

**THE NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, CHANDIGARH**

**CA (CAA) No. 45/Chd/Hry/2023
(1st Motion)**

**Under Sections 230 to 232 of the
Companies Act, 2013 read with
Companies (Compromise,
Arrangements and Amalgamations)
Rules, 2016**

IN THE MATTER OF SCHEME OF AMALGAMATION OF:

GMR AIRPORTS LIMITED

with its registered office at
TEC Cybercity, Level 18, Tower A, Building No. 5,
DLF Cyber City, DLF Phase– III,
Gurugram– 122002, Haryana, India.
PAN: AAACM7791H
CIN: U65999HR1992PLC101718

...Applicant Company No.1/Transferor Company No. 1

And

GMR INFRA DEVELOPERS LIMITED

with its registered office at
Unit No. 12, 18th Floor, Tower A, Building No.5,
DLF Cyber City, DLF Phase-III,
Gurugram-122002, Haryana, India.
PAN: AAGCG7159M
CIN: U74999HR2017PLC113214

...Applicant Company No.2/Transferor Company No. 2

And

GMR AIRPORTS INFRASTRUCTURE LIMITED

with its registered office at
Unit No. 12, 18th Floor, Tower A, Building No. 5,
DLF Cyber City, DLF Phase– III,
Gurugram– 122002, Haryana, India
PAN: AABCG8889P
CIN: L45203HR1996PLC113564

...Applicant Company No.3/Transferee Company

Order delivered on: 10.10.2023

**Coram: HON'BLE MR. HARNAM SINGH THAKUR, MEMBER (JUDICIAL)
HON'BLE MR. SUBRATA KUMAR DASH, MEMBER (TECHNICAL)**

Present: -

For the Applicant Companies: Munisha Gandhi Sr. Adv, Eshna Kumar Adv,
Anand Mukherjee Adv, Prachi Bhatia Adv

Per: Harnam Singh Thakur, Member (Judicial)

Order

This is a joint First Motion Application filed by Applicant Company Nos. 1, 2 and 3; **GMR Airports Limited** (for short hereinafter referred to as Applicant Company No.1/Transferor Company No. 1), **GMR Infra Developers Limited** (for short hereinafter referred to as Applicant Company No.2/Transferor Company No. 2) and **GMR Airports Infrastructure Limited**(for short hereinafter referred to as Applicant Company No.3/Transferee Company) under Section 230-232 of the Companies Act, 2013 (the Act) and other applicable provisions of the Act read with Companies (Compromises, Arrangements, and Amalgamations) Rules, 2016 (the Rules) in relation to the Scheme of Amalgamation between the Companies. The said Scheme is attached as Annexure A-1 of the Application.

2. The Applicant Companies have prayed for dispensing with the requirement of convening the meeting of the Equity Shareholders of the Applicant Company No. 1 and Applicant Company No. 2, Preference Shareholders of Applicant Company No.1, Secured and Unsecured Creditors of Applicant Company No. 1 to 3. It is further, prayed for convening the meeting of Equity Shareholders of Applicant Company No. 3.

3. The Applicant Company No.1 is engaged in the business of holding the shares and securities of, and lending funds to, group companies, which, in turn own, develop, manage and/or operate airports and related infrastructure in India and abroad. The Applicant Company No.2 is engaged in the business of infrastructure construction services. The Applicant Company No.3 is engaged in the business of infrastructure activities, executing projects either by itself or through special purpose vehicles, providing supporting activities, as well as supervisory and management functions, to its group entities.

4. It is submitted that the registered offices of the Applicant Companies are situated in Haryana, therefore, all the Applicant companies are under the territorial jurisdiction of this Bench.

5. The benefits of the Scheme is given below:-

- (a) consolidation of the business of the Applicant Companies, leading to synergies of operations and resulting in the expansion and long-term sustainable growth of each Applicant Company's business, which will create greater value for the resultant entity (i.e., the amalgamated Transferee Company);
- (b) streamlining the corporate organizational structure of the Applicant Companies by reducing the number of legal entities involved in the business, and by reducing the number of layers of legal entities. This would provide several benefits, including enhanced managerial focus in a single amalgamated entity (being the Transferee Company), seamless implementation of policy changes, reduction in the multiplicity of legal and regulatory compliances,

costs rationalization and enhancement of the efficiency and control of the Applicant Companies, as well as improving the mechanisms for upstreaming of free cash flows and shareholder returns. This, in turn, will also assist shareholders and investors in better understanding and evaluating the structure and strength of the operations of the Transferor Companies, with the Transferee Company also being more attractive to investors looking to invest in the airports sector;

- (c) ensuring a stronger and wider capital and financial base for the Transferee Company, along with greater access to capital, the reduction of cost of capital, and efficient and optimal utilisation of cash resources of the Applicant Companies, and thereby facilitating future growth and expansion;
- (d) bringing about greater integration, operational and organisational rationalisation and effective utilisation of the combined resources of the Applicant Companies to enhance the operational efficiency of the Transferee Company; and
- (e) enabling greater economies of scale and reduction in/avoiding duplication of overheads, administrative, managerial and other common costs, and adoption of an integrated approach to internal policies, including those pertaining to remuneration, employee benefits, workplace rules and policies.

6. It is stated that the Board of Directors of Applicant Companies in their respective meetings held on 19.03.2023 have considered and unanimously approved the Scheme of Amalgamation subject to sanctioning of the same by this Tribunal. The copies of the Board Resolutions of Applicant Companies are attached as Annexure A-8, Annexure A-9 and Annexure A-10 of the application.

7. The appointed date of the Scheme is 01.04.2023 as mentioned in Part-A Clause 2.1.4 of Scheme of Amalgamation which is attached as Annexure A-1 of the application.

8. It is stated that Applicant Companies have filed the audited financial statements as on 31.03.2023 and unaudited financial results as on 30.06.2023 which are attached as Annexure A-3, A-5 and A-7 respectively of the application.

9. It is further submitted that Applicant Companies have filed certificate dated 19.03.2023 duly certified by independent auditors of applicant companies certifying that the Scheme is in compliance with the Accounting Standards under Section 133 of the Act and the same are attached as Annexure A-38, A-39 and A-40 of the application.

10. It is further submitted by the Applicant Company No.1 and Applicant Company No.2 that Valuation Report dated 19.03.2023 is submitted by KPMG Valuation Services LLP, bearing registration No. IBBI/RV/05/2019/10673 is attached as Annexure A-32 of the application. The Share Exchange Ratio as per the conclusion of the valuation report is given below:-

“In light of the above, and on a consideration of all the relevant factors and circumstances as discussed and outlined herein above, we recommend the following Security Exchange Ratio for proposed amalgamation of GMR Airports Limited and GMR Infra Developers Limited ("Proposed Transaction I") and for the proposed amalgamation of resulting entity after Proposed Transaction I and GMR Airports Infrastructure Limited ("proposed Transaction 2"):

Share Exchange Ratio 1:

15,918 (Fifteen Thousand Nine Hundred Eighteen Only) equity share of GIDL of INR 10/- each fully paid up for every 1,000 (One Thousand Only) equity shares of GAL of INR 10/- each fully paid up.

OCRPS Exchange Ratio 1:

15,918 (Fifteen Thousand Nine Hundred Eighteen Only) OCRPS of GIDL of INR 400/- each fully paid up for every 40,000 (Forty Thousand Only) equity shares of GAL of INR 10/- each fully paid up.

NCD Exchange Ratio 1:

1 (One) NCD of GIDL for every 1 (one) NCD of GAL.

Share Exchange Ratio 2:

10,000 (Ten Thousand Only) equity share of GIL of INR 1/- each fully paid up for every 18,659 (Eighteen Thousand Six Hundred Fifty-Nine Only) equity shares of GIDL of INR 10/- each fully paid up.

OCRPS Exchange Ratio 2

10,000 (Ten Thousand Only) OCRPS of GIL of INR 40/- each fully paid up for every 18,659 (Eighteen Thousand Six Hundred Fifty-Nine Only) OCRPS of GIDL of INR 400/- each fully paid up.

NCD Exchange Ratio 2:

1 (One) NCD of GIL for every 1 (one) NCD of GIDL.

Resultant Share Exchange Ratio:

8,531 (Eight Thousand Five Hundred Thirty-One Only) equity share of GIL of INR 1/- each fully paid up for every 1,000 (One Thousand Only) equity shares of GAL of INR 10/- each fully paid up.

It is further submitted by the Applicant Company No.3 that Valuation Report dated 19.03.2023 is submitted by Ernst & Young Merchant Banking Services LLP bearing registration No. IBBI/RV-E05/2021/155 is attached as Annexure A-36 of the application. The Share Exchange Ratio as per the conclusion of the valuation report is given below:-

“In light of the above, and on a consideration of all the relevant factors and circumstances as discussed and outlined hereinabove, we recommend the following Fair Share Exchange Ratio and Fair OCRPS Exchange

Ratio for the proposed amalgamation of GAL into GIDL and subsequent amalgamation of GIDL into GIL:

15,918 (Fifteen Thousand Nine Hundred Eighteen) equity shares of GIDL of INR 10/- each fully paid up for every 1,000 (One Thousand) equity shares of GAL of INR 10/- each fully paid up.

15,918 (Fifteen Thousand Nine Hundred Eighteen) OCRPS of GIDL of INR 400/- each fully paid up for every 40,000 (Forty Thousand) equity shares of GAL of INR 10/- each fully paid up.

10,000 (Ten Thousand) equity shares of GIL of INR 1/- each fully paid up for every 18,659 (Eighteen Thousand Six Hundred Fifty Nine) equity shares of GIDL of INR 10/- each fully paid up.

10,000 (Ten Thousand) OCRPS of GIL of INR 40/- each fully paid up for every 18,659 (Eighteen Thousand six Hundred Fifty Nine) OCRPS of GIDL of INR 400/- each fully paid up.

11. It is submitted by the learned counsel that the Scheme also takes care of the interests of the staff/workers and employees of the Applicant Companies, by virtue of Clause 5.2.5 and Clause 9.2.5 of the Scheme (Annexure A-1 of the application).

12. It is submitted that equity shares of the Applicant Company No.3 are listed on the BSE and NSE and the Applicant Company No. 1 has certain debt securities issued by it being listed on the BSE, the Applicant Company No.3 had filed the Scheme with the BSE and NSE and the Applicant Company No.1 had filed the Scheme with the BSE. The BSE and NSE have given their No-Objection to the filing of the Scheme (Annexure A-41 and A-42 of the application).

The Applicant Companies submit that the necessary notification form has been jointly filed with the Competition Commission of India (“**CCI**”) on 24.03.2023 under the green channel procedure. The CCI has acknowledged such notification, pursuant to which the combination is deemed to have been approved. (Annexure A-43 of the application).

The Reserve Bank of India (“**RBI**”) has issued a communication on 10.07.2023 to Applicant Company No.1 informing no objection to the Scheme. (Annexure A-44 of the application).

It is further mentioned that the Scheme being filed herein is not a corporate debt restructuring scheme and hence a creditor’s responsibility statement and other requirements under Section 230 (2) (c) are not applicable to the present case.

13. It is deposed by way of affidavit that there are no legal proceedings initiated or pending against the Applicant Companies, which may cause any adverse effect of the sanction or implementation of this Scheme of Amalgamation or may have any adverse impact on the Applicant Companies. (Annexure A-51 to Annexure A-53)

14. **The Applicant Companies have furnished the following documents:-**

- i. Proposed Scheme of Amalgamation (Annexure A-1 of the application).
- ii. The Memorandum and Articles of Association of the Applicant Companies (Annexure A-2, A-4 & A-6 respectively of the application).
- iii. List of Equity Shareholders of the Applicant Company No. 1 as on 30.06.2023 duly certified by K.S. Rao and Co., Chartered Accountants a no long with their consent affidavits (Annexure A-11 and A-12 of the application).

- iv. List of Equity Shareholders of the Applicant Company No. 2 as on 30.06.2023 duly certified by Chatterjee & Chatterjee, Chartered Accountants along with their consent affidavits (Annexure A-19 and A-20 of the application).
- v. List of top 10 Equity Shareholders of the Applicant Company No. 3 and its shareholding pattern as on as on 30.06.2023 duly certified by CGR & Co., Chartered Accountants (Annexure A-25 of the application).
- vi. List of Preference Shareholders of the Applicant Company No. 1 as on 30.06.2023 duly certified by K.S. Rao and Co., Chartered Accountants along with their consent affidavits (Annexure A-13 and A-14 of the application).
- vii. No Preference Shareholders of the Applicant Company No. 2 as on 30.06.2023 duly certified by Chatterjee & Chatterjee, Chartered Accountants(Annexure A-21 of the application).
- viii. No Preference Shareholders of the Applicant Company No. 3 as on as on 30.06.2023 duly certified by CGR & Co., Chartered Accountants(Annexure A-27 of the application).
- ix. List of Secured Creditor of the Applicant Company No.1 as on 30.06.2023 duly certified by K.S. Rao and Co., Chartered Accountants along with their consent affidavits(Annexure- A-15 and A-16 of the application).
- x. No Secured Creditor of the Applicant Company No.2 as on 30.06.2023 duly certified by Chatterjee & Chatterjee, Chartered Accountants(Annexure- A-22 of the application).

- x. List of Secured Creditor of the Applicant Company No.3 as on as on 30.06.2023 duly certified by Walker Chandiook & Co. LLP along with their consent affidavits (Annexure- A-28 and A-29 of the application).
- xii. List of Unsecured Creditors of the Applicant Company No.1 as on 30.06.2023 duly certified by K.S. Rao and Co., Chartered Accountants along with their consent affidavits (Annexure- A-17 and A-18 of the application).
- xiii. List of Unsecured Creditors of the Applicant Company No.2 as on 30.06.2023 duly certified by Chatterjee & Chatterjee, Chartered Accountants along with their consent affidavits (Annexure- A-23 and A-24 of the application)
- xiv. List of Unsecured Creditor of the Applicant Company No.3 as on as on 30.06.2023 duly certified by Walker Chandiook & Co. LLP along with their consent affidavits (Annexure- A-30 and A-31 of the application).
- xv. Certificate of Statutory Auditors of Applicant Companies to the effect that the Accounting treatment proposed in the Scheme is in conformity with Section 133 of the Companies Act, 2013 (Annexure A-38, A-39 and A-40 of the application).
- xvi. Audited Financial Statement as on 31.03.2023 of the Applicant Companies along with unaudited financial results on 30.06.2023 (Annexure A-3, A-5 and A-7 respectively of the application).
- xvii. Proposed Share Exchange Ratio (Annexure A-32, A-34 and A-36 of the application).

15. The Applicant Companies have furnished the details of the Equity Shareholders, Preference Shareholders, Secured Creditors and Unsecured Creditors as follows:

Name of the Applicant Company	No. of Equity Shareholders as on 30 th June 2023	Consent Given	No. of Preference Shareholders as on 30 th June 2023	Consent Given	No. of Secured Creditors as on 30 th June 2023	Consent Given	No. of Unsecured Creditors as on 30 th June 2023	Consent Given (% in value)
Applicant No.1/ Transferor Company 1	8	100%	3	100%	1	100%	303	96.87%
Applicant No.2/ Transferor Company 2	7	100%	Nil	NA	NIL	NA	4	99.94%
Applicant No.3/ Transferee Company	4,43,708	Meetings to be convened	NIL	NA	1	100%	70	92.67%

16. Accordingly, the directions of this Bench in the present case are as under:-

I. In relation to Applicant Company No.1/Transferor Company No. 1:

- a. The meetings of the Equity Shareholders of Applicant Company No.1/Transferor Company No. 1 is dispensed with keeping in view the fact that the consent by way of affidavits have been received from all the shareholders;
- b. The meetings of the Preference Shareholders of Applicant Company No.1/Transferor Company No. 1 is dispensed with keeping in view the fact that the consent by way of affidavits have been received from all the shareholders;

- c. The meetings of the Secured Creditors of Applicant Company No.1/Transferor Company No. 1 is dispensed as the consent by way of affidavits have been received from all the secured creditors;
- d. The meetings of the Unsecured Creditors of Applicant Company No.1/Transferor Company No. 1 is dispensed as the consent by way of affidavits have been received from 96.87% unsecured creditors;

II. In relation to Applicant Company No.2/Transferor Company No. 2:

- a. The meetings of the Equity Shareholders of Applicant Company No.2/Transferor Company No. 2 are dispensed with keeping in the fact that the consent by way of affidavits have been received from all the shareholders;
- b. Since, there are Nil Preference Shareholders in the Applicant Company No.2/Transferor Company No. 2. Therefore, there is no scope for any meeting.
- c. Since, there are Nil Secured Creditors in the Applicant Company No.2/Transferor Company No. 2. Therefore, there is no scope for any meeting.
- d. The meeting of the Unsecured Creditors of the Applicant Company No.2/Transferor Company No. 2 is dispensed with as consent of the 99.94% Unsecured Creditors have been received by way of affidavits.

III. In relation to Applicant Company No.3/Transferee Company:

- a. The meeting of the Equity Shareholders of the Applicant Company No.3/Transferee Company be convened as prayed for on 2nd December, 2023 (Saturday) at 10:00 AM through video conferencing with facility of remote e-voting, subject to notice of the meeting being

issued through electronic means. The quorum of the meeting of the Equity Shareholders shall be 1,77,483 in numbers or 40% in value of Equity Shareholders.

- b. Since, there are Nil Preference Shareholders in the Applicant Company No.3/Transferee Company, therefore, there is no scope for any meeting.
- c. The meetings of the Secured Creditors of Applicant Company No.3/Transferee Company is dispensed as the consent by way of affidavits have been received from all the secured creditors;
- d. The meetings of the Unsecured Creditors of Applicant Company No.3/Transferee Company is dispensed as the consent by way of affidavits have been received from 92.67% unsecured creditors;

IV. In case the required quorum as noted above for the meetings is not present at the commencement of the meeting, the meeting shall be adjourned by 30 minutes and thereafter the persons present shall be deemed to constitute the quorum.

V. Mr. Balvinder Singh, Retd. Member (T), NCLAT, Residential Address- House No. 67, Sector 69, Mohali (160062), Mobile No. 9868151511, Email Id : navi6769@hotmail.com, is appointed as the Chairperson for the meetings to be called under this order. An amount of ₹2,00,000/- (Rupees Two Lakhs Only) be paid for his services as the Chairperson.

VI. Mr. Ranvijay Singh Rana (P-4116/16), Mobile No. 8360833307, 9882222203, Email Id : [rnvjrana31 @ gmail.com](mailto:rnvjrana31@gmail.com) is appointed as the Alternate Chairperson for the meetings to be called under this order. An

amount of ₹1,50,000/- (Rupees One Lakh Fifty Thousand Only) be paid for her services as the Alternate Chairperson.

- VII.** Mr. K.V. Singhal, Advocate, Mobile No. 9914030030, Email Id : kvsinghal@gmail.com, Address: House No: 399, Sector-12A, Panchkula, Haryana is appointed as the Scrutinizer for the above meetings to be called under this order. An amount of ₹1,00,000/- (Rupees One Lakh Only) be paid for his services as the Scrutinizer.
- VIII.** The fee of the Chairperson, Alternate Chairperson and Scrutinizer and other out of pocket expenses for them shall be borne by the Applicant Company No.3.
- IX.** It is further directed that along with the notices, Applicant Company No. 3 shall also send, statements explaining the effect of the scheme on the creditors, key managerial personnel, promoters and non-promoter members, etc. along with the effect of the scheme of amalgamation on any material interests of the Directors of the Company or the debenture trustees if any, as provided under sub-section (3) of Section 230 of the Act.
- X.** It is also directed that the unaudited financial results of Applicant Companies as on 30.03.2023 be also circulated for the aforesaid meeting(s) in terms of Section 232 (2) (e) of the Act.
- XI.** That the Applicant Company No.3 shall publish an advertisement with a gap of at least 30 clear days before the aforesaid meeting, indicating the day, date and place and the time of the meeting as aforesaid, to be published in “Financial Express” (English) and “Jansatta” (Hindi), both in Delhi NCR Edition. The publication shall also indicate that the explanatory

statement required to be furnished pursuant to Sections 230 & 232 read with Section 102 of the Companies Act, 2013 can be obtained free of charge at the registered office of the Applicant Companies. The Applicant Company No.3 shall also publish the notice on its website, if any.

- XII.** Voting shall be allowed on the “Scheme” through electronic means which will remain open for a period as mandated under Clause 8.3 of Secretarial Standards on General Meetings to the Applicant Companies under the Act and the Rules framed thereunder.
- XIII.** The Scrutinizer’s report will contain his/her findings on the compliance to the directions given in Para VIII to XII above.
- XIV.** The Chairperson shall be responsible to report the result of the meeting to the Tribunal in Form No. CAA-4, as per Rule 14 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 within 7 (seven) days of the conclusion of the meeting. The Chairperson would be fully assisted by the authorized representative/Company Secretary of the Applicant Companies and the Alternate Chairperson. The Scrutinizer will assist the Hon’ble Chairperson and Alternate Chairperson in preparing and finalizing the report.
- XV.** The Applicant Company No. 3 shall in compliance of sub-section (5) of Section 230 of the Act and Rule 8 of Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 send notices in Form No. CAA-3 along with copy of the Scheme, Explanatory Statement and the disclosures mentioned in Rule 6 of the “Rules” to , to Regional Director, Northern Region, Ministry of Corporate Affairs, B-2 Wing, 2nd Floor, Pd. Deendayal Antyodaya Bhavan, CGO Complex, New Delhi- 110003;

Registrar of Companies, NCT of Delhi and Haryana, 4th Floor, IFCI Tower, 61, Nehru Place, New Delhi-110019; Official Liquidator, (attached to the High Court of Punjab & Haryana), Corporate Bhawan, 2nd Floor, Plot No. 4B, Sector 27B, Madhya Marg, Chandigarh-160019; Income Tax Department(s) having jurisdiction over the Applicant/Transferor Company 1, i.e. The Deputy Commissioner of Income-tax, Circle-2(2), 3rd Floor, Central Revenue Building, Queen's Road, Bangalore - 560 001. State – Karnataka; Applicant/Transferor Company 2, i.e. The Income Tax Officer, Ward – 14(1)(1), Aayakar Bhavan, Maharishi Karve Road, Mumbai – 400 020, State – Maharashtra and Applicant/Transferee Company, i.e. The Deputy Commissioner of Income-Tax, Circle-2(2), 3rd Floor, Central Revenue Building, Queen's Road, Bangalore - 560 001, State – Karnataka; Securities and Exchange Board of India (“SEBI”), Plot No. C4-A, 'G' Block, Bandra-Kurla Complex, Bandra (East), Mumbai – 400051, Maharashtra; BSE Limited, Dalal Street, Phiroze Jeejeebhoy Towers, Mumbai 400001; National Stock Exchange of India Limited, Exchange Plaza, Plot No. C/1, G Block, Bandra-Kurla Complex Bandra (E), Mumbai - 400 051; Reserve Bank of India, 6, Sansad Marg, New Delhi – 110001, and to such other Sectoral Regulator(s) governing the business of the Applicant Companies, if any, stating that report on the same, if any, shall be sent to this Tribunal within a period of 30 days from the date of receipt of such notice and copy of such report shall be simultaneously sent to the applicant companies, failing which it shall be presumed that they have no objection to the proposed Scheme.

- XVI.** The Applicant Companies shall furnish a copy of the Scheme free of charge within one day of any requisition for the Scheme made by any creditor or member/shareholder entitled to attend the meeting as aforesaid.
- XVII.** The authorized representative of the Applicant Company No.3 shall furnish an affidavit of service of notice of meeting and publication of advertisement and compliance of all directions contained herein at least a week before the proposed meeting.
- XVIII.** All the aforesaid directions are to be complied with strictly in accordance with the applicable laws including forms and formats contained in the Rules as well as the provisions of the Companies Act, 2013 by the Applicant Companies
17. With the aforesaid directions, this First Motion Application stands disposed of. A copy of this order be supplied to the learned counsel for the Applicant Companies who in turn shall supply a copy of the same to the Chairperson, Alternate Chairperson and the Scrutinizer immediately.

Sd/-

(Subrata Kumar Dash)
Member (Technical)

Sd/-

(Harnam Singh Thakur)
Member (Judicial)

October 10, 2023
SM/TBG