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**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH - I, CHENNAI**

CP(CAA)/98(CHE)2022 in CA(CAA)/11(CHE)2022

Under Sections 230 to 232 of the Companies Act, 2013

In the matter of *Composite Scheme of Arrangement*

of

1. INTERSEA MARITIME LIMITED

CIN NO: U63012TN1998PLC040506

BUHARI TOWERS, SIXTH FLOOR,

NO.4, MOORES ROAD,

CHENNAI – 600 006

... Applicant No.1 /Transferee Company/ Resulting Company

2. FOUR M MARITIME PRIVATE LIMITED

CIN NO: U65993TN1999PTC041716

BUHARI TOWERS, SIXTH FLOOR,

NO.4, MOORES ROAD,

CHENNAI – 600 006

... Applicant No.2 / Transferor Company

3. BUHARI HOLDINGS PRIVATE LIMITED

CIN NO: U45201TN1989PTC017001

NO.4, MOORES ROAD,

CHENNAI – 600 006

... Applicant No.3/ Demerged Company

And

Their Respective Shareholders and Creditors

Order Pronounced on **15th March 2023**

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**JUSTICE RAMALINGAM SUDHAKAR, Hon'ble PRESIDENT
SAMEER KAKAR, MEMBER (TECHNICAL)**

For Applicant(s): *Jayanth Viswanathan, PCS*





ORDER

Per: SAMEER KAKAR, MEMBER (TECHNICAL)

The hearing of this Petition has been conducted through video conferencing platform.

2. The present Company Petition has been filed by the Petitioner Companies above named for the purpose of the approval of the Composite Scheme of Arrangement of **INTERSEA MARITIME LIMITED** (for brevity "Applicant No.1/ Transferee Company/ Resulting Company") and **FOUR M MARITIME PRIVATE LIMITED** (for brevity "Applicant No.2/Transferor Company") **BUHARI HOLDINGS PRIVATE LIMITED** (for brevity Applicant No.3/ Demerged 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 (for brevity 'the Rules') (hereinafter referred to as the 'SCHEME') pursuant to the Scheme proposed by the Petitioner Companies and the said Scheme is also annexed at "**Annexures A4, B4 & C4**" of the Petitioner Companies typeset filed along with the Petition.



1st MOTION APPLICATION – IN BRIEF

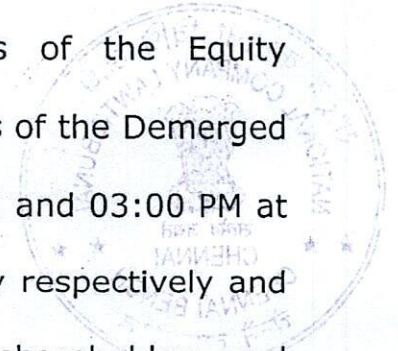
- 3.1. The Applicant Companies namely **INTERSEA MARITIME LIMITED** (for brevity "Applicant No.1/ Transferee Company/ Resulting Company") and **FOUR M MARITIME PRIVATE LIMITED**



(for brevity "Applicant No.2/Transferor Company") **BUHARI HOLDINGS PRIVATE LIMITED** (for brevity Applicant No.3/ Demerged Company") have filed the First Motion Application vide CA(CAA)/11/(CHE)/2022 has sought for the following reliefs:

	EQUITY SHAREHOLDERS	SECURED CREDITORS	UNSECURED CREDITORS
TRANSFeree COMPANY/ RESULTING COMPANY	To Order Meeting	To Order Meeting	To Order Meeting
TRANSFEROR COMPANY	To Dispense with	NIL	To Dispense with
DEMERGED COMPANY	To Order Meeting	NIL	To Order Meeting

3.2. Based on such application moved under Sections 230-232 of the Companies Act, 2013, directions were issued by this Tribunal, vide order dated 06th July 2022 to convene the meetings of the Equity shareholders, Secured and Unsecured Creditors of the Transferee Company/ Resulting Company on 20.08.2022 at 10:00 AM, 11:00 AM & 12:00 PM at the Registered office of the Company respectively. Further, this Tribunal has directed to convene the meetings of the Equity shareholders and Unsecured Creditors of the Demerged Company on 20.08.2022 at 02:00 PM and 03:00 PM at the Registered office of the Company respectively and dispensed the meetings of Equity shareholders and

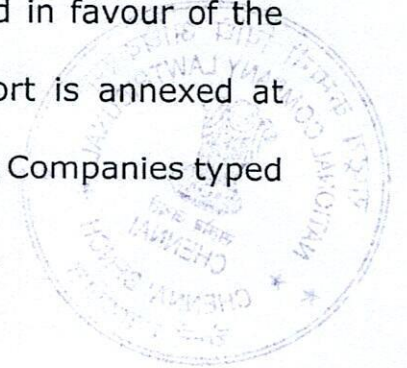




Unsecured Creditors of the Transferor Company. It was represented that there are no Secured Creditors in respect of the Transferor Company and Demerged Company.

3.3. Accordingly, the Tribunal has appointed Ms.R.V,Yajura Devi, as Chairperson and Ms.Nithya Pasupathy, PCS as the Scrutinizer for the above said meetings. Subsequently, the second motion petition was filed before this Tribunal by the petitioner companies on **26.08.2022** for sanction of the Composite Scheme of Amalgamation by this Tribunal.

3.4. The Chairperson has submitted his Report on the above said meetings on 23rd August, 2022 with the Tribunal. From the Chairperson's report, it is observed that the Equity shareholders, Secured Creditors and Unsecured Creditors of the Transferee Company / Resulting Company, Equity shareholders and Unsecured Creditors of Demerged Company had consented in favour of the Scheme. The said Chairperson's report is annexed at "**Annexure A6 & C6**" of the Applicant Companies typed set filed along with the Petition.



4. STEPS CONTEMPLATED UNDER THE SCHEME:

The Scheme provides for the following to take place chronologically;

- a) Reduction of share capital of the Transferee Company as envisaged in Part II of the Scheme.
- b) Selective reduction of share capital of the Transferor Company as envisaged in Part III of the Scheme
- c) Amalgamation of the entire undertaking of the Transferor Company with the Transferee Company as envisaged in Part IV of the Scheme.
- d) Demerger of the shipping undertaking of the Demerged Company in to the Resulting Company as envisaged in PART V of the Scheme.

5. RATIONALE OF THE SCHEME

5.1. The rationale and benefits of the Scheme as submitted by the Learned Counsel for the Petitioner Companies would *inter alia* result in the following benefits;

a) Reduction of share capital of Intersea: The rationale behind the reduction of share capital of Intersea is as under:

(i) Erosion of Networth due accumulated losses over at period of time has substantially wiped off the value represented by the share capital, and thus, the financial statements do not reflect the correct picture of the financial health of Intersea. This has given rise to a need to re-adjust the capital to accurately and fairly reflect the liabilities and assets of Intersea in its books of accounts. Intersea has evaluated the effect of this upon its functioning and has carefully examined different options available to it. After detailed





deliberations, the Board of Directors of Intersea have proposed to reduce the capital of Intersea in accordance with the provisions of Section 230 and other applicable provisions of the Companies Act, 2013.

(ii) The reduction of capital in the manner proposed would enable Intersea to have a capital structure which will commensurate with its remaining business and assets.

(iii) The reduction of capital is not prejudicial and would not affect the interest of any stakeholders (including shareholders) of Intersea. For the sake of clarity, it is specified that the creditors of Intersea are in no way affected by the proposed reduction of capital as there is no reduction in the amount payable to any of the creditors and therefore, no compromise or arrangement is contemplated with the Creditors.

(iv) Further, this Scheme does not involve diminution of any. Further, liability in respect of unpaid capital and there are no partly paid-up shares but for the cancellation of 1,66,78,867 (One crore Sixty-Six lakhs Seventy-Eight Thousand and Eight hundred Sixty Seven only) equity shares of Rs. 10/- each of Intersea against accumulated losses.

(v) Additionally, the proposed adjustment would not in any way adversely affect the ordinary operations of Intersea or its ability to honor its commitments or to pay its debts in the ordinary course of its business.

In order to reflect the true financial health of Intersea as explained above, the Board of Directors of Intersea believe that the Appointed Date for capital reduction should be 31st March 2021 (herein after referred as "Appointed Date 1").



b) Selective reduction of share capital of Four M: The rationale behind the Selective reduction of share capital of Four M is as under:

(i) The Scheme will facilitate exit of one of its shareholders namely Gulf Fertilizers and Chemicals Limited, as the capital of Four M has completely eroded due to the business losses and is unwilling to participate in further capital/business operations of the company.



(ii) The unwillingness of Gulf Fertilizers and Chemicals Limited to pursue its investment in the shipping business disinclination and due to the breakout of COVID- 19 pandemic.

The Board of Directors believe that the Selective capital reduction should have date as 31st March 2021 i.e. an Appointed Date 1.

(c) After the aforementioned capital reduction in Intersea and selective capital reduction in Four M, it is proposed to amalgamate Four M into Intersea. The amalgamation would entail the following benefits:

(i) Enable consolidation of the business of the Transferor Company and Transferee Company into one entity which will facilitate focused growth, operational efficiency, integration, and better supervision of the business of the group and optimal allocation of capital.

(ii) Enables ease of business by having ownership of the ship(s) in a single entity.

(iii) Enable synergy benefits in the Transferor Company and Transferee Company due to economies of scale by combining all the functions, related activities, and operations.

(iv) Intersea and Four M are engaged in similar business, Intersea intends to purchase Cargo Ship(s). Considering the shipping industry dynamics in India and global markets and growth opportunities, Intersea and Four M believe that the proposed consolidation of the Four M Business (more particularly defined hereinafter) with Intersea will lead to robust growth opportunities in India and globally.

(v) Resources of the Transferor Company and Transferee Company in the form of managerial and technical expertise can be combined for optimum utilization and to increase operational efficiency.

(vi) Facilitate scaling of operations, reduce administrative costs and garner greater visibility in the market.

(vii) Enable smooth implementation of policy changes at a higher level from a management perspective and shall also help enhance the efficiency and control of the entities.





(viii) Bring about operational efficiencies and reduction of administrative and managerial overheads as well as reduction in multiplicity of legal and regulatory compliances.

Given that the business of the Transferor Company and the Transferee Company is the same and combination of such companies would lead to business continuity along with "commercial, operational and administrative synergies (as) explained above) leading to maximizing stakeholders' value, the Board of Directors of the respective companies believe that the amalgamation should have an Appointed Date of 01 April 2021 (herein after referred as "Appointed Date 2").

d) Subsequent to the amalgamation of Four M into Intersea, it is proposed to demerge the shipping business of Buhari into Intersea, which would inter-alia, entail the following benefits:

(i) Unlock the value of the shipping business and to maximize shareholders' wealth.

(ii) Enable ease of business by having ownership of the ships in single entity.

(iii) Enable the attribution of appropriate risk and valuation to the concerned businesses based on their risk-return profile and cash flows.

(iv) Ensure dedicated leadership and management in respect of the shipping business.

(v) Provide greater visibility of the proposed standalone Real Estate Business which shall be the retained undertaking in Buhari.

In view of the aforesaid, the Board of Directors believe that the demerger should have an Appointed Date 2 of 1 April 2021 (after giving effect to the capital reduction of Intersea, selective capital reduction in Four M and amalgamation of Four M into Intersea), in order to reflect and represent, through a uniform financial statement, the true financial strengths of the Transferee /Resulting Company.

e) Overall, the Scheme envisages the following benefits:

(i) Simplification of group structure;



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(ii) Business and administrative synergies, enhancement of net worth of the combined business for future growth and expansion;

(iii) Greater financial strength and flexibility for the Transferee Company / Resulting Company, which would result in maximizing overall shareholder value, and will improve the competitive position of the combined entity;

(iv) Create enhanced value for the shareholders and allow a focused strategy in operations;

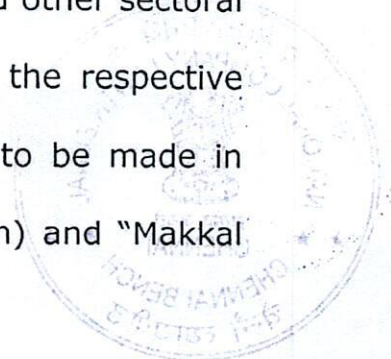
(v) Avoid duplication of efforts;

(vi) Reduction in multiplicity of legal and regulatory compliances, reduction in overheads, including administrative, managerial, and other administrative costs;

(vii) Ease of doing business with all the stakeholders including customers, vendors, lenders, employees etc. by positioning entire business under one single brand name;

In view of the aforesaid, the Board of Directors of Intersea, Four M and Buhari have considered and proposed the Scheme under the provisions of Sections 230-232 of the Companies Act, 2013 and other relevant provisions of the Companies Act, 2013.

6. In the second motion application filed by the Petitioner Companies, this Tribunal vide order dated 19.10.2022 directed the Petitioner Companies to issue notice to the Statutory / Regulatory Authorities viz. (i) Regional Director (Southern Region), (ii) RoC, Chennai, (iii) Official Liquidator (iv) Income Tax Department (v) Reserve Bank of India and other sectoral regulators, who may govern the working of the respective companies, as well as for paper publication to be made in "Business Standard", English (All India Edition) and "Makkal Kural" Tamil (Tamil Nadu Edition).

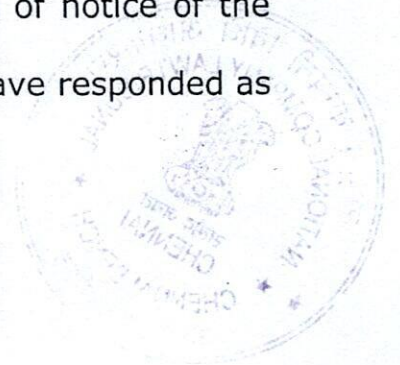


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7. In compliance to the said directions issued by this Tribunal, the Petitioner Companies have filed an affidavit of service before the Registry of this Tribunal on 20.01.2023 and a perusal of the same discloses that the Petitioner Companies have effected paper publications as directed by the Tribunal in "Business Standard" (All India Edition) in English and "Makkal Kural" (Tamil Nadu Edition) in Tamil on 22.12.2022. It is also seen that notices have been also served to (i) Regional Director, Southern Region, on 23rd December 2022, (ii) Registrar of Companies, Chennai on 23rd December 2022, (iii) Official Liquidator on 23rd December 2022, (iv) Income Tax Department on 23rd December 2022, (v) Reserve Bank of India on 23rd December 2022, (vi) Goods and Services Tax Authorities on 23rd December 2022, (vii) Mercantile Marine Department on 23rd December 2022 and (viii) Directorate General of Shipping on 23rd December 2022 and the proof of the same by way of affidavits have been enclosed with the separate typed set. Pursuant to the service of notice of the petition the following statutory authorities have responded as

follows:



8. **STATUTORY AUTHORITIES**

8.1. **REGIONAL DIRECTOR**

The Regional Director, Southern Region (*hereinafter referred to as 'RD'*) Chennai to whom the notice was issued in the Second motion, has filed his Report before this Tribunal on **14.12.2022, Vide SR.No.6513** and has stated in Para 10 of the RD Report that as per Clause 14 of Part-IV and clause 28 of Part-V of the Scheme provides for the protection of employees of the Transferor Company and Demerged Company. All staff and employees of the Transferor Company and Demerged Company, in service on the Effective Date, shall be deemed to have become staff and employees of the Transferee Company / Resulting Company, with effect from the Appointed Date 2 or date of joining whichever is later, without any break in their service and other benefits.

8.1.1. It is further averred in para 7 of the RD Report that as per Clause 5 of Part II of the Scheme, the Transferee Company/Resulting Company proposes to reduce its paid-up share capital from Rs.55,79,07,880 to Rs.39,11,19,210 by cancelling and extinguishing the equity share capital of Rs.16,67,88,670 divided in to



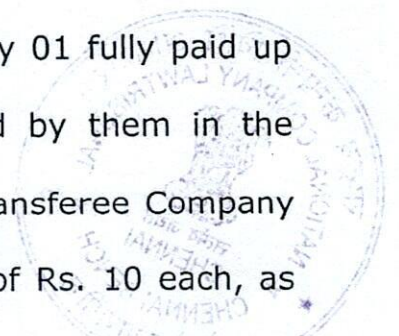
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1,66,78,867 equity shares of Rs.10 each to write off the accumulate losses of the company to that extent.

8.1.2. It is further averred in para 8 of the RD Report that as per Clause 8 of Part III of the Scheme, the Transferor Company proposes to reduce its paid up Share Capital from Rs. 4,17,79,800 to Rs. 2,41,02,000 by cancelling and extinguishing the equity share capital of Rs. 1,76,77,800 divided into 1,76,778 Equity Shares of Rs. 100 each on account of exit of one of the shareholders- M/s. Gulf Fertilizers and Chemicals Limited and there may not be any repayment of capital on the proposed reduction by way of cancellation, instead the accumulated losses have been written off to that extent.

8.1.3. It is further averred in para 11 of the RD Report that as per Clause 16 of Part IV of the Scheme provides that the Transferee Company shall issue and allot to the Shareholders of Transferor Company 26 fully paid up equity share of Rs. 10 each for every 01 fully paid up equity shares of Rs. 100 each held by them in the Transferor Company, as such the Transferee Company shall allot 62,66,520 Equity Shares of Rs. 10 each, as consideration upon effectiveness of the Scheme of Amalgamation. Further, it is submitted that as per



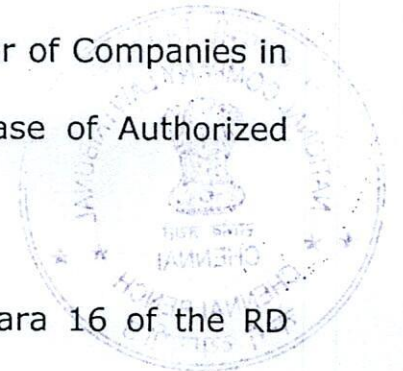
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Clause 23 of Part V of the Scheme, the Transferee / Resulting Company shall issue and allot to the Shareholders of the Demerged Company 1,13,73,624 fully paid up equity shares of Rs. 10 each in proportion to their shareholding, as consideration for demerger of its shipping business to the Resulting Company.

8.1.4. It is further averred in para 14 of the RD Report that Clause 18 of Part IV of the Scheme provides for clubbing of Authorized Share Capital of the Companies, as such the 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 Authorized Share Capital of the Company shall be Rs. 64,50,00,000 divided into 6,45,00,000 equity shares of Rs. 10 each. It is prayed that the Hon'ble NCLT, 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.

8.1.5. It is further observed that as per para 16 of the RD report wherein it has been stated that as per the Report





of the RoC, Chennai, the Transferor Company, Demerged Company and the Transferee / Resulting Company are regular in filing their statutory returns and filed upto 31.03.2021. ROC, Chennai has further stated that there are no prosecution/complaint/ inspection or investigation pending against the Transferor Company, Company and the Transferee / Resulting Company.

8.1.6. Thus, after examining the Scheme, except the observations made in para 14 of the RD Report, the Regional Director in their Report has stated that they have decided not to make any objection to the Scheme.

8.1.7. In relation to the observation made by the RD in para 14 of the report, we direct the Transferee / Resulting 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.



8.2. OFFICIAL LIQUIDATOR

In relation to the Official Liquidator, (*hereinafter referred to as 'OL'*) to whom the notice was issued has filed the Report before this Tribunal on **25.01.2023** *vide SR.No.411* has stated that they have appointed





Mr.S.Raghukumar Reddy, Chartered Accountant from the panel maintained by their office to verify into the affairs of the Transferor Company. The Chartered Accountants in their report submitted before the Official Liquidator have observed as follows;

- The Chartered Accountant Firm verified the books and accounts and other records of the Transferor Company and submitted their report and the copy of the same is enclosed as Annexure-A for kind perusal of this Tribunal. It is observed from the scrutiny/inspection that:
- The Chartered Accountant has inspected past three 3 years financial records of the Transferor Company. The Chartered Accountant has not come across any diversion of funds or other matters which attract the provisions of Sections 339/340 of the Companies Act, 2013.
- The Transferor Company had made substantial losses over the last years and its net worth was / is fully eroded, and the present of the company is negative to the tune of Rs.22.11 crores. Since the net worth of the company has been eroded, the company requested the existing shareholders to infuse further equity, in the existing proportion, with the intention of buying ship either individually or jointly with M/s. Intersea Maritime Limited and M/s. Buhari Holdings Private Limited (vide Transferor Company's letter dated 1/11/2021). But M/s. Gulf Fertilizer and Chemicals Limited, Mauritius, vide their letter dated 2 November, 2021, informed the Transferor Company that:-
 - a) They were not interested to infuse funds in the Transferor Company.
 - b) They had already written of their investments, in their books of account, in the Transferor Company.
 - c) They advised the Transferor Company to take necessary steps to cancel the shares held by them in the Transferor Company.
- The Chartered Accountants find that handling of liabilities of the Transferor Company is viable.





- The Chartered Accountant's investigation did not reveal that the affairs of the Transferor Company were conducted in a manner prejudicial to the interest of the stakeholders.
- The Chartered Accountant's investigation did not reveal any misfeasance by the Board of Directors of the Transferor Company.
- The Chartered Accountants find that the Transferor Company had complied with all the necessary requirements needed with reference to the filing of returns with the Registrar of Tamil Nadu.
- The Transferor Company was not a listed company. It was a Private Limited Company, and it was not subsidiary or holding of a public limited company.
- The Transferor Company did not have any pending litigation which would impact its financial position in its financial statements (vide independent auditor's report dated 25.12.2021).
- Proper books of accounts as required by law have been kept by the Transferor Company. (vide independent auditor's report dated 25.12.2021).
- The Transferor Company had complied with all the necessary requirements needed with reference to the filing of returns with the Registrar of Companies, Tamil Nadu.
- The Chartered Accountant's investigation did not reveal any misfeasance by the Board of Directors of the Transferor Company.
- The Chartered Accountant's investigation did not reveal that the affairs of the Transferor Company were conducted in a manner prejudicial to the interest of the stakeholders.



8-2.2.

From the above observations made by the Chartered Accountant, the Official Liquidator sought to take on record and consider the report of the Chartered Accountant and has also sought to fix the



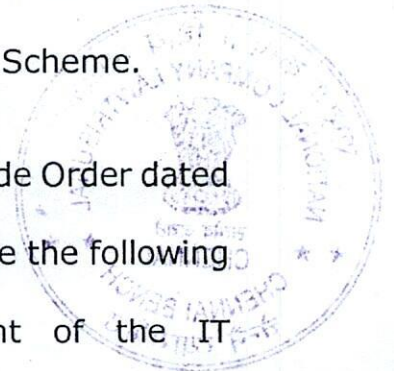
remuneration payable to the Auditor who has investigated into the affairs of Transferor Company. In this regard, this Tribunal hereby directs the Transferor Companies (1&2) to pay a sum of **₹75,000 /- + GST (Rupees Seventy-Five Thousand only Plus GST)** to the Official Liquidator for the payment of fees payable towards the Auditor who has investigated into the affairs of the Transferor Company.

8.3. INCOME TAX DEPARTMENT

8.3.1. Despite notice having been served on 23.12.2022, and public notice issued on 22.12.2022 in "Business Standard" English (All India Edition) and "Makkal Kural" Tamil (Tamil Nadu Edition) there is no representation from the Department of Income Tax and this Tribunal in terms of Section 230(5) of the Companies Act, 2013 presumes that the Department of Income Tax does not have any objection to the sanction of the Scheme.



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

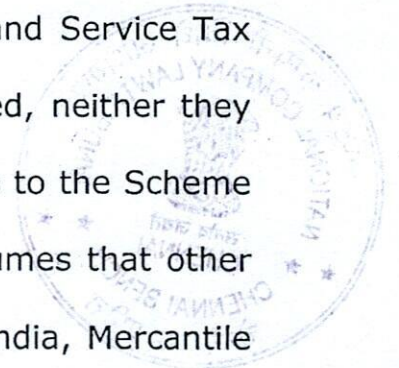




"taking into consideration the clauses contained in the Scheme in relation to liability to tax and also as insisted upon by the Income Tax and in terms of the decision in RE: Vodafone Essar Gujarat Limited v. Department of Income Tax (2013)353 ITR 222 (Guj) and the same being also affirmed by the Hon'ble 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 statutory 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."

8.4. OTHER STATUTORY AUTHORITIES

In relation to the other statutory authorities namely Reserve Bank of India, Mercantile Marine Department, Directorate General of Shipping and Goods and Service Tax Authorities to whom notices have been issued, neither they have filed any reply nor raised any objections to the Scheme and in the circumstances, this Tribunal presumes that other statutory Department viz. Reserve Bank of India, Mercantile Marine Department, Directorate General of Shipping and



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Goods and Service Tax Authorities do not have any objection to the sanction of the Scheme.

9. VALUATION REPORT

9.1. The Learned Counsel for the Petitioner Companies invited the attention of this Tribunal to the Valuation Report obtained from one **Mr. Ramji Mahadevan**, Registered Valuer dated **19.11.2021** wherein it has been recommended by the Independent Valuer that :

SWAP RATIO POST CAPITAL REDUCTION & SELECTIVE CAPITAL REDUCTION:

Based on the Adjusted NAV of Intersea and Four M, the Swap ratio is worked out as under:

ENTITY	INTERSEA	FOUR M
Fair market value	39,11,19,214	6,20,97,147
No of shares (Post capital reduction)	3,91,11,921	2,41,020
Value per share	10	257.64
Swap ratio – Intersea to issue 26 shares for every share in Four M		25.76 rounded off to 26

- **26 fully paid Equity Shares of face value of Rs.10/- each of INTERSEA for every 1 equity share of Rs.100/- each held by shareholders in Four M.**

9.2. We have adopted Adjusted Net Assets Method under Cost Approach for ascertaining the fair value per equity share of the Shipping Division of M/s. Buhari as per Annexure 5 of this report.





- 9.3. Accordingly, the Net asset value of Shipping Division of Buhari as on the appointed date under the Scheme being 1st April 2021 works out to Rs.11,44,79,225/-.
- 9.4. This networth of Buhari shipping division has been divided by the fair value of INTERSEA of Rs. 10/- to arrive at the share entitlement of the Demerged undertaking
- 9.5. Therefore, the total value of the Demerged undertaking as per the above approach works out to Rs. 11,44,79,225/-and accordingly the shareholders of the Demerged company are entitled to receive 1,13,73,624 equity shares in the Resulting company in proportion to their shareholding in the Demerged company.

10. ACCOUNTING TREATMENT

- 10.1. The Learned Counsel for the Petitioner Companies have stated that the Statutory Auditors of the Petitioner Companies have examined the Scheme and has certified that the Petitioner Companies have complied with proviso to Section 230 (7) / Section 232 (3) and the Accounting Treatment contained in the proposed Scheme of Arrangement is in compliance with the Applicable Indian Accounting Standards. The Certificates issued by the Statutory Auditors certifying the Accounting Treatment of the Petitioner Companies are placed at "**Annexures A3,**



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B3 & C3" of the Petitioner Companies typed set filed in CP(CAA)/98/(CHE)/2022.

11. OBSERVATIONS OF THIS TRIBUNAL

11.1. After analyzing the Scheme in detail, this Tribunal is of the considered view that the scheme as contemplated amongst the petitioner companies seems to be *prima facie* beneficial to the Company and will not be in any way detrimental to the interest of the shareholders of the Company. In view of the absence of any other objections having been placed on record before this Tribunal and since all the requisite statutory compliances having been fulfilled, this Tribunal sanctions the Composite Scheme of Arrangement appended at **"Annexures A4, B4 & C4"** of the Petitioner Companies typeset filed along with the Petition as well as the prayer made therein.



11.2. The Learned Counsel for the Petitioner companies submitted that no investigation proceedings are pending against the Transferor or Transferee 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.

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

11.4. While approving the Scheme as above, it is clarified that this order should not be construed as an order in any way granting exemption from payment of stamp duty, taxes or any other charges, if any, payment is due or required in accordance with law or in respect to any permission/compliance with any other requirement which may be specifically required under any law.

12. THIS TRIBUNAL DO FURTHER ORDER:

- (i) That the issued, subscribed and paid-up equity share capital of Intersea shall stand reduced from Rs.55,79,07,880 (divided into 55,790,788 equity shares of Rs. 10 each) to Rs.39,11,19,210 (divided into 3,91,11,921 equity shares of Rs. 10 each) by cancelling equity share capital of Rs.16,67,88,670 divided into 1,66,78,867 equity shares of Rs.10 each).



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- (ii) That the issued, subscribed and paid up equity share capital of Four M shall stand reduced from Rs.4,17,79,800 (divided) into 417,798 equity shares of Rs.100 each) to Rs. 2,41,02,000 (divided into 241,020 equity shares of Rs. 100 each) by cancelling the balance equity share capital amounting to Rs.1,76,77,800 (divided into 1,76,778 equity shares of Rs.100 each) on account of exit of one of the shareholders of Four M. Such reduction shall take place by way of cancellation of equity shares held by Gulf Fertilizers and Chemicals Limited only, as appearing in the Register of Members of Four M on the Appointed Date 1.
- (iii) That the sanction of the scheme resulting in the reduction of the share capital of the Transferor Company as above shall be in accordance with the provisions of Section 230 of the Companies Act, 2013 without any further application, act or deed required by the Transferor Company or its shareholders.
- (iv) That all properties, right and interest of the Transferor Company shall pursuant to section 232(3) of the Companies Act, 2013 without further act or deed be transferred to and vested in or be deemed to have been transferred and vested in the Transferee Company as per **Part IV** of the Scheme.



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 the Transferee



Company and accordingly the same become the liabilities and duties of the Transferee Company.

- (vi) That all proceedings now pending by or against the Transferor Company be continued by or against the Transferee Company.
- (vii) That all the employees of the Transferor Company in service on date immediately preceding the date on which the Scheme finally take effect shall become the employees of the Transferee Company without any break or interruption in their service.
- (viii) That all properties, rights and powers of Demerged undertaking be transferred without further act or deed to the Resulting Company and accordingly the same shall pursuant to Section 232 of the Companies Act, 2013 be transferred to and vested in the Resulting Company for all intents, purposes and interest of the Demerged undertaking subject nevertheless to all changes now affecting the same as per **Part V** of the Scheme; and
- (ix) That all the liabilities, (if any) and powers, engagements, obligations and duties of the Demerged undertaking shall pursuant to Section 232 (3) of the Companies Act, 2013 without further act or deed be transferred to the Resulting Company and accordingly the same become the liabilities and duties of the Resulting Company; and





- (x) That all proceedings now pending by or against the Demerged undertaking shall be continued by or against the Resulting Company; and
- (xi) That all the services of all the employees of the Demerged Company employed in the Demerged undertaking shall stand transferred to the Resulting Company on the same terms and conditions at which these employees are engaged by the Demerged Company without any interruption of service as a result of the transfer; and
- (xii) That the Appointed date for the Scheme shall be as follows;
- For the Purpose of Part II and Part III of the Scheme (*Reduction of Share Capital*) is **31st March 2021.**
 - For the Purpose of Part IV and Part V of the Scheme (*Amalgamation and Demerger*) is **1st April 2021.**

as specified in the Scheme itself in terms of Section 232 (6) of the Companies Act, 2013.

- (xiii) 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 Clause 16.2 of Part-IV of the SCHEME in the following proportion;



"26 fully paid Equity shares of face value of Rs.10/- each of Intersea for every 1 equity share of Rs.100/- each held by shareholders in Four M, which translates into 62,66,520 (Sixty-Two Lakhs Sixty-Six Thousand Five Hundred and Twenty



Only) Equity shares of Rs. 10 Each ("Four M Merger Shares") under the Scheme."

- (xiv) That upon the Scheme coming into effect, the shareholders of the Demerged Company are entitled to receive 113,73,624 equity shares of Rs.10/- each in the Resulting Company in proportion to their shareholding in the Demerged Company in Demat form, that is, Dematerialised Shares.
- (xv) That the Transferee Company and the Resulting Company shall file the revised Memorandum and Articles of Association with the Registrar of Companies, Chennai 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 / Demerged Company.
- (xvi) That the Transferor Company and the Transferee Company and the Resulting Company, 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 and registered with him on the file kept by him in relation to all the Transferee Company and the files relating to the said both companies shall be consolidated accordingly.



✓

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

13. Accordingly, the Company Petition stands **allowed** on the aforementioned terms.

- sd -

SAMEER KAKAR
MEMBER (TECHNICAL)

- Sd -

JUSTICE RAMALINGAM SUDHAKAR
PRESIDENT

Sriram Ananth.V

K. Nataraj - 17/3/2023

DEPUTY REGISTRAR
NATIONAL COMPANY LAW TRIBUNAL
CHENNAI BENCH
CORPORATE BHAVAN, 3rd FLOOR,
29, RAJAJI SALAI, CHENNAI-600001



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