

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
SPECIAL BENCH - II, CHENNAI**

CP(CAA)/27 (CHE)/2023

in

CA(CAA)/11 (CHE)/2023

in

IBA/1017/2019

*(Filed under Sections 230 to 232 and 66 of the Companies Act,
2013 r/w NCLT Rules, 2016)*

*In the matter of the Scheme of Compromise and Arrangement
between*

MR. ANURAG GOEL,

Liquidator of

Shree Ambika Sugars Limited,

Having Office at

Plot No.6, First Floor, State Bank Nagar,

Outer Ring Road, New Delhi – 110 063.

Also, at

No.112, Eldorado Building,

4th Floor, Nungambakkam High Road,

Chennai – 600 034.

Reg. Office of

Shree Ambika Sugars Limited,

... Petitioner/Liquidator

Order Pronounced on 12th January 2024

CORAM

SANJIV JAIN, MEMBER (JUDICIAL)

VENKATRAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

Present: -

For Petitioner(s)

: Mr.P.H.Arvinth Pandian, Sr. Advocate for

Mr.Anant Merathia, Advocate

Ms.Poornima Devi, Advocate

Mr.Ranghasayee, Advocate

Mr.Anurag Goel, Liquidator

For Objectors

: Mr.Harsha Raj, AGP (for District Collectors

Cuddalore & Thanjavur)

*Mr.P.Balasubramaniam, Advocate (For LPF
Ambika Sugars)*

*Hema Muralikrishnan, Sr.Standing Counsel (For
Customs Trichy)*

Mr. Umapathy, Advocate (for INTUC)

*Mr.Raj Kumar Jhabakh, Advocate (for IT & GST
Dept. Cuddalore)*

For Promoters : Mr.Vishnu Mohan, Advocate

ORDER

(Hearing Conducted Physical Mode)

This Application has been filed under Section 230-232 and Section 66 of the Companies Act, 2013 by Mr.Anurag Goel Liquidator of Shree Ambika Sugars Limited (hereinafter referred to as "Corporate Debtor") seeking to sanction and confirm the Scheme of Compromise (hereinafter referred to as 'Scheme') of SNJ Distillers Private Limited and order it to be binding on all the Shareholders/ Members, Secured Creditors/Unsecured Creditors, Operational Creditors (Statutory Authorities), Operational Creditors (Farmers), Operational Creditors (Employees and Workmen) and Operational Creditors (Other Creditors) of the Corporate Debtor viz.M/s.Shree Ambika Sugars Limited (in Liquidation).

2. FACTS IN BRIEF:

2.1. It is stated that the Corporate Debtor was admitted to CIRP vide order dated 18.12.2019. The Petitioner herein was appointed as the IRP, subsequently confirmed as RP.

2.2. It is stated that the Applicant issued an Expression of Interest (EoI) on 14.08.2020, and later received two Resolution Plans. In

the 22nd meeting of the Committee of Creditors (CoC), the members of the CoC did not approve the Resolution Plan and passed a resolution to liquidate the Corporate Debtor. This Tribunal vide order dated 20.06.2022 in IA(IBC)/1263(CHE)/2021 ordered liquidation of the Corporate Debtor and the Petitioner herein was appointed as the Liquidator.

2.3. Thereafter, the Liquidator carried on the liquidation process of the Corporate Debtor. The sequence of events during the liquidation process is as under,

DATE	PROCESS
20.06.2022	Order passed in IA / 1263 / 2021 filed under Section 33 of the Code, ordering Liquidation of the Corporate Debtor.
22.06.2022	Public Announcement made by the Liquidator under Form B as per Regulation 12 of the IBBI (Liquidation Process) Regulations, 2016
05.07.2022	Invitation for proposing a scheme for Compromise or Arrangement under Section 230 of the Companies Act, 2013 and Form G issued by the Applicant.
15.07.2022	Expression of Interest submitted by SNJ Distillers (P) Ltd
10.08.2022	A scheme was submitted by SNJ Distillers (P) Ltd to the Liquidator.
19.08.2022	List of Stakeholders prepared by the Applicant
01.09.2022	Asset Memorandum of the Corporate Debtor prepared by the Liquidator
05.09.2022, 17.09.2022, 16.11.2022, 25.11.2022, 12.12.2022,	1 st to 5 th Stakeholders Consultation Committee meetings.
08.02.2023	Final Scheme of Compromise and Arrangement under Section 230 of the Companies Act, 2013 submitted by SNJ Distillers Private Limited / Scheme Proponent
14.02.2023	The 6 th Stakeholders Consultation Committee meeting was conducted, wherein the Scheme submitted by the Scheme Proponent was consented to be filed before the NCLT by the SCC.

3. SCHEME APPROVAL PROCESS:

3.1. It is stated that an Invitation for proposing a Scheme under Section 230 of the Companies Act 2013 with the Creditors and/or Members of the Corporate Debtor ("Process Document") was issued by the Liquidator on 05.07.2022 under Regulation 2B of IBBI (Liquidation Process) Regulations, 2016 calling for interested bidders who fulfil the eligibility criteria provided therein.

3.2. It is stated that the interested bidders were mandated to submit a non-interest bearing Earnest Money Deposit ("EMD") of INR 50,00,000/- (Rupees Fifty Lakhs only) whilst they submitted their respective Expression of Interest ("EoI") in order to be provided access to the documents pertaining to the Corporate Debtor. The events of issuance of Process Documents are enumerated hereunder,

S. NO.	PARTICULARS	DATE
1.	Issuance of the Process Document	05.07.2022
2.	Last date for the submission of the EOI for submission of scheme u/s. 230 of the Companies Act 2013 along with requisite documents and payment of EMD	15.07.2022
3.	Access to documents pertaining to the Corporate Debtor to the eligible applicants/bidders	16.07.2022 to 30.07.2022
4.	Initially proposed last date of the submission of Scheme along with all the documents including EMD as per the Process Document	04.08.2022 by 6 pm
5.	Last date of the submission of Scheme along with all the documents including EMD post decision taken by the Stakeholder's Consultation Committee ("SCC") which was duly informed to all the applicants/ bidders by the Liquidator.	11.08.2022

3.3. It is stated that the bidders were mandated to provide the specified KYC documents, proof regarding the source of funds for the Scheme, undertaking by the bidders in the manner so specified in the Process Document, an additional EMD of INR 1,50,00,000/- (Rupees One Crore Fifty Lakhs only) in the manner specified in the Process Document to the Liquidator in order to proceed further in this process.

3.4. Thereafter, the Liquidator received EoI from the following bidders,

- i. M/ s. SNJ Distillers (P) Ltd
- ii. RKG Fund I
- iii. Raja Laxmi Wind Energy Limited

3.5. However, only SNJ Distillers (P) Ltd and Raja Laxmi Wind Energy Limited had submitted their Schemes on 10.08.2022 and 11.08.2022 respectively within the deadline and the same were placed before the Stakeholders Consultation Committee ("SCC") for their evaluation, deliberation and voting. It is stated that the SCC in the 2nd, 3rd, 4th and the 5th SCC meetings held on 17.09.2022, 16.11.2022, 25.11.2022 and 12.12.2022 continued their deliberations on the 2 schemes submitted and in the 6th SCC meeting on 14.02.2023, the SCC with the requisite majority provided their in-principle consent for the Scheme submitted by SNJ Distillers (P) Ltd Proponent to be filed before this Tribunal.

4. BACKGROUND OF THE SUCCESSFUL SCHEME PROPONENT:

4.1. The Scheme Proponent herein, i.e., M/ s. SNJ Distillers (P) Ltd is a part of the SNJ Group of Companies. It is stated that the SNJ Group of Companies was promoted by Mr.S.N.Jayamurugan and consists of the following entities: a. SNJ Distillers (P) Ltd, b. SNJ Sugars and Products Limited, c. Empee Distilleries Ltd, d. SNJ Breweries (P) Ltd, e. Kaycee Distilleries, f. Leela Disilleries (P) Ltd, g. Nandhini Transport (P) Ltd, h. Hotel Nandhini Place, i. Hotel Anitha Towers.

4.2. It is stated that the entire group of companies promoted by Mr. S.N. Jayamurugan is having individual book value of net-worth of INR 290 crore and Mrs. Geetha Jayamurugan is having individual book value of net-worth of INR 177 crore as on 31.03.2021 as Promoters/Directors of the Scheme Proponent.

4.3. The Gross Annual Turnover and the VAT payment details of M/ s. SNJ Distillers (P) Ltd for the past 3 (three) years is tabulated below,

Financial Year	Sales Turn Over including Excise Duty (INR in Crores)	VAT Paid (INR in Crores)	Net-worth (INR in Crores)
2018-19	2091.98	1110.95	192.00
2019-20	2193.36	1175.60	263.14
2020-21	2046.45	1119.95	286.13

4.4. SOURCE OF FUNDS:

It is stated that as per the Scheme submitted by SNJ Distillers (P) Ltd, the Scheme Proponent shall fund the acquisition of the

Corporate Debtor and infuse/ raise the funds as laid down in this Scheme. From the net-worth documents of the Scheme Proponent it is believed that the Scheme Proponent is potential enough to infuse the sum proposed in the Scheme.

5. RATIONALE OF THE SCHEME:

The following are enumerated as the Rationale in the Scheme proposed in the application,

The Scheme of Arrangement and Compromise proposed by the Proposer to the creditors and shareholders of the Company shall, inter alia, result in following benefits to the Company and its Creditors:

- a) Bring the Company into the Group of the Proposer, which is an entity engaged in the business of sugar, brewery, distillery, transport, etc. Greater operational efficiency and capacity building with complementing synergies will be created between the Proposer and the Company.
- b) The Creditors of the Company would be paid and the assets of the Company would be maximized for the benefit of all the Creditors, resulting in their realizing a value greater than the Liquidation Value of the Company.
- c) To remove the Company from the hands of its existing shareholders and to place it in the hands of a new set of shareholders and under a new management, as a going concern as per the objectives of the Code.

- d) To extinguish the paid-up share capital of the Company for NIL Consideration and to infuse fresh equity and debt, into the Company, for its benefit and revival.
- e) Revive the business of the Company, which owing to lack of liquidity and effective management of resources, has been put to Liquidation under the tenets of the Code.
- f) To leverage the operational efficiencies, capacity and business of the Company, as a going concern, failing which, the assets of the company would lose value, being specific business assets.
- g) To revive and perform the contracts of the Company, which have been stalled and delayed owing to the Company going into Liquidation under the tenets of the Code.

6. SETTLEMENT PROPOSED TO THE STAKEHOLDERS IN THE SCHEME:

6.1. It is submitted that the total amount that is proposed to be paid towards the admitted claims of the numerous claimants / stakeholders of the Corporate Debtor is a sum of INR 180,06,00,000/- (Rupees One Hundred and Eighty Crore and Six Lakhs only). The summary of the proposed payments to the various creditors and stakeholders of the Corporate Debtor vide the Scheme is tabulated below,

Figures in Lakhs

S.No	Details of Stakeholder	Admitted Claim (Revised as per IBC amendment dated 16.09.2022)		Amount Payable under Scheme		% of Claim Settled against Admitted Claim
1.	CIRP Costs	630.38		630.38		100%
2.	Liquidation Costs	198.30		198.30		100%
3.	Operational Creditors (Workmen Dues)	809.41		73.49		9.48%
4.	Operational Creditors (Employees Dues)	233.65		10.79		4.62%
5.	Operational Creditors (Government Dues)	EPF	423.49	EPF	423.49	100%
		Others	2,044.28	Others	43.10	2.11%
		Total	2,467.77	Total	466.59	
6.	Operational Creditors (Others)	977.79		19.77		2.02%
7.	Cane Farmers	3,676.88		2,943.67		80.06%
8.	Secured Financial Creditors	138,225.27		13,000.41		9.41%
9.	Unsecured Financial Creditors	16,510.73		662.59		4.01% (approx.)
	Total			18,006.00		

6.2. REGARDING CIRP AND LIQUIDATION COST:

6.2.1. The Scheme states that the CIRP costs and Liquidation Costs including any salaries payable to workmen and employees during the CIRP period and any other fee payable to the Resolution Professional Liquidator, does not exceed a sum of Rs.8,28,68,175/-.

6.2.2. The Scheme also proposes that in case the actual CIRP and Liquidation Cost exceed beyond Rs.8,28,68,175/- the Scheme Proponent undertakes to pay such sum on actuals basis on priority, within 30 days from the Effective Date / actual date of expenses incurred.

6.2.3. It has also been clarified that any payment to be made to any Chairman or Authorized Representative, who may be appointed by this Tribunal, shall also be made from the provision made for Liquidation Costs only.

6.3. REGARDING OPERATIONAL CREDITORS (WORKMEN DUES):

It is stated in the Scheme that in case of any further liability, i.e., if any further claims are admitted by the Liquidator, the Scheme Proposer's liability shall remain INR 73,48,608/ - and the said monies can be distributed on a pro-rata basis. It is also made clear that no additional monies whatsoever in the nature of salary, wages, PF, ESI, gratuity, bonus, compensation, allowances, including any interest or penalty therein, etc. by whatever name called, are payable to the employees and workmen, more than the aforesaid amount proposed to be paid by the Proposer.

6.4. REGARDING OPERATIONAL CREDITORS (EMPLOYEES DUES):

It is stated in the Scheme that in case of any further liability, i.e., if any further claims are admitted by the Liquidator, the Scheme Proposer's liability shall remain Rs.10,78,908/- and the said monies can be distributed on a pro-rata basis. It is also made clear that no

additional monies whatsoever in the nature of salary, wages, PF, ESI, gratuity, bonus, compensation, allowances, including any interest or penalty therein, etc, by whatever name called, are payable to the employees and workmen, more than the aforesaid amount proposed to be paid by the Proposer.

6.5. REGARDING OPERATIONAL CREDITORS (GOVERNMENT DUES):

It is stated that the scheme also makes it clear that that no monies whatsoever, whether claimed or unclaimed, crystallized or uncrystallized, whether reduced to in the form of a decree or otherwise by any order of Court or authority, shall be payable to any operational creditor, including the Income Tax Department, Sales Tax Department, GST or any other Government agency, under the Scheme. It is stated that the Scheme also states that any further monies due from the Corporate Debtor, apart from those which have been admitted by the erstwhile Resolution Professional/Liquidator and set out in the information memorandum, shall stand extinguished and shall no longer be the liability of the Corporate Debtor, after the approval of the Scheme.

6.6. REGARDING CANE FARMERS:

It is stated in the Scheme that in case of any further claims from any Cane Farmers or any governmental authority or society or agency on their behalf are admitted by the Liquidator, then even in such a case the amounts proposed to be paid to such Cane Farmers by the Scheme Proposer shall remain Rs.29,43,67,131/-, no

additional funds will be provided by the Scheme Proposer. So the additional claims will have to be dealt with on a pro-rata basis only.

6.7. REGARDING SECURED FINANCIAL CREDITORS:

6.7.1. It is stated that in case the CIRP / Liquidation costs have been met from the liquid assets of the Corporate Debtor, the excess monies available on account of such CIRP / Liquidation Costs shall be distributed amongst the Secured Financial Creditors of the Corporate Debtor. In the Scheme it has been illustrated with the following example/ analogy - *"In other words, if say a sum of Rs.1 crore has been realised from the liquid assets of the Corporate Debtor, which sum has been used towards liquidation expenses, in such a case, Rs.1 crore which remains in excess on the monies due under CIRP/ Liquidation Costs, shall be distributed amongst the Secured Financial Creditors."*

6.7.2. It is stated that in the Scheme that, certain contingent receivables to the Corporate Debtor have been categorized as *"Identified Assets"* with regards to which the Stakeholders Consultation Committee seeks to realize independently for the purposes of which a trust is envisaged to be created. The creation of a trust for the said purpose is also taken cognizance of in the Scheme. The list of Identified Assets is broadly listed below:

A. Outcome of Arbitration Proceedings in Arbitration Courts of United Kingdom (Pending reimbursement of cost of arbitration in terms of award) under Arbitration award No. 235 dated 10th October 2019 in respect of Contract No 17595 dated 21

August 2009 as subsequently amended on 12 October 2009 ("the Contract").

B. Outcome of Litigation Proceedings in Appellate Tribunal for Electricity (APTEL) Court in New Delhi against PTC India Ltd under case No. DFR No.9 & 74 of 2022 against order dated 05.10.2021 in case no. DRP 15 & 16 of 2011 in respect of claim of Rs.7,53,88,371/ - and interest thereon.

C. Outcome of Dispute on Raw/Processed Sugar of approx 19,500 MT (under Lien with Customs and ownership in dispute) lying in Custom Bonded Warehouse in the premises of the Kottur & Pennadam Units of Shree Ambika Sugars Ltd (Corporate Debtor) imported under Bill of Entries as listed in Seizure Notice by DRI dated 29.08.2019, Presently under Litigation in High Court of Madras.

6.7.3. It is stated that in addition to above Identified Assets, if any recoveries are made in pursuance to the PUFEE applications, which are pending before this Tribunal, then the same shall also be inured for the benefit of the Creditors of the Corporate Debtor.

6.7.4. The proceeds from the realization of the aforesaid Identified Assets shall be outside the liquidation estate and shall be dealt with by the Stakeholders Consultation Committee, in accordance with the law.

6.8. REGARDING UNSECURED FINANCIAL CREDITORS:

It is stated that it has been stated in the Scheme that even in case any further claims are admitted by the Liquidator, there will be no increase in the aforesaid amount of monies brought in by the

Scheme Proposer for the purpose of payment towards the Unsecured Financial Creditors and all the claims therein would have to be dealt with on a pro-rata manner only.

7. EXCLUDED ASSETS AND LIABILITIES FROM THE SCHEME:

7.1 It is stated that the Scheme Proposer has given a No-Objection Certificate ("NOC") for the special treatment and exclusion of the following assets (Identified Assets) and corresponding liabilities associated or connected with the Identified Assets, and has agreed that the same shall be excluded under the terms of the Scheme, in accordance with the NoC issued for the realization of the identified assets independently. The identified assets are as follows,

A. Outcome of Arbitration Proceedings in Arbitration Courts of United Kingdom (Pending reimbursement of cost of arbitration in terms of award) under Arbitration award No. 235 dated 10th October 2019 in respect of Contract No 1759S dated 21 August 2009 as subsequently amended on 12 October 2009 ("the Contract").

B. Outcome of Litigation Proceedings in Appellate Tribunal for Electricity (APTEL) Court in New Delhi against PTC India Ltd under case No. DFR No.9 & 74 of 2022 against order dated 05.10.2021 in case no. DRP 15 & T 16 of 2011 in respect of claim of Rs.7,53,88,371/ - and interest thereon.

C. Outcome of Dispute on Raw/Processed Sugar of approx 19,500 MT (under Lien with Customs and ownership in dispute) lying in Custom Bonded Warehouse in the premises of the Kottur & Pennadam Units of Shree Ambika Sugars Ltd (Corporate Debtor) imported under Bill of Entries as listed in Seizure Notice by DRI dated 29.08.2019, Presently under Litigation in High Court of Madras.

D. In to above three identified assets, if any recoveries are made under in pursuance to the PUFÉ applications, which are pending before the Hon'ble Adjudicating Authority, then the same shall also be inured for the benefit of the Creditors of the Corporate Debtor, as per provisions of mc 2016.

7.2. It is stated that following treatment has been proposed by the Liquidator w.r.t. the identified and excluded assets as per the No Objection Certificate. The relevant clauses of the NoC are extracted hereunder,

a. Creation of Trust for assignment of the claims and receivables under the above Identified Assets.

b. All the above Identified Assets together with corresponding liabilities, future liability and contingency thereon shall be move to Trust be created for the purpose of trust. The said assets shall be excluded from balance sheet of Corporate Debtor by Liquidator in consultation with SCC upon date of creation of Trust or Balance Sheet as prepared on effective date /cut-off date i.e. the date of transfer of assets or approval of above said scheme by Hon'ble Adjudicating

Authority, NCLT, whichever is earlier or applicable with the approval of Hon'ble Adjudicating Authority.

c. All the above identified assets are proposed to be held in the name of trust I on "as is where is", "as is what is" and "whatever there is basis".

d. All the corresponding liabilities against the above identified assets have also been identified by the undersigned. To be clear that no liability of the same will fall within the scope of the scheme and the corresponding identified liabilities shall also stand excluded from the Liabilities / Claims admitted by the Liquidator.

e. The Scheme proposer shall issue a NOC for carving out the above identified assets along with its identified corresponding liabilities from the ambit of Proposed Scheme of Compromise or Arrangement u/s 230 of Companies Act 2013 read with of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016.

f. It is clarified here that nothing in the NOC shall be deemed to take away any other right that comes to the Scheme Proponent under the Scheme submitted.

g. All future expenses in relation to on-going litigations in relation to above identified Assets shall be borne by the Trust and there shall be no liability on the Scheme Proponent for the same except expenses already incurred which have been part of CIRP / Liquidation Cost and approved by the COC/SCC (or incurred till the effective date i.e., date of Order by NCLT on the scheme). All costs associated with the Trust shall be borne by beneficiary of Trust. No Expenses or Liability or obligations, in relation to trust and the Identified Assets

moved thereon, shall be the responsibility of the Corporate Debtor/ Scheme Proponent.

h. The above identified matters shall be beyond the scope of the Monitoring Committee also and shall be dealt with separately, by the Trust and Trustees.

i. Tax liabilities and other liabilities, if any, emanating from these claims that are assigned shall be met by the party as per directions of the Adjudicating Authority and the Trust shall keep the Scheme Proponent indemnified in respect of any liability that may ensure on the CD on the Scheme Proponent.

J. The company shall be transferred in its existing form i.e. with the Existing CIN number, all other assets - excluding identified assets, (be it Receivables, Stock of Spares, Parts, Other Misc Stock items and other recoverable advances etc), carried forward losses, licenses, etc shall form part of the scheme and shall be transferred to the Scheme proponent on a going concern basis, as proposed under the Scheme.

In respect of the same, it is hereby stated that the Scheme Proponent does not have any objection for the SCC and the Liquidator to exclude the above Identified Assets with corresponding liabilities arising out of or in relation to the same, from the purport of the Scheme for the Corporate Debtor."

8. TIME LINES ENVISAGED FOR THE PAYMENT OF MONIES TO THE STAKEHOLDERS POST APPROVAL OF THE SCHEME:

It is stated that upon approval of the Scheme by this Tribunal, the payments shall be made to the stakeholders of the Corporate Debtor from the effective date, in the following timelines.

Payment Description	Time Schedule	Amount (in INR)
a. Unpaid CIRP Costs	Within 30 days from the Approval of the Scheme by the NCLT	6,30,37,989/-
b. Liquidation Costs		1,98,30,186/-
c. 1 st tranche of payments to Secured Financial Creditors		20,00,00,000/-
d. 1 st tranche of payments to Unsecured Financial Creditors		3,31,29,657/-
e. OC (Workmen)		73,48,608/-
f. OC (Employees)		10,78,908/-
g. OC (Government Dues)		4,66,59,541/-
h. OC (Other Dues)		19,77,202/-
i. Cane Farmers		29,43,67,131/-
Section 2		
a. Liquidation Costs	Within 60 days from the Approval of the Scheme by the NCLT	Subject to Actuals
b. 2 nd Tranche of Payments to Secured Financial Creditors		37,54,39,446/-
c. 2 nd Tranche of Payments to Unsecured Financial Creditors		3,31,29,656/-
Section 3		
3 rd Tranche of Payments to Secured Financial Creditors	Within 90 days from the Approval of the Scheme by the NCLT	37,54,39,446/-
Section 4		
4 th Tranche of Payments to Secured Financial Creditors	Within 120 days from the Approval of the Scheme by the NCLT	34,91,62,230/-
TOTAL		1,80,06,00,000/-

9. THE MONITORING COMMITTEE:

9.1. It is stated that as per the Scheme, the Monitoring Committee shall comprise of the following persons:

1. Liquidator / Resolution Professional
2. Shri N Jayamurugan, Nominee of Proposer
3. Shri Bimalendra Mishra, Nominee of Proposer
4. Shri R Anbalagan, Nominee of Proposer.
5. Nominees of the Committee of Creditors/
Stakeholders Committee (Two Secured Financial
Creditor and One Unsecured Financial Creditor)

However, the Scheme also states that the Proposer shall be at liberty to nominate any other person in place of its members to be a part of the Monitoring Committee.

9.2. It is stated that the Monitoring Committee shall be responsible for carrying out the business of the Corporate Debtor post the approval of the Scheme until the disbursement of monies payable under the Scheme Addendum. It is submitted that the Monitoring Committee shall have such duties as contemplated in various parts of the Scheme.

10. 1ST MOTION APPLICATION – IN BRIEF.

10.1. The Petitioner Companies filed the First Motion Application vide CA(CAA)/11(CHE)/2023 in IBA/1017/2019. Wherein, this Tribunal vide order dated 13.04.2023 directed the Applicant/Liquidator herein to constitute a Stakeholders Committee

in terms of Regulation 31A of the Liquidation Process Regulations. Further directed the Liquidator to convene a meeting for all stakeholders. Mr.Nallasenapathy and Ms.Pavitra Sundarrajan have been appointed as the Chairman and Scrutinizer of the aforesaid meetings.

10.2. Thereafter the Liquidator filed an Application bearing No. Company Appl/4(CHE)/2023 in CA(CAA)/11/2023 for appointment of Authorized Representatives for the class of creditors and the same was approved by this Tribunal vide order dated 31.05.2023. The list of Authorised Representatives for the class of creditors approved by this Tribunal is as follows,

Nature of Stakeholders	Name of the Authorized Representative
Unsecured Financial Creditors	Ms. Jayashree S Iyer, (IBBI/IPA-002/IP-N00741/2018-2019/12211)
Operational Creditors - Workmen & Employees	Ms. Vijayakumari Natarajan, (IBBI/IPA-001/IP-P00972/2017-2018/11602)
Operational Creditors - Cane Farmers	Mr. Krishnasamy Vasudevan, (IBBI/IPA-001/IP-P00155/2017-2018/10324)
Operational Creditors - Statutory Authorities	Mr. Radhakrishnan Dharmarajan, (IBBI/IPA-001/IP-P00508/2017-2018/10909)
Operational Creditors - other than workmen, employees, govt authorities.	Mr. R. Sugumaran, (IBBI/IPA-001/IP-P00677/2017-2018/11147)
Shareholders & Others	Mr. Ashok Velamur Seshadri, (IBBI/IPA-001/IP-P00937/2017-2018/11541)

10.3. It is stated that on 01.06.2023, meeting of the Stakeholders had taken place thorough Audio Visual mode. The brief Report of said meeting by the Chairman is extracted hereunder,

II. REPORT OF CHAIRMAN AND SCRUTINIZER IN BRIEF:

Report of Chairman filed before Tribunal: Date 12.06.2023 with Sr. No.2347 of 2023 (E-filed on 09.06.2023)

PARTICULARS	MEETING DATE AS PER INSTRUCTION OF CHAIRMAN OF THE MEETING APPOINTED BY HON'BLE NCLT VIDE ORDER DATED 13.04.2023	QUORUM		% OF PERSON PRESENT & VOTING	
		NO. OF PERSONS PRESENT AND VOTING	TOTAL % OF VOTING IN TERMS OF THE VALUE OF SHARES/CREDIT	FAVOUR	AGAINST
Equity Shareholders	01.06.2023	1 (AR)	1.02	-	1.02
Preference Shareholders	01.06.2023	NA	NA	NA	NA
Secured Creditors	01.06.2023	10	80.52	72.31	8.21
Unsecured Trade Creditors	01.06.2023	1 (AR)	0.57	0.57	-
Unsecured Loan Creditors	01.06.2023	1 (AR)	9.62	9.62	-
Others (if any)					
Workmen / Employees	01.06.2023	1 (AR)	0.61	-	0.61
Cane Farmers	01.06.2023	1 (AR)	2.14	2.14	-
Govt. Dues	01.06.2023	1 (AR)	5.52	-	5.52
				84.64	15.36

On a Perusal of the above report, it is noted that the stakeholders of the Corporate Debtor have consented to the Scheme Proposed by the SNJ Distillers Private Limited with the requisite majority of 84.64%. Subsequently, the second motion petition was filed by the Petitioner Company on 12.06.2023 for sanction of the Scheme by this Tribunal.

11. In the second motion Petition filed by the Petitioner Companies, this Tribunal vide order dated 12.07.2023 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) SEBI, (v) The Income Tax Department, with PAN details of all Petitioner companies and copy to the Chief Principal Commissioner Office as well as for paper

publication to be made in "Business Standard", English (All India Edition) and "Dinamani" Tamil (Tamil Nadu Edition).

12. In compliance with the said directions issued by this Tribunal, the Petitioner Companies effected paper publications in "Business Standard" (All India Edition) in English and "Dinamani" (Tamil Nadu Edition) in Tamil on 19.04.2023. Notices have been served to (i) Regional Director, Southern Region, Chennai on 11.05.2023, (ii) Registrar of Companies Chennai on 11.05.2023, (iii) Official Liquidator on 11.05.2023, (iv) Income Tax Department on 11.05.2023, (v) Reserve Bank of India on 27.04.2023, (vi) SEBI on 27.04.2023, (vii) The District Collector, Thanjavur on 27.04.2023, (viii) The District Collector, Cuddalore on 27.04.2023, (ix) Commissioner of Sugar on The District Collector, Thanjavur on 27.04.2023, (x) Industries Commissioner & Director Commissionerate of Industries of Commerce on 27.04.2023, (xi) Agriculture Commissioner on 27.04.2023, (xii) Additional Director General, Directorate of Revenue Intelligence on 27.04.2023, (xiii) Assistant Commissioner of GST & Central Excise – Cuddalore. The proof of the same by way of affidavit of service dated 31.08.2023 has been enclosed with the separate typed set. Pursuant to the service of notice of the petition, the following statutory authorities have responded as under:

13. STATUTORY / REGULATORY AUTHORITIES / OBJECTORS:

13.1. REGIONAL DIRECTOR

Despite notice having been served and also public notice dated 19.04.2023, there is no representation from the RD and this Tribunal in terms of Section 230(5) of the Companies Act, 2013 presumes that the RD does not have any objection to the sanction of the Scheme.

13.2. OFFICIAL LIQUIDATOR

Despite notice having been served and also public notice dated 19.04.2023, there is no representation from the Official Liquidator and this Tribunal in terms of Section 230(5) of the Companies Act, 2013 presumes that the Official Liquidator does not have any objection to the sanction of the Scheme.

13.3. INCOME TAX DEPARTMENT:

13.3.1. The Income Tax Department to whom the notice was served, objected the scheme on following grounds,

- a) In the proposed Scheme why investments would be made in a shell company i.e. Corporate Debtor, if the Corporate Debtor are proposed to be acquired by the Scheme Proposer.
- b) The Scheme does not provide for payment in terms of Section 53. When entire assets are transferred to the Corporate Debtor, the concessions sought in Scheme are only a tool for tax evasion.

- c) The Scheme perpetuates an inter-se discrimination between Operational Creditors of the Corporate Debtor.
- d) The claim submitted by the Department was rejected by the Liquidator directing the department to file objections to the present Scheme before this Tribunal. Accordingly, the Department filed an application in diary no.330511802499/2023, which is pending before this Tribunal.
- e) That the Department was outside the SCC and all other Consultation Committee.

13.3.2. In the reply affidavit dated 23.09.2023, the Liquidator stated that,

- a) The allegation of the Income Tax Department is vexatious and the benefits of the Scheme are clearly mentioned in the 'Rationale of the Scheme'.
- b) The Ownership & Management of the Corporate Debtor is proposed to be transferred in the name of the proposer of the scheme by way of infusion of money in the company by the proposer and subsequent issuance of shares in the name of proposer of the scheme thereby giving the proposer company the right to claim ownership of the assets of the Corporate Debtor.
- c) The existing shareholding is proposed to "stand extinguished for nil consideration" thereby delinking the present shareholders from the Corporate Debtor.
- d) If the Waterfall mechanism as per Section 53 of the IBC, 2016 was adhered to wholly, then the 9 sugar cane farmers and operational creditors will not get any amounts, since there would be no surplus available post payments to the Secured Financial Creditor and Workmen of the Corporate Debtor.

e) The very filing of the claim form, albeit extremely belated (delay of 393 days) was also only as an afterthought pursuant to the receipt of the Notice w.r.t. Scheme dated 05.08.2023 sent by Liquidator.

f) Liquidator had mailed IT Dept. 11.08.2022 and 22.06.2022, immediately after commencement of liquidation requesting them to file their claim form – to no avail.

13.4. SEBI & RESERVE BANK OF INDIA:

Despite notice having been served and also public notice dated 19.04.2023, there is no representation from the SEBI and RBI and this Tribunal in terms of Section 230(5) of the Companies Act, 2013 presumes that the SEBI and RBI do not have any objection to the sanction of the Scheme.

13.5. THE DISTRICT COLLECTOR, THANJAVUR:

13.5.1. The District Collector, Thanjavur to whom the notice was served submitted his objections to the proposed Scheme as follows,

- a) Sugar is essential commodity under Section 3 of the Essential Commodities Act, 1955. The Central Government has promulgated Sugar Cane Control Order, 1966.
- b) Being the Collector, a duty has been ordained in relation to make payment to the Sugar Cane farmers who are all controlled by virtue of the provisions of the aforesaid Order in effecting supply of Sugar Cane from the respective earmarked areas to the Sugar Mills for crushing sugar - being an essential commodity.



- c) It is stated that the Corporate Debtor is under liquidation by virtue of application filed under Section 272 of the Companies Act, 2013 by the Punjab National Bank.
- d) It is stated that the amount due to the farmers who supplied sugar cane to the mill situated in the vicinity of Kottur, Thanjavur, works out to Rs.66,67,91,339/- the break up is provided below,

S. No.	Particulars of Amount due under	Amount (Rs.) Crores
A	Fair Remunerative Price (FRP)	34,61,74,000
B	SAP dues	31,30,15,000
D	Workers due	76,02,339
Total		66,67,91,339

- e) It is stated that in terms of Sections 3(30) and 3(31) of the IBC, 2016, the dues of the farmers falls under category of Secured Creditor.
- f) The Collector of the District being the Competent Authority, has to ensure whether payment has been made to the Sugar Cane growers for the Sugar Cane to the Sugar Mills within a period of 14 days from the date of supply. The Bank on the other hand, albeit the fact that they have provided loan to the Sugar Mills for their effective functioning - falls within the ambit of "Operational Creditor".
- g) It is stated that the claim amount Rs.34,61,74,000/- as fair and remunerative price (FRP) due with interest for the year 2015-16 and Rs.31,30,16,128/ for State Advisory Price is to be settled to the 5914 farmers of Shree Ambika Sugar mills Ltd., Kottur, Thanjavur district.
- h) It is stated that as per request of the employee and workers union of Shree Ambika Sugar mills Ltd. the claim

amount Rs.26,94,18,104/- is to be settled to 21 employees and 242 workers.

- i) In view of the above submissions, the objector prays to settle the payment of Rs.34,61,74,000/- as fair and remunerative price (FRP) due with interest for the year 2015-16, a sum of Rs.2,91,80,710, a due of additional amount of Rs.40 MT for the year 2013-14,2014-15 and 2015-16 and state advisory price of Rs.31,30,16,128/- to 5914 farmers and the claim amount Rs.26,94,18,104/- to the 21 employees and 242 workers.

13.5.2. In reply, Liquidator stated that,

- a) As per Regulation 32 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 – sugar is not an essential commodity. Only electricity, water, telecommunication services and IT services are treated as essential commodities under the IBC 2016 and its corresponding regulations.
- b) Section 272 of the Companies Act, 2013 is not applicable as the CD went into CIRP vide NCLT Order dated 18.12.2019 in a Section 7 Application under the IBC, 2016.
- c) Since no justification/calculation was submitted by the District Collector, Thanjavur for claiming huge amount of Rs 31.30 Crores towards SAP dues, the claims submitted by his office were duly rejected & intimated to them during CIRP process itself.
- d) Acceptance of the Objector's claims also will lead to admission of dual claims for the same liability of cane dues as the farmers claims had been admitted, hence the claims of District Collector, Thanjavur were rejected.
- e) It is stated that no application was filed by the Objector challenging the rejection of the claim by RP before the

NCLT. The Office of District Collector, Cuddalore has not filed any claim during the Liquidation Process of the CD till date.

- f) Even in the claim form(s) of the Objector it was not mentioned that the objector was claiming to be a secured creditor and against the details of Security available, they have clearly mentioned it as "NIL". Non-applicability of Section 6 Revenue Recovery Act 1890 – as banks shall have priority charge nevertheless and shall remain secured financial creditors.

13.6. THE DISTRICT COLLECTOR, CUDDALORE:

13.6.1. Vide reply affidavit dated 28.08.2023, the District Collector, Cuddalore raised objections to the proposed Scheme as follows,

- a) It is stated that on behalf of Operational Creditors (Farmers) 3,577 sugarcane farmers, the claims in form -B for Rs.116.84 Crores has been submitted to the Liquidator through this objector vide District Collector Office ref.No.S1/22174/2015 dated 26.12.2019.

Sugar Mill	FRP	Interest	State Advisory price & Addl. Amount(SAP)	Total	No. of Farmers
Shree Ambika Sugars Ltd	30.99	7.23	78.62	116.84	3,577

- b) It is stated that that on behalf of 15,399 Farmers, the claims (FRP + interest delayed for FRP payment up to December 2019+ addl. Agreed amount) for a sum of Rs.50.87 Crores has been submitted by Mr.K.Nagendiran, Senior Director of Shree Ambika Sugars Ltd., to Mr.Anurag Goel on 31.12.2019 through E mail. The Claim sent by Mr,K.Nagendran, Senior Director of Shree Ambika Sugars Ltd to Mr.Anurag Goel

on 31.12.2019 by E-mail was also submitted to the Collectorate by the farmers' representative on 26.05.2023 on behalf of 15,399 Farmers for a sum of Rs.50.87 Crores. This in turn has been submitted by the District Collector, Cuddalore to the Liquidator.

- c) It is stated that as of now that as of now the pending claim of 15,399 farmers works out to a sum of Rs.67.97 crores (FRP+ Interest on delay in FRP payment (up to July 2023+ Add. Agreed amount). The total State advisory price (SAP) due for 2013-14, 2014-15 2015-16, 2016-17 is Rs.78,62,30,360/-. The pending SAP amount Rs.78.62 crores may also be taken for payment due to the eligible farmers. The total payment pending to farmers works out to a sum of Rs.146.60 Crores.

13.6.2. In reply the Liquidator vide reply affidavit stated that,

- a) Since no justification/calculation was submitted by the District Collector, Cuddalore for claiming huge amount of Rs.78.62 Crores towards SAP dues, the claims submitted by his office were duly rejected & intimated to them on 30.09.2020 during CIRP process itself.
- b) Acceptance of the Objector's claims also will lead to admission of dual claims for the same liability of cane dues as the farmers claims had been admitted, hence the claims of District Collector, Cuddalore were rejected. No application was filed by the Objector challenging the rejection of the claim by RP before the NCLT. The Office of District Collector, Cuddalore has not filed any claim during the Liquidation Process of the CD till date.
- c) Even in the claim form(s) of the Objector it was not mentioned that the objector was claiming to be a secured creditor and against the details of Security available, they

have clearly mentioned it as "NIL". Non-applicability of Section 6 Revenue Recovery Act 1890 – as banks shall have priority charge nevertheless and shall remain secured financial creditors.

13.7. LABOUR PROGRESSIVE FRONT (LPF) & INDIAN NATIONAL TRADE UNION CONGRESS (INTUC).

13.7.1. The LPF & INTUC on behalf of employees, workmen, and staff of the Corporate Debtor's Kottur and Pennadam units also filed their objections dated 22.08.2023 and stated as follows,

- a) The Resolution professional has not taken any tangible steps to run the Corporate Debtor as a going concern.
- b) The EPF amount was not fully admitted by the Liquidator.
- c) It is stated that Liquidator admitted claims of wages (Workmen Dues) aggregating to Rs.7,75,16,967/- whereas the proposer has proposed to pay only Rs.73,48,608/- constituting 9.08% (approx) of the admitted claims as full and final settlement of all dues to workmen. With regard to employees due, the Resolution Professional/Liquidator has admitted claims aggregating to Rs.2,15,78,154/- whereas the proposer proposes to pay a sum of Rs.10,78,908/- constituting 4.62% (approx) of the admitted claims as full and final settlement of all dues to the employees. it was also said in the proposed scheme that a "No monies, whatsoever, in the name of salary, wages, PF, ESI, gratuity, bonus, compensation, allowances, including any interest or penalty there in, etc., by whatever name called, are payable to the employees and workmen, except as mentioned above". The employees were not equitably

treated being operational creditors and it is in violation of the equality principle.

13.7.2. In turn, the Liquidator in his stated as follows,

- a) As on the date of initiation of CIRP of the Corporate Debtor i.e., 18.12.2019 (Sugar Season 2019-2020), both the units were in closed position wherein the last operative seasons for the mills were as follows:
 - i. For Kottur the last crushing was for the season 2015-2016.
 - ii. For Eraiyur/Pennadam the last crushing was for the season 2017-2018.
- b) A lot of maintenance work and repairs had to be carried out before the plants could have been made functional coupled with the fact that there were only a handful of employees in the Corporate Debtor's plants given that they were closed for a long time.
- c) The scheme provides for 100% payment towards the EPFO's admitted claims. PF dues payable by the Corporate Debtor ("CD") is not an asset of the CD and it is not part of the liquidation estate. Rs.4,23,49,958/- is proposed to be paid in full by the Scheme Proponent.
- d) Some of the claims were inflated by some Employees/Workmen by creating a cartel in between themselves and submitting claims to Liquidator in pre-determined manner thereby claiming, salaries/ wages of CIRP period, bonus, leave encashments, gratuity etc, which were not accepted by the Liquidator in view of judgement of the Hon'ble Supreme Court of India in the matter of *Sunil Kumar Jain and others Vs Sundaresh Bhatt and others* (in the case of

*workmen/employees of M/s ABG Shipyard Limited,
Civil Appeal No. 5910 of 2019).*

13.8. ASSISTANT COMMISSIONER OF GST & CENTRAL EXCISE –

CUDDALORE:

13.8.1. The Assistant Commissioner GST and CE raised the following objections to the proposed Scheme,

- a) The Assets are being transferred from the CD to the Proposer of the scheme and investments are made in a shell company.
- b) Section 53 waterfall mechanism is not adhered to in the Scheme. Belated objection by GST Dept. after having initially voted in favor of the Scheme.

13.8.2. In reply, the Liquidator submitted as follows,

- a) During the e-voting process on the scheme after the meeting of Stakeholders held on 01.06.2023, under the chairmanship of Mr. V. Nallasenapathy, Hon'ble retired Judge who was appointed as Chairman to the meeting, the Objector has voted in favour of the scheme.
- b) Although the requisite votes supporting the scheme were not received from the Operational Creditors in category of "Statutory Authorities" and now after the scheme is duly approved by majority of 84.68% votes in favour against the requirement of 75% votes in favour, they have filed this Objection before the court.
- c) In view of the fact that the Objector had voted in favour of the scheme, the objections raised now seems to be an afterthought, for reasons best known to it.

13.9. PRINCIPAL COMMISSIONER OF CUSTOMS (PREVENTIVE),
TIRUCHIRAPPALLI.

13.9.1. Principal Commissioner of Customs (Preventive),
Tiruchirappalli, raised his objections as follows,

- a) With respect to identified assets, the Department prayed to Remove the following point from the list of 'Identified Assets' of the Scheme and stated that,

'Outcome of Dispute on Raw/Processed Sugar of approx.. 19,500 MT (under Lien with Customs and ownership in dispute) lying in Custom Bonded Warehouse in the premises of the Kottur & Pennadam Units of Shree Ambika Sugars Ltd (Corporate Debtor) imported under Bill of Entries as listed in Seizure Notice by DRI dated 29.08.2019, Presently under Litigation in High Court of Madras.'

- b) It is stated that vide order dated Order 12.12.2022 passed by the Customs Authorities – wherein it had confiscated the goods.
- c) Further stipulating that either Liquidator makes provisions for payment of customs duty, penalties, interest, redemption fines etc (OR) abandons the goods (i.e., sugar).

13.9.2. In reply the Liquidator responded as follows,

- a) There has been a creation of a Trust for the assignment of all the claims and receivables under the 'Identified Assets'. It has been envisaged that all Identified Assets together with their corresponding liabilities, future liability and contingency thereon shall be moved to the Trust that has been created for this specific purpose.
- b) Reliance on Regulation 37A of the IBBI Liquidation Process Regulations, 2016. The Proposer of the Scheme has issued

a Noobjection Certificate (Pg. 251 of the Application typeset of documents) for carving out the above-mentioned Identified Assets along with its identified corresponding liabilities from the ambit of Proposed Scheme. All costs associated with the Trust shall be borne by beneficiary(ies) of the said Trust and that no expenses or liability or obligations, in relation to trust and the Identified Assets moved thereon, shall be the responsibility of the Corporate Debtor.

- c) To Proposer of the scheme is not dealing with the sugar lying at the warehouses which is under the Directorate of Revenue Intelligence seizure and that disputed sugar is not considered as asset of the CD. Rather upon deletion of the said clause from the scheme – that the sugar will be deemed to be asset of CD.
- d) Since the ownership title of the Sugar in favour of the Corporate Debtor is itself in dispute with **M/s Czarnikow Group Ltd** which is pending before Hon'ble High Court of Madras in **WP 21800 of 2023**, the passing of same in favour of Customs department was not in the purview of the Liquidator. The Hon'ble High Court had passed an Order of status quo on 25.07.2023 in WP 21800 of 2023 which was subsequently extended until further orders on 09.08.2023. Liquidator is not in control of the said confiscated sugar.
- e) The Proposer of the Scheme has issued a No objection Certificate for carving out the above-mentioned Identified Assets along with its identified corresponding liabilities from the ambit of Proposed Scheme. All costs associated with the Trust shall be borne by beneficiaries of the said Trust and that no expenses or liability or obligations, in



relation to trust and the Identified Assets moved thereon, shall be the responsibility of the Corporate Debtor.

13.10. COMMISSIONER OF SUGAR, AGRICULTURE COMMISSIONER, INDUSTRIES COMMISSIONER & DIRECTOR, COMMISSIONERATE OF INDUSTRIES AND COMMERCE AND ADDITIONAL DIRECTOR GENERAL, DIRECTORATE OF REVENUE INTELLIGENCE:

Despite notice having been served and also public notice dated 19.04.2023, there is no representation from the above authorities and this Tribunal in terms of Section 230(5) of the Companies Act, 2013 presumes that the above authorities do not have any objection to the sanction of the Scheme.

14. This Tribunal on 09.01.2024 also sought the following clarifications

Since, as per the Scheme,

- i) a trust will be formed to handle the excluded assets of the Corporate Debtor;*
- ii) Excluding certain assets and liabilities and transferring the same to a trust where the creditors will be the beneficiaries; and*
- iii) The Company with remaining assets will be taken over by the scheme proponent.*

- 1. Under which provision of IBC the Tribunal can approve the formation of a Trust in the Scheme? What is the remedy if the Trust and Trustee failed in their duty?*
- 2. Who will be the Trustee?*
- 3. Under what provisions the Trust and the Trustee will handle the assets of the CD?*

4. *What is the role of the Liquidator in forming the Trust?*
5. *What are the liabilities which are getting transferred to the trust?*
6. *Without separate application by the beneficiaries of trust, can the Scheme be approved?*
7. *Without creation of trust and transfer of the assets and liabilities, can the Scheme be approved as it involves scheme proponent taking over the Company?*

15. Clarifying the above, the Petitioner filed a memo vide SR.No.178 dated 09.01.2024 and stated that,

- a) Under Rule 11 of National Company Law Tribunal Rules, 2016 r/w Regulation 2B of IBBI Liquidation Process Regulation, 2016 r/w Section 230 of the Companies Act, 2013 this Tribunal has power to approve the formation of a Trust in the proposed Scheme. Regulation 37A of the IBBI Liquidation Process Regulations, envisages realisation of not readily realizable assets, in the manner set out in the Scheme.
- b) The term "arrangement" and "compromise" is wider than the terms "amalgamation", "merger", "demerger", "reconstruction" etc. The opening words of Section 232(1), make it clear that a Scheme of Amalgamation is encompassed in a broader context of a Scheme of Compromise and Arrangement. If interpreted in such a manner Section 230 of the Companies Act, 2013 the provisions of Section 232 of the Companies Act, 2013 may be borrowed illustratively. In such

case the said provision clearly postulates bifurcation of assets and liabilities.

c) In the case of ***St. John Freight Systems Limited, (IA(IBC)/1018(CHE)/2022 in CP/759(IB)/2018 order dated 19.01.2023***) this Tribunal in the exercise of power under Rule 11 of NCLT Rules, 2016 permitted and directed the creation of Trust in liquidation for excluded assets and liabilities. The same has been affirmed by Hon'ble NCLAT Hon'ble Supreme Court.

d) The Scheme itself, while envisaging the creation of such trust, has also set out the mode and manner in which the same may be managed. In the Scheme, certain contingent receivables to the Corporate Debtor have been categorized as "Identified Assets" with regards to which the Stakeholders Consultation Committee seek to realize independently for the purposes of which a trust is to be created.

e) The costs, expenses of litigation proceedings of the liabilities which are in contingent nature shall also be borne by the beneficiaries of the Trust.

f) Moreover, in respect of the "Identified Assets" in the Scheme, a No Objection certificate has been sought and the same has been issued by the Scheme Proponent which is placed on record.

16. OBSERVATIONS OF THIS TRIBUNAL

16.1. Before advertng to the objections as raised by the Income Tax / GST Department / Customs Department / District Collector, Thanjavur & Cuddalore of the Corporate Debtor in relation to the Scheme, it is to be borne in mind that this present Scheme is not filed purely under Section 230 of the Companies Act, 2013. The present Scheme is also governed under Insolvency and Bankruptcy Code, 2016 and the attendant Regulations framed thereunder. The Hon'ble NCLAT after elaborately considering the provisions of the erstwhile provisions of Section 391 of the Companies Act, 1956 as well as the Section 230 of the Companies Act, 2013 and the decided case laws of the Hon'ble Supreme Court in relation to the powers vested in this Tribunal under the provisions of the Companies Act, 2013 to consider and deal with a compromise or make arrangement that may be proposed with creditors and members of a company including in relation to a company in liquidation, had directed the liquidator in para 8 in the matter of **"S.C. Sekaran v. Amit Gupta & Ors.** in *Company Appeal (AT) (Insolvency) Nos. 495 & 496 of 2018* as follows;

"8. In view of the provision of Section 230 and the decision of the Hon'ble Supreme Court in 'Meghal Homes Pvt. Ltd.' and 'Swiss Ribbons Pvt. Ltd.', we direct the 'Liquidator' to proceed in accordance with law. He will verify claims of all the creditors; take into custody and control of all the assets, property, effects and actionable claims of the 'corporate debtor', carry on the business of the 'corporate debtor' for its beneficial liquidation etc. as prescribed under Section 35 of the I&B Code. The

Liquidator will access information under Section 33 and will consolidate the claim under Section 38 and after verification of claim in terms of Section 39 will either admit or reject the claim, as required under Section 40. Before taking steps to sell the assets of the 'corporate debtor(s)' (companies herein), the Liquidator will take steps in terms of Section 230 of the Companies Act, 2013. The Adjudicating Authority, if so required, will pass appropriate order. Only on failure of revival, the Adjudicating Authority and the Liquidator will first proceed with the sale of company's assets wholly and thereafter, if not possible to sell the company in part and in accordance with law."

16.2. Further, the Hon'ble NCLAT in the matter of **Y. Shivram Prasad -Vs- S. Dhanapal & Ors.** in *Company Appeal (AT)(Ins.) No. 224 of 2018* chose to issue guidelines on how to proceed, if a Scheme is contemplated under Section 230 of the Companies Act, 2013 gets placed before this Tribunal in relation to a Company in liquidation under IBC, 2016 and in para 18 and 19 held as follows;

18. During proceeding under Section 230, if any, objection is raised, it is open to the Adjudicating Authority (National Company Law Tribunal) which has power to pass order under Section 230 to overrule the objections, if the arrangement and scheme is beneficial for revival of the 'Corporate Debtor' (Company). While passing such order, the Adjudicating Authority is to play dual role, one as the Adjudicating Authority in the matter of liquidation and other as a Tribunal for passing order under Section 230 of the Companies Act, 2013. As the liquidation so taken up under the 'I&B Code', the arrangement of scheme should be in consonance with the statement and object of the 'I&B Code'. Meaning thereby, the scheme must ensure maximisation of the assets of the 'Corporate Debtor' and balance the stakeholders such as, the 'Financial Creditors', 'Operational Creditors', 'Secured Creditors' and 'Unsecured Creditors' without any discrimination. Before approval of an arrangement or

Scheme, the Adjudicating Authority (National Company Law Tribunal) should follow the same principle and should allow the 'Liquidator' to constitute a 'Committee of Creditors' for its opinion to find out whether the arrangement of Scheme is viable, feasible and having appropriate financial matrix. It will be open for the Adjudicating Authority as a Tribunal to approve the arrangement or Scheme in spite of some irrelevant objections as may be raised by one or other creditor or member keeping in mind the object of the Insolvency and Bankruptcy Code, 2016.

19. In view of the observations aforesaid, we hold that the liquidator is required to act in terms of the aforesaid directions of the Appellate Tribunal and take steps under Section 230 of the Companies Act. If the members or the 'Corporate Debtor' or the 'creditors' or a class of creditors like 'Financial Creditor' or 'Operational Creditor' approach the company through the liquidator for compromise or arrangement by making proposal of payment to all the creditor(s), the Liquidator on behalf of the company will move an application under Section 230 of the Companies Act, 2013 before the Adjudicating Authority i.e. National Company Law Tribunal, Chennai Bench, in terms of the observations as made in above. On failure, as observed above, steps should be taken for outright sale of the 'Corporate Debtor' so as to enable the employees to continue.

16.3. Thus, in relation to the scheme proposed under Section 230 of the Companies Act, 2013 during the Liquidation of the Corporate Debtor, the Hon'ble NCLAT held that this Tribunal is required to play dual role, one as the Adjudicating Authority in the matter of liquidation and other as a Tribunal for passing order under Section 230 of the Companies Act, 2013. Accordingly, this Tribunal has put in its logical attempts and efforts in combining the provisions of these two statutes in perfect harmony.



16.4. In relation to the objections raised by the Statutory Authorities viz. Income Tax, Customs and GST Department, it must be noted that even though the present Scheme is presented under Section 230 of the Companies Act, 2013 it should pass the muster as laid down under Section 30 and 31 of IBC, 2016, in such a way, that the present scheme should not be in violation of the provisions of the Insolvency and Bankruptcy Code, 2016.

16.5. The main objection raised by the Statutory Authorities is that the Scheme does not provide for payment in terms of Section 53 of IBC, 2016, and there is inter se discrimination between Operational Creditors. Further the Labour Progressive Front (LPR) & Indian National Trade Union Congress (INTUC) have filed an objection stating that the employees being Operational Creditors are not being treated equally at par with other Operational Creditors (Farmers). If we peruse the scheme, it is seen that as against the admitted claim of the Government Dues of Rs.90,57,71,425/-, they are being paid a sum of Rs.43,09,583/-.

16.6. In the present case, the farmers, who are the backbone of our country and the weaker section of the society would be the most affected class of creditors if an ordinary auction sale is resorted to and the proceeds are distributed in accordance with Section 53 of IBC, 2016. Hence, the Scheme proposed by the Scheme proponent has agreed to pay 80.06% of the admitted claim

to the farmers. At this juncture, it is relevant to refer to the decision of the Hon'ble Supreme Court in the matter of **Committee of Creditors of Essar Steel India Limited -Vs- Satish Kumar Gupta & Ors.** in Civil Appeal No. 8766 - 67 of 2019 dated 15.11.2019, wherein at para 54 it has held as follows;

"54. Indeed, if an "equality for all" approach recognizing the rights of different classes of creditors as part of an insolvency resolution process is adopted, secured financial creditors will, in many cases, be incentivized to vote for liquidation rather than resolution, as they would have better rights if the corporate debtor was to be liquidated rather than a resolution plan being approved. This would defeat the entire objective of the Code which is to first ensure that resolution of distressed assets takes place and only if the same is not possible should liquidation follow".

Again in para 56 and 57, it was held as follows;

"56.The amended Regulation 38 set out in paragraph 77 again does not lead to the conclusion that financial and operational creditors, or secured and unsecured creditors, must be paid the same amounts, percentage wise, under the resolution plan before it can pass muster. Fair and equitable dealing of operational creditors' rights under the said Regulation involves the resolution plan stating as to how it has dealt with the interests of operational creditors, which is not the same thing as saying that they must be paid the same amount of their debt proportionately. Also, the fact that the operational creditors are given priority in payment over all financial creditors does not lead to the conclusion that such payment must necessarily be the same recovery percentage as financial creditors. So long as the provisions of the Code and the Regulations have been met, it is the commercial wisdom of the requisite majority of the Committee of Creditors which is to negotiate and accept a resolution plan, which may involve differential payment to different classes of creditors, together with negotiating with a prospective resolution applicant for better or different terms which may also involve differences in distribution of amounts between different classes of creditors."

"57.Quite clearly, secured and unsecured financial creditors are differentiated when it comes to amounts to be paid under a resolution plan, together with what dissenting secured or unsecured financial creditors are to be paid. And, most importantly, operational creditors are separately viewed from these secured and unsecured financial creditors in S.No.5 of paragraph 7 of statutory Form H. Thus, it can be seen that the Code and the Regulations, read as a whole, together with the observations of expert bodies and this Court's judgment, all lead to the conclusion that the equality principle cannot be stretched to treating unequals equally, as that will destroy the very objective of the Code - to resolve stressed assets. Equitable treatment is to be accorded to each creditor depending upon the class to which it belongs: secured or unsecured, financial or operational".

16.7. Thus, it is a settled law that so long as the provisions of the Code and the Regulations have been met, it is the commercial wisdom of the requisite majority of the Committee of Creditors which is to negotiate and accept a resolution plan, which may involve differential payment to different classes of creditors, together with negotiating with a prospective resolution applicant for better or different terms which may also involve differences in distribution of amounts between different classes of creditors. Hence for the said reasons, the objections made by the Statutory Authorities viz. Income Tax and the GST Department are not sustainable.

16.8. Another objection was raised by the District Collector of Thanjavur and Cuddalore that the Sugar cane is an essential commodity and the farmers are the secured creditors and hence they have to be paid on par with the Banks.

16.9. Eventhough Section 3 of the Essential Commodities Act, 1955 states that Sugar is an essential commodity, the Insolvency and Bankruptcy Code, 2016 which came into effect from 01.12.2016 treats only electricity, water, telecommunication services and IT Services as essential commodity in relation to the CIRP / Liquidation of the Corporate Debtor. Further, the farmers are required to be treated only as 'Operational Creditor' in respect of the Corporate Debtor in terms of Section 5(20) & 5(21) of IBC, 2016 (extracted hereunder);

"Section 5:Defenitions:

(20) "operational creditor" means a person to whom an operational debt is owed and includes any person to whom such debt has been legally assigned or transferred;

(21) "operational debt" means a claim in respect of the provision of goods or services including employment or a debt in respect of the [payment] of dues arising under any law for the time being in force and payable to the Central Government, any State Government or any local authority;"

16.10. From the records it is seen that there are around 15,000 farmers who are spread across in and around the District of Thanjavur and Cuddalore respectively. It is required to be noted that as per the waterfall mechanism laid down under Section 53 of IBC, 2016, the Operational Creditors will not get any amounts, since there would be no surplus available post payments to the Secured Financial Creditor and Workmen of the Corporate Debtor.

16.11. It is pertinent to note here that the farmers payout is 80.06% of their admitted claim as compared to the Secured

Financial Creditors who are being paid only 9.41% of the admitted claim. Further, the Scheme proponents who are proposing a Scheme under Section 230 for revival of a Company under the provisions of IBC, 2016 cannot be made to pay the FRP rate as fixed by the Government in respect of the farmers. Thus, the objections raised by the District Collector of Thanjavur & Cuddalore are not sustainable.

16.12. In relation to the objections raised by the Customs Department, it is seen that the said Department has seized the Goods of the Corporate Debtor vide Seizure Notice by DRT dated 29.08.2019. Thereafter, the CIRP in respect of the CD was initiated on 18.12.2019 and subsequently, liquidation was ordered on 20.06.2022. It is seen that the Customs Department vide order No. 05/2022 dated 12.12.2022 has confiscated the goods in pursuance of the seizure order. In this regard, it is significant to refer to Section 33(5) of IBC, 2016 which states as follows;

"Section 33: Initiation of liquidation: -

...

(5) Subject to section 52, when a liquidation order has been passed, no suit or other legal proceeding shall be instituted by or against the corporate debtor:

Provided that a suit or other legal proceeding may be instituted by the liquidator, on behalf of the corporate debtor, with the prior approval of the Adjudicating Authority,

..."

As per Section 33(5), the Customs Department ought not to have confiscated the goods of the Corporate Debtor without prior

approval of this Adjudicating Authority. Further, it is also to note that the Customs Department has not filed any claim before the RP / Liquidator during CIRP and Liquidation of the Corporate Debtor. Even assuming that they have filed the claim, the Customs Department being a Statutory Authority, will be treated as an 'Operational Creditor' under the provisions of IBC, 2016.

16.13. In this regard, it is significant to refer to the object of IBC, 2016, which is as follows;

An Act to consolidate and amend the laws relating to reorganisation and insolvency resolution of corporate persons, partnership firms and individuals in a time bound manner for maximisation of value of assets of such persons, to promote entrepreneurship, availability of credit and balance the interests of all the stakeholders including alteration in the order of priority of payment of Government dues and to establish an Insolvency and Bankruptcy Board of India, and for matters connected therewith or incidental thereto.

(emphasis supplied)

16.14. Thus, it could be seen that from the object of IBC, 2016 envisages alteration in the order of priority of payment of Government dues. It is to be borne in mind that during Liquidation, the dues of the EPF do not form part of the liquidation estate and hence the Scheme proponent has decided to pay the amount in full to the said authorities. However, the objectors who are the Statutory Authorities, at no point of time can be elevated to the status of a secured creditor. The dues of the Government are below the dues to be paid to the secured creditors/workmen and thus if

the proceeds are to be liquidated then the Operational Creditors – Statutory Authorities, would not be getting even a single rupee as per the waterfall mechanism laid down under Section 53 of IBC, 2016. Hence, the objections raised by the Customs Department in this regard are not sustainable.

16.15. REGARDING FORMATION OF TRUST IN THE SCHEME:

16.15.1. Since Ld.Sr.Counsel has elaborated the power of this Tribunal to approve the formation of Trust and bifurcation in the Proposed to Scheme, it is necessary to look into the relevant provisions,

Rule 11 of NCLT Rules, 2016

"11. Inherent Powers.- Nothing in these rules shall be deemed to limit or otherwise affect the inherent powers of the Tribunal to make such orders as may be necessary for meeting the ends of justice or to prevent abuse of the process of the Tribunal."

Section 230 of the Companies Act, 2013,

"230. Power to compromise or make arrangements with creditors and members.—

(1) Where a compromise or arrangement is proposed—

(a) between a company and its creditors or any class of them; or

(b) between a company and its members or any class of them, the Tribunal may, on the application of the company or of any creditor or member of the company, or in the case of a company which is being wound up, of the liquidator, appointed under this Act or under the Insolvency and Bankruptcy Code, 2016 (31 of 2016), as the case may be, order a meeting of the creditors or class of creditors, or of the members or class of members, as the case may be, to be

called, held and conducted in such manner as the Tribunal directs.

Explanation.—For the purposes of this sub-section, arrangement includes a reorganisation of the company's share capital by the consolidation of shares of different classes or by the division of shares into shares of different classes, or by both of those methods."

Section 232(3)(a) of the Companies Act, 2013

"232. Merger and amalgamation of companies.

....

(3) The Tribunal, after satisfying itself that the procedure specified in sub-sections (1) and (2) has been complied with, may, by order, sanction the compromise or arrangement or by a subsequent order, make provision for the following matters, namely:—

(a) the transfer to the transferee company of the whole or any part of the undertaking, property or liabilities of the transferor company from a date to be determined by the parties unless the Tribunal, for reasons to be recorded by it in writing, decides otherwise;

(b) the allotment or appropriation by the transferee company of any shares, debentures, policies or other like instruments in the company which, under the compromise or arrangement, are to be allotted or appropriated by that company to or for any person:

Provided that a transferee company shall not, as a result of the compromise or arrangement, hold any shares in its own name or in the name of any trust whether on its behalf or on behalf of any of its subsidiary or associate companies and any such shares shall be cancelled or extinguished; ...

(4) Where an order under this section provides for the transfer of any property or liabilities, then, by virtue of the order, that property shall be transferred to the transferee company and the liabilities shall be transferred to and become the liabilities of the transferee company and any property may, if the order so directs, be freed from any charge which shall by virtue of the compromise or arrangement, cease to have effect."



Regulation 37A of the IBBI Liquidation Process Regulations, 2017

"37A. Assignment of not readily realizable assets.

(1) A liquidator may assign or transfer a not readily realisable asset through a transparent process, in consultation with the stakeholders' consultation committee in accordance with regulation 31A, for a consideration to any person, who is eligible to submit a resolution plan for insolvency resolution of the corporate debtor.

Explanation. — For the purposes of this sub-regulation, "not readily realizable asset" means any asset included in the liquidation estate which could not be sold through available options and includes contingent or disputed assets and assets underlying proceedings for preferential, undervalued, extortionate credit and fraudulent transactions referred to in sections 43 to 51 and section 66 of the Code."

16.15.2. Section 232(3)(a) stipulates that this Tribunal may sanction the compromise or arrangement by order, make provisions for transfer of whole or any part of the undertaking, property or liabilities of the Transferor company to the Transferee company.

16.15.3. Regulation 37A of IBBI Liquidation Process Regulations, 2017, empowers the Liquidator to assign or transfer not readily realisable assets for a consideration to eligible person after consulting the Stakeholders Consultation Committee (SCC). In the instant case the SCC with requisite voting has accorded consent to proposed Scheme. Thus, it is clear that the bifurcation of the assets/liability of the CD in terms of the proposed Scheme of Arrangement which got approval of the SCC, is permissible under these provisions.

16.15.4. Regarding approval of formation of Trust in the Scheme, we see that this Tribunal in the case **of St. John Freight Systems**

Limited (IA(IBC)/1018(CHE)/2022 In CP/759/IB/2018 order dated 19.01.2023) referred supra has permitted the

creation of Trust in liquidation for excluded assets and liabilities.

The relevant extract of the case is reproduced as under:

"... 11.6. It is further submitted by the Learned Counsel for the Liquidator that certain assets as set out in Schedule 1 of the Draft Purchase Agreement stands excluded from the proposed sale of the Corporate Debtor as a going concern and will continue to be held in the name of the Corporate Debtor in trust for the Liquidation Estate of the Corporate Debtor under the sole trusteeship of the Liquidator.

...

18. WE DO FURTHER ORDER THAT

...

f) And that the assets as specified in Part A of Schedule 1(Excluded Assets) and Part B of Schedule 1 (Identified Assets) of the Draft Purchase Agreement shall remain in the name of the Corporate Debtor and shall constitute the Liquidation estate which shall be maintained by the trust under the sole trusteeship of the Liquidator, such excluded assets then be disposed of/dealt with in a manner as specified in terms mentioned above."

16.15.5. In view of the above, and considering maximisation of value of the assets and timely resolution of the CD which is nothing but the very object of the IBC, 2016 this Tribunal permits the formation of Trust to handle the identified assets (as in Clause 5.2 (xv) of the Scheme) in terms of the Scheme. The Liquidator be appointed as the Trustee to process identified assets in terms of the

Scheme and IBC, 2016. Liberty is granted to the beneficiaries of the Scheme to replace any eligible person as Trustee, if required.

16.16. Thus, the Scheme of Compromise or Arrangement submitted by **M/s. SNJ Distillers Private Limited** for takeover of assets and properties of **M/s. Ambika Sugars Limited** is hereby **approved** which will be binding on the Corporate Debtor viz. M/s. Ambika Sugars Limited and all other stakeholders involved.

17. Apart from the above, the applicant has prayed additional reliefs and concessions. For the reliefs sought as below this Tribunal directs as under:

SL. No.	RELIEF / CONCESSIONS SOUGHT FOR	ORDERS THEREON
i	All Governmental authorities to waive the non-compliances of the Company prior to the date of approval of the Scheme by the Adjudicating Authority. The relevant governmental shall also not initiate any investigations, actions or proceedings in relation to any non-compliance with applicable law by the Company during the period prior to the date of approval of the Scheme by the Adjudicating Authority. Neither shall be Proposer, nor the Company, nor their respective directors, officers and employees appointed on and as of the date of approval of the Scheme by the Adjudicating Authority, be liable for any violations, liabilities, penalties or fines with respect to or pursuant	Granted Subject to IBC and other applicable laws.

	<p>to the Company not having in place the requisite licenses and approvals required to undertake its business as per applicable law, or any non-compliances of applicable law by the Company. Further, the relevant governmental authorities will provide a reasonable period of time after the Effective Date, for the Proposer to assess the status of any non-compliances under the applicable law and to procure that the company regularizes such non compliances under the applicable law existing prior to the date of approval of the Scheme by the Adjudicating Authority.</p>	
ii	<p>If certain Business permits (including but not limited to permission for supply of water, electricity, operation of lifts) of the Company which would be required for the Company to operate as a going concern have lapsed, expired, suspended, cancelled, revoked or terminated or the Company has non compliances in relation thereto. Accordingly, all governmental authorities to provide reasonable time period after the Effective Date in order for the Proposer to assess the status of these business permits and ensure that the Company is compliant with the terms of such business permits and applicable law without initiating any investigations, penalty, actions or proceedings in relation to such non compliances. Further the Govt. authorities shall enable and</p>	<p>Granted Subject to IBC and other applicable laws.</p>

	permit the proposer/corporate debtor to renew and revive any permission, license that may be necessary for revival of the corporate debtor.	
iii	The Central Board of Direct Taxes to consider the Company as a closely held company for the purposes of section 79 read with section 2 (18) of the Income Tax Act, 1961 and the change in shareholding of the Company pursuant to the plan to not lead to lapse of brought forward losses of the Company.	left for the consideration of Appropriate Authorities
iv	Under section 115JB of the Income Tax Act, 1961, assessee company for which a rehabilitation scheme was approved or reference was made under the provisions of the erstwhile SICA was not subject to minimum alternate tax until the net worth becomes positive. Similar benefit to be extended to a scheme of compromise approved in accordance with the code and CIRP regulations since the code supersedes all other applicable law and deals with the same subject matter as the erstwhile SICA. Consequently, the Central Board of direct Taxes shall not subject income or gain or profits, if any, arising as a result of giving effect to the plan to tax including minimum alternate tax in the hands of Company.	Granted Subject to IBC and Income Tax Act, 1961.
v	All Governmental authorities to grant any relief, concession or dispensation as may be required for implementation of the	left for the consideration of Appropriate Authorities

	transactions contemplated under the plan in accordance with its terms and conditions.	
vi	The Corporate Debtor, the proposer and its nominees shall not be liable for any taxes on account of the allotment of shares in their favour under the scheme of compromise and arrangement, more particularly on the basis of any "deemed profit" having been made by the proposer under the tenets of section 56 of the Income Tax Act, 1961.	left for the consideration of Appropriate Authorities
vii	All assets (including properties, whether freehold, leasehold or license basis) of the Company to be vested in the restructured Company free and clear of all encumbrances on successful implementation of the scheme of compromise.	Granted Subject to IBC and other applicable laws.
viii	The Proposer shall be allowed to terminate / renegotiate material contracts including but not limited to agency agreements entered by the Company before the insolvency commencement date without any penalty or interest at its own discretion.	Granted Subject to IBC and other applicable laws.
ix	The CBDT shall grant exemption/waiver from: (a) treating any transaction contemplated in this plan as being void or non-compliant with any provisions of the Income-tax Act, 1961; and (b) all Tax Liabilities (including interest and penalty) and tax proceedings arising in respect of periods up to the Effective Date, including such	left for the consideration of Appropriate Authorities

	liabilities/proceedings for periods up to the Effective Date in respect of on-going or potential income tax litigations at all levels.	
x	All designated authorised dealer category I Banks/RBI to approve or dispense such actions as may be required for actions contemplated under the plan in accordance with its terms and conditions.	left for the consideration of Appropriate Authorities
xi	All creditors of the Company to withdraw all legal proceedings commenced against the Company in relation to claims, including without limitation all criminal proceedings, proceedings under section 138 of the Negotiable Instruments Act, 1881 and proceedings under SARFAESI and RDDBFI not undertake or omit to take any action which precipitates the proceedings against the Company.	Granted Subject to IBC and other applicable laws.
xii	All creditors of the Company to withdraw all legal proceedings commenced against the Company in relation to claims, including without limitation all criminal proceedings, proceedings under section 138 of the Negotiable Instruments Act, 1881 and proceedings under SARFAESI and RDDBFI not undertake or omit to take any action which precipitates the proceedings against the Company.	Granted Subject to IBC and other applicable laws.
xiii	Notwithstanding anything hereinabove, i.e., In this section	Granted

	<p>of Reliefs and Concessions, the Proposer herein clarifies that it shall not withdraw the Scheme for the non-approval of any of the Reliefs and Concessions claimed by it, as such reliefs and concessions are solely within the jurisdiction of the Adjudicating Authority to decide, as per the tenets of the Companies Act, 2013 r/w the Insolvency and Bankruptcy Code, 2016.</p>	
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18. It is made clear that this Sanction of Scheme does not automatically construe that the approvals in relation to the statutory authorities or Government or any other authority have been automatically granted.

19. During the Implementation Period, the Liquidator shall act as the Chairman of the Monitoring Committee and the members of the Stakeholders Committee shall form part of the Monitoring Committee till the tenure of completion of the Scheme.

20. 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

21. We direct that a copy of this Order be duly communicated to the Competition Commission of India (CCI) constituted under the Competition Act, 2002 (Act No. 12 of 2003), lest the Scheme should violate any provisions of the said Act.

22. The Liquidator is directed to file the certified copy of this order to the Registrar of Companies concerned for registration.

23. As a consequence thereof, CP(CAA)/27(CHE)/2023 stands **allowed**. All other Applications filed by the objectors, if any which is pending, also stands **closed** in terms of this order.

-Sd-

VENKATRAMAN SUBRAMANIAM
MEMBER (TECHNICAL)

-Sd-

SANJIV JAIN
MEMBER (JUDICIAL)

Gopishankar.D