

IN THE NATIONAL COMPANY LAW TRIBUNAL,  
DIVISION BENCH - II, CHENNAI

CP(CAA)/111(CHE)2022

In

CA(CAA)/110(CHE)2021

(filed under Sections 230 to 232 of the Companies Act, 2013)

In the matter of Scheme of Arrangement (Merger)  
of

NAVARATHNA FINANCIAL SERVICES LIMITED

CIN NO- U65991TN2011PLC079596

Reg Off:-

2/102, Third Street (First Floor)

Karpagam Avenue, RA Puram,

Chennai- 600 028

Tamil Nadu

... 1<sup>st</sup> Petitioner/ Transferor Company

With

NAVARATHNA HOUSING FINANCE LIMITED

CIN No- U65922TN2015PLC100156

Reg Off:-

2/102, Third Street (First Floor)

Karpagam Avenue, RA Puram,

Chennai- 600 028

Tamil Nadu

... 2<sup>nd</sup> Petitioner / Transferee Company

And

Their Respective Shareholders & Creditors

(Order Pronounced on 10<sup>th</sup> July 2023)

CORAM

SANJIV JAIN, MEMBER (JUDICIAL)  
SAMEER KAKAR, MEMEBR (TECHNICAL)



Appearances:

For Petitioners

: Mr. Kumarpal R. Chopra, Advocate

For Mitraa Legal

For RD/RoC

: Mr. Avinash Krishnan Ravi, Advocate

For Official Liquidator

: Mr. Palani, Estate Assistant



ORDER

Per: SAMEER KAKAR, MEMBER (TECHNICAL)

(Heard through Video Conference)

CP(CAA)/111(CHE)/2022 is a joint Company Petition filed by the Petitioner Companies viz., NAVARATHNA FINANCIAL SERVICES LIMITED (for brevity "Transferor Company") and NAVARATHNA HOUSING FINANCE LIMITED (for brevity "Transferee Company") under section 230-232 of Companies Act, 2013, and other applicable provisions of the Companies Act, 2013 read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 in relation to the Scheme of Arrangement (Merger) (hereinafter referred to as the "SCHEME") proposed by the Petitioner Companies with its Shareholders.

The said Scheme is appended as Annexure 'A5' to the Petition.

2. The Scheme of Arrangement as contemplated between the Petitioner Companies involves, "Amalgamation of Transferor Company into the Transferee Company".

The Scheme is segregated into following parts:

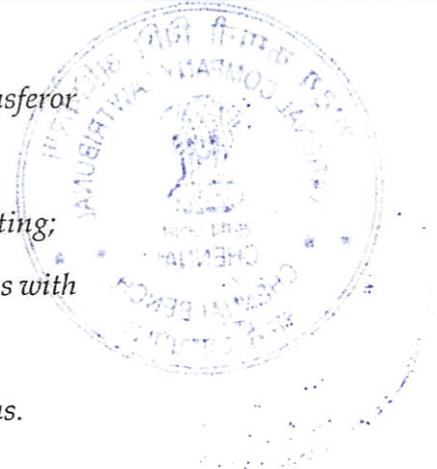
Part I – This part deals with introduction & definitions;

Part II – This part deals with the Share Capital of the Transferor & Transferee Company;

Part III – This part deals with the details of transfer & vesting;

Part IV - This part deals with the general terms & conditions with respect to the reorganization of Share Capital;

Part V- This part deals with the general terms & conditions.



### 3. RATIONALE OF THE SCHEME

It is stated that the amalgamation of the Transferor Company with the Transferee Company will result in various benefits for the parties including,

- *The transferor company is a RBI registered NBC entity and engaged in the business of banking and financial services. Pursuant to strategic review of the company's products and other banking products in india. The Transferor company has decided to merge with transferee company.*
- *The Merger is in line with the Transferee company's strategy to build sustainable and profitable banking finance and housing finance business in India. The transferor Company and the transferee Company expect significant synergies through various opportunities, operational movements, and scale efficiencies in banking finance and housing finance business.*
- *The Merger will result in consolidation of the businesses of the Companies' resulting in expansion of the consolidated business and creation of greater value for shareholders and all other stakeholders; and*
- *The Merger would be in the best interest of shareholders, creditors of the transferor company, as they would continue to play a part in the Indian banking finance and housing finance segment growth in view of the transferee company.*
- *The transferor and transferee companies are closely held and are owned and managed and controlled by the same group of Promoters and Directors i.e., Directors are common in the Transferor Company as well as in Transferee Company;*

#### 1<sup>ST</sup> MOTION APPLICATION

4.1 The Petitioner Companies had filed a joint First Motion Application vide CA(CAA)/110/CHE/2021. Based on such application moved under Sections 230-232 of the Companies Act, 2013, directions were issued by

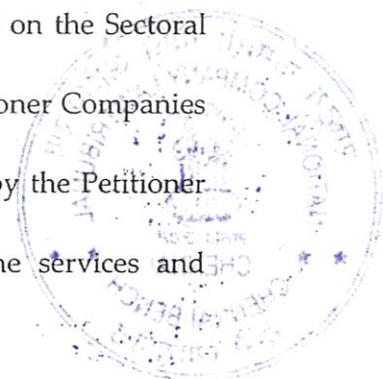


this Tribunal, vide Common order dated 11.02.2022, for holding/dispensation of meeting as follows;

	EQUITY SHAREHOLDERS	SECURED CREDITORS	UNSECURED CREDITORS	RENT DEPOSIT HOLDERS
TRANSFEROR COMPANY	<i>To Convene Meeting</i>	<i>To Convene Meeting</i>	<i>To Convene Meeting</i>	<i>To Convene Meeting</i>
TRANSFEE COMPANY	<i>To Convene Meeting</i>	<i>To Convene Meeting</i>	<i>To Convene Meeting</i>	<i>To Convene Meeting</i>

4.2 Subsequent to the said order dated 11.02.2022, an application in MA(CA)/18(CHE)/2022 in CA(CAA)/110(CHE)/2021 was filed seeking change in issue of publication as ordered by this Tribunal. The same was allowed vide order dated 09.03.2023. The meetings were conducted. The chairperson appointed filed the reports of the said meetings before the registry and the same were taken on record. Subsequent to the said reports, the petitioner companies filed the joint Company Petition before this Tribunal. Thereafter, on 14.12.2022, this Tribunal passed an order directing issuance of notice to the Sectoral Regulators and Authorities concerned and for publication in 'Business Standard' (English-All India Edition) and 'Dinamalar' (Tamil-Tamil Nadu Edition).

4.3 Pursuant to the said directions, notices were served on the Sectoral Regulators and other Authorities on 01.02.2023 by the Petitioner Companies and the publications as directed were made on 09.02.2023 by the Petitioner Companies. Individual Affidavit of service confirming the services and publications is placed on record vide Sr. no. 890/23.02.2023.



*[Handwritten signature]*

## 5. STATUTORY AUTHORITIES

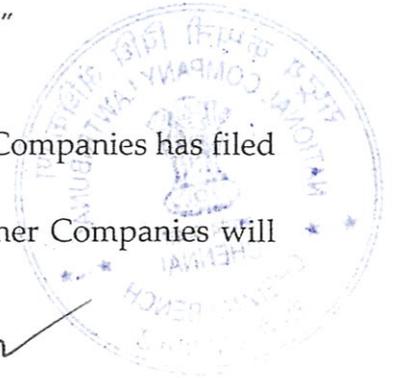
### 5.1. REGIONAL DIRECTOR

5.1.1 The Regional Director Southern Region, (*hereinafter referred to as 'RD'*) Chennai to whom the notice was issued, filed his Report dated 09.05.2023 before the Tribunal stating that they have *decided not to make any objection to the Scheme except for the observation at para 10 of the report, and it is therefore prayed that this Hon'ble National Company Law Tribunal Bench at Chennai may dispose of the matters on merits and pass such order/orders as deemed fit and proper.* The extract of the observations as mentioned above is as hereunder,

*"10) It is submitted that as per Clause 25 of Part IV of the Scheme provides for clubbing of Authorized share capital of the Companies, as such the aggregate Authorized Share Capital of the Transferor Company shall stand altered and merged with the Authorized Share Capital of the Transferee Company. Clause V of the MOA of the Transferee Company shall be altered as the authorised share capital of the Company shall be Rs. 20,50,00,000 divided into 2,05,00,000 equity shares of Rs. 10 each. It is therefore prayed that the Hon'ble National Company Law Tribunal, Chennai may direct the Transferee Company to pay the difference in fee/stamp duty and also to file the amended MOA and AOA with Registrar of Companies in connection with the proposed increase of Authorized share capital."*



The Authorized signatory of the Petitioner Companies has filed an affidavit to that effect undertaking that the Petitioner Companies will





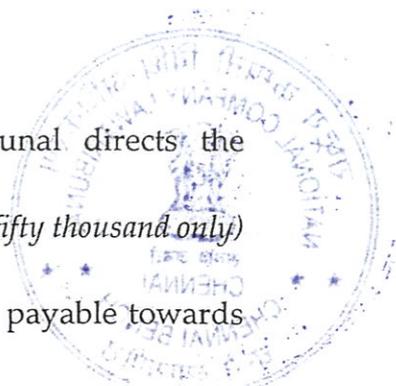
make adequate payment of fees as applicable and shall also file revised MOA and AOA with the RoC, Chennai.

5.1.3 It is seen from the report of RoC, Chennai that, the Petitioner Companies have filed their statutory returns up to 2021-2022 and reported that no prosecution / Inspection or Investigation is pending against the Companies involved in the Scheme.

## 5.2 OFFICIAL LIQUIDATOR

5.2.1 The Official Liquidator, (*hereinafter referred to as 'OL'*) Chennai to whom the notice was issued, filed his Report dated 15.11.2022 and has reported that having examined the books of accounts and records, other documents, annual reports and statutory books and registers, M/s. Khicha & Prabhu Kesavan, Chartered Accountants have observed that, the affairs of the Transferor Company have not been conducted in a manner which is prejudicial to the interest of members or to public interest. And has submitted that the this Tribunal may pass such order/orders which deem fit and proper in the facts and circumstances of the case.

5.2.2 The report is taken on record. This Tribunal directs the Transferor Company to pay a sum of Rs. 50,000/- (*Rupees fifty thousand only*) + GST to the Official Liquidator for the payment of fees payable towards the Auditor who has investigated into the affairs of the Transferor Company.





### 5.3 INCOME TAX DEPARTMENT

5.3.1 In spite of notice having been served to the Income Tax Department, there is neither any representation nor any report filed by the said authorities. In the said circumstances as per section 230(5) of the Companies Act, 2013, this Tribunal presumes that the said Department does not have any objection to the sanction of the Scheme.

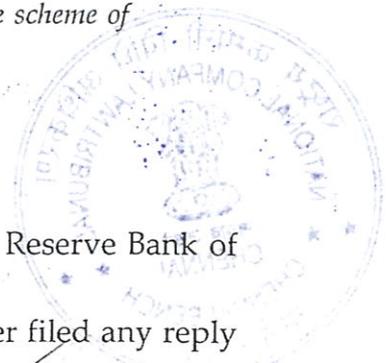
5.3.2 In Company Petition CAA-284/ND/2018 vide Order dated 12.11.2018, the NCLT New Delhi with a view to protect the interest of the revenue, has made the following observations with regard to the right of the IT Department in the Scheme of Amalgamation,

*"taking into consideration the clauses contained in the Scheme in relation to liability to tax and also as insisted upon by the Income Tax and in terms of the decision in RE: Vodafone Essar Gujarat Limited v. Department of Income Tax (2013)353 ITR 222 (Guj) and the same being also affirmed by the Hon'ble Supreme Court and as reported in (2016) 66 taxmann.com.374(SC) from which it is seen that at the time of declining the SLPs filed by the revenue, however stating to the following effect vide its order dated April 15,2015 that the Department is entitled to take out appropriate proceedings for recovery of any statutorily dues from the transferor or transferee or any other person who is liable for payment of such tax dues the said protection be afforded is granted. With the above observations, the petition stands allowed and the scheme of amalgamation is sanctioned."*



### 5.4 OTHER STATUTORY AUTHORITIES

In relation to the other statutory authorities namely, the Reserve Bank of India (RBI), to whom notices have been issued has neither filed any reply





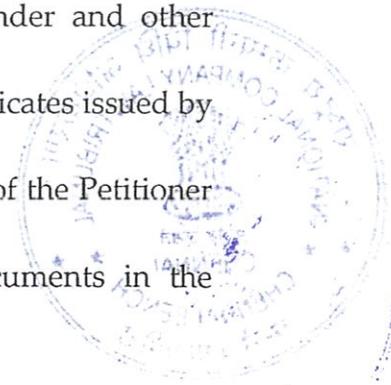
nor raised any objections to the Scheme. In the said circumstances, this Tribunal presumes that the authority concerned has no objection to the proposed scheme.

## 6. VALUATION & ACCOUNTING TREATMENT

6.1 From the valuation certificate given by Mr. Lalit Kumar Dangi, IBBI Registered Valuer. it is seen that the consideration for fair equity share exchange ratio for the proposed Merger is recommended as, "175 (one seventy-five) equity shares of NHFL of INR 10/- each fully paid up for every 100 (one hundred) equity shares of NFSL of INR 10/- each fully paid up."

6.2 The Learned Counsel for the Petitioner companies submits that the Statutory Auditor of the Petitioner companies has examined the Scheme and individually certified that the Petitioner companies have complied with proviso to Section 230 - 232 and the Accounting Treatment contained in the proposed Scheme of Arrangement (Merger) is in compliance with the Applicable Indian Accounting Standards notified under section 133 of the Companies Act, 2013 read with the rules made there under and other generally accepted accounting principles in India. The Certificates issued by

the Statutory Auditor certifying the Accounting Treatment of the Petitioner companies are placed along with the typed set of documents in the Company Petition.



*[Handwritten signatures]*

7. OBSERVATIONS OF THIS TRIBUNAL

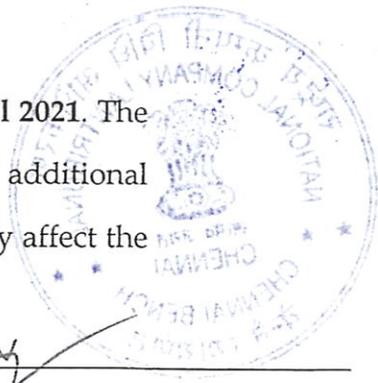
7.1. After analysing the Scheme in detail, this Tribunal is of the considered view that the scheme as contemplated amongst the Petitioner Companies *prima facie* would not be in any way detrimental to the interest of the shareholders of the Companies.

7.2 From the report of the RD we understand that no investigation proceedings are pending against the Companies under the provisions of the Companies Act, 1956 or the Companies Act, 2013 and no proceedings against the petitioner companies for oppression or mismanagement have been filed before this Tribunal or erstwhile Company Law Board.

7.3 Further, the Scheme does not require any modification as it appears to be fair and reasonable, not contrary to public policy and also not violative of any provisions of law. All the statutory compliances have been made under section 230-232 of the Companies Act, 2013 r/w the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. The Scheme of Arrangement (Merger) between the Petitioner Companies was duly approved by the shareholders of the respective companies.

7.4 In view of the absence of any other objections from regulatory authorities and statutory authorities, and since all the requisite statutory compliances have been fulfilled, this Tribunal *sanctions the Scheme of Arrangement (Merger)* appended with the Company Petition as well as the prayer made therein.

7.5 The Appointed date of the said Scheme is 1<sup>st</sup> April 2021. The said Scheme of Arrangement (Merger) will not cast any additional burden on the stakeholders and also will not prejudicially affect the interests of any class of the creditor/s in any manner.





7.6 Taking into consideration all the above, the Company Petition is allowed and the Scheme of Arrangement (Merger) annexed with the petition is hereby sanctioned which shall be binding on all the members, creditors and shareholders.

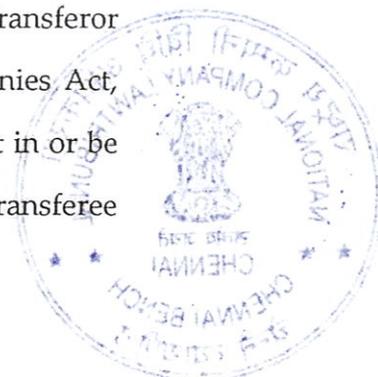
7.7 While approving the scheme as above, we clarify that this order will not be construed as an order granting exemption from payment of stamp duty or taxes or any other charges, if payable, as per the relevant provisions of law or from any applicable permissions that may have to be obtained or, even compliances that may have to be made as per the mandate of law.

7.8 The Companies to the said Scheme or other persons interested, shall be at liberty to apply to this Bench for any direction that may be necessary with regard to the working of the said Scheme. The Petitioner Companies shall file with the Registrar of Companies, the certified copy of this Order, within 30 days of the receipt of the order.

7.9 The Order of sanction to this Scheme shall be prepared by the Registry as per the relevant format provided under the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 notified on 14<sup>th</sup> December, 2016.

#### 8. THIS TRIBUNAL DO FURTHER ORDER

(i) That all properties, rights and interests of the Transferor Company shall, pursuant to Section 232(3) of the Companies Act, 2013 without further act or deed be transferred to and vest in or be deemed to have been transferred and vested in the Transferee Company in terms of the Scheme; and





(ii) That all the liabilities, powers, engagements, obligations and duties of the Transferor Company shall pursuant to Section 232(3) of the Companies Act, 2013 without further act or deed be transferred to and vest in or be deemed to have been transferred and vested in the Transferee Company in terms of the Scheme; and

(iii) That all proceedings now pending by or against the Transferor Company shall be continued by or against the Transferee Company; and

(iv) That all the employees/workmen of the Transferor Company in service on the date immediately preceding the date on which the Scheme finally takes effect shall become the employees of the Transferee Company without any break or interruption in their service with all the benefits, as existing on the date.

(v) That all proceedings now pending by or against the Transferor Company be continued by or against the Transferee Company.

(vi) The 'Effective date' shall have the meaning assigned to such term in Clause D of Part -I of the Scheme. – (a) the date on which the last of all the necessary consents, approvals, permissions, resolutions, agreements, sanctions and orders as are hereafter referred to have been obtained or passed; and (b) the date on which certified copies of the order of Hon'ble National Company Law Tribunal under Section 230-232 of the Act sanctioning the scheme and vesting the undertaking including the assets, liabilities, rights, duties, obligations and the like of the transferor company are filed with the registrar of Companies, Chennai.

(vii) That the Transferee Company do without further application allot to such members of the Transferor Company, as have not given such notice of dissent, as is required by Scheme of Arrangement





(Merger) herein the shares in the Transferee Company to which they are entitled under the said Scheme in terms of Clause 18, Part III of the Scheme.

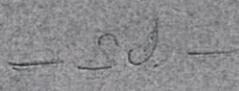
(viii) That the Transferee Company shall file the revised Memorandum and Articles of Association with the Registrar of Companies, concerned and further make the requisite payments of the differential fee (if any) for the enhancement of authorized capital of the Transferee Company after setting off the fees paid by the Transferor Company.

(ix) That the Petitioner Companies, shall within thirty days of the date of receipt of this order cause a certified copy of this order to be delivered to the Registrar of Companies for registration and on such certified copy being so delivered, the Transferor Company shall be dissolved without winding up and the Registrar of Companies shall place all documents relating to the Transferor Company on the file kept by him in relation to the Transferee Company and the files relating to all the said companies shall be consolidated accordingly.

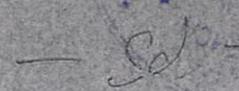
(x) That any person interested shall be at liberty to apply to the Tribunal in the above matter for any directions that may be necessary.

Accordingly, the Scheme annexed with the petition stand sanctioned and the Company Petition No. CP(CAA)/111(CHE)/2022 stands allowed. **Certified to be True Copy**





**SAMEER KAKAR**  
MEMBER (TECHNICAL)



**SANJIV JAIN**  
MEMBER (JUDICIAL)

  
13/7/2023  
**ASSISTANT REGISTRAR**  
**NATIONAL COMPANY LAW TRIBUNAL**