IN THE NATIONAL COMPANY LAW TRIBUNAL,
NEW DELHI BENCH, COURT-III

COMPANY PETITION NO. (CAA) - 83(ND)/2025

CONNECTED WITH

COMPANY APPLICATION NO. (CA) - 72(ND)/2025

(Under Section 230-232 read with sections 66 and 52 and other applicable provisions of the Companies Act, 2013 of the Companies Act, 2013 r/w Rule 15 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016)

IN THE MATTER OF SCHEME OF ARRANGEMENT:

AMONGST

WESTERN UP TOLLWAY PRIVATE LIMITED

FORMERLY KNOWN AS WESTERN UP TOLLWAY LIMITED

Through its Authorized Representative,

Mr. Om Prakash, Director of the Company.

Addressed At:

B-376, Upper Ground Floor, Nirman Vihar,

New Delhi-110092.

... Petitioner Company

WITH

ITS RESPECTIVE SHAREHOLDERS AND CREDITORS

Order Pronounced On: 29.07.2026

CORAM:

SHRI BACHU VENKAT BALARAM DAS,
HON'BLE MEMBER (JUDICIAL)

SHRI RAVINDRA CHATURVEDI,
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Petitioner(s)	:	Mr. Lokesh Dhyani, Mr. Yash Jain, Mr. Ashima Jain, Mr. Satwinder Singh, Ms. Gouri Mittal, Advs.
For the IT Department	:	Mr. Ruchir Bhatia SSC, Mr. Pratyaksh Gupta, Mr. Punit Singhal, JSCs, Adv. Himanshu Dutt.
For the OL	:	Mr. Kartikeya Asthana, Ms. Urvashi Raj, Mr. Bhaskar Anand, Advs
For the RD	:	Mr. P Ganguly on behalf of RD(NR), Ms. Aruna M (Assistant Director)

ORDER

1. The present Second Motion Petition is filed by **WESTERN UP TOLLWAY PRIVATE LIMITED** (hereinafter referred as the **Petitioner Company**), under Sections 230-232 of the Companies Act, 2013 (Act) read with the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (Rules) for the sanction of the proposed Scheme of Arrangement (**Scheme**) amongst Western Up Tollway Private Limited and their respective shareholders and creditors which provides for the reduction and reorganisation of equity share capital and reserves of the Company. The prayers contained in the petition read as follows:-

    A. *Fix a date of hearing for disposal of this Petition;*
    B. *Direct the Petitioner Company to publish the notice of hearing in the 'Business Standard' in English Language and 'Jansatta' in Hindi Language of 'Delhi' editions;*
    C. *Direct the Petitioner Company to serve the notice of this petition upon the following authorities in terms of the provisions of section 230(5) of the Companies Act, 2013 read with rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016:*

        a) *Central Government through · Regional Director (Northem Region), Ministry of Corporate Affairs at B-2 Wing, 2nd Floor,* *Paryavaran Bhawan, CGO Complex, New Delhi- 110003 ("Regional Director");*

b) *Registrar of Companies, National Capital Territory of Delhi and Haryana at 4th Floor, IFCI Tower, 61, Nehru Place, New Delhi-110019 ("Registrar of Companies");*

c) *Jurisdictional Income Tax authority at Circle 8(1), Hyderabad;*

D. *This Hon'ble Tribunal may further be pleased to direct the Regional Director, Registrar of Companies and Income Tax authority to file their report(s)/ affidavit(s) in respect of this petition within 30 (Thirty) days from the date of receipt of the notices;*

E. *Sanction the scheme of arrangement ("Scheme"), between Western UP Tollway Private Limited ("Company"/ "Petitioner Company") and its shareholders as annexed herewith and marked as* ***Annexure-A.*** *The Scheme may kindly be sanctioned by this Hon'ble NCLT, with or without modification(s), so as to be binding on the said Petitioner Company and their respective shareholders of the Petitioner Company; and*

F. *Pass such other directions as this Hon'ble NCLT may deem fit and proper in the facts and circumstances of the present case.*

2. The Registered office address of the Petitioner Company is situated in the NCT of Delhi. Therefore, it is under the jurisdiction of the National Company Law Tribunal, New Delhi.

3. **Western Up Tollway Private Limited, (Petitioner Company**) bearing CIN: U90000DL2005PTC310964, was originally incorporated on 20.04.2005 as a public limited Company, under the provisions of the erstwhile Companies Act, 1956. Thereafter, the Petitioner Company was converted into a private limited company with effect from 04.03.2024 with the Registrar of Companies, NCT of Delhi and Haryana. The registered office address of Petitioner Company is situated at B-376, Upper Ground Floor, Nirman Vihar, New Delhi-110092, India. The Petitioner Company is engaged in the business of operation and

maintenance of highway connecting the cities of Meerut and Muzaffarnagar under a concession agreement with the National Highways Authority of India ("NHAI"). It is a 77.8 Km four-lane highway on BOT (toll) model which forms a part of the NH 334 in Uttar Pradesh. It has one toll plaza, namely, Siwaya (TPI) at Km 76.0, which lies close to Meerut (approximately 10 km from the city). The entire share capital of the Petitioner Company is held by Cube Highways Trust ("Parent Entity"), an Infrastructure Investment Trust registered with the Securities and Exchange Board of India.

The Authorised Share Capital of the Petitioner Company is Rs. 1,20,00,00,000/- (Rupees One Hundred Twenty Crore Only) divided into 12,00,00,000 (Twelve Crore) Equity Shares of Rs. 10/- each. The present Issued, Subscribed and Paid-up Share Capital of the Company is Rs. 1,14,87,52,040/- (Rupees One Hundred Fourteen Crore Eighty-Seven Lakh Fifty-Two Thousand Forty Only) divided into 11,48,75,204 (Eleven Crore Forty-Eight Lakh Seventy-Five Thousand Two Hundred Four) Equity Shares of Rs. 10/- each.

4. Affidavit in support of the captioned Petition has been duly sworn and filed along with the Petition by Mr. Om Prakash, authorized signatory, being duly authorized by way of Board Resolutions of the Petitioner Company.

5. The Board of Directors of the Petitioner Company in their meetings held on 28.07.2025 approved and adopted the Scheme of Arrangement in accordance with the terms of the said Scheme.

6. The Appointed Date as proposed in the Scheme of Arrangement i.e., 01.07.2025.

7. The rationale and benefits of the proposed Composite Scheme of Arrangement, as stated by the Petitioner, reads as follows:

   1. *"The Scheme provides for:*

a) Reorganization of capital structure by adjusting accumulated losses (negative balance of Retained Earnings) of the Company against securities premium, deemed capital contribution and Equity Component-NCDs (as defined hereinafter);

b) Reduction of equity share capital of the Company by cancellation of shares and repaying the current value of equity shares to Parent Entity; and

c) Reduction of equity share capital of the Company by cancellation of shares and setting it off against the negative balance of Retained Earnings.

2. *The Company has significant accumulated losses in the balance sheet due to higher finance costs and depreciation in the initial years of operations and therefore, the Retained Earnings are negative. As a result, the Company is unable to declare any dividend even though it is generating surplus cash.*
3. *Further, such accumulated losses of the Company have substantially wiped off the value of the Company represented by its equity share capital, securities premium, deemed capital contribution and Equity Component NCDs. It is therefore proposed to re-organize its equity share capital, securities premium, deemed capital contribution and Equity Component NCDs in the manner aforesaid, to re-align the relationship between its capital and assets thereby truly reflecting its financial position of the Company.*
4. *As per industry practice, once the highway is developed and constructed, the Company must primarily expend only for maintenance and financing expenses to keep its business operational. Consequently, the Company is now generating surplus cash and does not have any significant outlays requiring utilization of the same, over and above the obligations under the concession agreement with NHAI and major maintenance expenses of the asset. Therefore, the Company is proposing to return surplus funds to its shareholders in a timely manner, which is also required as per the industry norms applicable to*

Parent Entity, after carrying out the necessary adjustment of carry forward of accumulated losses in terms of the Scheme.

5. *The proposed reduction and reorganization of capital and reserves shall not prejudice the rights of any of the creditors and is in the interest of the Company and its stakeholders."*

8. This Adjudicating Authority vide its order dated 07.10.2025 dispensed with the requirement to convene and hold the meetings of the Equity Shareholders, Secured Creditors and Unsecured Creditors of the Petitioner Company, as sought through the first motion application bearing Company Application (CA) No. 72(ND)/2025. The relevant extract from the order has been reproduced below:

> ***7.*** *"Having heard the submissions made by Ld. Counsel and having perused the records as well as the documents placed on record, we allow the following prayers:*
>
> *A. To dispense the requirement of convening meetings of equity shareholders as all such equity shareholders have already given their consent affidavits;*
>
> *B. To dispense the requirement of convening meetings of secured creditors as there are no secured creditors in the Company;*
>
> *C. To dispense the requirement of convening meetings of unsecured creditors as unsecured creditors representing more than 92% of the total outstanding debt towards unsecured creditors have already given their consent affidavits;"*
>
> ***8.*** *The prayer sought in the present application bearing CA.CAA-72(ND)/2025 stands* ***allowed*** *on the aforesaid term and is accordingly* ***disposed of****;"*

9. The Second Motion petition has been moved by the Petitioner Company in connection with the Scheme of Arrangement.

10. In the Second Motion Petition filed by the Petitioner, this Adjudicating Authority vide order dated 03.11.2025 had directed to issue notice to the

Regional Director, Registrar of Companies (NCT of Delhi and Haryana), Income Tax Department, Official Liquidator and further directed publication of notice in two local newspapers, along with filing of proof and affidavit of service. The relevant para of the order has been extracted as under:

"Let notice be issued to the statutory authorities i.e. Regional Director, Northern Region, Ministry of Corporate Affairs, New Delhi, Registrar of Companies, Delhi and Haryana, New Delhi, Official Liquidator, New Delhi, Income Tax Department.

The Applicant is also directed to publish the notice in two newspapers i.e. "Business Standard" (English, Delhi Edition) and "Jansatta" (Hindi, Delhi Edition) and file proof and affidavit of service within two weeks."

11. In compliance with the aforesaid order dated 03.11.2025, the Petitioner Company has duly filed an affidavit of service on 20.11.2025, confirming that notices in the present Company Petition were duly served upon the Regional Director, Registrar of Companies (NCT of Delhi and Haryana), Income Tax Department, and Official Liquidator, and were also published in two local newspapers, namely *Business Standard* (Hindi and English editions) on 13.11.2025.

12. The Regional Director vide its report dated 05.12.2025 submitted before this Adjudicating Authority that it had made certain objections to the proposed Scheme of Arrangement in its report, the Petitioner had furnished a reply in response to the said observations on 07.01.2026, and the same is as follows:

S. No.	**Observation of the Regional Director**	**Reply by the Petitioner Company**
1.	The Company may be asked to state as to whether the	In respect of the aforesaid query, it is respectfully submitted that the

	notice of the present petition had been served to the shareholders/secured creditors/unsecured creditors in terms of provisions of Section 66(2) of the Companies, Act, 2013 and rule 3 of the NCLT (procedure of reduction or share capital of company) rules 2016.	present scheme of arrangement is filed under the provisions of section 230 of the Act contemplating scheme of arrangement of the Company with its shareholders. The Company is a wholly owned subsidiary of Cube Highways Trust ("**Parent Entity**"), an Infrastructure Investment Trust registered with the Securities and Exchange Board of India. The Scheme provides for (a) reorganization of capital structure by adjusting accumulated losses (negative balance of retained earnings) of the Company against securities premium, deemed capital contribution and equity component-NCDs; (b) reduction of equity share capital of the Company by cancellation of shares and repaying the current value of equity shares to Parent Entity; and (c) reduction of equity share capital of the Company by cancellation of shares and setting it off against the negative balance of retained earnings. The Company has duly fulfilled the requirements for seeking approval from shareholders and creditors as provided under section 230 of the Act as following:

		i. from the sole equity shareholder, the Parent Entity (holding 100% value); and ii. from the unsecured creditors amounting to 92.36% of the outstanding debt. Furthermore, the Hon'ble Tribunal, vide order dated October 07th, 2025, has dispensed with the requirement of convening meetings of equity shareholders, secured creditors, and unsecured creditors. Therefore, the requirement of serving the petition notice to such shareholders/secured creditors/unsecured creditors does not arise. The Company also confirms that it has no secured creditors. All equity shareholders and the requisite majority of unsecured creditors have furnished their written consents by way of affidavits, which have been placed on record before the Hon'ble Tribunal. It is hereby respectfully explained that by undertaking a reduction of share capital under section 66 of the Act, a company can adjust its accumulated losses against some specific reserves. However, by adopting a Scheme of Arrangement under section 230 of the Act between the company and its shareholders,

		the company enjoys wider flexibility, as it can reorganize its reserves and adjust accumulated losses against various reserves, not limited to those permitted under section 66 of the Act. It is hereby submitted that section 230 of the Act is a code in itself and if reduction of share capital is a part of the scheme, then, it would not be required to comply with the provisions of Section 66 of the Act and the National Company Law Tribunal (Procedure for reduction of share capital of Company) Rules, 2016 separately. This has been specifically clarified through the explanatory provision under Section 230(12) of the Act which provides as under: *"Explanation- For the removal of doubts, it is hereby declared that the provisions of section 66 shall not apply to the reduction of share capital effected in pursuance of the order of the Tribunal under this section."* Needless to mention, the Petitioner Company hereby undertakes to secure the interest of all creditors and pay off their dues as and when they become payable, subject to its right to contest, challenge or dispute in accordance with applicable laws.

2.	As per documentary records of the company filed with MCA 21 registry, the company has taken the un-secured loan of Rs. 2375.93 Lacs from its holding naming Cube Highways Trust, whereas subject company is buy backing issued shares. The Company may be asked to clarify whether the company has any provision for its un-secured loans.	It is respectfully submitted that the Petitioner Company had acquired loans (secured as well as unsecured) totalling Rs. 21,388.71 lakhs from its Parent Entity in April, 2023. It is further submitted that the said loan amounts have been fully repaid by the Petitioner Company in various tranches, with complete repayment effected by May, 2025. During the financial year ending March 31, 2025, the outstanding balance of the loan stood at Rs. 2,375.93 lakhs, which was also entirely discharged by May, 2025. The aforesaid repayments and their impact are duly reflected in the Petitioner Company's financial statements for the period April 1, 2025 to June 30, 2025. A certificate from the director of the Petitioner Company confirming that the entire loan (secured as well as unsecured) obtained from the Parent Entity has been repaid is attached herewith and marked as Annexure B.
3.	In case of applicant company, the subject company has the secured loan (term loan) of Rs. 1,290.84/- lakhs. The Company may clarify the same.	With reference to the aforesaid query, it is submitted that the amount of Rs. 1,290.84 lakhs referred to therein has appears to have been derived from the financial statements of the Petitioner Company as on March 31, 2025. The said amount represents finance costs,

		namely interest on financial liabilities in respect of facility and subordinate loans, which have been duly discharged by the Petitioner Company. The aforesaid amount appears to have been inadvertently construed as a secured loan. In this regard, it is clarified that the Petitioner Company had availed secured loans from the Parent Entity aggregating to Rs. 4,462.81 lakhs as on April 20, 2023, all of which were fully repaid by the end of the financial year 2023 - 24. Consequently, the Petitioner Company has had no outstanding secured borrowings since April 1, 2024. Further, the said fact can be verified from the master data of the Petitioner Company which is attached herewith and marked as Annexure C**.**
4.	In case of Applicant Company, as per the petition during the year ended March 2024, the Company raised subordinate loan of Rs. 21,388.71 lacs under the Subordinated facility loan	It is respectfully submitted that the Petitioner Company had acquired loans (secured as well as unsecured) totalling Rs. 21,388.71 lakhs from its Parent Entity in April, 2023. It is further submitted that the said loan amounts have been fully repaid by the Petitioner Company in various

	agreement entered between the subject Company and Cube Highways Trust (Holding Trust/Lender). Company may clarify the same.	tranches, with complete repayment effected by May, 2025. The justification related to said amount is already provided in point no. 2 and Annexure B attached herewith.
5.	As per the financial statement year 31.03.2025. It is observed that Company has MSME's and others statutory bodies dues as on 31.03.2025. The company may clarify the same.	It is respectfully submitted that the MSME dues outstanding as on March 31, 2025 are in the ordinary course of business and are being settled as per applicable PO & credit terms basis service completion . Irrespective, the Petitioner Company undertakes to discharge any pending MSME liabilities as and when they are legally due, without prejudice to its right to dispute the same under applicable laws. As may further be noted, the amount outstanding towards MSME vendors are not significant in value considering the size of operations of the Petitioner Company and the said Scheme shall have no adverse impact on such MSME vendors.
6.	In case of Applicant Company, the company has received notice for stamp duty amounting to Rs. 2513 lacs, from the office of Additional District	It is hereby submitted that the above referred show cause notice dated 13.12.2019, alleged payment of deficit stamp duty on the Concession Agreement (copy of same attached herewith and Annexure D. The notice alleges that the said

	Magistrate. The company may clarify the same.	concession agreement has been executed by the company on stamp papers worth Rs. 100/- whereas it should have been charged as per the Article 35 of Stamp Act. The said notice was responded to by the Petitioner Company vide letter dated December 30, 2019 and it was clarified that the scope of the Project includes performance and execution by the Company of all work including designing, engineering, building, financing, procuring, constructing, completing, operating, maintenance and transfer (DBFOT) basis. The Concession Agreement is an Agreement entered by the Central Government through NHAI under Section 8A of the National Highway Act, 1956 and for the purposes stated therein, under which the Concession Agreement, the Concessionaire/the Company has been merely granted the right to use the site in accordance with the terms of the Concession Agreement carrying out the works contemplated under it and per se there is no Lease. Accordingly, the same cannot be termed as insufficiently stamped.

		Since the issuance of the aforesaid communication and the subsequent response thereto, there have been no further material proceedings in the matter. In the absence of any such proceedings and the fact that the demand has not been raised again by the relevant authorities, it may be reasonably presumed that the department has accepted the stand taken by the Petitioner Company.
7.	As per the financial statement year ended 31.03.2025, it is observed that the CHPL (fellow subsidiary) has waived off interest amount of Rs. 148.53 lacs of subject company on issued Non-Convertible Debentures at the time of redeeming the Non-Convertible Debentures. The company may clarify the same.	In respect of the aforesaid query, it is hereby submitted that, during the previous financial year ended March 31, 2024, the Company had redeemed the Non-Convertible Debentures (NCDs) amounting to Rupees 23,678.10 lakhs and interest thereon of 3,859.22 Lakhs issued to its fellow subsidiary, namely: Cube Infrastructure Investments Pte. Ltd. In respect of the aforesaid redemption an interest amount of Rs. 148.43 Lakhs had been waived off by the NCD holder on a formal request by the Company, in view of its financial health at the time. In terms of the applicable Ind-AS, the Company had appropriately recorded and disclosed the said waiver in its balance sheet, which were duly audited by the statutory

		auditor of the Company. Consequently, in line with the applicable Indian Accounting Standards, the said amount was credited under the head of other equity as 'equity component of interest on NCDs'.
8.	The Petitioner Company is wholly owned subsidiary of a foreign Trust/company. Thus, the company may be directed to comply with the FEMA regulation.	It is hereby submitted that the Company is a wholly ,, owned subsidiary of Cube Highways Trust Parent Entity, an Infrastructure Investment Trust registered with the Securities and Exchange Board of India, which has certain non-resident unitholders. He proposed Scheme is being undertaken by the Company as an arrangement with its shareholder, with the objective of returning surplus funds to its sole shareholder, i.e., the Parent Entity, in an efficient and timely manner. The arrangement is also aligned with the industry norms and regulatory expectations applicable to the Parent Entity. Needless to mention, the Petitioner Company hereby undertakes to comply with the FEMA provisions as and where applicable.

9.	Refer to Clause 15 of the Scheme All costs, charges, taxes, duties, Levies, fees and expenses. If any, to the extent applicable and payable in connection with this scheme shall be borne and paid by the Company.	It is hereby expressly undertaken that all expenses, costs, charges, taxes, duties, levies and any other incidental or ancillary outgoing arising in connection with or pursuant to the transaction, filing, and process (as the case may be) shall be solely and entirely borne by the Company, without any recourse to any other party. The Company further undertakes to ensure timely payment and compliance of all such statutory and regulatory financial obligations.

13. Subsequently, vide order dated 23.03.2026, the RD submitted that there are no objections by the RD. The relevant para of the said order is reproduced below:

    "Ms. Aruna M, Assistant Director appears on behalf of the RD and submits that they have no objections."

14. The Official Liquidator has submitted its report dated 09.01.2026 stating that the affairs of the Petitioner Company do not appear to have been conducted in a manner prejudicial to the interest of its members or to public interest in terms of the provisions of Companies Act, 2013. Further, vide order dated 23.03.2026 it was recorded that the report filed by the Official Liquidator is on record and there are no objections. The relevant para of the said order is reproduced below:

    "*The report filed by the Official Liquidator is on record and there are no objections.*"

15. The Income Tax Department was afforded several opportunities to file its report/representation in respect of the present Scheme. However, no

report has been filed despite such opportunities. Vide order dated 23.03.2026, this Tribunal granted a final opportunity to the Income Tax Department to submit its report, observing that in the event of failure to do so, it would be presumed that the Department had no comments or objections to the proposed Scheme.

Subsequently, vide order dated 08.06.2026, the Income Tax Department submitted that its report has been filed but is not reflecting on the DMS portal and will be placed on record within two weeks. The Department also stated that it has no objections to the petition. The report of the Income Tax Department

Further, the Petitioner Company has filed an affidavit on 20.03.2026 whereby the Petitioner Company submitted that the present Scheme only provides for the reduction and reorganization of capital structure and reserves of the Petitioner Company; further, upon the sanction of the instant scheme the Petitioner Company shall not be dissolved. The Petitioner Company also undertakes to duly settle and discharge all its liabilities, including statutory and tax liabilities, whether present or future. It is further clarified that the rights of the Income Tax Department or any other statutory authority to assess, demand, and recover any tax liability, whether pertaining to past, present, or future periods, shall remain unaffected and shall be enforceable in accordance with law. The relevant para of the aforesaid order is reproduced herein:

> *"Mr. Ruchir Bhatia, Ld. Counsel appearing on behalf of the Income Tax Department submitted that the report has been filed but the same is not reflecting on the DMS Portal. He shall take steps to bring the same on record within two weeks.*
>
> *Be that as it may, the Petitioner has already filed undertakings with respect to the Income Tax dues.*
>
> *Ld. Counsel appearing on behalf of the Income Tax Department submitted that there are no objections."*

16. The Shares of Petitioner Company have been evaluated for recommending the fair value of Equity Share of the company for the purpose of capital reduction. The value has been arrived at on the basis of the valuation done by Megha Mittal, Registered Valuer. The relevant extract of the valuation report is reproduced herein under:

" Based on detailed valuation & analysis, the equity share value of Western UP Tollway limited as on 30th June 2025 is INR 642.63 Million/- (Six Hundred Forty-Two Million and Six Hundred Thirty Thousand Rupees Only). "

17. As a part of the Scheme, the issued, subscribed and paid-up equity share capital, securities premium account of the Company, deemed capital contribution and Equity Component NCDs shall be reduced and reorganised as under:

    i. The issued, subscribed and paid-up equity share capital of the Company shall be reduced from INR 1,14,87,52,040/- (Indian Rupees One Hundred and Fourteen Crores Eight Seven Lakh Fifty-Two Thousand and Forty only) divided into 11,48,75,204 (Eleven crore Forty-Eight Lakhs Seventy-Five Thousand and Two Hundred and Four) fully paid- up equity shares of face value INR. 10/- (Indian Rupees Ten only) each to INR 1,48,82,550/- (Indian Rupees One Crore Forty-Eight Lakh Eighty-Two Thousand Five Hundred and Fifty only) divided into 14,88,255 (Fourteen Lakh Eighty-Eight Thousand Two Hundred and Fifty Five) fully paid- up equity shares of face value INR. 10/- (Indian Rupees Ten only) each, without any further act, instrument or deed;
    ii. The securities premium account of the Company shall be reduced from INR 83,92,68,000/- (Indian Rupees Eighty Three Crore Ninety Two Lakh Sixty Eight Thousand Only) to Nil.
    iii. The deemed capital contribution of the Company shall be reduced from INR 1,79,000/- (Indian Rupees One Lakh Seventy Nine Thousand Only}to Nil; and

iv. Equity Component -NCDs shall be reduced from INR 1,56,35,97,000/- (Indian Rupees One Hundred Fifty Six Crore Thirty Five Lakh Ninety Seven Thousand Only) to Nil.

As part of the Scheme, the amount so reduced shall be adjusted as follows:

i. An amount of INR 83,92,68,000/- (Indian Rupees Eighty Three Crore Ninety Two Lakh Sixty Eight Thousand Only) of the securities premium,
ii. INR 1,79,000/- (Indian Rupees One Lakh Seventy Nine Thousand Only) of deemed capital contribution,
iii. INR 1,56,35,97,000/- (Indian Rupees One Hundred Fifty Six Crore Thirty Five Lakh Ninety Seven Thousand Only) of the Equity Component-NCDs; and
iv. INR 1,13,38,69,490/- (Indian Rupees One Hundred Thirteen Crore Thirty Eight Lakh Sixty Nine Thousand Four Hundred and Ninety Only) of equity share capital of the Company shall be adjusted partly against the Accumulated Losses and remaining be paid to shareholders.

18. The Petitioner Company has undertaken to maintain the account in accordance with and as per the method of Arrangement prescribed in the applicable Indian Accounting Standard (Ind AS) as notified under Section 133 of the Companies Act, 2013 and Generally Accepted Accounting Principles in India (Indian GAAP).

In this regard, certified true copies of the certificates obtained from the Statutory Auditors of the Petitioner Company confirming the accounting treatment proposed in the Scheme of Arrangement, are filed along with the Petition.

19. It is submitted that the Directors, of the Petitioner Company, have no interest in the proposed Scheme of Arrangement, except as Shareholder,

in general, the extent of which will appear from the Register of the Directors shareholdings maintained by the respective Company.

20. It is further submitted that if any suit, appeal or other proceedings of whatsoever nature by or against the Petitioner Company are pending, the same shall not abate, be discontinued, or be in any way prejudicially affected by reason of the reduction and reorganization of capital structure and reserves of the Petitioner Company pursuant to this Scheme, or anything contained herein, and such proceedings shall be continued, prosecuted, and enforced by or against the Petitioner Company, as the case may be.

21. The Scheme of Arrangement shall not in any manner affect the rights and interests of the creditors of the Petitioner Company, which may be deemed to be prejudicial to their interest and in particular, the secured and statutory creditors of the Petitioner Company who shall continue to enjoy and hold charge upon their respective securities and properties.

22. The Petitioner Company further stated that no investigation or proceedings are pending against the Petitioner Company under the Company Act, 1956, or Company Act, 2013, or under any law for the time being in force.

23. This Second Motion Petition is made *bona fide* and in the interest of justice, and no one will be prejudiced if orders are made/or directions are given as prayed for.

ANALYSIS AND FINDING:

24. We have heard the learned counsel appearing for the parties and have perused the record.

25. In light of the foregoing facts and discussion, particularly the positions taken by the relevant authorities, and upon considering the approval granted by the members and creditors of the Petitioner Company to the proposed Scheme, there appears to be no impediment to sanctioning the

Scheme, subject to the conditions stipulated herein below. This Tribunal is of the considered view that the Scheme of Arrangement proposed amongst the Petitioner Company and does not appear to be prejudicial to the interests of equity shareholders and creditors of the Petitioner company. The Scheme appears to be fair and reasonable and beneficial to the said Company and their stakeholders.

26. Accordingly, the Scheme of Arrangement proposed by the Petitioner Company under Sections 230 to 232 of the Companies Act, 2013, is hereby sanctioned. The sanctioned Scheme of Arrangement shall be binding on the Petitioner Company and its respective shareholders and creditors. That the Petitioner Company shall remain bound to comply with all applicable statutory requirements.

27. The Petitioner Company have replied to all other observations of the ROC/Regional Director. Once the stakeholders have approved the scheme, this Adjudicating Authority may not avoid approving the same. Nevertheless, the interests of the regulators and other local authorities need to be taken into account.

28. The present order is without prejudice to the interest of the authorities, regulators and the other stakeholders or the parties involved, whether local, national or international, who shall not by virtue of this order sanctioning the scheme, be prevented from taking a legal recourse/action if required with respect to the scheme in question or otherwise. If any deficiency is found or any violation of any enactment, statutory rule or regulation is detected, such sanction shall not preclude any action being taken in accordance with law against the concerned persons, directors or officials of the Petitioner Company.

29. It is made clear that if at any stage the undertakings or commitments made in respect of the observations of the Regional Director/ Registrar of Companies/ Income Tax Department are found not to have been complied with, or are found to be incorrect, the present order shall be liable to be recalled.

30. It is further directed that any term contained in the Scheme which is contrary to the provisions of Section 6 of the Companies Act, 2013 shall be treated as non *est*.

31. It is clarified that the present Order shall not affect or come in the way of any pending investigation, proceedings or inquiry in relation to the Petitioner Company or their promoters, directors, key managerial personnel or any other persons associated with the affairs of the Company.

32. It is further clarified that any pending proceedings before any statutory or regulatory authority shall remain unaffected by the approval of the Scheme of Arrangement and shall continue in accordance with law, without prejudice to the powers of the concerned authorities. Any liability relating to the Petitioner Company that may arise pursuant to such proceedings, including those crystallizing after the Effective Date, shall be borne and discharged by it. The Petitioner Company shall extend full cooperation and assistance to the concerned authorities, and this Order shall not be construed as impeding or prejudicing any investigation, inspection or other proceedings.

33. It is directed that the Petitioner Company shall discharge all outstanding dues payable to the Income Tax Department, failing which the Income Tax Department shall be at liberty to initiate and/or continue any proceedings under the Income-tax Act, 1961 against the Petitioner Company and to recover any tax demand lawfully payable by it, in accordance with law.

34. Additionally, any proceedings initiated or continued by the Income Tax Department in respect of the Petitioner Company for any period prior to the Effective Date, whether pending on the Effective Date or instituted thereafter, shall be continued against the Petitioner Company upon the Scheme becoming effective, and the Petitioner Company shall be liable

to discharge and comply with all obligations arising therefrom in accordance with law.

35. While approving the Scheme as above, it is clarified that this Order should not be construed as an order in any way granting exemption from payment of Stamp Duty, Taxes or other statutory dues, if any applicable as per the law or in respect to any permission/ compliance with any other requirement, which may be specifically required under any law. Further, the approval of the Scheme would in no manner affect the tax treatment of the transactions under the Income Tax Act, 1961, and the rules and regulations made thereunder or serve as any exemption or defence for the Petitioner Company against tax treatment in accordance with the provisions of the Income Tax Act, 1961 and the rules and regulations made thereunder.

36. It is further clarified that any revision of financial statements, income tax returns, GST returns or other statutory filings shall be carried out strictly in accordance with law and without contravening Sections 130 or 131 of the Companies Act, 2013 or any other applicable statutory provision, and without causing prejudice to the interests of stakeholders. If any party is aggrieved by any such revision or action undertaken pursuant to the Scheme in violation of law, such party shall be at liberty to seek appropriate remedies in accordance with law against the Petitioner Company.

37. The Petitioner Company shall remain bound to comply with the provisions of the Companies Act, 2013, the rules and regulations framed thereunder, and all other applicable laws for the time being in force.

38. In compliance with the requirement of Section 232(7) of the Act, the Petitioner Company shall until the full implementation of the Scheme of Arrangement file a statement every year in Form CAA 8 along with the required fee with the Registrar of Companies as prescribed in the

Companies (Registration offices and fees) Rules 2014 within 210 days from the end of each financial year.

39. It is clarified that the Petitioner Company and the Transferee Company shall not be entitled to claim any refund, credit of advance tax or withholding tax, or any immunity from demand of income tax, except in accordance with the provisions of the Income Tax Act, 1961 and the rules made thereunder.

40. This Tribunal hereby clarifies that this Order shall not operate as a discharge in the event of any transactions involving money laundering or tax evasion or any other illegal activity. The concerned authorities retain the power to conduct scrutiny or investigations into such activities and are duly authorized to take appropriate action in accordance with applicable law. This Order is without prejudice to any ongoing or future investigations.

41. This Tribunal does further order: -

i. That The Present Scheme of Arrangement contemplates for the reduction and reorganization of the capital structure and reserves of the Petitioner Company; and

ii. That all benefits, entitlements, incentives and concessions under incentive schemes and policies to which the Petitioner Company is entitled, including under Customs, Excise, Service Tax, VAT, Sales Tax, GST, Entry Tax and Income Tax laws, subsidy receivables from Government, grants from any governmental authorities, and direct tax benefits/exemptions/deductions, shall, to the extent statutorily available and together with the corresponding obligations, still vest in the Petitioner Company as if the Petitioner Company was originally entitled thereto; and

iii. That all contracts of the Petitioner Company, which are subsisting or in effect immediately before the Effective Date, shall remain vested in the it and shall remain in full force and effect in favour of the Petitioner Company, and may be enforced by or against it as fully and effectually as if, the restructured Petitioner Company had been a party, beneficiary, or obligor thereto; and

iv. The Petitioner Company is directed to comply with the provisions of Section 170A of the Income Tax Act, 1961, within the stipulated period of time. They are also bound to preserve the records as required by statute.

v. That all proceedings now pending by or against the Petitioner Company shall be continued by or against the it post the implementation of this Scheme; and

vi. That all the employees of the Petitioner Company in service on the date immediately preceding the date on which the Scheme takes effect, i.e., the Effective Date, shall remain the employees of the Petitioner Company on such date, without any break or interruption in service and upon terms and conditions not less favourable than those subsisting in the Petitioner Company on the said date; and

vii. The scheme shall be binding upon the Company involved in the Arrangement and its stakeholders.

viii. The present Order shall not entitle the Petitioner Company to any exemption from the requirement of obtaining any license/permit/registration/quota/clearance/concession or grant that from the Central Government/State Government/ Local Authority/Sectoral Regulator, or any other authority constituted under any law for the time being in force.

ix. The Petitioner Company are directed to comply with the provisions of Section 232(3) (i) of the Companies Act in this regard to the fee payable on its revised authorized share capital.

x. In compliance with the requirement of Section 232 (7) of the Act, the Petitioner Company shall until the full implementation of the Scheme of Arrangement shall file a statement every year in the Form CAA 8 along with the required fees with the Registrar of Companies as prescribed in the Companies (Registration offices and fees) Rules 2014 within 210 days from the end of each financial year.

xi. That the Petitioner Company shall, within thirty days of receipt of this Order, file a certified copy hereof with the Registrar of Companies, and upon such filing, the Scheme shall become effective and the capital structure of Petitioner Companies shall stand reduced and reorganized in accordance with the terms of the Scheme; and

xii. Registrar of Companies shall place all documents relating to the Scheme of Arrangement in the file maintained in relation to the Petitioner Company.

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

42. Accordingly, the ***Scheme stands sanctioned*** and ***CP(CAA)/83(ND)/2025*** stands ***disposed of*** in the above terms.

Let copy of the order be served to the parties.

Sd/-	Sd/-
(RAVINDRA CHATURVEDI)	**(BACHU VENKAT BALARAM DAS**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**