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IN THE NATIONAL COMPANY LAW TRIBUNAL, BENGALURU BENCH

[Through Physical hearing/ VC Mode (Hybrid)]

ITEM No.15

C.P.(CAA)No.08/BB/2025

IN THE MATTER OF:

M/s. Shankara Building Products Ltd.

... Petitioner

Order under Section 230-232 of the Companies Act, 2013

Order delivered on: 21.08.2025

CORAM:

**SHRI SUNIL KUMAR AGGARWAL
HON'BLE MEMBER (JUDICIAL)**

**SHRI RADHAKRISHNA SREEPADA
HON'BLE MEMBER (TECHNICAL)**

PRESENT:

For the Petitioner : Shri R. Inbaraju

ORDER

1. Heard the Ld. Counsel appearing for the Petitioner.
2. The Petition is **allowed** vide separate order. File be consigned to record room.

-Sd-

**RADHAKRISHNA SREEPADA
MEMBER (TECHNICAL)**

-Sd-

**SUNIL KUMAR AGGARWAL
MEMBER (JUDICIAL)**





IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH, BENGALURU
(Through Physical Hearing/VC Mode (Hybrid))

C.P. (CAA) No. 08/BB/2025
(Second Motion)

U/s. 230 to 232 of the Companies Act, 2013
And other applicable provision of the Companies Act, 2013
read with the Companies (Compromises, Arrangements and
Amalgamations) Rules, 2016

IN THE MATTER OF SCHEME OF:

M/s. Shankara Building Products Limited

Registered Office:

G-2 Farah Winsford, No.133, Infantry Road,
Bengaluru, Karnataka, India, 560001.

...Petitioner No.1/Demerged Company

M/s. Shankara Buildpro Limited

Registered Office:

No. 21/1 & 35-A-1, Hosur Main Road,
Electronic City, Veerasandra,
Bengaluru South, Karnataka, India, 560100

...Petitioner No.2/Resulting Company

Order delivered on: 21.08.2025

Coram: 1. Hon'ble Shri Sunil Kumar Aggarwal, Member (Judicial)
2. Hon'ble Shri Radhakrishna Sreepada, Member (Technical)

ORDER

1. This is a second motion Petition filed on 14.02.2025 by M/s. Shankara Building Products Limited (for brevity, the Petitioner No.1/Demerged Company) and M/s. Shankara Buildpro Limited (for brevity, the Petitioner No.2/Resulting Company) under Sections 230 to 232 of the Companies Act, 2013 and other applicable provisions of the Companies Act, 2013 (for short to be referred hereinafter as the "Act") read with the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (for brevity, 'Rules'), for sanction of Scheme of Arrangement between Petitioner Companies and their respective Shareholders and Creditors with effect from the Appointed date or such other date as determined in

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terms of the Scheme so as to be binding on all under the Companies U/s.232 of the Act. The Scheme of Arrangement is annexed as **Annexure 15** to the Petition.

2. The Petitioner Companies had filed the First Motion Application bearing C.A. (CAA)No.38/BB/2024 under Sections 230 to 232 of the Companies Act, 2013 wherein vide order dated 18.12.2024 the meeting of the Equity Shareholders of the Resulting Company and meeting of Secured Creditors, Unsecured Loan Creditors and Unsecured Trade Creditors of the Demerged Company were dispensed with. The Meeting of Equity Shareholders of the Demerged Company were directed to be convened. There were no Secured Creditors, Unsecured Loan Creditors or Unsecured Trade Creditors of Petitioner No. 2.
3. When the petition was listed on 26.02.2025, through Video Conferencing, the following directions were issued: -

"I ...

4. The Petition be listed for hearing on 28.03.2025. At least 10 days before the date fixed for final hearing, the Petitioner Company shall publish the notice of final hearing of the Company Petition in two local newspapers viz. "**Business Standard**" in English Edition and translation thereof in "**Kannada Prabha**" in Kannada Edition, as per Rule 16 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

5. Notice be also served upon the Objector(s) or their representative as contemplated under sub-section (4) of Section 230 of the Act who may have made representation and who have desired to be heard in their representation along with a copy of the Petition and the annexures filed therewith at least 15 days before the date fixed for hearing. It is to be specified in the notices that the objections, if any, to the Scheme may be filed within thirty days from the date of the receipt of the notice, failing which it will be considered that there is no objection to the approval of the Scheme on the part of the objectors.

6. In addition to the above public notice, each of the Petitioner Company shall serve the notice of the Petition on the following Authorities namely, (a) Regional Director (South East Region), Hyderabad; (b) Registrar of Companies, Karnataka, Bengaluru; (c) Income Tax Authorities by disclosing the PAN numbers of the Applicant Companies; (d) Reserve Bank of India (RBI); (e) National Stock Exchange of India Ltd. (NSE); (f) Bombay Stock Exchange (BSE); (g) The Designated Nodal Officer – Principal Chief Commissioner of Income Tax, Karnataka & Goa; (h) other relevant statutory authorities/ sectoral regulators, if any, along with the copy of this Petition by speed post immediately and to such other Sectoral Regulator(s) who may govern the working of the respective Companies involved in the Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, with a direction that they may submit their representation, if any, within 30 (thirty)

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days from the date of receipt of such notice, failing which it will be presumed that the said Authority has no representation to make to the Scheme.

7. The Petitioner Company shall host notices of final hearing along with the copy of the scheme on their respective websites, if any. The Petitioner Companies shall at least 7 days before the date of hearing of the Petition file an affidavit of service regarding paper publication as well as service of notices on the Authorities specified above including the sectoral regulator as well as the objectors, if any. The Petitioner Companies shall file compliance report with this Tribunal at least 10 (ten) days before the date fixed for final hearing and report to this Tribunal that the directions regarding the service of notices upon regulatory authorities and publication of advertisement of the notice of hearing in the newspapers have been duly complied with.

4. Pursuant to the aforesaid direction, the authorized signatory of the Petitioner Companies has filed copies of proof of service of notice on 24.03.2025 and copies of paper publication of notice of hearing. Further, an affidavit regarding no objections having been received has been filed.
5. The main objects, dates of Incorporation, authorized, issued and paid-up share capital, rationale of the scheme and interest of employees has already been considered in the first motion petition.
6. The copy of Board Resolution of the Petitioner Companies approving the Scheme of Arrangement at their meetings held on 18.12.2023 is annexed as **Annexure-11 & 12** to the Petition.
7. It is further submitted that the Certificate of Statutory Auditors of the Petitioner Companies i.e., *M/s. Sundaram & Srinivasan, Chartered Accountants*, vide Certificate dated 17.12.2023 have inter alia, certified that Clause 19 of the Scheme is in compliance with the applicable Indian Accounting standards and other generally accepted Accounting Principles. The aforesaid Certificates are attached as **Annexures 27 & 28** of the Petition.
8. The Petitioner Companies have filed various affidavits **Annexures 32 to 38** with regard to the Sectoral Regulators, No Corporate Debt Restructuring and No pending/proposed Investigations, Litigations or Proceedings against the Petitioner Companies or the Directors of the Company before any Statutory Authorities involved in the matter.





9. The audited financial statements of the Petitioner Companies as on 31.03.2024 are attached as Annexure 4 & 9 and provisional financial statements of the Petitioner Companies as on 31.12.2024 of the Petitioner Companies are attached as Annexures - 5 & 10 respectively to the Petition.
10. As per the Scheme, the “Appointed Date” means the opening of business hours of **1st April 2024** or such other date as the National Company Law Tribunal may allow or direct and which is acceptable to the Board of the Companies.
11. The Share Entitlement Ratio Report obtained from the Registered Valuer is attached as **Annexure- 26** to the petition.
12. In pursuance to the notice, the **Regional Director (RD) and the Registrar of Companies (ROC)** have filed their Common report dated 26.03.2025. They have made following observations:
- “This is a Scheme of Arrangement wherein, all the assets, liabilities and employees of the Demerging Company pertaining to and/or arising out of and/or relatable to Trading Business on a going concern basis is being demerged into the Resulting Company.”
 - “As per the latest shareholders list attached to the last Annual Return filed as on 31/03/2024, of the Resulting Company, SHANKARA BUILDING PRODUCTS LIMITED (Demerging Company), a body corporate, holds major Equity Share of 99.94% in the Resulting Company.”
 - “As per Clause 1.1.3 of Part I of the Scheme, the appointed date is 1st April 2024.”
 - “As per MCA records, the Petitioner Companies have a Common Director.”
 - “The Demerging Company, being a Public listed Company, has passed the Board Resolution for the approval of the Scheme of Arrangement and filed the same in e-form MGT-14 vide SRN AA6709243 and the Resulting Company, being a Public Company, has passed the Board Resolution for the approval of the Scheme of Arrangement and filed the same in e-form MGT-14 vide SRN AA6709118.”





- vi. "The Demerging Company is a listed Company. The Equity Shares of the Demerging Company are listed both on National Stock Exchange and Bombay Stock Exchange. Hence, the Demerging Company is required to show the compliances of SEBI (Listing obligations and Disclosure Requirements), 2015 to NCLT. Further, it has been mentioned that an application would be made by the Resulting Company post effectiveness of the Scheme for the listing of the Equity Shares of the Company. In this regard, No Objection Certificates from Securities and Exchange Board of India, National Stock Exchange and Bombay Stock Exchange may be asked to submit to the NCLT."
- vii. "As per MCA records, the Demerging Company has many open charges. Hence, the company has to obtain and furnish No Objection Certificate/s from the concerned charge holder/s before the Tribunal.
Further, the Demerging Company needs to clarify as to how many assets having registered Charges are being transferred to the Resulting Company as part of this Scheme and the Tribunal may include these Charges being transferred in the operative part of the Order."
- viii. "The Demerging Company was originally Incorporated on 13/10/1995 as a Private Limited Company with the name SHANKARA PIPES INDIA PRIVATE LIMITED. Subsequently, the Company converted to a Public Limited Company w.e.f. 28/08/2007 and the Company changed its name to SHANKARA INFRASTRUCTURE MATERIALS LIMITED w.e.f. 25.03.2011. Once again, the Company changed its name to SHANKARA BUILDINGS PRODUCTS LIMITED w.e.f. 27/07/2016."
- ix. "The Resulting Company was originally incorporated on 13/10/2023 as a Private Limited Company with the name SHANKARA BUILDPRO PRIVATE LIMITED. Subsequently, the Company converted to a Public Limited Company w.e.f. 30/11/2023."
- x. "As per para 19 of NCLT, Bengaluru Bench order dated 18.12.2024, the meeting of the Equity Shareholders of the Resulting Company has been dispensed with. Further, as per the order, the meetings of the Equity Shareholders of the Demerging Company were convened on 12/02/2025 and as per Chairperson's Report dated 13/02/2025, the Scheme has been approved by the requisite majority. The meeting of the Secured Creditors of the Demerging Company, unsecured creditors of demerging company has been dispensed with."
- xi. "Since there are no Secured Creditors and unsecured creditors in the Resulting Company, no meeting was convened."





- xii. "As per Clause 14.1 of Part II of the scheme, the Resulting Company shall issue and allot, 1 Equity Share of Rs. 10 each to the shareholders of the Demerging Company for every 1 Equity Share Rs. 10 each held in the Demerging Company."
- xiii. "The Authorized Share Capital of the Resulting Company may not be adequate to issue shares to the shareholders of the Demerging Company post sanction of the Scheme. The Resulting Company to furnish an undertaking to the Tribunal to the effect that the Company will increase its Authorized Share Capital adequately and file the relevant e-forms with the Registrar of Companies."
- xiv. "As per Note no. 31 of the Financial Statements for the year ending 31.03.2024 the Demerging Company has undisputed statutory dues to the tune Rs. 13.48 crores. The Demerging Company may be directed to furnish an undertaking to the Tribunal to the effect that it will settle the statutory dues immediately."
- xv. "As per Note no. vii(b) of the Independent Auditor's Report of the Demerging Company for the financial year ending 31/03/2024, the Demerging Company has total outstanding disputed dues towards Income Tax and GST to the tune of Rs. 15 lakhs and Rs. 1.68 crores respectively. The Company may be directed furnish an undertaking to the NCLT to the effect that it will settle dues as and when the claim is crystallized".
- xvi. "As per Note no. 29(a) of the Audited Financial Statements for the year ended 31/03/2024, the Demerging Company has total outstanding dues to Micro, Small and Medium Enterprises to the tune of Rs. 21.33 crores. The Company may be asked to show as to how it has complied with Micro, Small and Medium Enterprises Development Act, 2006 and may be directed to furnish an undertaking to the NCLT to the effect that it will settle the dues as per the said Act immediately, if not settled so far."
- xvii. "As per Clause 20.1 of the Part IV of the Scheme, upon the allotment of new Equity Shares by the Resulting Company as per part II of the scheme to the shareholder of the Demerging Company, the shareholding of Demerging Company in the Resulting Company shall stand cancelled which would lead to the Shareholding Pattern of the Resulting Company being same as that of the Demerging Company."
- xviii. "As per Clause 9.1 of Part II of the Scheme, identified staff, workmen and employees of the 'Demerging Undertaking' of the Demerged Company shall be absorbed into the Resulting Company. In this regard, the Resulting





Company may be directed to furnish an undertaking stating that the interest of those employees are protected by the company.”

- xix. “The Accounting Treatment as in the Scheme needs to be as per the prescribed Accounting treatment in the Companies Act, 2013 and the applicable Accounting Standards issued from time to time.”
- xx. “The Petitioner Companies are required to comply with the provisions of Section 239 of the Companies Act, 2013 with respect to preservation of books and papers of ‘Demerging Undertaking’ of the Demerging Company. The Tribunal may direct the Petitioner Companies to furnish an undertaking in this regard.
- xxi. “There are no open Complaints, Prosecution, Technical Scrutiny/Inquiry, Inspection and Investigation pending in this office against the Demerging and Resulting Companies.”
- xxii. “With reference to the Directorate’s letter dated 17.03.2025 issued to the Principal Commissioner of Income Tax, Bengaluru, no report /comments in the matter have been received from Income Tax Department till date with respect to the Petitioner Transferor Company. The Tribunal may be pleased to obtain consent /NOC from the Income Tax Department with respect to the petitioner company, before the scheme is allowed.”
13. The Petitioners have filed reply affidavit to the Common Report of RD & ROC on 27.03.2025 and stated as under: -
- i. **Regarding observation in Para No. 1 of the Common report:** The Authorized Signatory of the Petitioner Company No.1/Demerged Company undertook and confirmed that the statement referred to in the Common Report is true to the best of his knowledge.
- ii. **Regarding observation in Para No. 2 of the Common report:** The Authorized Signatory of the Petitioner Company No.1/Demerged Company undertook and confirmed that the statement referred to in the Common Report is true to the best of his knowledge. Furthermore, the remaining 0.06% shares of the Resulting Company is held by 6 nominees on behalf of the Demerged Company in order to comply with the minimum number of shareholder’s requirements as prescribed under the Companies Act, 2013. Therefore, the total of pre-scheme number of shareholders of the Resulting Company is considered as 7. Since the 6 individual shareholders are holding the shares in the capacity of nominee shareholders only, thus it is stated that





entire shareholding of the Resulting Company is held by the Demerged Company.

- iii. **Regarding observation in Para No. 3 of the Common report:** The Authorized Signatory of the Petitioner Company No.1/Demerged Company undertook and confirmed that the statement referred to in the Common Report is true to the best of his knowledge.
- iv. **Regarding observation in Para No. 4 of the Common report:** The Authorized Signatory of the Petitioner Company No.1/Demerged Company undertook and confirmed that the statement referred to in the Common Report is true to the best of his knowledge.
- v. **Regarding observation in Para No. 5 of the Common report:** The Authorized Signatory of the Petitioner Company No.1/Demerged Company undertook and confirmed that the statement referred to in the Common Report is true to the best of his knowledge.
- vi. **Regarding observation in Para No. 6 of the Common report:** The Authorized Signatory of Petitioner Company No.1/Demerged Company undertook and confirmed that, the Demerged Company has obtained no Objection Certificates from National Stock Exchange and Bombay Stock Exchange, which was submitted along with the Application bearing C.A.(CAA)/38/BB/2024 filed before the Tribunal. Further, the comments from Securities and Exchange Board of India have been included in the no objection certificates issued by the National Stock Exchange and Bombay Stock Exchange.
- vii. **Regarding observation in Para No. 7 of the Common report:**
The Authorized Signatory of Petitioner Company No.1/Demerged Company undertook and confirmed that the statement referred to in the Common Report with respect to Demerged Company is true and the Demerged Company has obtained the consent/NOC from the secured creditors for the proposed scheme, which was submitted along with the Application bearing C.A.(CAA)/38/BB/2024 filed before the Tribunal.

In furtherance of the above submission, the Demerging Company hereinbelow provides a detailed schedule of the assets having registered charges that are being transferred to the Resulting Company as part of the Scheme.





S. No.	Description of Asset	Holder (Lender/ Institution)	Charge ID (as per MCA records)	Date of Charge Creation	Date of Charge Modification	Amount Secured (In Rs.)
1.	Hypothecation of Vehicle	ICICI BANK LIMITED	100686065	27/01/2023	-	17,04,000
2.	Hypothecation of Vehicle	ICICI BANK LIMITED	100667253	31/12/2022	-	14,99,900
3.	Hypothecation of Vehicle	ICICI BANK LIMITED	100663094	16/12/2022	-	14,45,000
4.	Hypothecation of Vehicle	ICICI BANK LIMITED	100653742	28/11/2022	-	8,25,000
5.	Hypothecation of Vehicle	ICICI BANK LIMITED	100653633	28/11/2022	-	8,11,000
6.	Ist Charge on Current Asset	ICICI BANK LIMITED	100624875	27/10/2022	14/11/2022	45,00,00,000
7.	Ist Charge on Current Asset	THE SOUTH INDIAN BANK LIMITED	100624120	15/10/2022	20/11/2023	50,00,00,000
8.	Ist Charge on Current Asset	YES BANK LIMITED	100621931	13/10/2022	29/07/2023	80,00,00,000
9.	Ist Charge on Current Asset	IndusInd Bank Limited	100594690	20/07/2022	22/05/2023	50,00,00,000
10.	Hypothecation of Vehicle	YES BANK LIMITED	100593522	29/06/2022	-	31,42,000
11.	IInd Charge on Current Asset	Standard Chartered Bank	100458406	01/07/2021	-	3,17,00,000
12.	IInd Charge on Current Asset	KOTAK MAHINDRA BANK LTD	100424493	11/03/2021	-	17,41,00,000
13.	Ist Charge on Current Asset	HDFC BANK LIMITED	100428859	02/03/2021	27/03/2024	70,00,00,000



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S. No.	Description of Asset	Charge Holder (Lender/ Institution)	Charge ID (as per MCA records)	Date of Charge Creation	Date of Charge Modification	Amount Secured (In Rs.)
14.	IInd Charge on Current Asset	FEDERAL BANK LIMITED	100421066	15/02/2021	08/03/2022	19,74,00,000
15.	Ist Charge on Current Asset	FEDERAL BANK LIMITED	100157932	07/02/2018	11/01/2023	40,00,00,000
16.	Ist Charge on Current Asset	IDFC FIRST BANK LIMITED	100139776	12/12/2017	16/05/2023	60,00,00,000
17.	Ist Charge on Current Asset	Standard Chartered Bank	10229575	17/07/2010	10/10/2022	65,00,00,000
18.	Ist Charge on Current Asset	KOTAK MAHINDRA BANK LIMITED	10067344	04/09/2007	18/08/2022	60,00,00,000
19.	Ist Charge on Current Asset	CITI BANK N.A.	80006290	25/06/2001	23/09/2022	75,00,00,000

- viii. **Regarding observation in Para No. 8 of the Common report:** The Authorized Signatory of the Petitioner Company No.1/Demerged Company undertook and confirmed that the statement referred to in the Common Report is true to the best of his knowledge.
- ix. **Regarding observation in Para No. 9 of the Common report:** The Authorized Signatory of the Petitioner Company No.1/Demerged Company undertook and confirmed that the statement referred to in the Common Report is true to the best of his knowledge.
- x. **Regarding observation in Para No. 10 of the Common report:** The Authorized Signatory of the Petitioner Company No.1/Demerged Company undertook and confirm that the statement referred to in the Common Report is true to the best of his knowledge.
- xi. **Regarding observation in Para No. 11 of the Common report:** I, being the Authorized Signatory of the Petitioner Company No.1/Demerged Company undertook and confirmed that the statement referred to in the Common Report is true to the best of his knowledge.

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- xii. **Regarding observation in Para No. 12 of the Common report:** The Authorized Signatory of the Petitioner Company No.1/Demerged Company undertook and confirmed that the statement referred to in the Common Report is true to the best of his knowledge.
- xiii. **Regarding observation in Para No. 13 of the Common report:** The Authorized Signatory of the Petitioner Company No.1/Demerged Company undertook and confirmed that, upon the Scheme become effective, the Resulting Company will increase its Authorised share capital adequately by following applicable provisions of the Companies Act, 2013 and file relevant e-forms with Registrar of Companies.
- xiv. **Regarding observation in Para No. 14 of the Common report:** The Authorized Signatory of the Petitioner Company No.1/Demerged Company undertook and confirmed that the statutory dues of Rs. 13.48 crores as per Note no. 31 of the Financial Statements for the year ending 31.03.2024 of the Demerging Company has been paid as on date.
- xv. **Regarding observation in Para No. 15 of the Common report:** As per clause 10 of the Scheme, all taxation proceedings against the Demerged Company pending and/ or arising till the Appointed Date and pertaining to the Demerged Undertaking shall be continued and enforced by or against the Resulting Company in the manner and to the same extent as would or might have been continued and enforced by or against the Demerged Company. In view of the above, the Authorized Signatory of the Petitioner Company No.1/Demerged Company undertook and confirmed that the outstanding disputed dues towards Income Tax and GST to the tune of Rs. 15 lakhs and Rs. 0.02 crores respectively pertain to the Demerged Undertaking of the Demerged Company and upon the scheme becoming effective, in accordance with Clause 10 of the Scheme, all the undisputed dues towards Income Tax and Goods and Services Tax of the Demerged Company, insofar as they relate to the Demerged Undertaking, shall be settled by the Resulting Company within the statutory timelines or as and when the liability/claim crystallizes.
- Further, the outstanding disputed dues towards GST to the tune of Rs. 1.66 crores pertain to the remaining business of the Demerged Company and all the undisputed dues towards Goods and Services Tax of the Demerged Company pertaining to the remaining business shall be settled by the Demerged Company in accordance with the statutory timeline or as and when the liability/claim crystalizes.

- xvi. **Regarding observation in Para No. 16 of the Common report:**

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The Authorized Signatory of the Petitioner Company No.1/Demerged Company undertook and confirmed that, the Demerged Company had the outstanding dues payable to Micro, Small and Medium Enterprises on 31st March, 2024 to the tune of Rs. 21.33 crores and the same has been paid within the statutory timeline by the Demerged Company.

xvii. **Regarding observation in Para No. 17 of the Common report:**

The Authorized Signatory of the Petitioner Company No.1/Demerged Company undertook and confirmed that the statement referred to in the Common Report is true to the best of his knowledge.

xviii. **Regarding observation in Para No. 18 of the Common report:**

The Authorized Signatory of Petitioner Company No.1/Demerged Company undertook and confirmed that as per Clause 9.1 of Part II of the Scheme, all staff, workmen, and employees of the 'Demerged Undertaking' of the Demerged Company shall be absorbed into the Resulting Company. Further, the Demerged Company clarified that the interests of the employees of the 'Demerged Undertaking' of the Demerged Company will be fully safeguarded during and after the arrangement process. The Demerged Company is committed to ensuring that all employees of the Demerged Undertaking' of the Demerged Company will continue their employment with the Resulting Company on terms and conditions no less favourable than those enjoyed by them in the 'Demerged Undertaking' of the Demerged Company.

xix. **Regarding observation in Para No. 19 of the Common report:**

The Authorized Signatory of Petitioner Company No. 1/Demerged Company undertook and confirmed that, as per clause 19.1 of the Scheme of Arrangement, the accounting treatment for the Demerger of the Demerged Undertaking in the books of the Demerged Company and the Resulting Company shall be in compliance with the standards of accounting or any addendum thereto as notified under Section 133 of the Act read with the Companies (Accounts) Rules, 2014 or Companies (Indian Accounting Standards) Rules, 2015 or any other relevant or related requirement under the Act and other generally accepted accounting principles.

xx. **Regarding observation in Para No. 20 of the Common report:**

The Authorized Signatory of Petitioner Company No.1/Demerged Company undertook and confirmed that the Petitioner Companies shall comply with the provisions of Section 239 of the Companies Act, 2013, with respect to the preservation of books and papers of the 'Demerged Undertaking' of the Demerged Company.

xxi. **Regarding observation in Para No. 21 of the Common report:**

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The Authorized Signatory of the Petitioner Company No.1/Demerged Company undertook and confirmed that the statement referred to in the Common Report is true to the best of his knowledge.

xxii. **Regarding observation in Para No. 22 of the Common report:**

The Authorized Signatory of the Petitioner Company No.1/Demerged Company undertook and confirmed that the Petitioner Companies has not received any report/comments from the Income Tax Department till the date of filing this reply affidavit dated 27th March 2025. Further, It is stated that since the Petitioner Companies shall remain in existence after the Scheme becoming effective, the demand arises from the Income Tax Department, if any, as imposed will be settled as and when the same is crystallized.

14. On 28.03.2025 the following order was passed:

“....2. Ld. Counsel for the ROC stated that report has been filed yesterday and further stated that there are no further observations after considering the reply of the Petitioner”.

....3. Ld. Counsel for the Petitioner has filed its response to ROC report vide Dy.No.1661 dated 27.03.2025.

....4. Ld. Counsel for the Petitioner stated that IT Dept. has not filed its report till date. Ld. Counsel for the IT Dept. seeks further time to file its report and is permitted to file the report within one week. Thereafter, the Petitioner is directed to file its response, if any, after serving the copy on the other side

15. Pursuant to the notice, the **Competition Commission of India (CCI)** has filed report vide Dairy No. 1841 dated 07.04.2025 and made the following observations:

1. Whereas the Competition Commission of India in point no.2 of its report states that “In this regard, it is informed that under the provisions of the competition Act, 2002 (“Act”), a notice for combination is to be mandatorily given to Commission subject to meeting of thresholds, in terms of Section 5 of the Act. Further, there are certain exemptions available for which notice may not be given to the Commission.

Further, the Competition Commission of India in point no. 3 of its Report states that “It is informed that as of date, the said matters have not been filed with the Commission.”





2. Whereas, the Competition Commission of India in point no. 4 of its Report states that “It is requested that before passing an appropriate order, the NCLT may seek an undertaking from the companies involved that approval of the Commission is not required for the said matter(s).”

16. The Petitioner No.1 has filed reply affidavit to the Competition Commission of India (CCI) Report on 21.04.2025, in following terms: -

- a. **Regarding observation in Point No. 2 & 3 of the CCI report** The Authorized Signatory of the Petitioner No.1/Demerged Company undertook and confirmed that the value of the Demerged Undertaking under the Scheme does not surpass the threshold limit specified in Section 5 of the Competition Act, 2002. Further, as per Point No. 12 of the Schedule to the Competition (Criteria for Exemption of Combinations) Rules, 2024 read with Rule 3 of the said rule, the following is exempt from notification to the Commission:

“Demerger of a company and issue of shares by resulting company, in consideration of demerger, either to the demerged company or to the shareholders of the demerged company in the proportion of their shareholding in the demerged company prior to the demerger, except for discharge of consideration for fractional shares.”

Accordingly, as the present demerger falls within the scope of the above exemption — with shares being issued in proportion to existing shareholding, and no fractional shares being involved — the transaction is exempt from the requirement of filing a combination notice with the Commission. Therefore, the Scheme is not likely to have any appreciable adverse effect on competition in the relevant market.

However, the Petitioner No.1/Demerged Company and Petitioner No.2/Resulting Company have served notices under section 230(5) of the Companies Act, 2013 along with the copy of the Scheme and explanatory statements of the equity shareholders meeting of the Petitioner No.1/Demerged Company and requesting representation if any in connection with the proposed Scheme, pursuant to the directions of this NCLT, through regd post acknowledgement no. CK076631069IN dated 08 January 2025 and acknowledgement no. CK076630987IN dated 08 January 2025 respectively.

Further, the Petitioner No.1/Demerged Company and Petitioner No.2/Resulting Company have also served the notice under section 230(5) requesting representation if any in connection with the proposed Scheme, pursuant to the directions of this NCLT, through registered post acknowledgement no. CK076653767IN dated 06 March 2025 and





acknowledgement no. CK076653719IN dated 06 March 2025 respectively.

- b. **Regarding observation in Point No. 4 of the CCI report:** The Authorised Signatory of the Petitioner Company No.1/Demerged Company undertook and confirmed that the approval of the Commission is not required for the said Scheme.

17. The Income Tax Department (IT) has filed report dated 08.04.2025 making following observations:

1. Paragraph No.1 of the IT Report states that:

1.	Details of proposal	M/s Shankara Building Products Limited (Demerged Company) ('the Assessee' or 'the company' or 'Demerged Company') with Buildpro Limited (Resulting Company) and their Creditors.
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2. Paragraph No.2 of the IT Report states that:

2.	Details of benefit as stipulated in the scheme	• The Transferor and Transferee Companies proposed to integrate their businesses to achieve following benefits: • Enhancement of operational, Organizational and Financial efficiencies and achieve economies of scale by pooling resources. • Growth of economies, reduction in cost of overheads and strengthening of wider organizational structure and consolidate and facilitate further expansion and growth of business
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3. Paragraph No.3 of the IT Report states that:

3.	Details of proceedings pending any against applicant company under the Income Tax Act, including	As per available record there is no proceedings pending against applicant.
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	scrutiny, penalty appeal, and prosecution.	
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4. Paragraph No.4 of the IT Report states that:

4.	Details of tax demand pending (Year-wise for recovery amount outstanding) and if the case has been certified to the TRO.	As per available record there is following demand pending against applicant. AY 2014-15: Rs. 8,64,937/- AY 2015-16: Rs.5,15,980/- AY 2015-16: Rs. 64,53,900/- AY 2016-17: Rs. 72,68,392/-
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5. Paragraph No.5 of the IT Report states that:

5.	Details of pendency of investigation/enquiry proceedings; if any.	NA
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6. Paragraph No.6 of the IT Report states that:

6.	Whether any reopening Is done or proposed to be done based on information In the Insight portal or information from other agencies like CBI, ED, etc. or information Is available that the companies involved are shell companies.	NA
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7. Paragraph No.7 of the IT Report states that:

7.	Whether proposed scheme will Impact allowability of carry forward losses or unabsorbed depredation or any benefits under the IT Act. If yes, quantify the amount of tax effect compliance of section 72A.	There are STCG and LTCG losses for Rs. 5,88,695/- and Rs.3,42,58,707/- respectively for carry forward, which are capital in nature therefore, it is to be retained in demerged Company.
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8. Paragraph No.8 of the IT Report states that:

8.	Whether the proposed scheme will have any impact of exemption of capital gain tax/dividend distribution tax	NA
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9. Paragraph No.9 of the IT Report states that:

9.	Whether in view of the assessing officer prime facie GAAR Provisions appear to	NA
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	be attracted in the scheme of arrangement.	
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10. Paragraph No.10 of the IT Report states that:

10.	Comments on Valuation Report attached to the scheme	-
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11. Paragraph No.11 of the IT Report states that:

11.	In case of reverse merger where a loss-making company continues to exist and a profit - making company dissolves to reduce its tax, what are the specific reasons for continuation of the loss- making company? The applicability of provisions of GAAR need to be examined	NA
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12. Paragraph No.12 of the IT Report states that:

13.	Details of ITR filed by the company	The company has filled following ITRs in the last 4 years: AY 2024-25 - 31.10.2024: Total Income Rs. 91,79,14,320/- AY 2023-24 - 31.10.2023: Total Income Rs. 67,82,22,330/- AY 2022-23 - 31.10.2022: Total Income Rs. 32,65,65,620 AY 2021-22 - 14.03.2022: Total Income Rs. 18,65,15,389/-
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13. Paragraph No.13 of the IT Report states that:

13.	whether the scheme is opposed -to public-policy. The AO needs to examine whether the promoters are alone getting the benefit and also examine, if possible, the quantum of tax evaded which Is proposed to be avoided/evaded through the scheme of arrangement.	-
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14. Paragraph No.14 of the IT Report states that:

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14.	Any other details	As per E-filing portal, latest ITR has been filed by the M/s Shankara Building Products Limited (Demerged company) for AY 2024-25 declaring total income as Rs 91,79,14,320/- was reported. All tax assessment proceedings and appeals and appeals of whatsoever, nature by or against the Resulting Company /Transferee Company pending or arising as at the effective date shall be continued and/or enforced by or against the Resulting Company/Transferee Company. The Department reserves its right to determine the tax implications of the Applicant company contemplated under the scheme in accordance with the provisions of the IT Act, 1961 and the provisions of the IT Act, 1961 shall prevail over anything contrary provided under the scheme.
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18. In reply affidavit to the **Income Tax Department (IT)** Report, Petitioner No.1 stated as under: -

- a. **Regarding observation in Para No. 1 of the IT report:** The Authorised Signatory of the Petitioner Company No.1/Demerged Company undertook and confirmed that the proposed scheme of arrangement is amongst Shankara Building Products Limited (Demerged Company) and Shankara Buildpro Limited (Resulting Company) and their respective shareholders & creditors.
- b. **Regarding observation in Para No. 2 of the IT report:** The Authorised Signatory of the Petitioner Company No.1/Demerged Company undertook and confirmed that as per clause C of the scheme, following are the benefits of the proposed demerger.

- (i) Demerger shall enable both Demerged Company and the Resulting Company to enhance business operations by

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streamlining operations, more efficient management control and outlining independent growth strategies such as expansion of product categories and geographical presence.

- (ii) Creation of dedicated vertical for the growth of Trading Business (as defined in the Scheme) with focused attention.
- (iii) Attracting new set of investors with specific knowledge, expertise and risk appetite corresponding to their own businesses, thus, both the Demerged Company and the Resulting Company will have its own set of likeminded investors, thereby providing the necessary funding impetus to the long-term growth strategies of Trading Business and Manufacturing Business (as defined in the Scheme).
- (iv) Pursuant to the Scheme, Equity Shares issued by the Resulting Company would be listed on the stock exchanges and thus, will unlock the value of the Trading Business for the shareholders of the Demerged Company.

Existing Shareholders of the Demerged Company would hold the shares of two listed Companies once the Scheme becomes effective, giving them flexibility in managing their investments in two businesses having differential dynamics.

- (v) Demerger to be in the interest of shareholders, creditors and there is no likelihood that any shareholder or creditor would be prejudiced as a result of Scheme. It will not impose any additional burden on the shareholders of the Demerged Company considering the Scheme would merely involve transfer and vesting of Trading Business by way of an arrangement from the Demerged Company to Resulting Company.
- (vi) Demerger is expected to improve corporate governance within the separated entities, ensuring that the board and management are aligned with the specific interests and goals of their businesses.





c. **Regarding observation in Para No. 3 of the IT report:** The Authorised Signatory of the Petitioner Company No.1/Demerged Company undertook and confirmed that for AY 2020-21, the Income Tax Authority vide its Assessment Order under section 143(3) dated 6th September 2022 had disallowed the expenditure under section 14A of the Income Tax Act, 1961 and raised the demand amount of INR 15,38,364/-. The Demerged Company has filed an appeal against such disallowance on 30th September 2022 vide acknowledgement no. 200856131230823. It was disclosed in the company petition C.P.(CAA)/8/BEN/2025 filed by the Demerged Company and served upon the jurisdictional Income Tax Authority through registered post CK076653651IN on 06.03.25.

d. **Regarding observation in Para No. 4 of the IT report:** The Authorised Signatory of the Petitioner Company No.1/Demerged Company undertook and confirmed that the statement referred to in the IT Report is true to the best of his knowledge. Further, the details of the status of outstanding demand is Already enclosed in Reply Affidavit.

Further, all the demands raised by the Income Tax Department have been responded by rectification application/online submission. Hence, the Petitioner No.1/Demerged Company undertook and confirmed that all the demand pending against the Petitioner No.1/Demerged Company shall be paid by the Demerged Company or the Resulting Company, as applicable, upon conclusion of the ongoing demands raised.

Regarding observation in Para No. 5 of the IT report: The Authorised Signatory of the Petitioner No.1/Demerged Company undertook and confirmed that the statement referred to in the IT Report is true to the best of his knowledge.

e. **Regarding observation in Para No. 6 of the IT report:** The Authorised Signatory of the Petitioner No.1/Demerged Company undertook and confirmed that the statement referred to in the IT Report is true to the best of his knowledge.

f. **Regarding observation in Para No. 7 of the IT report:** The Authorised Signatory of the Petitioner No.1/Demerged Company undertook and

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confirmed that the statement referred to in the IT Report is true to the best of his knowledge.

Further, the Petitioner Company No.1/Demerged Company undertook and confirmed that the aforementioned short-term capital loss and long-term capital loss of INR 5,88,695/- and INR 3,42,58,707/- respectively shall be retained in the Demerged Company.

- g. **Regarding observation in Para No. 8 of the IT report:** The Authorised Signatory of the Petitioner No.1/Demerged Company undertook and confirmed that the statement made in the IT Report is true to the best of his knowledge.
- h. **Regarding observation in Para No. 9 of the IT report:** The Authorised Signatory of the Petitioner No.1/Demerged Company undertook and confirmed that the statement made in the IT Report is true to the best of his knowledge.
- i. **Regarding observation in Para No. 10 of the IT report:** The Authorised Signatory of the Petitioner No.1/Demerged Company undertook and confirmed that the statement made in the IT Report is true to the best of his knowledge.
- j. **Regarding observation in Para No. 11 of the IT report:** The Authorised Signatory of the Petitioner No.1/Demerged Company undertook and confirmed that the statement made in the IT Report is true to the best of his knowledge.
- k. **Regarding observation in Para No. 12 of the IT report:** The Authorised Signatory of the Petitioner No.1/Demerged Company undertook and confirmed that the statement made in the IT Report is true to the best of his knowledge.
- l. **Regarding observation in Para No. 13 of the IT report:** The Authorised Signatory of the Petitioner No.1/Demerged Company undertook and confirmed that the statement made in the IT Report is true to the best of his knowledge.
- m. **Regarding observation in Para No. 14 of the IT report:** The Authorised Signatory of the Petitioner No.1/Demerged Company undertook and confirmed that with reference to clause 10.1 of the Scheme, all tax

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proceedings against the Demerged Company pending and/or arising till the Appointed Date and pertaining to the Demerged Undertaking as agreed between the Demerged Company and Resulting Company in writing as being the legal, taxation and other proceedings pertaining to the Demerged Undertaking, as and from the Effective Date, shall not abate or be discontinued or be in any way prejudicially affected by reason of the Scheme or anything contained in the Scheme but shall be continued and enforced by or against the Resulting Company in the manner and to the same extent as would or might have been continued and enforced by or against the Demerged Company.

Further, as per clause 10.2 of the Scheme the Resulting Company undertook to have all legal, taxation or other proceedings initiated by or against the Demerged Company pertaining to the Demerged undertaking and referred in clause 10.1, above transferred into its name on and after the appointed date and to have the same continued, prosecuted and enforced by Company.

Additionally, all tax proceedings against the Demerged Company pending and/or arising till the Appointed Date and pertaining to the Remaining Business (as defined in the Scheme) of the Demerged Undertaking shall be continued and enforced by or against the Demerged Company.

19. Although the Income Tax Department had proposed on 27.06.2025 to file rejoinder yet none has been filed and they had no further observations to make.

20. **Reserve Bank of India (RBI)** has filed report dated 12.06.2025 making following observations:

- I. 'We submit that it is the duty of the companies undergoing compromise/arrangements/ amalgamation to comply with the requirements of various laws including the rules, regulations and guidelines prescribed by RBI, viz., the companies may have to comply with Foreign Exchange Management Act, 1999, and the rules and regulations made thereunder. It is also submitted that as a regulator it will not be ethical on the part of RBI to vet individual cases, as it will preclude it from taking action on contravention, if any, committed by such companies.'





21. In reply affidavit the Petitioner Companies submitted as under: -

- a) The Authorized Signatory of the Petitioner No.1/Demerged Company, undertook and confirmed that, with respect to the Scheme of Arrangement, the Petitioner Companies is compliant with and shall continue to be compliant with all applicable rules, regulations, and guidelines prescribed by the Reserve Bank of India (RBI) and under the Foreign Exchange Management Act (FEMA), 1999, and the rules and regulations made thereunder, as well as any other applicable statutory requirements, in connection with giving effect to the proposed Scheme of Arrangement.

22. We have considered the submissions of **Shri R Inbaraju, Advocate**, Learned Counsel for the petitioner companies and reproduced the statutory observations and replies filed on behalf of the petitioners after deliberations in Tribunal as to obviate further reactions. It is manifest that the objections/observations to the Scheme received from **RD, ROC, IT, RBI and CCI** have been adequately replied by the Petitioner Companies and now there is no impediment in approval of the Scheme of Arrangement.

23. The Scheme of Arrangement in question as annexed at Annexure-15 is approved with Appointed Date as 01.04.2024 and that Demerged Undertaking of the Petitioner Company No. 1/ Demerged Company is transferred to the Petitioner No. 2/Resulting Company No. 1 with effect from the Appointed Date i.e. 01.04.2024.

24. It is further declared that the approved Scheme of Arrangement shall be binding on all the Shareholders and Creditors of the Petitioner Companies.

AND THIS TRIBUNAL DOES FURTHER ORDER:

- i. That the Petitioner Companies do, within 10 days from the date of receipt of the certified copy of this Order, cause the certified copy of the Order to be delivered to the Registrar of Companies, Karnataka for registration and also to other statutory authorities.





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- ii. That the Petitioner Companies shall deposit an amount of Rs. 75,000/- (Rupees Seventy-Five Thousand only) with *the Pay & Accounts Officer, Chennai in account of Ministry of Corporate Affairs, GoI* and Rs. 25,000/- (Rupees Twenty-Five Thousand only) in favour of *The Prime Minister National Relief Fund*, within a period of four weeks from the date of receipt of certified copy of this Order;
 - iii. The Petitioner Companies are directed to make compliance to the provisions of Section 170A of the Income Tax Act, 1961 within the stipulated period of time;
 - iv. That any person interested shall be at liberty to apply to this Tribunal in the above matter for any directions that may be necessary;
 - v. The approval /sanctioning of the Scheme shall not be construed as an exemption from any of the provisions under the Income Tax Act, 1961 or the Companies Act, 2013 and that the authorities under both the Acts, are at liberty to take appropriate action, in accordance with law, if so advised;
 - vi. The various undertakings furnished on behalf of the Petitioner Companies are by way of affidavits or otherwise are accepted. The petitioner companies, their directors, Key Managerial Personnel shall remain bound by the same.
 - vii. As per the directions, Form No.CAA-7 of Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, formal orders be issued on the Petitioner Companies filing Schedule of Properties i.e., (i) freehold property of the Petitioner Company and (ii) leasehold property of the Petitioner Company by way of affidavit.
25. Accordingly, C.P (CAA) No.08/BB/2025 is allowed & disposed of.
26. The Learned Counsel for the Petitioner Companies is directed to serve a copy of this Order to all the Statutory Authorities within ten days from the date of receipt of copy of this order.

-Sd-

RADHAKRISHNA SREEPADA
MEMBER (TECHNICAL)

-Sd-

SUNIL KUMAR AGGARWAL
MEMBER (JUDICIAL)



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CP(CAA)No.08/BB/2025 (Second motion)

108/109/2025
DEPUTY/ASST. REGISTRAR
NATIONAL COMPANY LAW TRIBUNAL
Bengaluru Bench

