

पश्चिम बंगाल पश्चिम बंगाल WEST BENGAL

25AA 408628

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH

CP (CAA) No. 804 / KB / 2019

CA (CAA) No. 299 / KB / 2019

In the matter of the Companies Act, 2013; Section – 230-232

AND

In the matter of: Asian Magnetic Devices Pvt. Ltd. & Ors

Certified Copy of the Order dated 26.09.2019 passed by this Bench.



Form No. CAA.7

[Pursuant to section 232 and rule 20]

IN THE NATIONAL COMPANY LAW TRIBUNAL

KOLKATA BENCH

C.P. (CAA) NO. 804/KB/2019

CONNECTED WITH

C.A. (CAA) NO. 299/KB/2019

In the matter of:

An application under section 230-232 of the Companies Act, 2013 read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

AND

In the matter of:

Asian Magnetic Devices Private Limited, a Company incorporated under the Companies Act, 1956, having CIN- U32109WB1988PTC095530,, having its Registered Office at 143- Cotton Street, Kolkata- 700007, in the State of West Bengal, within the aforesaid jurisdiction;

... Petitioner No. 1/Transferor Company No. 1

AND

In the matter of:

Rosebud Holding Private Limited, a Company incorporated under the Companies Act, 1956, having CIN- U70101WB1995PTC073393, having its Registered Office at 143- Cotton Street, Kolkata- 700007, in the State of West Bengal, within the aforesaid jurisdiction.



Asian Magnetic Devices Pvt Ltd. and ors.

... Petitioner No. 2/Transferor Company No. 2

AND

In the matter of:

Elin Electronics Limited, a Company incorporated under the Companies Act, 1956, having CIN- U29304WB1982PLC034725, having its Registered Office at 143- Cotton Street, Kolkata- 700007, in the State of West Bengal, within the aforesaid jurisdiction.

... Petitioner No. 3/Transferee Company

AND

In the matter of:

1. Asian Magnetic Devices Private Limited]Transferor Company No. 1
2. Rosebud Holding Private Limited]Transferor Company No. 2
3. Elin Electronics Limited] Transferee Company

...Petitioners

Order Under Sections 230 and 232 of the Companies Act,2013

1. The above Company Petition coming on for further hearing on the 05th September, 2019 and upon hearing the advocate appearing for the Petitioners and upon hearing Deputy Director of Regional Directorate, Eastern Region representing the Central Government the final order was passed on the 26th September , 2019.



Asian Magnetic Devices Pvt Ltd. and ors.

2. This Petition has been filed by the Petitioner Companies namely **Asian Magnetic Devices Private Limited**, the Petitioner No. 1 [hereinafter known as the Transferor Company No. 1], **Rosebud Holding Private Limited**, the Petitioner No. 2 [hereinafter known as the Transferor Company No. 2] and **Elin Electronics Limited**, the Petitioner No. 3 [hereinafter known as the Transferee Company], under Sections 230-232 of the Companies Act, 2013 read with relevant rules under Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 for obtaining the sanction of this Tribunal regarding the Scheme of Amalgamation proposed to be made between the Transferee Company and the Transferor Company. A copy of the Scheme of Amalgamation has been annexed to the petition and marked as **Annexure "A"**
3. The object of this Petition is to obtain the sanction of this Tribunal regarding the Scheme of Amalgamation whereby and where under the entire undertakings of the Transferor Companies together with all their properties, rights, claims and liabilities relating thereto are proposed to be transferred to and vest in the Transferee Company on the terms and conditions fully stated in the Scheme of Amalgamation.
4. It is stated in the petition that the following are the circumstances and/or reasons and/or grounds that have necessitated and/or justify the said Scheme are inter-alia as follows:-
- a. The Petitioner Companies belong to a common group and common management. There are common shareholders. The registered office of all the Petitioner Companies is situated at common address. In order to integrate the fields of activities of the companies and for improving overall business efficiency, to streamline administration of the Companies and in the overall interest of future growth and diversification of the



Asian Magnetic Devices Pvt Ltd. and ors.

business of the Companies the present Scheme is proposed to amalgamate the Transferor Companies with the Transferee Company. The Scheme will be complementary to the companies for their mutual benefit and interest;

- b. The said Scheme will result in economies of scale, reduction in overheads and other expenses, reduction in administrative and procedural work, elimination of duplication of work, better and more productive and effective utilization of the combined resources of all the companies and will enable the amalgamated company to effect internal economies and optimize productivity;
- c. The said Scheme will result in optimum growth and development of the business of the companies concerned and exploitation of the potential thereof. The said Scheme will enable the undertaking and business of both the companies to obtain greater facilities for raising capital, securing and conducting trade on favourable terms and other benefits;
- d. The said Scheme will enable the companies concerned to rationalize and streamline their management, business and finances and will pave the way for better, more productive and economical control of the running of the operations;
- e. The business of all the companies will be carried on more economically and profitably under the said Scheme;
- f. The said Scheme will contribute in furthering and fulfilling the objects of the companies concerned and in the growth, expansion and development of their business;
- g. The said Scheme will have beneficial results for the companies concerned, their shareholders, employees and all concerned.



Asian Magnetic Devices Pvt Ltd. and ors.

5. It is stated in the Petition that the Board of Directors of the Transferor Companies and the Transferee Company have, at their respective Board Meetings held on 03.11.2018, passed resolution approving the Scheme of Amalgamation of all the Transferor Companies with Transferee Company. The copies of the resolutions passed by the Board of Directors of the Transferee Company and the Transferor Companies approving the Scheme of Amalgamation is annexed with the Petition and marked as **Annexure "H"**.

6. It is stated in the application that the aggregate assets of the Petitioner Companies are more than sufficient to meet all their liabilities and the said Scheme will not adversely affect the rights of any of the creditors of the Petitioner Companies in any manner whatsoever and due provisions have been made for payment of all liabilities as and when the same fall due in the usual course.

7. It is further stated that no proceedings are pending under the Companies Act, 2013 or Companies Act, 1956 against any of the Petitioner Companies.

8. This Tribunal vide its Order dated 19.03.2019 in CA (CAA) No. 299/KB/2019 has ordered for the Petitioner Companies to hold meetings of the Shareholders of the Petitioner Companies and the Secured Creditors of the Petitioner Company No. 3. In compliance with the said order, respective meetings of the shareholders of the Petitioner Companies and meeting of the Secured Creditors of the Petitioner Company No. 3 were held, wherein the Shareholders of the Petitioner Companies unanimously approved the said Scheme without modification and the Secured Creditors of the Petitioner No. 3 submitted their "no-objection" letter to the Chairperson.



Asian Magnetic Devices Pvt Ltd. and ors.

9. It is submitted by the Petitioners that as per the directions of this Tribunal vide order dated 01.07.2019, notice of this petition has been served upon the Central Government through the Regional Director, Eastern Region, Ministry of Corporate Affairs, Kolkata and the Registrar of Companies, West Bengal on 05.07.2019 by hand, the concerned Assessing Officer along with the Chief Commissioner of Income Tax with PAN numbers of Petitioner Companies on 04.07.2019 by hand and via email on 09.07.2019, the Official Liquidator attached to the High Court, Calcutta having jurisdiction over the Petitioner Companies and the Reserve Bank of India, Kolkata on 04.07.2019 by hand. The notice of petition has also been published in "Financial Express" and "Aajkal" on 03.07.2019. An affidavit of service/compliance in the terms of the order dated 01.07.2019 affirmed by Sasanka Panda on 10.07.2019 and have annexed the newspaper publication and evidence of service upon the regulatory authorities has been filed on 11.07.2019.

10. The Official Liquidator has also filed report dated 03.07.2019 wherein it has been stated that the Transferor Company's affairs have not been conducted in a manner prejudicial to the interest of their members or to public and the Hon'ble Tribunal may be pleased to pass such further order or orders as may be deemed fit and proper in the matter.

11. The Regional Director, Eastern Region, Ministry of Corporate Affairs (MCA) had given the following observations in his report filed on 06.08.2019:-

A. That in the auditor's report for 2017-18 of the Transferor Company, Asian Magnetic Devices Pvt. Ltd., it is reported that several proceedings regarding Income Sale Tax dues are pending before the Assessing Officers and CIT[3] Kolkata and no disclosure of the same is made in the Scheme.



Asian Magnetic Devices Pvt Ltd. and ors.

B. It is submitted that clause 10 of the Scheme is not clearly worded to ascertain compliance with the provisions of Section 232[3](i) of the Companies Act, 2013 and it does not provide as to why no fee shall be paid for clubbing of the authorized capital of Transferor Companies with that of the Transferee Company and the Petitioner Company should submit a verified statement showing clubbing of the authorized capital and the extent of adjustment of fees already paid by the Transferor Companies on their respective authorized capital, to ascertain whether any fee is payable in terms of the provisions of Section 232[3](i) of the Companies Act, 2013.

12. The Petitioner Companies filed a supplementary affidavit on 07.08.2019, it is stated that due to erroneous mistake, details of the proceedings pending before the Tax Authorities were omitted in the petition, but the audited annual accounts as on 31.03.2018 contained the details of the pending proceedings. It is further stated that Clause 4 Part II of the said Scheme inter alia provides that all legal proceedings against the Transferor Companies will continue by or against the Transferee Company and that the Transferee Company further undertakes to pay the Government dues if the case is decided against the Transferor Companies. It is further stated that no tax proceedings are pending against the Petitioner Companies. The Petitioner Companies have also filed details of clubbing of authorised Share Capital on amalgamation of the Petitioner Companies, a copy of the same is annexed with the Supplementary Affidavit.

13. The Regional Director, Eastern Region, Ministry of Corporate Affairs (MCA) filed a second report on 08.08.2019 on receipt of the said supplementary affidavit, in which it has inter alia, been stated that "the Hon'ble Tribunal may decide the matter on merits".



Asian Magnetic Devices Pvt Ltd. and ors.

14. The Scheme of Amalgamation involves Companies which are closely held Companies. Practically no substantial external stakeholders are involved. It has also been stated no tax disputes/evasion issues are pending. It has also been stated that if the valuation methodology is modified then also there will not be any impact on the overall value and Shareholders and members of the Transferor Companies. It has also been stated that no undervaluation of assets is involved from the perspective of Stamp Duty on asset/instruments, wherever applicable.

15. It has also been stated that, in the meeting of Shareholders and Creditors the Scheme of Amalgamation was properly explained including the basis of ascertainment of Share Exchange Ratio.

16. Notwithstanding the above, if there is any deficiency found, or violation committed of any enactment, statutory rules or regulations, the sanction granted by this Tribunal to the scheme will not come in the way of action being taken in accordance with law, against the concerned persons, directors and official of the petitioners.

17. Heard the Ld. Counsels for the Petitioners and Assistant Director (ER), MCA for the RD (ER) MCA and the approvals recorded by the members of petitioner companies to the proposed Scheme and the affidavit and supplementary affidavit filed by the Regional Director, Eastern Region, Ministry of Corporate Affairs and the report of Official Liquidator, there appears to be no impediment in sanctioning the present Scheme. Consequently sanction is hereby granted to the Scheme under section 230 & 232 of the Companies Act, 2013:-



Asian Magnetic Devices Pvt Ltd. and ors.

THIS TRIBUNAL DOTH ORDER

a. The Scheme of Amalgamation mentioned in paragraph 1 of this petition being Annexure "A" hereto be sanctioned by this Hon'ble Tribunal so as to be binding with effect from the 1st day of April, 2018 on the Transferor Companies and the Transferee Company and their shareholders and all concerned. The approved Scheme of Amalgamation is annexed with this order and marked as Annexure "A".

a.1. All the properties, interests, rights and powers of the Transferor Companies, including those specified in the first, second and third parts of the Schedule of Assets be transferred to and vest without further act or deed in the Transferee Company and accordingly the same shall pursuant to Section 232 of the Companies Act, 2013 be transferred to and vest in the Transferee Company for all the estate and interest of the Transferor Companies therein, but subject nevertheless to all charges now affecting the same.

b. All the debts, liabilities, duties and obligations of the Transferor Companies, be transferred without further act or deed to the Transferee Company and accordingly the same shall, pursuant to Section 232 of the Companies Act, 2013 be transferred to and become the debts, liabilities, duties and obligations of the Transferee Company.



Asian Magnetic Devices Pvt Ltd. and ors.

- c. All legal proceedings and/or suits and/or appeals now pending by or against the Transferor Companies, be continued by or against the Transferee Company ;
- d. Leave be granted to the Transferor Companies to file their Schedule of Assets as stated in paragraph 24 of the petition within three weeks from the date of the order to be made herein;
- e. The Transferor Companies and the Transferee Company respectively do within 30 days after the date of the order to be made herein cause a certified copy thereof to be delivered to the Registrar of Companies, West Bengal for registration ;
- f. On the basis of the report as filed by the Official Liquidator the Transferor Companies be dissolved without winding up from the date of the filing of the certified copy of this order with the Registrar of Companies, West Bengal by the Transferor Companies and the Transferee Company;
- g. The Registrar of Companies, West Bengal upon receiving such certified copy of this order be directed to place all documents relating to the Transferor Companies and registered with him, on the file kept by him in relation to the Transferee Company and the files relating to the Transferor Companies and the Transferee Company shall be consolidated accordingly.



Asian Magnetic Devices Pvt Ltd. and ors.

18. The Petition C.P.[CAA] No. 804/KB/2019 connected with C.A. [CAA] No. 299/KB/2019 is disposed of accordingly.

Witness:

Sri M.B.Gosavi, Hon'ble Member (Judicial) and Sri V.K.Gupta Hon'ble Member (Technical) at Kolkata aforesaid on the 26th September, 2019.

Mr. Ravi. S. Asopa, Advocate of petitioners.

Mr. Ajit Singh, A.D. (R.D., E.R).

Schedule of Assets

First Part-I

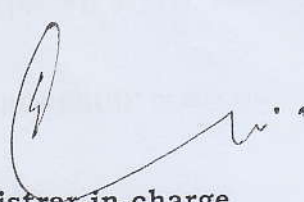
(As per Annexure)

Second Part-II

(As per Annexure)

Third Part-III

(As per Annexure)


Registrar-in-charge

National Company Law Tribunal

Kolkata Bench

Dated, the 4th day of October, 2019.



**- SCHEME OF AMALGAMATION
OF
ASIAN MAGNETIC DEVICES PRIVATE LIMITED
ROSEBUD HOLDING PRIVATE LIMITED
WITH
ELIN ELECTRONICS LIMITED**

PART - I

DEFINITIONS:

In this Scheme unless otherwise specifically provided or repugnant to the context the following expressions shall have the following meanings:-

- A. The "**Transferée Company**" means **ELIN ELECTRONICS LIMITED**, a company incorporated under the provisions of the Companies Act, 1956, having its Registered Office at 143-Cotton Street, Kolkata – 700 007, in the State of West Bengal, incorporated on 26.3.1982, CIN – U29304WB1982PLC034725, PAN AAACE6449G.
- B. '**ASIAN**' means **ASIAN MAGNETIC DEVICES PRIVATE LIMITED**, a company incorporated under the provisions of the Companies Act, 1956, having its Registered Office at 143-Cotton Street, Kolkata - 700007, in the State of West Bengal, incorporated on 25.5.1988, CIN - U32109WB1988PTC095530, PAN AAACA1658B.
- C. '**ROSEBUD**' means **ROSEBUD HOLDING PRIVATE LIMITED**, a company incorporated under the provisions of the Companies Act, 1956, having its Registered Office at 143-Cotton Street, Kolkata - 700007, in the State of West Bengal, incorporated on 7.8.1995, CIN – U70101WB1995PTC073393, PAN AABCR4545F.
- D. The "**Transferor Companies**" means '**ASIAN**' and '**ROSEBUD**' or any one or both of them as the context may require.
- E. "**Transfer Date**" means the 1st day of April, 2018.
- F. "**Effective Date**" means the date when the Certified copy of the order sanctioning the Scheme of Amalgamation are filed with the Registrar of Companies, West Bengal by all the Companies respectively.
- G. '**The Act**' means the Companies Act, 2013 or any statutory modification or re-enactment thereof.



H. 'Tribunal' or "Court" means National Company Law Tribunal, Kolkata Bench.

I. "UNDERTAKINGS OF THE TRANSFEROR COMPANIES" means and includes:-

(i) All the properties, assets, and liabilities of the Transferor Companies immediately before the amalgamation.

(ii) Without prejudice to the generality of the foregoing clause the said undertakings shall include all reserves, rights, powers, interests, authorities, privileges, easements, liberties, business and all properties and assets, moveable or immoveable, real or personal, corporeal or incorporeal, in possession or reversion, present or contingent of whatsoever nature and wherever situate including land, building, plant & machinery, vehicles, office equipments, computers, electric installations, investments, inventories, sundry debtors, cash and bank balance, loans and advances, leases, agency rights goodwill and all other interests and rights in or arising out of or relating to such property together with all licenses, sanctions approvals, trade marks, copy rights, patents import entitlements, quotas, telephones or any other licenses or permissions held applied for or as may be obtained hereafter by the Transferor Companies or which the Transferor Companies are entitled to and all debts, liabilities, duties and obligations of the Transferor Companies of whatsoever kind.

J. "PROCEEDINGS" include any pending suit, appeal or any legal proceedings of whatsoever nature in any court of law, or tribunal or any judicial or quasi judicial body or any assessments proceedings before any authority under any law and also arbitration proceedings.

K. PRESENT SHARE CAPITAL

1. The Authorised Share Capital of the **Transferee Company** is Rs. 7,50,00,000/- divided into 75,00,000 Equity Shares of Rs.10/- each. The Issued, Subscribed and Paid up Share Capital of the **Transferee Company** is Rs. 6,28,77,000/- divided into 62,87,700 Equity Shares of Rs. 10/- each.

2. The Authorised Share Capital of '**ASIAN**' is Rs. 75,00,000/- divided into 7,50,000 Equity Shares of Rs.10/- each. The Issued, Subscribed and Paid up Share Capital is Rs. 40,00,000/- divided into 4,00,000 Equity Shares of Rs.10/- each all fully paid up.

3. The Authorised Share Capital of '**ROSEBUD**' is Rs. 2,00,00,000/- divided into 20,00,000 Equity Shares of Rs.10/- each. The Issued, Subscribed and Paid up Share Capital is Rs. 1,40,00,000/- divided into 14,00,000 Equity Shares of Rs.10/- each all fully paid up.

4. The Transferee Company is carrying on the business of manufacturing Sheet Metal parts, LED lights, plastic moulded items, etc. ASIAN is carrying on manufacturing of Plastic moulded items and Audio Products and ROSEBUD is having interest income.



5. The synergy from the combined resources of the Transferor Companies and the Transferee Company would lead to optimum growth and development of the business of the Transferee Company after amalgamation. For the purpose of better, efficient and economical management, control and running of the businesses of the undertakings concerned and/or administrative convenience and to obtain advantages of economies of scale and to pool the resources for growth, development and diversification of the business of the Companies, the present Scheme is proposed to amalgamate the Transferor Companies with the Transferee Company.

PART - II

1. With effect from the Transfer Date, the Undertakings of the Transferor Companies shall without further act or deed be transferred to and be vested or deemed to be vested in the Transferee Company pursuant to the provisions of the Act, subject, to all charges, liens, mortgages, lispendenses, if any, then affecting the same or any part thereof.
2. With effect from the Transfer Date, all debts, liabilities, duties and obligations of every kind, nature and description of the Transferor Companies shall under the provisions of the Act, without any further act or deed, be transferred or deemed to have transferred to in the Transferee Company so as to become as from the Transfer Date, the debts, liabilities, duties and obligations of the Transferee Company. In respect of inter-corporate loans or balances between the Transferor Company and the Transferee Company, the obligations in respect thereof shall come to an end and corresponding effect shall be given in the books of account and records of the Transferee Company for the reduction of any assets or liabilities, as the case may be.
- 3.1 All Secured and Unsecured debts, all liabilities, duties and obligation of the Transferor Companies along with the charge, encumbrance, lien or security thereon (hereinafter referred to as the "said liabilities") shall be and stand transferred to and vested in, so as to become the debts, liabilities, duties and obligation of the Transferee Company, and further that it shall not be necessary to obtain the consent arrangement by virtue of which such debts, liabilities, duties and obligations have arisen in order to give effect to the provisions of this clause. It is clarified that in so far as the assets of the Transferor Companies is concerned, the security or charge over such assets of the Transferor Companies, shall, without any further act or deed continue to relate to such assets or any part thereof, after the Effective Date and shall not relate to or be available as security in relation to any or any part of the assets of the Transferee Company, save to the extent warranted by the terms of the existing security arrangements to which the Transferor and the Transferee Companies are party, and consistent with the joint obligations assumed by them under such arrangement.
- 3.2 All bonds, notes or other debt securities, of the Transferor Companies, whether convertible into equity or otherwise, be and shall become securities of the Transferee Company and all rights, powers, duties and obligations in relation thereto shall be and stand transferred to and vested in or deemed to have been transferred to or vested in and shall be exercised by or against the



Transferee Company as if it were the Transferor Companies in respect of stocks so transferred.

- 3.3 Loans, advances and other obligations (including any guarantees, letters of credit, letters of comfort or any other instrument or arrangement which may give rise to a contingent liability in whatever form), if any, due or which may at any time in future become due between the Transferor Companies and the Transferee Company shall be and stand discharged and there shall be no liability in that behalf on either party.
- 3.4 Where any of the liabilities and obligations of the Transferor Companies as on the Transfer Date transferred to the Transferee Company have been discharged by the Transferor Companies after the Transfer Date and prior to the Effective Date, such discharge shall be deemed to have been for and on account of the Transferee Company.
- 3.5 All loans raised and utilized, and all debts, duties, undertakings, liabilities and obligations incurred or undertaken by the Transferor Companies after the Transfer Date and prior to the Effective Date, shall be deemed to have been raised, used, incurred, or undertaken for and on behalf of the Transferee Company and to the extent they are outstanding on the Effective Date, shall upon the coming into effect of this Scheme be and stand transferred to or vested in or be deemed to have been transferred to and vested in the Transferee Company pursuant to the provisions of the Act and without any further act, instrument or deed, and shall become the debt, duties, undertakings, liabilities and obligations of the Transferee Company which shall meet, discharge and satisfy the same.
4. If any legal proceedings by or against the Transferor Companies be pending, the same shall not abate, be discontinued or be in any way prejudicially affected by reason of the transfer of the undertakings of the Transferor Companies or anything contained in this Scheme but the proceedings including those by the creditors of the Transferor Company may be continued, prosecuted and enforced by or against the Transferee Company in the same manner and to the same extent as it would be or might have been continued, prosecuted and enforced by or against the Transferor Companies, if this Scheme had not been made.
5. The transfer and the vesting of properties and liabilities under Clauses 1 and 2 hereof and the continuance of the proceedings by or against the Transferee Company under Clause 4 hereof shall not affect any transaction or contract already concluded by the Transferor Companies on and after the Transfer Date to the end and intent that the Transferee Company accepts and adopts all acts, deeds and things done and executed by or on behalf of the Transferor Company as acts, deeds and things done and executed by or on behalf of the Transferee Company.
6. Subject to other provisions contained in this Scheme all contracts, deeds, bonds, agreements and other documents and instruments of whatsoever nature to which the Transferor Companies are party subsisting or having effect immediately before the amalgamation shall remain in full force and effect against or in favour of the Transferee Company and will be enforced as fully and effectively, as if



instead of the Transferor Companies the Transferee Company had been a party thereto.

7. The Scheme shall become effective and transfers shall be deemed to have taken place with effect from the Transfer Date upon.

- (a) The Scheme being approved by requisite majority of the shareholders of the Transferor Company and such other classes of persons of the said companies if any, as applicable or as may be required under the Act and as may be directed by the tribunal and the Transferee Company and thereafter upon being sanctioned by the Tribunal under Section 230 and 232 of the Act.
- (b) The certified copies of the order of the National Company Law Tribunal, Kolkata Bench sanctioning the Scheme of Amalgamation are filed by all the companies with the Registrar of Companies, West Bengal:

8. With effect from the Transfer Date and including the Effective Date:

- (a) The Transferor Companies shall carry on and be deemed to have carried on their business and activities and shall be deemed to have held and stand possessed of and shall hold and stand possessed of all their assets and properties for and on account of and in trust for the Transferee Company:
- (b) All the profits or incomes accruing or arising to the Transferor Company or expenditure or losses arising or incurred by the Transferor Company shall for all purposes be treated and be deemed to be and accrue or the profits or incomes or expenditures or losses, as the case may be, of the Transferee Company.

9. Immediately after the Effective Date and transfer taking place as stipulated under clause 1 hereof -

a) The Transferee Company shall, without further act, deed or application, issue and allot:

- i) to every Equity Shareholder in **ASIAN 5** (five) Equity Shares of Rs. 10/- each credited as fully paid up in the **Transferee Company** for every 1 (one) Equity Share of Rs.10/- each fully paid up and held by such shareholder in **ASIAN**.
- ii) to every Equity Shareholder in **ROSEBUD 1** (one) Equity Share of Rs. 10/- each credited as fully paid up in the **Transferee Company** for every 4 (four) Equity Shares of Rs.10/- each fully paid up and held by such shareholder in **ROSEBUD**.

b) All the Shares to be issued and allotted to the Shareholders of the Transferor Companies as aforesaid, shall rank pari passu in all respect with the existing Shares held by the Shareholders of the Transferee Company and shall be entitled to pro rata dividend if any, from the Transfer Date;



- c) In issue and allotment of such shares, the fractional entitlements of shares to any Member of the Transferor Companies shall not be taken into account but shall be ignored.
- d) All the Shareholders of the Transferor Companies shall accept the shares in the Transferee Company to be allotted as aforesaid in lieu of their Shareholdings in the Transferor Companies.
- e) Every shareholder of the Transferor Company shall surrender to the Transferee Company for cancellation of the share certificate(s) in respect of shares held by it in the Transferor Companies and take all necessary steps to obtain from the Transferee Company certificate(s) for the Equity Shares in the Transferee Company to which he/she may be entitled to under sub-clause (a) hereof;
- f) The Shares held between the Transferor Companies inter se and by the Transferor Companies in the Transferee Company and vice versa, if any, shall stand cancelled and the share applications held between the Transferee & the Transferor Company and Transferor Company inter se if any shall stand cancelled.
- g) The issue and allotment of shares of the Transferee Company to the members of the Transferor Companies shall be deemed to be carried out in compliance with the procedure laid down as per Section 62 and/or any other applicable provision of the Act.
- h) The Post Amalgamation Paid up Capital Structure of the Transferee Company shall not be changed without consent of shareholders.

10. On the Effective Date, the Authorised share capital of the Transferee Company, in terms of its Memorandum of Association, shall stand enhanced by an amount of Rs 2.75.00.000/- being the Authorised Share Capital of the Transferor Companies. The revised and reclassified Authorised share capital of the Transferee Company shall be Rs 10.25.00.000/- divided into 1,02,50,000 (One Crore Two Lacs Fifty Thousand) Equity Shares of Rs.10/- each and its Memorandum of Association shall automatically stand amended accordingly, and the words and figures in Clause V of its Memorandum of Association shall stand substituted to read as follows:

“V. The Authorised Share Capital of the Company is Rs 10.25.00.000 (Rupees Ten Crores Twenty Five Lacs) divided into 1,02,50,000 (One Crore Two Lakhs Fifty Thousand) Equity Shares of Rs.10/- each with power to increase and reduce the capital of the Company and to divide or subdivide the shares in the Capital for the time being into several classes and to attach thereto respectively such preferential qualified or special rights, privileges or conditions as may be determined by or in accordance with the articles of the Company for the time being and to modify or abrogate of any such rights privileges or conditions in such manner as may be permitted by the Act, or provided by the Articles of the Company for the time being.”

It is hereby clarified that for the purposes of this clause, the consent of the shareholders to the Scheme shall be deemed to be sufficient for the purposes



of effecting this amendment, and no further resolution under the Act and/or the Companies Act, 2013, would be required to be separately passed. The fees paid by the transferor Companies on its Authorised Share capital shall be set off against the fees payable by the transferee Company on its Authorised Share Capital subsequently to the Amalgamation in accordance with the provisions of the Act.

11. The value of assets and liabilities of the Transferor Company shall be taken at the value appearing in the Books of the respective Transferor Companies. The difference between the value of shares to be issued and allotted by the Transferee Company and cancellation one hand and the value of net assets of the Transferor Companies on the other hand if any, shall be treated in the books of the Transferee Company in the manner as provided in the Accounting Standards notified under the Companies (Accounting Standard) Rules 2006 as amended from time to time.

12. ACCOUNTING TREATMENT

(a) The amalgamation shall be accounted for in the books of account of Transferee Company accordingly to pooling of interests method under the Accounting Standard (AS) 14, notified under the Companies (Accounting Standards) Rules 2006 as amended from time to time.

(b) The Reserve & Surplus as appearing in the books of Transferor Companies shall be appear in the same manner and under the same classification in the books of the Transferee Company.

(c) After taking over all the assets and liabilities of the Transferor Companies in the manner as stated in the scheme as on the Appointed Date, the surplus arising after cancellation and issue of the shares as stated in the scheme shall be treated in the books of the Transferee Company as in the manner as provided in the Indian Accounting Standards and in accordance with prevailing guidelines.

(d) In case of any differences in accounting policy between the Companies the impact of the same till the amalgamation will be quantified and adjusted in the General Reserve of Transferee Company to ensure that the financial statements of Transferee Company reflect the financial position on the basis of consistent accounting policy.

(e) To the extent that there are inter-corporate loans or balances between Transferee Company and Transferor Company, the obligations in respect thereof shall come to an end and corresponding effect shall be given in the books of account and records of Transferee Company for the reduction or any assets or liabilities, as the case may be. For the removal of doubts it is hereby clarified that there would be no accrual of interest or other charges in respect of any such inter-company loans or balances with effect from the Appointed Date.



13. The Transferor Companies are entitled to various benefits under the incentive schemes and policies in relation to their operations and upon the Scheme becoming effective and with effect from the Appointed Date the benefits under all of such schemes and policies shall be transferred to and vest in the Transferee Company and all benefits, entitlements and incentives of any nature whatsoever including income tax benefits/concessions, VAT, GST, input credit, sales tax concessions and incentives shall be claimed and/or be claimed by the Transferee Company and these shall relate back to the Appointed Date as if the Transferee Company was originally entitled to all benefits under such incentive scheme and/or policies.
14. All taxes of any nature, duties, cesses or any other like payment or deductions made by Transferor Companies in relation to any statutory authorities such as Income Tax, Sales Tax, Excise Duty, Value Added Tax, GST, Customs Duty, Service Tax etc. or by tax deduction / collection at source, in so far as it relates to, or is for and on account of the Transferor Company up to the effective date shall be deemed to have been on account of or paid by Transferee Company and the relevant authorities shall be bound to transfer to the account of and give credit for the same to Transferee Company and not to Transferor Company upon the passing of the order on this Scheme by the Tribunal sanctioning the Scheme and upon relevant proof and documents being provided to the said authorities.
15. Upon the scheme becoming effective all statutory licences, authorisations, statutory rights, permissions approvals or other registrations of Transferor Companies shall stand vested in or be transferred to the Transferee Company without any further act or deed and shall be appropriately mutated and /or registered if applied by the Board of Directors to the concerned statutory authorities in favour of the Transferee Company.
16. On the Scheme becoming operative, all existing staff, workmen and employees of the Transferor Companies in service on the Effective Date shall be deemed to have become staff, workmen and employees of the Transferee Company with effect from the Transfer Date without any break in their service and on the basis of continuity of service and the terms and conditions of their employment with the Transferee Company shall not be less favorable than those applicable to them with reference to the Transferor Companies on the Effective Date.
17. The existing provident fund, gratuity fund, and pension and/or superannuation fund or trusts created by the Transferor Companies or any other special funds created or existing for the benefit of the employees of the Transferor Company shall at an appropriate stage be transferred to the relevant funds of the Transferee Company and till such time shall be maintained separately. In the event that the Transferee Company does not have its own fund with respect to any such matters, the Transferee Company shall create its own funds to which the contributions pertaining to the employees of Transferor Companies shall be transferred.



18. On the Effective Date, whosoever are the shareholders of the Transferor Company would be entitled to new shares in the Transferee Company as stated in Clause 9(a) hereinabove.
19. On the Effective Date the Authorised Share Capital of the Transferor Company shall be added to the Authorised Share Capital of the Transferee Company without further act and deed & without payment of any further fees and it shall not be necessary for the Transferee Company to hold any general meeting of its shareholders for the purpose.

PART - III

1. The Transferor Companies and Transferee Company shall make necessary application/petition before the National Company Law Tribunal, Kolkata Bench for obtaining the sanction to this Scheme. On the Effective Date, the Board of Directors of the Transferor Companies shall stand dissolved and the Transferee Company shall take appropriate steps for dissolution without winding up of the Transferor Companies.
2. Immediately after the Effective Date the Bank Accounts of the respective Transferor Companies shall be operated by the Transferee Company in such manner as may be decided by its Board of Directors. The names of all such Bank Accounts of the Transferor Companies shall remain in operation till the dissolution without winding up of the Transferor Companies.
3. The Transferee Company shall pay all the costs, charges and expenses of and incidental to this scheme.
4. The Board of Directors of the Transferor and the Transferee Company or any person authorized by them, may in their full and absolute discretion assent to any alteration or modification to this Scheme, which the Court and/or any other authority may deem fit to approve or impose.
5. It is made clear that any amendment or alteration to this Scheme after it is sanctioned by the National Company Law Tribunal Kolkata Bench shall be effected only in accordance with Section 231 of the said Act or any statutory modification thereof.
6. In the event of the above Sanctions/Approvals not being obtained and/or the Scheme not being sanctioned by the National Company Law Tribunal Kolkata Bench and/or the order or orders not being passed as aforesaid, the Scheme shall become null and void and in that event the business and activities done by the Transferor Companies from the TRANSFER DATE will continue to be the business and activities of the Transferor Companies without any right or obligation of the Transferee Company.



IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH

Company Petition No. 804 of 2019

in

Company Application No. 299/KB of 2019

In the matter of :

The Companies Act, 2013.

And

In the matter of :

A petition made under Sections 230
and 232 of the said Act.

And

In the matter of :

ASIAN MAGNETIC DEVICES PRIVATE
LIMITED, a company incorporated
under the provisions of the Companies
Act, 1956, having its Registered Office
at 143-Cotton Street, Kolkata -
700007, in the State of West Bengal,
Incorporated on 25.5.1988, CIN -
U32109WB1988PTC095530, PAN
AAACA1658B, within the aforesaid
jurisdiction.

And

In the Matter of:

ROSEBUD HOLDING PRIVATE
LIMITED, a company incorporated
under the provisions of the Companies
Act, 1956, having its Registered Office
at 143-Cotton Street, Kolkata -
700007, in the State of West Bengal,
Incorporated on 7.8.1995, CIN -
U70101WB1995 PTC073393, PAN
AAACD1515E within the aforesaid



jurisdiction.

And

In the Matter of:

ELIN ELECTRONICS LIMITED, a company incorporated under the provisions of the Companies Act, 1956, having its Registered Office at 143-Cotton Street, Kolkata - 700 007, in the State of West Bengal, Incorporated on 26.3.1982, CIN - U29304WB1982PLC034725, PAN AAACE6449G, within the aforesaid jurisdiction.

1. ASIAN MAGNETIC DEVICES PRIVATE LIMITED - transferor company no.1
 2. ROSEBUD HOLDING PRIVATE LIMITED - transferor company no.2
 3. ELIN ELECTRONICS LIMITED - transferee company
-
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Petitioners

Schedule of Assets of ASIAN MAGNETIC DEVICES PRIVATE LIMITED and ROSEBUD HOLDING PRIVATE LIMITED (hereinafter collectively referred to as the Transferor Companies) to be transferred to and vested in the Transferee Company i.e. ELIN ELECTRONICS LIMITED as at 1st April 2018.

Part - I

Short description of the freehold properties of the Transferor Companies.

- A) ASIAN MAGNETIC DEVICES PRIVATE LIMITED - NIL
B) ROSEBUD HOLDING PRIVATE LIMITED - NIL



Part - II

Short description of the leasehold property of the Transferor Companies.

- A) ASIAN MAGNETIC DEVICES PRIVATE LIMITED - NIL
- B) ROSEBUD HOLDING PRIVATE LIMITED - NIL

Part - III

Short description of Stocks, Shares, Debenture and other choses in action of the Transferor Companies.

Tangible Assets, Sundry Debtors, Loans & Advances, Investment in Shares & Securities including Mutual Fund Investments, Inventories (Raw Materials as well as Finished Goods), Cash and Bank balances etc. as stated in books of accounts of the respective transferor companies.

A) ASIAN MAGNETIC DEVICES PRIVATE LIMITED

NON CURRENT INVESTMENTS

INVESTMENT IN EQUITY INSTRUMENTS - TRADE

Elin Appliances Pvt. Ltd. -125000 SHARES	12500000.00	
Elin Electronics Limited-603600 SHARES	27927000.00	
LIFE INSURANCE CORPORATION OF INDIA	500000.00	
	-----	40927000.00

LONG TERM LOANS AND ADVANCES

SECURITY DEPOSIT		6000.00
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CURRENT ASSETS

CURRENT INVESTMENT

IN UNITS OF MUTUAL FUND

1.L & T TAX ADVANTAGE FUND - GROWTH	2700000.00	
2.HDFC BALANCE FUND - REGULAR PLAN-DIV.	5000000.00	
3.ICICI PRUDENTIAL BALANCED FUND-M.DIV.	39000000.00	
4.L& T HYBRID EQUITY FUND-DIVIDEND	9171204.00	
5.RELIANCE REGULAR SAVING FUND-G.P	15000000.00	
6.RELIANCE REGULAR SAVING FUND-M.D.P.	10000000.00	
	-----	80871204.00
		386211.00

TRADE RECEIVABLES

CASH AND CASH EQUIVALENTS

CASH ON HAND	81561.00
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<u>BALANCE WITH BANKS</u>	8344657.00	
IN CURRENT ACCOUNT	34304.00	
IN FIXED DEPOSIT (INCLUDED ACC.INTEREST)	-----	8460522.00
ADVANCE TO SUPPLIERS	67135.00	
INDIRECT TAX RECEIVABLES	127833.00	
INCOME TAX DEDUCTED AT SOURCE		
& ADVANCE TAX	3323334.00	
LOAN TO BODY CORPORATE	30000000.00	
OTHER ADVANCE	12156083.00	
	-----	45674385.00
AMOUNT PAID AGAINST APPEAL		141922.00
TO COMMERCIAL TAX DEPARTMENT		-----
		173796410.00
		=====
	TOTAL ASSETS	

B) ROSEBUD HOLDING PRIVATE LIMITED

<u>NON CURRENT INVESTMENTS</u>		
<u>INVESTMENT IN EQUITY INSTRUMENTS - TRADE</u>		
ELIN ELECTRONICS LIMITED - 438400 SHARES		12389985.00
<u>CASH AND CASH EQUIVALENTS</u>		
CASH ON HAND	1312.00	
<u>BALANCE WITH BANKS</u>		
IN CURRENT ACCOUNT	24978.00	
IN FIXED DEPOSIT (INCLUDED ACC.INTEREST)	278320.00	
	-----	304610.00
<u>SHORT TERM LOANS AND ADVANCES</u>		
INCOME TAX DEDUCTED AT SOURCE		2101.00

		12696696.00
		=====
	TOTAL ASSETS	





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15/10/19
DD / DR / AR / Court Officer
National Company Law Tribunal
Kolkata Bench