

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH-II**

**CA No. 35/2022 IN CA No. 239/2021  
IN  
CP(CAA) No. 42/MB/2021  
CONNECTED WITH  
CA (CAA) No. 1140/MB/2020  
IN THE MATTER OF SECTIONS 230 TO 232  
AND OTHER APPLICABLE PROVISIONS  
OF THE COMPANIES ACT, 2013**

**AND**

**IN THE MATTER OF THE COMPOSITE  
SCHEME OF ARRANGEMENT BETWEEN  
COASTAL GUJARAT POWER LIMITED  
AND THE TATA POWER COMPANY  
LIMITED AND THEIR RESPECTIVE  
SHAREHOLDERS**

**Coastal Gujarat Power Limited, )  
a company incorporated under the )  
provisions of the Companies Act, )  
1956, having Corporate Identity )  
Number )  
U40102MH2006PLC182213 and )  
its registered office at Corporate )  
Centre B, 34 Sant Tukaram Road, )  
Carnac Bunder, Mumbai - 400 )  
009, Maharashtra, India . )**

**... Transferor Company**

**The Tata Power Company )  
Limited, a company incorporated )  
under the provisions of the Indian )  
Companies Act, VII of 1913 )  
having Corporate Identity )  
Number )**



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L28920MH1919PLC000567 and  
its registered office at Bombay  
House, 24 Homi Mody Street,  
Mumbai – 400 001, Maharashtra,  
India

... **Transferee Company**

... **collectively referred to as**  
**“Petitioner Companies”**

**Order Delivered on 31.03.2022**

**Coram:**

Hon’ble Member (Judicial) : Justice P. N. Deshmukh (Retd.)

Hon’ble Member (Technical) : Mr. Shyam Babu Gautam

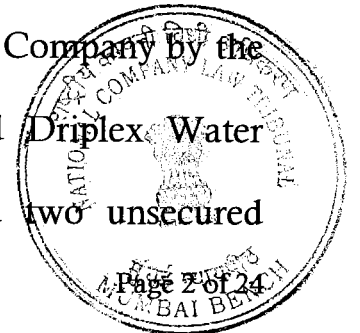
**Appearances:**

For the Petitioner Companies : Mr Gaurav Joshi, Senior Advocate  
a/w Mr. Peshwan Jehangir, Mr Mehul  
Shah, Mr Himanshu Vidhani, Mr.  
Aman Yagnik, Mr. Rushabh Gala, Mr.  
Jamsheed Dadachanji and Mr. Harsh  
Salgia i/b Khaitan & Co, Advocates for  
the Petitioner Companies

**ORDER**

**Per: Shyam Babu Gautam, Member (Technical)**

1. The Court convened through videoconference.
2. Heard Learned Counsel for Petitioner Companies. The Counsel for the Petitioner Companies submits that in response to the notices issued, two unsecured creditors of the Transferor Company by the name of Indian Oil Corporation Limited and Driplex Water Engineering International Private Limited and two unsecured



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creditors of the Transferee Company by the name of Emveess Infrastructures Pvt. Ltd. and Maharashtra State Electricity Transmission Co. Ltd., have given their representations in the form of letters addressed to the respective Petitioner Companies (hereinafter referred to as the "**Representations**"). Copy of the Representations received have been placed on record *vide* Additional Affidavit dated 23<sup>rd</sup> February 2022. In any event, the Scheme does not entail any compromise with the unsecured creditors, nor would the Scheme lead to diminishing of any liability towards the unsecured creditors. All creditors of the Petitioner Companies including those who have issued the Representations would be able to take appropriate steps as per law in respect of their claims if they so desire. As such, the payment to such creditors, if any, will be dealt with as per law, in the ordinary course. Further, the amounts as stated in the Representations are less than 5% of the total outstanding dues of the Petitioner Companies respectively, and as such, these creditors have no locus to object to the Scheme. Further, no objector has come before the Tribunal to oppose the Petition and nor has any party controverted any averments made in the Petition.



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3. The sanction of this Tribunal is sought under Sections 230 to 232 and other applicable provisions of the Companies Act, 2013 (“Act”) for the Composite Scheme of Arrangement between Coastal Gujarat Power Limited and The Tata Power Company Limited and their respective shareholders (“Scheme”).
4. The Transferor Company is engaged in the business of generating electricity at its Ultra Mega Power Project (4150 MW installed capacity) in the State of Gujarat. The Transferee Company is engaged in the business of generation, transmission and distribution of electricity.
5. The registered office of the Petitioner Companies is located in Mumbai, Maharashtra.
6. The learned Counsel for the Petitioner Companies submits that the rationale mentioned in the Scheme is as under:

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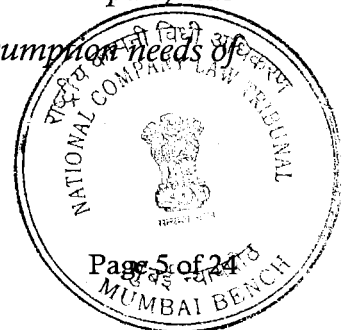
1. *The Transferee Company is desirous of consolidating the assets and liabilities of the Transferor Company (as defined hereinafter) pursuant to amalgamation. The Scheme provides for the amalgamation of the Transferor Company with the Transferee Company and will result in the following benefits.*



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- (a) *Streamlining of the corporate structure and consolidation of assets and liabilities of the Transferor Company within the Transferee Company;*
  - (b) *Availing easier financial support for the businesses of the Transferor Company;*
  - (c) *More efficient utilization of capital for enhanced development and growth of the consolidated business in one entity;*
  - (d) *Enabling opportunities for employees of the Parties (as defined hereinafter) to grow by bringing them in a common pool;*
  - (e) *Easier implementation of corporate actions through simplified compliance structure;*
  - (f) *Improve management oversight and bring in operational efficiencies;*
  - (g) *Cost savings through legal entity rationalisation and consolidation of support functions, business processes, elimination of duplicate expenses, etc.; and*
  - (h) *Reduction of administrative responsibilities, multiplicity of records and legal & regulatory compliances.*
2. *The Transferee Company is one of the largest power generation, distribution and transmission companies in India, having a legacy spanning over 100 (hundred) years. The Transferee Company has been quite instrumental in serving the power consumption needs of the Indian population.*



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3. *The Transferee Company has built up significant reserves from its retained profits over the years by transferring the same to its General Reserves (as defined hereinafter). With robust business practices in place, the Transferee Company expects that it will continue its growth trajectory and its business operations will keep generating incremental cash flow over the coming years.*
4. *The Transferee Company is of the view that the funds represented by the General Reserves are in excess of the Transferee Company's current anticipated operational and business needs in the foreseeable future, thus, these excess funds can be distributed to its shareholders in such manner and to such extent, as the Board (as defined hereinafter) of the Transferee Company in its sole discretion, may decide, from time to time and in accordance with the provisions of the Act (as defined hereinafter) and other Applicable Law (as defined hereinafter).*

*The Scheme is in the interest of the shareholders, creditors and all other stakeholders of the Parties and is not prejudicial to the interests of the concerned shareholders, creditors of the Parties or the public at large."*

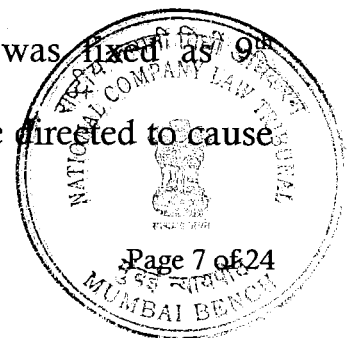
7. The Learned Counsel for the Petitioner Companies submits that the Company Petition is filed in consonance with Sections 230 to 232 and other applicable provisions of the Companies Act, 2013 and the Order dated 6<sup>th</sup> October 2021 passed in the CA (CAA) No. 1140/MB/2020 ("said Order") by this Tribunal.



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8. The Learned Counsel for the Petitioner Companies submits that *vide* order dated 5<sup>th</sup> January 2021, the Company Scheme Application was admitted; and it was *inter alia* noted that the Transferor Company and the Transferee Company had obtained consents of about 83% and 64% of their respective unsecured creditors. The Petitioner Companies were directed to issue notices to unsecured creditors having outstanding of more than INR 50,00,000 and further directed to continue making efforts to obtain consents of 90% of their respective unsecured creditors. The Learned Counsel for the Petitioner Companies submits that pursuant to the order dated 6<sup>th</sup> October 2021, the Transferor Company and the Transferee Company had obtained consents of 91.67% and 74.01% of their respective unsecured creditors. In view of the notices issued and efforts made by the Petitioner Companies, this Hon'ble Tribunal, *vide* its order dated 6<sup>th</sup> October 2021, waived off the requirement of obtaining 90% consent of the unsecured creditors.
9. The Learned Counsel for the Petitioner Companies submits that on 6<sup>th</sup> October 2021, the Company Petition was heard for admission and the date for hearing and final disposal was fixed as 9<sup>th</sup> November 2021. The Petitioner Companies were directed to cause



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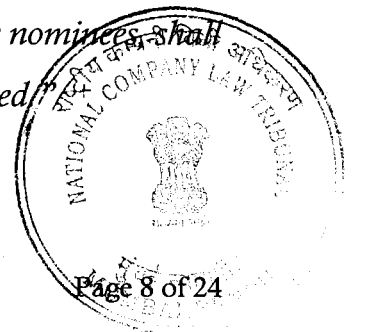
publication of the advertisement for final hearing of this matter at least 10 (ten) clear days before the date fixed in the 'Indian Express' and translation thereof in Marathi language newspaper in 'Loksatta', both circulated in Mumbai. The Petitioner Companies caused publication in the said newspapers on 30<sup>th</sup> October 2021. The Petitioner Companies were also directed to issue notices to various statutory authorities indicating the date of final hearing. The Petitioner Companies also caused the said notices to be issued as directed. The Petitioner Companies have filed a Compliance Report on 6<sup>th</sup> November 2021 and 22<sup>nd</sup> December 2021, respectively, evidencing the publication and service of notices.

10. The consideration clause as in the Scheme (Clause 8) is reproduced below:

*"8 CONSIDERATION*

*8.1 The Transferor Company is a wholly owned subsidiary of the Transferee Company and therefore there shall be no issue of shares as consideration for the amalgamation of the Transferor Company with the Transferee Company.*

*8.2 Upon the Scheme becoming effective, all equity shares of the Transferor Company held by the Transferee Company along with its nominees shall stand cancelled without any further application, act or deed.*

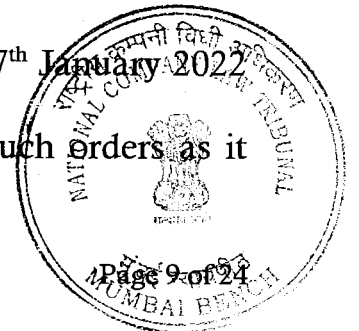




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11. The Learned Counsel for the Petitioner Companies submits that the Petitioner Companies have also issued notices to the concerned regulatory authorities indicating the date of final hearing. All the said notices have been issued and served upon the Regulatory Authorities *inter alia* to, (i) the concerned Income Tax Authority within whose jurisdiction the Transferor Company and the Transferee Company, assessments are made, (ii) the Central Government through the office of the Regional Director, Western Region, Mumbai, (iii) Registrar of Companies, Mumbai, (iv) the Official Liquidator, High Court, Bombay (in case of the Transferor Company), (v) Securities and Exchange Board of India, (vi) BSE Limited (in case of Transferee Company), (vii) National Stock Exchange of India Limited, (viii) concerned GST departments within whose jurisdiction the Transferor Company and the Transferee Company, assessments are made.
12. The Learned Counsel for the Petitioner Companies states that the Petitioner Companies have complied with all the requirements as per the directions of this Tribunal.
13. The Regional Director has filed its Report dated 17<sup>th</sup> January 2022 (“**Report**”) praying that this Tribunal may pass such orders as it



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thinks fit, save and except as stated in Paragraphs IV (a) to (g). The observations of the RD, the reply of the Petitioner Companies and the response of the RD in its Supplementary Report are set out in tabular format below:

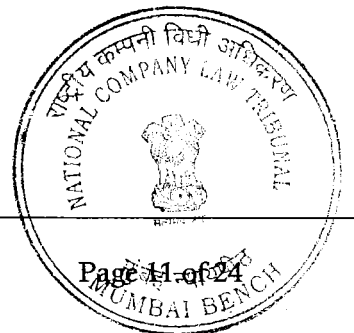
Sr no	Observation in Report filed RD	Reply of Petitioner Companies	Response of RD in Supplementary Report dated 25 <sup>th</sup> January 2022 (“Supplementary Report”)
(a)	<i>In compliance of AS-14 (IND AS-103), the Petitioner Companies shall pass such accounting entries which are necessary in connection with the scheme to comply with other applicable Accounting Standards such as AS-5 (IND AS-8) etc.</i>	The Petitioner Companies undertake to pass such accounting entries which are necessary in connection with the Scheme in compliance with the accounting standards notified under Section 133 of the Companies Act, 2013, as may be applicable to the Petitioner Companies.	The RD has stated as follows:  <i>“The reply submitted by the Applicant/Petitioner Companies appears to be satisfactory.”</i>
(b)	<i>The Petitioners under provisions of section 230(5) of the Companies Act, 2013 have to serve notices to concerned authorities which are likely to be affected by Compromise or arrangement. Further, the approval of the scheme by</i>	The Petitioner Companies submit that notices under the provisions of section 230(5) of the Companies Act, 2013 have been served to all the concerned authorities and no objection has been	The RD has stated as follows:  <i>“The reply submitted by the Applicant/Petitioner Companies appears to be satisfactory.”</i>



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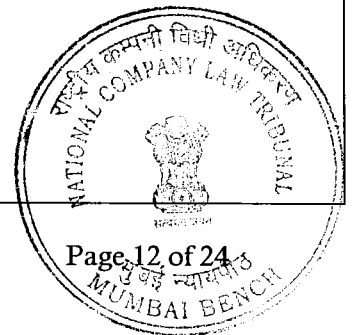
	<p><i>this Hon 'ble Tribunal may not deter such authorities to deal with any of the issues arising after giving effect to the scheme. The decision of such Authorities is binding on the Petitioner Company(s).</i></p>	<p>received from any of the authorities. Further, the Petitioner Companies shall be bound by any decision of the concerned authorities that is made in accordance with law.</p>	
(c)	<p><i>The Hon 'ble NCLT may kindly direct to the Petitioners to file an undertaking to the extent that the Scheme enclosed to the Company Application and the scheme enclosed to the Company Petition are one &amp; same and there is no discrepancy or deviation.</i></p>	<p>The Petitioner Companies submit that initially the Scheme enclosed to the Company Application and the Scheme enclosed to the Company Petition were same and there was no discrepancy. However, on 1<sup>st</sup> July 2021, the Board of Directors of the Transferor Company and the Transferee Company had approved the amended Scheme in their respective meetings, to delete Tata Power Solar Systems Limited (erstwhile Second Petitioner Company) from the Scheme as well as from the array of parties in the Company Petition. Further, the Board of Directors of Tata Power Solar Systems Limited had also</p>	<p>The RD has stated as follows:</p> <p><i>“On the basis of observations made by the Regional Director and reply submitted by the Petitioner Company, which appears satisfactory. The Hon'ble Tribunal may pass appropriate orders/orders as deem fit on merit.”</i></p>



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taken a note of the said Amended Scheme in its board meeting held on 1<sup>st</sup> July 2021. Affidavits dated 9<sup>th</sup> July 2021 were filed by the Transferor Company, Transferee Company and Tata Power Solar Systems Limited verifying the Amended Composite Scheme, for the reasons more particularly set out in the joint affidavit dated 19<sup>th</sup> July 2021 filed by the Transferor Company, Transferee Company and Tata Power Solar Systems Limited with the Hon'ble Tribunal. Subsequently, Company Application No. 239 of 2021 was filed by the Transferor Company, Transferee Company and Tata Power Solar Systems Limited to delete Tata Power Solar Systems Limited (Second Petitioner Company in the erstwhile Scheme) from the array of parties and make consequential changes in the Company Petition and the Scheme.



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Pursuant to the Orders dated 6<sup>th</sup> October 2021 of the Hon'ble Tribunal, amendment to the Company Petition and the Scheme was allowed and Tata Power Solar Systems Limited was deleted from the array of parties. The amendment in Company Petition were carried out and the amended Scheme has been placed on record before this Hon'ble Tribunal. Further, the amended Company Petition along with the amended Scheme was served on the concerned authorities by the Transferor Company, Transferee Company and Tata Power Solar Systems Limited. Furthermore, approval of the shareholders was also taken by the Transferor Company, Transferee Company and Tata Power Solar Systems Limited to get the Scheme amended and such approvals were placed on record with the



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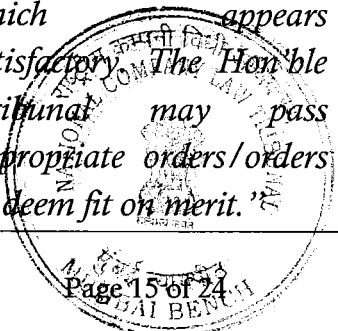
		<p>Hon'ble Tribunal vide Affidavit dated 8<sup>th</sup> December 2021 by the Transferee Company, Affidavit dated 21<sup>st</sup> December 2021 by the Transferor Company and Affidavit dated 21<sup>st</sup> December 2021 by Tata Power Solar Systems Limited. The Transferee Company has also submitted the amended Scheme to Securities and Exchange Board of India ("SEBI") for its consideration, and SEBI has issued a letter dated 30<sup>th</sup> August 2021 noting the amendment to the Scheme and stating that it has no further comments on the Scheme.</p>	
(d)	<p><i>As per Definition of the Scheme,</i> <i>"Appointed Date" means opening business hours of 1 April 2020 or such other date as may be approved by the Board of the Parties;</i></p> <p><i>"Effective Date" means the day on which last of the conditions specified in Clause 19 (Conditions Precedent) of</i></p>	<p>The Petitioner Companies submit that the present Scheme is in compliance with the requirements of circular no. F. No. 7/12/2019/CI-1 dated 21.08.2019 issued by the Ministry of Corporate Affairs.</p>	<p>The RD has stated as follows:</p> <p><i>"The reply submitted by the Applicant/Petitioner Companies appears to be satisfactory."</i></p>



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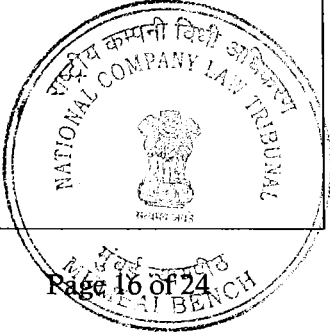
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<p><i>this Scheme are compiled with or otherwise duly waived.</i></p> <p><i>Reference in this Scheme to the date of "coming into effect of this Scheme" or "effectiveness of this Scheme" or "effect of this Scheme" or "upon the Scheme becoming effective" shall mean the Effective Date;</i></p> <p><i>Further, the Petitioners may be asked to comply with the requirements as and clarified vide circular no. F. No. 7/12/2019/CL-1 dated 21.08.2019 issued by the Ministry of Corporate Affairs.</i></p>		
<p>(e) <i>As per Clause 9 &amp; 13 of the Scheme</i></p> <p><i>The surplus/deficit, if any arising after taking the effect of clause 9. 1.1, 9.1.2 and 9. 1.4, after giving the effect of the adjustments referred to in clause 9.1 .3, shall be adjusted in 'Capital Restructuring Reserve' in the financial statements of the Transferee Company;</i></p>	<p>The Petitioner Companies submit that the Transferee Company is required to follow Ind AS as per the requirements of Section 133 of Companies Act, 2013 and accounting standard 14 is not applicable to the Transferee Company. Further, as per paragraph 9 of the Scheme, upon the</p>	<p>The RD has stated as follows:</p> <p><i>"On the basis of observations made by the Regional Director and reply submitted by the Petitioner Company, which appears satisfactory. The Hon'ble Tribunal may pass appropriate orders/orders as deem fit on merit."</i></p>



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<p><i>In case of any differences in accounting policies between the Transferor Company and the Transferee Company, the accounting policies followed by the Transferee Company shall prevail to ensure that the financial statements reflect the financial position based on consistent accounting policies;</i></p> <p><i>Comparative financial information in the financial statements of the Transferee Company shall be restated for the accounting impact of merger, as stated above, as if the merger had occurred from the beginning of the comparative period;</i></p> <p><i>For accounting purpose, the Scheme will be given effect from the date when all substantial conditions for the transfer of business are completed, i.e., the control is transferred in accordance with the requirements of Ind AS.</i></p> <p><i>In accordance with the Clause 11.1 above, the debit</i></p>	<p>Scheme coming into effect, the Transferee Company shall account for the amalgamation in accordance "Pooling of interest method" of accounting laid down in Appendix C of Ind AS 103.</p> <p>As per Appendix C of Ind AS 103, the difference (surplus or deficit), if any, between the amount recorded as share capital issued plus any additional consideration in the form of cash or other assets and the amount of share capital of the transferor shall be transferred to capital reserve and should be presented separately from other capital reserves with disclosure of its nature and purpose in the notes.</p> <p>In order to present the reserve separately from the existing Capital reserve of the Transferee Company and to not use it in distribution of dividend, the reserve has been named as Capital</p>	
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<p><i>balance in the Retained Earnings of the Transferee Company (after giving the effect of the accounting treatment as per Clause 9 of Part II) would be offset against Securities Premium (to the extent available), and then against General Reserves of the Transferee Company.</i></p> <p><i>In accordance with the Clause 11.2 above, the entire amount standing to the credit of the General Reserves of the Transferee Company (after adjusting the amount as per clause 13.1 above), shall be reclassified and credited to the Retained Earnings of the Transferee Company.</i></p> <p><i>Petitioner Companies have to undertake that the surplus / deficit shall be adjusted to Capital Reserve Account arising out of amalgamation and deficits shall be debited to Goodwill Account.</i></p> <p><i>Further Petitioner Companies have to undertake that reserves shall</i></p>	<p>Restructuring reserve. Such Capital Restructuring reserve shall not be available for the distribution of dividend.</p> <p>Hence, the said accounting treatment mentioned in the Scheme is in line with the requirement of Ind AS 103 Business Combinations.</p> <p>Further, Part III of the Scheme also provides for the following:</p> <p>i. The debit balance in the Retained Earnings of the Transferee Company (after giving effect of the accounting treatment as per Clause 9 of Part II of the Scheme) would be offset against the following reserves of the Transferee Company:</p> <p>a. Securities Premium (to the extent available), and</p> <p>b. Thereafter, against General Reserves.</p>	
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<p><i>not be available for distribution of dividend.</i></p>	<p>ii. Thereafter, the Scheme provides for reclassification of entire amount standing to the credit of the General Reserves of the Transferee Company to the Retained Earnings of the Transferee Company.</p>	
<p>(f) <i>Status Of Roc Report:- ROC, Mumbai Report dated 17-01-2022 has interalia mentioned that there are no prosecution, no technical scrutiny, no inspection pending against Petitioner Companies.</i></p> <p><i>As per ROC report in Para No. 23 Inquiry U/s.206(1) of the Companies Act, 2013 is ordered is ordered by MCA vide latter dated 11.10.2019 pending against the transferee company i.e. the Tata Power Company Limited and no Inquiry/ Inspection/ investigation against the Transferor Company as per the information received from the enquiry section.</i></p> <p><i>The letter received from MCA vide No. 01/193/2019/CL-IJ(WR)</i></p>	<p>The Petitioner Companies submit as follows:</p> <p>1) The open charges of the Transferor Company shall be transferred to and continued against the Transferee Company pursuant to the Scheme becoming effective. The interest of the creditors of the Transferor Company will not be adversely affected by the transfer of the open charges and creditors will be paid in the normal course of business in accordance with the agreements executed by the Transferor Company and/or compliance with applicable laws.</p>	<p>The RD has stated as follows:</p> <p><i>“On the basis of observations made by the Regional Director and reply submitted by the Petitioner Company, which appears satisfactory. The Hon’ble Tribunal may pass appropriate orders/orders as deem fit on merit.”</i></p>



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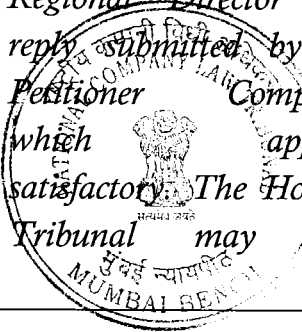
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<p><i>dated 11.10.2019 is attached herewith.</i></p> <p><i>As per ROC report in Para No. 24 A complain received vide SRN J00035458 is for nonreceipt of dividend pending against the Transferee Company i.e. The Tata Power Company Limited and no complain against the Transferor Company received as per information received from Complaint section.</i></p> <p><i>ROC Observations is as under:</i></p> <ol style="list-style-type: none"><li><i>1. The Transferor Company having two number of open Charges.</i></li><li><i>2. Interest of the Creditors should be protected.</i></li><li><i>3. An Inquiry u/s. 206(1) of Companies Act is ordered by MCA vide letter vide No. 01/193/2019/CL-II(WR) dated 11.10.2019 pending against Transferee Company i.e. The Tata Power Company Limited.</i></li><li><i>4. One Complaint received vide SRN /00035458 is pending against Transferee</i></li></ol>	<p>2) The interest of the creditors of the Petitioner Companies are not adversely affected by the present Scheme and their respective dues will be paid in the normal course of business in accordance with the agreements executed by the Petitioner Companies and/or compliance with applicable laws.</p> <p>3) To the best of our knowledge, the Transferee Company has not received any communication from Ministry of Corporate Affairs ("MCA") or RoC with regard to any Inquiry. The Transferee Company hereby undertake that as and when any communication is received, the Transferee Company shall cooperate and provide all the required information or details to MCA/RoC. In any event any prosecutions against the Transferee Company</p>	
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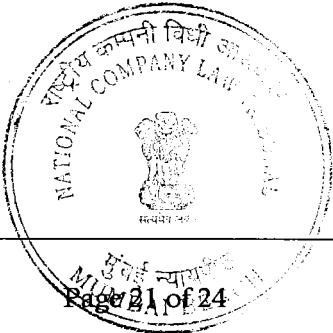
BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH-II

CA No. 35/2022 IN CA No. 239/2021  
IN CP(CAA) No. 42/MB/2021  
CONNECTED WITH  
CA (CAA) No. 1140/MB/2020

	<p><i>Company i.e. The Tata Power Company Limited.</i></p> <p><i>5. May be decided in its merits.</i></p> <p><i>Hon 'ble Tribunal may consider the observations pointed out by ROC, Mumbai in their report and decide the matter on merits.</i></p>	<p>shall continue to be dealt with as per applicable law.</p> <p>4) The Transferee Company has not received any communication from MCA or RoC with regard to any complaint with SRN J00035458. The Transferee Company undertakes that as and when any communication is received, it will take necessary actions as per applicable laws. In any event any prosecutions against the Transferee Company shall continue to be dealt with as per applicable law.</p>	
(g)	<p><i>As per clause 12 of the Scheme</i></p> <p><b>DISTRIBUTION OF SURPLUS FUNDS TO THE SHAREHOLDERS OF THE TRANSFEREE COMPANY</b></p> <p><i>Upon the Scheme becoming effective and subsequent to the reclassification of the amounts standing to the</i></p>	<p>The Petitioner Companies submit that upon the Scheme becoming effective and subsequent to the reclassification of the amounts standing to the credit of the General Reserves and credit thereof to the Retained Earnings pursuant to Clause 11 of the Scheme,</p>	<p>The RD has stated as follows:</p> <p><i>“On the basis of observations made by the Regional Director and reply submitted by the Petitioner Company, which appears satisfactory. The Hon'ble Tribunal may pass</i></p> 

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,  
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CA (CAA) No. 1140/MB/2020

<p><i>credit of the General Reserves and credit thereof to the Retained Earnings pursuant to Clause 11 of the Scheme, the amount so credited shall be paid out to the shareholders of the Transferee Company, from time to time, by the Board of the Transferee Company, at its sole discretion, in such manner, quantum and at such time as it deems fit (each such event constituting a "Distribution ").</i></p> <p><i>Each Distribution of surplus funds (including the quantum, manner, and timing thereof) shall be undertaken in accordance with the provisions of the Act, the Scheme and other Applicable Laws, taking into account all relevant factors including applicable regulatory and fiscal considerations, the nature and quantum of each Distribution and subject to payment or deduction at source of applicable taxes as per Applicable Laws.</i></p>	<p>the amount so credited shall be paid out to the shareholders of the Transferee Company, from time to time by the Board of Directors of the Transferee Company at its sole discretion, by way of issuance of dividend, securities or such other mechanism, depending on the ongoing needs of the Transferee Company in accordance with applicable laws. Each distribution of surplus funds shall be undertaken in accordance with the provisions of the Companies Act, 2013, the Scheme and other applicable laws, taking into account all relevant factors including applicable regulatory and fiscal considerations. The accounting treatment in the books of accounts of the Transferee Company upon the Scheme becoming effective has been explained in Para 6 (e) above.</p>	<p><i>appropriate orders/orders as deem fit on merit."</i></p>  <p>Page 21 of 24</p>
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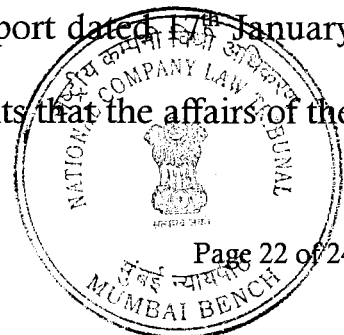
BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH-II

CA No. 35/2022 IN CA No. 239/2021  
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CONNECTED WITH  
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<p><i>Petitioner Companies shall undertake to define as to how the Petitioner Companies board of directors proposes to distribute among the shareholders for which period and which manner, since this clause is proposing to be part of the scheme. Therefore, the clarification is required to be given by the Petitioner Companies in this regard.</i></p> <p><i>Hon'ble Tribunal may direct the Petitioner Companies to explain the accounting treatment in the books of accounts of the Transferees Company/Resulting Company Upon the Scheme becoming effective.</i></p>		
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14. The Regional Director has not raised any other objections or dealt with any of the responses of the Petitioner Companies other than as set out above. The Counsel for the Petitioner Company submits that it is apparent that the Regional Director is satisfied with the responses provided.

15. Further, the Official Liquidator *vide* his Report dated 17<sup>th</sup> January 2022 filed with the Hon'ble Tribunal, submits that the affairs of the

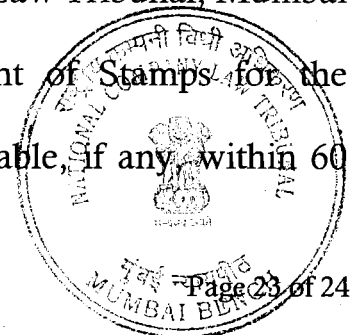


BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH-II

CA No. 35/2022 IN CA No. 239/2021  
IN CP(CAA) No. 42/MB/2021  
CONNECTED WITH  
CA (CAA) No. 1140/MB/2020

Transferor Company have been conducted in a proper manner. No objections have been raised with respect to the Scheme.

16. From the material on record, the Scheme annexed as Exhibit A-18 to the Company Petition appears to be fair and reasonable and is not violative of any provisions of law and is not contrary to public policy.
17. Since all the requisite statutory compliances have been fulfilled, CP (CAA) No. 42/MB-IV/2021 is made absolute in terms of the prayer clauses 31 (a) to 31 (h) thereof.
18. The Scheme is hereby sanctioned, with the Appointed Date fixed as opening business hours of 1<sup>st</sup> April 2020.
19. The Petitioner Companies are directed to file a copy of this Order along with a copy of the Scheme with the concerned Registrar of Companies, within 30 days from the date of receipt of the certified copy of this Order by the Petitioner Companies.
20. The Transferee Company to lodge a copy of this Order along with the Scheme duly authenticated/certified by the Deputy Registrar or the Assistant Registrar, National Company Law Tribunal, Mumbai Bench, with the concerned Superintendent of Stamps for the purpose of adjudication of stamp duty payable, if any, within 60



BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH-II

CA No. 35/2022 IN CA No. 239/2021  
IN CP(CAA) No. 42/MB/2021  
CONNECTED WITH  
CA (CAA) No. 1140/MB/2020

days from the date of receipt of the certified Order from the Registry  
of this Tribunal.

21. All concerned regulatory authorities to act on a copy of this Order along with Scheme duly certified by the Deputy Registrar or the Assistant Registrar, National Company Law Tribunal, Mumbai Bench.
22. Any person interested is at liberty to apply to this Tribunal in the above matters for any directions that may be necessary.
23. Any concerned Authorities are at liberty to approach this Tribunal for any further clarification as may be necessary.
24. Ordered accordingly. File to be consigned to records.

Sd/-

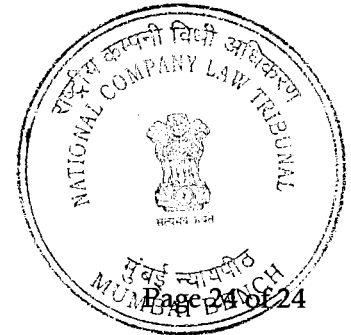
**SHYAM BABU GAUTAM**  
MEMBER (TECHNICAL)

31.03.2022  
SAM

Sd/-

**JUSTICE P. N. DESHMUKH**  
MEMBER (JUDICIAL)

Certified True Copy \_\_\_\_\_  
Date of Application ..... 01.04.2022  
Number of Pages ..... 24  
Fee Paid Rs. .... 120  
Applicant's Date ..... 05.04.2022  
Copy prepared ..... 05.04.2022  
Copy issued ..... 05.04.2022



*[Handwritten Signature]*  
5.4.2022  
National Company Law Tribunal, Mumbai Bench



**COMPOSITE SCHEME OF ARRANGEMENT**

**BETWEEN**

**COASTAL GUJARAT POWER LIMITED**

**AND**

**THE TATA POWER COMPANY LIMITED**

**AND**

**THEIR RESPECTIVE SHAREHOLDERS**

**UNDER SECTIONS 230 TO 232 READ WITH SECTION 52 AND OTHER APPLICABLE PROVISIONS OF THE  
COMPANIES ACT, 2013**



**(A) PREAMBLE**

*This composite scheme of arrangement provides for: (i) amalgamation of Coastal Gujarat Power Limited (hereinafter referred to as "Transferor Company") with The Tata Power Company Limited (hereinafter referred to as "Transferee Company"); and (ii) capital reorganization of the Transferee Company. This Scheme also provides for various other matters consequential thereto or otherwise integrally connected therewith.*

**(B) DESCRIPTION OF COMPANIES**

1. *The Transferee Company is a public company incorporated under the provisions of the Indian Companies Act, 1913. The Transferee Company inter alia is engaged in the business of generation, transmission and distribution of electricity. The equity shares of the Transferee Company are listed on the Stock Exchanges (as defined hereinafter). The non-convertible debentures of the Transferee Company are also listed on the Stock Exchanges.*
2. *The Transferor Company is a public company incorporated under the provisions of the Companies Act, 1956. The Transferor Company inter alia is engaged in the business of generating electricity at its UMPP (4150MW installed capacity). The Transferor Company has issued redeemable non-convertible debentures which are listed on National Stock Exchange of India Limited. The Transferor Company is a wholly owned subsidiary of the Transferee Company.*

**(C) RATIONALE OF THE SCHEME**

1. *The Transferee Company is desirous of consolidating the assets and liabilities of the Transferor Company pursuant to amalgamation. The Scheme provides for the amalgamation of the Transferor Company with the Transferee Company and will result in the following benefits:*
  - (a) *Streamlining of the corporate structure and consolidation of assets and liabilities of the Transferor Company within the Transferee Company;*
  - (b) *Availing easier financial support for the businesses of the Transferor Company;*
  - (c) *More efficient utilization of capital for enhanced development and growth of the consolidated business in one entity;*
  - (d) *Enabling opportunities for employees of the Parties (as defined hereinafter) to grow by bringing them in a common pool;*
  - (e) *Easier implementation of corporate actions through simplified compliance structure;*
  - (f) *Improve management oversight and bring in operational efficiencies;*
  - (g) *Cost savings through legal entity rationalisation and consolidation of support functions, business processes, elimination of duplicate expenses, etc.; and*
  - (h) *Reduction of administrative responsibilities, multiplicity of records and legal & regulatory compliances.*
2. *The Transferee Company is one of the largest power generation, distribution and transmission companies in India, having a legacy spanning over 100 (hundred) years. The Transferee Company has been quite instrumental in serving the power consumption needs of the Indian population.*
3. *The Transferee Company has built up significant reserves from its retained profits over the years by transferring the same to its General Reserves (as defined hereinafter). With robust business practices in place, the Transferee Company expects that it will continue its growth trajectory and its business operations will keep generating incremental cash flow over the coming years.*
4. *The Transferee Company is of the view that the funds represented by the General Reserves are in excess of the Transferee Company's current anticipated operational and business needs in the foreseeable future, thus, these excess funds can be distributed to its shareholders in such manner and to such extent, as the Board (as defined hereinafter) of the Transferee Company in its sole discretion, may decide, from time to time and in accordance with the provisions of the Act (as defined hereinafter) and other Applicable Law (as defined hereinafter).*

*The Scheme is in the interest of the shareholders, creditors and all other stakeholders of the Parties and is*

not prejudicial to the interests of the concerned shareholders, creditors of the Parties or the public at large.

(D) **PARTS OF THE SCHEME**

The Scheme is divided into the following parts:

1. **PART I** deals with the definitions, interpretations and share capital of the Parties;
2. **Part II** deals with amalgamation of the Transferor Company with the Transferee Company;
3. **Part III** deals with capital reorganization of the Transferee Company; and
4. **PART IV** deals with the general terms and conditions applicable to this Scheme.

**PART I**

**DEFINITIONS, SHARE CAPITAL AND DATE OF  
TAKING EFFECT AND IMPLEMENTATION OF THIS SCHEME**

**1. DEFINITIONS**

- 1.1 In this Scheme, (i) capitalised terms defined by inclusion in quotations and/ or parenthesis shall have the meanings so ascribed; and (ii) the following expressions shall have the meanings ascribed hereunder:

**"Act"** means the Companies Act, 2013;

**"Applicable Law"** or **"Law"** means any applicable national, foreign, provincial, local or other law including applicable provisions of all (a) constitutions, decrees, treaties, statutes, laws (including the common law), codes, notifications, rules, regulations, policies, guidelines, circulars, directions, directives, ordinances or orders of any Appropriate Authority, statutory authority, court, Tribunal; (b) Permits; and (c) orders, decisions, injunctions, judgments, awards and decrees of or agreements with any Appropriate Authority having jurisdiction over the Parties as may be in force from time to time;

**"Appointed Date"** means opening business hours of 1 April 2020 or such other date as may be approved by the Board of the Parties;

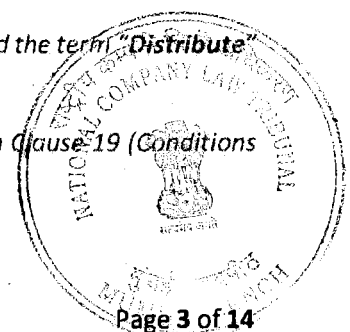
**"Appropriate Authority"** means:

- (a) the government of any jurisdiction (including any national, state, municipal or local government or any political or administrative subdivision thereof) and any department, ministry, agency, instrumentality, court, Tribunal, central bank, commission or other authority thereof;
- (b) any governmental, quasi-governmental or private body or agency lawfully exercising, or entitled to exercise, any administrative, executive, judicial, legislative, regulatory, licensing, competition, Tax, importing, exporting or other governmental or quasi-governmental authority including without limitation, the Tribunal; and
- (c) any Stock Exchange.

**"Board"** in relation to the Parties, means the board of directors of such Party, and shall include a committee of directors or any person authorized by such board of directors or such committee of directors duly constituted and authorized for the matters pertaining to this Scheme or any other matter relating hereto;

**"Distribution"** has the same meaning ascribed to it in Clause 12.1 hereto and the term **"Distribute"** shall be construed accordingly;

**"Effective Date"** means the day on which last of the conditions specified in Clause 19 (Conditions Precedent) of this Scheme are complied with or otherwise duly waived.



Reference in this Scheme to the date of "coming into effect of this Scheme" or "effectiveness of this Scheme" or "effect of this Scheme" or "upon the Scheme becoming effective" shall mean the Effective Date;

"**Encumbrance**" means (a) any charge, lien (statutory or other), or mortgage, any easement, encroachment, right of way, right of first refusal or other encumbrance or security interest securing any obligation of any Person; (b) pre-emption right, option, right to acquire, right to set off or other third party right or claim of any kind, including any restriction on use, voting, transfer, receipt of income or exercise; or (c) any hypothecation, title retention, restriction, power of sale or other preferential arrangement; or (d) any agreement to create any of the above; and the term "**Encumber**" shall be construed accordingly;

"**General Reserves**" means and includes the general reserves of the Transferee Company which have been built primarily through transfer of retained undistributed profits over the years, pursuant to the provisions of the Act read with Companies (Declaration and Payment of Dividend) Rules, 2014 and erstwhile notified rules under the provisions of Companies Act 1956, namely, the Companies (Transfer of Profits to Reserves) Rules, 1975 and which forms a part of the revenue reserves of the Transferee Company, as reflected in the books of accounts of the Transferee Company;

"**Income Tax Act**" means the Income-tax Act, 1961;

"**INR**" means Indian Rupee, the lawful currency of the Republic of India;

"**Parties**" means collectively the Transferor Company and the Transferee Company and "**Party**" shall mean each of them, individually;

"**Permits**" means all consents, licences, permits, certificates, permissions, authorisations, clarifications, approvals, clearances, confirmations, declarations, waivers, exemptions, registrations, filings, no objections, whether governmental, statutory, regulatory or otherwise as required under Applicable Law;

"**Person**" means an individual, a partnership, a corporation, a limited liability partnership, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization or an Appropriate Authority;

"**Retained Earnings**" means line-item classified as retained earnings as presented in the balance sheet of the Transferee Company, which constitute accumulated profits of the Transferee Company, arrived at after providing for depreciation in accordance with the provisions of the Act;

"**RoC**" means the relevant jurisdictional Registrar of Companies having jurisdiction over Parties;

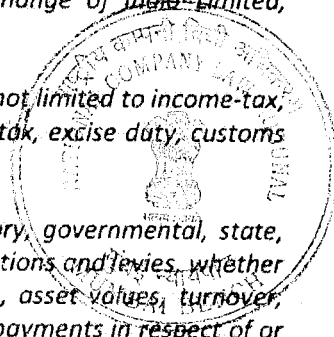
"**Securities Premium**" means the line-item classified as securities premium as presented in the balance sheet of the Transferee Company, forming part of the reserves and surplus of the Transferee Company;

"**Scheme**" or "**this Scheme**" means this composite scheme of arrangement as modified from time to time;

"**Stock Exchanges**" means BSE Limited and the National Stock Exchange of India Limited, collectively;

"**Tax Laws**" means all Applicable Laws dealing with Taxes including but not limited to income-tax, wealth tax, sales tax / value added tax, service tax, goods and service tax, excise duty, customs duty or any other levy of similar nature;

"**Taxation**" or "**Tax**" or "**Taxes**" means all forms of taxes and statutory, governmental, state, provincial, local governmental or municipal impositions, duties, contributions and levies, whether levied by reference to income, profits, book profits, gains, net wealth, asset values, turnover, added value, goods and services or otherwise and shall further include payments in respect of or on account of Tax, whether by way of deduction at source, collection at source, dividend distribution tax, advance tax, minimum alternate tax, goods and services tax or otherwise or attributable directly or primarily to any of the Parties or any other Person and all penalties, charges, costs and interest relating thereto;



**"Transferee Company"** means The Tata Power Company Limited, a company incorporated under the provisions of the Indian Companies Act, 1913, having corporate identification number L28920MH1919PLC000567 and its registered office at Bombay House, 24 Homi Mody Street, Mumbai - 400001, Maharashtra, India;

**"Transferor Company"** means Coastal Gujarat Power Limited, a company incorporated under the provisions of the Companies Act, 1956, having corporate identification number U40102MH2006PLC182213 and its registered office at 34, Sant Tukaram Marg Carnac Bunder, Mumbai - 400009, Maharashtra, India; and

**"Tribunal"** means the Mumbai bench of the National Company Law Tribunal having jurisdiction over Parties.

1.2 In this Scheme, unless the context otherwise requires:

1.2.1 words denoting the singular shall include the plural and vice versa;

1.2.2 any Person includes that Person's legal heirs, administrators, executors, liquidators, successors, successors-in-interest and permitted assigns, as the case may be;

1.2.3 headings, sub-headings, titles, sub-titles to clauses, sub-clauses and paragraphs are for information and convenience only and shall be ignored in construing the same; and

1.2.4 the words "include" and "including" are to be construed without limitation.

## 2. SHARE CAPITAL

2.1 The share capital structure of the Transferor Company as on 31 July 2020 is as follows:

Particulars	Amount in INR
<b>Authorised share capital</b>	
1,000,00,00,000 equity shares of INR 10 each	10,000,00,00,000
<b>Total</b>	<b>10,000,00,00,000</b>
<b>Issued, subscribed and paid up share capital</b>	
800,04,20,000 equity shares of INR 10 each	8,000,42,00,000
<b>Total</b>	<b>8,000,42,00,000</b>

Subsequent to the aforesaid date, there has been no change in the authorised, issued, subscribed and paid-up share capital of the Transferor Company until the date of approval of the Scheme by the Board of the Transferor Company.

2.2 The share capital structure of the Transferee Company as on 31 July 2020 is as follows:

Particulars	Amount in INR
<b>Authorised share capital</b>	
550,00,00,000 equity shares of INR 1 each	550,00,00,000
2,29,00,000 cumulative redeemable preference shares of INR 100 each	229,00,00,000
<b>Total</b>	<b>779,00,00,000</b>
<b>Issued capital</b>	
276,17,00,970 equity shares (including 28,32,060 shares not allotted but held in abeyance, 44,02,700 shares cancelled pursuant to a court order and 4,80,40,400 shares of the Applicant Company held by the erstwhile The Andhra Valley Power Supply Company Limited cancelled pursuant to the scheme of amalgamation sanctioned by the High Court of Judicature, Bombay)	276,17,00,970
<b>Total</b>	<b>276,17,00,970</b>
<b>Subscribed and Paid Up Capital</b>	
270,47,73,510 equity shares fully Paid-up (excluding 28,32,060 not allotted but held in abeyance, 44,02,700 shares cancelled pursuant to a court order and 4,80,40,400 shares of the Applicant Company held by the erstwhile The Andhra Valley Power Supply Company Limited	270,47,73,510

Particulars	Amount in INR
cancelled pursuant to the Scheme of Amalgamation sanctioned by the High Court of Judicature, Bombay)	
<b>Less:</b> Calls in arrears (including Rs. 0.01 crore as on 31 <sup>st</sup> March 2020) in respect of the erstwhile The Andhra Valley Power Supply Company Limited and the erstwhile The Tata Hydro-Electric Power Supply Company Limited)	4,58,675
<b>Add:</b> 16,52,300 equity shares forfeited - amount paid	6,88,756
<b>Total</b>	<b>270,50,03,591</b>

Subsequent to the aforesaid date, there has been no change in the authorised, issued, subscribed and paid-up share capital of the Transferee Company until the date of approval of the Scheme by the Board of the Transferee Company.

### 3. DATE OF TAKING EFFECT AND IMPLEMENTATION OF THIS SCHEME

- 3.1 This Scheme in its present form or with any modification(s), as may be approved or imposed or directed by the Tribunal or made as per Clause 18 of this Scheme, shall become effective from the Appointed Date but shall be operative from the Effective Date.

## PART II

### AMALGAMATION OF THE TRANSFEROR COMPANY WITH THE TRANSFEE COMPANY

#### 4. AMALGAMATION AND VESTING OF ASSETS AND LIABILITIES AND ENTIRE BUSINESS OF THE TRANSFEROR COMPANY

- 4.1 Upon effectiveness of this Scheme and with effect from the Appointed Date and in accordance with the provisions of this Scheme and pursuant to Sections 230 to 232 and other applicable provisions of the Act and Section 2(1B) of the Income Tax Act, the Transferor Company shall stand transferred to and vested in the Transferee Company as a going concern and accordingly, all assets, Permits, contracts, liabilities, loan, debentures, duties and obligations of the Transferor Company shall, without any further act, instrument or deed, stand transferred to and vested in or be deemed to have been transferred to and vested in the Transferee Company, so as to become as and from the Appointed Date, the assets, Permits, contracts, liabilities, loan, debentures, duties and obligations of the Transferee Company by virtue of operation of law, and in the manner provided in this Scheme.

- 4.2 Upon effectiveness of this Scheme and with effect from the Appointed Date, without prejudice to the generality of the provisions of Clause 4.1 above, the manner of transfer and vesting of assets and liabilities of the Transferor Company under this Scheme, is as follows:

- 4.2.1 In respect of such of the assets and properties of the Transferor Company which are movable in nature (including but not limited to all intangible assets, brands, trademarks of the Transferor Company, whether registered or unregistered trademarks along with all rights of commercial nature including attached goodwill, title, interest, labels and brand registrations, copyrights trademarks and all such other industrial and intellectual property rights of whatsoever nature) or are otherwise capable of transfer by delivery or possession or by endorsement, shall stand transferred upon the Scheme coming into effect and shall, ipso facto and without any other order to this effect, become the assets and properties of the Transferee Company without requiring any deed or instrument of conveyance for transfer of the same. The vesting pursuant to this sub-clause shall be deemed to have occurred by physical or constructive delivery or by endorsement and delivery or by vesting and recordal, pursuant to this Scheme, as appropriate to the property being vested, and title to the property shall be deemed to have been transferred accordingly.

- 4.2.2 Subject to Clause 4.2.4 below, with respect to the assets of the Transferor Company other than those referred to in Clause 4.2.1 above, including all rights, title and interests in the agreements (including agreements for lease or license of the properties), investments in shares, mutual funds, bonds and any other securities, sundry debtors, claims from customers or otherwise, outstanding loans and advances, if any, recoverable in cash or in kind or for value to be received, bank balances and deposits, if any, with any Appropriate

Authority, customers and other Persons, whether or not the same is held in the name of the Transferor Company, the same shall, without any further act, instrument or deed, be transferred to and vested in and/or be deemed to be transferred to and vested in the Transferee Company, with effect from the Appointed Date by operation of law as transmission in favour of Transferee Company. With regard to the licenses of the properties, the Transferee Company will enter into novation agreements, if it is so required.

- 4.2.3 In respect of such of the assets and properties of the Transferor Company which are immovable in nature, including rights, interest and easements in relation thereto, the same shall stand transferred to the Transferee Company with effect from the Appointed Date, without any act or deed or conveyance being required to be done or executed by the Transferor Company and/or the Transferee Company;
- 4.2.4 For the avoidance of doubt and without prejudice to the generality of Clause 4.2.3 above and Clause 4.2.5 below, it is clarified that, with respect to the immovable properties of the Transferor Company in the nature of land and buildings, the Parties shall register the true copy of the orders of the Tribunal approving the Scheme with the offices of the relevant Sub-registrar of Assurances or similar registering authority having jurisdiction over the location of such immovable property and shall also execute and register, as required, such other documents as may be necessary in this regard. For the avoidance of doubt, it is clarified that any document executed pursuant to this Clause 4.2.4 or Clause 4.2.5 below will be for the limited purpose of meeting regulatory requirements and shall not be deemed to be a document under which the transfer of any property of the Transferor Company takes place and the assets and liabilities of the Transferor Company shall be transferred solely pursuant to and in terms of this Scheme and the order of the Tribunal sanctioning this Scheme;
- 4.2.5 Notwithstanding anything contained in this Scheme, with respect to the immovable properties of the Transferor Company in the nature of land and buildings situated in states other than the state of Maharashtra, whether owned or leased, for the purpose of, inter alia, payment of stamp duty and vesting in the Transferee Company, if the Transferee Company so decides, the concerned Parties, whether before or after the Effective Date, may execute and register or cause to be executed and registered, separate deeds of conveyance or deeds of assignment of lease, as the case may be, in favour of the Transferee Company in respect of such immovable properties. Each of the immovable properties, only for the purposes of the payment of stamp duty (if required under Applicable Law), shall be deemed to be conveyed at a value determined by the relevant authorities in accordance with the applicable circle rates. The transfer of such immovable properties shall form an integral part of this Scheme;
- 4.2.6 All debts, liabilities, duties and obligations (debentures, bonds, notes or other debt securities) of the Transferor Company shall, without any further act, instrument or deed be transferred to, and vested in, and/ or deemed to have been transferred to, and vested in, the Transferee Company, so as to become on and from the Appointed Date, the debts, liabilities, duties and obligations of the Transferee Company on the same terms and conditions as were applicable to the Transferor Company, and it shall not be necessary to obtain the consent of any Person who is a party to contract or arrangement by virtue of which such liabilities have arisen in order to give effect to the provisions of this Clause 4;
- 4.2.7 On and from the Effective Date and till such time that the name of the bank accounts of the Transferor Company has been replaced with that of the Transferee Company, the Transferee Company shall be entitled to maintain and operate the bank accounts of the Transferor Company in the name of the Transferor Company and for such time as may be determined to be necessary by the Transferee Company. All cheques and other negotiable instruments, payment orders received or presented for encashment which are in the name of the Transferor Company after the Effective Date shall be accepted by the bankers of the Transferee Company and credited to the account of the Transferee Company, if presented by the Transferee Company;
- 4.2.8 Unless otherwise agreed to between the concerned Parties, the vesting of all the assets of the Transferor Company, as aforesaid, shall be along with the Encumbrances, if any, over or in respect of any of the assets or any part thereof, provided however that such Encumbrances shall be confined only to the relevant assets of the Transferor Company or

part thereof on or over which they are subsisting prior to the amalgamation of the Transferor Company with the Transferee Company, and no such Encumbrances shall extend over or apply to any other asset(s) of the Transferee Company.

- 4.2.9 Unless otherwise stated in this Scheme, all Permits, including the benefits attached thereto of the Transferor Company, shall be transferred to the Transferee Company from the Appointed Date, without any further act, instrument or deed and shall be appropriately mutated or endorsed by the Appropriate Authorities concerned therewith in favour of the Transferee Company as if the same were originally given by, issued to or executed in favour of the Transferee Company and the Transferee Company shall be bound by the terms, obligations and duties thereunder, and the rights and benefits under the same shall be available to the Transferee Company to carry on the operations of the Transferor Company without any hindrance, whatsoever;
- 4.2.10 Without prejudice to the provisions as stated above, all trade and service names and marks, patents, copyrights, designs, goodwill which includes the positive reputation that the Transferor Company was enjoying to retain its clients, statutory licenses, infrastructural advantages, overall increase in market share, customer base, skilled employees, business claims, business information, business contracts, trade style and name, marketing and distribution channels, marketing or other commercial rights, customer relationship, trade secrets, information on consumption pattern or habits of the consumers in the territory, technical know-how and other intellectual property rights of any nature whatsoever, books, records, files, papers, engineering and process information, software licenses (whether proprietary or otherwise), drawings, computer programs, manuals, data, catalogues, quotations, sales and advertising material, lists of present and former customers and suppliers, other customer information, customer credit information, customer pricing information and all other records and documents, whether in physical or electronic form relating to business activities and operations of the Transferor Company shall be transferred to the Transferee Company from the Appointed Date, without any further act, instrument or deed; and
- 4.2.11 All contracts where the Transferor Company is a party, shall stand transferred to and vested in the Transferee Company pursuant to this Scheme becoming effective. The absence of any formal amendment which may be required by a third party to effect such transfer and vesting shall not affect the operation of the foregoing sentence. Accordingly, power purchase agreements/ arrangements, where the Transferor Company is a party, will be modified / executed to reflect the aforesaid, which will be binding upon each of the parties and, if required, the Transferee Company, shall be authorised to cause such contracts, agreements, arrangements and other instruments to be taken on record/recognised by the Appropriate Authorities. The Transferee Company shall, wherever necessary, enter into and/or execute deeds, writings, confirmations or novations to all such contracts, if necessary, in order to give formal effect to the provisions of this Clause.

Provided that, upon this Scheme coming into effect, all inter-company transactions including loans, contracts executed or entered into by or inter se between the Parties concerned, if any, shall stand cancelled with effect from the Effective Date and neither the Transferor Company and/or Transferee Company shall have any obligation or liability against the other party in relation thereto.

- 4.3 Without prejudice to the provisions of the foregoing sub-clauses of Clause 4.2, the Transferor Company and the Transferee Company may execute any and all instruments or documents and do all acts, deeds and things as may be required, including filing of necessary particulars and/or modification(s) of charge, necessary applications, notices, intimations or letters with any Appropriate Authority or Person to give effect to the Scheme. Any procedural requirements required to be fulfilled solely by the Transferor Company, shall be fulfilled by the Transferee Company as if it were the duly constituted attorney of the Transferor Company. The Transferee Company shall take such actions as may be necessary and permissible to get the assets, Permits and contracts of the Transferor Company transferred and/ or registered in its name.

## 5. EMPLOYEES

- 5.1 Upon the effectiveness of this Scheme and with effect from the Effective Date, all employees of the Transferor Company shall become employees of the Transferee Company, without any



interruption in service, on terms and conditions no less favourable than those on which they are engaged by the Transferor Company. The Transferee Company undertakes to continue to abide by any agreement/ settlement or arrangement, if any, entered into or deemed to have been entered into by the Transferor Company with any Persons in relation to the employees of the Transferor Company. The Transferee Company agrees that the services of all such employees of the Transferor Company prior to the transfer shall be taken into account for the purposes of all existing benefits to which the said employees may be eligible, including for the purpose of payment of any retrenchment compensation, gratuity and other retiral/ terminal benefits.

- 5.2 The accumulated balances, if any, standing to the credit of the aforesaid employees of the Transferor Company in the existing provident fund, gratuity fund and superannuation fund of which they are members, will be transferred respectively to such provident fund, gratuity fund and superannuation funds nominated by the Transferee Company and/ or such new provident fund, gratuity fund and superannuation fund to be established in accordance with Applicable Law and caused to be recognized by the Appropriate Authorities, by the Transferee Company.

## 6. LEGAL PROCEEDINGS

- 6.1 Upon the coming into effect of this Scheme, if any suit, cause of action, appeal or other legal, quasi-judicial, arbitral or other administrative proceedings of whatsoever nature by or against the Transferor Company pending on the Effective Date, the same shall not abate, be discontinued or be in any way prejudicially affected by anything contained in this Scheme, but such proceedings of the Transferor Company may be continued, prosecuted and enforced by or against the Transferee Company in the same manner and to the same extent as it would or might have been continued, prosecuted and enforced by or against the Transferor Company as if this Scheme had not been made. On and from the Effective Date, the Transferee Company may initiate any legal proceeding for and on behalf of the Transferor Company.

## 7. TAXES/ DUTIES/ CESS

Upon the effectiveness of the Scheme and with effect from Appointed Date, by operation of law pursuant to the order of the Tribunal:

- 7.1 All the profits or income taxes (including advance tax, tax deducted at source, tax collected at source, foreign tax credits, dividend distribution tax, minimum alternate tax credit and any credit for dividend distribution tax on dividend received by the Transferor Company from Transferor Company's subsidiary/ies), all input credit balances (including but not limited to CENVAT/MODVAT, sales tax, applicable excise and customs duties, SGST, IGST and CGST credits under the goods and service tax laws) or any costs, charges, expenditure accruing to the Transferor Company in India and abroad or expenditure or losses arising or incurred or suffered by the Transferor Company shall for all purpose be treated and be deemed to be and accrue as the profits, taxes (namely advance tax, Tax deducted at source, Tax collected at source, dividend distribution tax & foreign tax credits), tax losses, minimum alternate tax credit, dividend distribution tax credit income costs, charges, expenditure or losses of the Transferee Company, as the case may be;
- 7.2 If the Transferor Company is entitled to any benefits under incentive schemes and policies under Tax Laws, all such benefits under all such incentive schemes and policies shall be available and stand vested in the Transferee Company;
- 7.3 Upon the Scheme becoming effective, the Transferee Company shall have the right to revise its financial statements and returns along with prescribed forms, filings and annexures under the Tax Laws and to claim refunds and/or credit for Taxes paid and for matters incidental thereto, if required, to give effect to the provisions of the Scheme. The Transferee Company is expressly permitted to revise and file its income tax returns and other statutory returns, even beyond the due date, if required, including tax deducted / collected at source returns, service tax returns, excise tax returns, sales tax / value added tax / goods and service tax returns, as may be applicable and has expressly reserved the right to make such provision in its returns and to claim refunds, advance tax credits, credit of tax deducted at source, credit of foreign Taxes paid/withheld, etc. if any, as may be required for the purposes of implementation of the Scheme.
- 7.4 It is hereby clarified that in case of any refunds, benefits, incentives, grants, subsidies, etc., the Transferor Company, shall, if so required by the Transferee Company, issue notices in such form as the Transferee Company may deem fit and proper stating that pursuant to the Tribunal having sanctioned this Scheme under Sections 230 to 232 of the Act, the relevant refund, benefit, incentive, grant, subsidies, be paid or made good or held on account of the Transferee Company,

as the Person entitled thereto, to the end and intent that the right of the Transferor Company, to recover or realise the same, stands transferred to the Transferee Company.

## **8. CONSIDERATION**

- 8.1 The Transferor Company is a wholly owned subsidiary of the Transferee Company and therefore there shall be no issue of shares as consideration for the amalgamation of the Transferor Company with the Transferee Company.
- 8.2 Upon the Scheme becoming effective, all equity shares of the Transferor Company held by the Transferee Company along with its nominees, shall stand cancelled without any further application, act or deed.

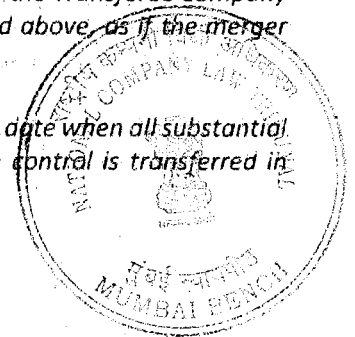
## **9. ACCOUNTING TREATMENT**

- 9.1 Upon the Scheme coming into effect, the Transferee Company shall account for the amalgamation of the Transferor Company in the books of accounts in accordance with "Pooling of Interest Method" of accounting as laid down in Appendix C of Ind AS-103 (Business Combinations of entities under common control) notified under Section 133 of the Companies Act, 2013, under the Companies (Indian Accounting Standard) Rules, 2015, as may be amended from time to time, in its books of accounts such that:

- 9.1.1 The Transferee Company shall record the assets and liabilities, if any, of the Transferor Company vested in it pursuant to this Scheme, at the carrying values as appearing in the consolidated financial statements of the Transferee Company;
- 9.1.2 The identity of the reserves shall be preserved and the Transferee Company shall record the reserves of the Transferor Company, at the carrying amount as appearing in the consolidated financial statements of the Transferee Company;
- 9.1.3 Pursuant to the amalgamation of the Transferor Company with the Transferee Companies, inter-company balances between the Transferee Company and the Transferor Company, if any, appearing in the books of the Transferee Company shall stand cancelled;
- 9.1.4 The value of all investments held by the Transferee Company in the Transferor Company shall stand cancelled pursuant to amalgamation;
- 9.1.5 The surplus/deficit, if any arising after taking the effect of clause 9.1.1, 9.1.2 and 9.1.4, after giving the effect of the adjustments referred to in clause 9.1.3, shall be adjusted in 'Capital Restructuring Reserve' in the financial statements of the Transferee Company;
- 9.1.6 In case of any differences in accounting policies between the Transferor Company and the Transferee Company, the accounting policies followed by the Transferee Company shall prevail to ensure that the financial statements reflect the financial position based on consistent accounting policies;
- 9.1.7 Comparative financial information in the financial statements of the Transferee Company shall be restated for the accounting impact of merger, as stated above, as if the merger had occurred from the beginning of the comparative period;
- 9.1.8 For accounting purpose, the Scheme will be given effect from the date when all substantial conditions for the transfer of business are completed, i.e., the control is transferred in accordance with the requirements of Ind AS.

## **10. DISSOLUTION OF THE TRANSFEROR COMPANY**

- 10.1 On the Scheme becoming effective, the Transferor Company shall stand dissolved without winding up and the Board and any committees thereof of the Transferor Company shall without any further act, instrument or deed be and stand discharged. On and from the Effective Date, the name of the Transferor Company shall be struck off from the records of the concerned RoC.



**PART III**

**CAPITAL REORGANIZATION OF THE TRANSFEREE COMPANY**

**11. CAPITAL REORGANIZATION OF THE TRANSFEREE COMPANY**

Immediately after Part II of this Scheme becoming effective and with effect from the Appointed Date:

- 11.1 The debit balance in the Retained Earnings of the Transferee Company (after giving the effect of the accounting treatment as per Clause 9 of Part II of this Scheme) would be offset against Securities Premium (to the extent available), and then against General Reserves of the Transferee Company.
- 11.2 The entire balance amount standing to the credit of General Reserve (post adjustments as stated in Clause 11.1 above) shall be reclassified and credited to Retained Earnings of the Transferee Company.
- 11.3 Such amounts credited to the Retained Earnings of the Transferee Company in accordance with Clause 11.2 above, shall be reclassified as and constitute accumulated profits of the Transferee Company for the previous financial years, arrived at after providing for depreciation and remain undistributed in the manner provided in the Act and Applicable Laws. It is clarified that such amounts shall be available for utilisation by the Transferee Company in relation to any Distribution in the manner set out in Clause 12 below.
- 11.4 The reduction of Securities Premium account and General Reserves shall be in accordance with the provisions of Sections 230 to 232 read with Section 52 of the Act, as the same does not involve either diminution of liability in respect of unpaid share capital of the Transferee Company or payment to any shareholder of any paid up share capital of the Transferee Company and the Tribunal order sanctioning the Scheme shall be deemed to be an order under Sections 230 of the Act confirming such reduction of share capital of the Transferee Company.
- 11.5 Pursuant to the Scheme, there is no outflow of/ payout of funds from the Transferee Company and hence, the interest of the shareholders/ creditors is not adversely affected. For the removal of doubt, it is expressly recorded and clarified that the transfer of amounts standing to the credit of the General Reserves and utilisation of such amounts through each Distribution, shall not in any manner involve distribution of capital reserves or revenue reserves other than the General Reserves and shall be in accordance with the accounting standards prescribed under provisions of Section 133 of the Act.

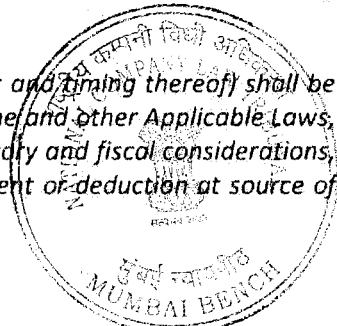
**12. DISTRIBUTION OF SURPLUS FUNDS TO THE SHAREHOLDERS OF THE TRANSFEREE COMPANY**

- 12.1 Upon the Scheme becoming effective and subsequent to the reclassification of the amounts standing to the credit of the General Reserves and credit thereof to the Retained Earnings pursuant to Clause 11 of the Scheme, the amount so credited shall be paid out to the shareholders of the Transferee Company, from time to time, by the Board of the Transferee Company, at its sole discretion, in such manner, quantum and at such time as it deems fit (each such event constituting a "Distribution").
- 12.2 Each Distribution of surplus funds (including the quantum, manner and timing thereof) shall be undertaken in accordance with the provisions of the Act, the Scheme and other Applicable Laws, taking into account all relevant factors including applicable regulatory and fiscal considerations, the nature and quantum of each Distribution and subject to payment or deduction at source of applicable taxes as per Applicable Laws.

**13. ACCOUNTING TREATMENT**

Upon Part III of the Scheme becoming effective and with effect from Appointed Date, the Transferee Company shall account in its books as follows:

- 13.1 In accordance with the Clause 11.1 above, the debit balance in the Retained Earnings of the Transferee Company (after giving the effect of the accounting treatment as per Clause 9 of Part II) would be offset against Securities Premium (to the extent available), and then against General Reserves of the Transferee Company.



- 13.2 In accordance with the Clause 11.2 above, the entire amount standing to the credit of the General Reserves of the Transferee Company (after adjusting the amount as per clause 13.1 above), shall be reclassified and credited to the Retained Earnings of the Transferee Company.

#### PART IV

#### GENERAL TERMS & CONDITIONS

#### 14. COMBINATION OF AUTHORISED SHARE CAPITAL

- 14.1 Upon the Scheme becoming effective, the authorised equity share capital of the Transferee Company shall stand increased without any further act, instrument or deed on the part of Transferee Company including payment of stamp duty and fees to RoC, by the authorised share capital of the Transferor Company amounting to INR 10,000,00,00,000 (Rupees Ten thousand crore only) and the memorandum of association and articles of association of the Transferee Company (relating to the authorized share capital) shall, without any further act, instrument or deed, be and stand altered, modified and amended, and no further resolution(s)/consent/approval under the applicable provisions of the Act would be required to be separately passed/obtained, as the case may be, and for this purpose the stamp duty and fees paid on the authorized capital of the Transferor Company shall be utilized and applied to the increased authorized equity share capital of the Transferee Company and there would be no requirement for any further payment of stamp duty and/or fee by the Transferee Company for increase in the authorised equity share capital to that extent.

- 14.2 Consequentially, Clause V & VI of the memorandum of association of the Transferee Company shall without any act, instrument or deed be and stand altered, modified and amended, to reflect the increased combined authorised share capital as per Clause 14.1 above, pursuant to Sections 13, 14, 61, 64, and other applicable provisions of the Act.

- 14.3 It is clarified that the approval of the Tribunal to the Scheme shall be deemed to be consent/approval of the shareholders of the Transferee Company to the alteration of the memorandum and articles of association of the Transferee Company as may be required under the Act.

#### 15. VALIDITY OF EXISTING RESOLUTIONS, POWER OF ATTORNEYS, ETC.

- 15.1 Upon this Scheme coming into effect, the resolutions/ power of attorneys executed by the Transferor Company, as are considered necessary by the Board of the Transferee Company, and that are valid and subsisting on the Effective Date, shall continue to be valid and subsisting and be considered as resolutions and power of attorney passed/ executed by the Transferee Company. Further, if any such resolutions have any monetary limits approved under the provisions of the Act, or any other applicable statutory provisions, then such limits shall automatically be added to the limits, if any, under like resolutions passed by the Transferee Company and shall constitute the new aggregate limits for each of the subject matters covered under such resolutions/power of attorneys for the purpose of the Transferee Company without any further act or deed.

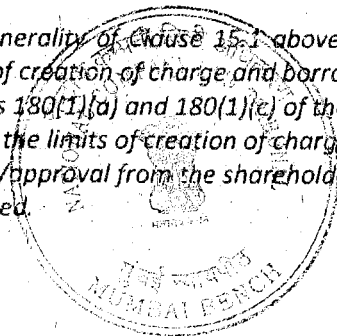
- 15.2 For the avoidance of doubt and without prejudice to the generality of Clause 15.1 above, it is clarified that, upon this Scheme coming into effect, the limits of creation of charge and borrowing of the Transferor Company as may be approved under Sections 180(1)(a) and 180(1)(c) of the Act, as on the date of Scheme coming into effect, shall be added to the limits of creation of charge and borrowing of the Transferee Company and no further consent/approval from the shareholders of the Transferee Company or any other authority shall be required.

#### 16. BUSINESS UNTIL EFFECTIVE DATE

- 16.1 With effect from the date of approval of the Scheme by the respective Boards of the Parties and up to and including the Effective Date:

- 16.1.1 The Transferor Company shall carry on its business with reasonable diligence and business prudence and in the same manner as the Transferor Company had been doing hitherto; and

- 16.1.2 The Transferee Company shall be entitled, pending the sanction of the Scheme, to apply to the Appropriate Authorities concerned as necessary under Applicable Law for such



consents, approvals and sanctions which the Transferee Company may respectively require to carry on the relevant business of the Transferor Company and to give effect to the Scheme.

16.2 With effect from the Appointed Date and until the Effective Date:

16.2.1 The Transferor Company shall carry on and be deemed to have carried on its businesses and activities and shall hold and stand possessed of and be deemed to have held and stood possessed of all its assets for and on account of and in trust for the Transferee Company; and

16.2.2 The Transferor Company shall carry on its business and activities with due diligence and business prudence and shall not, without the prior written consent of the Transferee Company, charge, mortgage, encumber or otherwise deal with or alienate its assets or any part thereof, nor incur, accept or acknowledge any debt, obligation or any liability or incur any major expenditure, except as is necessary in the ordinary course of its business.

16.3 All profits or income accruing or arising to the Transferor Company or expenditure or losses arising or incurred by the Transferor Company shall, for all purposes, be deemed to have accrued as the profits or income or expenditure or losses, as the case may be, of the Transferee Company.

#### 17. APPLICATIONS/PETITIONS TO THE TRIBUNAL

17.1 The Parties shall make joint applications and petitions under Sections 230 to 232 and other applicable provisions of the Act before the Tribunal, for sanction of this Scheme under the provisions of the Act.

#### 18. MODIFICATION OR AMENDMENTS TO THIS SCHEME

18.1 The Board of the Parties may make any modifications or amendments to this Scheme at any time and for any reason whatsoever, or which may otherwise be considered necessary, desirable or appropriate. The Board of the Parties may consent to any conditions or limitations that the Tribunal or any other Appropriate Authority may impose.

18.2 For the purposes of giving effect to this Scheme, the Board may give such directions including directions for settling any question or difficulty that may arise and such directions shall be binding as if the same were specifically incorporated in this Scheme.

#### 19. CONDITIONS PRECEDENT

19.1 Unless otherwise decided (or waived) by the relevant Parties, the Scheme is conditional upon and subject to the following conditions precedent:

19.1.1 the Transferee Company having obtained no-objection/ observation letter from the Stock Exchanges in relation to the Scheme under Regulation 37 of the SEBI LoDR;

19.1.2 the Transferor Company having obtained approval/ permission letter from the National Stock Exchange of India Limited, as per Regulation 59 of the SEBI LoDR;

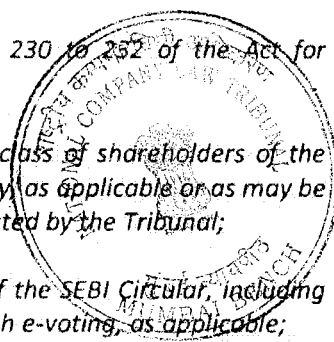
19.1.3 the sanctions and orders of the Tribunal, under Sections 230 to 232 of the Act for approving the Scheme, being obtained by the Parties;

19.1.4 approval of the Scheme by the requisite majority of each class of shareholders of the Parties and such other classes of Persons of the Parties, if any, as applicable or as may be required under the Act, the SEBI Circular and as may be directed by the Tribunal;

19.1.5 the Transferee Company complying with other provisions of the SEBI Circular, including seeking approval of the shareholders of the Company through e-voting, as applicable;

19.1.6 the certified copies of the order of Tribunal approving the Scheme being filed with the RoC by the Parties as per the Tribunal Order; and

19.1.7 the requisite consent, approval or permission of the Appropriate Authority or any other Person, which by Applicable Law or contract/(s) may be necessary for the amalgamation of the Transferor Company with the Transferee Company.



19.2 Without prejudice to Clause 19.1 and subject to the satisfaction or waiver of the conditions mentioned in Clause 19.1 above, the entire Scheme shall be made effective simultaneously in the order as contemplated below:

19.2.1 Part I, Part II and Part IV of the Scheme shall be made effective subject to the satisfaction or waiver of conditions mentioned in Clause 19.1 above; and

19.2.2 Part III of the Scheme shall be made effective immediately after Part II of the Scheme is made effective.

**20. WITHDRAWAL OF THIS SCHEME AND NON-RECEIPT OF APPROVALS**

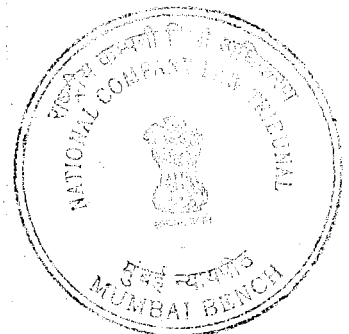
20.1 Parties, acting jointly, shall be at liberty to withdraw the Scheme, any time before the Scheme is effective.

20.2 In the event of withdrawal of the Scheme under Clause 20.1 above, no rights and liabilities whatsoever shall accrue to or be incurred inter se the Parties or their respective shareholders or creditors or employees or any other Person.

20.3 In the event of any of the requisite sanctions and approvals not being obtained on or before such date as may be agreed amongst the Parties, this Scheme shall become null and void and in that event no rights and liabilities whatsoever shall accrue to or be incurred inter se the Parties or their shareholders or creditors or employees or any other Person in terms of this Scheme. In such an event, each Party shall bear and pay its respective costs, charges and expenses for and/ or in connection with this Scheme.

**21. COSTS AND EXPENSES**

The Transferee Company shall bear the costs, charges and expenses (including stamp duty, if any), in connection with this Scheme, arising out of or incurred in carrying out and implementing this Scheme and matters incidental thereto.



IN THE NATIONAL COMPANY LAW  
TRIBUNAL COURT-IV, MUMBAI  
COMPANY APPLICATION NO. 239 /2021

IN

CP(CAA) No. 42 / MB - IV/2021 CONNECTED  
WITH CA (CAA) No. 1140/MB/2020

**Coastal Gujarat Power Limited**

... Transferor Company

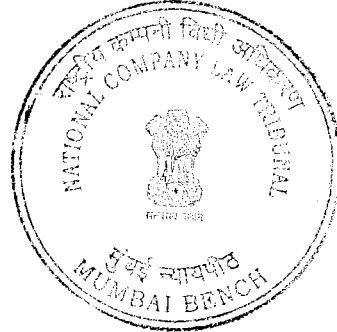
**The Tata Power Company Limited**

... Transferee Company

CERTIFIED COPY OF THE ORDER DATED 31<sup>ST</sup>  
MARCH 2022 ALONG WITH THE SANCTIONED  
SCHEME

Certified True Copy \_\_\_\_\_  
Date of Application 01.04.2022  
Number of Pages 15  
Fee Paid Rs. 75  
Application Filed On 05.04.2022  
Copy prepared 05.04.2022  
Copy Issued 05.04.2022

Dated this the 1<sup>st</sup> day of April 2022



*(Signature)*  
National Company Law Tribunal, Mumbai Bench

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