

(2024) 03 NCLT CK 0060

National Company Law Tribunal, Mumbai Bench Court III

Case No: C.P. (CAA) No. 11/ MB -III/2024 Connected With C.A. (CAA) No. 205/ MB-III/2023

TVS Industrial & Logistics Parks

Private Limited Vs

Vs

APPELLANT

RESPONDENT

Date of Decision: March 26, 2024

Acts Referred:

- Companies Act, 2013 - Section 90, 133, 230, 230(1), 230(1)(b), 230(3), 230(5), 230(6), 230(7), 232, 232(6)
- Income Tax Act, 1961 - Section 2(19AA)

Hon'ble Judges: Lakshmi Gurung, Member (J); Charanjeet Singh Gulati, Member (T)

Bench: Division Bench

Advocate: Hemant Sethi, Devanshi Sethi, Hemant Sethi & Co., Attal Shaikh

Final Decision: Disposed Of

Judgement

Lakshmi Gurung Member (Judicial)

- Heard the Ld. Authorised Representative for Petitioner Companies.
- The sanction of this Tribunal is sought under Sections 230 to 232 and other applicable provisions of the Companies Act, 2013 and the Rules framed thereunder for sanction of the Scheme of Arrangement (Demerger) between TVS INDUSTRIAL & LOGISTICS PARKS PRIVATE LIMITED ('Demerged Company' or 'First Petitioner Company') and DURGESHWARI INDUSTRIAL & LOGISTICS PARKS PRIVATE LIMITED ('Resulting Company' or 'Second Petitioner Company') and their respective shareholders ('the Scheme').

3. The Boards of Directors of the Petitioner Companies have approved the said Scheme of Arrangement/ Demerger by passing their Board resolutions in their respective Board meetings held on 19.06.2023 which are annexed to the Company Scheme Petition. The Board of Directors of the respective Petitioner Companies believe that the Scheme is in the best interests of the respective entities and their respective stakeholders.

4. The Appointed Date is **1st April, 2023**.

5. The Second Petitioner Company is a wholly-owned subsidiary of the First Petitioner Company.

6. **Nature of Business:**

6.1. The **First Petitioner Company** is engaged in the business of developing, owning and leasing industrial infrastructure and also render services of engineering, procurement, construction and facilities management in relation to turn-key projects and that the business of the Demerged Undertaking is developing, owning, and leasing of industrial infrastructure, such as warehouses, assembling/ sub - assembling hubs, logistics and industrial parks.

6.2. The **Second Petitioner Company** is engaged in the business of developing, owning and leasing of industrial infrastructure, such as warehouses, assembling/ sub - assembling hubs, logistics and industrial parks separately and post sanctioning of the Scheme the Second Petitioner Company will carry out the business of the Demerged Undertaking.

7. The registered offices of the Petitioner Companies are situated in Mumbai, Maharashtra and hence the subject matter of the Petition is within the jurisdiction of this Bench.

8. The shares of the Petitioner Companies are not listed on any stock exchange.

The Rationale of the Scheme:

9. The Ld. Counsel for the Petitioner Companies states that, by the sanction of this Joint Scheme of Arrangement, the Petitioner Companies will be able to achieve the following:

“Demerged Business means-

The business of developing, owning, and leasing of industrial infrastructure, such as warehouses, assembling/ sub - assembling hubs, logistics and industrial parks. (Business of Demerged Undertaking.”

“3. RATIONALE FOR THE DEMERGER

3.1 Presently, the Demerged Company directly houses various infrastructure development and operation activities across different verticals i.e. owning, operating, & leasing industrial infrastructure and the EPC Business. The Demerged Business has a distinct operating model from that of the EPC Business and each of these provides a strong future business potential. These businesses have since their inception attained a significant size and scale in their respective segments.

3.2 As these businesses approach their next phase of growth, it would be strategically beneficial to Demerge the Demerged Business and the Retained Business to enable them to move forward for independent collaboration and expansion, with greater focus and specialization, building further on their respective capabilities.

3.3 Also, the nature of risk and competition involved in the Demerged Business is distinct from the Retained Business undertaken by the Transferor Company and each of its businesses and undertakings is capable of attracting a different set of investors, strategic partners, lenders and other stakeholders. Such Demerger will enable these businesses to create further value by allowing investors to allocate their portfolio into separate entities, focused on the distinct businesses of Demerged Business and Retained Business, which aims to unlock shareholder value as well as rationalize and simplify the structure of the Transferor Company and Transferee Company.

3.4 Thus, the proposed Scheme would be in the best interest of the Transferor Company and the Transferee Company and their respective shareholders, creditors and other stakeholders as the proposed restructuring pursuant to this Scheme is expected, inter alia, to result in the following benefits:

(a) Transfer of the Demerged Business from the Transferor Company is in line with the strategy of housing Demerged Business and Retained Business in separate companies.

(b) Transfer of the Demerged Business will facilitate opportunities to raise growth capital and allow an independent focus on each of the respective businesses and independent expansion of each of the respective businesses.

(c) The Demerger will enable the Transferor Company and Transferee Company to, productively utilize their respective resources and achieve operational efficiencies, pool financial and managerial resources to concentrate on their respective businesses, and stabilize the operating cost of entities and result in synergies, better utilization of capabilities and resources.

(d) The Demerger will simplify the operations of both the entities as they will be held by separate entities and would enable focused management on the said businesses.

(e) The Demerger is expected to enhance shareholder value for both the Transferor Company and the Transferee Company.

3.5 In order to effect the transfer, the Transferor Company proposes to transfer the Demerged Business to the Transferee Company by way of Demerger in accordance with Sections 230 - 232 and other applicable provisions of the Act.

3.6 This Scheme accordingly provides for the transfer by way of Demerger of the Demerged Undertaking from the Transferor Company to the Transferee Company on a going concern basis, and the consequent issue of CCPS by the Transferee Company to the Shareholders of the Transferor Company in accordance with the Share Entitlement Ratio (as defined below) and various other matters consequential or integrally connected therewith, pursuant to Sections 230-232 and other applicable provisions of the Act and in compliance with the IT Act, including Section 2(19AA) thereof."

10. The Company Petition is filed in consonance with Sections 230 to 232 of the Act along with the order dated 18.12.2023 passed in CA (CAA) No. 205/(MB)/2023 of this Tribunal. The Petitioner Companies have complied with all requirements as per directions of the Tribunal and have filed necessary affidavits of compliance with the Tribunal. Moreover, the Petitioner Companies undertake to comply with all statutory/regulatory requirements, if any, as required under the Act and the Rules made thereunder. The undertaking given by the Petitioner Companies is accepted.

11. Consideration:

A consideration for the proposed demerger in the Scheme is as under:

"Four (4) Compulsorily Convertible Preference Shares (CCPS) of Rs. 10 each fully paid up of the Resulting Company shall be issued and allotted for every ten (10) Shares of Rs. 10 (Rupees ten only) fully paid up held in the Demerged Company ("Share Entitlement Ratio").

In the event of any consolidation, share split, issue of bonus shares or other similar action, that occurs before the issuance of CCPS to the

Shareholders of Transferor Company pursuant to above Share Entitlement Ratio, as applicable, may be appropriately adjusted to take into account the effect of such issuance or corporate actions and assuming conversion of any such issued instruments convertible into equity shares.

The CCPS issued by the Resulting Company to the foreign shareholder shall be under Automatic Route and shall be in due compliance with the provisions of the Foreign Exchange Management Act, 1999 and rules and regulations made thereunder including any statutory modifications or re-enactments thereof for the time being in force."

12. Vide order dated 18.12.2023 convening of the meetings was dispensed with on account of consent affidavits and in view of the fact that the Resulting company is a wholly-owned subsidiary of the Demerged Company, relying on the judgment of **Mahaamba Investments Ltd. Vs Idi Ltd. (2001) 105 Comp Cas 16 Bom.**

13. The Regional Director, Western Region on behalf of the Central Government has filed its Report dated 23.02.2024 ('RD Report'). The observations of the RD on the Scheme are submitted in paragraphs 2(a) to 2(l) of the Report dated 23.02.2024. In response to the observations made by the Central Government through the Regional Director, Western Region, the Petitioner Companies have given necessary undertakings and clarifications vide affidavit dated 24.02.2024. Some of the observations are mere factual or routine in nature. Important observations in RD Report are reproduced in italics and the clarifications and undertakings given to those observations by the Petitioner Companies are in bold:

2(a) That the observations of the Central Government on the scheme are submitted as under:

a. That on examination of the report of the Registrar of Companies, Mumbai dated 05.02.2024 for Petitioner Companies falls within the jurisdiction of ROC, Mumbai. It is submitted that no complaint and /or representation regarding the proposed scheme of Arrangement has been received against the Petitioner Companies. Further, Petitioner Companies has filed Financial Statements up to 31.03.2023.

i.

ii. Further ROC has mentioned as follows: -

a. As per Scheme in Part - B, Para 8.1 of the scheme the Authorized and paid-up Share Capital of the company is Rs. 25,00,00,000/- and Rs. 17,11,76,000/-respectively. However as per MCA Database the Authorized and paid-up Share Capital of the company is Rs. 50,00,00,000 /-and Rs. 18,50,96,150 /-respectively. Company has filed Application for increase in Authorized Share Capital during the course of Merger which may be taken on record.

2(a)(ii)(a) The Petitioner Companies state that the observation of the Registrar of Companies, Mumbai is self-explanatory, however, the Petitioner Companies wish

to clarify that the First Petitioner Company has filed Form SH-7 vide SRN AA5941276 dated 19/10/2023 for reclassification of Authorised Share Capital and not increase in Authorised Share Capital and the Authorised Share Capital of the Company is same i.e. Rs. 25,00,00,000/- and not Rs.50,00,00,000/- A copy of the Form SH-7 is attached at Annexure A to the Affidavit in response. To rectify the MCA Database, the First Petitioner Company has filed: (i) Form Change Request Form (CRF) vide SRN AA6894236 dated 21/02/2024; and (ii) a service request vide FO_202401301345798 dated 30/01/2024, on MCA portal for rectification of MCA Database. A copy of the Form CRF and service request is attached at Annexure B to the Affidavit in response. Further, the Petitioner Companies state that the First Petitioner Company has filed Form PAS-3 vide SRN AA5950837 dated 20/10/2023 for Allotment of additional 13,91,923 Equity Shares of Rs. 10/- each aggregating to Rs.1,39,19,230/- pursuant to conversion of Compulsory Convertible Debentures. Consequent to the same, the current paid up share capital of the Company is as follows: 1,85,09,615 Equity Shares of Rs.10/- each aggregating to Rs.18,50,96,150/-. A copy of the Form PAS-3 is attached at Annexure C.

b. NCLT vide order dated 18.12.2023 has directed the applicant companies to circulate notice to Income Tax Authorities apart from MCA.

2(a)(ii)(b) The Petitioners Companies state that the Petitioner Companies have served notice to concerned income-tax authorities and Nodal Officer - Pr. CCIT. A Copy of Joint Affidavit of Service dated 29th December 2023 is already filed before Hon'ble Tribunal.

c. Interest of the Creditor should be protected.

The Petitioner Companies may please be directed to submit reply on the above observations of jurisdictional ROCs.

2(a)(ii)(c) The Petitioner Companies hereby undertake that the interest of the creditors shall be duly protected under Scheme and all creditors are being paid off in the ordinary course of business. Further there is no compromise or arrangement with Creditors as the present scheme is under Section 230(1)(b) of the Companies Act, 2013.

b. In compliance of AS-14 (IND-AS 103), the Demerged Company and Resulting Company shall pass such accounting entries which are necessary in connection with the scheme to comply with other applicable Accounting Standards including AS-5 or IND AS-8 etc.

2(b) The Petitioner Companies undertake that in addition to compliance of AS-14 or IND AS-103, as may be applicable, the Petitioner Companies shall pass such accounting entries which are necessary in connection with the Scheme to comply

with all applicable Accounting Standards such as AS-5 or IND AS-8, to the extent applicable.

c. The Hon'ble Tribunal may kindly direct the Petitioner Companies to file an affidavit to the extent that the Scheme enclosed with the Company Application and Company Petition are one and same and there is no discrepancy, or no change is made.

2(c) The Petitioner Companies undertake and confirm that the Scheme enclosed to the Company Application and Company Petition are one and same and there is no discrepancy, or no change is made.

d. The Petitioner Companies under provisions of section 230(5) of the Companies Act 2013 have to serve notices to concerned authorities which are likely to be affected by the Amalgamation or arrangement. Further, the approval of the scheme by the Hon'ble Tribunal may not deter such authorities from dealing with any of the issues arising after giving effect to the scheme. The decision of such authorities shall be binding on the Petitioner Companies concerned.

2(d) - The Petitioner Companies undertake and confirm that the Petitioner Companies have served notices to concerned authorities as directed by this Tribunal by its order dated 18th December 2023 and 23rd January 2024. The Petitioner Companies undertakes that sanctioning the present Scheme of Arrangement will not deter any rights of the concerned authorities after giving effect to the Scheme since the Petitioner Companies will be in existence as it is a case of Demerger.

e. The Hon'ble Tribunal may kindly seek the undertaking that this Scheme is approved by the requisite majority of members and creditors as per Section 230(6) of the Act in meetings duly held in terms of Section 230(1) read with 7 subsection (3) to (5) of Section 230 of the Act and the Minutes, thereof are duly placed before the Tribunal.

2(e) - As far as the observation of the Regional Director, as stated in 2(e) is concerned, the Petitioner Companies state that vide order dated 18th December, 2023 in C.A(C.A.A.)/205 /MB-III /2023, the said order records that-

1. In lieu of 100% consent affidavits of the equity shareholders and preference shareholders of the First Petitioner Companies as annexed in the Company Scheme Application, the meetings of the equity and preference shareholders were dispensed with.

2. In lieu of 100% consent affidavits of the equity shareholders of the Second Petitioner Companies as annexed in the Company Scheme Application, the

meetings of the shareholders were dispensed with.

3. In lieu of 100% consent affidavits of the Secured Creditors of the First Petitioner Companies as annexed in the Company Scheme Application, the meetings of the members were dispensed with. In case of Second Petitioner Companies there are no Secured Creditors and the question of holding a meeting of the Secured Creditors does not arise.

4. In so far as the Unsecured creditors of the First Petitioner Companies is concerned, the First Petitioner Companies were directed to serve individual notices to all creditors. The Petitioner Companies have filed an Affidavit of Service dated 29th December, 2023 annexing the proof of service upon all its Unsecured Creditors.

5. In lieu of 100% consent affidavits of the Unsecured Creditors of the Second Petitioner Companies as annexed in the Company Scheme Application, the meetings of the Unsecured Creditors were dispensed with.

In view thereof, the Petitioner Companies have complied with the directions contained in order dated 18th December, 2024 in C.A(C.A.A.)/ 205 /MB-III /2023 and complied with the relevant provisions of Section 230 of Companies Act, 2013.

f. It is submitted that the Petitioner/Demerged Company and Resulting Company be directed to place on the record of the list of assets to be demerged with complete details of its assets and valuation.

2(f) The Petitioner Companies undertakes that through Additional Affidavit dated 18th November 2023 have filed before Hon'ble Tribunal the provisional balance sheet certified by the Management reflecting the list of the assets and liabilities to be transferred to the Resulting Company as at Appointed Date. List of Assets is annexed as Annexure D to the Affidavit in response.

g. It is submitted that the Petitioner/Demerged Company and Resulting Company has stated that the scheme is in compliance of Section 2(19AA), in this regard, petitioner company may be directed to place on record that as to how this scheme is in compliance of Section 2(19AA) of the Income Tax Act, 1961.

2(g) The Petitioner Companies has stated under paragraph 2.4 in Part A of the Scheme that the Scheme is in compliance of the conditions applicable to a Demerger under Section 2(19AA) of the Income tax act 1961 which is as under:

i. all the assets and properties of the 'Demerged Undertaking" (as defined hereinabove) being transferred by the Demerged Company immediately before the demerger becomes the property of the Resulting Company by virtue of the

demerger;

- ii. all the liabilities relatable to the 'Demerged Undertaking" being transferred by the Demerged Company immediately before the demerger becomes the liabilities of the Resulting Company by virtue of the demerger;
- iii. the properties and the liabilities, if any, relatable to 'Demerged Undertaking" being transferred by the Demerged Company are transferred to the Resulting Company at the values appearing in the books of account of the Demerged Company immediately before the demerger;
- iv. the Resulting Company issues share to the shareholders of the Demerged Company in consideration of the demerger on the basis of entitlement ratio determined by the independent Registered valuer;
- v. the shareholders holding not less than three-fourths in value of the shares in the demerged company (other than shares already held therein immediately before the demerger, or by a nominee for, the resulting company or, its subsidiary) become share-holders of the resulting company or companies by virtue of the demerger; and
- vi. transfer of the 'Demerged Undertaking" will be on a going concern basis. Further, the Petitioner Companies undertakes that the post approval of the Scheme, clarifications, if any, is requested by the Income-tax department in relation to the Scheme during the course of the proceedings initiated under the provisions of the Act, the Assessee will duly submit the details / explanation / documents in accordance with the provisions of Act and decision of Income-Tax Department will be final on tax liability issue and all issues arising out of this scheme will be met and answered in accordance with law.

h. As per Definition of the Scheme,

"Appointed Date" means April 1, 2023 for the purpose of Scheme and IT Act;

"Effective Date" means the last of the dates on which all the conditions and matters referred to in Clause 27 occur or have been fulfilled, obtained or waived, as applicable, in accordance with this Scheme. References in this Scheme to date of 'coming into effect of the Scheme' or 'effectiveness of the Scheme' shall be construed accordingly.

"Record Date" means a date to be fixed by the Board of the Transferor Company for the purposes of determining the Shareholders of the Transferor Company to whom CCPS of the Transferee Company would be issued and allotted in accordance with Clause 20;

In this regard, it is submitted that Section 232 (6) of the Companies Act, 2013 states that the scheme under this section shall clearly indicate an appointed date from which it shall be effective, and the scheme shall be deemed to be effective from such date and not at a date subsequent to the appointed date. However, this aspect may be decided by the Hon'ble Tribunal taking into account of its inherent powers.

The Petitioner Companies shall undertake to comply with the requirements as clarified vide circular no. F. No. 7/12/2019/CL-I dated 21.08.2019 issued by the Ministry of Corporate Affairs

2(h) The Petitioner Companies clarifies that the Appointed Date is 1st April 2023 as mentioned in the Scheme which is in compliance with section 232(6) of the Companies Act, 2013 and that the Scheme shall take effect from such Appointed Date.

Further, the Petitioner Companies undertakes to comply with the requirements clarified vide circular No.7/12/2019/CL-I dated 21st August, 2019 issued by the Ministry of Corporate Affairs.

i. Petitioner Companies shall undertake to comply with the directions of the Income Tax Department & GST Department, if any.

2 (i) The Petitioner Companies state that the Resulting Company received order stating that the present Scheme of Arrangement should not adversely impact the rights of the Income Tax Department for any present or future proceedings. In response to the same, the Resulting Company filed undertaking that the Scheme is in Compliance with Section 2(19AA) of the Income- tax Act, 1961 and Scheme will not affect the rights of the Income-tax Department in accordance with the provisions of the Act. Also, the Resulting Company clarified that the post approval of the Scheme, clarifications, if any, is requested by the Income-tax department in relation to the Scheme during the course of the proceedings initiated under the provisions of the Act, the Asseesee will duly submit the details / explanation / documents in accordance with the provisions of Act. A copy of the undertaking along with notice filed on 02nd February 2024 is annexed as Annexure E to the Affidavit in response. Further, the Petitioner Companies undertakes to comply with the directions of the Income-tax Department and GST department, if any.

j. Petitioner Companies shall undertake to comply with the directions of the concerned sectoral Regulatory, if any.

2 (j) The Petitioner Companies undertakes to comply with the Directions of the concerned sectoral regulatory, if any.

k. As per list of shareholders of Demerged Company as on 01.04.2023, Petitioner Demerged Company has non-resident/foreign shareholders, hence Petitioner Companies shall undertake to comply with RBI, FEMA/FERA guidelines.

2 (k) The Petitioner Companies undertake to comply with RBI, FEMA/FERA guidelines, to the extent applicable.

I. It is observed from Financial Statements as on 31.03.2023 of Petitioner Companies, details of shareholding is as follows: -

1								
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No Form BEN-2 has been filed by any of the Petitioner Companies as per records available at MCA- 21 Portal, hence Petitioner Companies shall undertake to comply with the provisions of section 90 of Companies Act, 2013 r/w. Companies (Significant Beneficial Owners) Amendment Rules, 2019, thereunder and to file Form BEN-2 for declaring name of the significant beneficial owner with concerned ROC.

2 (l) The Petitioner Companies submit that there are 3 (three) persons (person includes Body Corporate) in the First Petitioner Company who are holding more than 10% of the share capital namely Winever Industrial Enterprises Private Limited (25.24% of the Equity Share Capital), TVS Supply Chain Solutions Limited (47.62% of the Equity Share Capital), and British International Investment plc (100% of the Preference Share Capital) as stated by Regional Director in its report. As per the shareholding pattern of these Body Corporate, there is no person who is holding Majority Stake (as defined in Rule 2(d) of the Companies (Significant Beneficial Owners) Rules, 2018) i.e. more than 50% of the stake in the said companies. Accordingly, these persons are not required to file Form BEN-1 to the First Petitioner Companies and therefore, compliances as provided under Section 90 of the Companies Act, 2013 w.r.t filing of form BEN-2 is not applicable on the First Petitioner Company. Further, the Petitioner Companies submit that Second Petitioner Company is a wholly-owned subsidiary of the First Petitioner Company and since compliances as provided under Section 90 of the Companies Act, 2013 w.r.t filing of form BEN-2 is not applicable on the First Petitioner Company, thus, the question of having significant beneficial owner in the Second Petitioner Company does not arise and is self-explanatory. Further, the Petitioner Companies undertake to comply with the provisions of Section 90 of the Companies Act, 2013 read with the Companies (Significant Beneficial Owners) Rules, 2018 as amended from time to time and make necessary filings with the Registrar of Companies as and when the provisions of Section 90 of the

Companies Act, 2013 are triggered and to the extent as applicable. A shareholding pattern of Winever Industrial Enterprises Private Limited, TVS Supply Chain Solutions Limited and British International Investment plc is attached to the Rejoinder.

14. The Provisional Balance Sheet as on 01.04.2023 of TVS Industrial & Logistics Parks Private Limited as submitted by the Petitioner Companies is reproduced below:

(Rs. In Lakhs)

(1) Non-Current assets			
a. Land (without revaluation figure of Rs.14,815 (in lakhs) as per provisions of Income-tax Act 1961)	16,778.91	16,778.91	-
b. Computers & Equipments	24.50 20,859.43	0.60	23.90
c. Buildings	26.93	20,859.43	-
d. Furniture	250.92	13.78	13.15
e. Motor Vehicles	1,333.20	9.32	241.60
f. Plant & Machinery	21.23	1333.20	-
g. Office Equipments	73.12	0.99	20.24
h. Leasehold improvements	-		73.12
	37.07		
(ii) Intangible asset	178.65	-	37.07
(iii) Right of use	10,983.12	-	178.65
(iv) Capital work in progress		10,943.43	39.68
(v) Financial assets		-	
(a) Investments			
Investments in SPV's	160.15		
1) Marudhamalai Logistics & Industrial Parks Pvt Ltd	338.36		160.15
2) Maragathammbal Industrial & Logistics Parks Pvt Ltd	271.28		338.36
3) Siruvapuri Murugan Industrial & Logistics Parks Pvt Ltd	0.50		271.28
4) Jagannath Logistics & Industrial Parks Pvt Ltd	0.50		0.50
5) Jaibalaji Industrial & Logistics Parks Pvt Ltd	1.00		0.50
6) Sri Meenakchi Industrial & Logistics Parks Pvt Ltd	0.10		1.00
7) Tarkeshwar Industrial & Logistics Parks Pvt Ltd	10.00		0.10
8) Mahaveer Industrial & Logistics Parks Pvt Ltd	10.00		10.00
9) Durgeshwari Industrial & Logistics Parks Pvt Ltd	26.77		10.00
(b) Loans	171.18	102.51	26.77
(c) Other financial assets	284.29	139.52	68.67
(vi) Income tax assets (net)	1,982.62	1,496.22	144.77
(vii) Other non-current assets			486.40
Total (A)	53,823.84	51,677.92	2,145.92
(2) Current assets			
i) Financial Assets			15,559.31
a. Investments			-
b. Trade receivables			
Trade receivables from SPV's			
1. Siruvapuri Murugan Industrial & Logistics Parks Pvt Ltd	55.45		
2. Tarkeshwar Industrial & Logistics Parks Pvt Ltd	190.87 682.43		190.87
3. Jagannath Logistics & Industrial Parks Pvt Ltd			682.43
4. Maragathammbal Industrial & Logistics Parks Pvt Ltd			42.91 315.83
5. Marudhamalai Logistics & Industrial Parks Pvt Ltd	42.91		
c. Cash and Cash equivalents	913.80	260.93 920.00	652.86
d. Bank balance other than (c) above	4596.17	-	3,676.17
e. Loans	-	-	-
1. Maragathammbal Industrial & Logistics Parks Pvt Ltd	6321.00		6321.00
2. Marudhamalai Logistics & Industrial Parks Pvt Ltd	2342.00		2342.00
3. Siruvapuri Murugan Industrial & Logistics Parks Pvt Ltd	9209.00		9209.00
4. Jagannath Logistics & Industrial Parks Pvt Ltd	167.00		167.00
5. Jaibalaji Industrial & Logistics Parks Pvt Ltd	3600.01		3600.01
6. Sri Meenakchi Industrial & Logistics Parks Pvt Ltd	444.21		444.21
7. Tarkeshwar Industrial & Logistics Parks Pvt Ltd	1861.95		1861.95

8. L & A to Mahaveer Industrial & Logistics Parks Pvt Ltd	0.67	0.50	0.67
Loan to others	28.71	-	28.21
f. Other financial assets	54.92	2,488.74	54.92
ii) Other Current Assets	3,839.48		1,350.74
Total (B)	50,453.89	3,725.62	46,728.27
Total (A+B)	1,04,277.73	55,403.54	48,874.19
EQUITY AND LIABILITIES			
1) EQUITY			
i. Share Capital	1,155.01	740.38	1,155.01
ii. Other Equity (Without revaluation figure of Rs. 14,815 (in lakhs) as per provisions of Income-tax Act, 1961)	41,224.22	3,224.01	37,259.83
Total (C)	42,379.23	3,964.39	38,414.84
2) LIABILITIES			
A) Non-current Liabilities			
i. Financial Liabilities	45,601.97	45,561.65	40.32
a. Borrowings	88.26	-	88.26
b. Lease Liability	1,616.78	1,616.78	-
c. Other Financial Liabilities	1,211.26	1,180.38	30.88
ii. Deferred tax liabilities (net)	417.17	417.17	-
iii. Other Non- Current Liabilities	23.00	-	23.00
B) Current Liabilities			
i. Financial Liabilities	9,560.63	1,386.00	8,174.63
a. Borrowings	-	-	-
b. Trade Payables:			
- Total outstanding dues of micro enterprises & small enterprises;	516.37	-	516.37
- Total outstanding dues of creditors other than micro enterprises & small enterprises	651.65	343.11	308.54
c. Lease Liability	94.60	-	94.60
d. Other Financial Liabilities	1,457.32	683.64	773.69
ii. Other Current Liabilities	638.89	250.42	388.47
iii. Short-term provisions	20.60	-	20.60
Total (E)	12,940.05	2,663.16	10,276.89
Total (C+D+E)	1,04,277.73	55,403.54	48,874.19

15. The Petitioner Companies have undertaken to comply with RBI, FEMA/ FERA guidelines, which are taken on record. RBI shall be at liberty to examine the required compliances by the Petitioner Companies.

16. Mr. Attal Shaikh, representing the Regional Director's Office, submitted that the explanations and undertakings given by the Petitioner Companies are found to be satisfactory. However, it is made clear that mere sanctioning of this Scheme will not prevent the Registrar of Companies from taking any action against the Petitioner Companies, in accordance with applicable law.

17. No objections have been received by the Tribunal opposing the Company Scheme Petition and nor has any party controverted any averments made in the Company Scheme Petition.

18. The Income Tax Department will be at liberty to examine the aspect of any tax payable because of this scheme and it shall be open to the income tax authorities to take necessary action as permissible under the Income Tax Law.

19. The Statutory Auditors of the Transferee Company have examined the Scheme in terms of provisions of Sections 230-232 and certified that the accounting treatment

specified in the Scheme is in compliance with all applicable accounting standards specified under section 133 of the Companies Act, 2013.

20. The shareholders and creditors of the Petitioner Companies are the best judges of their interest. Their decision should not be ordinarily interfered with by the Tribunal as per the decision of Hon'ble Supreme Court in **Miheer H. Mafatlal vs. Mafatlal Industries Ltd [JT 1996 (8) 205]** wherein it was held as follows:

"It is the commercial wisdom of the parties to the scheme who have taken an informed decision about the usefulness and propriety of the scheme by supporting it by the usefulness and propriety of the scheme by supporting it by the requisite majority vote."

21. In view of the foregoing, upon considering the approval accorded by the members and creditors of the Petitioner Companies to the proposed Scheme, and the affidavit filed by the Regional Director, and the rejoinder and undertakings of the Petitioner Companies, there appears to be no impediment in sanctioning the present Scheme.

22. From the material on record, the Scheme to the Company Scheme Petition appears to be fair and reasonable and is not violative of any provisions of law and is not contrary to public policy. Hence Ordered.

ORDER

23. Consequently, sanction is hereby granted to the Scheme under Sections 230 to 232 of the Companies Act, 2013 with the following directions:

a. The Petitioner Companies are directed to file a copy of this Order along with a copy of the Scheme of Arrangement with the concerned Registrar of Companies, electronically, along with E-Form INC-28, in addition to physical copy, within 30 days from the date of receipt of the Certified copy of the Order from the Registry.

b. Certified copy of this Order be also submitted to all statutory authorities.

c. The Petitioner Companies to lodge a copy of this Order and the Scheme duly authenticated by the Registrar, with the concerned Superintendent of Stamps, for the purpose of adjudication of stamp duty payable, if any, within 60 days from the date of receipt of the Certified copy of the Order from the Registry.

24. Petitioner Companies are also directed to serve copy of this order to Income Tax Department, Nodal Officer, GST (if applicable).

25. While approving the Scheme, we clarify that this Order should not, in any way, be construed as an Order granting exemption from payment of stamp duty, taxes or other charges, if any, and payment in accordance with law or in respect of any permission or

compliance with other requirements which may be specifically required under any law.

26. The Petitioner Companies shall comply with all the undertakings given by them.

27. The Petitioner Companies shall take all consequential and statutory steps required under the provisions of the Act in pursuance of the Scheme.

28. All authorities concerned to act on a copy of this Order along with Scheme duly authenticated by the Registrar.

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

30. Any concerned authorities are at liberty to approach this Tribunal for any further clarification as may be necessary.

31. Ordered Accordingly. Thus, the Company Scheme Petition with C.P. (CAA) /11/ MB/C-III/2024 in CA (CAA)/205/MB/C-III/2023 shall stand to be disposed of.