

**NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD**

1

SPECIAL BENCH - COURT 1 (URGENT HEARINGS THROUGH VIDEO CONFERENCE)  
PRESENT: HON'BLE SHRI K ANANTHA PADMANABHA SWAMY – MEMBER JUDICIAL  
HON'BLE SHRI VEERA BRAHMA RAO AREKAPUDI - MEMBER TECHNICAL  
ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 14.10.2020 AT 10:30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CA No. 91/230/HDB/2020
NAME OF THE COMPANY	Prism Johnson Ltd (Resulting Co. 2)
NAME OF THE PETITIONER(S)	
NAME OF THE RESPONDENT(S)	
UNDER SECTION	230

**Counsel for Petitioner(s):**

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

**Counsel for Respondent(s):**


Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

**ORDER**

The matter is taken up through videoconference. Order is pronounced vide separate order.

  
**MEMBER  
(TECHNICAL)**

Karim

  
**MEMBER  
(JUDICIAL)**

**NATIONAL COMPANY LAW TRIBUNAL  
BENCH-1 HYDERABAD**

**CA NO.91/230/HDB/2020**

**APPLICATION UNDER SECTIONS 230 AND 232 READ WITH SECTION  
52 OF THE COMPANIES ACT, 2013 AND OTHER APPLICABLE  
PROVISIONS AND RULES THEREUNDER**

**IN THE MATTER OF COMPOSITE SCHEME OF ARRANGEMENT  
AND AMALGAMATION AMONGST**

**PRISM JOHNSON LIMITED**

**AND**

**H. & R. JOHNSON (INDIA) TBK LIMITED**

**AND**

**MILANO BATHROOM FITTINGS PRIVATE LIMITED**

**AND**

**SILICA CERAMICA PRIVATE LIMITED**

**AND**

**TBK RANGOLI TILE BATH KITCHEN PRIVATE LIMITED**

**AND**

**TBK VENKATARAMIAH TILE BATH KITCHEN PRIVATE LIMITED**

**AND**

**TBK SAMIYAZ TILE BATH KITCHEN PRIVATE LIMITED**

**AND**

**THEIR RESPECTIVE SHAREHOLDERS AND CREDITORS**

**1. Prism Johnson Limited**

Having its Registered Office at:  
305, Laxmi Niwas Apartments,  
Ameerpet, Hyderabad,  
Telangana - 500016

**... Applicant No. 1/Amalgamated Company/  
Resulting Company No. 2**

**2. H. & R. Johnson (India) TBK Limited**

Having its Registered Office at:  
Windsor, 7th Floor,  
CST Road Kalina,  
Santa Cruz (E) Mumbai,  
Maharashtra - 400098

**...Applicant No. 2/Demerged Company No. 4/  
Resulting Company No. 1**

Prism Johnson Limited Postal Ballot Notice

**3. Milano Bathroom Fittings Private Limited**

Having its Registered Office at:  
Plot No. 30 Industrial Township Phase 4,  
Himuda, Bhatoli Kalan, Baddi, Solan,  
Himachal Pradesh – 173205

**... Applicant No. 3/Amalgamating Company No. 1**

**4. Silica Ceramica Private Limited**

Having its Registered Office at:  
Narayanapuram Unguturu Mandal,  
Narayanapuram,  
Andhra Pradesh – 534407

**... Applicant No. 4/Amalgamating Company No. 2**

**5. TBK Rangoli Tile Bath Kitchen Private Limited**

Having its Registered Office at:  
Ground Floor, Kaddiya Wadi,  
Azad Road Near Fire Brigade Station,  
Vile Parle (East) Mumbai,  
Maharashtra – 400057

**... Applicant No. 5/Demerged Company No. 1**

**6. TBK Venkataramiah Tile Bath Kitchen Private Limited**

Having its Registered Office at:  
No.56 A, Ramamurthy Nagar Main Road,  
Dodda Banaswadi, Opp. New Baldwin Residential School,  
Bangalore,  
Karnataka – 560043

**... Applicant No. 6/Demerged Company No. 2**

**7. TBK Samiyaz Tile Bath Kitchen Private Limited**

Having its Registered Office at:  
G 5-10, Ground Floor, Plot no. 6,  
Savita Raj Complex, Kala Manak Flat Owners Society,  
CIDCO, New Aurangabad,  
Maharashtra – 431003

**... Applicant No. 7/Demerged Company No. 3**

**And**

**Their Respective Shareholders and Creditors**

Prism Johnson Limited Postal Ballot Notice

Date of order 14.10.2020

Coram:

Hon'ble Shri K. Anantha Padmanabha Swamy, Member (Judicial)

Hon'ble Shri Veera Brahma Rao Arekapudi, Member (Technical)

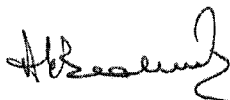
Appearance:

For Applicants: Shri S. Ravi, Senior Advocate assisted by Shri  
Lakshmi Kumaran and Sridharan, Advocates

Heard on: 29.09.2020

**PER: SHRI VEERA BRAHMA RAO AREKAPUDI  
MEMBER (TECHNICAL)**

1. This is a joint Application filed under section 230-232 read with section 52 and other applicable provisions of the companies act, 2013 Read with Rule 3(2) and other applicable rules of the Companies (Compromises, Arrangements And Amalgamations) Rules, 2016 by **PRISM JOHNSON LIMITED/Applicant No.1, H. & R. JOHNSON (INDIA) TBK LIMITED/Applicant No.2, MILANO BATHROOM FITTINGS PRIVATE LIMITED/Applicant No.3, SILICA CERAMICA PRIVATE LIMITED/Applicant No.4, TBK RANGOLI TILE BATH KITCHEN PRIVATE LIMITED/Applicant No.5 TBK VENKATARAMIAH TILE BATH KITCHEN PRIVATE LIMITED/ Applicant No.6, TBK SAMIYAZ TILE BATH KITCHEN PRIVATE LIMITED/Applicant No.7 and their respective shareholders and creditors, seeking dispensing with the meetings of Shareholders, Secured and Unsecured Creditors of Applicant No.1 to 7 Companies for approval of the Scheme in terms of Composite Scheme of Arrangement and Amalgamation shown as Annexure - A-6 (page Nos 1029-1093).**



Prism Johnson Limited Postal Ballot Notice



2. The averments relevant to the Application in brief are:-

**2.1 Applicant No. 1/Amalgamated Company/Resulting Company No. 2, Prism Johnson Limited ("PJL")**

The Applicant No.1 Company (CIN: L26942TG1992PLC014033) (formerly known as Prism Cement Limited), is a public company limited by shares incorporated on 26<sup>th</sup> March, 1992 under the provisions of the erstwhile Companies Act, 1956 ("**1956 Act**"), and having its Registered Office at 305, Laxmi Niwas Apartments, Ameerpet, Hyderabad, Telangana- 500016. Applicant No. 1 is one of India's leading integrated building materials' company, offering a wide range of products from cement, ready-mix concrete, tiles and bathroom products. The shares of the Applicant No. 1 are listed on BSE Limited ("**BSE**") and the National Stock Exchange Limited ("**NSE**") in India. The Applicant No. 1 is the main holding company of the group and the ultimate transferee company in the proposed Scheme. The Authorised share capital of Applicant No.1 Company is Rs. 525,00,00,000/- (Rupees Five Hundred and Twenty Five Crores Only) consisting of 52,50,00,000 (Fifty Two Crore Fifty Lakh) Equity shares of Rs. 10/- each and issued, subscribed and paid up share capital is Rs. 503,35,65,800/- (Rupees Five Hundred and Three Crore Thirty Five Lakh Sixty Five Thousand Eight Hundred Only) consisting of 50,33,56,580 (Fifty Crore Thirty Three Lakh Fifty Six Thousand Five Hundred and Eighty) Equity shares of Rs. 10/- each.

**2.2 Applicant No. 2/Demerged Company No. 4/Resulting Company No. 1, H. & R. Johnson (India) TBK Limited ("HRJ TBK")**

The Applicant No.2 Company (CIN: U45200MH1996PLC101892), a wholly owned subsidiary of Applicant No. 1, is an unlisted public company limited by shares incorporated on 16<sup>th</sup> August, 1996 under the provisions of the 1956 Act, and having its Registered Office at Windsor, 7<sup>th</sup> Floor, CST Road, Kalina, Santa Cruz (E), Mumbai, Prism Johnson Limited Postal Ballot Notice





Maharashtra- 400098. The Applicant No. 2 Company is engaged, *inter alia*, directly/indirectly through its subsidiaries and associates in retail/trading in tiles, bathroom fittings and kitchens & branded tiles display unit. It also provides support services. The Authorised share capital of Applicant No.2 Company is Rs 5,00,00,000/- (Rupees Five Crore Only), consisting of 5,00,000 (Five Lakh) Equity shares of Rs. 100/- each and the issued, subscribed and paid up share capital is INR 1,61,02,000/- (Rupees One Crore Sixty One Lakh Two Thousand Only) consisting of 1,61,020 (One Lakh Sixty One Thousand Twenty) Equity shares of Rs. 100/- each.

**2.3 Applicant No. 3/ Amalgamating Company No. 1, Milano Bathroom Fittings Private Limited ("Milano")**

The Applicant No.3 Company (CIN: U28994HP2000PTC006251), wholly owned subsidiary of Applicant No. 1, is a private company limited by shares incorporated on 8<sup>th</sup> March, 2000 under the provisions of the 1956 Act, and having its Registered Office at Plot No. 30, Industrial Township Phase 4, Himuda, Bhatoli Kalan, Baddi Solan, Himachal Pradesh- 173205. The Applicant No. 3 Company is engaged in the business of manufacturing of bathroom fittings and accessories. The Authorised share capital is Rs 4,60,50,000/- (Rupees Four Crores Sixty Lakh Fifty Thousand only) consisting of 73,000 (Seventy Three Thousand) Equity Shares of Rs.100/- each and 3,87,500 (Three Lakh Eighty Seven Thousand Five Hundred) Preference shares of Rs. 100/- each. The issued, subscribed and paid up share capital is Rs 2,72,44,600/- (Rupees Two Crores Seventy Two Lakh Forty Four Thousand Six Hundred Only) consisting of 72,446 (Seventy Two Thousand Four Hundred and Forty Six) equity shares of Rs.100/- each and 2,00,000 (Two Lakh) Preference shares of Rs. 100/- each.

2.4 **Applicant No. 4/Amalgamating Company No. 2, Silica Ceramica Private Limited ("Silica")**

The Applicant No.4 Company (CIN: U26933AP2006PTC051977), wholly owned subsidiary company of Applicant No. 1, is a private company limited by shares incorporated on 12<sup>th</sup> December, 2006 under the provisions of the 1956 Act, and having its Registered Office at Narayanapuram Unguturu Mandal, Narayanapuram, Andhra Pradesh - 534407. The Applicant No. 4 Company is engaged in the business of manufacturing of ceramic vitrified tiles and glazed vitrified tiles. The Authorised share capital of Applicant No.4 Company is Rs 121,61,00,000/- (Rupees One Twenty One Crore Sixty One Lakh Only) consisting of 12,16,10,000 (Twelve Crore Sixteen Lakh Ten Thousand) Equity Shares of Rs.10/- each and issued, subscribed and paid up share capital is Rs. 121,60,82,830/- (Rupees One Twenty One Crore Sixty Lakh Eighty Two Thousand Eight Hundred and Thirty Only) consisting of 12,16,08,283 (Twelve Crore Sixteen Lakh Eight Thousand Two Hundred and Eighty Three) Equity Shares of Rs.10/- each.

2.5 **Applicant No. 5/ Demerged Company No. 1, TBK Rangoli Tile Bath Kitchen Private Limited ("TBK Rangoli")**

The Applicant No.5 Company (CIN: U74120MH2010PTC209550), wholly owned subsidiary of Applicant No. 2, is a private company limited by shares incorporated on 28<sup>th</sup> October, 2010 under the provisions of the 1956 Act, and having its Registered Office at Ground Floor, Kaddiya Wadi, Azad Road, Near Fire Brigade Station, Vile Parle (East) Mumbai, Maharashtra - 400057. The Applicant No. 5 Company is engaged in the business of retail/ trading of tiles, bathroom fittings & kitchens. The Authorised Share Capital of Applicant No.5 Company is Rs. 1,00,000/- (Rupees One Lakh Only) consisting of 10,000 (Ten Thousand) Equity Shares of Rs.10/- each and the issued, subscribed and paid up share

capital is Rs. 1,00,000/- (Rupees One Lakh Only) consisting of 10,000 (Ten Thousand) Equity Shares of Rs.10/- each.

**2.6 Applicant No. 6/ Demerged Company No. 2, TBK Venkataramiah Tile Bath Kitchen Private Limited ("TBK Venkat")**

The Applicant No.6 Company (CIN: U26900KA2010PTC056306), wholly owned subsidiary of Applicant No. 2, is a private company limited by shares incorporated on 21<sup>st</sup> December, 2010 under the provisions of the 1956 Act, and having its Registered Office at No.56A, Ramamurthy Nagar Main Road, Dodda Banaswadi, Opp. New Baldwin Residential School, Bangalore, Karnataka - 560043. The Applicant No. 6 is engaged in the business of retail/trading of tiles, bathroom fittings & kitchens. The Authorised Share Capital is Rs 1,00,000/- (Rupees One Lakh Only) consisting of 10,000 (Ten Thousand) Equity Shares of Rs.10/- each and Issued, subscribed and paid up share capital is Rs. 1,00,000/- (Rupees One Lakh Only) consisting of 10,000 (Ten Thousand) Equity Shares of Rs.10/- each.

**2.7 Applicant No. 7/ Demerged Company No. 3, TBK Samiyaz Tile Bath Kitchen Private Limited ("TBK Samiyaz")**

The Applicant No.7 Company (CIN: U26916MH2007PTC176528), wholly owned subsidiary of Applicant No. 2, is a private company limited by shares incorporated on 6<sup>th</sup> December, 2007 under the provisions of the 1956 Act, and having its Registered Office at G 5-10, Ground Floor, Plot No. 6, Savita Raj Complex, Kala Manak Flat Owners Society, CIDCO, New Aurangabad, Maharashtra - 431003. The Applicant No. 7 is engaged in the business of retail/trading of tiles, bathroom fittings & kitchens. The Authorised share capital of Applicant No.7 Company is Rs. 8,30,000/- (Rupees Eight Lakh Thirty Thousand Only) consisting of 83,000 (Eighty Three Thousand) Equity Shares of Rs.10/- each. INR 8,30,000/- (Rupees Eight Lakh Thirty



Thousand Only) consisting of 83,000 (Eighty Three Thousand) Equity Shares of Rs.10/- each.

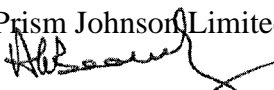
**3. APPROVAL OF THE BOARD OF DIRECTORS:-**

The Applicant Companies submit that the Scheme was approved by the Board of Directors of the respective Applicant Companies in their meeting held on 23<sup>rd</sup> October, 2019 in accordance with the provisions of the Companies Act, 2013 for restructuring of the business of the said Applicant Companies, on a going concern basis. Copy of Board Resolutions passed by the Board of Directors of the respective Applicant Companies are collectively annexed as **Annexure A-2**). It is further averred, as on the date of the Scheme being approved by the Board of Directors of the respective Applicant Companies and on the date of filing this joint application, there is no change in Authorized, Issued, Subscribed and Paid-up Share Capital of the Applicant Companies.

- 4 It is stated in the Application that Applicant No. 1 i.e. **Prism Johnson Limited** is the **ultimate holding company** of the other applicant companies, and each of Applicant No. 2 to 4 companies are its wholly owned subsidiaries, and Applicant No. 5 to 7 are wholly owned subsidiaries of Applicant No. 2. The Applicant Companies are collectively referred to as "**PJL Group**".

**5. FINANCIALS**

The Applicant Companies close their respective books of accounts every financial year, on the 31<sup>st</sup> March. Copies of audited financial statements as on 31<sup>st</sup> March, 2019 of the respective Applicant Companies are collectively annexed as **Annexure-A-4**). Copies of the latest provisional financial statements of the Applicant Companies as on 30<sup>th</sup> September, 2019 are collectively annexed as **Annexure A-5**).



**6. THE OBJECTS / BENEFITS / OVERVIEW OF THE PROPOSED SCHEME ARE:**

- 6.1 To enable better realisation of potential of the businesses and yield beneficial results and enhance the value creation for the Applicant Companies, their respective shareholders, creditors, lenders, employees and other stakeholders.
- 6.2 The proposed Scheme would result in elimination of multiple operating companies' structure of PJJ and thereby would result in consolidation of retail/trading business of certain wholly owned subsidiaries and step-down subsidiaries of PJJ into a single entity, i.e. PJJ;
- 6.3 Simplification of operating structure under common management which would lead to elimination of duplicative communication and coordination efforts across multiple entities;
- 6.4 The consolidation of business would lead to better, efficient and economical cost management, cost savings, pooling of resources, optimum utilisation of resources, rationalisation of administrative expenses/services across the PJJ group;
- 6.5 The consolidation of business would lead to synergies in operational process and logistics alignment, creating better synergy, better utilisation of human resources and further development and growth of business via a single entity, PJJ;
- 6.6 By virtue of enhanced resource base and deeper client relationship of PJJ, capability for offering products and services would increase resulting in better business potential and prospects for the entity.
- 6.7 The proposed Scheme would help PJJ in sharpening its competitiveness and development of long term internal and core competencies through cost savings and benefit of economies of scale unlocked to PJJ.
- 6.8 The proposed Scheme will augment the manufacturing footprint and capabilities of PJJ, by increasing the scale of manufacturing operations and bettering capacity utilisation of

PJL, thereby helping in rationalising the number of vendors, aggregating the purchases and managing the supply chain more effectively and efficiently.

- 6.9 The proposed Scheme for consolidation of retail/trading business will also simplify the forward supply chain and management of customers and bring better sales and marketing synergies.
- 6.10. The proposed Scheme as envisaged, is in the interest of the shareholders, creditors, employees, and other stakeholders of each of the companies by pursuing a focused business approach under a single entity, thereby resulting in overall maximization of value creation of all the stakeholders involved.

**7. SEQUENCE OF COMPOSITE ARRANGEMENT AND AMALGAMATION OF THE SCHEME BETWEEN THE APPLICANT COMPANIES:**

The sequence followed by the **Applicant Companies/ PJL** in the proposed composite scheme of arrangement and amalgamation are as under:

- 7.1 **Demerger-1:** The demerger of the respective retail/trading business undertakings of **Applicants No. 5, 6 & 7**, and transfer of their respective demerged undertakings (**collectively referred to as "Part-III Demerged Undertakings**) comprising of all their properties, assets, liabilities, permits, licenses, registrations, contracts etc., into **Applicant No. 2** on a going concern basis;
- 7.2 **Demerger-2:** Subsequent demerger of the retail/business undertaking of **Applicant No. 2** and transfer of the its demerged undertaking (**referred to as Part-IV Demerged Undertaking including Part III Demerged Undertakings vested upon Demerger 1**) comprising of all its properties, assets, liabilities, permits, licenses, registrations, contracts etc., into **Applicant No. 1** on a going concern basis.
- 7.3 Adjustment of Securities Premium with the debit balance of Retained earnings, to the extent available, by way of Capital


- Reduction in terms of Section 52 and other applicable provisions of the 2013 Act in the books of **Applicant No. 4** and;
- 7.4 **Amalgamation:** Subsequent amalgamation of **Applicants No. 3 and 4** with **Applicant No. 1.**

**8. REDUCTION OF SHARE CAPITAL TO BE UNDERTAKEN BY SILICA ("CAPITAL REDUCTION")**

It is averred by Applicant Companies that upon the Scheme becoming effective, the balance in the securities premium account of Applicant No.4 shall stand reduced by INR 1,51,38,02,000/- (One hundred Fifty One Crores Thirty Eight Lakhs Two Thousand Rupees only), by offsetting the debit balance of retained earnings in the books of Applicant No. 4 in accordance with the Part V of the Scheme as an integral part of the Scheme and that the consent / approval given by the shareholders of Applicant No. 4 / Amalgamating Company 2 to the Scheme, shall also be deemed to be sufficient for the purpose of effecting Part V of the Scheme.

**9. CONSIDERATION FOR:**

- 9.1 **Demerger -1:-** Since the entire share capital of the Part-III Demerged Companies are held by the Resulting Company No.1 along with the nominees, there will be no issue and allotment of any securities by Resulting Company No.1/Applicant No.2 Company herein, in respect of demerger of Part-III Demerged undertakings, consequent to the Scheme becoming effective.
- 9.2 **Demerger-2:** Since the entire share capital of the Part-IV Demerged Companies are held by the Resulting Company No.2 along with the nominees, there will be no issue and allotment of any securities by Resulting Company No.2/Applicant No.1 Company herein, in respect of demerger of Part-IV Demerged undertakings, consequent to the Scheme becoming effective.
- 9.3 **Amalgamation:-** Since the entire share capital of the Amalgamating Companies (Applicants 3 & 4) are held by the Amalgamated Company (Applicant No.1) along with the nominees, there will be no issue and allotment of any securities



by Amalgamated Company in respect of Amalgamation. Consequently, the investment of Amalgamated Company in entire paid-up share capital of the Amalgamating Companies shall stand cancelled in the books of the Amalgamated Company, consequent to amalgamation.

**10. SUBDIVISION, REORGANISATION AND COMBINATION OF THE AUTHORISED SHARE CAPITAL**

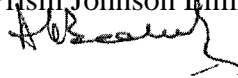
It is stated by the Applicant Companies that, the preference share capital aggregating to 3,87,500 shares of Rs. 100 each of Amalgamating Company No.1/ Applicant No.3 herein, shall stand reclassified and sub-divided into 38,75,000 equity shares of INR 10/- each. It is further stated that the face value of 1 (One) equity share of Amalgamating Company 1/ Applicant No.3 amounting to Rs. 100/- (Rupees Hundred only) shall be subdivided into face value of INR 10/- (Rupees Ten only) comprising 10 (Ten) equity shares of Amalgamating Company 1. The Scheme also entails consolidation of authorised share capital of the Amalgamating Companies with the Amalgamated Company.

**11. ACCOUNTING TREATMENT**

The Applicant Companies stated that the Scheme is in conformity with the relevant accounting standards prescribed under Section 133 of the Act. Certificates issued by Statutory Auditors/ Chartered Accountants i.e. G.M. Kapadia for Applicant No.1 & 3, Borkar & Muzumdar, for Applicants 2, 5, 6 & 7 and A.P. Sanzgiri & Co., for Applicant No.4 are annexed to Application as Annexure - A-8 (colly).

**12. INTEREST OF DIRECTORS OF THE APPLICANT COMPANIES IN THE SCHEME**

It is averred, the Directors of the respective Applicant Companies have no material interest in the proposed Scheme except as shareholders in general.

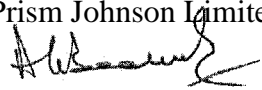


13. **CONSENT OF SHAREHOLDERS/SECURED AND UNSECURED CREDITORS**

13.1 **Applicant No. 1:**

(i) **Shareholders:** The equity shares of Applicant No. 1 are listed on BSE and NSE. As on 30th November, 2019, the promoters of PJJ hold 74.87% of equity shareholding in PJJ and the balance equity shareholding is held by the public shareholders. The number of equity shareholders in the Applicant No. 1 is **71351** as on 30<sup>th</sup> November, 2019. The shareholding pattern along with a copy of certificate issued by AMS & Co., CA confirming the number of shareholders and shareholding was annexed to the Application as **Annexure-A9** (Colly).

(ii) **Secured Creditors & Unsecured Creditors:** The Applicants No.1 Company has 15 number of secured and 20,913 number of unsecured creditors as on 30<sup>th</sup> November, 2019. Copy of the certificate issued by a Chartered Accountant, confirming the details of creditors of Applicant No. 1 as on 30<sup>th</sup> November, 2019, was annexed to the Application as **Annexure A-10**. However, the Learned Counsel for Applicant Companies on the directions of this Tribunal has filed memo dated 28.08.2020 showing summary of creditors of Applicant No.1 Company as on 30.06.2020. According to the memo, the Company has **10 Secured Creditors** and **24,179 unsecured creditors** as on 30.06.2020. The Applicant No.1 Company by relying on Hon'ble NCLAT order passed in CA (AT) No. 180/2019 in the matter of DLF Phase-IV Commercial Developers Ltd & Ors wherein dispensation was allowed on the grounds that the proposed Scheme did not result in any dilution in the shareholding of the shareholders of the Transferee Company and more so the net worth of the Transferee Company is highly positive when compared to the net worth of the Transferor Companies and that it did not affect the rights of the



Creditors, is seeking dispensation of holding meetings of its shareholders and creditors for approval of the Scheme.

**13.2 Applicant No. 2:**

(i) **Shareholders:** The Applicant No.2 Company has 07 (seven) equity shareholders as on 30<sup>th</sup> November, 2019. It is further certified that out of the total 1,61,020 shares, Prism Johnson Ltd (Applicant No.1) is holding 1,61,010 shares and the rest six shareholders together hold 10 shares for and on behalf of Applicant No.1 Company and further stated that the Company has received declaration of legal and beneficial ownership of Prism Johnson Limited for the same. Applicant No.1 Company which holds 100 % shares in Applicant No.2 Company has given consent Affidavit stating no objection to the proposed Scheme. A copy of the certificate issued by Borkar & Mazumdar, CA confirming the number of shareholders and shareholding pattern of Applicant No. 2 was annexed to the Application as **Annexure-A-13**. Copy of the consent affidavit obtained from Prism Johnson Ltd (Applicant No.1)/shareholder of Applicant No. 2 has also been enclosed to the Application as **Annexure A-14**.

(ii) **Secured and Unsecured Creditors:** The Applicant No. 2 states that it has **01 (one) secured** and **140 unsecured/** trade creditors as on 30<sup>th</sup> November, 2019. A list of creditors with amounts due along with copy of the certificate issued by Borkar & Mazumdar, Chartered Accountant confirming the details of creditors of Applicant No. 2 was annexed to the Application as **Annexure A-15**. The no objection letters/consent affidavits from its all secured and 12 unsecured creditors for the 90% value of the total value of unsecured creditors obtained from the secured and unsecured creditors of Applicant No. 2 have also been annexed to the Application as **Annexure A-16**. Therefore, the Applicant No.2 Company is seeking directions of this Tribunal to order dispensation of holding

meeting of shareholders, secured and unsecured creditors of Applicant No.2 Company.

**13.3 Applicant No. 3:**

(i) **Shareholders:** It is stated in the Application that Applicant No.3 Company has 2 (two) equity shareholders and 1 (one), preference shareholder as on 30<sup>th</sup> November, 2019. A copy of the certificate issued by Borkar & Mazumdar, Chartered Accountant confirming the number of shareholders and shareholding pattern of Applicant No. 3 was annexed to the Application as **Annexure A-17**. Copies of the consent Affidavits obtained from equity and preference shareholders of Applicant No. 3 have also been enclosed to the Application as **Annexure A-18**.

(ii) **Secured and Unsecured Creditors:** There are **2 (two) secured** and **125 unsecured creditors** as on 30<sup>th</sup> November, 2019. A list of creditors with amounts due along with a copy of the certificate issued by Borkar & Mazumdar, Chartered Accountant confirming the details of creditors of Applicant No. 3 were annexed to the Application as **Annexure A-19**. The consent of one secured and 49 (Forty Nine) unsecured creditors for the 90% value of the total value of secured and unsecured creditors respectively have been obtained and enclosed to the Application as **Annexure A-20**.

Therefore, Applicant No. 3 prays for dispensation of the conducting and holding of the meeting of the equity /preference shareholders and secured and unsecured creditors of the Applicant No. 3.

**13.4 Applicant No. 4:**

(i) **Shareholders:** Applicant No. 4 has **2 (two) shareholders** as on 30<sup>th</sup> November, 2019. A copy of the certificate issued by a Chartered Accountant confirming the number of shareholders and shareholding pattern of Applicant No. 4 was annexed to the Application as **Annexure A-21**. The consent Affidavit obtained from shareholder holding 100%





of equity shares was annexed to the Application as **Annexure A-22**.

- (ii) **Secured and Unsecured Creditors:** The Applicant No. 4 states that it has **14** secured and **237 unsecured creditors** as on 30<sup>th</sup> November, 2019. A list of creditors with amounts due along with a copy of the certificate issued by a Chartered Accountant confirming the details of secured and unsecured creditors of Applicant No. 4 were annexed to the Application as **Annexure A-23**. However, the Learned Counsel for Applicants filed memo dated 18.08.2020 stating that secured debt of Rs. 75,00,00,000/- to ICICI Prudential Asset Management Company has been paid off. As such consent affidavit has been obtained from Axis Bank to meet the threshold of 90% which was annexed as Annexure-B to the said memo. As such, as on date there are 13 secured creditors in Applicant No.4 Company. The consent Affidavits/ letter of Secured Creditors and 15 unsecured creditors constituting more than 90% of value of the total value of secured and unsecured creditors respectively have been obtained by Applicant No. 4. Copies of the consents obtained from the secured and unsecured creditors of Applicant No. 4 are enclosed with the Application as **Annexure A-24 (colly)**.

Therefore, the Applicant No. 4 is seeking dispensation of conducting and holding of the meetings of the equity shareholders, secured and unsecured creditors of the Applicant No. 4.

### 13.5 Applicant No. 5:

- (i) **Shareholders:** - The Applicant No.5 Company has 02 (two) equity shareholders as on 30<sup>th</sup> November, 2019. A copy of the certificate issued by a Chartered Accountant confirming the number of shareholders and shareholding pattern of Applicant No. 5 was annexed to the Application as **Annexure A-25**. The consent Affidavit of equity Prism Johnson Limited Postal Ballot Notice

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shareholder holding 9,999 shares was annexed to the Application as **Annexure A-26**. The other shareholder is its nominee.

- (ii) **Secured and Unsecured Creditors:** There are **no secured creditors** in Applicant No. 5 Company. However, there are **03 (three) unsecured creditors** as on 30<sup>th</sup> November, 2019. A list of creditors with amounts due along with a copy of the certificate issued by a Chartered Accountant confirming the details of creditors of Applicant No. 5 was annexed to the Application as **Annexure A-27**. The consent affidavits of the two unsecured creditors for the 90% value of the total value of unsecured creditors have been obtained by the Applicant No. 5 which were annexed to the Application as **Annexure A-28**.

Therefore, the Applicant No. 5 seeks dispensation of conducting meeting unsecured creditors of the Applicant No. 5.

13.6 **Applicant No. 6:**

- (i) **Shareholders:** There are **2 (two) shareholders** in Applicant No.6 Company as on 30<sup>th</sup> November, 2019. A copy of the certificate issued by a Chartered Accountant confirming the number of shareholders and shareholding pattern of Applicant No. 6 was annexed to the Application as **Annexure A-29**. The consent of equity shareholder holding 9999 shares has been obtained by the Applicant No. 6, the copy of which was annexed to the Application as **Annexure A-30**. The other shareholder is its nominee.
- (ii) **Secured and Unsecured Creditors.** The Applicant No. 6 states that it has **no secured creditors** but has **27 unsecured creditors** as on 30<sup>th</sup> November, 2019. A list of creditors with amounts due along with copy of the certificate issued by a Chartered Accountant confirming the details of creditors of Applicant No. 6 were annexed to the Application as **Annexure A-31**. The consent of unsecured creditors of more than 90% value of the total value of unsecured creditors have been obtained by the

Applicant No. 6. Copies of the consent affidavits furnished by the unsecured creditors of Applicant No. 6 were annexed to the Application as **Annexure A-32**.

Therefore, the Applicant No. 6 seeks dispensation of holding the meetings of the equity shareholders, secured and unsecured creditors of Applicant No. 6.

13.7 **Applicant No. 7:**

(i) **Shareholders:** - Applicant No.7 has **two (02) equity shareholders** as on 30<sup>th</sup> November, 2019. A copy of the certificate issued by a Chartered Accountant confirming the number of shareholders and shareholding pattern of Applicant No. 7 was annexed to the Application as **Annexure A-33**. The consent affidavit obtained from one equity shareholder holding 99.99% shares was annexed to the Application as **Annexure A-34**. The other shareholder is its nominee.

(ii) **Secured and Unsecured Creditors:** There are **no secured creditors** in Applicant No. 7 but 7 (seven) number of unsecured creditors as on 30<sup>th</sup> November, 2019. A list of creditors with amounts due along with copy of the certificate issued by a Chartered Accountant confirming the details of creditors of Applicant No. 7 were annexed to the Application as **Annexure A-35**. The consent affidavits obtained from the unsecured creditors for the 90% value of the total value of unsecured creditors were annexed to the Application as **Annexure A-36**.

Therefore, the Applicant No. 7 seeks dispensation of holding of the meetings of the shareholders, secured and unsecured creditors.

14. It is further stated in the Application that no petition under Section 241 of the 2013 Act has been filed against the Applicant Companies and that there is no pending investigations/ proceedings against any of the Applicant Companies under the provisions of the Companies Act, 2013 as on the date of filing of this Application.

15. We heard the Senior Counsel for Applicant Companies and perused the documents on record. At the first instance, the Applicant Companies had filed a Joint Application under Rule 11, read with Rule 16(d), of the National Company Law Tribunal (NCLT) Rules, 2016 before the Hon'ble NCLT, Principal Bench at New Delhi seeking permission to file a joint company scheme application before this Tribunal Bench by all Applicant Companies, to obtain sanction of the Composite Scheme of Arrangement and Amalgamation ("**Scheme**") which was allowed by Hon'ble NCLT, Principal Bench, vide order dated 6<sup>th</sup> December, 2019. We have seen the certified Copy of the order dated 6<sup>th</sup> December, 2019 passed by the Hon'ble NCLT, Principal Bench which was annexed to the Application as **Annexure- A-1**.
16. This is the first stage Application seeking dispensation of holding meetings of Shareholders, secured creditors and Unsecured Creditors of **Applicant 2 to 7 Companies** as 90% the shareholders, and 90% value of the total value of secured and unsecured creditors respectively have given their no-objection to the proposed Arrangement by way of consent Affidavits and further sought dispensing with the meetings of shareholders, secured and unsecured creditors of Applicant No.1 Company by relying on order passed by Hon'ble NCLAT, New Delhi in CA (AT) No. 180 of 2019 in the matter of DLF Phase-IV Commercial Developers Ltd & Ors read with the order passed by Hon'ble NCLT, Chandigarh Bench, in CA 741 of 2019 dated 21<sup>st</sup> November, 2020, wherein dispensation was allowed on the grounds that the proposed scheme did not result in any dilution in the shareholding of the shareholders of the Transferee Company and that the net worth of the Transferee Company is highly positive when compared to the net worth of the Transferor Companies, and as such did not affect the rights of the creditors.
17. This Bench, however, is of the considered view that owing to the complexity of the composite Scheme of Arrangement involved, it is mandatory to order meetings of shareholders, Prism Johnson Limited Postal Ballot Notice

secured and unsecured creditors of Applicant No.1 Company to seek approval of all stakeholders of Applicant No.1 to the proposed Scheme. The proposed scheme in question prima facie satisfy fundamental requirements for its sanction, subject to approval of this Tribunal. The Applicant Companies are stated to be following all provisions of Companies Act, 2013, and rules made thereunder. In any case, dispensing with meeting of shareholders, secured and unsecured creditors of Applicant No. 2 to 7 Companies would not deprive any aggrieved party to approach this Tribunal at any point of time, when the approval of scheme in question finally comes for consideration. It is further submitted that the Scheme does not contemplate a corporate debt structuring exercise, for any of the Applicant Companies, and therefore, does not invite compliance under section 230(2)(c) of the 2013 Act. In the light of above facts, the Company application deserves favourable consideration.

### ORDER

18. In the result, we pass the following order:-
- (1) Hereby dispense with convening of meetings of shareholders, secured creditors and unsecured creditors of Applicant No. 2 to 7 Companies.
  - (2) Hereby order convening meetings of shareholders, secured and unsecured creditors of **M/s Prism Johnson Limited / Applicant No.1 Company** through postal ballot with e-voting ending on 27.11.2020.
  - (3) Appointed Mrs. Varalaxmi Tadepally, Advocate Mob. No. 9849026869 as **Chairperson** and Ms. Anantha Laxmi, Advocate, Mob No. 8008012987, email: laxmi.nagendra27@gmail.com as **Scrutinizer** for convening the meetings of Shareholders, secured and unsecured creditors of Applicant No.1 Company. Fee fixed for Chairperson is Rs. 1,25,000/- (Rupees One Lakh Twenty five Thousand only) and

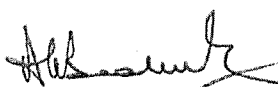
Rs. 75,000/- (Rupees Seventy Five Thousand only) for the scrutinizer for the above meetings.


- (4) Approval from the shareholders, secured and unsecured creditors of Applicant No.1 Company shall be obtained through postal ballot with e-voting ending on 27.11.2020
- (5) The Quorum, if meetings conducted through Video Conference or Other Audio Visual Means, fixed for the meetings of Applicant No.1 Company is as under, which is either in person or proxy:-
- |                      |     |
|----------------------|-----|
| Shareholders:        | 100 |
| Secured Creditors:   | 05  |
| Unsecured Creditors: | 200 |
- (6) The notice of the Meetings of Shareholders, Secured and Unsecured Creditors of Applicant No.1 Company shall be published in "Financial Express" (English Daily) and in "Nava Telangana" (Telugu Daily).
- (7) The Applicant No.1 Company or its authorized Signatory is directed to issue notice (s) to Shareholders and only to those Unsecured Creditors to whom Applicant No.1 Company owes a debt of more than Rs. 5 lakhs (Rupees 5 Lakhs) by Registered or Speed post; or Courier; or Air Mail or email or hand delivery to their last known address at least one month before the date fixed for the said meeting as per Form No. CAA2 (Rule 6) of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 ensuring convening the said meeting of Applicant No.1. The Applicant No.1 Company is directed to intimate day, date and time, a copy of Explanatory Statement, pursuant to be sent under Section 230 of the Companies Act, 2013 and Proxy as per Form No. MGT-11 (Rule 19) of the Companies (Management and Administration) Rules, 2014.
- (8) The Applicant No.1 Company to serve notices upon the Regional Director, South-East Region, Ministry of Corporate Affairs, Hyderabad pursuant to Section 230 (5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamation) Rules, 2016 and if no response is received by the Tribunal from Regional Prism Johnson Limited Postal Ballot Notice

Director within 30 days of the date of receipt of the notice, it will be presumed that Regional Director and/or Central Government has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromise, Arrangements and Amalgamations) Rules, 2016.

- (9) The Applicant No.1 Company to serve notice upon the Registrar of Companies Hyderabad pursuant to Section 230 (5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises Arrangement and Amalgamations) Rules, 2016 and if no response is received by the Tribunal from Registrar of Companies, Hyderabad within 30 days of the date of receipt of the notice, it will be presumed that Registrar of Companies, Hyderabad has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromise Arrangements and Amalgamations) Rules, 2016.
- (10) The Applicant No.1 Company to serve notice upon the Income Tax Authority, within whose jurisdiction that Applicant Company's Assessment are made, pursuant to Section 230 (5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 if no response is received by the Tribunal from Income Tax Authority within 30 days of the date of receipt of the notice, it will be presumed that Income Tax Authority has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromise, Arrangement and Amalgamation) Rules, 2016. The Applicant Companies are further directed to serve notice upon BSE and NSE.
- (11) The Applicant Companies 2 to 7 are also directed to serve notice upon jurisdictional Regional Director, the Income Tax Authority, within whose jurisdiction that Applicant Company's Assessment are made, pursuant to Section 230 (5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 if no response is received by the Tribunal from Income Tax Authority within 30 days of the date of receipt of the notice, it will be presumed that the said Authorities has no objection
- Prism Johnson Limited Postal Ballot Notice

- to the proposed Scheme as per Rule 8 of the Companies (Compromise, Arrangement and Amalgamation) Rules, 2016.
- (12) The Chairperson shall have all powers under the Companies (Compromises, Arrangement and Amalgamation) Rules, 2016 in relation to the conduct of the meetings (s) including for deciding procedural questions that may arise before or at any adjournment thereof or any other matter including an amendment to the Scheme or resolution, if any, proposed at the meeting by any person (s).
- (13) The voting shall be through postal ballot with e-voting by person or by proxy, or authorized representative in case be permitted, provided that the proxy in the Form No. MGT-11 authorization duly signed by the person entitled to attend and vote at the meeting, is to be filed with the Applicant No.1 Company at its Registered office, not later than, forty eight hours before the aforesaid meeting in accordance with Rule 10 of the Companies (Compromise, Arrangement and Amalgamation) Rules, 2016.
- (14) The Chairperson to file affidavit not less than seven days before the day fixed for holding of the meeting and to report to this Tribunal that the direction regarding convening and issuance of notice (s) to all the necessary parties have been duly complied with in conformity with the relevant provisions of the Companies Act, 2013 R/w Companies (Compromise, Arrangement and Amalgamation) Rules, 2016. The Chairperson shall report the conclusion of the aforesaid meeting as per Rule 14 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
- (15) The Registry is directed to send a copy of this order to the Chairperson and Scrutinizer appointed in this case for their information.

  
(VEERA BRAHMA RAO AREKAPUDI)  
MEMBER (TECHNICAL)

  
(K. ANANTHA PADMANABHA SWAMY)  
MEMBER (JUDICIAL)