



**NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH (COURT-II), CHANDIGARH**

**CP (CAA) No. 38/CHD/HRY/2023
(2nd Motion)**

(An Application under sections 230 to 232 of the Companies Act, 2013, read with the Companies (Compromises, Arrangements and Amalgamations Rules), 2016)

IN THE MATTER OF THE SCHEME OF AMALGAMATION:

MAKESENSE TECHNOLOGIES LIMITED

having its registered office at
Plot No. 123, Sector-44,
Gurugram - 122 001, Haryana.
CIN: U74999HR2010PLC092002,
PAN: AAGCM7642H

.... Petitioner Company No. 1/ Transferor Company

AND

PB FINTECH LIMITED

having its registered office at
Plot No. 119, Sector 44,
Gurugram - 122 001, Haryana.
CIN: L51909HR2008PLC037998,
PAN: AACCE0182A

.... Petitioner Company No. 2/ Transferee Company

Order delivered on: 29.08.2025

**Coram: MR. KHETRABASI BISWAL, MEMBER (JUDICIAL)
MR. KAUSHALENDRA KUMAR SINGH, MEMBER (TECHNICAL)**

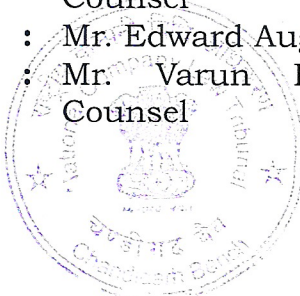
Present:

For the Petitioner : Mr. Atul V Sood, Advocate
Companies

For the Income Tax : Mr. Varun Issar, Senior Standing
Department Counsel

For the Official Liquidator : Mr. Edward Augustine George, Advocate

For the RD/ROC : Mr. Varun Issar, Senior Standing
Counsel





ORDER

1. This is a Joint Second Motion Petition filed by **Makesense Technologies Limited** (hereinafter referred to as 'Petitioner Company No.1'/ 'Transferor Company'), and **PB Fintech Limited**, (hereinafter referred to as 'Petitioner Company No. 2'/ 'Transferee Company') (hereinafter collectively referred to as 'Petitioner Companies') under sections 230 – 232 of the Companies Act, 2013 (hereinafter referred to as "**Act**") read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (hereinafter referred to as "**Rules**"), for seeking sanction of the Scheme of Amalgamation (hereinafter referred to as "**Scheme**") between the Petitioner Companies and their respective shareholders and creditors on a going-concern basis and the dissolution of the Petitioner Company No. 1 without following the process of winding-up. The copy of the Scheme has been annexed as Annexure P-1 to the Petition.
2. The Petitioner Companies jointly filed their First Motion Application bearing CA(CAA)No.23/Chd/Hry/2023 before this Tribunal for seeking directions for convening the meeting of equity shareholders of both the Applicant Companies and unsecured creditors of the Transferee Company. The Tribunal vide Order dated 05.07.2023, issued directions for convening the meeting of equity shareholders of both the Applicant Companies and unsecured creditors of the Transferee Company. It was further noted that there were no Secured and Unsecured Creditors in the Transferor Company and no Secured Creditors in the Transferee Company. Therefore, there was no requirement for convening their meetings.

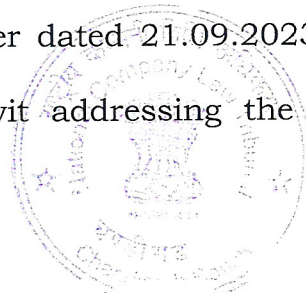


3. The main objectives, authorized and paid-up share capital, and the Rationale of the Scheme had been discussed in detail in the first motion Order dated 05.07.2023.

4. In the Second Motion proceedings, this Tribunal vide Order dated 04.10.2023, directed the Petitioner Companies to publish a notice of hearing in two newspapers, namely, "The Financial Express" in English Language and "Jansatta" in Hindi language in Delhi NCR Edition, calling for objections. This Tribunal also directed the Petitioner Companies to issue a notice of hearing of the Petition to the respective statutory and regulatory authorities. The Petitioner Companies filed an Affidavit, vide Diary Nos 03005/3 and 03005/4, dated 13.11.2023, confirming Compliance with the above Order.

4.1 It is further stated that the notice of Company Petition was served upon the Authorities, namely (i) Central Government through the Office of the Regional Director, Northern Region, Ministry of Corporate Affairs, New Delhi; (ii) the Registrar of Companies, NCT of Delhi & Haryana; (iii) the Official Liquidator; (iv) the Reserve Bank of India ; (v) the Bombay Stock Exchange ; (vi) the National Stock Exchange; (vii) Security Exchange Board of India (viii) Income Tax Department through the Nodal Officer in the office of Principal Commissioner of Income Tax, North Western Region at Aayakar Bhawan, Sector 17-E, Chandigarh. It was further submitted by the Petitioner Companies that they have not received any objections from the public pursuant to the publication of the notices.

5. This Tribunal vide Order dated 21.09.2023, directed the Petitioner Companies to file an Affidavit addressing the non-applicability of the





Competition Commission Act, 2002, and the applicability/non-applicability of GST, along with compliance thereof. In compliance with the same, an Affidavit vide Diary No. 03005/1, 03005/2 dated 03.10.2023 were submitted by the Petitioner Companies wherein it's stated that the value of assets and consolidated turnover of Petitioner Company No. 1 for the financial year ending 31.03.2022 were INR 4,125.55 crore and NIL, respectively, falling below the small target exemption thresholds of INR 350 crore and INR 1,000 crore as per Section 5(c) of the Competition Act. Since the turnover is less than the threshold limit, therefore, it would not require the previous approval of the Competition Commission of India. Furthermore, Petitioner Company No. 2 disclosed outstanding GST dues amounting to INR 9,35,260/- as of 30.08.2023, which will be settled in the ordinary course of business, and confirmed no pending GST-related litigations.

6. In response to the abovementioned notices, the regulatory authorities have furnished their replies:

6.1 Registrar of Companies, NCT of Delhi & Haryana/ Regional Director (Northern Region), Ministry of Corporate Affairs, New Delhi

The Regional Director (Northern Region), Ministry of Corporate Affairs, New Delhi (hereinafter referred to as "**RD**") has filed its report along with the report of the Registrar of Companies (hereinafter referred to as "**ROC**"). The Observations of the RoC and the response by the Petitioner Companies have been summarised in the Table below:-



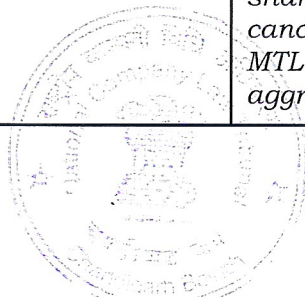


S. No	Observations of the RoC	Response by the Petitioner Companies to the Report of RoC								
(1)	As per MCA General Circular no. 9/2019 dated 21.08.2019, if the appointed date is significantly ante-dated beyond a year from the date of filing, the justification for the same would have to be specifically brought out in the scheme, and it should not be against public interest. In this case, the appointed date is 01.04.2022. However, the justification of the same being ante-dated is not clearly brought out in the Scheme.	The Petitioner Companies submitted the following chronological sequence of events: <table><tr><th>Date</th><th>Chronological sequence of events</th></tr><tr><td>26.04.2022</td><td>The Board of Directors of the Petitioner Companies approved the Scheme with an Appointed Date as 01.04.2022.</td></tr><tr><td>20.05.2022</td><td>The Scheme, along with requisite documents, was filed with BSE and NSE in compliance with Regulation 37 of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 ("SEBI LODR").</td></tr><tr><td>06.01.2023</td><td>BSE and NSE issued their no adverse observation letters to the Transferee Company.</td></tr></table> Since the equity shares of the Transferee Company are listed on BSE and NSE, in terms of Regulation 37 of the SEBI LODR, the Transferee Company was required to file the Scheme and other requisite documents with BSE and NSE prior to filing the Scheme with the Tribunal. The Board of Directors of the Petitioner Companies had approved the Scheme in their meeting held on 26.04.2022, wherein the Appointed Date of 1.04.2022 was fixed. Thereafter, the Scheme, along with necessary documents, was filed by the Transferee Company with the stock exchanges on 20.05.2022, seeking approval from the stock exchanges as per the requirement of Regulation 37 of the SEBI LODR. Due to the time involved in seeking no adverse observation letters from BSE and NSE, and due to the efflux of time, the Petitioner Companies filed the captioned Company Application and captioned Company Petition with the Tribunal after receipt of the said observation letters.	Date	Chronological sequence of events	26.04.2022	The Board of Directors of the Petitioner Companies approved the Scheme with an Appointed Date as 01.04.2022.	20.05.2022	The Scheme, along with requisite documents, was filed with BSE and NSE in compliance with Regulation 37 of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 ("SEBI LODR").	06.01.2023	BSE and NSE issued their no adverse observation letters to the Transferee Company.
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06.01.2023	BSE and NSE issued their no adverse observation letters to the Transferee Company.									
(2)	As per the financial statement of the Transferor Company for the F.Y.2022-23, it is seen that the company has 'nil' revenue from its operation since the last two years. Hence, the company	In terms of Section 455 of the Act, where a company is formed and registered under the Act for a future project or to hold an asset or intellectual property and has no significant accounting transaction, such a company or an inactive company may make an application to the								

	appears to be dormant u/s 455 of the Companies Act, 2013.	jurisdictional Registrar of Companies in such manner as may be prescribed for obtaining the status of a dormant company. Further, explanation (i) to Section 455 of the Act states that an "inactive company" means a company which has not been carrying on any business or operation or has not made any significant accounting transaction during the last two financial years or has not filed financial statements and annual returns during the last two financial years. In terms of Section 455(4) of the Act, in case of a company that has not filed financial statements or annual returns for two financial years consecutively, the jurisdictional Registrar of Companies shall issue a notice to that company and enter the name of such company in the register maintained for dormant companies. It is submitted that the Transferor Company does not qualify as a "dormant company" as per Section 455 of the Act for the following reasons: (a) The Transferor Company is not formed and registered under Section 455 of the Act for any future project or to hold an asset or intellectual property. (b) The Transferor Company is not an inactive company, as it has been fully compliant with all the statutory requirements, including filing of financial statements (e-form AOC-4) and Annual returns (e-form MGT-7) for the last two financial years, i.e., 2021-22 and 2022-23; (c) The Transferor Company has not received any notice from the jurisdictional Registrar of Companies to enter its name in the register of dormant companies. (d) As per the MCA Master Data, under the ACTIVE Compliance tab, the status of the Transferor Company is shown as 'ACTIVE compliant'. Considering the aforesaid facts, the Transferor Company cannot be classified as a dormant company under Section 455 of the Act.
3)	As per the financial statement of the Transferor Company for the F.Y.2022-23, the Company has incurred a cash loss during the year INR 322,000/- and during the previous year INR 628,000/-.	The nature of the said observation is factual. The Transferor Company had an income of INR 6,43,000/- and INR 6,54,000/- for the financial years ended as on 31.03.2022 and 31.03.2023 respectively; and in its ordinary course of business, the Transferor Company had incurred expenses amounting to INR 12,71,000/- and INR 9,76,000/- for the financial years ended as on 31.03.2022 and 31.03.2023 respectively, w.r.t. legal and professional expenses, interest on short/late deposit of TDS and miscellaneous expenses including auditors' remuneration. As a result of the aforesaid, the Transferor Company has incurred cash losses of INR



		6,28,000/- and INR 3,22,000/- for the financial years ended as on 31.03.2022 and 31.03.2023, respectively.
4)	The consideration Clause in the Scheme is not clear. The share exchange ratio has not been properly calculated.	The consideration for the proposed Scheme is calculated basis the Fair Equity Share Exchange Ratio report issued by SSPA & Co. ("Registered Valuer") dated April 26, 2022. Further, the Transferor Company currently holds 5,98,90,000 equity shares of the Transferee Company and pursuant to effectiveness of the Scheme, the entire shareholding of the Transferor Company in the Transferee Company will be cancelled and the shareholders of the Transferor Company would be issued same number of fully paid up equity shares of the Transferee Company, which they own indirectly through their holding in the Transferor Company. The relevant extract of the Fair Equity Share Exchange Ratio Report prescribing the basis for the determination of the Fair Exchange Ratio has been reproduced below: <i>"6.1 Transferor Company ("MTL") as on the date of this report holds 5,98,90,000 equity shares of face value of INR 2 each fully paid-up of Transferee Company ("PBFL"). Upon the effective date, pursuant to the amalgamation of MTL with PBFL, the entire shareholding of MTL in PBFL will be cancelled and the shareholders of MTL would be/issued the same number of fully paid-up equity shares of PBFL which they own indirectly through their holding in MTL as on the effective date. Pursuant to the amalgamation, there would be no change in the paid-up share capital of PBFL. As mentioned above, post amalgamation the shareholders of MTL will hold the same number of shares as MTL holds in PBFL. Consequently, there is no impact on the shareholding pattern of other shareholders of PBFL and therefore no valuation of PBFL and MTL is required.</i> <i>6.2 Upon the Scheme becoming effective, there is no additional consideration being discharged under the Scheme except the same number of shares of PBFL being issued to the shareholders of MTL in lieu of shares held by MTL in PBFL respectively (which will get cancelled).</i> <i>Thus, for every fresh issue of share of PBFL to the shareholders of MTL, there is a corresponding cancellation of an existing PBFL share as held by MTL. Also, there would be no change in the aggregate shareholding of other shareholders in</i>



		<i>PBFL, and it shall not affect the interest of other shareholders of PBFL."</i> A complete set of Fair Equity Share Exchange Ratio Report and fairness opinion dated April 26, 2022, issued by the Securities and Exchange Board of India (SEBI) registered Category-1 Merchant Banker has already been submitted as Annexures in the first Motion Application and Second Motion Petition. In view of the above, it is stated that the consideration clause in the Scheme is clear and fair.
5)	As per the financial statement of the Transferee Company for the F.Y. 2022-23 auditor has mentioned that the company has made investments in 3 companies and 18 mutual fund schemes during the year. In this regard company may be asked to ensure compliance with the provisions of section 186 of the Act.	In regard to the investments stated in the financial statements for the financial year ended March 31, 2023, the Transferee Company had obtained requisite approvals in compliance with Section 186 and other relevant provisions of the Act. The Transferee Company is fully committed to ensuring compliance with all statutory provisions, including those outlined in Section 186 of the Act.
6)	As per the financial statement of the Transferee Company for the F.Y. 2022-23, there are pending statutory dues amounting to Rs. 6,845.47 Lakhs (out of which Rs 533.37 Lakhs were deposited), which have not been deposited on account of a dispute.	The Income Tax Authorities had raised a recent tax demand against the Transferee Company, and the Transferee Company has already filed an appeal against such demand along with a stay of demand application with the Income Tax Authorities. An amount of Rs. 6,845.47 lakhs, as mentioned by the ROC, is not in the nature of statutory dues but has been recognised as a contingent liability as per the applicable accounting standards in the financial statements of the Transferee Company. Also, the Transferee Company will not be dissolved pursuant to the Scheme but rather continue to exist. Accordingly, any pending statutory dues would be paid by the Transferee Company in compliance with the applicable laws.
7)	Refer to Clause 12 of Part II of the scheme, the Transferee Company may kindly be directed to comply with the provisions of section 232(3)(i) of the Companies Act, 2013, in regard to the fee payable on its revised authorized share capital, if applicable.	In terms of Clause 12 of the Scheme, upon the Scheme becoming effective, the authorized share capital of the Transferor Company will stand combined with the authorized share capital of the Transferee Company. The Transferee Company undertakes that it shall comply with the provisions of section 232(3)(i) of the Companies Act, 2013. The fees payable by the Transferee Company on clubbing of the authorised share capital of the Transferor Company shall be set off against the fees already paid by the Transferor Company for its share capital in accordance with the provisions of Section 232(3)(i)



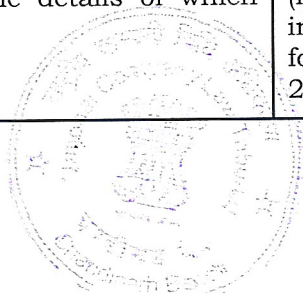
		of the Act.
8)	Furthermore, directed to comment on the compliance of significant Beneficial Ownership and crossholding provisions under section 67 of the Companies Act, 2013, along with documentary proof	In compliance with the provisions of Section 90 of the Act, there is no significant beneficial owner in the Transferor Company and the Transferee Company. Further, the Transferor Company currently holds 13.2793% of the paid-up equity share capital of the Transferee Company. Also, the Transferee Company does not hold any shares in the Transferor Company.

During the hearing of the matter on 29.05.2025, Mr. Krishan Paul Dutt, Company Prosecutor for the RD/ROC, stated that the observation made on behalf of the RD/ROC will have no impediments in sanctioning the Scheme.

6.2 Official Liquidator (Attached to Punjab & Haryana High Court)

The Official Liquidator has reproduced the information on the incorporation of the Petitioner Companies, their capital structure, financial highlights, etc. The Official Liquidator has also reproduced the extracts of Clauses incorporated in the Scheme, as well as its share consideration. In Para 9 of the OL's report, certain observations have been made. In response to those observations, the Petitioner Companies filed a reply via email dated 16.01.2024, with the office of the OL. The same has been summarised in the table below-

S. No	Observations of the OL	Response by the Petitioner Companies to the Report of OL
(a)	Para 9 (a) - As per the audit report of M/s Kishan Seth and Associates as on 31.3.2023, the Company has incurred cash losses during the year and the immediately preceding financial year, the details of which are as follows:	The Petitioner Company No. 1 states that the nature of the said observation is factual in nature. The Petitioner Company No. 1 further states that: (i) the Petitioner Company No. 1 had an income of INR 6,43,000/- and INR 6,54,000/- for the financial years ended as on 31 March 2022 and 31 March 2023, respectively; and





	<table border="1"> <thead> <tr> <th>S. No.</th><th>Financial Year</th><th>Amount of Cash Loss (Rs. 000)</th></tr> </thead> <tbody> <tr> <td>1.</td><td>2021-22</td><td>628</td></tr> <tr> <td>2.</td><td>2022-23</td><td>322</td></tr> </tbody> </table>	S. No.	Financial Year	Amount of Cash Loss (Rs. 000)	1.	2021-22	628	2.	2022-23	322	(ii) In its ordinary course of business, the Petitioner Company No. 1 had incurred expenses amounting to INR 12,71,000/- and INR 9,76,000/- for the financial years ended as on 31.03.2022 and 31.03.2023, respectively, w.r.t. legal and professional expenses, interest on short/late deposit of TDS, and miscellaneous expenses including auditors' remuneration. As a result of the aforesaid, the Petitioner Company No. 1 has incurred cash losses of INR 6,28,000/- and INR 3,22,000/- for the financial years ended as on 31.03.2022 and 31.03.2023, respectively.
S. No.	Financial Year	Amount of Cash Loss (Rs. 000)									
1.	2021-22	628									
2.	2022-23	322									
(b)	Para 9 (b)- As per the audited Balance sheet as on 31.03.2022, the Transferor Company have made adjustments in the Financial assets though the Profit or loss which impacted on the Value of Investment in Equity Shares of Transferee Company and on the other hand Profit and loss account for Rs. 38,28,24,37,000/- (Rs. 55461256000- Rs. 17179447000) details of which is given under the Note 22 (exceptional items) by the Auditor.	The Petitioner Company No. 1 stated that the said observation is factual in nature, being an observation specified in the audited financial statements of the Petitioner Company and of a past event which has no adverse effect on the Scheme. Further, the valuation for the Scheme has been undertaken by a Registered Valuer based on audited accounts of the Petitioner Company, which includes the said observation. The Petitioner Company No. 1 further stated that the Petitioner Company No. 2 had launched its Initial Public Offer, pursuant to which on 15.09.2021, the equity shares of the Petitioner Company No. 2 were listed on NSE & BSE (collectively referred to as "Stock Exchanges"). Prior to the said listing, the Petitioner Company No. 1 held 14.56% of the total paid up share capital of the Petitioner Company No. 2 and pursuant to the applicable Indian Accounting Standards read with the provisions of the Companies Act, 2013, the Petitioner Company No. 2 was regarded as an 'associate' of the Petitioner Company No. 1 and the said investments were recorded in the financial statements of the Petitioner Company No. 1 in accordance with Indian Accounting Standards 28. After said listing of equity shares of the Petitioner Company No. 2, the Petitioner Company No. 1 held 13.32% (presently 13.2793%) of the equity share capital of the Petitioner Company No. 2 and the Petitioner Company No. 2 was no longer an 'associate' of the Petitioner Company No. 1 and the said investments were recorded in the financial statements of the Petitioner Company No. 1 in accordance with Indian Accounting Standards 109. Further, in accordance with Indian Accounting Standards 109 and other applicable Indian Accounting Standards, the									



		Petitioner Company No. 1, in its audited financial statements for the financial year ended on 31.03.2022, has reported its investments in the share capital of Petitioner Company No. 2 in the following manner: <table><tr><th>Reporting Date</th><th>Unrealised mark to market gain/ (loss) (in INR)</th><th>Reporting head under the audited financial statement</th></tr><tr><td>Till the date of listing of equity shares of the Petitioner Company No. 2 on the Stock Exchanges</td><td>5546,18,84,000</td><td>Credited to the profit and loss account through an exceptional item</td></tr><tr><td>From the date of listing till the FY ended as on 31.03.2022</td><td>1717,94,47,000</td><td>Other comprehensive income</td></tr></table>	Reporting Date	Unrealised mark to market gain/ (loss) (in INR)	Reporting head under the audited financial statement	Till the date of listing of equity shares of the Petitioner Company No. 2 on the Stock Exchanges	5546,18,84,000	Credited to the profit and loss account through an exceptional item	From the date of listing till the FY ended as on 31.03.2022	1717,94,47,000	Other comprehensive income
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(c)	Para 9 (c)- <table><tr><th><i>Rationale of the proposed Scheme as per the Petition filed.</i></th><th><i>Observation of the Office of the Official Liquidator</i></th></tr><tr><td>Rationalization of costs, time, and efforts by eliminating multiple record keeping, administrative functions, and consolidation of financials through legal entity rationalization</td><td><i>Revenue from Operations:-</i> As per the audited profit and loss account for the previous three consecutive years, the company has only interest income, and the revenue from operations is "NIL". The Transferor Company is not doing any business, and</td></tr></table>	<i>Rationale of the proposed Scheme as per the Petition filed.</i>	<i>Observation of the Office of the Official Liquidator</i>	Rationalization of costs, time, and efforts by eliminating multiple record keeping, administrative functions, and consolidation of financials through legal entity rationalization	<i>Revenue from Operations:-</i> As per the audited profit and loss account for the previous three consecutive years, the company has only interest income, and the revenue from operations is "NIL". The Transferor Company is not doing any business, and	The detailed rationale of the proposed Scheme of Amalgamation of the Petitioner Company No. 1 with Petitioner Company No. 2 has been stated in Para C of the Scheme. The Petitioner Company No. 1 currently holds 13.2793% of the paid-up equity share capital of the Petitioner Company No. 2. The Petitioner Company No. 1 largely derives its value from its investment in the paid-up equity share capital of the Petitioner Company No. 2. Pursuant to the Scheme, the entire shareholding of the Petitioner Company No. 1 in the Petitioner Company 2 will be cancelled, and the shareholders of the Petitioner Company No. 1 will be issued the same number of fully paid-up equity shares of the Petitioner Company No. 2, which they own indirectly through their holding in the Petitioner Company No.1. Hence, the shareholders of the Petitioner Company No. 1 are and will, upon the effectiveness of the Scheme, remain the ultimate beneficial owners of the Petitioner Company No. 2 in the same ratio (inter-se) as they hold shares of Petitioner Company No. 2					
<i>Rationale of the proposed Scheme as per the Petition filed.</i>	<i>Observation of the Office of the Official Liquidator</i>										
Rationalization of costs, time, and efforts by eliminating multiple record keeping, administrative functions, and consolidation of financials through legal entity rationalization	<i>Revenue from Operations:-</i> As per the audited profit and loss account for the previous three consecutive years, the company has only interest income, and the revenue from operations is "NIL". The Transferor Company is not doing any business, and										

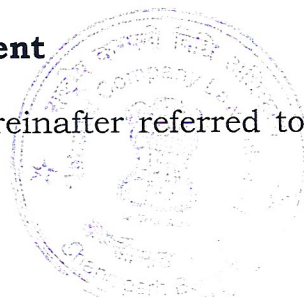


	the rationale does not seem justified.	through Petitioner Company No. 1 prior to the Scheme. Thus, the proposed Scheme will result in various benefits viz. streamlining corporate structure, i.e., having one consolidated entity, instead of two; significant reduction in multiplicity of legal and regulatory compliances; rationalisation of cost, time, and efforts; reduction of administrative responsibilities, etc., by merging the Petitioner Company No. 1 with the Petitioner Company No. 2. Therefore, Scheme is in the best interests of the shareholders, employees and the creditors of the Petitioner Company No. 1 and the Petitioner Company No. 2.
Polling of resources of the Transferor Company with the resources of the Transferee Company.	Rotations of funds:- As per the audited balance sheet of the company, the major source of funds for the Transferor Company is Shareholders' funds, i.e, Rs. 3425.32 crores, and the major assets of the company are Non-current investment of Rs. 3827.28 crores, out of which Rs. 3826.07 crores represent the investment in the Transferee Company.	

Furthermore, the OL has submitted an additional Report, whereby it is stated that Observation 'a' is factual, confirming that the Transferor Company has incurred cash losses in the preceding two years. Observation 'b' indicates that the Transferor Company has made adjustments under exceptional items in the profit and loss account, resulting in a reported profit of Rs. 3,390.22 crore, despite operational income of only Rs. 6.43 lakhs. Observation 'c' was accepted, considering the economies of scale. It is further prayed by the OL that the matter be decided on the merits by the Tribunal.

6.3 The Income Tax Department

The Income Tax Department (hereinafter referred to as 'ITD') has filed its





report with respect to Petitioner Companies vide Diary No. 03005/10 dated 22.05.2024, Diary No. 03005/11 dated 10.07.2024, and special dy. No. 71 dated 30.04.2024.

6.3.1 The ITD, vide its report dated 08.07.2024, with respect to the Transferee Company, had stated that a demand of Rs. 33,24,12,409/- is pending and has sought that the pending tax proceedings against it to be continued. The demand/due pendings as available on the ITBA system have been stated in the table below:-

A.Y.	Date of Order	Demand Outstanding	Amount Collectable
2016-17	29.03.2024	166904389/-	166904389/-
2016-17	28.02.2019	160314480/-	160314480/-
2012-13	30.03.2019	1938643/-	1938643/-
2014-15	23.02.2017	3254897/-	3254897/-
		Total =	33,24,12,409/-

6.3.2 The ITD, in its reports dated 23.04.2024, submitted that they have an objection to the proposed Scheme as this transaction is evidently a tax avoidance Scheme wherein there will be substantial revenue loss to the department, if the said scheme is approved as it is proposed. The details of tax implications on the proposed scheme, as per the Income Tax Act, 1961, as submitted by the ITD, are as under:-

(a) Capital Gains implication in the hands of Makesense Technologies Limited:

As per the submission made by the assessee, the closing market price of equity shares of PB Fintech Limited as on the Appointed Date, i.e., 01.04.2022, was Rs. 727.95 on the Bombay Stock



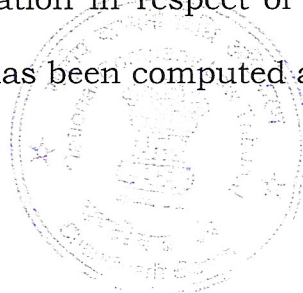
Exchange and Rs. 728.25 on the National Stock Exchange, resulting in an average market price of Rs. 728.10 per share. Based on this average, the total market value of 5,98,90,000 equity shares held by the assessee, Makesense Technologies Limited, is computed at Rs. 4,360,59,09,000. The cost of acquisition of the said shares, as reported by the assessee, is Rs. 323,03,16,094. Accordingly, the Long-Term Capital Gain arising from the transaction amounts to Rs. 4,037,55,92,906 (Rs. 4,360,59,09,000 minus Rs. 323,03,16,094). Thus, as per the provisions of the Income Tax Act, 1961, the assessee would earn long-term capital gain of Rs. 4037,55,92,906 with tax implication as under:

Name	Tax amount to be paid	Surcharge	Ed. Cess	Total Tax
Makesense Technologies Limited	403,75,59,290	48,45,07,115	18,08,82,656	470,29,49,061

However, by way of the proposed scheme, the assessee is trying to avoid the payment of Rs. 470,29,49,061 statutory taxes.

(b) Dividend tax implications in the hands of the investors receiving shares:

Further, as per the proposed scheme, the investors are supposed to receive shares of PB Fintech Limited of huge value without payment of capital gains tax and tax on dividends, which is again a part of a tax avoidance mechanism. As per the provisions of the Income Tax Act, the dividend tax implication in respect of the shares received free of cost by the investors has been computed as follows:

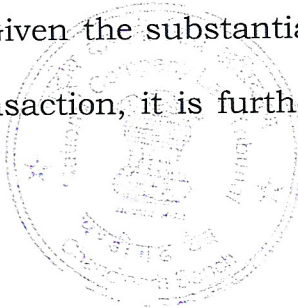




The total market value of 5,98,90,000 equity shares of PB Fintech Limited as on the Appointed Date, i.e., 01.04.2022, amounts to Rs. 4,360,59,09,000. Out of the said amount, a sum of Rs. 403,75,59,290 is attributable to the capital component. Accordingly, the balance amount of Rs. 3,956,83,49,710 shall be considered as deemed dividend under the applicable provisions of the Act, and is liable to tax in the hands of the recipients. The main investors in the said company are Info Edge (India) Limited and Macritchie Investment Pvt. Ltd., with shareholding percentages of 50.0045% and 49.9949% respectively. Accordingly, the dividend tax to be paid by these assessee is as under:

Name	% of share s held	Total amount eligible to be paid as Dividend (in INR)	Share to be paid assessee in proportion to the percentage	% of tax	Tax amount to be paid	Surcharge	Ed. Cess	Total Tax
Info Edge (India) Limited	50.004530	39,56,83,49,710	19,78,59,55,431	30	5,93,57,86,629	71,22,94,395	26,59,23,241	691,40,04,265
Macritchi Investment Pvt. Ltd.	49.9949	39,56,83,49,710	19,78,21,56,869	10	1,97,82,15,686	9,89,10,784	8,30,85,059	216,02,11,529

It is submitted that the Scheme of Amalgamation, if approved, may be sanctioned subject to the condition that the assessee deposits the applicable tax liabilities amounting to a total of Rs. 1377,72,25,739 (comprising Rs. 470,29,49,061 and Rs. 907,42,76,678). Given the substantial tax implications arising from the proposed transaction, it is further submitted that the assessee

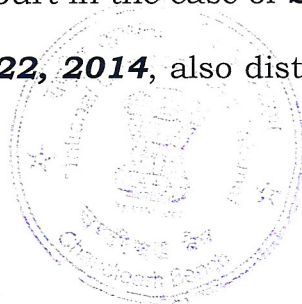




be directed to deposit the aforesaid tax amounts prior to the approval of the Scheme, in order to prevent any potential leakage or avoidance of statutory tax liability that could result in loss of revenue to the Department.

6.3.3 In response, the Petitioner Companies filed a joint Affidavit vide Diary No. 03005/13 dated 15.04.2025 and a Note vide Diary No. 03005/14 dated 10.06.2025. It was submitted that the Petition is in compliance with Section 2(1B) of the Income Tax Act, 1961, and shall be tax-neutral for the Transferor Company, the Transferee Company, and their respective shareholders. The Scheme provides commercial rationale and is for streamlining the corporate structure, and the shareholders of Transferor Company shall have independent decision-making. Additionally, the intent of the management of Transferor Company /shareholders of Transferor Company was not to immediately sell the shares of Transferee Company in the market but to enable the shareholders of Transferor Company to have independent and direct participation in the decision-making by streamlining the corporate structure.

6.3.4 Furthermore, the reliance has been placed upon the Hon'ble Supreme Court in **Vodafone International Holdings - (2012) 341 ITR 1 (SC) and Azadi Bachao Andolan (2004) 10 SCC 1 (SC)**, wherein taxpayer's right to arrange their affairs and structure the transactions in a beneficial way within the confines of law has been upheld. The judgment of the Hon'ble Delhi High Court in the case of **Shiv Raj Gupta (ITA No. 41 of 2002) dated December 22, 2014**, also distinguished between tax evasion





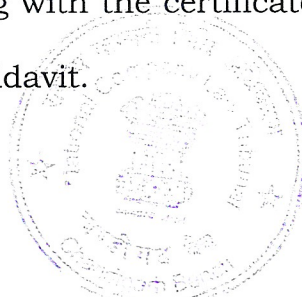
and a beneficial way of structuring a transaction by the taxpayer. The Hon'ble Delhi High Court has held as follows:

"50.As long as the choice is within the framework of law, the Assessing Officer cannot disturb the tax effect or liability, which is the consequence of the event. The choice of the assessee is not abrogated or invalidated....

The choice might result in mitigation of tax liability, but the tax effect would not classify or help us differentiate between tax avoidance and abusive tax avoidance. Any attempt to minimize or eliminate tax liability would not make the choice of the taxpayer abusive tax avoidance..."

It was further submitted that the management had evaluated various options to achieve the aforesaid stated objective. Amongst the available options, the management of Transferor Company, after due deliberation, decided that the proposed Scheme seemed the most feasible option, from a commercial, corporate law, and regulatory perspective.

6.3.5 The Petitioner Companies submitted that the sanction of the Scheme shall in no way be taken to prejudice the rights of the Income Tax Department to recover any dues or initiate any proceedings after the approval of the Scheme. The Income tax department is entitled at the time of assessment to evaluate the income tax return filed by the Transferor Company and the Transferee Company in accordance with the applicable law. The relevant parties shall pay taxes as per the applicable tax law and undertake required tax compliance. Furthermore, the Petitioner Company No. 1, by way of the above Affidavit, has filed the No Objection Certificate issued by the Income Tax Officer, Mumbai, vide email dated 21.12.2023. The copy of the email, along with the certificate/report, has been annexed as Annexure A-1(i) to the Affidavit.





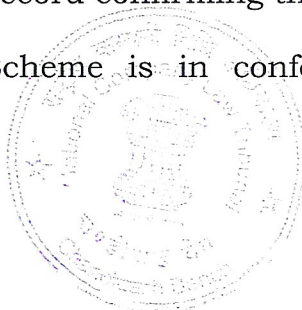
6.4 National Stock Exchange and Bombay Stock Exchange

The Petitioner Companies filed the Scheme along with the requisite documents with the National Stock Exchange (hereinafter referred to as “NSE”) & Bombay Stock Exchange (hereinafter referred to as “BSE”). In terms of the provisions of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, and other applicable provisions, if any, BSE and NSE have given their No-Objection /Observation letter dated 06.01.2023 for the proposed Scheme. The Copies of the Observation letter of BSE & NSE for the proposed Scheme are annexed as Annexure P-12 and P-13 respectively, to the Petition.

6.5 Reserve Bank of India

The Petitioner Companies filed an Affidavit vide Diary No. 03005/4 dated 13.11.2023, stating that the notice to the Reserve Bank of India (hereinafter referred to as “RBI”) was duly served on 25.10.2023, but no response was filed by RBI. As stated under sub-section (5) of section 230 of the Act, if no representation is received within thirty days from the date of receipt of the notice, it shall be presumed that they have no representation to make on the proposed Scheme. Therefore, it is presumed that the RBI has no representation to make on the Scheme.

7. In compliance with the proviso to clause (e) of sub-section (7) of Section 230 of the Companies Act, 2013, certificate from the statutory auditors of the Transferor Company and Transferee Company both dated 02.06.2024, are placed on record confirming that the accounting treatment as proposed under the Scheme is in conformity with the applicable





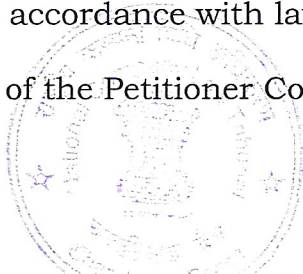
Accounting Standards prescribed under section 133 of the Companies Act, 2013 and the same have been annexed as Annexure P-18 to the Petition.

8. We have heard the learned Counsel for Petitioner Companies and have gone through the material available on record.

9. On the basis of the facts and submissions made by the learned Counsel and on perusal of the Scheme, it appears that the requirements of the provisions of sections 230 and 232 are satisfied by the Petitioner Companies and the proposed Scheme is bona fide and in the interest of the Shareholders and creditors, and accordingly approved.

10. Given the foregoing facts and discussion and upon considering the approval accorded by the members and creditors of the Petitioner Companies to the Scheme and observations of the Regional Director, Official Liquidator, and Income Tax Department being suitably addressed and no objection remaining of any other interested party, there does not appear to be any impediment in granting sanction to the proposed Scheme. As a result, the Company Petition is allowed, and the sanction is hereby granted to the Scheme of Amalgamation proposed by the Petitioner Companies. It is declared that the said sanctioned Scheme shall be binding on the Petitioner Companies and their shareholders, creditors, and all concerned under the Scheme.

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





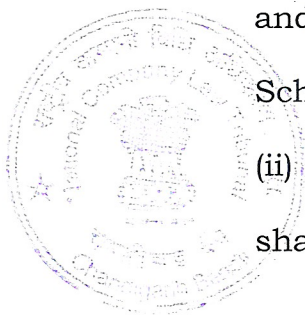
12. While approving the Scheme as above, we further clarify that this Order should not be construed as an order in granting any exemption from payment of stamp duty, taxes including Income Tax, GST etc. or any other charges, if any, and payment in accordance with law or in respect of any permission/compliance with any other requirement which may be specifically required under any law.

13. The Income Tax Department will be free to examine the aspect of any tax payable as a result of the sanction of the Scheme, and if it is found that the Scheme ultimately results in tax avoidance or is not in accordance with the applicable provisions of the Income Tax Act, then the Income Tax Department shall be at liberty to initiate appropriate course of action in accordance with the law. Any sanction of the Scheme under sections 230-232 of the Companies Act, 2013, shall not adversely affect the rights of the Income Tax Department or any past, present, or future proceedings, and the sanction of the Scheme shall not come in its way for the appropriate course of action as per law for the tax liabilities, if any.

14. Accordingly, this Tribunal orders as follows:

(i) The Scheme of Amalgamation contemplated between the Petitioner Companies, annexed as "Annexure P-1" with the Petition, is hereby sanctioned without the process of winding up, and it is declared that the same shall be binding on the Petitioner Companies and their shareholders, creditors, and all concerned under the Scheme.

(ii) All the property, right, and powers of the Transferor Company shall be transferred without further act or deed to the Transferee





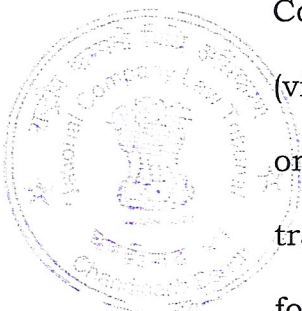
Company, and accordingly, the same shall pursuant to section 232 of the Act, be transferred to and vested in the Transferee Company for all the estate and interest of the Transferor Company but subject nevertheless to all charges now affecting the same;

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

(iv) All benefits, entitlements, incentives and concessions under incentive schemes and policies that the Transferor Company are entitled to include under Customs, Excise, Service Tax, VAT, Sales Tax, GST and Entry Tax and Income Tax laws, subsidy receivables from Government, grant from any governmental authorities, direct tax benefit/exemptions/deductions, shall, to the extent statutorily available and along with associated obligations, stand transferred to and be available to the Transferee Company as if the Transferee Company was originally entitled to all such benefits, entitlements, incentives and concessions;

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

(vi) All contracts of the Transferor Company which are subsisting or having effect immediately before the Effective Date, shall stand transferred to and vested in the Transferee Company and be in full force and effect in favour of the Transferee Company and may be



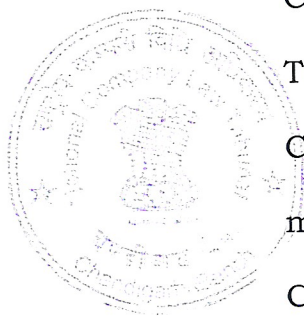


enforced by or against it as fully and effectually as if, instead of the Transferor Company, the Transferee Company had been a party or beneficiary or obliged thereto;

(vii) All the employees of the Transferor Company shall be deemed to have become the employees and the staff of the Transferee Company with effect from the Appointed Date, and shall stand transferred to the transferee Company without any interruption of service and on the terms and conditions no less favorable than those on which they are engaged by the Transferor Company, as on the Effective Date, including in relation to the level of remuneration and contractual and statutory benefits, incentive plans, terminal benefits, gratuity plans, provident plans and any other retirement benefits;

(viii) The Appointed Date for the Scheme shall be 01.04.2022 as specified in the Scheme;

(ix) Upon this Scheme becoming effective and in consideration for Amalgamation of the Transferor Company with the Transferee Company, in terms of this Scheme, the Transferee Company shall issue and allot equity shares to the shareholders of the Transferor Company whose names appear in the register of members of the Transferor Company as on the Record Date. The Transferee Company shall, without further application, allot to the existing members of the Transferor Company shares of the Transferee Company to which they are entitled under the said Scheme;



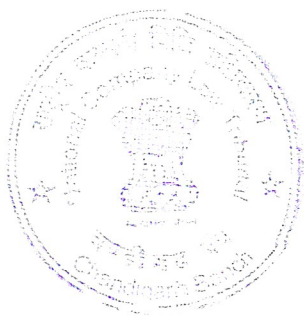


(x) The Transferee Company shall file the revised memorandum and articles of association with the concerned Registrar of Companies and further make the requisite payments of the differential fee (if any) for the enhancement of authorized capital of the Transferee Company, after setting off the fees paid by the Transferor Company.

(xi) The Petitioner Companies will furnish a self-certified copy of the approved Scheme and Schedule of Assets of the Transferred Undertaking to the Designated Registrar of this Tribunal. The Designated Registrar will issue a certified copy of this Order together with the authenticated copy of the approved Scheme and Schedule of Assets as its enclosures. All the Authorities are directed to act on the certified copy of this Order as issued by the Designated Registrar.

(xii) The Transferee Company is directed to file the certified copy of this Order along with the copy of Scheme and Schedule of Assets with the concerned Registrar of Companies, electronically along with e-form INC-28 in addition to a physical copy in e-form INC-28 within 30 days or an extended timeline with payment of additional fees, as may be applicable, from the date of receipt of the Order. Following that, the necessary steps shall be taken up by the Registrar of Companies.

(xiii) The Transferee Company is directed to lodge a copy of this Order and the approved Scheme and Schedule of Assets of the Transferee Company, duly authenticated by the Designated Registrar of this Tribunal, with the concerned Superintendent of Stamps, for





the purpose of adjudication of stamp duty, if any, within 60 days from the date of the Order, and

(xiv) Any person interested shall be at liberty to apply to this Tribunal in the above matter for directions that may be necessary.

15. All the concerned Regulatory Authorities are to act on a copy of this Order annexed with the Scheme, duly authenticated by the Designated Registrar of this Bench.

16. The Company Petition CP (CAA) No. 38/Chd/Hry/2023 is allowed and disposed of accordingly.



Sd/-

Kaushalendra Kumar Singh
Member (Technical)

Gitesh

Sd/-

Khetrabasi Biswal
Member (Judicial)

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DD/DR/AA/Court Officer
National Company Law Tribunal
Chandigarh Bench, Chandigarh