IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV

CA (CAA)/225/MB-IV/2024

In the matter of the Companies Act, 2013;

AND

In the matter of

Sections 230 to Section 232 of the Companies Act, 2013 and other applicable provisions of the Companies Act, 2013

read with Companies (Compromises, Arrangements and Amalgamation) Rules, 2016;

AND

In the matter of
The Scheme of ***Amalgamation***
of

ILUMINAR MEDIA LIMITED
("Transferor Company")
with

NYKAA FASHION LIMITED
("Transferee Company")

And their respective Shareholders.

Iluminar Media Limited
[CIN: U22100MH2013PLC433052] … First Applicant Company

Nykaa Fashion Limited … Second Applicant Company
[CIN: U18102MH2019PLC320627]

Order delivered on ***09.01.2025***

Coram:

Mr. Sanjiv Dutt
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances :

For the Applicant(s) : Ms. Roselin Alex a/w Mr. Peshwan Jehangir, Mr. Aman Yagnik, Mr. Jamsheed Dadachanji, Ms. Palak Vashisth i/b Khaitan & Co for the Applicant Companies.

ORDER

1. Heard the Ld. Counsel for the Applicant Companies.

2. Ld. Counsel for the Applicant Companies submits that the Applicant Companies have proposed a Scheme of Amalgamation of *Iluminar Media Limited* ("**First Applicant Company"** or **Transferor Company**") with *Nykaa Fashion Limited* ("**Second Applicant Company**" or "**Transferee Company**") and their respective Shareholders under *Sections 230 to 232 and other applicable provisions of the Companies Act, 2013*.

3. Ld. Counsel for the Applicant Companies submits that the Scheme also provides for various other matters consequent and incidental thereto. The First Applicant Company is a **wholly owned subsidiary** of the Second Applicant Company.

4. Ld. Counsel for the Applicant Companies submits that the **Board of Directors** of the Applicant Companies *vide* their respective Board Resolutions dated ***10th October 2024*** have approved the Scheme. The Appointed Date means the opening business hours of ***1st April 2024***, or such other date as may be decided by the respective Board of the Applicant Companies.

5. Ld. Counsel for the Applicant Companies submits that the registered offices of the Applicant Companies are situated in Mumbai, Maharashtra and hence, the subject matter of the captioned Company Scheme Application is within the jurisdiction of this Tribunal.

6. Ld. Counsel for the Applicant Companies submits that the **First Applicant Company** is *inter alia* engaged in the business of digital media marketing and advertising services on online portal and website. The **Second Applicant Company** is *inter alia*, engaged in the business of selling and distribution of fashion garments and fashion accessories through online channels i.e., its online platforms or websites, other online applications and retail outlets, general trade and modern trade.

7. The Learned Counsel for the Applicant Companies submit that the circumstances and / or reasons and / or grounds that have necessitated and / or justified the Scheme and some of the major benefits which would accrue from the Scheme are briefly stated below:

The Transferee Company is desirous of consolidating the assets and liabilities of the Transferor Company pursuant to the amalgamation. The Scheme provides for the amalgamation of the Transferor Company with the Transferee Company and will result in the following benefits:

A. *Streamlining of the corporate structure and consolidation of assets and liabilities of the Transferor Company within the Transferee Company;*

B. *Drive synergies in technology infrastructure and collaboration with all the stakeholders of the companies;*

C. *More efficient utilization of capital for enhanced development and growth of the consolidated business in one entity;*

D. *Easier implementation of corporate actions through simplified compliance structure;*

E. *Cost savings through legal entity rationalisation and consolidation of support functions, business processes, elimination of duplicate expenses, etc.;*

F. *Improve management oversight and bring in operational efficiencies; and;*

G. *Reduction of administrative responsibilities, multiplicity of records and legal & regulatory compliances.*

The Scheme is therefore in the interest of the Transferor Company, the Transferee Company, their respective shareholders and all other stakeholders of the companies.

8. The Learned Counsel for the Applicant Companies submits that the Share Capital Structure of the First Applicant Company as on the date of its Board approving the scheme is as under:

Particulars	Amount
Authorized Share Capital	
30,33,471 equity shares of INR 10- each	3,03,34,710
TOTAL	**3,03,34,710**
Issued, subscribed and paid-up share capital	
36,093 equity shares of INR 10 each, fully paid up	3,60,930
TOTAL	**3,60,930**

The Learned Counsel for the Applicant Companies submits that subsequent to the above date, there has been no change in the Authorised, Issued, Subscribed and Paid-up Share Capital of the First Applicant Company till the date of filing this Company Scheme Application with the Tribunal.

9. Ld. Counsel for the Applicant Companies submits that the Share Capital Structure of the Second Applicant Company as on the date of approval of the Scheme by the Board of the Second Applicant Company is as under:

Particulars	Amount
Authorized share capital	
20,00,00,000 equity shares of INR 10 each	2,00,00,00,000
TOTAL	**2,00,00,00,000**
Issued, Subscribed and Paid-up share capital	
17,50,10,000 equity shares of INR 10 each, fully paid up	1,75,01,00,000
TOTAL	**1,75,01,00,000**

Ld. Counsel for the Applicant Companies submits that the subsequent to the above date, there has been no change in the authorized, issued, subscribed and paid-up share capital of the Second Applicant Company till the date of filing this Company Scheme Application with the Hon'ble Tribunal.

10. Ld. Counsel for the Applicant Companies submits that as the First Applicant Company is a wholly owned subsidiary of the Second Applicant Company and there shall be no issue of shares as consideration for the amalgamation of the First Applicant Company with the Second Applicant Company.

11. Ld. Counsel for the Applicant Companies submits that, as on 30th September 2024, the *First Applicant Company* has ***7 (Seven) Equity Shareholders*** holding 36,093 Equity Shares of INR 10/- each and the *Second Applicant Company* has ***7 (Seven) Equity Shareholders*** holding 17,50,10,000 equity shares of INR 10/- each. It is submitted that all the Equity Shareholders of the First and Second Applicant Company have given their consent in the form of affidavits approving the proposed Scheme and for dispensation from convening and holding the meeting of the Equity Shareholders for approving the Scheme.

12. In view of consent affidavit of all the Equity Shareholders of the respective Applicant Companies, the requirement to convene and hold a meeting of the Equity Shareholders of

the First Applicant Company and Second Applicant Company is ***dispensed with***.

13. Ld. Counsel for the Applicant Companies submits that the Applicant Companies have no Preference Shareholders as on the date of filing of the present Company Scheme Application. Accordingly, the requirement of convening and holding the meeting of the Preference Shareholders of the Applicant Companies does not arise.

14. Ld. Counsel for the Applicant Companies submits that the First Applicant Company does not have any Secured Creditors. Accordingly, the requirement of convening and holding the meeting of the Secured Creditors of the First Applicant Company does not arise.

15. Ld. Counsel for the Applicant Companies submits that, the *Second Applicant Company* has ***1 Secured Creditor*** having an outstanding amount of *INR 13,85,21,347/-* and there are ***2509 Unsecured Creditors*** having an outstanding amount of *INR 4,82,12,06,664*/- in the *Second Applicant Company, as on 10th October, 2024.*

16. Ld. Counsel for the Second Applicant Company has relied upon the order passed by the coordinate bench in the matter of **Housing Development Finance Corporate Limited** in *CSA No. 243 of 2017*. However, in the present matter, the net worth of the Second Applicant Company has not demonstrated positive. Therefore, this judgment cannot be applied in the present matter. Accordingly, this Bench directs Applicant Company No. 2 to convene the meeting of

the Secured/ Unsecured Creditors for the purpose of considering and, if thought fit, approving, with or without modification(s) the proposed Scheme of Amalgamation between Applicant Companies shall be convened & held as may be decided by the Chairman.

17. This Bench directs the Applicant Company No. 2 to conduct the meeting of aforesaid Secured/ Unsecured Creditors of the Applicant Company No. 2. That the meeting of the Secured/ Unsecured Creditors of the Applicant Company No. 2 will be conducted within **50 days** from the date of receipt of order. The meeting will be convened and held for the purpose of considering and, if thought fit, approving with or without modification(s) the Scheme of Amalgamation.

18. At least **30 clear days** before the meeting of the aforesaid Secured/ Unsecured Creditors of the Applicant Company No. 2 to be held as aforesaid, a notice convening the said Meeting at the place, day, date and time aforesaid, together with a copy of the Scheme, a copy of the Explanatory Statement required to be sent under Section 230 of the Companies Act, 2013 and the prescribed form of proxy, shall be sent by *Registered Post-AD/ Speed Post and through email* to each of the Secured/ Unsecured Creditors of the Applicant Company No. 2 at their respective registered or last known addresses or by e-mail to the registered e-mail address of the Secured/ Unsecured Creditors as per the records of the Applicant Company No. 2 or can be obtained free of charge at the registered office of the Applicant Company as aforesaid. The Applicant Company No. 2 shall

publish the notice within **30 days** for convening the meeting of Secured/ Unsecured Creditors in '***Business Standard***' in English and '***Navshakti***' in Marathi having circulation in the State of Maharashtra in which the registered office of the company is situated.

19. The Applicant Company No. 2 undertakes to:

    i. Issue notice convening meeting of the Secured/ Unsecured Creditors as per *Form No. CAA.2 (Rule 6) of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016*;

    ii. Issue statement containing all the particulars as per *Section 230 of the Companies Act, 2013*;

    iii. Issue form of proxy as per *Form No. MGT-11 (Rule 19) of the Companies (Management and Administration) Rules, 2014*; and

    iv. Advertise the notice convening meeting as per *Form No. CAA.2 (Rule 7) the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016*.

20. **Mr. Mitesh Shah** shall be the Chairperson of the meeting of Secured/ Unsecured Creditors of the Applicant Company No. 2. The Scrutinizer for the meeting of the Applicant Company No. 2 shall be **Mr. Ramachandran Venkatraman**, a Practicing Company Secretary.

21. The Chairperson appointed for the aforesaid Secured/ Unsecured Creditors of the Applicant Company No. 2 to

issue the notices of the meeting referred to above. The said Chairperson shall have all powers under the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 in relation to the conduct of the meeting(s), including for deciding procedural questions that may arise or at any adjournment thereof or any other matter including an amendment to the Scheme or resolution, if any, proposed at the meeting by any person(s).

22. The quorum for the aforesaid meeting of the Secured/ Unsecured Creditors of the Applicant Company No. 2 shall be as prescribed under *Section 103 of the Companies Act, 2013*.

23. Ld. Counsel for the Applicant Companies submits that the voting by proxy or authorized representative in case of body corporate be permitted, provided that a proxy in the prescribed form/ authorization duly signed by the person entitled to attend and vote at the meeting, is filed with all the Applicant Company No. 2 at its Registered Office not later than, 48 hours before the aforesaid Secured/ Unsecured Creditors meeting as required under *Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016*.

24. The value and number of the shares of each member shall be in accordance with the books/ register of the Applicant Company No. 2 or depository records and where the entries in the books / register / depository records are disputed, the Chairperson of the Meeting shall determine the value for the

purpose of the aforesaid meeting and his decision in that behalf would be final.

25. The Chairperson to file an affidavit not less than **7 (seven) days** before the date fixed for the holding of the meeting and to report to this Tribunal that the direction regarding the issue of notices and advertisement have been duly complied with as per *Rule 12 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.*

26. The Chairperson to report to this Tribunal, the result of the aforesaid meeting within **7 (seven) days** of the conclusion of the meeting, as per *Rule 14 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.*

27. That Counsel for the Applicant Companies submits that since the Scheme is an amalgamation between the Applicant Company No. 2 and their respective Secured/ Unsecured Creditors, a meeting of the Secured/ Unsecured Creditors of the Applicant Company No. 2 is proposed to be held in accordance with the provisions of *Section 230(1)(b) of the Companies Act 2013.*

28. Mr. Mitesh Shah, Mob: 9820464964, Email: csmjshah@gmail.com, is hereby appointed as the Chairperson for the aforesaid meetings of the Applicant Company No. 2. The fees to be paid to the chairman would be *Rs.2,00,000/-* Only for the Meeting. Mr. Ramachandran Venkatraman, Mob: 9821447548, Email: vrassociates.pcs@gmail.com is hereby appointed as a

Scrutinizer for the meeting of the Applicant Company No. 2. The Scrutinizer shall be paid *Rs.50,000/-* for the meeting.

29. Ld. Counsel for the Applicant Companies submits that, as on 10th October 2024, the First Applicant Company has no Unsecured Creditors. Accordingly, the requirement of convening and holding the meeting of the Unsecured Creditors of the First Applicant Company does not arise.

30. The Applicant Companies are directed to serve notices along with a copy of the Scheme under the provisions of *Section 230 (5) of the Companies Act, 2013 and Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016*, upon the –
    a. Central Government through the office of Regional Director (Western region), Mumbai.
    b. Jurisdictional Registrar of Companies, Maharashtra, Mumbai.
    c. Income Tax Authority for the First Applicant Company at Jurisdiction: Circle 10(1), C. R. Building Delhi (PAN: AADCI2004E); and the Second Applicant Company at Jurisdiction: Circle 6(1)(2), Mumbai, Aayakar Bhavan, Mumbai (PAN: AAGCN3932M); the Nodal Officer, Income Tax Department at Principal CCIT, Mumbai 3rd Floor, Aayakar Bhawan, Maharishi Karve Road, Mumbai – 400 020, Maharashtra;
    d. Goods & Services Tax Department for the First Applicant Company at GST ward – 100, Department of Trade and Taxes, GNCTD, 10th Floor, Vyapar Bhawan, I.P. Estate, New Delhi – 110002; and the Goods &

Services Tax Department for the Second Applicant Company at Jurisdiction: MUMBAI-LTU-543 Mumbai North-East Zone, Mulund Division, Charge-Mulund West 505, Mumbai, Maharashtra;

e. Ministry of Corporate Affairs; and

f. Any other Sectoral/ Regulatory Authorities relevant to the Applicant Companies or their business.

The Transferor Company is also directed to serve the Copy of Scheme upon Official Liquidator, pursuant to *Section 230(5) of the Companies Act, 2013 and as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016*.

31. The Notice shall be served through by Registered Post-AD/Speed Post and through email along with copy of scheme and state that "*If no response is received by the Tribunal from the concerned Authorities within 30 days of the date of receipt of the notice it will be presumed that the concerned Authorities has no objection to the proposed Scheme*". It is clarified that notice service through courier shall be taken on record only in cases where it is supported with Proof of Delivery having acknowledgement of the noticee.

32. The Applicant Companies will submit –

i. Details of Corporate Guarantee, Performance Guarantee and Other Contingent Liabilities, if any.

ii. List of pending IBC cases, if any, along with all other litigation pending against the Applicant Companies having material impact on the proposed Scheme.

iii. The Applicant Companies shall submit details of all Letters of Credit sanctioned and utilized as well as Margin Money details; if any.

33. The Applicant Companies shall file an affidavit of service **within 10 working days** after serving to notice to all the regulatory authorities as stated above and do report to this Tribunal that the directions regarding the issue of notices have been duly complied with

Sd/-
Sanjiv Dutt
Member (Technical)

Sd/-
Kishore Vemulapalli
Member (Judicial)