

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH-IV**

C.A.(C.A.A.)/143/MB/2021

In the matter of the Companies Act, 2013

And

In the matter of Sections 230 - 232 and
other applicable provisions of the
Companies Act, 2013 and Rules framed
thereunder;

And

In the matter of

Composite Scheme of Amalgamation (by
way of merger by Absorption)

Of

Pranavaditya Spinning Mills Limited

(Transferor Company)

With

Indo Count Industries Limited

(Transferee Company)

(Collectively referred to as 'Applicant
Companies')

Pranavaditya Spinning Mills Limited,

[CIN: L17119PN1990PLC058139]

...First Applicant Company

Transferor Company

Indo Count Industries Limited,

[CIN: L72200PN1988PLC068972]

...Second Applicant Company

Transferee Company



Order delivered on 18.08.2021

Coram:

Hon'ble Smt. Suchitra Kanuparthi, Member (Judicial)

Hon'ble Shri. Satya Ranjan Prasad, Member (Technical)

Appearances (via videoconferencing):

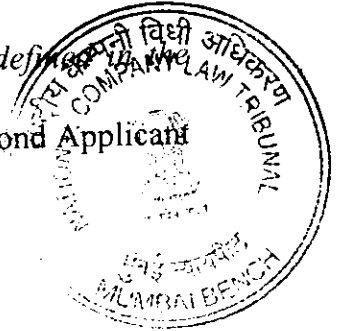
For the Applicants:

Mr. Hemant Sethi, Ms Vidisha Poonja
i/b Hemant Sethi & Co., Advocates

ORDER

Per: Suchitra Kanuparthi, Member (Judicial)

1. The court is convened via video conferencing.
2. The Counsel for the Applicants states that the present Scheme is a Scheme of Amalgamation (by way of Merger by Absorption) of Pranavaditya Spinning Mills Limited ('Transferor Company' or First Applicant Company) with Indo Count Industries Limited ('Transferee Company' or 'Second Applicant Company'). The Scheme envisages the following:
 - (a) Amalgamation of First Applicant Company with Second Applicant Company, by absorption, in accordance with Sections 230 to 232 and other applicable provisions of the Act and Rules framed thereunder. Further, upon the said amalgamation becoming effective, the Second Applicant Company shall issue and allot equity shares to the shareholders of First Applicant Company as on the Record Date (as defined in the Scheme), 2 fully paid equity share of Re. 2 each of the Second Applicant



Company for every 15 equity share of Rs. 10 each of the First Applicant Company.

3. The Counsel for the Applicants submits that First Applicant Company is authorised to carry on, inter alia, the business of manufacturing of cotton yarn.
4. The Counsel for the Applicants further submits that Second Applicant Company, is engaged in the business of manufacturing of home textiles and its products broadly falls under the categories of Bed Sheet, Pillow Cover and Comforter.
5. The background, circumstances, rationale and benefits of the Scheme are that:

Rationale for amalgamation of First Applicant Company with Second Applicant Company, by absorption

- (a) The Transferor Company, listed on BSE Limited and the Transferee Company, listed on BSE Limited and National Stock Exchange of India Limited, both are a part of the same group. Further, the Transferor Company is a subsidiary of the Transferee Company wherein the Transferee Company holds majority shareholding in the Transferor Company. The main business of PSML has been manufacturing of cotton yarn and it has a huge freehold land of ~ 34 acres at Plot No.266 Village Alte, Tal. Hathkanangale, Dist. Kolhapur (near textile hub Ichalkaranji) and ~ 20000 spindle capacity for spinning. The land, machines, infrastructure and all other resources available with the Transferor Company can be utilized in cost effective and efficient manner to carry



out Transferee Company's business expansion. The Transferor and Transferee's industrial units are situated within a distance of ~ 40 kilometers. Hence, it is proposed to amalgamate Transferor Company into the Transferee Company in this Scheme.

- (b) Further, the Amalgamation of the Transferor Company into the Transferee Company would inter alia have the following benefits:
- i. Consolidation of the Transferor Company and the Transferee Company will achieve simplified corporate structure, rationalise the number of listed entities and result in a single listed entity with combined businesses.
 - ii. Provide an opportunity to leverage combined assets and build a stronger sustainable business. Specifically, it will also enable optimal utilization of existing resources which are in excess of the current business requirements of the Transferor Company and provide an opportunity to fully leverage assets, capacities, experience and infrastructure of the Transferor Company and Transferee Company.
 - iii. Reducing managerial overlaps involved in operating multiple entities, enable cost savings and effective utilization of valuable resources which will enhance the management focus thereby leading to increase in operational and management efficiency; integrate business functions; eliminate duplication and rationalization of administrative expenses.



- iv. Synchronization of efforts to achieve uniform corporate policy, greater integration and greater financial strength and flexibility for the Transferee Company.
- v. Better value creation for the shareholders of both the companies enabling the public shareholders to hold shares of the combined listed entity.
- vi. Upon completion of the amalgamation, the Transferor Company will be dissolved. Consequently, there would be lesser regulatory and legal compliance obligations including accounting, reporting requirements, statutory and internal audit compliance requirements, tax filings, company law compliances, Stock Exchange compliances etc. and therefore reduction in administrative costs.

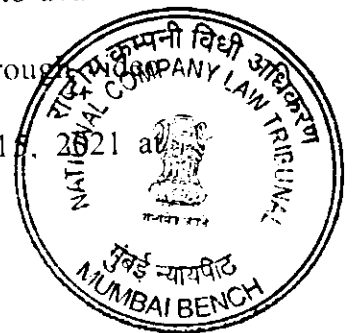
The intended Scheme is not prejudicial to the interest of the creditors or the employees of the Transferor Company and the Transferee Company.

4. The Counsel for the Applicant Companies submits that the Board of Directors of the First Applicant Company and Second Applicant Company at their respective board meetings both held on October 21, 2020 have approved the Scheme.
5. The Counsel for the Applicant Companies further submits that the equity shares of First Applicant Company is listed on BSE Limited ("BSE") Pursuant to the Securities Exchange Board of India ("SEBI") CFD/DIL3/CIR/2017/21 dated March 10, 2017, as amended from time to time



("SEBI Circular") read with Regulation 37 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ("LODR Regulations"), First Applicant Company had applied to BSE for their "Observation Letter" / "No Objection Letter" to file the Scheme for sanction of the Tribunal. BSE by its letter dated March 25, 2021, given their "No Objection Letter" to First Applicant Company, to file the Scheme with the Tribunal.

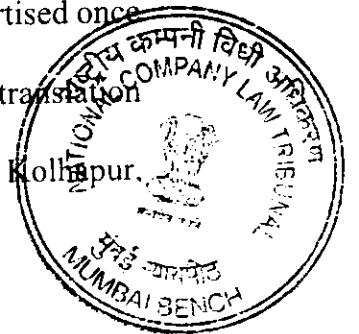
6. This Tribunal hereby directs that a meeting of the Equity Shareholders of the First Applicant Company be convened and held on November 15, 2021 at 12:30 pm for the purpose of considering, and if thought fit, approving the proposed Scheme, through video conferencing and/ or other audio visual means, without holding a general meeting requiring the physical presence of shareholders at a common venue, as the same in the current Covid-19 environment mandating social distancing norms shall not be feasible.
7. In view of provisions of Section 230(4) read with Section 108 of the Companies Act, 2013 read with Rule 20 and other applicable provisions of the Companies (Management and Administration) Rules, 2014 and in accordance with Regulation 44(1) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, the First Applicant Company proposes to provide the facility of remote e-voting to its Equity Shareholders in respect of the resolution to be passed at the aforesaid meeting. The Equity Shareholders of the First Applicant Company are also allowed to avail the facility of e-voting during the aforesaid meeting to be held through video conferencing and/or other audio-visual means on November 15, 2021 at



12:30 pm respectively. The e-voting facility for the Equity Shareholders of the First Applicant Company shall be provided in compliance with the conditions specified under the Companies (Management and Administration) Rules, 2014, Regulation 44 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 and Secretarial Standard on General Meetings (SS2) issued by the Institute of Company Secretaries of India, as applicable.

8. That at least 30 (thirty) clear days before the aforesaid meeting of the Equity Shareholders of the First Applicant Company to be held as aforesaid, a notice convening the said meeting at the day, date and time aforesaid, together with a copy of the Scheme, a copy of the Explanatory Statement required to be sent under Section 230(3) of the Companies Act, 2013 read with Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, shall be sent by e-mail to the Equity Shareholders of the First Applicant Company whose email addresses are duly registered with the First Applicant Company, addressed to each of the shareholders, at their last known e-mail addresses as per the records of the First Applicant Company or by courier or registered post or speed post incase the e-mail ids of any of the shareholders are not available.

9. Notice of convening the Meeting of the Equity Shareholders of First Applicant Company indicating the day, date and time aforesaid, shall be advertised once each in the "Times of India" (Kolhapur edition) and Marathi translation thereof in "Pudhari" (Kolhapur edition) both having circulation in Kolhapur.



not less 30 days before the date fixed for the meeting. Considering the lockdown prevailing due to COVID-19 pandemic, the First Applicant Company will have the option to publish notices online in the respective e-newspaper editions.

10. That Mr. Sushilkumar Agrawal, Independent Director of the First Applicant Company, and failing him, Ms. Kala Agarwal, Independent Director of the First Applicant Company, shall be the Chairperson of the aforesaid meeting of the Equity Shareholders of the First Applicant Company.

11. That the scrutinizer for the aforesaid meeting of Equity Shareholders of First Applicant Company shall be Mr. Vikas R. Chomal, Practicing Company Secretaries, with remuneration fixed at Rs. 30,000/-.

12. The quorum for the aforesaid meeting of the Equity Shareholders of First Applicant Company shall be as prescribed under Section 103 of the Companies Act, 2013 and would include Equity Shareholders present through video conferencing and/or other audio-visual means. In case the required quorum as stated above is not present at the commencement of the meeting, the meeting shall be adjourned by 30 (thirty) minutes and thereafter the persons present shall be deemed to constitute the quorum.

13. The voting by proxy shall not be permitted as the meeting would be held through video conferencing and/ or other audio-visual means. However, voting in case of body corporate be permitted, provided the prescribed form / authorisation is filed with the First Applicant Company.

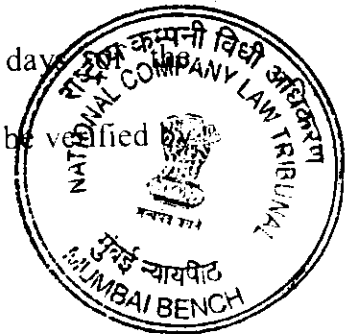


at <pooja.mandave@indocount.com> with a copy to <amruta.avasare@indocount.com> no later than 48 hours before the start of the aforesaid meeting as required under Rule 10 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

14. The Chairperson appointed for the aforesaid meeting of the Equity Shareholders of the First Applicant Company shall have all powers as per the Articles of Association of the First Applicant Company respectively and also under the Companies Act, 2013 read with the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, to the extent necessary and applicable, in relation to the conduct of the meeting(s), including for deciding procedural questions that may arise at the meeting or at any adjournment thereof.

15. The value and number of the shares of each Equity Shareholder shall be in accordance with the books/ register of the First Applicant Company or depository records and where the entries in the books/ register/ depository records are disputed, the Chairperson of the meeting shall determine the value for the purposes of the meeting of Equity Shareholders and his/her decision in that behalf would be final.

16. The Chairperson appointed for the aforesaid meeting of the Equity Shareholders of the First Applicant Company shall report to this Tribunal, the result of the aforesaid meetings within 30 (thirty) days of the conclusion of the aforesaid meeting, and the said report shall be verified



his Affidavit as per Rule 14 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

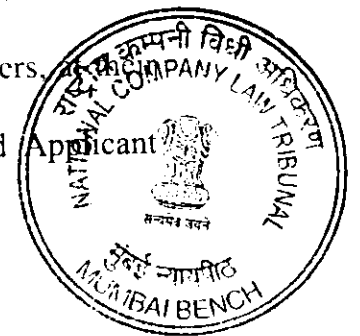
17. The Counsel for the Applicant Companies further submits that the equity shares of Second Applicant Company are listed on BSE Limited (“BSE”) and National Stock Exchange of India Limited (“NSE”). Pursuant to the Securities Exchange Board of India (“SEBI”) circular CFD/DIL3/CIR/2017/21 dated March 10, 2017, as amended from time to time (“SEBI Circular”) read with Regulation 37 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (“LODR Regulations”), Second Applicant Company had applied to BSE and NSE for their “Observation Letter” - “No Objection Letter” to file the Scheme for sanction of the Tribunal. BSE and NSE by its letter dated March 25, 2021 and March 26 2021 respectively have, given their “No Objection Letter” letters to Second Applicant Company, to file the Scheme with the Tribunal.

18. This Tribunal hereby directs that a meeting of the Equity Shareholders of the Second Applicant Company be convened and held on November 15, 2021 at 2:30 pm for the purpose of considering, and if thought fit, approving the proposed Scheme, through video conferencing and/ or other audio visual means, without holding a general meeting requiring the physical presence of shareholders at a common venue, as the same in the current Covid-19 environment mandating social distancing norms shall not be feasible



19. In view of provisions of Section 230(4) read with Section 108 of the Companies Act, 2013 read with Rule 20 and other applicable provisions of the Companies (Management and Administration) Rules, 2014, the Second Applicant Company proposes to provide the facility of remote e-voting to its Equity Shareholders in respect of the resolution to be passed at the aforesaid meeting. The Equity Shareholders of the Second Applicant Company are also allowed to avail the facility of e-voting during the aforesaid meeting to be held through video conferencing and/or other audio-visual means on November 15, 2021 at 2:30 pm. The e-voting facility for the Equity Shareholders of the Second Applicant Company shall be provided in compliance with the conditions specified under the Companies (Management and Administration) Rules, 2014 and Secretarial Standard on General Meetings (SS2) issued by the Institute of Company Secretaries of India, as applicable.

20. That at least 30 (thirty) clear days before the aforesaid meeting of the Equity Shareholders of the Second Applicant Company to be held as aforesaid, a notice convening the said meeting at the day, date and time aforesaid, together with a copy of the Scheme, a copy of the Explanatory Statement required to be sent under Section 230(3) of the Companies Act, 2013 read with Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, shall be sent by e-mail to the Equity Shareholders of the Second Applicant Company whose email addresses are duly registered with the Second Applicant Company, addressed to each of the shareholders, at their last known e-mail addresses as per the records of the Second Applicant



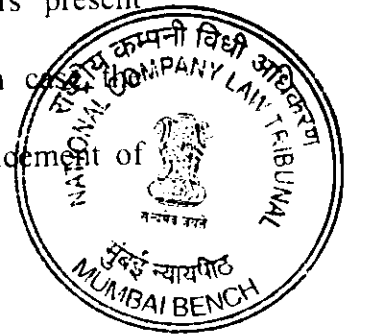
Company or by courier or registered post or speed post or incase the e-mail ids of any of the shareholders are not available.

21. Notice of convening the Meeting of the Equity Shareholders of Second Applicant Company, indicating the day, date and time aforesaid, shall be advertised once each in the "Times of India" (Kolhapur edition) and Marathi translation thereof in "Pudhari" (Kolhapur edition) both having circulation in Kolhapur, not less 30 days before the date fixed for the meeting. Considering the lockdown prevailing due to COVID-19 pandemic, the Second Applicant Company will have the option to publish notices online in the respective e-newspaper editions.

22. That Mr. Kailash Lalpuria, Executive Director & CEO (Non-promoter) of the Second Applicant Company, and failing him, Mr. Kamal Mitra, Director of the Second Applicant Company shall be the Chairperson of the aforesaid meeting of the Equity Shareholders of the Second Applicant Company.

23. That the scrutinizer for the aforesaid meeting of Equity Shareholders of Second Applicant Company shall be Mr. Vikash R. Chomal, Practicing Company Secretaries, with its remuneration fixed at Rs. 30,000/-.

24. The quorum for the aforesaid meeting of the Equity Shareholders of Second Applicant Company shall be as prescribed under Section 103 of the Companies Act, 2013 and would include Equity Shareholders present through video conference and/or other audio visual means. In case the required quorum as stated above is not present at the commencement of

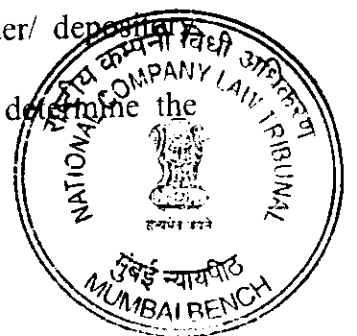


the meeting, the meeting shall be adjourned by 30 (thirty) minutes and thereafter the persons present shall be deemed to constitute the quorum.

25. The voting by proxy shall not be permitted as the meeting would be held through video conferencing and/or other audio visual means. However, voting in case of body corporate be permitted, provided the prescribed form / authorisation is filed with the Second Applicant Company at pooja.mandave@indocount.com with a copy to amruta.avasare@indocount.com no later than 48 hours before the start of the aforesaid meeting as required under Rule 10 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

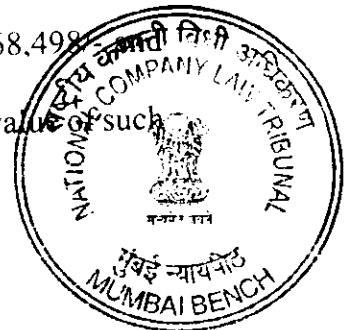
26. The Chairperson appointed for the aforesaid meeting of the Equity Shareholders of the Second Applicant Company shall have all powers as per the Articles of Association of the Second Applicant Company and also under the Companies Act, 2013 read with the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, to the extent necessary and applicable, in relation to the conduct of the meeting(s), including for deciding procedural questions that may arise at the meeting or at any adjournment thereof.

27. The value and number of the shares of each Equity Shareholder shall be in accordance with the books/ register of the Second Applicant Company or depository records and where the entries in the books/ register/ depository records are disputed, the Chairperson of the meeting shall determine the



value for the purposes of the meeting of Equity Shareholders and his/her decision in that behalf would be final.

28. The Chairperson shall report to this Tribunal, the result of the aforesaid meetings within 30 (thirty) days of the conclusion of the aforesaid meeting, and the said report shall be verified by his Affidavit as per Rule 14 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
29. The Counsel for the Applicant Companies submits that as on December 31, 2020, the First Applicant Company has NIL secured creditors. Accordingly, there is no requirement to hold the meeting of the secured creditors of First Applicant Company.
30. The Counsel for the Applicant Companies submits that as on December 31, 2020, the Second Applicant Company has 6 secured creditors, the aggregate value of such secured creditors being Rs. 374,86,30,407/-. The consent of the secured creditors of the Second Applicant Company has been submitted as **Annexure A** to the Supplementary Affidavit dated July 8, 2021. In view of the aforesaid, there is no requirement to hold the meeting of the secured creditors of Second Applicant Company to seek their approval to the Scheme.
31. The Counsel for the Applicant Companies has submitted that as on December 31, 2020, the First Applicant Company has 2 unsecured creditors, the aggregate value of such unsecured creditors being Rs. 6,02,68,498/- and the Second Applicant Company has 986 unsecured creditors, the value of such



unsecured creditors being Rs. 223,52,92,851/-. The Counsel for the Applicant Companies further submitted that the Scheme is a composite arrangement between shareholders of the Applicant Companies as contemplated under Section 230(1)(b) and not in accordance with the provisions of Section 230(1)(a) of the Act as there is no compromise and/or arrangement with unsecured creditors, and that the unsecured creditors of the Applicant Companies are being paid in the normal course of business and as per the agreed terms and are not called upon to make any sacrifices, hence their interests are not getting affected in any way and are also secured. The present Scheme is in no manner prejudicial to the interests of the unsecured creditors of the Applicant Companies. In view the fact that there is no arrangement with the unsecured creditors, the meeting of the unsecured creditors to seek their approval to the Scheme is dispensed with. The First Applicant Company is directed to issue individual notices to all their unsecured creditors by courier or registered post or speed post or hand delivery or through e-mail (to those unsecured creditors whose email addresses are duly registered with the First Applicant Company) and The Second Applicant Company is directed to issue individual notices to their unsecured creditors who are having outstanding value of Rs.5,00,000 and above by courier or registered post or speed post or hand delivery or through e-mail (to those unsecured creditors whose email addresses are duly registered with the Second Applicant Company), at their last known address as per the records of the Second Applicant Company as required under Section 230(3) of the Companies Act, 2013, with the following direction:



that they may submit their representations, if any, to the Tribunal within thirty days from the date of receipt of the said notice and copy of such representations shall simultaneously be served upon the Applicant Companies.

32. The First Applicant Company, pursuant to Section 230(5) of the Companies Act, 2013 read with Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, is directed to serve the notice of the meeting of its Equity Shareholders upon: (a) the Central Government of India (through the Regional Director, Western Region, Ministry of Corporate Affairs); (b) concerned Income Tax Authority within whose jurisdiction the assessments of the First Applicant Company is made (mentioning the PAN of First Applicant Company PAN: AAACP4716B at the following address Central Circle 7(4), MUMBAI, AAYKAR BHAVAN, MUMBAI); (c) Registrar of Companies, Pune, Maharashtra; (d) BSE Limited; (e) Securities and Exchange Board of India, failing which, it will be presumed that the aforesaid authorities have no representations to make on the Scheme.

33. The Second Applicant Company, pursuant to Section 230(5) of the Companies Act, 2013 read with Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, is directed to serve the notice of the meeting of its Equity Shareholders upon: (a) the Central Government of India (through the Regional Director, Western Region, Ministry of Corporate Affairs); (b) concerned Income Tax Authority within whose jurisdiction the assessments of the Second Applicant Company is made



(mentioning the PAN of Second Applicant Company– PAN: AAACI0866P at the following address Central Circle 7(4), MUMBAI, AAYKAR BHAVAN, MUMBAI); (c) Registrar of Companies, Pune, Maharashtra (d) BSE Limited; (e) National Stock Exchange of India Limited; (f) Securities and Exchange Board of India, with a direction that they may submit their representation, if any, within a period of 30 (thirty) days from the date of receipt of such notice, to the Tribunal and copy of such representations shall simultaneously be served upon the Second Applicant Company, failing which, it will be presumed that the aforesaid authorities have no representations to make on the Scheme.

34. The First Applicant Company is also directed to serve notice upon Official Liquidator, High Court, Bombay, pursuant to section 230(5) of the Companies Act, 2013 and as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. The Tribunal is appointing M s CAS & Associates, (Formerly Known as S. B. Amberkar & Co.) Chartered Accountants, having their office at 13, Vighnaharta CHSL, Gr. Floor, Dr. Ambedkar Road, Behind One Avighna park, Curry Road, Mumbai-400 012 [[Email:info@casassociates.co.in](mailto:info@casassociates.co.in)], Tel No. 22 24716101/6102 to assist the Official Liquidator to scrutinize the books of accounts of the said First Applicant Company for the last 5 years and submit its representation / report to the Tribunal. The aforesaid Company to pay fees of Rs. 2,00, 000/- to the chartered accountants for this purpose. If no representation / report is received by the Tribunal from Official Liquidator, Bombay within a period of



30 (thirty) days from the date of receipt of such notice, it will be presumed that Official Liquidator has no representation / objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

35. The Applicant Companies shall host the notices directed herein, on their respective websites, if any.

36. The Applicant Companies shall file proof of compliance electronically to report to this Tribunal that the directions regarding issue of notices and publication of advertisement as stated in above paragraphs have been duly complied with.

37. Ordered accordingly. Pronounced in open court today.

Sd/-
SATYA RANJAN PRASAD
MEMBER (Technical)

Sd/-
SUCHITRA KANUPARTHI
MEMBER (Judicial)



Certified True Copy
Copy Issued "free of cost"
On 28/09/2021

Sachinkumar
Deputy Registrar 28/09/2021
National Company Law Tribunal Mumbai Bench.
Government of India