
- l) As per MCA records, the Transferee Company has open charges. Hence, the Company has to obtain and furnish No Objection Certificate/ s from the concerned charge holder Is to the Hon'ble Tribunal before the Scheme is allowed.
- m) The Transferor Companies and Transferee Company has passed the Board Resolution for the approval of the Scheme of Amalgamation and filed the same in e-form GNL -1 vide SRN N30765598, N30764500, N30765903, N30766547 and N30766836 respectively.
- n) As per the Hon'ble NCLT, Bengaluru Bench order dated 24.04.2025:
 - i. The meeting of the Equity Shareholders of the Transferor and Transferee Companies has been dispensed with.
 - ii. The meeting of the Secured Creditors of the Transferor and Transferee Companies has been dispensed with
 - iii. The meeting of the Unsecured Creditors of the Transferor and Transferee Companies has been dispensed with.
- o) As per Clause 12 of Part B of the Scheme, The Transferor Companies are Wholly Owned Subsidiaries of the Transferee Company. Hence, there shall not be any issue of shares as consideration to the shareholders of the Transferor Company and the shares held by the Transferee Company in the Transferor Company shall without any further application, act, instrument, or deed be deemed to have been automatically cancelled with from the date Effective.
- p) As per the latest Audited Financial Statements for the year ending 31/03/2024, the Transferee Company is a profit-making entity. Transferor Companies are loss making Entities.

- q) As per the Auditor's qualified opinion and Note 35(16) to the FY 2023-24, the amount due from the subsidiaries aggregates to Rs. 111.5 Cr, out of which provision of Rs.84 Cr. has been recognised. These assets and receivable were assigned by the transferee company to its subsidiaries in FY 2014-15 pursuant of restructuring of loan availed from lenders and the subsidiaries are the transferor companies in this proposed scheme. The rationale of scheme vis-a-vis the assignment of assets to the subsidiary companies which were SPVs for this purpose is to be explained.
- r) As per Note No 21 of Audited Financial Statements for the year ending 31/03/2024, the Transferee Company has total outstanding dues to Micro, Small and Medium Enterprises to the tune of Rs. 670.79 lakhs. The Hon'ble Tribunal may be pleased to direct the Petitioner Companies to show as to how it has complied with Micro, Small and Medium Enterprises Development Act, 2006 and may be directed to furnish an undertaking to the Hon'ble NCLT to the effect that it will settle the dues as per the said Act immediately, if not settled so far.
- s) As per Note no. 7 and 24 of the latest Audited Financial Statements for the financial year ending 31.03.2024, the Transferor Company-3 and Transferee Company have undisputed statutory dues to the tune of Rs. 11,35,000 and Rs.607.48 lakhs respectively. The Petitioner Companies may be directed to furnish an undertaking to the Directorate to the effect that it will settle the undisputed statutory dues immediately, if not settled so far.
- t) The Accounting Treatment as mentioned in the Scheme needs to be as per the prescribed Accounting Treatment in the

Companies Act, 2013 and the applicable Accounting Standards issued from time to time

- u) The Petitioner Companies are required to comply with the provisions of Section 239 of the Companies Act, 2013 with respect to preservation of books and papers of Amalgamated Company. The Hon'ble Tribunal may be pleased to direct the Petitioner Companies to furnish an undertaking in this regard.
- v) As per Section 240 of the Companies Act, 2013, the liability in respect of offences committed under the Companies Act by the Officers in default, of the Transferor Company prior to merger, amalgamation or acquisition shall continue after such merger, amalgamation or acquisition.
- w) A complaint by the erstwhile company secretary of the transferee company regarding resignation in the company and its subsidiaries is pending. The same is under examination by Registrar of Companies, and further action, as applicable, will be taken independent of this scheme of arrangement.
- x) As inquiry u/s 206(4) of the Act was conducted against the Transferee Company and the follow-up action is pending. Further action would continue against the Transferee Company and officers in default as applicable, independent of this Scheme of arrangement.
- y) Apart from the above, there are no open Complaints and Prosecution, pending in this office against the Transferor and Transferee Companies

4. With reference to the Directorate's letter dated 01.09.2025 issued to the Principal Commissioner of Income Tax, Bengaluru, no report/comments in the matter have been received from Income Tax Department till date with respect to the Petitioner Transferor Company. The Hon'ble Tribunal may be pleased to obtain

consent/NOC from the Income Tax Department with respect to the all the Petitioner Companies, before the scheme is allowed.

5. That the report of the Official Liquidator, Bangalore dated 12.09.2025 is filed before the Hon'ble NCLT(BB) and copy of the same has been furnished to this Directorate via e-mail dated 12.09.2025 (copy enclosed) with respect to CP(CAA)/22/BB/2025. Official Liquidator in his report has pointed out certain observations. Hence, the Hon'ble Tribunal may direct the Petitioner Company to comply with the observations pointed out by the Official Liquidator, before the Scheme is allowed.

6. On examination of the contents of the scheme, the replies of the Petitioner Companies, the Deponent endorses the observations of the Registrar of Companies at para 3 pre- page and further makes the following additional observations: -

- a) As stated in the Rationale for Merger: Transferee Company is a holding company of Transferor companies. The merger of these four wholly owned subsidiary companies with its holding company under one group will enable the shareholders of Holding Company to exercise direct control over the businesses of these wholly owned subsidiary companies instead of control through a corporate layer, thereby saving administrative and management costs.
- b) As per Para 1.2 of Part-A of the proposed scheme the appointed date has been stated as 01.04.2024. Both the Transferor and Transferee Company have not filed its Annual Returns and Balance Sheets for the year ending 31.03.2025. The Hon'ble Tribunal may be pleased to direct the Petitioner Transferor Companies and Transferee Company to file their due Annual Returns and Balance Sheets for the year ending 31.03.2025 and to provide the copy of the acknowledgements for the respective

companies, before the scheme is allowed.

- c) The Transferee Company is a Listed Company. The Transferee Company along with its Company Application (submitted before this Directorate on 08.05.2025) has enclosed the copy of the intimation made to National Stock Exchange of India and Bombay Stock Exchange. Whereas, no copy of the acknowledgement has been provided to this Directorate. Further, to, inform that with reference to this Directorate's letter dated 01.09.2025 issued to SEBI, Mumbai, till date no reply/comments in the matter appears to be received. The Hon'ble Tribunal may be pleased to direct the Petitioner Transferee Company to state whether copy of the petition along with the scheme has been served to SEBI, NSE & BSE, if so to furnish the copy of the acknowledgement, duly certified by the Directors. Further, based on the petition/scheme, if any served by the Petitioner Transferee Company before the BSE & NSE and Petitioner Transferee Company receives a letter of objections/observations, if any from BSE & NSE. The Hon'ble Tribunal may be pleased to direct the Petitioner Transferee Company to state whether the Transferee Company has complied with the compliance/comments as raised by the BSE/NSE, if so to furnish the said details duly certified by the Directors of the respective companies, before the scheme is allowed.
- d) As per Clause 13 of Part B of the Scheme provides for Clubbing of Authorized Share Capital. The Hon'ble Tribunal may be pleased to direct the Petitioner Company to furnish an undertaking that it will comply with provisions of Section 232(3)(i) of the Companies Act, 2013 and pay the difference of fee, after setting off the fee already paid by the Transferor Company on its respective capital.
- e) A complaint by the erstwhile company secretary of the transferee company regarding resignation in the company and its

subsidiaries is pending. The Registrar of Companies in his report has stated that the same is under examination by Registrar of Companies, and further action, as applicable, will be taken independent of this scheme of arrangement. The matter is being taken up with the Registrar of Companies and after receipt of the reply/comments from Registrar of Companies necessary action will be taken.

- f) As inquiry u/s 206(4) of the Act was conducted against the Transferee Company and the follow-up action is pending. The Registrar of Companies in his report has stated that action would continue against the Transferee Company and officers in default as applicable, independent of this Scheme of arrangement. The matter is being taken up with the Registrar of Companies and after receipt of the reply/comments from Registrar of Companies necessary action will be taken.
- g) As per the list of Shareholders of the Transferee Company, there are Foreign Portfolio Investors holding 6,63,164 shares, NRIs/OCBs holding 7,78,772 shares, Foreign Overseas Corporate Bodies holding 18,96,044 shares and Foreign National holding 618 shares respectively. The Hon'ble Tribunal may be pleased to direct the Petitioner Transferee Company to ensure the relevant compliances as per FEMA/RBI Regulations and may be directed to furnish an undertaking before the Hon'ble Tribunal before the Scheme is allowed.
- h) That as per para 11 of Part-B of the scheme, it is stated that "all the employees of the Transferor Companies, if any in service on the effective date, if any, shall become the employees of the Transferee Company on such date without any break or interruption in service". In this regard the Transferee Company may be directed to furnish an undertaking before the Hon'ble

Tribunal stating that the interests of the employees of all the Transferor Companies shall be protected by the Transferee Company.

- i) That as per the Balance sheet as at 31.03.2024 all the Transferor Company No. 1 to 4 are loss making companies.
- j) As per point No.16 of Notes to Accounts for the Balance Sheet as at 31.03.2014 of Transferee Company is having related party transactions. The Hon'ble Tribunal may be pleased to direct the Petitioner Transferee Company to state how it has complied with the provisions of Section 188 of the Companies Act, 2013 read with AS-18.

10. Reply to the RoC/RD report:

The Petitioner Companies have filed reply affidavit to the common report, inter alia stating as under:

- a) **Regarding observations in Para 3 (i) to 3(xvi), 3 (xxv)** of the RD report is concerned, the observations are factual in nature and are by no means adverse in nature.
- b) **Regarding observations in para 3 (xvii) of the RD report:** The Transferee Company has given necessary explanations in Boards report and Notes to accounts of Financial Statements 2023-24. They are reproduced as below:

"As a measure of restructuring and with the consent of Leading bank and other Lending banks under the joint Lender Forum (JLF) mechanism, the Company had transferred in the year ended March 31, 2015 certain assets comprising of immovable properties, receivables and inventory to its subsidiaries - Kelbu.zz Trading Private Limited, SKG Terra Promenade Private Limited and SLPKG Estate Holdings Private Limited, which will function as special purpose vehicles to hold such assets, dispose off the same and pay off certain debts (bank dues) transferred

by the Company. The amounts outstanding and due from the subsidiaries as at March 31, 2024 in respect of the transfer of the assets as mentioned above, other expenses incurred by the subsidiaries reimbursed by the Company and interest charged totally amounts to Rs. 11, l 53.84 lakhs (Rs. 11,384.28 lakhs as at March 31, 2023) after considering IND-AS adjustments. These subsidiaries are taking active steps to repay the dues of the Company from collection of debts (receivables) assigned and from disposal of immovable properties/inventories transferred apart from debts (bank dues) transferred I to be transferred as referred above".

- c) **Regarding observations in para 3 (xviii) of the RD report:** The Transferee Company has regular transactions with these MSME vendors and is in the process of making payments to these vendors on regular basis the remaining dues as on 31.03.2025 is Rs. 861.10 lakhs. Further, the Transferee Company undertakes to clear the outstanding dues with these MSME vendors in due course of time Insofar as the observation in Paragraph 3 (xix) of the Report of the Regional Director is concerned, the Petitioner Companies submit that the Statutory dues of the Transferor Company-3 and Transferee Company have been settled in the ordinary course of business and there are no outstanding dues remaining. Reference is made to point vii) a) of Annexure 'A' to the Auditors' Report for the Financial Year ending 31 .03.2024 and 31.03.2025, wherein the Statutory Auditor of the Transferee Company has confirmed that there are no undisputed amounts payable in respect of statutory dues which were in arrears as at March 31.03.2024 and 31.03.2025 respectively for a period of more than six months from the day they became payable.

- d) **Regarding Observation in Para 3 (xx) of the RD report:** The Petitioner Companies confirm that the accounting treatment as mentioned in the scheme is as per the prescribed Accounting Treatment in the Companies Act, 2013 and the applicable Accounting Standards issued from time to time. The statutory Auditor have issued necessary certificate as per section 133 of the Companies Act 2013 which is annexed o the main company petition.
- e) **Regarding Observation in Para 3 (xxi) of the RD report:** The Petitioners undertake to preserve the books and papers of the amalgamated company and comply with the provisions of Section 239 of the Companies Act, 2013.
- f) **Regarding Observation in Para 3 (xxii) of the RD report:** The Petitioner Companies confirm and undertake that as per Section 240 of the Companies Act, 2013 the liabilities in respect of offences committed under companies act by the officers in default of the Transferor Companies prior to merger, amalgamation or acquisition shall continue after such merger, amalgamation or acquisition, if any.
- g) **Regarding Observation in para 3 (xxiii) of the RD report:** The Petitioner Companies submit that Company has duly submitted written submission to Registrar of Companies, Bangalore, with necessary clarifications on this matter. Further any action as applicable can be taken independent of this scheme of amalgamation. The Transferee Company in any event is an surviving entity.
- h) **Regarding Observation in para 3 (xxiv) of the report of the RD report:** The Petitioner Companies confirm and undertake that since inquiry under section 206(4) of the Act is still pending, any further action would continue against the Transferee Company independent from the Scheme of Amalgamation.
- i) **Regarding observation in Para 4 of the report:** The Petitioner Companies confirm that no report has been filed by the Income Tax

Department, Bangalore. Further it is submitted that no consent or NOC is required since the Petitioner Companies have served their respective notices to the Principal Commissioner of Income Tax, Bangalore as well as their respective jurisdictional Income tax authorities as prescribed under section 230 (5) of the Companies Act on 6th May, 2025 pursuant to order dated 24th April, 2025 and 13th August 2025 pursuant to order dated 25th July, 2025 passed by the Hon'ble Tribunal. The Petitioner Companies submit that since they have served notice to the Income Tax Department under Section 230(5) and no representation is received from the Income tax department within 30 days it is presumed that they have no representations to make.

- j) **Regarding Observation in Para 5 of the RD Report:** the Petitioner companies submit, that they have filed their response to the report of the Official Liquidator vide affidavit dated 07.01.2026.
- k) **Regarding Observation in Para 6 (a) of the RD Report** the Petitioner companies submit that the observation is merely factual in nature.
- l) **Regarding Observation in Para 6 (b) of the RD Report** the Petitioner companies submit that all the Petitioner Companies have filed their annual returns and balance sheets as on 31st December, 2025.
- m) **Regarding Observation in Para 6 (c) of the RD Report** the Petitioner companies submit that that as per SEBI Notification dated 2nd September, 2015 Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulation, 2015 regulation 37(6) states the holding company is only required to intimate the stock exchanges where the shares are listed i.e. BSE and NSE. In case of Scheme is of merger of wholly owned subsidiaries with

its Holding Company, regulation 37 (6) is replicated herewith for ready reference:

" (6) 373[Nothing contained in this regulation shall apply to draft schemes which

a) solely provide for merger of a wholly owned subsidiary with its holding company; or

b) solely provide for writing off the accumulated losses against the share capital of the listed entity applied uniformly across all shareholders on a pro rata basis or against the reserves of the listed entity:

Provided that such draft schemes shall be filed with recognized stock exchanges for the purpose of disclosures.]"

Further, it is submitted that the Transferee company has intimated BSE and NSE vide letter Sect./56/ 2024-25 dated 04.11.2024. In addition, thereto the Petitioner Companies have also served notices to BSE and NSE as per Section 230(5) of the Companies Act, 2013.

- n) **Regarding Observation in Para 6 (d) of the RD Report** the Petitioner companies undertake that the setting off of fees paid by the Transferor Companies on its Authorized Share Capital shall be in accordance with provisions of section 232(3)(i) of the Companies Act, 2013. Further, the Transferee Company undertakes to comply with the provisions of Section 232(3)(i) of the Companies after setting off the fees already paid by the Transferor Companies.
- o) **Regarding Observation in Para 6 (e) of the RD Report:** The Transferee Company has duly submitted written submissions to Registrar of Companies, Bangalore, with necessary clarifications on this matter. Further any action as applicable can be taken independent of this scheme of amalgamation. The Transferee company is an surviving entity

- p) **Regarding Observation in Para 6 (f) of the RD Report** the Petitioner Companies confirm and undertake that since inquiry under section 206(4) of the Act is still pending, any further action would continue against the Transferee Company independent from the Scheme of Amalgamation.
- q) **Regarding Observation in Para 6 (g) of the RD Report** the Petitioner Companies undertake to comply with the regulations FEMA/RBI, to the extent applicable. In the instant case no shares will be allotted to the shareholders of the Transferor Companies being merger of subsidiary with holding company.
- r) **Regarding Observation in Para 6 (h) of the RD Report** The Petitioner Companies submit that as on date there are no employees in the transferor companies.
- s) **Regarding Observation in Para 6 (i) of the RD Report** the observation of the ROC is merely factual in nature.
- t) **Regarding Observation in Para 6 (j) of the RD Report** the Petitioner Companies submit that All transactions with related parties are at arm's length price basis and necessary quarterly approvals from the Audit Committee as per Section 188 has been taken from time to time. Further petitioner Companies have also complied with the provisions of AS-18.

11. Report of the Official Liquidator:

The Official Liquidator has filed report dated 12.09.2025 vide Dy.No. 5029 making following observations:

- a) The Board of Directors of Transferor Company No.1 approved of the scheme on 28.06.2024. The Transferor Company vide their letter dated 19.05.2025 have informed that there are 2 equity shareholders, no Secured Creitor and one Unsecured Creditors for a total outstanding unsecured debt of Rs. 55,25,11,083/- as on 31.03.2024.

- b) The Board of Directors of Transferor company No. 2 approved of the scheme on 28.06.2024. The Transferor Company vide their letter dated 19.05.2025 have informed that there are 2 Equity Shareholders, no Secured Creditors and 1 Unsecured Creditor for a total outstanding unsecured debt of Rs.2,36,15,997/- as on 31.03.2024.
- c) The Board of Directors of Transferor company No. 3 approved of the scheme on 28.06.2024. The Transferor Company vide their letter dated 19.05.2025 have informed that there are 2 Equity Shareholders, no Secured Creditors and 2 Unsecured Creditor for a total outstanding unsecured debt of Rs.45,93,49,418/- as on 31.03.2024.
- d) The Board of Directors of Transferor company No. 4 approved of the scheme on 28.06.2024. The Transferor Company vide their letter dated 19.05.2025 have informed that there are 2 Equity Shareholders, no Secured Creditors and 1 Unsecured Creditor for a total outstanding unsecured debt of Rs.21,95,34,359/- as on 31.03.2024.
- e) From the Financial Statements of the Transferor Companies No. 1, 2, 3 & 4 for the FY ending 31.03.2023 and 31.03.2024 it is observed that there is no Revenue from operations for the last two years. This apparently shows that there is no business in the Transferor Companies.
- f) That as per the Financial Statements of the Transferor company No. 1, 2, 3 & 4 as at 31.03.2024, no Expenditure incurred towards Employees' salaries and wages. Further, in the scheme as per Part 'B' Clause 11 of the proposed Scheme Company Staff, Workmen and Employees:

"All the employees of the Transferor Companies, if any in service on the Effective Date, if any, shall become the employees of the

Transferee Company on such date without any break or interruption in service and on terms and conditions as to remuneration not less favourable than those subsisting with reference to the Transferor Companies as on the said date. It is clarified that the employees of the Transferor Companies who become employees of the Transferee Company by virtue of this Scheme, shall not be entitled to the employment policies, and shall not be entitled to avail of any schemes and benefits that are applicable and available to any of the employees of the Transferee Company, unless otherwise determined by the Transferee Company”.

- g) As per Part 'B' Clause 12 of the proposed Scheme: Consideration and Cancellation of Share Capital of Transferor Companies:

"As the Transferor Companies are wholly owned subsidiaries of the Transferee Company, the entire issued, subscribed and paid-up share capital of the Transferor Companies is held by the Transferee Company and its nominees. Upon this Scheme becoming effective, the Transferee Company would not be required to issue and allot any shares to the shareholders of the Transferor Companies and the shares held by the Transferee Company and its nominees in the Transferor Companies shall get cancelled and/or extinguished”

12. Remarks of the Official Liquidator:

- a) On perusal of the report, the Petitioner Company has stated that in respect of the Para 17 of the OL report, the Petitioner Companies undertake that applicable stamp duty and any other charges will be paid off to the State Government within a reasonable time of 6 months by the Transferee Company upon sanctioning of the proposed scheme.

- 13.** The Income Tax Department has filed its report in respect of the Petitioner Company No.1/Transferor Company No.1 vide Dy.No. 4261 dated 04.08.2025 stating that there is a TDS dues of Rs.1570/- in respect of the Company, for which, the Petitioner Company No.1/Transferor Company No.1 has filed an affidavit along with challan for payment of outstanding dues of Rs.2,530/- to the Income Tax Department as on 13.01.2026. Further the Petitioner Company submits that there are no pending dues with the I.T Department as on date.
- 14.** The Income Tax Department has filed its report in respect of Petitioner Company No.4/Transferor Company No.4 vide Dy.No.5632 dated 13.10.2025 stating that there are no ongoing assessment pending and no outstanding demand pending in respect of M/s.SKG Terra Promenade Private Limited, the Petitioner Company No.4/Transferor Company No.4
- 15.** The Assistant Commissioner of CGST & CX, Kolkata South Commissionerate had sent a letter dated 25.09.2025 in respect of the Transferee Company M/s. Kirloskar Electric Company Limited stating that there are no pending dues for recovery against the Transferee Company.
- 16.** A letter dated 30.09.2025 has been received from the Commercial Taxes Department, Government of Telangana in respect of the M/s. Kirloskar Electric company Limited stating as under:
- a) Details of statutory dues: GST arrears: Rs.10,15,228/0 (CGST Rs.4,61,467 plus penalty Rs.46,147/-; TGST Rs.4,61,467 plus Penalty Rs.46,147) for FY 2020-21.
VAT/CST arrears: Rs.25,551/- for FY 2014-15 and Rs.2,214 for FY 2013-14 (CST)
 - b) Legal submission – First charges of Taxes: As per the provisions of CGST Act, 2017 the TGST Act, 2017 and applicable VAT Laws, government dues (tax, interest, penalty) constitute a first charge on the property of the Company, except as otherwise provided in the I & B Code, 2016.

c) Appropriation of amounts during Amalgamation/Resolution: During the implementation of the scheme of Amalgamation/Resolution Process, the amounts recovered, realised or distributed by the RP, the Transferee Company, or any other person concerned should first be appropriated towards statutory dues on the Government (i.e., Commercial Taxes Department, Telangana) towards CGST, TGST, VAT/CST in accordance with Section 82 of the CGST/TGST Act. This is also in line with the legal position established by Hon'ble Supreme Court in various cases (e.g. Principal Commissioner of Central Excise v. Monnet Ispat and Energy Ltd., 2018 SCC Online SC 2576) that the statutory charge under GST and VAT Acts is subject only to the IBC, and prevails otherwise.

In view of the same, suitable direction be given for appropriation of the pending statutory dues of CGST, TGST, VAT/CST out of the assets/amounts realised under the Scheme of Amalgamation, as first charge to the credit of Commercial Taxes Department, Government of Telangana as per Section 82 of the CGST Act, 2017 and TGST Act, 2017.

17. The Petitioner Company No.5/Transferee Company has filed an affidavit in respect of the observation of the Assistant Commissioner of Commercial Taxes Department, Telangana vide Dy.No. 6361 dated 17.11.2025 submitting as under:

- a) It is submitted that the Commercial Taxes Department has misconstrued the present matter filed under section 230-232 of the Companies Act, 2013 and treating to be a matter filed under the Insolvency and Bankruptcy Code, 2016.
- b) Further, the present matter is a Scheme of Amalgamation between a holding company and its subsidiaries. The alleged statutory dues and alleged charges are against the Transferee Company. It is clarified that upon the scheme becoming effective the Transferee

Company will remain in existence and therefore any existing charges and dues will continue in the Transferee Company. Therefore, the present scheme of Amalgamation does not violate any rights of the Commercial taxes department and their interest are protected.

- c) It is further submitted that the Transferee Company has filed an Appeal relating to the claims of the GST Authority, Telangana. The Appeal was filed on 16th May, 2025 before the Joint Commissioner of State Tax, Telangana bearing filing number, ZD360825030787Y. The Appeal is pending before the Joint Commissioner of State Tax, Telangana.
- d) The Transferee company undertakes to protect the interest of the GST Authority and submits that the present scheme does not deter the GST Authorities to deal with any of the issues arising after giving effect to the scheme and that the decision of such authorities shall be binding on the Petitioner Companies and all issues arising thereunder will be met and answered in accordance with law. In view of above the rights of the GST department are not effected in any manner.
- e) Therefore, based on the clarifications provided by the Fifth Petitioner Company to the observations made by the Assistant Commissioner of Commercial Taxes Department, Telangana in his letter herein, the Company Scheme Petition merits to be allowed, reject the assertions of the Report sent by the Department and the Scheme be sanctioned and made absolute by this Hon'ble Tribunal.

18. Heard the Learned Counsel for the Petitioner Companies and Ld. Counsel for the ROC/RD, IT Department and Official Liquidator and carefully perused the files.

19. The observations of statutory authorities and responses thereto of the Petitioner Companies have been reproduced above in sufficient detail where after, no further points have been raised by the former reflecting their

satisfaction with the responses/compliance by the Petitioner Companies. Similar schemes have already been dealt with and approved by this Bench in other referred cases. It thus leaves no impediment to the approval of Scheme.

20. Accordingly, the Scheme of Amalgamation as annexed at **Annexure-A** in respect of the Petitioner Companies is hereby **approved with the Appointed date being 01.04.2024** and it is directed that the Scheme is binding on all the directors', shareholders and creditors of the Petitioner Companies. While approving the Scheme, it is clarified that this order should not be construed as an order in anyway granting exemption from payment of stamp duty, taxes, or any other charges, if any, and payments thereof shall be made in accordance with applicable law or in respect of any permission/compliance with any other requirement which may be specifically required. With the sanction of the Scheme, the Transferor Companies shall stand dissolved without being wound-up, without any further act or deed.

AND THIS TRIBUNAL DOES FURTHER ORDER:

- i) That the Transferee Company shall, within 30 days of receipt of this Order, cause a certified copy to be delivered to the Registrar of Companies, Karnataka for registration. The concerned Registrar of Companies shall place all documents relating to the Transferor Companies registered with him on the file relating to the Transferee Company and be consolidated,
- ii) The Petitioner Companies are directed to comply with the provisions of Section 170A of the Income Tax Act, 1961 within the stipulated period. The records of dissolved transferor companies shall be preserved in the manner and for the duration as prescribed in law.
- iii) That any person interested shall be at liberty to apply to this Tribunal in the above matter for any directions that may be necessary.

- iv) The approval/sanctioning of the Scheme shall not be construed as an exemption from any of the provisions under the Income Tax Act, 1961 or the Companies Act, 2013 and that the authorities under concerned statutes, are at liberty to take appropriate action, in accordance with law.
- v) The Petitioner Companies have given various undertakings in response to observations made by the Statutory Authorities, which are all accepted. They shall remain bound by the terms thereof and committed to ensure meticulous compliance in letter & spirit

21. Registry to issue formal Orders in Form No. CAA-7 of Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, on the Transferee Company filing Schedule of the Properties i.e. (i) freehold properties of the Transferor Companies and (ii) leasehold properties of the Transferor Companies, by way of an affidavit.

22. Accordingly, **C.P. (CAA) No.22/BB/2025 is disposed of.**

23. Copy of this Order be provided to the Petitioner Company through their Counsel.

-Sd-
RADHAKRISHNA SREEPADA
MEMBER (TECHNICAL)

-Sd-
SUNIL KUMAR AGGARWAL
MEMBER (JUDICIAL)