IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT – 1, AHMEDABAD

ITEM No.301

C.P.(CAA)28/(AHM)2026
in C.A.(CAA)/17(AHM)2026

Under Section 230-232 of Companies Act, 2013

IN THE MATTER OF:

Triumph Offshore Private Limited
Swan Defence and Heavy Industries Limited

........**Applicants**

Order delivered on: 06/08/2026

C O R A M:

MR. SHAMMI KHAN, HON'BLE MEMBER (J)
MR. SANJEEV SHARMA, HON'BLE MEMBER (T)

O R D E R
(Hybrid Mode)

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

Sd/-

SANJEEV SHARMA
MEMBER (TECHNICAL)

-SD-

SHAMMI KHAN
MEMBER (JUDICIAL)

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

CP(CAA)/28(AHM)2026
In
CA(CAA)/17(AHM)2026

[Company Petition under Sections 230 to 232 and other applicable provisions of the Companies Act, 2013 read with Companies (Compromises, Arrangements, and Amalgamations) Rules, 2016].

In the matter of **Scheme of Arrangement and Amalgamation**

Memo of Parties

Triumph Offshore Private Limited
CIN: U74999GJ2017PTC097528
A company incorporated under the Companies Act, 2013, having its registered office at: 9th Avenue Ground Floor, Behind Rajpath Club, Memnagar, Bodakdev, Ahmedabad - 380060

... First Petitioner Company/TOPL/ /Transferor Company

Swan Defence and Heavy Industries Limited
CIN: L35110GJ1997PLC033193
A company incorporated under the provisions of the Companies Act, 1956 and having its registered office at Pipavav Port, Post Ucchaya, Via Rajula, Rajula - Gujarat

... Second Petitioner Company/SDHIL/ /Transferee Company

Order Pronounced on 06.08.2026

C O R A M:

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

A P P E A R A N C E :

For the Applicants	:	Mr. Ravi Pahwa, Advocate a. w. Ms. Gunjan Aggarwal, Advocate
For the Regional Director	:	Mr. Shiv Pal Singh, Deputy Director
For the Income Tax Department	:	Mr. Anand Palodara, Proxy Advocate
For the Official Liquidator	:	Mr. Sandeep Tupe, Technical Assistant

O R D E R
Per Bench

1. This is a joint Company Petition i.e. **CP(CAA)/28(AHM)2026 in CA(CAA)/17(AHM)2026**, filed by the Petitioner Companies under Sections 230 to 232 and other applicable provisions of the Companies Act, 2013 read with the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (hereinafter referred to as **"Companies (CAA) Rules, 2016"**), seeking approval of the proposed Scheme of Arrangement and Amalgamation (Scheme) of Triumph Offshore Private Limited (Transferor Company) and Swan Defence and Heavy Industries Limited (Transferee Company) with effect from **01.04.2024,** being the Appointed Date as mentioned in the Scheme. The said Scheme is annexed as ***"Annexure–G"*** (Pg. 389 to 424) to the Company Petition.

2. Affidavits dated 01.06.2026, in support of the present company petition, were sworn by Mehul Rajyaguru, the authorized signatory of the Petitioner Companies, duly authorized vide Board Resolutions dated 22.11.2024 of the Petitioner Companies. The aforesaid affidavits and board resolutions are placed on record along with the company petition. The Board Resolutions are annexed at ***Annexure-E (Colly)*** (Pg. 358 to 379) of the company petition.

3. The proposed Scheme of Arrangement and Amalgamation ('Scheme'), inter alia, provides for (i) amalgamation of Transferor Company/Triumph Offshore Private Limited with Transferee Company/Swan Defence and Heavy Industries Ltd. (ii) reduction and reorganization of share capital of the Transferee Company in the manner set out in the Scheme, with effect from the Appointed Date i.e. **01.04.2024**.

4. The petitioner companies had filed a joint Company Application before this Tribunal, being CA(CAA)/17(AHM)2026, seeking dispensation of meetings of the equity shareholders of Transferor Company as well as secured and unsecured creditors of both the Petitioner Companies and for convening and holding the meeting of Equity Shareholders of the Transferee Company.

5. This Tribunal, taking into consideration the consent affidavits filed by all the equity shareholders of the Transferor Company and the submissions that the rights and interests of the secured and unsecured creditors would not be adversely affected under the Scheme, dispensed with the meetings of the

equity shareholders of the Transferor Company and the secured and unsecured creditors of both the Petitioner Companies. However, this Tribunal directed convening of the meeting of the equity shareholders of the Transferee Company and further directed issuance of notices to the concerned statutory and regulatory authorities in accordance with law. Hence, the aforesaid company application i.e. CA (CAA)/17(AHM) 2026, was allowed by this Tribunal, vide order dated 13.04.2026.

6. The Petitioner Companies, thereafter, filed Company Application No. 18 of 2026 seeking to modify the directions given in Para 29 of the order dated 13.04.2026 passed in CA(CAA)17 of 2026 to the extent changing the cut-off date from 15.04.2026 to 18.05.2026. This Tribunal vide order dated 16.04.2026 allowed the said application and changed the cut-off date from 15.04.2026 to 18.05.2026.

7. In compliance with the order dated 13.04.2026, passed in CA(CAA)/17(AHM)2026, read with order dated 16.04.2026, the Petitioner Companies have filed a joint affidavit of service on 15.05.2026, vide Inward No. D 4196 along with proof of notices served upon the aforesaid Regulatory/Statutory Authorities as well as notice upon the Equity Shareholders of the Transferee Company along with proof of paper publication.

8. The aforesaid meetings were duly convened and held on 25.05.2026 and the Chairman has filed his report on 29.05.2026 vide Inward No. D 4324 regarding the result of the aforesaid meeting before this Tribunal in compliance with order dated 13.04.2026 r. w. order dated 16.04.2026.

9. **The Petitioner Companies have provided the following Rationale of the Scheme:**

1. The rationale for the purposed reduction and re-organisation of capital of the Transferee Company in the manner set out in this Scheme is as under:-

   (i) *The Transferee Company has suffered substantial losses during the past few years and has undergone Corporate Insolvency Resolution Process which has deleveraged its balance sheet substantially.*

   (ii) *As per the audited financial statements of the Transferee Company on 31st March, 2024, the Transferee Company carries a debit balance of Retained Earnings Account, while it has unutilized credit balances of Capital Reserve and Securities Premium. Accordingly, the Transferee Company believes that utilization of the Capital Reserve and Securities Premium to set off the debit balances in Retained Earnings Account would result in a true and fair reflection of the "Other Equity" in the balance sheet;*

   (iii) *The Scheme will enable the Transferee Company to explore opportunities for the benefit of the shareholders of the Transferee Companies including in the form of dividend payment as per the applicable provisions of the Companies Act, 2013;*

   (iv) *The proposed adjustment/set off, of the Securities Premium Account would not have any impact on the* *shareholding pattern, and the capital structure of the Transferee Company; and*

(v) *The proposed reduction and re-organisation of capital does not involve any financial outlay/ outgo and therefore, would not affect the ability or liquidity of the Transferee Company to meet its obligations/ commitments in the normal course of business.*

2. Both the Transferor Company and the Transferee Company belongs to the same group. The proposed amalgamation would inter alia have the following benefits;

(i) *The proposed amalgamation will, help the group in consolidation of all the activities such as purchase, sale, charter hire, constructions, repairs, etc. of ships, boats, vessels, other transports and conveyances in a single entity which will help the combined business to exploit the complementary capabilities of both companies.*

(ii) *The merged entity would oversee the entire value chain, from vessel design and construction to financing, leasing, and eventual management. This integration, enables the company to have greater control over costs, quality, and delivery schedules, resulting in more streamlined operations;*

(iii) *The proposed amalgamation would create a more competitive and diversified entity capable of competing with global players in the ship building and heavy engineering sectors.*

(iv) *The proposed amalgamation would position the merged entity to benefit from the growing demand for naval* *defense, energy infrastructure, and commercial shipping in both domestic and international markets.*

(v) *The proposed amalgamation would not only create economics of scale, reduction of costs and reduction of compliance burden, but also simplify management and strategic focus, leading to a better long-term performance.*

10. This Tribunal vide order dated 13.04.2026 r. w. order dated 16.04.2026, directed to file an affidavit confirming compliance with the observations made by BSE and NSE made in their observation letters dated 27.03.2026, along with the second motion. In response thereto, the Transferee Company has undertaken that it shall comply with the observations and conditions contained in the Observation Letters issued by BSE and NSE and with the applicable provisions of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 and the relevant SEBI Circulars.

11. After complying with all the directions given in the order dated 13.04.2026 r. w. order dated 16.04.2026 passed in CA(CAA)/17(AHM)2026, Second Motion Petition i.e. CP(CAA)/28(AHM)2026 was filed before this Tribunal by the Petitioner Companies on 02.06.2026, vide Inward No. E1563, for sanction of the proposed Scheme by this Tribunal.

12. This Tribunal vide order dated 11.06.2026, passed in CP(CAA)/28(AHM)2026, directed the Petitioner Companies for issuance of notice to the Statutory/Regulatory Authorities namely (i) the Central Government through the office of the

Regional Director, North-Western Region, Ministry of Corporate Affairs (MCA) (ii) Registrar of Companies, Gujarat, (iii) the Official Liquidator (iv) SEBI, NSE and BSE (qua Transferee Company) and (v) concerned Income Tax Authorities and other Statutory/Regulatory Authorities, if applicable. Further, directed for paper publication to be made in **"Business Standard"** in English (National Editions) and **"Jansatta"** in Vernacular (Gujarat edition).

13. In compliance of order dated 11.06.2026, passed in CP(CAA)/28(AHM)2026, the Petitioner Companies filed affidavit of service on 24.06.2026, vide Inward No. D 5156, in respect of service of notice upon the aforesaid statutory/regulatory authorities along with proof of service as well as proof of publication of notice of hearing of the petition in "Business Standard" in English (National Editions) and "Jansatta" in Vernacular (Gujarat edition) on 22.06.2026.

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

STATUTORY/REGULATORY AUTHORITIES OBSERVATION & RESPONSE THEREOF

15. **The Regional Director, North-Western Region, Gujarat and the Registrar of Companies, Gujarat.**

Pursuant to the notice issued by this Tribunal, the Regional Director, North-Western Region, Ministry of Corporate Affairs, filed his report dated 11.07.2026 along with the report of the Registrar of Companies dated 07.07.2026. The reports principally contain observations relating to the Appointed Date of the Scheme, reduction and reorganisation of the share capital, authorised share capital, compliance with the observations of BSE and NSE, statutory compliances under the Companies Act, preservation of books and records, payment of applicable stamp duty and statutory dues, and other consequential compliances. The Petitioner Companies have filed detailed affidavits dated 15.07.2026 and 22.07.2026 responding to each of the observations and furnishing the necessary undertakings.

<u>RD's Observation:</u>

The observations of the RD and response of the petitioner companies for these observations is discussed below.

(i) Para-7(i), it is mentioned that the Appointed Date/Transfer Date is 01.04.2024 as per Para 1.3 of the Scheme, however, company application was filed on 27.03.2026 after one year and 11 months from Appointed Date. As per Para 6 (c) of MCA Circular no. 09/2019 dt 21.08.2019 have stated that "if the 'appointed date' is significantly ante-dated beyond a year from the date of filing, the justification for the same would have to be specifically brought out in the scheme and it should not be against public interest". On examination of the scheme, it appears that no justification has mentioned in the scheme about gap of more than one year in filing of application and appointed date.

It is submitted that appointed date is **one year and 11 month old**, therefore, be pleased to direct the Petitioner

Companies to mention the justification in the Scheme and place on record all the relevant facts of the matter.

Response of the Petitioner Companies: It is submitted that although the present application has been filed beyond one year from the Appointed Date of 01.04.2024, the delay stands sufficiently explained. The Transferee Company, being a listed company, was required to obtain the Observation Letter/No Objection from SEBI/Stock Exchange(s) under Regulation 37 of the SEBI (LODR) Regulations, 2015, prior to approaching this Tribunal. The Scheme, approved by the Boards of the Petitioner Companies on 22.11.2024, was submitted to the Stock Exchange(s) on 12.12.2024, and the Observation Letter/No Objection was received on 27.03.2026. Thereafter, the Petitioner Companies promptly filed Company Scheme Application No. CA(CAA)/17(AHM)2026 before this Tribunal on the same date. It is further submitted that no prejudice would be caused to the shareholders or any other stakeholders, as the Appointed Date has already been approved by the shareholders as well as SEBI/Stock Exchange(s).

(ii) Para-7(ii), it is mentioned that the scheme is proposed at Para No. 5 of Part-II of the scheme to reduction and re-organisation of capital of the transferee company. As on 31 March 2024, the other equity as appearing in the books of accounts of the Transferee Company is as follows:-

Particulars	INR in lakhs
Retained Earnings Account (Debit balance)	(2,10,649.38)
Securities Premium	1,50,011.33
Capital Reserves	79,745.87
Other Reserves	22,791.35
Other Comprehensive Income	169.89
Total	**42,069.06**

According to Para 5.2 of the scheme, the credit balance of Capital Reserve and Securities Premium as appearing in books of accounts of the Transferee Company as on the Appointed Date, shall be adjusted against the debit balance of Rs. (-) 2,10,649.38 Lakhs of the Retained Earnings Account of the Transferee Company, in the following chronological order:

(i) Entire credit balance appearing under the Capital Reserve; and

(ii) Securities Premium, to the extent of remaining debit balance of the Retained Earnings Account.

On perusal of the explanatory statement of notice sent to the shareholders of the transferee company, it is observed that Capital reserves arise from value of extinguished and forfeited equity shares of the transferee company based on Resolution Plan approved by Hon'ble NCLT Bench at Ahmedabad on 23.12.2022 which are considered unrealized capital profits and are strictly non-distributable.

Therefore, the Hon'ble NCLT may be pleased to direct the Petitioner Companies to place fact of the case before the Hon'ble Bench.

Response of the Petitioner Companies: It is submitted that the proposed adjustment of the Capital Reserve has arisen from identifiable corporate transactions and forms an integral part of the Scheme under Sections 230 to 232 of the Companies Act, 2013. The accounting treatment has been duly certified by the Statutory Auditors, and no adverse observations have been received from BSE or NSE. The detailed reply to the observation contained in Para 7(ii) of the Regional Director's Report is annexed herewith as **Annexure-2**.

(iii) Para-7(iii), it is submitted that as per the Scheme, the authorized share capital of the Transferor Company amounting to Rs.50,00,00,00,000/- will be added to the authorized share capital of the Transferee Company and the consolidated authorized share capital of the transferee company post-merger will be Rs.2,00,00,00,00,000/-. The Transferee Company shall pay the differential fees and stamp duty, if any, on the enhanced authorised share capital after set-off the fee/stamp duty paid by the Transferor Company on its authorised capital prior to amalgamation in compliance of provisions of Section 232 (3) (i) of the Companies Act, 2013.

Response of the Petitioner Companies: It is submitted that upon the Scheme becoming effective, the authorised share capital of the Transferor Company shall stand combined with that of the Transferee Company. The Transferee Company undertakes to pay the differential fees, if any, after giving effect to the set-off available under Section 232(3)(i) of the Companies Act, 2013.

(iv) Para-7(iv), it is submitted that the Transferee Company, namely, Swan Defence and Heavy Industries Limited is listed with the BSE and NSE and Petitioner company has submitted with the office of the Regional Director, the copy of observation letters dated 27.03.2026 issued by BSE and NSE to the Petitioner Transferee Company pursuant to the SEBI master circular No. SEBI/HO/CFD/POD-2/P/CIR/2023/93 dated 20.06.2023 for necessary compliance. The SEBI's circulars are intended to ensure compliances by listed companies in the interest of shareholders at large. This office is of the view that the SEBI circulars which are applicable, and the petitioner company should comply with the requirements of the circular.

Therefore, in this regard Hon'ble NCLT may be pleased to direct the Transferee Company to place confirmation /undertaking before the Hon'ble NCLT that company has complied the observations of aforesaid letter of said stock exchanges.

Response of the Petitioner Companies: It is submitted that the Transferee Company (i.e., Swan Defence and Heavy Industries Limited), is listed on BSE Limited and National Stock Exchange of India Limited. Further, the Transferee Company has confirmed its compliance with, and undertaken to continue complying with, the observations of BSE and NSE and the applicable SEBI Master Circular and SEBI LODR Regulations.

(v) Para-7(v), this Tribunal to direct the Petitioner Companies to file an affidavit to the extent that the Scheme enclosed with the Company Application and Company Petition are one and same and there is no discrepancy, or no change is made.

<u>Response of the Petitioner Companies</u>: It is confirmed that the Scheme enclosed to the Company Application and the Company Petition are one and the same and there is no discrepancy and no change is made.

(vi) Para-7(vi), this Tribunal may kindly direct the Petitioner Companies to file an affidavit to the extent that no CIRP Proceeding under IBC and/or winding up petition against Applicant Companies are pending.

<u>Response of the Petitioner Companies</u>: It is confirmed that no Corporate Insolvency Resolution Process (CIRP) under the Insolvency and Bankruptcy Code, 2016 and/or any winding up petition is pending against any of the Petitioner Companies.

<u>The RD in its representation further submitted that this Tribunal may be pleased to direct the Petitioner Companies</u>:-

(i) Para-8(i), to ensure compliance and furnish the clarification, if any, regarding observations made by Registrar of Companies and this Directorate (NWR) in forgoing Paragraph No.6 and 7 above.

Response of the Petitioner Companies: The Petitioner Companies submitted that they have furnished the requisite clarification with respect to the observations made in paragraphs 6 and 7 of RD Report.

(ii) Para-8(ii), to direct the Petitioner Companies preserve its books of accounts, papers and records and shall not be disposed of without prior permission of Central Government as per the Provision Section 239 of the Companies Act, 2013.

Response of the Petitioner Companies: It is submitted that the Petitioner Companies undertake to preserve the books of accounts, papers and records of the Petitioner Companies and shall not dispose of the same without prior permission of Central Government as per Section 239 of the Companies Act, 2013.

(iii) Para-8(iii), to ensure statutory compliance of all applicable Laws and also on sanctioning of the present Scheme, the Petitioner Companies shall not be absolved from any of its Statutory liabilities, in any manner.

Response of the petitioner companies: It is submitted that the Scheme nowhere seeks to absolve any of the Petitioner Companies from any of the statutory liabilities, if any.

(iv) Para-8(iv), necessary Stamp Duty on transfer of property/Assets, if any is to be paid to the respective Authorities before implementation of the Scheme.

<u>Response of the petitioner companies</u>: It is submitted that the Petitioner Companies undertake to pay necessary Stamp Duty in line with the applicable laws.

(v) Para-8(v), the Petitioner Companies involved in the scheme to comply with the provisions of Section 232(5) of the Companies Act, 2013 with respect to file certified copy of order sanctioning the scheme with Registrar of Companies within 30 days from date of passing order.

<u>Response of the Petitioner Companies</u>: It is submitted that the Petitioner Companies undertake to comply with the provisions of Section 232(5) of the Companies Act, 2013 with respect to filing certified copy of order sanctioning the Scheme with RoC within 30 days from the date of passing the order.

(vi) Para-8(vi), to comply with Income Tax/GST law and any demand/taxes payable on implementation of the said scheme as per law.

<u>Response of the Petitioner Companies</u>: It is submitted that the Petitioner companies undertake to comply with Income Tax/GST Law and demand/tax payable on implementation of the Scheme, to the extent applicable.

<u>RoC's Observations</u>

(i) Para-8, it is mentioned that this office has not specially scrutinized the documents of both the applicant companies for the purpose of pointing out any specific violation of the Companies Act, 2013. However, upon perusal of the Statutory Auditor's reports filed by the Transferee Company, it is observed that the Statutory Auditors have given qualified Remarks for the Financial Year 2022-23. Accordingly, the same may be pursued by the Directorate.

Response of the Petitioner Companies: It is submitted that the Company was admitted under Insolvency and Bankruptcy Code (IBC) on January 15, 2020. The Corporate Insolvency Resolution Process (CIRP) concluded pursuant to the approval of the Resolution plan by National Company Law Tribunal, Ahmedabad Bench, on December 23, 2022. Thereafter, a Monitoring Committee was formed to oversee the implementation until January 4, 2024, after which it was dissolved, and new management took control.

(ii) Para-11, it is mentioned that as per the MCA portal record, no complaint received against both the Companies in recent past. However, Mr. Himanshu Soni, Advocate, in his capacity as an equity shareholder of Swan Defence and Heavy Industries Private Limited [or Limited] ('Transferee Company'), has raised objections to this proposed Scheme of Arrangement and Amalgamation vide an email dated April 24, 2026. A copy of the said email is annexed hereto as Exhibit 'A' for the perusal of and further suitable directions, if any.

Response of the Petitioner Companies: It is submitted that the Transferee Company has duly responded to the objection raised by the shareholder. However, the identity of the objector could not be verified as the email did not correspond to any registered shareholder and no identifying particulars were furnished. It is further submitted that the aggregate shareholding of the three shareholders bearing the name "Himanshu Soni" constitutes only 31 equity shares, i.e., approximately 0.00006% of the paid-up equity share capital of the Transferee Company. No objection was raised during the Tribunal-convened meeting of shareholders and the Scheme was approved by the requisite statutory majority, including the majority of public shareholders. Accordingly, the objection of an individual shareholder does not affect the sanction of the Scheme.

15.1 During the hearing on 17.07.2026, learned deputy director of RD's Office has drawn attention of this Tribunal to the observation of the Registrar of Companies contained in Para Nos. 14(4), 14(5), 14(7), 14(8) and 14(9) and submitted that Petitioner Companies have not furnished any clarification thereto. In view the same, an additional affidavit in response to the Regional Director's/RoC report, has been filed by the petitioner companies on 22.07.2026 vide Inward No. D 6078. The aforesaid observations and response of the petitioner companies are as follows:-

(iii) Para-14(4), it is mentioned that the Ministry vide its email dated 10.03.2026, shared two Excel sheets containing a list of companies that failed to comply with the CSR provisions for the Financial Years 2020–21 and

2021-22. The name of the Applicant Transferor Company is included in the said non-compliant list for the Financial Year 2020- 21 due to its failure to disclose the CSR projects approved by its Board of Directors. Furthermore, the name of the Transferor Company is included in the list for the Financial Year 2021–22 due to its failure to file the mandatory e-form CSR-2 as contemplated under Rule 12(1B) of the Companies (Accounts) Rules, 2014. The Transferor Company has filed belated e-form CSR-2 for the financial year 2021-22 vide SRN AC4169562 on 24.06.2026 and the same was taken on record through STP mode under the MCAV3 portal.

Response of the Petitioner Companies: It is submitted that the Transferor Company has submitted e-Form CSR-2 for FY 2021-22 vide SRN AC4169562 and as per the RoC report, the same has been duly taken on record through STP mode under MCAV3 portal by the RoC. The copy of filed Form CSR-2 (along with SRN) by the Transferor Company is attached herewith as **Annexure 2A and 2B**.

With respect to FY 2020-21, the Transferor Company was subject to CSR contribution of INR 52,600 and accordingly, the Transferor Company had duly filed eForm CSR-2 on March 22, 2022, vide SRN T89603229. Further, the Transferor Company has transferred INR 53,000 on June 21, 2021, to Prime Minister's National Relief Fund i.e., to a fund specified under Schedule VII in accordance with proviso 2 of Section 135(5) of the

Companies Act, 2013. The copy of filed Form CSR-2 (along with SRN and payment challan) is attached herewith as **Annexure 3A to 3C**.

(iv) Para-14(5), it is mentioned that as per the financial statements of the Transferee Company for the financial years 2019-20, 2020-21, 2021-22 and 2022-23, the company had outstanding in form of Long Term borrowings and short-Term Borrowings. However, the Officers of Company /RP/ Monitoring Committee have failed to file its return of deposits in the prescribed e-Form DPT-3 on or before the due dates of 30.06.2020, 30.06.2021, 30.06.2022 and 30.06.2023 as mandated under Section 73 of the Companies Act, 2013, read with Rule 16 of the Companies (Acceptance of Deposits) Rules, 2014. Thus, the company and its officers in default / RP/ Monitoring Committee have violated the aforesaid provisions of the Companies Act, 2013 read with Rules, made thereunder. Consequently, this non-compliance remains unresolved as on the date of this application and constitutes a continuing offence. In this regard, the Hon'ble NCLT may kindly issue suitable directions to Company /RP/ Monitoring Committee to comply with the abovementioned provisions of the Companies Act, 2013 as the case may be.

(v) <u>Response of the Petitioner Companies</u>: It is submitted that the non-filing of e-Form DPT-3 for the financial years 2019-20 to 2022-23 pertains to the period prior to and during the Corporate Insolvency Resolution

Process (CIRP), when the affairs of the Transferee Company were under the control of the erstwhile management, Resolution Professional and Monitoring Committee. The CIRP culminated in the approval of the Resolution Plan by this Tribunal on 23.12.2022, following which the new management assumed control on 04.01.2024. It is further submitted that, in terms of Sections 31 and 32A of the Insolvency and Bankruptcy Code, 2016 and the approved Resolution Plan, all past liabilities, claims and proceedings relating to the pre-CIRP period stand extinguished, and the Corporate Debtor is entitled to a "clean slate", as recognized by the Hon'ble Supreme Court in ***Ghanashyam Mishra and Sons Private Limited v. Edelweiss Asset Reconstruction Company Limited.*** Therefore, the said non-compliances cannot be attributed to the present management or operate as an impediment to the sanction of the Scheme.

(vi) Para-14(7), it is mentioned that the Transferee Company has filed a compounding application in e-Form GNL-1 vide SRN AB5512313 dated July 21, 2025, seeking compounding for the violation of Section 96 of the Companies Act, 2013. The said default occurred due to the Transferee Company convening its Annual General Meetings (AGMs) and adopting its financial statements with a delay of 1,074 days for the Financial Year 2020-21[due date 30.11.2021 conducted 08.11.2024], 770 days for the Financial Year 2021-

22[due date 30.09.2022 conducted 08.11.2024], and 454 days for the Financial Year 2022-23 [due date 30.09.2023 conducted 27.12.2024]. The Registrar of Companies submitted that as per available public records and media reports, wide-ranging investigations are actively underway against the Transferee Company by multiple Central Enforcement and Statutory Agencies, including the Central Bureau of Investigation (CBI), the Directorate of Enforcement (ED), and the Serious Fraud Investigation Office (SFIO). In this regard, attention is invited to the third proviso to Section 441(1) of the Companies Act, 2013, which explicitly mandates a statutory bar on compounding. The relevant provision stipulates as below: *"Provided also that any offence covered under this sub-section by any company or its officer shall not be compounded if the investigation against such company has been initiated or is pending under this Act."*

In view of the statutory prohibition under the aforementioned third proviso to Section 441(1), and given the pendency of active investigations specifically by the SFIO under the provisions of this Act, the compounding application filed by the Transferee Company is prima facie non-maintainable and legally barred from being compounded during the pendency of such investigations.

<u>Response of the Petitioner Companies</u>: It is submitted that the delay in convening the Annual General

Meetings and adoption of the financial statements for the financial years 2020-21 to 2022-23 pertains to the period prior to and during the CIRP, when the affairs of the Transferee Company were under the control of the erstwhile management, Resolution Professional and Monitoring Committee. It is further submitted that, pursuant to the approval of the Resolution Plan under Sections 31 and 32A of the Insolvency and Bankruptcy Code, 2016, and in terms of Clause 32.42 of the approved Resolution Plan, all pre-CIRP liabilities, claims and proceedings stand extinguished and the Corporate Debtor is entitled to the benefit of a "clean slate". The Transferee Company has further undertaken to comply with all directions issued by the statutory authorities and to file the requisite e-Form MGT-14 in accordance with the provisions of the Companies Act, 2013.

(vii) Para-14(8), it is mentioned that according to Para 7(vi) of the order dated 13.04.2026 passed in CA(CAA)/17(AHM) 2026 by the Hon'ble NCLT, "As on 31.12.2025, there is 1 Secured Creditor having outstanding amount of Rs.48,69,69,337/-. Whereas, the Index of Charges under the MCA V3 BO portal reflects no active or subsisting charge ID on that date. Thus, it appears that there are discrepancies between the Index of charges available on MCA's records vis-à-vis, application filed before the Hon'ble NCLT. The Registrar of Companies submitted that the Hon'ble

NCLT may kindly issue suitable directions to the Transferor Company to place on records of all the relevant facts in the matter and comply with the provisions of Section 77 read with Rule 3 of the Companies (register of Charges) Rules, 2014.

Response of the Petitioner Companies: It is submitted that that the Transferor Company had secured overdraft facility having limit of INR 48.50 Crore from SBI, Nariman Point Branch on 19th December, 2025. Further, said overdraft facility has already been closed by the Transferor Company on 20th May, 2026. Overdraft facility closure letter dated 5th June, 2026 confirming that there are no outstanding dues is attached as **Annexure-5**. Further, the Transferee Company undertakes that it shall endeavour to take all necessary steps to comply with the provisions of the law including Section 77 read with Rule 3 of the Companies (register of charges) Rules, 2014 (as applicable) and resolve the discrepancies in the index of charges as appearing on the MCA portal.

(viii) Para-14(9), it is mentioned that paragraph 8(vi) of the order dated 13.04.2026 passed in CA(CAA)/17(AHM) 2026 by the Hon'ble NCLT states that, "As on 31.12.2025, in the Transferee Company, there are 17 Secured Creditors having outstanding amount of Rs.11,44,00,00,000/-. However, according to the Index of Charges available on the MCA V3 BO portal, there is 26 (Twenty Six) open secured charge IDs registered in favour of 11 (Eleven) secured charge holders in the records of the Transferee Company. Consequently, a material discrepancy exists between the Index of Charges maintained in the MCA records and the disclosures made in the application filed before the Hon'ble NCLT.

It appears that there are discrepancies between the Index of charges available on MCA's records vis-à-vis, application filed by Applicant Transferee Company before the Hon'ble NCLT.

The Registrar of Companies submitted that the Hon'ble NCLT may kindly issue suitable directions to the Transferee company to place on records of all the relevant facts in the matter and comply with the provisions of Section 77 read with Rule 3 of the Companies (register of Charges) Rules, 2014.

Response of the Petitioner Companies: It is submitted that the Transferee Company was admitted under IB Code, 2016 on 15th January, 2020. The Corporate Insolvency Resolution Process (CIRP) concluded pursuant to the approval of the Resolution plan by National Company Law Tribunal, Ahmedabad Bench, on December 23, 2022. All the pending charges appearing on the MCA portal are old charges which were created prior to period pertaining to CIRP process. Further, in the month of March 2026, Transferee Company has repaid all the existing secured lenders and has obtained secured loan from one new lender [i.e. National Bank for Financing Infrastructure and

Development (NaBFID)]. No dues certificate / NOC received from all the secured lenders are attached as Annexure 6. Further, the Transferee Company undertakes that it shall endeavour to take all necessary steps to comply with the applicable provisions of the law including Section 77 read with Rule 3 of the Companies (register of charges) Rules, 2014 and resolve the discrepancies in the index of charges as appearing on the MCA portal.

(ix) The other observations of the Registrar of Companies have already been incorporated in the representation filed by the Regional Director. The Petitioner Companies have duly submitted their replies and have also furnished the requisite undertakings in response to the said representation of the Regional Director/the Registrar of Companies.

16. <u>The Official Liquidator</u>

In response to the notice served upon the Official Liquidator (OL), representation/report dated 13.07.2026 was filed by the OL on 14.07.2026 vide Inward Diary No. R 464. In response of the representation of the OL, affidavit in response dated 14.07.2026 was filed by the Petitioner Company on 15.07.2026, vide Inward Diary No. D5838.

<u>OL's Observation</u>

(i) This Tribunal may be pleased to direct the Transferor Company to preserve its books of accounts, papers and records and shall not be disposed of without prior permission of Central Government as per the provisions of Section 239 of the Companies Act, 2013.

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

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

Response of the Petitioner Companies: The Petitioner Companies undertake to ensure statutory compliance of all applicable laws and on sanctioning of the present Scheme, the Transferor Company shall not be absolved from any of its statutory liabilities, in any manner.

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

Reply of the Petitioner Companies: The Transferor Company being dissolved, hereby, submits that the fee, if any, paid by the Transferor Company on its Authorized Capital to be set-off against any fees payable by the Transferee Company on its Authorized Capital subsequent to the amalgamation in terms of sub section 3(i) of Section 232 of the Companies Act, 2013.

(iv) To direct the Petitioner Companies to lodge a certified copy of the order along with the scheme, with the concerned Superintendent of Stamps for the purpose of adjudication of stamp duty payable, if any.

Response of the Petitioner Companies: It is submitted that the Transferee Company undertake to lodge a certified copy of the order along with the scheme, with the concerned Superintendent of Stamps for the purpose of adjudication of stamp duty payable, if any.

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

Response of the Petitioner Companies: The Petitioner Companies undertake to comply with provisions of Section 232(5) of Companies Act, 2013 with respect to file certified copy of order sanctioning the scheme with Registrar of Companies within 30 days from the date of passing order.

17. Income Tax Department

17.1 In response to the notice served upon the Income Tax Department, Ahmedabad, the Department filed report dated 16.06.2026 on 03.07.2026 and report dated 09.07.2026 on 14.07.2026, vide Inward Nos. R 394 and R 451, respectively, in respect of the Petitioner Companies.

17.2 The Income Tax Report dated 16.06.2026, in respect of Transferor Company/Triumph Offshore Private Limited, wherein it is submitted as follows:

(a) This report does not raise any objection to the proposed Scheme and merely recommends that the Scheme be sanctioned subject to compliance with the applicable provisions of the Income-tax Act, 1961, including Sections 2(1B), 72A and other relevant provisions, while reserving the statutory rights of the Department under the Act. The Report further records that there are no outstanding tax demands or pending assessment or other proceedings against the Transferor Company and that no goodwill exists or is proposed to arise pursuant to the Scheme. The observation regarding the unabsorbed depreciation of the Transferor Company is governed by the provisions of the Income-tax Act, 1961, and the Petitioner Companies undertake to comply with all applicable provisions of the said Act. It is submitted that sanction of the Scheme shall not prejudice or curtail the statutory rights and powers of the

Income Tax Department under the Income-tax Act, 1961, and, therefore, the Report does not disclose any legal or factual impediment to the sanction of the Scheme by this Tribunal.

17.3 The Income Tax Report dated 09.07.2026, in respect of Transferee Company/ Swan Defence and Heavy Industries Limited, wherein it is submitted as follows:

(a) It is submitted that the Department has not, at this stage, had occasion to undertake any assessment, inquiry, examination of commercial purpose or commercial substance, verification of books of account, examination of underlying agreements, fund-flow analysis, valuation scrutiny or examination of the applicability of Chapter X-A of the Income Tax Act, 1961.

(b) It is further submitted that this response should not be construed as a final determination of any issue under the Income Tax Act, 1961 or as acceptance of any tax consequence contemplated by or arising from, any cause of the Scheme.

17.4 During the hearing on 17.07.2026, learned Junior Standing Counsel appearing for the Income Tax Department submitted that the Department has no objection to the proposed Scheme. Accordingly, in view of the said statement, the report submitted by the Income Tax Department does not require any further response from the Petitioner Companies.

18. No other representation or reports have been received from any other Statutory/Regulatory Authorities.

19. Valuation Report

(i) Copy of Valuation Report dated 22.11.2024, recommending the share exchange ratio in respect of the proposed Scheme, issued by CA Pawan Shivkumar Poddar, Registered Valuer (IBBI Registration No. IBBI/RV/06/2019/12475), is annexed to the Company Petition as **Annexure-H** (Page No.425 to 441).

(ii) Copy of Fairness Report dated 22.11.2024, issued by Navigant Corporate Advisors Limited, a SEBI Registered Merchant Banker, SEBI Registration No.INM000012243 is annexed to the Company Petition as **Annexure-I** (Page Nos.442 to 451).

20. Accounting Treatment

The Petitioner Companies submitted that the Accounting Treatment as proposed in the Scheme is in conformity with the accounting standards prescribed under Section 133 of the Companies Act, 2013. Copy of the Certificates dated 22.11.2024 to the aforesaid effect by the Statutory Auditors of the Petitioner Companies, are annexed to the company petition as ***Annexure-F (Colly)***.

21. The Petitioner Companies submitted that in compliance with Regulation 37 of the SEBI (Listing Obligations and Disclosure Requirements), 2015, Swan Defence and Heavy Industries Limited, the Transferee Company filed the draft scheme with

BSE Limited ("BSE") being a designated stock exchange and National Stock Exchange of India Limited ("NSE") for seeking their no objection certificate/observation letter. The no objection letter from the Exchanges are received and annexed as **Annexure-J** and **Annexure-K** are the no objection certificate received from BSE and NSE respectively.

22. The Petitioner Companies submitted that no investigation proceedings have been instituted and/or are pending against any of the Petitioner Companies under Section 210 to 227 of the Act.

23. The Petitioner Companies submit that no proceedings are pending against them under the provisions of the Insolvency and Bankruptcy Code, 2016 or for winding up under the Companies Act, 2013. It is further submitted that the Scheme does not involve any corporate debt restructuring and provides only for reduction of share capital in the manner set out therein.

24. We have heard the Ld. Counsel for the Petitioner Companies, Ld. Deputy Director for the Regional Director, Ld. Technical Assistant for the Official Liquidator and the Proxy Counsel for Income Tax Department and perused the reports filed by the authorities, responses of the Applicants to these reports and record.

25. <u>OBSERVATION OF THIS TRIBUNAL</u>

25.1 Before adverting to the reports of the Regional Director, the Registrar of Companies, the Official Liquidator and the

Income Tax Department and other authorities, we summarise the timeline involved in the approval of the Scheme.

	Filed on	Notice issued on (N)/Listed on (L)	Service Affidavit filed on	Report/Response received on	Reserved on	Order pronounced on	Meeting/s held on
First Motion Application	30.03.2026	13.04.2026	15.05.2026		02.04.2026	13.04.2026 (Modified order dated 16.04.2026)	**Equity Shareholders of Transferee Company on 25.05.2026**
Chairman's Report				29.05.2026			
2nd Motion Petition	02.06.2026	11.06.2026(N) 17.07.2026 (L) 30.07.2026 (L)	24.06.2026		30.07.2026	06.08.2026	
RD Office Report/RoC & Petitioner companies response				14.07.2026			
				15.07.2026 & 22.07.2026			
OL Report (s) & Petitioner companies response				14.07.2026			
				15.07.2026			
Income Tax Report(s) & Petitioner companies response				03.07.2026 & 14.07.2026			
				23.02.2026			

25.2 Appointed Date of the Scheme is **01.04.2024.**

25.3 The Scheme involves Arrangement and Amalgamation of Triumph Offshore Private Limited (Transferor Company) with Swan Defence and Heavy Industries Limited (Formerly known as Reliance Naval and Engineering Limited) (Transferee Company) and their respective shareholders and creditors, with effect from the Appointed Date 01.04.2024.

25.4 **Companies involved in the Scheme**

The Scheme concerns the amalgamation of Triumph Offshore Private Limited as the Transferor Company with Swan Defence and Heavy Industries Limited as the Transferee Company. The constitutional documents, audited financial statements and other statutory records of the Petitioner Companies have been placed on record and have been duly considered for the purpose of adjudication of the present Petition. The details of which are as under: -

(i) In the Scheme presented in the Company Petition, Triumph Offshore Pvt. Ltd. has been designated as **Transferor Company.** As on 31.12.2025, the authorized share capital of the Transferor Company was Rs.50,00,00,00,000/- and the issued, subscribed and fully paid-up capital of the company was Rs.12,03,75,00,000/-. It had revenue from operations of Rs.38,103.52 Lakhs, other income of Rs.1,90,159.30 Lakhs and profit before tax of Rs.1,55,819.83 Lakhs, during the Financial Year 2024-2025 (Pg. 98).

(ii) In the Scheme presented in the Company Petition, Swan Defence and Heavy Industries Ltd. has been designated as **Transferee Company.** As on 31.12.2025, the authorized share capital of the Transferee Company was Rs.1,50,00,00,00,000/- and the issued, subscribed and fully paid-up capital of the company was 52,68,21,500/-. It had revenue from operations of Rs.703.46 Lakhs, other income of

Rs.1,050.62 Lakhs and loss before tax of Rs 18149.30 lakhs during the Financial Year 2024-2025 (Pg. 236).

25.5 **Consideration**

In part-III, Paragraph 8 (Pg.406 to 408) of the Scheme deals with the Consideration of transfer and vesting of the Transferor Company into the Transferee Company. Annexure-H (Pg. 425 to 441) contains the share exchange ratio report issued by Pawan Shivkumar Poddar, Registered Valuer, Securities and Financial Assets (IBBI Registration No. IBBI/RV/06/2019/12475), recommending share exchange ratio for the proposed scheme of arrangement and amalgamation. The valuation date is 22.11.2024.

26. On perusal of the aforesaid representations/reports, there are no adverse observations in respect of the Petitioner Companies that object to the approval of the proposed scheme.

27. On perusal of the reports of the chairman, the meeting of Equity Shareholders of the Transferee Company was convened on 25.05.2026, through video conferencing. The Chairman, in his report, submitted that *"based on the Scrutinizer's Report and the voting results, the equity shareholders of the Transferee Company have approved the resolution pertaining to the Scheme with requisite majority as required under the Act and the SEBI Master Circular."* Meetings of other stakeholders, as applicable, were dispensed with for the reasons stated in the order dated 13.04.2026 passed in CA(CAA)/17(AHM)2026.

28. We have carefully considered the Scheme, the pleadings, the reports filed by the Regional Director, the Registrar of Companies, the Official Liquidator and the Income Tax Department, as well as the affidavits filed by the Petitioner Companies in response thereto. The Scheme has been approved by the requisite statutory majority of the equity shareholders of the Transferee Company in accordance with Section 230(6) of the Companies Act, 2013. The observations made by the statutory authorities are primarily procedural in nature and stand adequately addressed through the replies, clarifications and undertakings furnished by the Petitioner Companies. We are satisfied that the Scheme is fair, reasonable, not contrary to any statutory provision or public policy and is not prejudicial to the interests of the shareholders, creditors or any other stakeholder. It is well settled that while exercising jurisdiction under Sections 230 to 232 of the Companies Act, 2013, the Tribunal does not sit in appeal over the commercial wisdom of the shareholders unless the Scheme is shown to be unfair, unreasonable or contrary to law. The principles laid down by the Hon'ble Supreme Court in ***Miheer H. Mafatlal v. Mafatlal Industries Ltd.*****, (1997) 1 SCC 579,** are fully satisfied in the present case. Accordingly, the Scheme deserves to be sanctioned, subject to the directions contained in this order.

29. The Learned Counsel for the Petitioner Companies submitted that no proceedings under Sections 210 to 227 of the Companies Act, 2013 or proceedings for oppression and mismanagement are pending against the Petitioner

Companies. Upon the Scheme becoming effective, the Transferee Company shall remain responsible for ensuring compliance with all applicable statutory obligations pertaining to the business and affairs of the Transferor Company. It is clarified that sanction of the Scheme shall not absolve the Petitioner Companies or their officers from any liability arising out of any past or future statutory non-compliance, and the competent authorities shall remain at liberty to take action in accordance with law.

30. Notwithstanding the above, if there is any deficiency found or any violation committed qua any enactment, statutory rule or regulation, the sanction granted by this Tribunal will not come in the way of action being taken, albeit, in accordance with law, against the concerned persons, directors and officials of the Petitioner Companies.

31. It is clarified that sanction of the Scheme shall not be construed as granting exemption from payment of stamp duty, taxes, fees, cess or any other statutory levy, nor shall it dispense with any approval, permission, consent or compliance required under any applicable law. The Petitioner Companies shall obtain all such approvals and comply with all statutory requirements, wherever applicable.

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

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

33. **THIS TRIBUNAL DO FURTHER ORDER:**

(i) The Scheme of Arrangement and Amalgamation annexed as ***Annexure 'G'*** (Pg. 389 to 424), to the Company Petition is hereby sanctioned and it is declared that same shall be binding on the Petitioner Companies and its Shareholders and Creditors and all concerned under the Scheme.

(ii) The Appointed Date for the Scheme shall be **01.04.2024.** The Effective Date of the Scheme shall be the date on which the certified copy of this order is filed with the Registrar of Companies, or such other date as specified in the Scheme.

(iii) The Petitioner Transferor Company, viz., Triumph Offshore Private Limited shall be dissolved without winding up.

(iv) The Transferee Company i.e. Swan Defence and Heavy Industries Limited being listed entity shall continue to comply with all applicable provisions of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, the applicable SEBI Circulars, and the observations contained in the Observation Letters issued by BSE Limited and the National Stock Exchange of India Limited.

(v) The sanction of the Scheme shall not prejudice or curtail the statutory rights and powers of the Income Tax Department. Any tax liability arising under the Income-tax Act, 1961, if determined in accordance with law, shall be dealt with in accordance with the applicable statutory provisions.

(vi) The sanction of the Scheme shall not affect the right of any statutory or regulatory authority to continue or initiate proceedings, if otherwise permissible in law, in respect of any act, omission or default attributable to the Petitioner Companies or any other person.

(vii) All the properties rights and powers of the undertaking of the Transferor Company, and all the other property, rights and powers of Transferor Company be transferred without any further act or deed to the Transferee Company and accordingly the same shall, pursuant to Section 232 of the Act, vest in the Transferee Company for all the estate and interest of the Transferor Company therein but subject nevertheless to all charges now affecting the same, if any.

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

(ix) All the liabilities and duties of the Transferor Company shall be transferred, without further act or deed, to the Transferee Company, and accordingly, the same shall pursuant to Sections 230 & 232 of the Companies Act, 2013, be transferred to and become the liabilities and duties of the Transferee Company.

(x) All contracts, agreements, insurance policies, bonds and all other instruments of whatsoever nature or description relating to the Transferor Company, shall stand transferred to and vested in the Transferee Company and be in full force and effect in favour of the Transferee Company and may be enforced by or against the Transferee Company as fully and effectually against the Transferee Company.

(xi) All proceedings, if any, now pending by or against the Transferor Company shall be continued by or against the Transferee Company.

(xii) All workers/employees of the Transferor Company shall be deemed to become the workers/employees of the Transferee Company with effect from the Appointed Date, and shall stand absorbed in the Transferee Company in accordance with the Scheme without any interruption of service and on terms and conditions no less favourable than those on which they are engaged by the Transferor Company, as on the Effective Date, in compliance with Section 232(3)(g) of the Act and applicable labour laws.

(xiii) All taxes paid or payable by the Transferor Company, including existing and future incentives, un-availed credits and exemptions, the benefit of carried forward losses and other statutory benefits, which shall be available to and vest in the Transferee Company, as per the provisions of the law. The Tax liability of the Transferor Company shall become a liability of the Transferee Company, and any proceedings against the Transferor Company shall continue against the Transferee Company. It is stated that any credit/exemption/relief, etc., as discussed or arising out of the reduction and reorganisation of share capital or set of losses, will be subject to the provisions of the Income Tax Act, 1961 and Income Tax Act, 2025, as applicable

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

a) Preserve their books of accounts, papers, and records and not dispose of them without prior permission of the Central Government, as per Section 239 of the Companies Act, 2013, and in accordance with the retention requirements under Section 128(5) of the Companies Act, 2013 (i.e., for not less than eight years from the end of the relevant financial year), or such longer period as may be required under other applicable laws.

b) The sanction of the Scheme shall not absolve the Petitioner Companies from any statutory liabilities, and all books of accounts, papers, and records shall be preserved as per Section 239 of the Companies Act, 2013, without disposal unless permitted by the Central Government.

c) File a certified copy of this order with the Registrar of Companies electronically via e-Form INC-28 (in addition to physical copy) within 30 days of receipt, of the certified copy, as per Section 232(5) of the Companies Act, 2013

(xv) The Transferee Company shall pay the differential fees and stamp duty, if any, on the enhanced authorized share capital after setting off the fees/stamp duty already paid by the Transferor Company, in compliance with Section 232(3)(i) of the Companies Act, 2013.

(xvi) **Consideration**

Upon this Scheme becoming effective and upon amalgamation of the Transferor Company into Transferee Company in terms of this Scheme, the Transferee Company shall, without any application or deed, issue and allot New Preference Shares credited as fully paid up, to the extent indicated below, to the members of Transferor Company holding fully paid-up Equity Shares of the Transferor Company as on the Effective Date, or to such of their respective heirs, executors, administrators or other legal representatives or other successors in title, as may be recognized by the Board of Directors of the Transferee Company in the following proportion:

"1325 (One Thousand Three Hundred and Twenty Five) Preference Share of SDHIL having face value of INR 10/- (Rupees Ten) each credited as fully paid up to be issued to the to the equity shareholders of TOPL for every 1000 (One Thousand) Equity Shares of INR 10/- (Rupee Ten) each fully paid up, held by such shareholders in TOPL"

The key terms and conditions for the New Preference Shares to be issued pursuant to above clause are specified in the Schedule-I hereto.

(xvii) The Petitioner Companies shall file a certified copy of this Order with the Registrar of Companies in e-Form INC-28, together with a copy of the sanctioned Scheme, within thirty days from the date of receipt of the certified copy of this Order, in compliance with Section 232(5) of the Companies Act, 2013 and the applicable Rules. Upon such filing, all consequential statutory effects of the Scheme shall follow in accordance with law.

(xviii) All concerned Authorities shall act on the copy of this order along with the Scheme annexed at **"Annexure-G"** of the Company Petition. The Registrar of this Tribunal shall issue the certified copy of this order within 7 days of its pronouncement.

(xix) The Petitioner Companies are directed to lodge a copy of this Order and the approved Scheme as annexed at **'Annexure-G',** duly Certified by the Registrar of this Tribunal, with the concerned Superintendent of Stamps for adjudication of stamp duty payable, if any, within 30 days from the date of receipt of this Order, and pay the requisite stamp duty within 60 days from the date of adjudication under the Gujarat Stamp Act, 1958 as amended

(xx) The legal fees and expenses of the office of the Regional Director are quantified at Rs.50,000/- to be paid by the Resulting Company.

(xxi) The legal fees and expenses of the office of the Official Liquidator are quantified at Rs.25,000/- in respect of the Transferor Company. The said fees of the Official Liquidator shall be paid by the Transferee Company.

(xxii) The Statutory Auditors of the Petitioner Companies are hereby directed to ensure that the Accounting Treatment as a result of this order is carried out in accordance with the provisions of Section 133 of the Companies Act, 2013, and as per the draft treatment as proposed in the Scheme. They are further directed to disclose their observations in this regard in the next Annual Audit Report/Audit Report of the Petitioner Companies in accordance with the certificate dated 22.11.2024 issued by the Statutory Auditors and place on record.

(xxiii) The Income Tax Department will be free to examine the aspect of any tax payable as a result of the sanction of the Scheme and if it is found that the Scheme of Arrangement and Amalgamation ultimately results in tax avoidance or is not in accordance with the applicable provisions of Income Tax Act, then the Income Tax

Department shall be at liberty to initiate appropriate course of action as per law including under Section 232(3)(h) of the Companies Act, 2013, for any tax liabilities arising from the Scheme. Any sanction of the Scheme of Arrangement and Amalgamation under Sections 230-232 of the Companies Act, 2013 shall not adversely affect the rights of Income Tax Department or any past, present or future proceedings and the sanction of the scheme shall not come in its way for the appropriate course of action as per law for the tax liabilities, if any.

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

34. Accordingly, Company Petition i.e. **CP(CAA)/28(AHM)2026** in **CA(CAA)/17(AHM)2026**, stands allowed and disposed of in terms of the directions contained hereinabove.

35. The Registry is directed to send a copy of this order to the Regional Director, the Registrar of Companies, the Official Liquidator, the Principal Chief Commissioner of Income Tax Office, Ahmedabad and SEBI, NSE & BSE Limited within seven days from the date of this order, through e-mail and place proof on the file.

-SD-

SANJEEV SHARMA
MEMBER (TECHNICAL)

Sd/-

SHAMMI KHAN
MEMBER (JUDICIAL)

Sweta/Steno