

NATIONAL COMPANY LAW TRIBUNAL  
COURT-V, MUMBAI BENCH

8. C.P.(CAA)/165(MB)2025 C.A.(CAA)/85(MB)2025

**IN THE MATTER OF**

Poonawalla Finance Private Limited

U/s 230-232 of the Companies Act, 2013

**Order Delivered on 06.01.2026**

CORAM:

SH. MOHAN PRASAD TIWARI  
MEMBER (J)

SH. CHARANJEET SINGH GULATI  
MEMBER (T)

**Appearance through VC/Physical/Hybrid Mode:**

For the Petitioner:

For the Income Tax Department: Adv Subir Kumar a/w Adv Ashita Aggarwal (VC)

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**ORDER**

**C.P.(CAA)/165(MB)2025**-The above C.P.(CAA)/165(MB)2025 is listed for pronouncement of order. The same is pronounced in open Court, vide a separate order.

Sd/-  
CHARANJEET SINGH GULATI  
Member (Technical)

Sd/-  
MOHAN PRASAD TIWARI  
Member (Judicial)

*//Avdhesh//*

**NATIONAL COMPANY LAW TRIBUNAL,**  
**MUMBAI BENCH – COURT-V**

**C.P. (CAA)/165(MB)2025**

**IN**

**C.A. (CAA)/85(MB)2025**

In the matter of the Companies Act, 2013;

**AND**

In the matter of Sections 230 to 232 read with Section 66 and other applicable provisions of the Companies Act, 2013 read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016;

**AND**

In the matter of Composite Scheme of Arrangement amongst Poonawalla Finance Private Limited (“Demerged Company 1/ First Petitioner Company”) and Rising Sun Holdings Private Limited (“Resulting Company 1/ Demerged Company 2/ Second Petitioner Company”) and Synergist Realtors Private Limited (“Resulting Company 2 / Third Petitioner Company”) and their respective Shareholders (“Scheme”)

**Poonawalla Finance Private Limited )**

A company incorporated under )

Companies Act, 1956 having its )

registered office at S. No. 83 Ground )

Floor AP81, Mundhwa, Pune 411036, )

Maharashtra, India )

CIN: U65100MH1985PTC035067 )

... Demerged Company 1/ First  
Petitioner Company

**Rising Sun Holdings Private Limited**

A company incorporated under

Companies Act, 1956 having its

registered office at Sarosh Bhavan 16-

B/1Dr Ambedkar Road, Pune 411001,

Maharashtra, India

CIN U67110PN1993PTC070989

... Resulting Company 1/Demerged  
Company 2/ Second Petitioner  
Company

**Synergist Realtors Private Limited )**

A company incorporated under )

Companies Act, 2013 having its )

registered office at Office No 401, 4th )

Floor, Sarosh Bhavan, 16/B-1 Dr. )

Ambedkar Road, Pune, )

Maharashtra, India, 411001 )

CIN: U45203PN2021PTC200464 )

... Resulting Company 2 / Third  
Petitioner Company

*(The First Petitioner Company, Second Petitioner Company and Third Petitioner Company shall be hereinafter collectively referred to as "Petitioner Companies")*

**Order pronounced on: 06.01.2026**

**CORAM:**

**Sh. Mohan Prasad Tiwari, Hon'ble Member (J)**

**Sh. Charanjeet Singh Gulati, Hon'ble Member (T)**

**APPEARANCES:**

**For the Petitioners:** Adv. Hemant Sethi, Adv. Tanaya Sethi  
**For the RD:** Mr. Altap Shaikh (VC)  
**For the Income Tax Dept:** Adv Ashita Aggarwal

**ORDER**

1. The sanction of the Tribunal is sought under Sections 230 to 232 read with Section 66 and other applicable provisions of the Companies Act, 2013 read with the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, to the Composite Scheme of Arrangement amongst Poonawalla Finance Private Limited (“**Demerged Company 1/ First Petitioner Company**”) and Rising Sun Holdings Private Limited (“**Resulting Company 1/ Demerged Company 2/ Second Petitioner Company**”) and Synergist Realtors Private Limited (“**Resulting Company 2 / Third Petitioner Company**”) and their respective Shareholders (“Scheme”)
2. Heard the learned Counsel for the Petitioners and the representative of the Regional Director Western Region, Ministry of Corporate Affairs, Mumbai. No objector has come before this Tribunal to oppose the Scheme and nor has any party controverted any averments made in the Petition.
3. The Counsel for the Petitioner Companies submits that the proposed Composite Scheme of Arrangement was approved unanimously by the Board of Directors of the First Petitioner Company and Second Petitioner Company on **4<sup>th</sup> February 2025 and on 12<sup>th</sup> February 2025** by Third Petitioner Company. A certified true copy of Board Resolution of respective Petitioner Companies approving the Scheme are annexed with the Company Scheme Petition
4. The Appointed Date 1 under the Scheme is **1<sup>st</sup> October, 2024** and the Appointed Date 2 under the Scheme is **1<sup>st</sup> January, 2025**.

**Business Profile of the Petitioner Companies: -**

5. The Counsel for the Petitioner Companies further submits that the nature of business of the Petitioner Companies is as follows-

**i. Poonawalla Finance Private Limited:**

The First Petitioner Company is a Non-Banking Financial Company (“*NBFC*”) registered as a Non-Banking Financial Company – Systemically Important Non-Deposit taking Company with the Reserve Bank of India (“*RBI*”). The First Petitioner Company is engaged in the activities, as described below:

- a. Business comprising of actively owning and managing commercial properties for leasing. (“*Demerged Business 1*”)
- b. Lending funds to individual, corporate borrowers etc. basis the guidelines provided by the RBI and undertaking investment activity under the said business. (“*Lending Business*”)

**ii. Rising Sun Holdings Private Limited**

The Second Petitioner Company is engaged in real estate business and other business activities described as below:

- a. Business comprising of actively owning and managing commercial properties for leasing (*Real Estate business*), strategic activities in pharma and life sciences business and other identified sectors (hereinafter referred to as “**Demerged Business 2**”)
- b. All activities other than defined above as Demerged Business 2 (hereinafter referred to as “**Remaining Business of the Demerged Company 2**”)

**iii. Synergist Realtors Private Limited**

The Third Petitioner Company is engaged in the real estate business.

6. The Learned Counsel appearing on behalf of the Petitioner Companies states that the Petitioner Companies have complied with all requirements as per directions of this Tribunal in Order dated 18<sup>th</sup> June, 2025 passed in C.A.(CAA)/MB/85/2025 and they have filed necessary Affidavits of compliance with this Tribunal.

**Rationale of the Scheme: -**

7. The Learned Counsel for the Petitioner Companies states that, by sanction of this Scheme of Arrangement, the Petitioner Companies will be able to achieve the following:
  1. *Each of the businesses carried out by the Demerged Company 1 and Demerged Company 2 holds distinct potential for growth and profitability.*
  2. *The Board of Directors of the Demerged Company 1 intends to focus on the Lending Business as it requires differentiated strategy aligned to its industry specific risks, market dynamics and growth trajectory.*
  3. *The Board of Directors of the Demerged Company 2 intends to focus on the Remaining Business of the Demerged Company 2 as it requires differentiated strategy aligned to its industry specific risks, market dynamics and growth trajectory. Further, the Board of Directors of Demerged Company 2 intend to invite strategic investor(s) in some of the Remaining Business of the Demerged Company 2 to explore potential opportunities for collaboration and growth.*
  4. *Considering each business requires a diverse strategy, focus, separate management and there are distinct set of opportunities and risks associated with each business operations, the Board of Directors of the Demerged Company 1 is desirous of demerging the Demerged Business 1 on a going concern basis to the Resulting Company 1. Similarly, the Board of Directors of the Demerged Company 2 is desirous of demerging the Demerged Business 2 on a going concern basis to the Resulting Company 2.*
  5. *The management of the Companies believes that the Scheme would be in the interest of all the Companies, their shareholders, and other stakeholders. This*

*Scheme shall be finalised subject to compliance with various applicable laws and regulations and after seeking applicable approvals.*

6. *Further, the following benefits shall accrue on demerger of the Demerged Business 1 of Demerged Company 1 and Demerged Business 2 of Demerged Company 2:*
  - a. *independent focused attention of the management with special skills and strategic alliances in order for each to be run more efficiently and to achieve the desired growth.*
  - b. *the demerger will enable the possibilities to attract different sets of investors, strategic partners, lenders and other stakeholders having a specific interest in the respective business.*
  - c. *the demerger will enable the Demerged Company 1, Resulting Company 1 or Demerged Company 2 and the Resulting Company 2 to pursue independent business strategies with greater freedom inter alia, including pursuing strategies regarding capital expenditure, mergers and acquisitions and incentive compensation.*
  - d. *unlocking the value of the Demerged Undertakings for the shareholders of the Demerged Companies.*
  - e. *all the real estate assets are brought under one roof thereby ensuring effective management of the assets and to synergise and optimise the resources.*

### **Consideration**

8. The Petitioner Companies submit that upon coming into effect of Part B of the Scheme, and in consideration of transfer and vesting of Demerged Undertaking 1 of the Demerged Company 1 in the Resulting Company 1 and since the Demerged Company 1 is wholly owned subsidiary of the Resulting Company 1, the Resulting Company 1 shall not be issuing any consideration for the Demerger of the Demerged Undertaking 1. There shall not be any change in shareholders, directors

and management of the Demerged Company 1 on account of the Demerger. It will continue to be wholly owned subsidiary of Resulting Company 1.

9. The Petitioner Companies submit that upon coming into effect of Part B of the Scheme, pursuant to Clause 12 of the Scheme, the capital reserve created as per Clause 11.1.2 of the Scheme in the books of the Demerged Company 1 shall be adjusted by cancelling (i) 6% Compulsorily Convertible Non-Cumulative Preference Shares; (ii) 7% Optionally Convertible Non-Cumulative Preference Shares; (iii) 8% Optionally Convertible Non-Cumulative Preference Shares, to the extent available and the balance if any, shall be adjusted by cancelling the equity capital (such number rounded down to the nearest whole number of equity shares) of the Demerged Company 1, issued on first-in-first-out basis.
10. The Petitioner Companies submit that upon coming into effect Part C of the Scheme and in consideration of the transfer and vesting of the Demerged Undertaking 2 of Demerged Company 2 with the Resulting Company 2 pursuant to this Scheme and subject to the provisions of this Scheme, the Resulting Company 2 shall, without any further application, act, deed, consent, acts, instrument or deed, issue and allot, on a proportionate basis, to each member of the Demerged Company 2, whose name is recorded in the register of members as member of the Demerged Company 2 as on the Record Date, as follows:

**To Equity Shareholders:**

*“1 (One) equity share of Resulting Company 2 (of INR 100/- each fully paid up) for every 1 (One) equity share of Demerged Company 2 (of INR 100/- each fully paid up).”*

**To 7% Compulsorily Convertible Cumulative Preference Shareholders:**

*“110 (One Hundred and Ten) 7% Compulsorily Convertible Cumulative Preference Shares of Resulting Company 2 (of INR 100/- each fully paid up) for every 100 (One Hundred) 7 % Compulsorily Convertible Cumulative Preference Shares of Demerged Company 2 (of INR 100/- each fully paid up)”*

**To 8% Compulsorily Convertible Cumulative Preference Shareholders:**

*“105 (One Hundred and Five) 8% Compulsorily Convertible Cumulative Preference Shares of Resulting Company 2 (of INR 100/- each fully paid up) for every 100 (One Hundred) 8% Compulsorily Convertible Cumulative Preference Shares of Demerged Company 2 (of INR 100/- each fully paid up)”*

*The said issue of Compulsory Convertible Cumulative Preference Shares would be on such terms and conditions as set out in Schedule I and Schedule II of this Scheme.*

11. The Regional Director (Western Region), Ministry of Corporate Affairs, Mumbai has filed its Report dated 1<sup>st</sup> September 2025 *inter alia* stating that, save and except the observations as stated in paragraph 2 of the report, this Tribunal may pass such order(s) as deemed fit and proper in the facts and merits of the case. The Petitioner Companies have filed an Affidavit in rejoinder dated 1<sup>st</sup> September 2025 to the report filed by the Regional Director with this Tribunal providing clarification/undertakings to the observations made by the Regional Director. The observations made by the Regional Director and the clarifications/undertakings given by the Petitioner Companies are summarized in the table below:

<b>Para (2)</b>	<b><i>RD Report/Observations dated 01<sup>st</sup> September 2025</i></b>	<b><i>Response of the Petitioner Companies dated 01<sup>st</sup> September 2025</i></b>
<i>(a)</i>	<i>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 such as AS-5 (IND AS-8) etc.</i>	<i>As regards the observation made in Paragraph 2(a) of the said report is concerned, it is submitted that in compliance of AS-14 (IND AS-103) or any other applicable accounting standards, the Demerged Company 1, Demerged Company 2 /</i>

		<p><i>Resulting Company 1 and Resulting Company 2 shall pass such accounting entries which are necessary in connection with the Scheme to comply, with other applicable Accounting Standards such as AS-5 (IND AS-8) etc.</i></p>
(b)	<p><b><u>As per Definition of the Scheme:-</u></b></p> <p><b>1.3. “Appointed Date 1” means 1 October 2024 or such other date as may be fixed or approved by National Company Law Tribunal or such other competent authority / Appropriate Authority in relation to demerger of Demerged Undertaking 1 of the Demerged Company 1.</b></p> <p><b>1.4. “Appointed Date 2” means 1 January 2025 or such other date as may be fixed or approved by National Company Law Tribunal or such other competent authority / Appropriate Authority in relation to demerger of Demerged Undertaking 2 of the Demerged Company 2.</b></p> <p><b>1.5. “Appointed Dates” means the Appointed Date 1 and Appointed Date 2, as the case may be.</b></p>	<p><i>As regards the observation made in Paragraph 2(b) of the said Report is concerned, the Petitioner Companies submits that the Appointed Dates are in compliance 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.</i></p>

**1.16. “Effective Date”** in relation to the Scheme, means the date or last of the dates on which (i) certified copies of the order of the NCLT sanctioning the Scheme are filed by the Demerged Company 1, Resulting Company 1 / Demerged Company 2 and the Resulting Company 2 with the Registrar of Companies or (ii) the last of the approvals specified under Clause 30 is obtained. References in this Scheme to the date of **“coming into effect of this Scheme”** or **“upon the Scheme becoming effective”** or **“effectiveness of this Scheme”** or **“Scheme becomes effective”** shall mean the Effective Date.

**1.20 “Record Date”** means a mutually agreed date to be fixed by the Board of Directors of the Demerged Company 2 and Resulting Company 2 for the purposes of determining the shareholders of the Demerged Company 2 to whom shares would be issued and allotted in accordance with clause 20.1 of this Scheme.

In this regard, it is submitted that Section 232 (6) of the Companies Act,

	<p><i>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 its inherent powers. <b>The Petitioners may be asked 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.</b></i></p>	
(c)	<p><i>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.</i></p>	<p><i>As regards the observation made in Paragraph 2(c) of the said Report is concerned, the Petitioner Companies submits that the Scheme has been duly approved by all the equity shareholders of the Petitioner Companies, the preference shareholders of the First Petitioner Company and the Second Petitioner Company, 100% of the secured creditors of the Second Petitioner Company, 100% of the unsecured creditors</i></p>

		<p><i>of the First Petitioner Company and 91.81% of the unsecured creditors of the Second Petitioner Company, by way of consent affidavits duly obtained by the Petitioner Companies. It is further submitted that there are no preference shareholders in the Third Petitioner Company, no secured creditors in the First Petitioner Company and the Third Petitioner Company, and no unsecured creditors in the Third Petitioner Company. In view of these facts, the Hon'ble National Company Law Tribunal has been pleased to dispense with the convening of the meetings of the equity shareholders, preference shareholders, secured creditors, and unsecured creditors of the Petitioner Companies.</i></p>
<p><i>(d)</i></p>	<p><i>It is submitted that the Petitioners have vide letter dated 24.07.2025 submitted an additional affidavit dated 21.04.2025 (copy of letter along with additional affidavit annexed as <b>Annexure A-1) (Colly)</b> containing list</i></p>	<p><i>As regards the observation made in Paragraph 2(d) of the said Report is concerned, the Petitioner Companies submits the Petitioner Companies have submitted the list of assets and</i></p>

	<p><i>of assets &amp; liabilities of Demerged company no. 1 &amp; 2 to be transferred to Resulting company 1 &amp; 2 as Annexure 1B and the same is submitted for kind consideration please. However, all Petitioners shall undertake to protect the interest of creditors as on appointed date as amount of more assets are being transferred over liabilities to the Resulting companies.</i></p>	<p><i>liabilities of Demerged Company 1 / First Petitioner Company as on 1<sup>st</sup> October 2024 to be transferred to Resulting Company 1 / Demerged Company 2/ Second Petitioner Company and list of assets and liabilities of Resulting Company 1 / Demerged Company 2/ Second Petitioner Company as on 1<sup>st</sup> January 2025 to be transferred to Resulting Company 2 / Third Petitioner Company with the Hon'ble National Company Law. The Petitioner Companies submits that post the implementation of the Scheme, the residual assets of the respective Petitioner Companies would be much more than their residual liabilities and therefore, would be able to discharge their liabilities in the normal course of business. Accordingly, the Petitioner Companies undertake to protect the interest of the creditors as on the respective Appointed Dates.</i></p>
(e)	<p><i>The Hon'ble Tribunal may kindly direct</i></p>	<p><i>As regards the observations</i></p>

	<p><i>the Demerged companies and Resulting companies to file an affidavit to the extent that the Scheme enclosed to the Company Application and the Company Petition are one and the same and there is no discrepancy, or no change is made.</i></p>	<p><i>made in Paragraph 2(e) of the said Report is concerned, the Petitioner Companies submits that the Scheme enclosed to the Company Application and the Company Petition are one and the same and there is no discrepancy, and no change is made.</i></p>
(f)	<p><i>The Demerged Companies and Resulting Companies shall be in compliance with the provisions of Section 2(1B) of the Income Tax Act, 1961. In this regard, the Demerged Companies and Resulting Companies shall ensure compliance of all the provisions of Income Tax Act and Rules thereunder.</i></p>	<p><i>As regards the observation made in Paragraph 2(f) of the said Report is concerned, the Petitioner Companies undertake that the Scheme is in compliance with the Section 2(19AA) of the Income-tax Act 1961 (“IT Act”) as all the conditions as mentioned in Section 2(19AA) of the IT Act shall be satisfied. Further, the Petitioner Companies undertake to comply with the provisions of the IT Act with regard to the implementation of scheme. Further, kindly note that the provisions of Section 2(1B) of the IT Act are applicable in case of amalgamation and is not applicable in the present facts.</i></p>

(g)	<p><i>The Demerged Companies and Resulting Companies shall undertake to comply with the directions of the I.T. Department and GST Department, if any.</i></p>	<p><i>As regards the observation made in Paragraph 2(g) of the said Report is concerned, the Petitioner Companies undertake to comply with the directions of the I.T. Department and GST Department. Further, the First Petitioner Company vide Affidavit dated 30<sup>th</sup> August 2025 has submitted to the Hon'ble Tribunal the response filed by it to the Report of the Income Tax Department. The Affidavit dated 30<sup>th</sup> August 2025 filed by the First Petitioner Company was submitted along with the Affidavit in rejoinder and marked as <b>Annexure A</b>.</i></p>
(h)	<p><i>It is observed from the Memorandum of Association of Demerged Company 1 i.e. <b>Poonawalla Finance Private Limited</b> is a Non-Banking Financial Company (NBFC). Hence, would require NOC from Reserve Bank of India (RBI). However, in response to the letter dated 25th July 2025 (Annexed as <b>Annexure A-2</b>) of this office on query of NoC from RBI , the petitioner companies while</i></p>	<p><i>As regards the observation made in Paragraph 2(h) of the said Report is concerned, there shall not be any change in the shareholders, directors and management of the First Petitioner Company on account of the proposed demerger. It will continue to be a wholly owned subsidiary of the Second Petitioner Company. Therefore,</i></p>

	<p><i>attaching notice to RBI dated 17.03.2025 has stated as under:</i></p> <p><i>“6. (b) There shall not be any change in the shareholders, directors and management of the First Applicant Company on account of the proposed demerger. It will continue to be wholly owned subsidiary of the Second Applicant Company. Therefore, it does not require prior RBI approval.</i></p> <p><i>Further, the First Applicant Company has duly intimated the RBI regarding the proposed demerger under Part B of the Scheme. A copy of the said intimation is enclosed herewith and marked as Annexure 12”</i></p>	<p><i>it does not require prior Reserve Bank of India (RBI) approval. Further, we hereby place on record the email communication dated 25<sup>th</sup> July 2025 received by the First Petitioner Company from the Reserve Bank of India (RBI), acknowledging and taking on record the intimations submitted in relation to the demerger of Demerged Undertaking 1 of First Petitioner Company with the Second Petitioner Company. The e-mail communication received from the Reserve Bank of India vide email dated 25<sup>th</sup> July 2025 was submitted along with the Affidavit in rejoinder and marked as <b>Annexure B</b>. It is submitted that the First Petitioner Company will adhere to all relevant statutes/regulations, including prudential regulations as applicable to the First Petitioner Company.</i></p>
(i)	<p><i>The above facts are brought to the kind attention of this Hon'ble Tribunal for considering it while deciding the</i></p>	<p><i>As regards the observation made in Paragraph 2(i) of the said Report is concerned, it is</i></p>

	<i>present scheme of merger on merits.</i>	<i>submitted that the observation made by the Regional Director is merely factual in nature and no further response is required to that extent.</i>						
<i>(j)</i>	<i>The Demerged Companies and Resulting Companies shall undertake to comply with the directions of the concerned sectoral Regulator, if so required.</i>	<i>As regards the observation made in Paragraph 2(j) of the said Report is concerned, the Petitioner Companies shall undertake to comply with the directions of the sectoral regulator, wherever applicable.</i>						
<i>(k)</i>	<p><i>It is observed from latest MGT-7 filed for the year ending 31.03.2024 that Demerged Company 1 have the following corporate body shareholders having more than 10% shareholding:-</i></p> <table border="1"> <thead> <tr> <th><i>Name of the Company</i></th> <th><i>Name of the shareholder</i></th> <th><i>Percentage of shareholding (%)</i></th> </tr> </thead> <tbody> <tr> <td><i>Poonawala Finance Private Limited (Demerged)</i></td> <td><i>Rising Sun Holdings Private Limited</i></td> <td><i>99.99</i></td> </tr> </tbody> </table>	<i>Name of the Company</i>	<i>Name of the shareholder</i>	<i>Percentage of shareholding (%)</i>	<i>Poonawala Finance Private Limited (Demerged)</i>	<i>Rising Sun Holdings Private Limited</i>	<i>99.99</i>	<i>As regards the observation made in Paragraph 2(k) of the said Report is concerned, the First Petitioner Company submits that Form BEN-2 as applicable has already been filed in accordance with the provisions of the law. The Form BEN-2 along-with challan of the First Petitioner Company was submitted along with the Affidavit in rejoinder and marked as <b>Annexure C</b>.</i>
<i>Name of the Company</i>	<i>Name of the shareholder</i>	<i>Percentage of shareholding (%)</i>						
<i>Poonawala Finance Private Limited (Demerged)</i>	<i>Rising Sun Holdings Private Limited</i>	<i>99.99</i>						

	<table border="1" data-bbox="440 226 938 344"> <tr> <td data-bbox="440 226 602 275"><b>Company</b></td> <td data-bbox="602 226 760 275"></td> <td data-bbox="760 226 938 275"></td> </tr> <tr> <td data-bbox="440 275 602 344"><b>1)</b></td> <td data-bbox="602 275 760 344"></td> <td data-bbox="760 275 938 344"></td> </tr> </table> <p data-bbox="431 401 946 716"><i>Therefore, Demerged Company 1 may be directed to clarify the compliance of section. 90 of the Companies Act, 2013 r/w rules 2A, 3 &amp; 4 of the Companies (Significant Beneficial Owners) Rules, 2018</i></p>	<b>Company</b>			<b>1)</b>			
<b>Company</b>								
<b>1)</b>								
(l)	<p data-bbox="431 758 946 1409"><i>It is observed that Demerged Company 2/ Resulting Company 1 and Resulting Company 2 are engaged in the business of Development of Real Estate projects so, if required, notice to RERA may be directed to be issued by the Demerged company and Resulting company to ascertain as to whether public interest is involved in the respect of the real estate projects floated by these companies, if companies have collected money from home buyers.</i></p>	<p data-bbox="963 758 1401 1856"><i>As regards the observation made in Paragraph 2(l) of the said Report is concerned the Second Petitioner Company and Third Petitioner Company submits that, the concerned companies are not involved into any construction of the real estate projects viz. commercial buildings, residential apartments or development of land for the purpose of sale nor into any real estate agency business. The First Petitioner Company and the Second Petitioner Company have purchased fully constructed commercial buildings from third parties and has given the same on lease. It may be noted that, the registration under the provisions</i></p>						

		<p><i>of RERA applies to promoters and real estate agents which includes builder, developer, contractor, development body or any other public body who/which constructs/develops land/building/apartment for the purpose of sale. Accordingly, the Petitioner Companies submits that the provisions of RERA are not applicable to the Petitioner Companies and no public interest is involved in respect of the real estate projects and the companies have not collected any money from home buyers.</i></p>
<p><i>(m)</i></p>	<p><i>On perusal of the Composite scheme of arrangement attached to the Company Scheme Petition at Annexure H it is seen that the Petitioners have at part B clause 12 proposed Cancellation and reduction of share capital in the book of Demerged Company 1 post approval of present scheme and the said clause is reproduced under for kind consideration of this Hon'ble Tribunal.</i></p> <p><b><u>Part B clause 12:-</u></b></p> <p><i>12.1. Notwithstanding anything contained in this Scheme, the capital</i></p>	<p><i>As regards the observation made in Paragraph 2(m) of the said Report is concerned, it is submitted that the observation made by the Regional Director is merely factual in nature and no further response is required to that extent.</i></p>

<p><i>reserve created as per clause 11.1.2 shall be adjusted by cancelling (i) 6% Compulsorily Convertible Non-Cumulative Preference Shares; ii) 7% Optionally Convertible Non-Cumulative Preference Shares; (iii) 8% Optionally Convertible Non-Cumulative Preference Shares, to the extent available and the balance if any, shall be adjusted by cancelling the equity capital (such number rounded down to the nearest whole number of equity shares], issued on first-in- first-out basis.</i></p> <p><i>12.2. The cancellation and reduction of share capital (as per clause 12.1 above) shall be effected as an integral part of the Scheme, pursuant to the order of the NCLT sanctioning this Scheme, under Section 230 of the Act. The order of the NCLT sanctioning this Scheme shall also include approval and confirmation of such cancellation and reduction of share capital of the Demerged Company I to the extent so required. Accordingly, as provided in the second explanation in Section 230 of the Act, the provisions of Section 66 of the Act shall not apply to such cancellation and reduction of share capital of the Demerged Company I, effected in pursuance of the said order of the NCLT. It is hereby clarified that for the above purpose the consent of the shareholders and creditors to the Scheme shall be deemed to be sufficient for the purpose of affecting the above amendment and no further resolution under the Act, would be required to be separately passed. Notwithstanding the cancellation and reduction of share capital of the Demerged Company I, the Demerged Company I shall not be required to add "And reduced" as a</i></p>	
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	<i>suffix to its name.</i>	
(n)	<p><i>That on examination of the report of the Registrar of Companies, Pune dated 24.07.2024 (Annexed as Annexure A-3) that the Demerged companies and Resulting Companies fall within the jurisdiction of ROC, Pune. It is submitted that no complaint and /or representation regarding the proposed Composite scheme of Arrangement by Demerger has been received against the Demerged and Resulting Companies. Further, the Demerged Companies and Resulting Companies have filed Financial Statements up to 31.03.2024. The observations in ROC report are as under:-</i></p> <p><i>i. That ROC Pune in his report dated 04.08.2025 reported that no Inquiry, inspection, investigation or Prosecution is pending against the subject companies.</i></p> <p><i>ii. The matter may be decided on the merits</i></p>	<p><i>As regards the observation made in Paragraph 2(n) of the said Report is concerned, it is submitted that observation made by the Registrar of Companies is merely factual in nature and no further response is required to that extent.</i></p>

12. The Income Tax Department in the case of the First Petitioner Company has filed its Report dated 10<sup>th</sup> July 2025, received on 29<sup>th</sup> August 2025 and shared through its legal counsel to the First Petitioner Company, making certain observations to the Scheme. The First Petitioner Company has filed its response with the Income Tax Department vide e-mail dated 30<sup>th</sup> August 2025 and filed an Affidavit dated

30<sup>th</sup> August 2025 with this Tribunal providing clarification/undertakings to the observations made by the Income Tax Department.

13. The observations made by the Income Tax Department and the clarifications/undertakings given by the First Petitioner Company are summarized in the table below:

<i>Respective Para Ref.</i>	<i>Income Tax Department observations / suggestions dated 10<sup>th</sup> July 2025, received on 29<sup>th</sup> August 2025</i>	<i>Response of the First Petitioner Company dated 30<sup>th</sup> August 2025</i>
4. i.	<i>It should be clarified and undertaken that, this being the case of Demerger the First Applicant Company will continue to be in existence and all pending proceedings against the First Applicant Company will continue in the name of the First Applicant Company even after the Demerger. Therefore, the scheme should be without prejudice to the rights of the Income Tax Department and the Income Tax Department shall continue with the ongoing proceedings against the First Applicant Company.</i>	<i>As regards the suggestion made in Paragraph 4.i and Paragraph 4.iv of the said Report is concerned, the First Petitioner Company submits that, considering that it is the case of the demerger, the First Petitioner Company will continue to be in existence and as such, all the ongoing income tax proceedings against the First Petitioner Company along with the tax demand will continue in the name of the First Petitioner Company and does not shift to the resulting company. Further, the First Petitioner Company hereby submits that the ongoing income tax proceedings against the First</i>

		<i>Petitioner Company will continue to be in the First Petitioner Company as stated in Paragraph 8.1 of the Demerger Scheme</i>
<i>4. ii.</i>	<i>At the moment this scheme is not being examined with reference to the taxation aspect vis-à-vis other such scheme/s, if any. Thus liberty be given that in future, if it is discovered that this scheme or similar such schemes are in any way acting as a device for tax-avoidance, then the Department will be at liberty to initiate the appropriate course of action as per law.</i>	<i>As regards the suggestion made in Paragraph 4.ii, Paragraph 4.iii and Paragraph 5 of the said Report is concerned, the First Petitioner Company submits that the First Petitioner Company will continue to be in existence pursuant to this Scheme becoming effective and will not cease to exist. As such, the income tax department has the liberty to take appropriate action as per law for any present or future proceedings.</i>
<i>4. iii.</i>	<i>The Income Tax Department will be at liberty to examine the aspect of any tax payable as a result of the Scheme and in case it is found that the scheme ultimately results in tax avoidance or is not in accordance to the provisions of the Income Tax Act, then the Department will be at liberty to initiate the appropriate course of</i>	<i>As regards the suggestion made in Paragraph 4.ii, Paragraph 4.iii and Paragraph 5 of the said Report is concerned, the First Petitioner Company submits that the First Petitioner Company will continue to be in existence pursuant to this Scheme becoming effective and will not cease to exist. As such, the</i>

	<i>action as per law.</i>	<i>income tax department has the liberty to take appropriate action as per law for any present or future proceedings.</i>
4. iv.	<i>It is further requested that the rights of the income tax department should remain intact to recover any outstanding demand in case of First Applicant Company from the First Applicant Company and these rights should not be affected in view of the sanction of the scheme.</i>	<i>As regards the suggestion made in Paragraph 4.i and Paragraph 4.iv of the said Report is concerned, the First Petitioner Company submits that, considering that it is the case of the demerger, the First Petitioner Company will continue to be in existence and as such, all the ongoing income tax proceedings against the First Petitioner Company along with the tax demand will continue in the name of the First Petitioner Company and does not shift to the resulting company. Further, the First Petitioner Company hereby submits that the ongoing income tax proceedings against the First Petitioner Company will continue to be in the First Petitioner Company as stated in Paragraph 8.1 of the Demerger Scheme.</i>

4. v.	<p><i>It should be undertaken that scheme of arrangement will not in any manner affect the ability of the assessee that are due in accordance with the Income tax Act and the same shall be paid in accordance with the Income Tax Act.</i></p>	<p><i>As regards the suggestion made in Paragraph 4.v of the said Report is concerned, the First Applicant Company through this affidavit submits that the Composite Scheme of Arrangement will not in any manner affect the ability of the Income Tax Department to recover any existing demands in accordance with the IT Act against the First Applicant Company.</i></p>
4. vi.	<p><i>On verification of Income Tax Departmental Database, for the A.Y. 2022-23 total demand raised u/s 144 of the Income Tax Act of Rs.3,92,46.350/-. The assessee has paid Rs.78,49,270/- which is 20% of the demand. Therefore, there are outstanding demand of <b><u>Rs. 3,13,97,000/-</u></b> for A.Y. 2022-23. The assessee has filed appeal before the Ld.CIT(A) which is pending for adjudication. There are TDS demand of Rs 50,080/- against the demerged company i.e. M/s Poonawalla Finance Private Limited as enumerated as</i></p>	<p><i>As regards the suggestion made in Paragraph 4.vi. of the said Report is concerned, the First Petitioner Company submits that the outstanding tax demand is due to the adjustments in the assessment proceedings for AY 2022-23. The First Petitioner Company has filed an appeal before the Commissioner of Income tax – Appeal on 19<sup>th</sup> April 2024 vide acknowledgement no. 180473980190424 and the case is pending for hearing and disposal. The income tax</i></p>

	<p>below:</p> <table border="1"> <thead> <tr> <th>A.Y.</th> <th>Outstanding Demand (in Rs.)</th> </tr> </thead> <tbody> <tr> <td>2007-08</td> <td>17,800/-</td> </tr> <tr> <td>2008-09</td> <td>360/-</td> </tr> <tr> <td>2017-18</td> <td>20/-</td> </tr> <tr> <td>2020-21</td> <td>1,070/-</td> </tr> <tr> <td>2019-20</td> <td>140/-</td> </tr> <tr> <td>2021-22</td> <td>490/-</td> </tr> <tr> <td>2022-23</td> <td>200/-</td> </tr> <tr> <td>2023-24</td> <td>30,000/-</td> </tr> <tr> <td><b>Total</b></td> <td><b>50,080/-</b></td> </tr> </tbody> </table>	A.Y.	Outstanding Demand (in Rs.)	2007-08	17,800/-	2008-09	360/-	2017-18	20/-	2020-21	1,070/-	2019-20	140/-	2021-22	490/-	2022-23	200/-	2023-24	30,000/-	<b>Total</b>	<b>50,080/-</b>	<p>department has granted a stay on the demand of Rs. 3,13,97,000 which is 80% of the total demand upon paying 20% of the total demand vide challan dated 17<sup>th</sup> October 2024. The copy of the challan evidencing the payment of 20% demand was submitted along with the Affidavit and marked as <b>Annexure 3</b>. The First Petitioner Company submits that it will pay the demands due as per the provisions of the IT Act.</p> <p>Further, it may be noted that, this being a case of demerger, the First Petitioner Company will continue and not cease to exist. Thus, the First Petitioner Company will pay the balance amount of demand if the appeals are not decided in its favour by Appellate Authorities.</p>
A.Y.	Outstanding Demand (in Rs.)																					
2007-08	17,800/-																					
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<b>Total</b>	<b>50,080/-</b>																					
5.	<p>It is reiterated that any sanction to the Scheme of Arrangement and under Sections 230 to 232 of the Companies Act, 2013 should not adversely impact the rights of the Income Tax Department or any present or future proceedings.</p>	<p>As regards the suggestion made in Paragraph 4.ii, Paragraph 4.iii and Paragraph 5 of the said Report is concerned, the First Petitioner Company submits that the First Petitioner Company will continue to be in existence</p>																				

	<i>The Department should be at liberty to take appropriate action as per law in case of an event of any tax avoidance or violation of Income Tax Law or any other similar issue.</i>	<i>pursuant to this Scheme becoming effective and will not cease to exist. As such, the income tax department has the liberty to take appropriate action as per law for any present or future proceedings.</i>
6.	<i>Petitioner Companies should give an undertaking that there is no investigation proceedings is pending against it.</i>	<i>As regards the suggestion made in Paragraph 6 of the said Report is concerned, the First Petitioner Company by way of this affidavit submits that no investigation proceedings under the IT Act are pending against the First Petitioner Company as per the information available with it.</i>

14. On 10.12.2025, this Bench passed the following order:

**“C.P.(CAA)/165(MB)2025-** *Heard Ld. Counsel for the Petitioner Companies. Mr. Altap Shaikh, Assistant Director has logged in through the VC on behalf of the RD, Western Region and submits that the clarification/submissions given by the Petitioner Companies in response to their observations, are satisfactory and they have no further observation/objection to the Scheme.*

*Adv. Ashita Agarwal has logged in through the VC on behalf of the Income Tax Department and she submits that consequent to their observations, clarification/undertaking given on behalf of the Petitioner Companies are satisfactory and they have no further observation/objection to the Scheme.*

*Accordingly, the matter is reserved for orders.”*

15. The shareholders and Creditors of the Petitioner Company 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.”*

### **ORDER**

16. From the material on record, the Scheme appears to be fair and reasonable and is not in violation of any provisions of law and is not contrary to public policy. Since all the requisite statutory compliances have been fulfilled, Company Petition bearing C.P.(CAA)/165/(MB)/2025 filed by the Petitioner Companies are made absolute in terms of prayers clause of the said Company Scheme Petition. Consequently, sanction is hereby **granted** to the Composite Scheme of Arrangement under Sections 230 to 232 read with Section 66 and other relevant provisions of the Companies Act, 2013 and the rules framed there under for the Scheme of Amalgamation with the following directions:
- a. The Appointed Date for part B of the Scheme is fixed as 1<sup>st</sup> October 2024 and the Appointed Date for part C of the Scheme is fixed as 1<sup>st</sup> January 2025.
  - b. If there is any deficiency found or, the violation committed qua any enactment, statutory rule or regulation, the sanction granted by this Tribunal 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.
  - c. 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.

- d. The Income Tax Department will be at liberty to examine the aspect of any tax payable by the Companies. It shall be open to the Income Tax Authorities to take necessary action as permissible under the Income Tax Act. The decision of Income Tax Department shall be binding on the Resulting Companies even for the concerns relating to Demerged Companies in so far as it relates to demerged undertakings.
- e. All the duties, direct and indirect taxes (including any advance taxes), GST liabilities, liabilities under the erstwhile provisions of the VAT Act, Sales Tax Act, customs duty, excise duty and any other tax obligations or litigations thereunder for any tax laws for Demerged Companies shall be transferred to Resulting Companies, as a result of the Scheme in so far as it relates to demerged undertakings.
- f. The Petitioner Companies are directed to file a Certified Copy of this Order along with the Scheme duly authenticated/certified by the Deputy Registrar or the Joint Registrar or the Assistant Registrar, National Company Law Tribunal, Mumbai Bench, with the concerned Registrar of Companies, electronically in e-form INC-28 within 30 (thirty) days from the date of receipt of the certified copy of this Order along with the Scheme.
- g. Certified copy of this Order along with the Scheme be also submitted to all the concerned Statutory Authorities.
- h. The Petitioner Companies to lodge a copy of this Order and the Scheme duly authenticated by the Deputy Registrar or Assistant Registrar, National Company Law Tribunal, Mumbai Bench, 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.
- i. All the employees of the Demerged Companies in service, on the date immediately preceding the date on which the Scheme takes effect i.e. the Effective Date, shall become the employees of the Resulting Companies on

such date, without any break or interruption in service and upon terms and conditions not less favourable than those subsisting in the concerned Demerged Companies on the said date, in so far as they relate to demerged undertakings.

- j. Any proceedings now pending by or against the Demerged Companies be continued by or against the Resulting Companies, in so far as they relate to demerged undertakings.
  - k. All the properties, rights, liabilities, duties and powers of the Demerged Companies, be transferred without further act or deed, to the Resulting Companies and accordingly the same shall, pursuant to Section 232 of the Companies Act, 2013, be transferred to and vest in the Resulting Companies.
  - l. Any person interested shall be at liberty to apply to this Tribunal in the above matter for any directions that may be necessary.
  - m. Any concerned authorities are at liberty to approach this Tribunal for any further clarification as may be necessary.
  - n. All concerned regulatory authorities to act on a copy of this Order duly certified by the Registry of this Tribunal, along with a copy of the Scheme.
17. Ordered Accordingly. The Company Scheme Petition with C.P.(CAA)/165/MB/C-V/2025 in CA(CAA)/85/MB/C-V/2025 stands **disposed of**.
18. The file be consigned to record storage (current).

**Sd/-**  
**Charanjeet Singh Gulati**  
**Member (Technical)**

*/Ziyaul Steno/*

**Sd/-**  
**Mohan Prasad Tiwari**  
**Member (Judicial)**