

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV**

CA (CAA)/121/MB-IV/2023

*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 Arrangement
Among*

**Tata Power Solar Systems
Limited**

("First Applicant Company")

And

Chirasthaayee Saurya Limited

("Second Applicant Company")

And

**Tata Power Renewable Energy
Limited**

("Third Applicant Company")

*And their respective Shareholders.
('Scheme' or 'the Scheme')*



IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV

CA (CAA)/121/MB-IV/2023

Tata Power Solar Systems Limited
[CIN: U40106MH1989PLC330738] ... Applicant Company No. 1/
Amalgamating Company-1/
Transferor Company-1

Chirasthaayee Saurya Limited
[CIN: U40101MH2016PLC330252] ... Applicant Company No. 2/
Amalgamating Company-2/
Transferor Company-2

Tata Power Renewable Energy Limited
[CIN: U40108MH2007PLC168314] ... Applicant Company No. 3/
Amalgamated Company/
Transferee Company

Order delivered on **25.08.2023**

Coram:

Mr. Prabhat Kumar
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances :

For the Applicant : Mr. Gaurav Joshi, Senior
Advocate, Mr. Tapan
Deshpande, Advocate and Mr.
Aekaanth Nair, Advocate
instructed by M/s. Cyril
Amarchand Mangaldas,
Advocates for Applicant
Companies.

ORDER

Per: Kishore Vemulapalli, Member (Judicial)

1. Heard the Ld. Sr. Counsel for the Applicant Company.
2. The Learned Senior Advocate submits that the Applicant Companies have filed the present Company Application (hereinafter referred to as "Application"), under Section



IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV

CA (CAA)/121/MB-IV/2023

232 read with section 230 and other applicable provisions of the Companies Act, 2013 (hereinafter referred to as the "Act") and in terms of Rule 3 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, seeking directions from this Tribunal in relation to the holding/dispensation of the meetings of Equity Shareholders, Preference Shareholders, Secured Creditors and Unsecured Creditors of the respective Applicant Companies, as the case may be, seeking their approval to the Composite Scheme of Arrangement among Tata Power Solar Systems Limited (hereinafter referred to as the "Applicant Company No. 1"/ "Transferor Company-1"/ "Amalgamating Company-1"), Chirasthaayee Saurya Limited (hereinafter referred to as the "Applicant Company No. 2"/ "Transferor Company-2"/ "Amalgamating Company-2") (hereinafter collectively referred to as the "Transferor Companies"/ "Amalgamating Companies") and Tata Power Renewable Energy Limited (hereinafter referred to as the "Applicant Company No. 3"/ "Transferee Company"/ "Amalgamated Company") (hereinafter collectively referred to as the "Applicant Companies") under section 232 read with section 230 of the Companies Act, 2013 (hereinafter referred to as the "Scheme").

3. That the Board of Directors of Applicant Companies have approved the Scheme with the Appointed Date as April 1, 2023 in their board meetings held on January 27, 2023, January 28, 2023 and January 23, 2023 respectively.



**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV**

CA (CAA)/121/MB-IV/2023

4. That the Applicant Company No. 1 is primarily engaged in the business of manufacturing photo-voltaic cells and modules as well as Engineering, Procurement and Construction in the solar energy market, the Applicant Company No. 2 and Applicant Company No. 3 are in the business of generation of power in India.
5. The Learned Senior Advocate submits that the authorised, issued, subscribed and paid-up share capital of Applicant Company No. 1 as on January 23, 2023 is as under:

Particulars	Amount (in INR)
<u>Authorized Share Capital</u>	
2,50,00,000 equity shares of INR 100 each	2,50,00,00,000
Total	2,50,00,00,000
<u>Issued, Subscribed and Paid up Share Capital</u>	
2,29,77,567 equity shares of INR 100 each	2,29,77,56,700
Total	2,29,77,56,700

6. The Learned Senior Advocate submits that the authorised, issued, subscribed and paid-up share capital of Applicant Company No. 2 as on January 23, 2023 is as under:

Particulars	Amount (in INR)
<u>Authorized Share Capital</u>	



IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV

CA (CAA)/121/MB-IV/2023

10,00,000 equity shares of INR 10 each	1,00,00,000
Total	1,00,00,000
<u>Issued, Subscribed and Paid up Share Capital</u>	
10,00,000 equity shares of INR 10 each	1,00,00,000
Total	1,00,00,000

7. The Learned Senior Advocate submits that the authorised, issued, subscribed and paid-up share capital of Applicant Company No. 3 as on February 28, 2023 is as under:

Particulars	Amount (in INR)
<u>Authorized Share Capital</u>	
2,50,00,00,000 equity shares of INR 10 each	25,00,00,00,000
20,00,00,000 preference shares of INR 100 each	20,00,00,00,000
Total	45,00,00,00,000
<u>Issued, Subscribed and Paid up Share Capital</u>	
1,37,94,78,180 equity shares of INR 10 each	13,79,47,81,800
20,00,00,000 preference shares of INR 100 each	20,00,00,00,000
Total	33,79,47,81,800

8. The Learned Senior Advocate submits that the Scheme provides *inter alia* for:

- i. the amalgamation of the Amalgamating Companies into the Amalgamated Company, by way of merger by absorption and the dissolution of the Amalgamating Companies without winding up and the consequent



IN THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH-IV

CA (CAA)/121/MB-IV/2023

cancellation of all issued and outstanding equity shares of the Amalgamating Companies, in accordance with this Scheme (hereinafter each referred to as an “Amalgamation” and collectively referred to as “Amalgamations”); and

- ii. various other matters incidental, consequential or otherwise integrally connected therewith; pursuant to provisions of Sections 230 - 232 and other relevant provisions, of the Act in the manner provided for in this Scheme and in compliance with the provisions of the Income Tax Act, 1961.
9. The Learned Senior Advocate further submits that the rationale and benefits for the Scheme are as follows:
- a. Applicant Company 3 is the parent company of the renewable energy portfolio of the group holding multiple special purpose vehicles (i.e., the Amalgamating Companies) engaged in generation of renewable power across India. While each of the Amalgamating Companies caters to distinct geographical locations across India, it is proposed to consolidate the businesses for creation of a single larger unified entity and reduce the number of entities within the group to achieve optimal and efficient utilization of capital; enhance operational and management efficiencies and have a simplified organizational structure.



IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV

CA (CAA)/121/MB-IV/2023

- b. Thus, the Amalgamations pursuant to this Scheme would, *inter alia*, have the following benefits:
- i. Consolidation of businesses would achieve simplification of holding structure of entities forming part of the group, improve operational and management efficiencies, streamline business operations and decision-making process and enable greater economies of scale.
 - ii. Would lead to creation of a single unified entity with a wider and stronger capital and asset base, having greater capacity for conducting its operations more efficiently and competitively.
 - iii. Reduce the number of companies within the group, as well as achieving a reduction in administrative costs, overheads and multiplicity of legal and regulatory compliances.
 - iv. Enable greater efficiency in cash management by reduction of cash traps at SPV level, which can be deployed more effectively for maximizing shareholder value;
 - v. Will result in increased financial strength and balance sheet and will facilitate financing availability;
 - vi. The group can participate more competitively and efficiently in further growth opportunities.



IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV

CA (CAA)/121/MB-IV/2023

10. The Learned Senior Advocate for the Applicant Companies submits that the Transferor Companies are direct and indirect wholly owned subsidiaries of the Transferee Company and upon this Scheme becoming effective, the shares held by the Transferee Company in the Transferor Company No.1 and the shares held by Transferor Company No. 1 in the Transferor Company No. 2 will stand cancelled and no consideration whatsoever shall pass from the Transferee Company to any of the Transferor Companies or otherwise.

11. The Learned Senior Advocate for the Applicant Companies submits that:-

That there are 7 (seven) Equity Shareholders Applicant Company No. 1 as on February 3, 2023

That there are 7 (seven) Equity Shareholders Applicant Company No. 2 as on February 3, 2023; and

That there are 8 (eight) Equity Shareholders Applicant Company No. 3 as on February 3, 2023.

The Learned Senior Advocate for the Applicant Companies further submits that each of the Applicant Companies have procured the Affidavits of Consent of each of its Equity Shareholders. In view of the fact that all the Equity Shareholders of all the Applicant Companies have given their Affidavits of Consent, the meetings of the Equity Shareholders of all the Applicant Companies are hereby dispensed with.



IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV

CA (CAA)/121/MB-IV/2023

12. That there is 1 preference shareholder in the Applicant Company No. 3 as on February 28, 2023. The sole Preference Shareholder of Applicant Company has given its Affidavit of Consent. In view of the fact that the sole Preference Shareholder of the Applicant Company has given its Affidavits of Consent, the meeting of the Preference Shareholders of the Applicant Company No. 3 is hereby dispensed with.
13. The Learned Senior Advocate for the Applicant Companies submits that :-

That there are 18 (eighteen) Secured Creditors in the Applicant Company No. 1 as on 31st January, 2023 having an aggregate of INR 630,65,24,366/- (Rupees Six Hundred Thirty Crores Sixty Five Lacs Twenty Four Thousand Three Hundred Sixty Six Only);

That there is 1 (one) Secured Creditor in the Applicant Company No. 2 as on 31st January, 2023 having an aggregate outstanding of INR 237,30,00,000/- (Rupees Two Hundred Thirty Seven Crores Thirty Lakhs only); and

That there are 7 (seven) Secured Creditors in the Applicant Company No. 3 as on January 31, 2023 having an aggregate outstanding of INR 74,30,38,87,579/- (Rupees Seven Thousand Four Hundred Thirty Crores Thirty Eight Lacs Eighty Seven Thousand Five Hundred Seventy Nine Only).



IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV

CA (CAA)/121/MB-IV/2023

The Learned Senior Advocate for the Applicant Companies further submits that each of the Applicant Companies have filed the Affidavits of Consent of all of their respective Secured Creditors before this Tribunal vide the Application vide Affidavit on behalf of Applicant Company No. 1 dated August 10, 2023, Affidavit on behalf of Applicant Company No. 2 dated August 10, 2023 and Affidavit on behalf of Applicant Company No. 3 dated August 10, 2023. In view of the fact that all the Secured Creditors of all the Applicant Companies have given their Affidavits of Consent, the meetings of the Secured Creditors of each of the Applicant Companies is hereby dispensed with.

14. That there are 2246 (Two Thousand Two Hundred Forty Six) in the Applicant Company No. 1 Unsecured Creditors as on January 31, 2023 having an aggregate outstanding of INR 1438,43,73,618/- (Rupees One Thousand Four Hundred Thirty Eight Crores Forty Three Lakhs Seventy Three Thousand Six Hundred Eighteen Only). That 111 Unsecured Creditors of the Applicant Company No. 1, having an aggregate outstanding of INR 1066,26,71,247 (One Thousand Sixty Six Crores Twenty Six Lacs Seventy One Thousand Two Hundred Forty Seven Only) comprising of 74.13% of the total outstanding unsecured debt of the Applicant Company No. 1, have given their respective Affidavits of consent and approval to the Scheme. The Learned Senior Advocate for the Applicant Companies further submits that the present Scheme inter alia includes an



IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV

CA (CAA)/121/MB-IV/2023

amalgamation between Applicant Company No. 1 and Applicant Company No. 3, i.e. amalgamation of a wholly owned subsidiary into its parent. The Applicant Company No. 1 submits that the Scheme is in no manner prejudicial to the interests of their respective Unsecured Creditors and no new shares are being issued to anyone. Further, the Scheme does not contemplate any variation in the rights and liabilities of the Unsecured Creditors of Applicant Company No. 1 or proposed to be reduced or extinguished under the Scheme. Further, post this Hon'ble Tribunal considering sanction to the Scheme, the Transferee Company, being the parent company of the Applicant Company No. 1, would continue to remain in existence and would take on the liabilities of Applicant Company No. 1. The Applicant Company No. 1 has operational assets that services its obligations currently. Post the sanction to the Scheme, the operational assets of Applicant Company No. 1 will become part of the Transferee Company which with its other operational assets will also be available to service the liabilities of the Applicant Company No. 1. In view of the submissions made above, the meeting of the Unsecured Creditors of Applicant Company No. 1 is hereby dispensed with. The Applicant Company No. 1 is directed to issue individual notice of intimation of filing of the present application and the order passed therein only to its Unsecured Creditors having an outstanding above INR 25,00,000/- (Rupees Twenty Five Lakhs only) stating therein that they may



IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV

CA (CAA)/121/MB-IV/2023

submit their representations, in relation to the Scheme, if any, to this Tribunal within 30 (thirty) days from the receipt of the said notice.

15. That there are 4 (four) Unsecured Creditors Applicant Company No. 2 as on January 31, 2023 having an aggregate outstanding of INR 66,90,95,644/- (Rupees Sixty Six Crores Ninety Lakhs Ninety Five Thousand Six Hundred Forty Four Only). Applicant Company No. 2 submits that 2 (two) Unsecured Creditors of the Applicant Company No. 2, having an aggregate outstanding of INR 66,88,43,316 (Rupees Sixty Six Crores Eighty Eight Lakhs Forty Three Thousand Three Hundred And Sixteen Only) comprising of 99.96 % of the total outstanding unsecured debt of the Applicant Company No. 2, have given their respective Affidavits of consent and approval to the Scheme. In view of the fact that Unsecured Creditors representing more than 90% in value of the unsecured debt of Applicant Company No. 2 have given their respective Affidavits of consent and approval to the Scheme, the meeting of the Unsecured Creditors of Applicant Company No. 2 is hereby dispensed with.
16. That there are 304 (Three Hundred Four) Unsecured Creditors in the Applicant Company No. 3 as on January 31, 2023 having an aggregate outstanding value of unsecured debt of INR 3445,87,89,578/- (Rupees Three Thousand Four Hundred Forty Five Crores Eighty Seven Lacs Eighty Nine Thousand Five Hundred Seventy Eight



IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV

CA (CAA)/121/MB-IV/2023

Only). Applicant Company No. 3 submits that 13 (Thirteen) Unsecured Creditors of the Applicant Company No. 3, having an aggregate outstanding of INR 3374,84,02,822/- (Rupees Three Thousand Three Hundred Seventy Four Crores Eighty Four Lacs Two Thousand Eight Hundred Twenty Two Only) comprising of 97.94% of the total outstanding unsecured debt of the Applicant Company No. 3, have given their respective Affidavits of consent and approval to the Scheme and the same have been filed with this Tribunal in the Affidavit on behalf of Applicant Company No. 3 dated August 10, 2023. In view of the fact that Unsecured Creditors representing more than 90% in value of the unsecured debt of Applicant Company No. 3 have given their respective Affidavits of consent and approval to the Scheme, the meeting of the Unsecured Creditors of Applicant Company No. 3 is hereby dispensed with.

17. The Learned Senior Advocate for the Applicant Companies submits and confirms that no application seeking Insolvency Resolution or Liquidation proceedings is filed or pending against the Applicant Companies under the Insolvency and Bankruptcy Code, 2016 or under the Act based on the information and records available in the Applicant Companies.
18. The Learned Senior Advocate submits that none of the Applicant Companies have issued/given any corporate guarantees.
19. The Learned Senior Advocate submits that:



IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV

CA (CAA)/121/MB-IV/2023

- i. Applicant Company No. 1 has issued performance guarantees as on 30th June, 2023 as under:

Name of Bank providing guarantee	Amount of performance guarantee (in crores)
AXIS Bank Limited	181.72
Bank of Baroda	78.61
HDFC Bank Limited	4.33
Indusind Bank Limited	444.94
Kotak Mahindra Bank Limited	13.80
Ratnakar Bank Limited	23.38
State Bank of India	384.42
Standard Chartered Bank	100.07
YES Bank Limited	116.75
TOTAL	1,348.02

- ii. Applicant Company No. 2 has not issued any performance guarantees as on 30th June, 2023; and
- iii. Applicant Company No. 3 has issued performance guarantees as on 30th June, 2023 as under:

Name of Bank providing guarantee	Amount of performance guarantee (INR in Crores)
ICICI Bank Limited	245.01
On behalf of subsidiaries ICICI Bank Limited	176.12
TOTAL	421.13

20. The Learned Senior Advocate submits that:

- i. Applicant Company No. 1 has the following contingent liabilities as on 30th June, 2023:



IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV

CA (CAA)/121/MB-IV/2023

Particular	Amount (in INR Crores)
Claims against the Company not acknowledged as debts, in the nature of Income Tax demands	37.26
Sales tax and VAT demands	38.07
TOTAL	75.33

- ii. Applicant Company No. 2 does not have any contingent liabilities as on 30th June, 2023; and
- iii. Applicant Company No. 3 has the following contingent liabilities as on 30th June, 2023:

Particular	Amount (in Crores)
Tax Liabilities	1.22
Guarantees provided	618.29
TOTAL	619.51

21. The Learned Senior Advocate for the Applicant Companies submits that:

- i. The details of the letters of credit facilities availed by the Applicant Company No. 1 as on 30th June, 2023 are as under:

BANK NAME	TOTAL LIMIT (IN CRORES)	LC INR	LC UTILISATION TOTAL (IN INR CRORES)
State Bank of India	750		173
Kotak Mahindra Bank Limited	850		287
Indusind Bank Limited	940		51
Yes Bank Limited	500		317



**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV**

CA (CAA)/121/MB-IV/2023

HDFC Bank Limited	449	Nil
Credit Agricole Corporation & Investment Bank	50	Nil
AXIS Bank Limited	200	85
Ratnakar Bank Limited	100	72
ICICI Bank Limited	200	Nil
Federal Bank Limited	100	Nil
IDFC Bank Limited	400	110
Bank of Baroda	250	Nil
DBS Bank India Limited	250	9
Mizuho Bank Limited	240	Nil
Standard Chartered Bank	525	27
Sumitomo Mitsui Banking Corporation	375	Nil
Societe Generale	300	177
Punjab National Bank	100	Nil
TOTAL	6,579	1,308

- ii. The Applicant Company No. 2 has not availed any letters of credit facilities as on 30th June, 2023; and
- iii. The details of the letters of credit facilities availed by the Applicant Company No. 3 as on 30th June, 2023 are as under:

BANK NAME	TOTAL LC LIMIT (in INR crores)	LC UTILISATION TOTAL (in INR Crores)
ICICI Bank Limited	200	Nil
Total	200	Nil

22. After considering the submission of the Ld. Counsel and the material available on record, this Bench directs the Applicant Companies to serve notices along with a copy



IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV

CA (CAA)/121/MB-IV/2023

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:

- i. Central Government (through the office of Regional Director, Western Region, Mumbai;
- ii. Jurisdictional Registrar of Companies;
- iii. Jurisdictional Income Tax Authority within whose jurisdiction the Applicant Company's assessment are made; and the Nodal Authority in the Income Tax Department having jurisdiction over such authority i.e. Pr. CCIT Mumbai, Address:- 3rd Floor, Aayakar Bhawan, Mahrishi Karve Road, Mumbai – 400 020, Phone No. 022-22017654 [Email: Mumbai.pccit@incometax.gov.in];
- iv. Securities and Exchange Board of India (by Applicant Company-3);
- v. The National Stock Exchange of India Limited (by Applicant Company-3);
- vi. Jurisdictional GST Authority (proper officer), within whose jurisdiction such companies are assessed to tax under GST law;
- vii. Ministry of Corporate Affairs;
- viii. Any other Sectoral/ Regulatory Authorities relevant to the Applicant Company or its business.



IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV

CA (CAA)/121/MB-IV/2023

The Transferor Companies are also directed to serve the Copy of Scheme upon the 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

23. The Notice shall be served through by Registered Post-AD/ Speed Post/ Hand Delivery and 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.
24. The Applicant Companies are directed to publish the notice of filing of this Application and passing of this order in the Financial Express (Mumbai Edition) in the English language and a Marathi translation thereof in Loksatta (Mumbai Edition), both having circulation in Mumbai, stating therein that the present Company Scheme Application has been filed in this Tribunal and that any person concerned with the Applicant Companies may file its representations in relation to the Scheme, if any within 30 days from the date of publication of the said notice in the newspapers, with a copy thereof to the concerned Applicant Company. The Applicant



IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV

CA (CAA)/121/MB-IV/2023

Companies are further directed to upload the aforesaid notice on its website, if any.

25. The Applicant Companies will file their respective affidavits of service in the Registry with regard to the directions given in this Order within the stipulated time and do report to this Tribunal that the directions regarding the issue of notices have been duly complied with.
26. With the above directions, the present Application is **allowed**.

Sd/-

Prabhat Kumar
Member (Technical)

/Dubey/

Sd/-

Kishore Vemulapalli
Member (Judicial)



Certified True Copy

Copy Issued "free of cost"

On 25/8/2023

P. S. Sonawane
Deputy Registrar 25.8.2023

National Company Law Tribunal Mumbai Bench

(D-12491) 25/8/2023