

**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

CP(CAA) 114 of 2019 in CA (CAA) 85/NCLT/AHM/2019

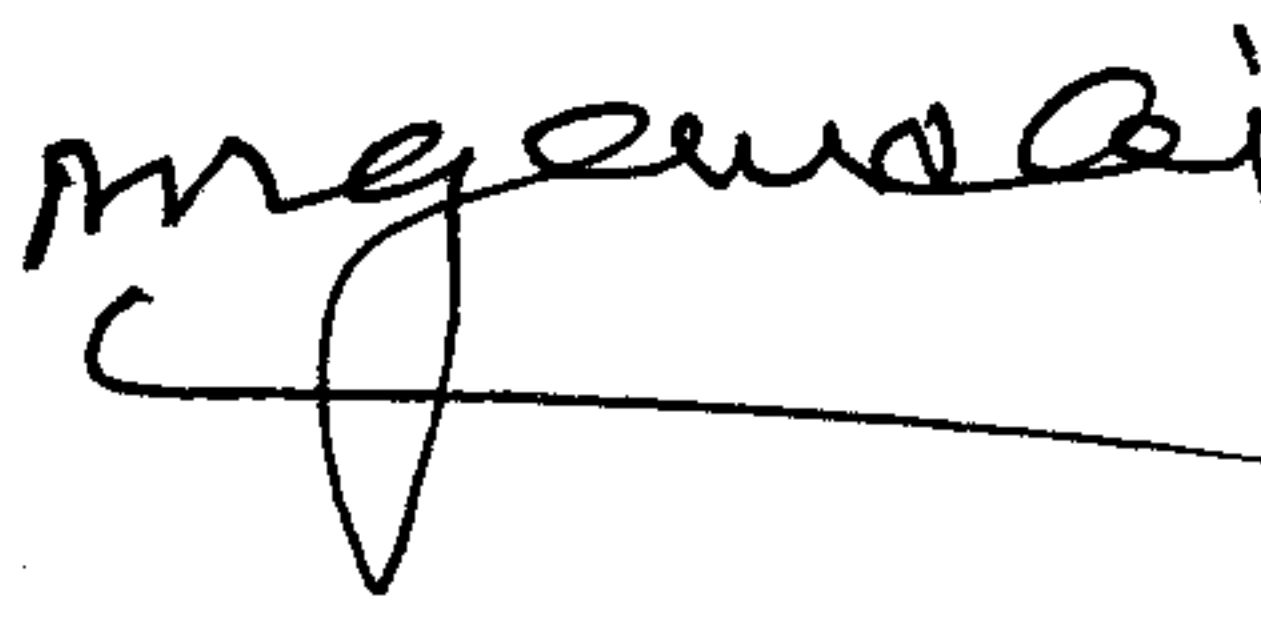
**Coram: HON'BLE Ms. MANORAMA KUMARI, MEMBER JUDICIAL
HON'BLE Mr. CHOCKALINGAM THIRUNAVUKKARASU, MEMBER TECHNICAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH
OF THE NATIONAL COMPANY LAW TRIBUNAL ON 25.11.2019**

Name of the Company:

Amees Finance Ltd
Gandhi Shroff Services Pvt Ltd
Nalin Services Ltd
Nalin Consultancy Services Ltd
Nalin Lease Finance Ltd

Section of the Companies Act : Section 230-232 of the Companies Act, 2013

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
1.	AMRISH GANDHI	PCS		
2.				

ORDER

The Petitioner is represented through learned PCS.

The Order is pronounced in the open court, vide separate sheet.


CHOCKALINGAM THIRUNAVUKKARASU
MEMBER TECHNICAL

Dated this the 25th day of November, 2019


MANORAMA KUMARI
MEMBER JUDICIAL

**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

CP(CAA) No. 114/NCLT/AHM/2019
in
CA (CAA) No. 85/NCLT/AHM/2019

In the matter of:

Ame Finance Limited (AFL)

CIN: U65923GJ1996PLC028768

Having its registered office at:

Gandhi Nursing Home Building

Dr. Nalinkant Gandhi Road,

Himatnagar

Gujarat- 383001

...Petitioner Transferor Company No. 1

Gandhi Shroff Services Private Limited (GSSPL)

CIN:U74140GJ1992PTC018361

Having its registered office at:

Gandhi Nursing Home Building,

Dr.Nalinkant Gandhi Road

Himatnagar,

Gujarat

....Petitioner Transferor Company No. 2

Nalin Services Limited (NSL)

CIN:U15118GJ1996PLC030871

Having its registered office at:

Gandhi Nursing Home Building,

Dr NalinkantGandhi Road,

Himatnagar

Gujarat- 383001

.....Petitioner Transferor Company No. 3

Nalin Consultancy Services Limited (NCSL)

CIN: U93000GJ1998PLC033695

Having its registered office at:

Gandhi Nursing Home Buiding,

Dr Nalinkant Gandhi Road,

Himatnagar,

Gujarat

....Petitioner Transferor Company No. 4

Phackahga

Chatur

AND

Nalin Lease Finance Limited (NLFL)

CIN:L65910GJ1990PLC014516

Having its registered office at:

Gandhi Nursing Home Building,

Dr.Nalinkant Gandhi Road

Himatnagar,

Gujarat

...Petitioner Transferee Company

Order delivered on 25th November, 2019

Coram: Hon'ble Ms. Manorama Kumari, Member (J)

Hon'ble Mr. Chockalingam Thirunavukkarasu, Member (T)

Appearance: PCS Mr. Amrish Gandhi is present for the Petitioner Companies

ORDER

[Per se: Hon'ble Ms. Manorama Kumari, Member (J)]

1. The instant joint petition is filed by the Petitioner Companies under Sections 230-232 of the Companies Act, 2013 (hereinafter referred to as "Act") read with Rule 3 of Companies (Compromises, Arrangements and Amalgamation) Rules, 2016 (hereinafter referred to as "Rules") for sanctioning the Scheme of Arrangement involving amalgamation of Ameer Finance Limited, Petitioner Transferor Company No. 1, Gandhi Shroff Services Private Limited, Petitioner Transferor Company No. 2, Nalin Services Limited, Petitioner Transferor Company No. 3 and Nalin Consultancy Services Limited, Petitioner Transferor Company No. 4 with Nalin Lease Finance Limited, Petitioner Transferee Company.
2. It is stated that Petitioner Transferor Company No. 1 is the closely held Public Limited NBFC. The Petitioner Transferor Company No. 2 is a Private Limited NBFC. The Petitioner Transferor Company No. 3 is the closely held Public Limited Company. The Petitioner Transferor Company No. 4 is the closely held Public Limited Company while the

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Petitioner Transferee Company is the NBFC listed with Bombay Stock Exchange.

3. It is stated that as per the audited balance sheet of the Petitioner Transferor Companies as on 31st March, 2019 and as on date, the authorized, issued and paid-up share capital are under:

(A) The Share Capital of the Petitioner Transferor Company No. 1 as on Date:

Authorized Capital	(IN RUPEES)
22,50,000 Equity Shares of INR 10/- each	2,25,00,000
Total	2,25,00,000
Issued, Subscribed and paid-up Capital	
20,00,000 Equity Shares of INR 10/- each	2,00,00,000
Total	2,00,00,000

(B) The Share Capital of the Petitioner Transferor Company No. 2 as on Date:

Authorized Capital	(IN RUPEES)
2,25,000 Equity Shares of INR 100/- each	2,25,00,000
Total	2,25,00,000
Issued, Subscribed and paid-up Capital	
2,00,000 Equity Shares of INR 100/- each	2,00,00,000
Total	2,00,00,000

(C) The Share Capital of the Petitioner Transferor Company No. 3 as on Date:

Authorized Capital	(IN RUPEES)
1,00,000 Equity Shares of INR 10/- each	10,00,000
Total	10,00,000
Issued, Subscribed and paid-up Capital	
50,070 Equity Shares of INR 10/- each	5,00,700
Total	5,00,700

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Shankar Singh

(D) The Share Capital of the Petitioner Transferor Company No. 4 as on Date:

Authorized Capital	(IN RUPEES)
10,00,000 Equity Shares of INR 10/- each	1,00,00,000
Total	1,00,00,000
Issued, Subscribed and paid-up Capital	
50,007 Equity Shares of INR 10/- each	5,00,070
Total	5,00,700

The Petitioner Transferor Companies have annexed with the Petition, copies of their latest Balance Sheets as on 31.03.2019 as **Annexure - "B1" collectively.**

The Petitioner Transferor Companies have also annexed with the Petition, certified true copies of the Board Resolutions passed by all the aforesaid four Petitioner Transferor Companies as **Annexure - "C1" collectively.**

4. It is stated that as per the audited balance sheet of the Petitioner Transferee Company as on 31st March, 2019 and as on date, the authorized, issued and paid-up share capital is under:

The Share Capital of the Petitioner Transferee Company as on Date:

Authorized Capital	(IN RUPEES)
37,50,000 Equity Shares of INR 10/- each	3,75,00,000
Total	3,75,00,000
Issued, Subscribed and paid-up Capital	
32,62,000 Equity Shares of INR 10/- each	3,26,20,000
Total	3,26,20,000

The Petitioner Transferee Company has annexed with the Petition, copy of their latest Balance Sheets as on 31.03.2019 along with Annual

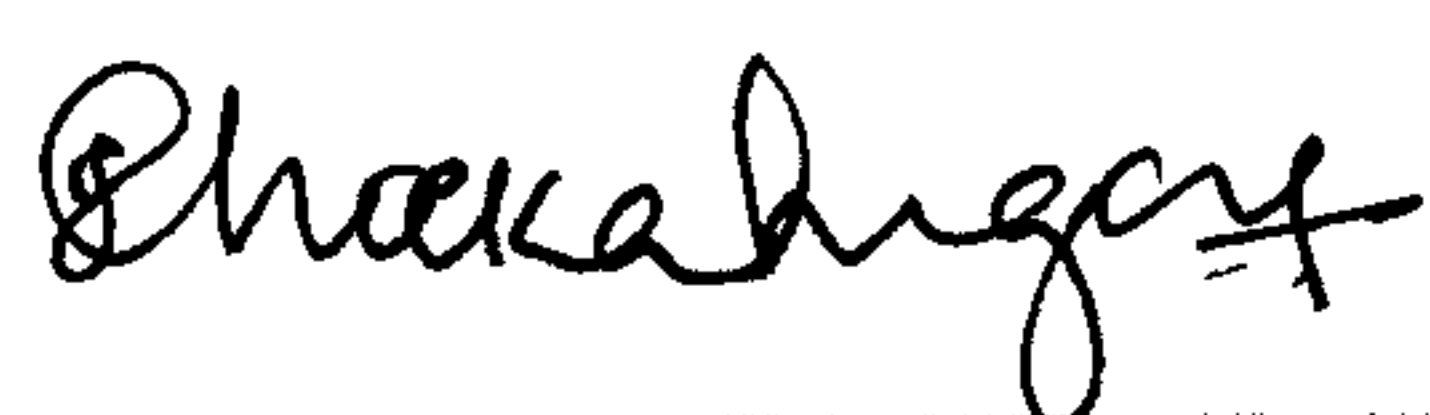
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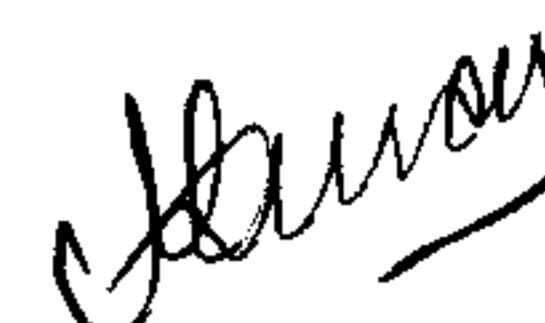
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Report for the Financial Year 2018-19 as Annexure - "B2"
collectively.

The Petitioner Transferee Company has also annexed with the Petition, certified true copy of the Board Resolution approving the Scheme of Arrangement in the nature of Amalgamation passed in the meeting of Board of Directors of the Petitioner Transferee Company duly held on 26th September, 2018 as Annexure - "C2".

5. According to the Petitioner Companies, the Scheme of Amalgamation will enable the Petitioner Companies to achieve integration of the business operations, strategic flexibility and a scale to pursue growth opportunities. Further, the combined entity will be able to showcase its strength and there will also be synergy benefits and cost efficiencies through combined operations. It will also be conducive to better and more efficient and economical control and conduct of the Petitioner Companies.
6. Earlier, the Petitioner Companies preferred the application viz. CA (CAA) No. 85 of 2019 seeking dispensation of the meetings of Equity Shareholders of all the Petitioner Transferor Companies on the basis of consent affidavits submitted by the Equity Shareholders of all the Petitioner Transferor Companies. It was stated in the aforesaid application that all the Petitioner Transferor Companies have no creditors either Secured or Unsecured. Similarly, it was stated the Petitioner Transferee Company has no Unsecured Creditors. However, the Petitioner Transferee Company sought to convene and hold separate meetings of the Sole Secured Creditor and the Equity Shareholders of the Petitioner Transferee Company. Upon hearing the application, this Tribunal passed the order dated 26th July, 2019 allowed the application and ordered for dispensation of the meetings of the Equity Shareholders of the four Petitioner Transferor Companies and issued necessary directions for convening and holding of the separate meetings of the sole Secured Creditor and the Equity Shareholders of the Petitioner Transferee Company. This Tribunal directed the Petitioner Transferee Company that at least one month before the date of the meetings, a notice in Form No. CAA 2 convening the said meetings indicating the day, the date, the place and the time as aforesaid, together with a copy

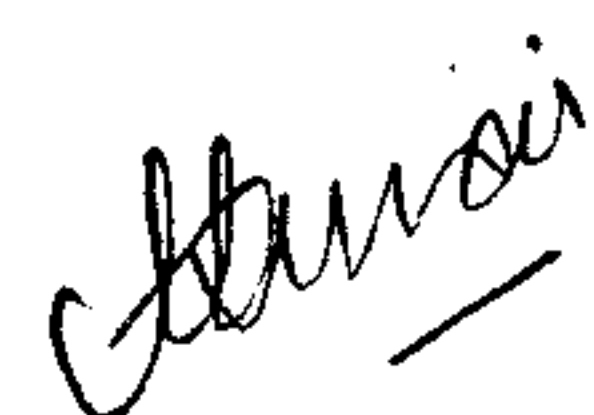




of the Scheme of Arrangement in the nature of Amalgamation, copy of the Explanatory Statement required to be sent under Section 102 of the Act, read with Sections 230 and 232 of the Act and Rule 6 of the Companies (CAA) Rules, 2016 and the prescribed Form of Proxy shall be sent to the sole Secured Creditor of Nalin Lease Finance Limited, the Petitioner Transferee Company and to each of the Equity Shareholders, as on 20th May, 2019, at their last known addresses either by Registered Post/ Speed Post or by Courier or by e- mail. This Tribunal also appointed Chairman for the aforesaid meetings with the directions that Chairman of the aforesaid meetings shall file an affidavit not less than 7(seven) days before the date fixed for holding of the aforesaid meetings and to report to this Tribunal that the directions regarding publication and issuance of notices of the aforesaid meetings have been duly complied with as per Rule 12 of the Companies (CAA) Rules, 2016. This Tribunal further ordered that the Chairman shall report to this Tribunal on the result of the aforesaid meetings in Form No CAA4, verified by his affidavit, as per Rule 14 of the Companies (CAA) Rules, 2016 within 20 (Twenty) days of the conclusion of the aforesaid meetings.

7. This Tribunal also issued directions for service of the notice of the meetings in Form No. CAA.3 along with a copy of the Scheme of Arrangement, the explanatory statement and the disclosures mentioned under Rule 6 upon the statutory authorities viz.
- i. (a) Central Government through the Regional Director, North Western Region,
(b) the Registrar of Companies, Gujarat; and
(c) the Income Tax Authorities; for all the Applicant Companies;
 - ii. (a) Reserve Bank of India;
(b) BSE Limited;
(c) Securities and Exchange Board of India for the Applicant Transferee Company;
 - iii. (a) Official Liquidator for all the Applicant Transferor Companies only;





besides publication of the notice of the meetings in English Daily 'DNA', Ahmedabad Edition having circulation in Ahmedabad and Gujarati translation thereof in Gujarati daily 'Sandesh' Sabarkantha Edition.

8. Pursuant to the directions issued by the Tribunal contained in its order dated 26th July, 2019, notices of aforesaid meetings were sent individually to all the Equity Shareholders and the sole Secured Creditor of the Petitioner Transferee Company together with a copy of the Scheme of Arrangement, explanatory statement and other requisite documents. The notice of the aforesaid meetings was published in English Daily – DNA, Ahmedabad Edition and Gujarati Daily – Sandesh, Sabarkantha Edition on 18th August, 2019. The Chairman of the aforesaid meetings filed affidavit dated 26th August, 2019 before this Tribunal confirming the compliances of the order dated 26th July, 2019 of this Tribunal.
9. It is stated that meeting of the sole Secured Creditor of the Petitioner Transferee Company was duly convened and held at the registered office of the Petitioner Transferee Company on 14th September, 2019 at 2.00 PM. The said meeting of the sole Secured Creditor of the Petitioner Transferee Company was attended by its authorized representative, representing an aggregate value of the secured debit which was about Rs. 7.50 crores representing 100% in number and 100% in value as on the date of the meeting. The resolution carrying the Scheme was passed unanimously by the authorized representative of the sole Secured Creditor, present and voted at the aforesaid meeting.
10. It is stated that meeting of Equity Shareholders of the Petitioner Transferee Company was held at the registered office of the Petitioner Transferee Company on 14th September, 2019 at 4.00 PM. It is stated that none of the Equity Shareholders of the Petitioner Transferee Company voted against the proposed Scheme of Arrangement. The valid votes cast by the Equity Shareholders of the Petitioner Transferee Company through e-voting/present at the meeting indicate clearly that they voted 100% in favor of the Scheme of Amalgamation of Ameer Finance Limited, Gandhi Shroff Services Private Limited, Nalin Services Limited and Nalin Consultancy Services Limited with Nalin Lease Finance Limited.



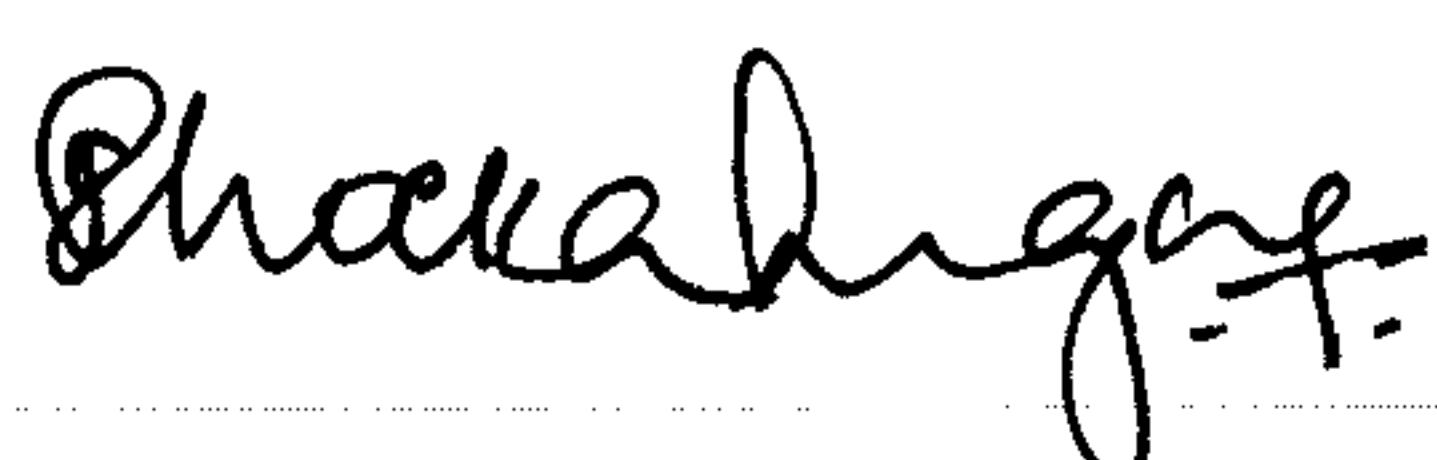


11. The Chairman filed his report before this Tribunal on 3rd October, 2019 confirming the compliance of the directions issued by this Tribunal contained in its order dated 26th July, 2019 regarding convening and holding of the separate meetings of the Sole Secured Creditor and the Equity Shareholders of the Petitioner Transferee Company.
12. The Petitioner Companies filed the present petition on 9th October, 2019 and this Tribunal admitted the petition on 16th October, 2019 and directed the Petitioner Companies to issue the notice to the Regional Director, North Western Region, Registrar of Companies, Official Liquidator, Income Tax authorities, RBI, SEBI and the NRIs who are holding the shares and other statutory authorities, if applicable, informing the date of hearing of the petition and also ordered for publication of notice of hearing of this petition in "DNA" Ahmedabad Edition in English and "Sandesh" Daily Sabarkantha Edition in Gujarati vernacular not less than 10 days before the date of hearing of this petition, calling for objections, if any, on or before the date of hearing of this petition.
13. The Petitioner Transferor Company complied with the directions of this Tribunal issued vide order dated 16th October, 2019, served the notice of hearing of this Petition upon the statutory authorities which includes Regional Director, North Western Region, Registrar of Companies, Official Liquidator, Income Tax, RBI, SEBI, BSE and NRI shareholders and published notice of date of hearing of the Petition in "Business Standard" English daily, Ahmedabad Edition and "Sandesh" Sabarkantha Edition, Gujarat daily and filed proof of service and publication of notice of the date of hearing of the Petition before this Tribunal on 13th November, 2019. The Petitioner Companies were originally directed to publish the notice of the date of hearing of the Petition in "DNA" English daily, Ahmedabad Edition. Since "DNA" discontinued to be published from 16th October, 2019, as per the directions of this Tribunal, the Petitioner Companies published the notice of the date of hearing in "Business Standard" English daily, Ahmedabad Edition.
14. In response to the notice, the Regional Director submitted his representation dated 15th October, 2019 to this Tribunal on 01.10.2018



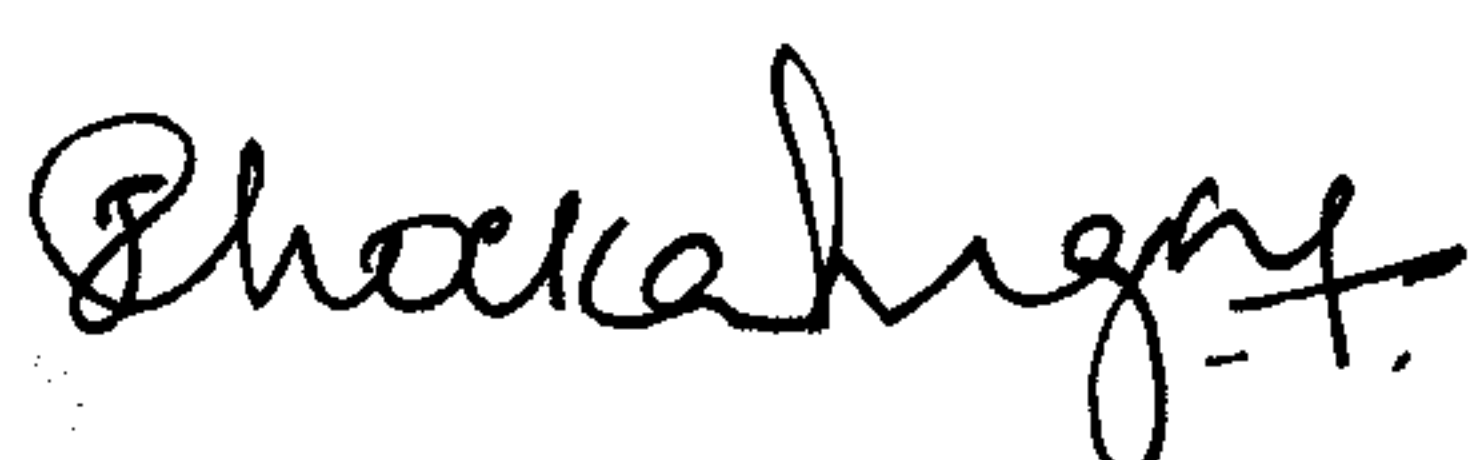
The Petitioner Companies have filed their response to the said representation in the form of Common Additional Affidavit dated 15th October 2019. In response to the representation of the Regional Director:

- (i) In Para 2 (c) of the said representation, the Regional Director has observed as per Clause No. 8 of the Scheme that authorized Share Capital of the Petitioner Transferor Companies aggregate amounting to Rs. 5,60,00,000/- will be added in the authorized Share Capital of the Petitioner Transferee Company and the consolidated authorized Share Capital of the Petitioner Transferee Company will be arrived to Rs. 9,35,00,000/-. The Petitioner Transferee Company undertakes and confirms the compliance of Section 232(3)(i) of the Companies Act, 2013 and that it will pay the additional fees and other expenses for increase of authorized Share Capital as aforesaid upon the Scheme being approved by this Tribunal.
- (ii) That as per observation given in Para 2 (e), the Regional Director submits that the Petitioner Transferee Company viz. Nalin Lease Finance Limited is listed with the BSE and is of the view that the SEBI circulars are applicable and should comply with the requirements of the said circulars. The Petitioner Transferee Company undertakes and confirms that Petitioner Transferee Company has complied with the same as also BSE directions conveyed with the letter dated 22.03.2019 by the Stock Exchanges pursuant to the SEBI circular No. CFD/DIL/3/2017/21 dated 10.03.2017.
- (iii) That as per observation given in Para 2(f), there are Foreign National/NRI/Foreign Bodies Corporate holding shares in Petitioner Transferee Company and Regional Director is not aware as to whether the Petitioner Transferee Company has complied with the provisions of FEMA and RBI guidelines or not, in this regard. The Petitioner Transferee Company undertakes and confirms the compliance of FEMA and RBI guidelines have been made in the matter from time to time and will adhere in future as well.
- (iv) That as per examination given in Para 2(g) the Clause 15.3 of the Scheme that "Change in Capital Clause and Change in Object Clause shall become operative on the Scheme become effective" while no such



changes are observed from the Scheme in respect of the Object Clause of the Petitioner Transferee Company. Hence, the same appears to be typographical error/copy paste error. The Petitioner Transferee Company undertakes and confirms the typographical/copy paste error and submits the revised Scheme as annexed herewith as **Annexure A** to place on record all the relevant facts of the matter and as this Tribunal directs.

15. In response to the notice, the Official Liquidator also filed his representations dated 27th September, 2019 in respect of all the four Petitioner Transfer Companies with this Tribunal on 30.09.2019 and desired this Tribunal to direct the Petitioner Transferor Companies to preserve their books of accounts, papers and records and shall not dispose of without prior permission of the Central Government as per the provisions of Section 239 of the Companies Act. 2013.
16. No representation is received either from the Income Tax Department or any other statutory authorities.
17. Further, the Petitioner Companies have placed on record, certificate from their Statutory Auditors certifying that the accounting treatment proposed in terms of Clause 13 of the Scheme is in conformity with the Accounting Standards prescribed under Section 133 of the Companies Act, 2013.
18. The Petitioner Companies have submitted that no proceeding/investigation is pending under the Sections 210-217, 219, 220, 223, 224, 225, 226 & 227 of the Companies Act, 2013 and / or Sections 235 to 251 of the Companies Act, 2013 and the like. The Petitioner Companies have also submitted that no winding up petitioners are pending against any of the Petitioner Companies.
19. Heard Ld. PCS for the Petitioner Companies and on perusal of the Scheme and documents on record with the Petition, this Bench is of the view that all the requirements of Section 230-232 of the Companies Act, 2013 are satisfied.



20. Thus considering the aforesaid facts and explanations, the Scheme appended with the affidavit dated 15th October, 2019 as **"Annexure-A"** is hereby sanctioned and the petition is allowed.
21. Filing and issuance of drawn up order is hereby dispensed with. All concerned authorities to act on a copy of this order along with the Scheme duly authenticated by the Registrar of this Tribunal. The Registrar of this Tribunal shall issue the authenticated copy of this order along with Scheme immediately.
22. The Petitioner Transferor Companies are directed to preserve their books, papers, accounts and shall not dispose of without the prior permission of the Central Government.
23. The amount towards legal fees /expenses incurred by the office of the Regional Director in respect of the petitioner company is quantified at Rs. 62,500/- which shall be paid by the Petitioner Transferee Company to the Regional Director at Ahmedabad. The amount towards legal fees/expenses incurred by the Official Liquidator is quantified at Rs. 60,000/- which shall be paid by the Petitioner Transferee Company to the Official Liquidator.
24. The Petitioner Transferor Companies are further directed to lodge a copy of this order, the schedule of immovable assets of the Petitioner Transferor Companies as on the date of this order and the Scheme duly authenticated by the Registrar of this Tribunal with the concerned Superintendent of Stamps for the purpose of adjudication of Stamp duty, if any, on the same within 60 days from the date of this order.
25. The Petitioner Companies are directed to file a copy of the order along with the copy of the Scheme with the concerned Registrar of Companies electronically along with INC-28 in addition to the physical copy as per relevant provisions of the Act.
26. CP(CAA) No. 114 of 2019 is hereby allowed and dispose


Chockalingam Thirunavukkarasu
Member (Technical)


Ms. Manorama Kumari
Member (Judicial)

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