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14/06/19

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BEFORE THE HON'BLE NATIONAL COMPANY LAW TRIBUNAL

CP(CAA) NO. 40 OF 2019

IN

CA (CAA) NO. 5 OF 2019

In the matter of the Scheme of Amalgamation (the Scheme) under section 230 to 232 of the Companies Act, 2013 and other applicable provisions of the Companies Act, 2013.

AND

In the matter of Scheme of Amalgamation of Acme Safetech Private Limited and Acme Universal Safezone 9 Private Limited and their respective Shareholders.

Acme Safetech Pvt Ltd

U19202MP2010PTC024427

Plot. No. 10, Behind IIDC Office,

Banmore Industrial Area, Banmore,

Morena – 476444, Madhya Pradesh. .. ..Petitioner No.1

Acme Universal Safezone 9 Pvt Ltd

U19202MP2016PTC041903

Near twelve shops, Girwai Naka,

A.B. Road, Gwalior-474001, Madhya Pradesh. .. .. Petitioner No. 2

Certified to be True Copy of the Original
Deputy Registrar
NCLT, Ahmedabad Bench
Ahmedabad

acme SAFETECH

ACME SAFETECH PRIVATE LIMITED

Regd. Office : 10/253, Behind Govt. Press, Bala Bai Ka Bazar, Lashkar, Gwalior-474001(M.P.) CIN-U19202MP2010PTC024427

List of the assets of Acme Safetech Private Limited (Transferor Company) to be transferred to Acme Universal Safezone 9 Private Limited (Transferee Company) as on the date of order passed by Hon'ble National Company Law Tribunal, Ahmedabad Bench sanctioning Scheme of Arrangement in the nature of Amalgamation.

SCHEDULE

Part –I

Particulars of Freehold Properties:-

Sr. No.	Nature of Freehold Property	Description of Property
1	Building	Plot No.10, Behind IIDC Office, Banmore Industrial Area, Banmore Distt. Morena – 476444 (M.P.)

Part-II

Particular of Leasehold Properties:-

Sr. No.	Nature of Leasehold Properties	Description of Property
1	Land	Plot No.10, Behind IIDC Office, Banmore Industrial Area, Banmore Distt. Morena – 476444 (M.P.)

Part-III

Particular of Plant & Machinery and Equipments –

A- Electric Fitting:-

S. No.	Description
1	INDUSTRIAL ELECTRIC FITTING
2	FIRE HYDRANT SYSTEM

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S. No.	DESCRIPTION
1	FAN
2	COOLER
3	CAMERA SYSTEM
4	A.C
5	GENERATOR (KVA-85)
6	FIRE EXTINGUISHER

B –Machinery:-

S NO	MACHINE	MODEL NO.	QTY
1	LASTING MACHINE	EF-868-3MAD	1
2	LASTING CONVEYOR	-	1
3	ROUGHING M/C	-	1
4	PVC INJECTION MOULDING	DFB-242 (24 STATION)	1
5	PVC INJECTION MOULDING	XZ-987/16-24	1
6	BINDING MACHINE	CS-335 DH	3
7	SOCKS PRINTING MACHINE	-	1
8	FINISH CONVEYOR	-	2
9	ROUGHING M/C	-	1
10	MOULD SET	STOUT	16
11	MOULD SET	SOROSS	7

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S. No	MACHINE	MODEL NO.	QTY
1	TOYOTO(COMPUTRIES SEWING MACHINE)	PLK-E4530D	3
2	TOYOTO(COMPUTRIES SEWING MACHINE)	PLK-E2212D	2
3	TOYOTO(COMPUTRIES SEWING MACHINE)	PLK-E430D	1
4	TOYOTO(COMPUTRIES SEWING MACHINE)	OCS-B1510	2
6	POSTBED SINGLE NEEDLE (SEWINGMACHINE)	810	75
7	POSTBED DOUBLE NEEDLE SEWING MACHINE	820	40
8	GOLDEN WHEEL(ZIG-ZAG STICHING)	CS-2180	6
9	D RING FIXING MACHINE	-	2
10	LEATHER SKIVING MACHINE	CS-747	12
11	LEATHER SKIVING MACHINE	TY-801	2
12	CLICKING MACHINE(GLOBAL)	GL-VS-922	3
13	CLICKING MACHINE	F-50	1
14	THREAD BURNING MACHINE	KNT	11
15	FUSING PRESS MACHINE	GL-FM-600A	1
16	UPS SYSTEM WITH DC POWER	6 KVA	1
17	LIFT		1
18	PACKING CONVEYOR	30 FT	1

C- Furniture & Fixture:-

S. No.	Description	QTY
1	CHAIR	10
2	TABLE	5

S. No.	DESCRIPTION	QTY
1	CHAIR	21
2	TABLE (WOODEN)	80
3	STOOL (WOODEN)	185
4	CUTTING (DIE)	3476

D- Office Equipments:-

S. No.	Description	QTY
1	COOLER	7
2	WATER COOLER	1
3	COMPUTER	4

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ACME SAFETECH PRIVATE LIMITED

S. No.	DESCRIPTION	QTY
1	COMPUTER	2
2	WATER COOLER	1

Part-IV

A. Particulars of Investment in Shares & Securities:-

Sr. No.	Name of the Company	Description and Face value	Value
1.	-	-	-

B. Particular of Bank Accounts:-

Sr. No.	Bank & Branch	Types of Account	Account No.
1	HDFC Bank & Gwalior	CC	50200023497618
2	IDBI Bank & Gwalior	CA	056102000047977
3	HDFC Bank & Gwalior	T/L	82401813

Sr. No.	Bank & Branch	Types of Account	Account No.
1	HDFC Bank & Kanpur	CA	50200022541695
2	IDBI Bank & Kanpur	CA	0141102000011778

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ACME SAFETECH PRIVATE LIMITED

C. Vehicles:-

Sr. No.	Description of Vehicle	Registration No.
1.	-	-

FOR Acme Safetech Private Limited

Nitin Tiwari
Managing Director
DIN: 00852402

NITIN TIWARI
Managing Director
DIN.: 00852402
ACME Safetech Private Limited

NATIONAL COMPANY LAW TRIBUNAL
सत्यमेव जयते
AHMEDABAD

Plot No. 10, Behind IIDC Office, Banmore Ind. Area, Banmore Distt. Morena - 476444 (M. P.) INDIA
Tele. : 07532-255461, Fax : 0751-2426248, E-mail : info.acmesafetech@gmail.com

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SCHEME OF AMALAGAMATION

BETWEEN

ACME SAFETECH PRIVATE LIMITED ("TRANSFEROR COMPANY")

WITH

ACME UNIVERSAL SAFEZONE 9 PRIVATE LIMITED ("TRANSFEREE COMPANY")

AND

THEIR RESPECTIVE SHAREHOLDERS AND CREDITORS

(Under section 230 to 232 of the Companies Act, 2013)

PREAMBLE

A. Description of the Companies

1. **Acme Safetech Private Limited** ("Transferor Company") is a company incorporated under the provisions of Companies Act, 1956 in the State of Madhya Pradesh and having its Corporate Identification Number: U19202MP2010PTC024427 and its registered office is at Plot. No. 10, Behind IIDC Office, Banmore Industrial Area, Banmore, Morena-476444, Madhya Pradesh. Acme Safetech Private Limited was incorporated on 29th September, 2010 as per the certificate of registration issued by Registrar of Companies, Gwalior. It is incorporated to carry on business of manufacturing of industrial shoes.

2. **Acme Universal Safezone 9 Private Limited** ("Transferee Company") is a company incorporated under the provisions of Companies Act, 2013 on 25th November, 2016 and having its Corporate Identification Number: U19202MP2016PTC041903 and registered office is at, Near twelve shops, Girwai Naka, A. B. Road, Gwalior-474001, Madhya Pradesh. It is incorporated to carry on business of manufacturing of industrial shoes.

B. Rationale of the Scheme of Amalgamation

This Scheme of Amalgamation ('the Scheme') is presented under Sections 230 to 232 of the Companies Act, 2013 for Amalgamation of Acme Safetech Private Limited into Acme Universal Safezone 9 Private Limited with effect from 01 April, 2018.

The consolidation of above company into one single company will lead to the following benefits:

a) Consolidation of businesses of the Group & bringing synergy in operations;

b) Reduction in number of companies and regulatory compliances thereof;

c) Streamlining the holding structure;

d) Ease of management; and

e) Reduction of operating and administrative costs.

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Managing Director
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ACME Safetech Private Limited

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Managing Director
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9 Pvt. Ltd.

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C. The management of Acme Safetech Private Limited and Acme Universal Safezone 9 Private Limited proposes to achieve the above pursuant to a Scheme of Amalgamation under section 230 to 232 of the Companies Act, 2013.

D. The Scheme is divided into the following parts:

- **Part A** - Definition and Share Capital
- **Part B** - Amalgamation of Acme Safetech Private Limited into Acme Universal Safezone 9 Private Limited w.e.f. 01 April, 2018.
- **Part C** – General Terms and Conditions

The Scheme also provides for various other matter consequential, incidental or otherwise integrally connected herewith.

E. The Scheme is drawn up in compliance with the provisions of Section 2(1B) of the Income Tax Act, 1961 pertaining to amalgamation and should always be read as in compliance of the said section.

PART A

DEFINITION AND SHARE CAPITAL

1. DEFINITIONS

In this scheme, unless inconsistent with the subject, the following expression shall have the meanings respectively assigned against them:

1.1 **"Act"** means the Companies Act, 2013 and shall include any statutory modifications, re-enactment or amendments thereof for the time being in force.

1.2 **"Appointed Date"** means 01 April, 2018 or such other date(s) as may be approved by the National Company Law Tribunal, Ahmedabad.

1.3 **"Appropriate Authority"** means any governmental, statutory, departmental or public body of authority in India, including National Company Law Tribunal, Ahmedabad Bench ("NCLT"), Regional Director, Registrar of Companies and Official Liquidator .

1.4 **"Board of Directors"** or **"Board"** in relation to Transferor Company and the Transferee Company, as the case may be, shall, unless it is repugnant to the context or otherwise, include a committee of directors or any person authorized by the board of directors or such committee of directors.

1.5 **"Effective Date"** means the date on which the certified copies of the order of Appropriate Authority, sanctioning the Scheme is filed with the Registrar of Companies, Gwalior, Madhya Pradesh.

1.6 **"IT Act"** means the Income tax Act, 1961.

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Managing Director
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ACME Universal Safe Zone 9 Pvt. Ltd.

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1.7 "**Record Date**" means the date to be fixed by the Board of Transferee Company or a committee thereof in consultation with Board of Transferor Company for reckoning the names of the equity shareholders of the Transferor Company who shall be entitled to equity shares of Transferee Company on the coming into effect of the Scheme;

1.8 "**Scheme**" or "**the Scheme**" or "**this Scheme**" means this Scheme of Amalgamation in its present form or with any modification(s) as approved or directed by NCLT.

1.9 "**Transferor Company**" means Acme Safetech Private Limited and its registered office is at Plot. No. 10, Behind IIDC Office, Banmore Industrial Area, Banmore, Morena- 476444, Madhya Pradesh.

1.10 "**Transferee Company**" means Acme Universal Safezone 9 Private limited and its registered office is at Near twelve shops, Girwai Naka, A. B. Road, Gwalior-- 474001, Madhya Pradesh.

2. DATE OF TAKING EFFECT AND OPERATIVE DATE

The Scheme set out herein in its present form or with any modification(s) approved or imposed or directed by the NCLT or made as per **Clause 18** of the Scheme, shall come into legal operation from the Appointed Date but shall be effective from the Effective Date.

3. SHARE CAPITAL

3.1 The Share Capital of Transferor Company, as on 30th September, 2018 is as under:

Share Capital	**Amount**
Authorized Share Capital	
50,000 Equity shares of Rs. 100/- each	50,00,000
TOTAL	**50,00,000**
Issued, subscribed and paid-up Share Capital	
28,700 Equity shares of Rs. 100/- each	28,70,000
TOTAL	**28,70,000**

There has been no change in the capital structure of Transferor Company subsequent to above date till the date of approving of the Scheme by the Board of Directors.

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NITIN TIWARI
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ACME Safetech Private Limited

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3.2 The Share Capital of Transferee Company, as on 30th September, 2018 is as under:

Share Capital	Amount
Authorized Share Capital	
5,00,000 Equity shares of Rs. 100/- each	5,00,00,000
TOTAL	**5,00,00,000**
Issued, subscribed and paid-up Share Capital	
4,02,000 Equity shares of Rs. 100/- each	4,02,00,000
TOTAL	**4,02,00,000**

There has been no change in the capital structure of Transferee Company subsequent to above date till the date of approving of the Scheme by the Board of Directors.

PART B

4. **AMALGAMATION OF TRANSFEROR COMPANY INTO TRANSFEREE COMPANY TRANFER AND VESTING**

4.1 With effect from the Appointed Date, the entire business along with the assets and liabilities of the Transferor Company, shall pursuant to the provisions contained in Sections 230 to 232 and all other applicable provisions, if any, of the Act and Section 2(1B) of the IT Act, without any further act, deed, matter or thing, stands transferred and vested in and / or be deemed to be transferred to and vested in Transferee Company so as to become business, assets and properties of Transferee Company as a part and consequent upon the amalgamation.

4.1.1 All the assets pertaining to the Transferor Company which are movable in nature, or are incorporeal property, or are otherwise capable of being physically transferred by manual delivery and/or by endorsement including cash on hand, shall be transferred by delivery or endorsement to Transferee Company to the end and intent that the property therein passes to Transferee Company.

4.1.2 In respect of other assets pertaining to the Transferor Company including actionable claims, sundry debtors, outstanding loans, advances recoverable in cash or kind or for value to be received and deposits with the Government, semi-Government, local and other authorities and bodies and customers, the same shall be and stand transferred to and vested in Transferee Company as an integral part of this Scheme without any notice or other intimation to the debtors (although Transferee Company, may if it so deems appropriate issue notices stating that pursuant to this Scheme, the relevant debt, loan, advance, deposit or other asset, be paid or made good to, or be held on account of, Transferee Company as the person entitled thereto, to the end and intent that the right of all the Transferor Company to receive, recover or realize the same, stands transferred to Transferee Company and that appropriate entries should be passed in their respective books to record the aforesaid changes).

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4.1.3 In so far as the immovable property of the Transferor Company are concerned, whether freehold or leasehold and any documents of title, rights and easements in relation thereto shall stand transferred to and be vested in Transferee Company, without any act or deed done by Transferor Company and Transferee Company. With effect from the Appointed Date, Transferee Company shall be entitled to exercise all rights and privileges and be liable to pay ground rent, municipal taxes and fulfill all obligations, in relation to or applicable to such immovable properties. The mutation of title to the immovable properties in the name of Transferee Company shall be made and duly recorded by the appropriate authorities upon filing of true copies of the Order of NCLT approving the scheme without any further act or deed, except fulfilment of statutory obligations, on part of the Transferor Company or Transferee Company.

4.1.4 Any amount including refund under the Tax Laws due to Transferor Company consequent to the assessment proceedings or otherwise and which have not been received by the Transferor Company as on the date immediately preceding the Appointed Date shall also belong to and be receivable by Transferee Company upon the Scheme being effective.

4.1.5 In respect of such of the assets belonging to the Transferor Company other than those referred to in clause 4.1.1 to 4.1.4, the same shall be transferred to and vested in and/or be deemed to be transferred to and vested in Transferee Company on the Appointed Date pursuant to the provisions of the Act.

4.2 With effect from the Appointed Date and upon the Scheme becoming effective, any statutory licenses, permissions, approvals, consents, certificates, authorities (including for the operation of bank accounts), powers of attorney given by, issued to or executed in favour of the Transferor Company and the rights and benefits under the same, all intellectual properties, all other interests relating to the goods or services being dealt by the Transferor Company, shall stand vested in or transferred to Transferee Company without any further act or deed, and shall be appropriately mutated by the statutory authorities concerned therewith in favour of Transferee Company and the benefit of all statutory and regulatory permissions, consents, registration or other licenses shall vest in and become available to Transferee Company as if they were originally obtained by Transferee Company.

4.3 In so far as the various tax benefits, tax credits (including credits arising from advance tax, self-assessment tax, other income tax credits, withholding tax credits, minimum alternate tax credits, CENVAT credits, goods and services tax credits, other indirect tax credits and other tax receivables) and other benefits or privileges enjoyed including in respect of income tax, excise, customs, VAT, sales tax, service tax, etc. granted by any Government body, local authority or by any other person, or availed by the Transferor Company, are concerned, the same shall vest with and be available to Transferee Company on the same terms and conditions as applicable to Transferor Company, as if the same had been allotted and/or granted and/or sanctioned and/or allowed to Transferee Company.

4.4 The transfer and vesting of the assets and liabilities of the Transferor Company as aforesaid shall be subject to the existing securities, charges, mortgages, if any, in respect of any assets of Transferor Company.

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[illegible]

Provided always that the Scheme shall not operate to enlarge the security for any loan, deposit or facility availed of by Transferor Company and that Transferee Company shall not be obliged to create any further or additional security thereof after the Effective Date or otherwise.

Provided also that the Scheme shall not operate to enlarge the security for any loan, deposit or facility availed by Transferee Company and that Transferee Company shall not be obliged to create any further or additional security in lieu thereof, on any assets of Transferor Company vested in Transferee Company in accordance with foregoing paragraphs of the scheme, after the Effective Date or otherwise.

4.5 All assets and liabilities of the Transferor Company as on the Appointed Date, whether or not included in their respective books and all the assets and properties which are acquired by them on or after the Appointed Date but prior to the Effective Date, shall be deemed to be and shall become the assets and properties of Transferee Company and shall under the provisions of Sections 230 to 232 of the Act and all other applicable provisions, if any, of the Act, without any further act, instrument or deed be and stand transferred to and vest in or be deemed to be transferred to and vested in and be available to Transferee Company upon the coming into effect of this Scheme on the Effective Date, pursuant to the provisions of Sections 230 to 232 of the Act and all other applicable provisions, if any of the Act.

4.6 With effect from the Appointed Date and upon the Scheme becoming effective, all debts, liabilities (including statutory liabilities) including accrued interest thereon, contingent liabilities, duties and obligations of every kind, nature and description of Transferor Company under the provisions of Sections 230 to 232 and all other applicable provisions, if any, of the Act, and without any further act or deed, be transferred to or be deemed to be transferred to Transferee Company, so as to become part and parcel of debt, duties and obligation and liabilities (including contingent liabilities) including accrued interest thereon of Transferee Company with effect from the Appointed Date and it shall not be necessary to obtain the consent of any third party or other person who is a party to any contract or arrangement by virtue of which such debts, liabilities including accrued interest thereon, contingent liabilities, duties and obligations have arisen in order to give effect to the provisions of this clause.

4.7 Upon the Scheme being effective, any tax liabilities, including but not limited to the tax liabilities under the IT Act, to the extent not provided for or covered by tax provision in the Transferor Company accounts made as on the date immediately preceding the Appointed Date shall be transferred to Transferee Company. Any surplus in the provision for taxation/ duties/ levies account including advance tax, tax deducted/ collected at source and credit for Minimum Alternate Tax as on the date immediately preceding the Appointed Date will also be transferred to the account of and belong to Transferee Company.

4.8 For the period between the Appointed Date and the Effective Date all debts, liabilities, duties and obligations of the Transferor Company as on the Appointed Date whether or not provided in the books of the Transferor Company raised, used and satisfied, shall be deemed to be for and on account of Transferee Company.

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5. ISSUANCE OF SHARES

5.1 Upon this Scheme becoming effective, Transferee Company shall without any further application or deed, issue and allot its Equity Shares, credited as fully paid-up, to the extent indicated below to all the shareholders of Transferor Company, holding shares in the Transferor Company and whose name appear in the Register of Members on the Record date or to such of their respective heirs, executors, administrators or other legal representatives or other successors in title as may be recognized by the Board of Directors of Transferee Company in the following proportion:

" 153 Equity Shares of the face value of Rs. 100/- (Rupees Hundred only) each of Transferee Company credited as fully paid-up, for every 100 (one hundred) equity share of the face value of Rs. 100/- (Rupees Hundred only) each held in Transferor Company".

5.2 The Equity Shares shall be issued and allotted by Transferee Company in physical form. Fractional shares, if any would be ignored.

5.3 The Equity Shares to be issued by Transferee Company shall be subject to the Scheme and the Memorandum and Articles of Association of the Transferee Company.

5.4 On the Scheme becoming effective and as an integral part of the Scheme, the issued, subscribed and the paid-up share capital of Transferee Company shall stand suitably increased consequent on the issue of the Equity Shares of the Transferee Company. It is clarified that approval of this Scheme by the shareholders of Transferee Company shall be deemed to be the due compliance of the provisions of Section 13, 14 and 62(1) (c) of the Act and the other relevant and applicable provisions of the Act for the issue and allotment of Equity shares by Transferee Company to the shareholders of Transferor Company, as provided in this Scheme.

5.5 In the event of there being any pending share transfers, whether lodged or outstanding prior to or even subsequent to the Effective Date, of any shareholder of the Transferor Company, the Board of Directors of Transferee Company shall be empowered but not bound in appropriate cases, to effectuate such a transfer as if such changes in the registered holder were operative as on the Effective Date and to take such decisions as may be necessary, in order to remove any difficulties arising to the Transferor Company or Transferee Company of equity shares in the Transferor Company, after the effectiveness of the Scheme.

6. ACCOUNTING TREATMENT IN THE BOOKS OF TRANSFEREE COMPANY

On the Scheme becoming effective and with effect from the Appointed Date, Transferee Company shall account for the amalgamation in its books as under:

6.1 The amalgamation of the Transferor Company will be accounted for in the books of the Transferee Company as per purchase method of accounting in accordance with Accounting Standard – 14 issued by the Institute of Chartered Accountants of India.

6.2 Upon coming into effect of this Scheme, the Transferee Company shall record, all the assets and liabilities of the Transferor Company transferred to and vested in Transferee Company pursuant to this Scheme, at their respective fair market values at the close of business on the day immediately preceding the Appointed Date.

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NITIN TIWARI

NITIN TIWARI
Managing Director
ACME Univers... Zone
... Pvt. Ltd.

6.3 The inter-company balances and investments, if any, appearing in the books of accounts of Transferee Company and the Transferor Company inter se, shall stand cancelled.

6.4 Transferee Company shall credit to the Equity Share Capital account in its books of accounts, the aggregate face value of the Equity Shares issued and allotted under Clause 5.1 of the Scheme to shareholders of the Transferor Company.

6.5 The difference being the excess of the Net Assets Value of the Transferor Company transferred to and recorded by Transferee Company as per Clause 6.2 above and the aggregate of face value in respect of Equity Shares allotted as per Clause 6.4 above, after considering the adjustments mentioned in Clause 6.3 above shall be credited to Capital Reserve of Transferee Company. The shortfall if any shall be debited to Goodwill account of Transferee Company.

("Net Assets Value" shall be computed as the value of assets less the value of liabilities, of the Transferor Company transferred to Transferee Company and recorded by Transferee Company in terms of Clause 6.2.)

6.6 In case of any differences in accounting policy between the Transferor Company and the Transferee Company, the accounting policies followed by the Transferee Company will prevail and the differences till the Appointed Date will be quantified and adjusted in the reserves to ensure that the financial statements of the Transferee Company reflect the financial position on the basis of consistent accounting policy.

NITIN TIWARI
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ACME Safetech Private Limited

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Managing Director
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AHMEDABAD

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PART C

GENERAL TERMS AND CONDITIONS

7. CONDUCT OF BUSINESS UNTIL THE EFFECTIVE DATE

With effect from the respective Appointed Date and upto and including the Effective Date:

7.1 Transferor Company shall carry on and be deemed to have been carrying on the business and activities and shall stand possessed of and hold all of its properties and assets for and on account of and in trust for Transferee Company. Transferor Company hereby undertake to hold the said assets with utmost prudence and reasonable diligence until the Effective Date and they shall not, undertake any additional financial commitments of any nature whatsoever, borrow any amounts nor incur any other liabilities or expenditure, issue any additional guarantees, indemnities, letters of comfort or commitments either for themselves or on behalf of their subsidiaries or group company or any third party; or sell, transfer, alienate, charge, mortgage or encumber or deal with the whole or part of any of the assets to be transferred pursuant to the Scheme, save and except in each case in the following circumstances:

7.1.1 if the same is in its ordinary course of business as carried out on the Appointed Date;

7.1.2 if the same is provided in this Scheme; or

7.1.3 if written consent of Transferee Company has been obtained.

7.2 With effect from the Appointed Date, all the profits or losses or income or expenditure accruing or arising to Transferor Company shall for all purposes and intents be treated and be deemed to be and accrue as the profits or incomes or expenditure or losses (as the case may be) of Transferee Company;

7.3 Transferor Company shall not vary the terms and conditions of service of the employees or conclude settlements with unions or employees, except in the ordinary course of business or consistent with past practice or pursuant to any pre-existing obligation without the prior written consent of the Board of Directors of Transferee Company.

7.4 Transferee Company shall be eligible to apply for any approvals, sanctions, etc. which may be necessary for conduct of its business pending approval of the Scheme by NCLT.

7.5 The Transferor Company and Transferee Company shall not make any change in their respective capital structure either by any increase (by issue of equity shares or shares on a rights basis, bonus shares, convertible debentures or any other form of convertible securities or otherwise), decrease, reduction, reclassification, sub-division or consolidation, re-organization, or in any other manner which may, in any way, affect or have the potential of affecting this Scheme except under any of the following circumstances:

7.5.1 by mutual consent of the respective Board of Directors of the Transferor Company and the Board of Directors of Transferee Company; or

7.5.2 as may be provided under this Scheme.

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NITIN TIWARI
Managing Director
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ACME Safetech Private Limited

TIWARI
Managing Director
DIN
ACME ... Zone
... Pvt. Ltd.

7.6 The Transferor Company shall not, without the prior consent in writing of the Board of Directors of Transferee Company, undertake any new business.

7.7 All loans raised and utilized and all liabilities, duties and obligations incurred or undertaken and all encumbrances/ charges created by the Transferor Company over their assets in order to secure the said loans, debts and liabilities on or after the Appointed Date and prior to the Effective Date shall be deemed to have been raised, used, incurred or undertaken or created for and on behalf of Transferee Company and to the extent they are outstanding on the Effective Date, shall, upon the coming into effect of this Scheme and under the provisions of Sections 230 to 232 of the Act, without any further act, instrument or deed be and stand transferred to and vested in and be deemed to have been transferred to and vested in Transferee Company and shall become the loans and liabilities, duties and obligations of Transferee Company which Transferee Company shall meet, discharge and satisfy the same.

8. DECLARATION OF DIVIDEND

8.1 For the avoidance of doubt it is hereby clarified that nothing in this Scheme shall prevent Transferor Company from declaring and paying dividends, whether interim or final, to its equity shareholders as on the date decided by the Board of Directors of Transferor Company for the purpose of any such dividend. However, on and from the date of filing of this Scheme with NCLT and until the Effective Date, the Transferor Company shall declare a dividend only after prior written consent of the Board of Directors of Transferee Company.

8.2 It is clarified that the aforesaid provisions in respect of declaration of dividends, whether interim or final, are enabling provisions only and shall not be deemed to confer any right on any member of the Transferor Company and / or Transferee Company to demand or claim any dividends which, subject to the provisions of the Act, shall be entirely at the discretion of the respective Board of Directors of the Transferor Company and Transferee Company and subject, wherever necessary, to the approval of the shareholders of the Transferor Company and Transferee Company, respectively.

9. LEGAL PROCEEDINGS

9.1 All legal proceedings of whatsoever nature by or against Transferor Company pending and/or arising before the Effective Date, shall not abate or be discontinued or be in any way prejudicially affected by reason of the Scheme or by anything contained in this Scheme but shall be continued and enforced by or against Transferee Company, as the case may be in the same manner and to the same extent as would or might have been continued and enforced by or against Transferor Company.

9.2 On and from the Effective Date, all suits, actions, arbitrations and other judicial or quasi-judicial proceedings by or against the Transferor Company in relation to the provision or conduct of the business and pending or arising subsequent to the Appointed Date shall be continued, prosecuted and enforced by or against Transferee Company as effectually as if the same had been filed by, pending and/or arising against Transferee Company.

NATIONAL COMPANY LAW TRIBUNAL AHMEDABAD

NITIN TIWARI
Managing Director
DIN.: 00852402
ACME Safetech Private Limited

NITIN TIWARI
Managing Director
DIN: [illegible]
ACME [illegible] Zone
[illegible]

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10. CONTRACTS, DEEDS, ETC.

10.1 Until the Effective Date, the Transferor Company shall carry on the business activities in the ordinary course and shall not execute any material, extraordinary contract, liability or undertaking without the prior written consent of Transferee Company.

10.2 Notwithstanding anything to the contrary contained in the contract, deed, bond, agreement or any other instrument, but subject to the other provisions of this Scheme, all contracts, deeds, bonds, agreements and other instruments, if any, of whatsoever nature and subsisting or having effect on the Effective Date, without the requirement of any further action or deed on the part of the Transferor Company and/or Transferee Company, shall continue in full force and effect against or in favour of Transferee Company and may be enforced effectively by or against Transferee Company as fully and effectually as if, instead of Transferor Company, Transferee Company had been a party thereto.

10.3 Transferee Company, at any time after the coming into effect of this Scheme in accordance with the provisions hereof, if so required, under any law or otherwise, enter into, or issue or execute deeds, writings, confirmations, novations, declarations, or other documents with, or in favour of any party to any contract or arrangement to which Transferor Company is a party or any writings as may be necessary to be executed in order to give formal effect to the above provisions. Transferee Company shall be deemed to be authorized to execute any such writings on behalf of Transferor Company and to carry out or perform all such formalities or compliances required for the purposes referred to above on the part of Transferor Company.

10.4 The security or charge created in relation to the existing loans and financial assistances of the Transferor Company, if any, as on Effective Date, shall stand transferred to Transferee Company without any requirement to enter into, or issue or execute deeds, writings, confirmations, novations, declarations, or other documents with, or in favour of any party to any contract or arrangement to which the Transferor Company is a party or any writings and the records of Registrar of Companies to be modified by filing INC-28 and if required, CHG-01 for modification of charge with Registrar of Companies. Transferee Company shall complete all formalities as may be directed by NCLT, once the Scheme is operative.

11. SAVING OF CONCLUDED TRANSACTIONS

The transfer of assets, properties and liabilities above and the continuance of proceedings by or against Transferee Company above shall not affect any transaction or proceedings already concluded in Transferor Company, on or after the Appointed Date till the Effective Date, to the end and intent that Transferee Company accepts and adopts all acts, deeds and things done and executed by Transferor Company, in respect thereto as done and executed on its behalf.

NATIONAL COMPANY LAW TRIBUNAL * AHMEDABAD

NITIN TIWARI
Managing Director
DIN: 00552402
ACME Solatech Private Limited

...IN TIWARI
Managing Director
ACME ... Zone ... Pvt. Ltd.

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12. COMBINATION OF AUTHORISED CAPITAL

12.1 As an integral part of the Scheme, and upon the effectiveness of this Scheme, the authorised share capital of the respective Transferor Company shall stand transferred to and be amalgamated with the authorised share capital of the Transferee Company, and that the authorised share capital of the Transferee Company shall automatically stand increased, without any further act, instrument or deed on the part of the Transferee Company, without any liability for payment of any additional fees (including fees and charges to the Registrar of Companies, Gujarat) or stamp duty.

The consent of the equity shareholders of the respective Transferor Company and the Transferee Company to the Scheme shall be deemed to be sufficient for purposes of effecting the above and that no further action under section 13 or section 61 or any other applicable provisions of the Act, shall be separately required nor shall any additional fees (including fees and charges to the Registrar of Companies, Gujarat) or stamp duty be payable by the Transferee Company.

NITIN TIWARI
Managing Director
DIN.: 00852402
ACME Safetech Private Limited

NITIN TIWARI
Managing Director
DIN.: [illegible]
ACME [illegible] Info Zone
[illegible]

NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD

12.2 Consequent upon the Scheme becoming effective, the authorized share capital of Transferee Company will be as under:

Particulars	Amount (in Rs.)
Authorized Capital	
5,50,000 Equity Shares of Rs. 100/- each	5,50,00,000
Total	**5,50,00,000**

12.3 The Transferee Company shall, if and to the extent required, increase its Authorised share capital to facilitate issue of shares under this Scheme.

12.4 Under the accepted principle of Single Window Clearance, it is hereby provided that the above referred change, viz. Change in the Capital Clausehall become operative on the scheme being effective by virtue of the fact that the Shareholders of the Transferee Company, while approving the scheme as a whole, have also resolved and accorded the relevant consents as required respectively under Section 61 of the Companies Act, 2013 or any other provisions of the Act and shall not be required to pass separate resolutions as required under the Act.It is hereby clarified that the consent of the shareholders of Transferee Company to the Scheme shall be deemed to be sufficient for the purposes of effecting this amendment, and no further resolution(s) under the applicable provisions of the Act, would be required to be separately passed.

13. STAFF, WORKMEN & EMPLOYEES

13.1 Upon the coming into effect of this Scheme, all employees of the Transferor Company and who are in such employment as on the Effective Date shall become the employees of Transferee Company from Appointed Date or their respective joining date, whichever is later and, subject to the provisions of this Scheme, on terms and conditions not less favorable than those on which they are engaged by Transferor Company and without any interruption of or break in service as a result of the amalgamation of the Transferor Company.

13.2 In so far as the existing provident fund, gratuity fund and pension and/or superannuation fund, trusts, retirement fund or benefits and any other funds or benefits created by Transferor Company for its employees (collectively referred to as the "**Funds**"), the Funds and such of the investments made by the Funds being transferred to Transferee Company, in terms of the Scheme shall be transferred to Transferee Company and shall be held for their benefit pursuant to this Scheme in the manner provided hereinafter. The Funds shall, subject to the necessary approvals and permissions and at the discretion of Transferee Company, either be continued as separate funds of Transferee Company for the benefit of the employees of Transferor Company or be transferred to and merged with other similar funds of Transferee Company. In the event that Transferee Company does not have its own funds in respect of any of the above, Transferee Company may, subject to necessary approvals and permissions, continue to contribute to relevant funds of Transferor Company, until such time that Transferee Company creates its

NATIONAL COMPANY LAW TRIBUNAL AHMEDABAD

NITIN TIWARI
Managing Director
DIN.: [illegible]
ACME Safetech Private Limited

NITIN TIWARI
Managing Director
DIN: [illegible]
ACME [illegible] Zone
[illegible] Ltd.

own fund, at which time the Funds and the investments and contributions pertaining to the employees of Transferor Company shall be transferred to the funds created by Transferee Company. Subject to the relevant law, rules and regulations applicable to the Funds, the Board of Directors or any committee thereof of Transferee Company may decide to continue to make the said contributions to the Funds of Transferor Company. It is clarified that the services of the employees of Transferor Company will be treated as having been continuous and not interrupted for the purpose of the said fund or funds.

14. TAX CREDITS

14.1 Transferee Company will be the successor of Transferor Company. Hence, it will be deemed that the benefit of any tax credits whether central, state or local, availed by Transferor Company including Central Goods and Services Act, 2017, State Goods and Services Tax laws, Minimum Alternate Tax ,Tax deduction at source on income of Transferor Company, obligation for tax deduction at source on any payment made by or to be made by the Transferor Company, and the obligations if any for payment of the tax on any assets of Transferor Company or their erection and / or installation, etc. shall be deemed to have been availed by Transferee Company or as the case may be deemed to be the obligations of Transferee Company. Consequently, and as the Scheme does not contemplate removal of any asset by Transferee Company from the premises in which it is installed, no reversal of any tax credit needs to be made.

14.2 With effect from the Appointed Date and upon the Scheme becoming effective, all taxes, duties, cess payable/receivable by Transferor Company including all or any refunds/credit/claims relating thereto shall be treated as the asset/liability or refunds/credit/claims, as the case may be, of Transferee Company.

14.3 Transferee Company is expressly permitted to revise its tax returns including tax deducted at source (TDS) certificates/ returns and to claim refunds, advance tax credits, excise and service tax credits, set off, etc., on the basis of the accounts of Transferor Company as vested with Transferee Company upon coming into effect of this Scheme, and its right to make such revisions in the related tax returns and related certificates, as applicable, and the right to claim refunds, adjustments, credits, set-offs, advance tax credits pursuant to the sanction of this Scheme and the Scheme becoming effective is expressly reserved.

15. DISSOLUTION OF TRANSFEROR COMPANY

On and from the Effective Date, the Transferor Company shall stand dissolved without being wound up.

16. CONDITIONALITY OF THE SCHEME

16.1 This Scheme is and shall be conditional upon and subject to:

16.1.1 The Scheme being approved by the requisite majority in number and value of such classes of persons including the respective members and/or creditors of Transferor Company and Transferee Company as may be directed by the Appropriate Authority.

NATIONAL COMPANY LAW TRIBUNAL AHMEDABAD

NITIN TIWARI
Managing Director
DIN: [illegible]
ACME Safetech Private Limited

NITIN TIWARI
Managing Director
DIN: [illegible]
ACME Universal Safe Zone
[illegible]

16.1.2 The sanction of the Appropriate Authority under the provisions of the Act in favour of the Transferor Company and the Transferee Company under the said provisions and to the necessary Order under the Act being obtained;

16.1.3 Certified or authenticated copy of the Order of NCLT sanctioning the Scheme being filed with the Registrar of Companies, Gwalior, Madhya Pradesh by Transferor Company and Transferee Company as may be applicable.

17. APPLICATION TO NCLT

Transferee Company and Transferor Company shall, as may be required, make all necessary applications/petitions under Sections 230 to 232 of the Act and other applicable provisions of the Act to NCLT for sanction of this Scheme and all matters ancillary or incidental thereto.

18. MODIFICATION OR AMENDMENTS TO THE SCHEME

18.1 Transferor Company and Transferee Company by their respective Board of Directors or any duly authorized committee may make or consent to any modifications or amendments to the Scheme or to any conditions or limitations that NCLT may deem fit to direct or impose or which may otherwise be considered necessary, desirable or appropriate by them and solve all difficulties that may arise for carrying out the Scheme and do all acts, deeds and things necessary for putting the Scheme into effect.

18.2 Transferor Company and Transferee Company shall be at liberty to withdraw from this Scheme, in case of any condition or alteration imposed by NCLT or any bank or financial institution is unacceptable to them or otherwise if so mutually agreed.

19. EFFECT OF NON-RECEIPT OF APPROVALS

In the event of any of the approvals or conditions enumerated in the Scheme not being obtained or complied, or for any other reason, the Scheme cannot be implemented, then the Board of Directors of Transferor Company and Transferee Company shall mutually waive such conditions as they consider appropriate to give effect, as far as possible, to the Scheme and failing such mutual agreement the Scheme shall become null and void and each party shall bear and pay their respective costs, charges and expenses in connection with the Scheme.

20. VALIDITY OF EXISTING RESOLUTIONS

Upon coming into effect of the Scheme, the resolutions, if any, of the Transferor Company, which are valid and subsisting on the Effective Date, shall continue to be valid and subsisting and be considered as resolutions of Transferee Company and if any such resolutions have any monetary limits approved under the provisions of the Act, or any other applicable statutory provisions, then the said limits shall be added to the limits, if any, under like resolutions passed by Transferee Company and shall constitute the aggregate of the said limits in Transferee Company.

NITIN TIWARI
Managing Director
DIN: 03352402
ACME Safetech Private Limited

NITIN TIWARI
Managing Director
DIN: [illegible]352402
ACME Universal Safe Zone
9 Pvt. Ltd.

21. COSTS, CHARGES AND EXPENSES

All costs, charges, taxes including duties, levies and all other expenses, if any (save as expressly otherwise agreed) of Transferor Company shall be borne by Transferee Company. It shall also include all expenses incurred in connection with and implementing this Scheme and matters incidental thereto.

NITIN TIWARI
Managing Director
DIN.: 00852402
ACME Safetech Private Limited

N TIWARI
Managing Director
DIN.: [illegible]2402
ACME [illegible] Safe Zone [illegible]

NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD

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NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

CP(CAA) No. 40/2019 in
CA(CAA) No. 5 /NCLT/AHM/2019

Coram: **Hon'ble Ms. MANORAMA KUMARI, MEMBER JUDICIAL**

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 31.05.2019

Name of the Company: Acme Safetech Pvt. Ltd.
Acme Universal Safezone 9 Pvt. Ltd.

Section of the Companies Act: Section 230-232 of the Companies Act, 2013

S.NO. NAME (CAPITAL LETTERS)	DESIGNATION	REPRESENTATION	SIGNATURE
1 PAVAN. S. GODIAWALA FOR: NAISHAL. J. MODY	Adv.	Petitioner	N.J.Mody
2.			

ORDER

The petitioner is represented through learned counsel.

The Order is pronounced in the open court, vide separate sheet.

MANORAMA KUMARI
MEMBER JUDICIAL

Dated this the 31st day of May, 2019

AB

NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

CP(CAA) No.40/NCLT/AHM/2019
In
CA(CAA) No. 5/NCLT/AHM/2019

In the matter of:

Acme Safetech Private Limited
A Company incorporated under the
Provisions of the Companies Act, 1956,
Having its registered office at
Plot No. 10, Behind IIDC Office,
Banmore Industrial Area,
Banmore,
Morena – 476 444 ...First Petitioner Company
Madhya Pradesh Transferor Company

And

Acme Universal Safezone 9 Private Limited
A Company incorporated under the
Provisions of the Companies Act, 2013,
Having its registered office at
Near Twelve Shops,
Girwai Naka,
A.B. Road,
Gwalior – 474 001 ...Second Petitioner Company
Madhya Pradesh Transferee Company

Order delivered on 31st May, 2019

Coram: Hon'ble Ms. Manorama Kumari, Member (J)

Appearance: Advocate Mr. Pavan Godiawala is present for the applicants

ORDER

1. The instant joint petition is filed by the two Petitioner Companies under Section 230 to 232 of the Companies Act, 2013 and other applicable provisions of the Companies Act, 2013 seeking sanction of this Tribunal to

a Scheme of Amalgamation of Acme Safetech Private Limited and Acme Universal Safezone 9 Private Limited and their respective shareholders.

2. It is submitted by the Petitioner Companies that consolidation of above companies into one single company will lead to benefits such as consolidation of businesses of the Group; reduction in number of companies and regulatory compliances thereof; streamlining the holding structure, ease of management and reduction of operating and administrative costs.

3. It is stated that requisite report confirming the proposed Entitlement Ratio of Equity Shares, being fair and reasonable provided by M/s. Solanki Singh & Co., Chartered Accountants is placed on record. The board resolutions dated 18th October, 2018 of the Board of Directors of both the Petitioner Companies are annexed with the petition as **Annexure F1 and F2**. A copy of the Scheme is also annexed with the petition as **Annexure E.**

4. The Petitioner Companies had filed application before this Tribunal in the form of joint application being CA (CAA) No. 5 of 2019. Vide order dated 16th January 2019, the meetings of Equity shareholders of the Petitioner Transferor Company and the Equity Shareholders of the Petitioner Transferee Company were dispensed with in view of the consent affidavits obtained from the Equity Shareholders of both the Petitioner Companies. However, directions were issued to convene and hold separate meetings of the Secured Creditors as well as Unsecured Creditors of both the Petitioner Companies to seek their approval to the proposed Scheme. Directions were also issued for the service of notice to each of the Secured Creditors and the Unsecured Creditors of both the Petitioner Companies as well as publication of the notice in the newspapers "Times of India" English Daily Bhopal edition and "Nayi Duniya" Hindi Gwalior edition. The Petitioner Companies were also directed to send a notice of meeting in Form No. CAA 3 with a copy of the Scheme of Amalgamation, the Explanatory Statement and the disclosures mentioned under Rule 6 to the Central Government through the Regional Director, North Western Region, the Registrar of Companies, the concerned Income Tax Authorities and the Official Liquidator only for the Petitioner Transferor Company.

5. Pursuant to the directions of this Tribunal, notice of the meetings were sent individually to all the Secured Creditors and Unsecured Creditors of both the Petitioner Companies between 30th January, 2019 to 02nd February 2019 together with a copy of the Scheme of Amalgamation and other ancillary document. The notice convening the meetings were also published in Bhopal edition of English daily 'Times of India' and 'Nayi Duniya' Hindi Gwalior edition on 8th February 2019. The Petitioner Companies also served a notice along with a copy of the Company Scheme Application and other ancillary documents to the Central Government through Regional Director, North Western Region, Registrar of Companies, Gwalior, Income Tax Authority (The Asstt. Commissioner of Income Tax, Circle-1, Gwalior) and the Official Liquidator (in case of Petitioner Transferor Company). Accordingly, the Petitioner Companies complied with the aforesaid directions of this Tribunal and the Chairman of the said meetings filed affidavit dated 1st March, 2019 with this Tribunal confirming the compliance of the directions of this Tribunal. The meetings of Secured Creditors as well as Unsecured Creditors of both the Petitioner Companies were duly convened and held on 14th March, 2019 and the Chairman appointed for the said meetings reported the result of the said meetings to this Tribunal vide affidavit dated 14th March 2019. Perusal of the report of submitted by way of an affidavit submitted by the Chairman of the meetings confirms the unanimous approval of the proposed Scheme by the Secured Creditors as well as Unsecured Creditors of both the Petitioner Companies.

6. The joint petition was filed by the Petitioner Companies on 26th March 2019 and the same was admitted on 9th April, 2019 by this Tribunal. The date of hearing was fixed as 29th April 2019. Directions were issued to the Petitioner Companies to publish notice of hearing of Petition in the newspapers viz. English daily, 'Times of India' Bhopal edition and 'Nayi Duniya' Gwalior edition for both the Petitioner Companies, at least 10 days before the date of hearing of the petition. Further directions were also issued to serve notice of hearing of the petition upon the statutory authorities viz. (i) Central Govt. through Regional Director, North Western Region, (ii) Registrar of Companies, and (iii) Official Liquidator for the Petitioner Transferor Company, and the Income tax.

7. Pursuant to the said directions, notices were duly served by the Petitioner Companies upon the aforesaid statutory authorities on 12th April, 2019 and publications were duly made in the newspapers- English daily, Times of India, Bhopal edition and Nayi Duniya Gwalior edition on 12th April 2019. An Affidavit of proof of service of notice upon the aforesaid statutory authorities and publication of notice of hearing in the newspapers, dated 22nd April 2019 is filed with this Tribunal.

8. When the matter was taken up on 29.04.2019 for hearing, it was observed by the Tribunal that no representation has been received from the office of the Official Liquidator and the Income Tax Department. This Tribunal directed the Petitioner Companies as well as the Registry to issue fresh notice to the Income Tax Department and the Official Liquidator. The Petitioner Companies have submitted affidavit dated 7th May, 2019 stating that they have served a fresh notice on the Income Tax Department and the Official Liquidator.

9. It is submitted that in response to the notice dated 11.02.2019 served upon the Regional Director, North Western Region, the Regional Director filed representation in the form of affidavit dated 27th March, 2019 making one observation that capital clause of the Petitioner Transferee Company shall be amended through this Scheme under the accepted principle of Single Window Clearance as per Clause No. 12.2 of the Scheme. As per the said clause, the authorized share capital of the Petitioner Transferor Company aggregate amounting to Rs. 50,00,000/- will be added in the authorized share capital of the Petitioner Transferee Company and the consolidated authorized share capital of the Petitioner Transferee Company will be arrived to Rs. 5,50,00,000/- and as per Section 232(3)(i) of the Companies Act, 2013, the Petitioner Transferee Company will be required to pay the difference of the amount of fees which is payable on the enhanced authorized capital of Rs. 5,50,00,000/- as on date and the total payable amount of fees which have already been paid by all the Petitioner Companies at the time of registration/increase in authorized capital, as the case may be. The Petitioner Transferee Company by way of an affidavit dated 29th April, 2019 have affirmed that the Petitioner Transferee Company will pay the difference of amount of fees which is payable on the enhanced authorized capital of Rs. 5,50,00,000/- and abide by the provisions of Section 232(2)(i) of the Companies Act, 2013.

10. In response to the notice of the petition served upon the Office of the Official Liquidator for the Petitioner Transferor company, the Official Liquidator filed his representation dated 26th April, 2019 with this Tribunal. After referring to the various clauses of the Scheme, it is observed by the Official Liquidator that no reference is given for the fraction of share (if arise) in exchange, how the same shall be dealt with. and the Official Liquidator has sought directions from this Tribunal to the Petitioner Companies to clarify the above observation in the interest of justice so as to protect the interests of the shareholders of the Companies connected with the Scheme. The Petitioner Companies has filed their affidavit and stated that said matter has been appropriately dealt with in the Scheme of Amalgamation. The Petitioner Companies have submitted that as per Clause 5.2 of the Scheme, it is mentioned that fractional shares, if any, shall be ignored. It is further submitted by the Petitioner Companies that company being a closely held private limited company, it would not have any effect on their rights in any manner and interest of all the shareholders would be protected. Further, the Official Liquidator has sought this Tribunal to issue directions to the Petitioner Transferee Company to preserve the books of accounts, papers and records of the Petitioner Transferor Company and not to dispose of the same without prior permission of the Central Govt. as per the provisions of Section 239 of the Companies Act, 2013. Accordingly, the Petitioner Transferee Company is hereby directed to preserve the books of accounts, papers and records of the Petitioner Transferor Company and not to dispose of the same without prior permission of the Central Govt. as required under section 239 of the Companies Act, 2013. It is hereby further directed that even after the Scheme is sanctioned, the Petitioner Transferee Company shall comply with all the applicable provisions of law and shall not be absolved from any of their pending statutory liabilities. No adverse observations are made in the aforesaid report by the Official Liquidator.

11. In compliance with the proviso to sub-section (7) of Section 230 of the Companies Act, 2013 the Petitioner Companies have annexed with the Petition as **Annexure G1 and G2,** certificates of the Statutory Auditors of the Petitioner Companies dated 22nd October 2018, confirming that the accounting treatment envisaged under the said Scheme of Amalgamation in the books of the Petitioner Transferee Company is in compliance with

the applicable Accounting Standards notified by Central Govt. in Section 133 of the Companies Act, 2013.

12. It is stated by the Petitioner Companies that no investigation or proceedings under the Companies Act, 1956 / Companies Act, 2013 have been instituted or are pending in relation to the Petitioner Companies. It is further stated by the Petitioner Companies that no winding up petition is pending against the petitioner Companies.

13. It is submitted by the Petitioner Companies that no notice was required to be sent to the following authorities:
(i) The Reserve Bank of India since none of the Petitioner Companies are registered with the Reserve Bank of India and none of the Petitioner Companies have non-resident shareholders.
(ii) The Stock Exchanges and the Securities and Exchange Board of India since none of the Petitioner Companies are listed on any of the Stock Exchanges.
(iii) The Competition Commission of India since the Petitioner Companies do not meet the threshold relating to assets and turnover as mentioned in the Competition Act, 2002 for the purpose of combination

14. Considering the entire facts and circumstances of the case and on perusal of the Scheme and the documents placed on record, it appears that all the requirements of section 230 and 232 of the Companies Act, 2013 are satisfied. The observations made by the Regional Director and the Official Liquidator stand satisfied by the submissions made by the Petitioner Companies and the proposed Scheme of Amalgamation deserves to be sanctioned. No representation is received from the Income Tax Department.

15. As a result, the petition being CP(CAA) No. 40 of 2019 is hereby allowed. The Scheme which is at **<u>Annexure 'E'</u>** to the petition is hereby sanctioned and it is declared that the same shall be binding on the Petitioner Companies, their shareholders, creditors and all concerned under the Scheme. It is also declared that the Petitioner Transferor Company Acme Safetech Private Limited shall stand dissolved without winding up.

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16. The cost to be paid to the Official Liquidator is quantified at Rs. 10,000/- in respect of the Petitioner Transferor Company. The said fees to the Official Liquidator shall be paid by the Petitioner Transferee Company.

17. An aggregate amount of Rs. 25,000/- shall be payable to the Regional Director towards the legal fees/expenses, and the same shall be paid by the Petitioner Transferee Company to the Regional Director, Ahmedabad.

18. Filing and issuance of drawn up order is hereby dispensed with. All concerned authorities to act on a copy of this order along with the Scheme duly authenticated by the Registrar of this Tribunal. The Registrar of this Tribunal shall issue the authenticated copy of this order along with Scheme immediately.

19. The Petitioner Companies are further directed to lodge a copy of this order, the schedule of immovable assets of the Petitioner Transferor Company as on the date of this order and the Scheme duly authenticated by the Registrar of this Tribunal, with the concerned Superintendent of Stamps, for the purpose of adjudication of stamp duty, if any, on the same within 60 days from the date of the order.

20. 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, electronically, along with INC-28 in addition to physical copy as per relevant provisions of the Act.

21. This petition is disposed off accordingly.

Ms. Manorama Kumari,
Member (Judicial)

NATIONAL COMPANY LAW TRIBUNAL AHMEDABAD

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Date of pronouncement of Order: 31/05/19
Date on which application for Certified Copy was made: 13/06/19
Date on which Certified Copy was ready: 13/06/19
Date on which Certified Copy delivered: 14/06/19

Certified to be True Copy of the Original
Deputy Registrar
NCLT, Ahmedabad Bench
Ahmedabad