

17<sup>th</sup> November 2022

BSE Limited  
Listing Department  
Dalal Street, Mumbai 400 001  
Scrip Code: 531879

National Stock Exchange of India Ltd  
Exchange Plaza, C-1 Block G,  
Bandra Kurla Complex,  
Bandra East, Mumbai- 400051  
Scrip Code: PIONDIST

Dear Sirs,

**Sub: Copy of Order of the Hon'ble National Company Law Tribunal, Bengaluru Bench in the matter of the Scheme of Amalgamation and Arrangement amongst Pioneer Distilleries Limited and United Spirits Limited and their respective shareholders and creditors**

This is with reference to our earlier disclosures in connection with the Scheme of Amalgamation and Arrangement amongst Pioneer Distilleries Limited (the “**Company**”) and United Spirits Limited and their respective shareholders and creditors under Sections 230-232 and other applicable provisions of the Companies Act, 2013 (“**Scheme**”).

This is to inform you that the Hon'ble National Company Law Tribunal, Bengaluru Bench (“**NCLT**”) has passed an order dated 4<sup>th</sup> November 2022 (“**Order**”) (uploaded to the website of the NCLT today, i.e., Wednesday, 17<sup>th</sup> November 2022), sanctioning the aforesaid Scheme with the ‘Appointed Date’ as 1<sup>st</sup> April 2021.

A copy of the Order, as uploaded on the website of the NCLT today, is enclosed herewith. The Company is in the process of obtaining the certified copy of the Order.

This disclosure is being made in terms of Regulation 30 and other applicable provisions of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015.

This is for your information and records.

Thank you,

For Pioneer Distilleries Limited

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J Swaminathan

Company Secretary

Enclosed: As above

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**BENGALURU BENCH**  
**(Through Wed Based Video Conferencing)**

**CP (CAA) No. 40/BB/2021**

**(Second Motion)**

**U/s. 230-232 of the Companies Act, 2013**

**IN THE MATTER OF:**

**Pioneer Distilleries Limited**

Registered Office at:  
UB Tower, Level 10, No. 24,  
Vittal Mallya Road,  
Bengaluru- 560 001.

... Petitioner 1/Transferor Company

**And**

**United Spirits Limited**

Registered Office at:  
UB Tower, Level 10, No.24  
Vittal Mallya Road,  
Bengaluru- 560 001.

... Petitioner 2/Transferee Company

**Order delivered on: 4<sup>th</sup> November, 2022**

**CORAM:** Hon'ble Shri Kishore Vemulapalli, Member (Judicial)  
Hon'ble Shri Manoj Kumar Dubey, Member (Technical)

**PRESENT:**  
For the Petitioner Companies : Shri. K.G Raghavan, Sr. Counsel a/w  
Ms. Lekha Chandrashekar  
For ROC : Shri. Hemanth Rao  
For IT : Shri. Ganesh R Ghale

**ORDER**

**Per: Manoj Kumar Dubey, Member (Technical)**

1. This is a joint second motion petition filed by Pioneer Distilleries Limited (for brevity, the "Petitioner Company No. 1/ Transferor Company") and United Spirits Limited (for brevity, the "Petitioner Company No.2/ Transferee Company") under Sections 230 and 232 of the Companies Act, 2013 (for short to be referred hereinafter as the 'Act') and in terms of Rule 15 of the Companies (Compromises, Arrangements and Amalgamations)

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Rules, 2016 (for brevity, 'Rules') by inter alia seeking for the sanction of Scheme of Amalgamation and Arrangement (for brevity 'Scheme') between Transferor Company and Transferee Company. The joint petition is maintainable in terms of Rule 3 (2) of the Rules.

2. The petitioner companies filed First Motion Application bearing CA (CAA) No. 09/BB/2021 before this Tribunal. And based on such application moved under section 230-232 of the Companies Act, 2013 necessary directions were issued vide order dated 08.02.2021 and modified order dated 13.08.2021. Details of the First Motion order are as under:

|                            | <b>Transferor Co</b>                   | <b>Transferee Co</b>                    |
|----------------------------|--|---|
| <b>Equity Shareholders</b> | Convene Meeting (30.09.2021 at 3.00PM) | Convene Meeting (30.09.2021 at 11.00AM) |
| <b>Secured Creditors</b>   | No Secured Creditors                   | No Secured Creditors                    |
| <b>Unsecured Creditors</b> | Meeting Dispensed (Consent Obtained)   | Convene Meeting (30.09.2021 at 1.00PM)  |

3. Pursuant to the First Motion Application, the Tribunal directed to convene the meetings of Equity Shareholders of both Transferor and Transferee Company and also directed to convene the Meeting of Unsecured Creditors of the Transferee Company on 30.09.2021. In compliance to the Order dated 08.02.2021 and 13.08.2021, the aforesaid meetings were held on 30.09.2021 and the report of the Chairman dated 30.09.2021 is attached along with the petition wherein it is stated that the Scheme was approved by (i) Majority of persons representing 98.3152% in value of equity shareholders of the Transferor Company who voted through postal ballot, remote e-voting and e-voting; (ii) Majority of person representing 99.9981% in value of the equity shareholders of the Transferee Company; (iii) Majority of persons 99.8825% in value of the unsecured creditors of the Transferee Company. The Scrutinizer has also filed his report dated 30.09.2021, which is attached along with the Petition.
4. When the petition was listed on 25.11.2021, through video conferencing, the following directions were issued:-

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*"5. The Petition be listed for hearing on 12.01.2022. Notice of hearing be advertised in the same newspaper as in the first motion petition i.e., "Business Standard" in English Edition and "Prajavani" in Kannada Edition not less than 10 days before the aforesaid date fixed for hearing.*

*6 Notice be also serve upon the Objector(s) or their representatives as contemplated under Section 230 (4) of the Act who may have made representation and who have desired to be heard in their representation along with a copy of the petition and the annexure filed therewith at least 15 days before the date fixed for hearing*

*7. In addition to the public notice, each of the Petitioner Companies shall serve the notice of the petition on the following Authorities namely, (a) Registrar of Companies (Bangalore) (ii) Central Government through Regional Director, (South East Region), Hyderabad (iii) Office of Official Liquidator, Bangalore; (iv) Deputy Commissioner of Income, Bengaluru (v) Reserve Bank of India (Central Office), Mumbai (vi) Reserve Bank of India (Regional Office- Bengaluru) (vii) Bombay Stock Exchange Limited (BSE), Mumbai (viii) Securities and Exchange Board of India, (SEBI) (ix) National Stock Exchange of India Limited (NSE) (x) The Secretary, Competition Commission of India, New Delhi along with the copy of this petition by speed post immediately and to such Sectoral Regulator(s) who may govern the working of the respective companies involved in the scheme. "*

5. In pursuant to the aforesaid notice, the authorized signatory of the petitioner companies has filed copies of proof of service of notice vide diary No. 3750 dated 24.12.2021, to the aforesaid authorities and also copies of paper publication of notice of hearing.
6. The main objects, dates of Incorporation, authorized, issued and paid-up share capital, rationale of the scheme and interest of employees have been discussed in detail in first motion order dated 08.02.2021.
7. The Board Resolution of the Petitioner Companies approving the Scheme is annexed as Annexure H of the Petition.

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8. It is further submitted that the Certificate of Statutory Auditors of the Petitioner Companies, stating that, pursuant to the requirement of the Act and SEBI Regulation, it is confirmed that the accounting treatment contained in the Draft Scheme is in compliance with Regulation 11, 37 and 94 of the SEBI (Listing Obligation and Disclosure Requirements) Regulations, 2015 and circulars issued thereunder, the applicable Accounting Standards specified under Section 133 of the Act, and other generally accepted accounting principles. The aforesaid certificate is attached as Annexure L of the Petition.
9. The audited financial statement as on 31.03.2021 and Unaudited Financial Statement as on 30.06.2021 of the Transferor Company and audited financial statement as on 31.03.2021 and Unaudited Financial Statement as on 30.06.2021 of the Transferee Company are attached as Annexure D of the Petition.
10. As per the Scheme, the "Appointed Date" means 1<sup>st</sup> day of April, 2019 or such other date as the National Company Law Tribunals may direct. The "Effective Date" means the last of the dates on which all the conditions and matters referred to in Clause 21.1 have been fulfilled, obtained or waived, as applicable.
11. The consideration for Amalgamation of the Transferor Company with the Transferee Company has been determined under clause 12 of the Scheme.
12. In pursuant to the notice, the Regional Director (RD) and the Registrar of Companies (ROC) has filed its Common report vide Diary No. 931 dated 08.03.2022. Both RD and RoC have raised the following observation vide para 2:
- (a) The Transferee Company is the holding company of the Transferor Company with 75% of shares.
  - (b) The appointed date of the scheme is mentioned as 01.04.2019 which is almost three years old and hence, the date may be changed to a latest date.
  - (c) The Transferor Company and the Transferee Company are listed both on National Stock Exchange (NSE) and the Bombay Stock

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Exchange (BSE). Both the companies must show the compliance of SEBI (Listing Obligations Disclosure Requirements), 2015 and obtain the approvals from SEBI/ Stock Exchanges and CCI.

- (d) Although the scheme has been approved by the shareholders of both the companies, provision is required to be made for persons who has dissented for the scheme since both the companies have common shareholders and the interest should be protected.
- (e) As per the Financial Statement of the Transferor Company as at 31.03.2021, the company has incurred losses to the tune of Rs 8,657 lakhs and the company also have huge negative net worth to the tune of Es. 2,77,85,00,000/-. There may be substantial negative outflow of the tax liability of the Transferee Company once the Scheme is approved. Further, the net worth of the Transferor Company has eroded and current liabilities exceed the current assets. There is material uncertainty on the ability of the company to continue as a going concern. Further transferor Company has received huge loans of Rs 13,539 lakhs from Transferee Company at 8% interest. Writing off the amount in the books of accounts of Transferee Company would further dent the financials. Hence, detailed clarification may be furnished to the Hon'ble NCLT with regard to the benefit of amalgamation of a totally loss-making with a profit-making company.
- (f) As per Note No. 28 of the financial statement of the Transferor Company as at 31.03.2021, the company being a listed company and taking into consideration public interest in the company, it is observed there is a huge negative EPS. The Transferee Company shall furnish an undertaking before the Hon'ble NCLT that the interest of the shareholders, particularly small shareholders, of both the Transferee and the Transferor shall be safeguarded.
- (g) There are various claims against the Transferor Company classified as "Contingent liabilities" relating to Income Tax matters, Civil Litigations and petitions before the Hon'ble court of Bombay Bench. Hence, the status of the said cases be furnished to the Hon'ble NCLT.

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- (h) Further, as per the Independent Auditor's Report of the Transferor company as at 31.03.2021, statutory dues pending under the Central Sales Tax Act, 1958 and the Maharashtra Value Added Tax Act, 2002 to the tune of Rs 77,91,85,393/- and the Income Tax Act, 1961 to the tune of Rs. 1, 51, 86, 680/-. The Transferee Company shall absorb the statutory dues and settle the same and furnish an undertaking to this effect before the Hon'ble NCLT.
- (i) As per Note No. 24 of the Financial Statement as at 31.03.2021 of the Transferor Company, dues payable to MSME to the tune of Rs 193 lakhs. The Transferee Company shall furnish an undertaking to the Hon'ble NCLT to absorb and settle the same.
- (j) The Transferee Company has total open charges to the tune of Rs. 14,05,30,56,000. Hence, NOC has to be submitted from all the secured creditors before approval of the Scheme.
- (k) As per the Independent Auditor's Report as at 31.03.2021 of the Transferee Company, it has various unpaid disputed statutory dues under the Income Tax Act, 1961 to the tune of Rs. 28,276 million, Customs Act, 1962 to the tune of Rs. 2 million, Service Tax (Finance Act, 1994) to the tune of Rs. 2,230 million, Central Excise Act Rs. 1768 million, Karnataka Sales Tax Act, 1957 Rs. 3 million, West Bengal Sales Tax Act to the tune of Rs. 766 million, Central and various State Sales Tax Acts to the tune of Rs. 2,201 million, various Entry Tax Acts to the tune of Rs. 342 million, Bengal Excise Act 1909 and Bengal Excise (Amendment) Act, 2012 to the tune of Rs. 15 million, The Maharashtra Prohibition Act, 1949 of Rs. 132 million and MSME dues to the tune of Rs. 640 million. The Transferee Company need to furnish an Affidavit to the Hon'ble NCLT to the effect that it shall pay the dues as and when claims are crystalized.
- (l) Both the Transferor and the Transferee Companies have huge Related Party Transactions. The companies may be asked to show the compliance of section 188 of the Companies Act, 2013 through affidavits & relevant documents and SEBI (Listing

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Obligations Disclosure Requirements), 2015 as Transferor and Transferee Companies are listed companies.

**(m)** The following are the matter of importance with reference to the Transferee Company which are brought to the notice of the Hon'ble Tribunal which may be taken note while approving the scheme or passing orders as may deem fit by the Hon'ble Tribunal:

- i) Ministry of Corporate Affairs (MCA) had carried out the inspection of the company in the year 2016 following which the company has compounded certain offences. However, being the Transferee Company, the follow-up actions will continue.
- ii) The Company had received notice from Securities Exchange Board of India in relation to the initial inquiry in relation to the agreement between the Company and Dr. Vijay Mallya.
- iii) The company had received notices from Directorate of Enforcement in connection with Agreement dated February 25<sup>th</sup>, 2016, entered into by the company with Dr. Vijay Mallya, former director and investigations under the Foreign Exchange Management Act, 1999 and Prevention of Money Laundering Act, 2002.
- iv) RBI had certain queries with regard to remittances made in prior years by the company to its overseas subsidiaries, past acquisition of the Whyte and Mackay group, clarifications/queries received from the authorized dealer from time to time on annual performance reports for prior years and compliances relating to the Company's overseas Branch office.
- v) The Company has dispute with IDBI Bank in relation to prepayment of principal loan amount.
- vi) Dr. Vijay Mallya, the former director of the Transferee Company has been declared as Wilful Defaulter and

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Fugitive Economic Offender by the Special PMLA court, Mumbai.

- (n) This report is being submitted for the limited purpose of the scheme of arrangement and the liability of the Petitioner Company's officers in default shall continue even after merger as per Section 240 of the Companies Act, 2013 even in case approval of the scheme.
- (o) As seen from the reply of the company, it is observed that the company has given incomplete details of Investigations/Inspection against the company and also the present status. Since two compounding applications filed by the Transferee company and its defaulting directors under Section 188 and section 78 of the Companies Act, 2013 are pending, detailed clarification be furnished in this regard to the Hon'ble NCLT.
- (p) The company has mentioned at para17 of the Scheme that rationale of the Scheme is for:
- i) Simplification of the corporate structure and consolidation of the group's business.
  - ii) Realizing business efficiencies, inter alia, through optimum utilization of resources due to pooling of management, expertise and other resources of the Petitioner's and to achieve economies of scale
  - iii) Overcoming limitations on raising capital for the Transferor Company, ensuing improved allocation of capital and optimum cash flows contributing to better utilization of capacity and the overall growth of the combined entity.
  - iv) Creation of a larger asset base and facilitation of access to better financial resources.
  - v) Savings on compliance/interest costs.
  - vi) Uninterrupted operations of the Transferor Company's plant in order to stabilize its business.

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vii) Integration of the Transferor Company's operations with the Transferee Company resulting in benefits arising out of the synergies, especially since the Transferee Company is in the same line of business as the Transferor Company.

viii) Enhanced shareholder value pursuant to economies of scale and business efficiencies. However, as seen from the scheme, none of them appears to be achieved upon approval of the scheme.

The Petitioner Companies may furnish a detailed clarification/justification before the Hon'ble NCLT in this regard.

(q) As seen from para 18 of the scheme, it is mentioned that the Transferor Company has been incurring losses in the recent past and its entire net worth has eroded and the Transferee Company which is holding 75% of the equity in the Transferor Company has to account for losses to the extent of 75% of the Transferor Company while consolidating its accounts and amalgamation of Transferor Company with Transferee Company will be beneficial. However, upon examination, it is observed that:

- i) The sales of the company is completely to its holding company and related party transactions shows lesser amount and from the documents filed with ROC prima facia shows violation of the provisions of Section 188 of the Companies Act, 2013 year on year.
- ii) The company has taken loans amounting to Rs 13,539 lakh and has not paid interest on the same which is almost equal to the loan amount being Rs. 10,737 lakh.
- iii) The company has not been accounting for interest and not made the due payment to its Holding Company years together.
- iv) The company does not have trade receivables during any of the previous years.

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Hence the petitioner companies may be asked to explain as to how the scheme is beneficial.

- (r) As seen from the related party transactions, it is clear that the Petitioner Company has violated the provisions of Section 186 of the Companies Act, 2013 as it is a subsidiary beyond 2 layers as prescribed. Hence, the Transferor Company may be advised to furnish clarification in this regard to the Hon'ble NCLT.
  - (s) The company in its petition has not completely disclosed the status of certain members of the UB Group who continue to be identified as promotor of the Petitioner No.2 and their willful default to the banks/financial institutions which are proceeding and pending against them due to the reasons best known to them. The Petitioner Companies may be directed to furnish clarification to the Hon'ble NCLT for non-disclosure of the facts in the petition.
  - (t) As the company has not disclosed about the ultimate beneficial owner in the petition and the Directorate is of the view that the persons/member of UB Group as stated in para 2 (s) above are the ultimate beneficial owners. In this regard, the Petitioner Companies may be directed to furnish detailed information to the Hon'ble NCLT.
  - (u) It appears from the Scheme that the Transferor Company is being used by the Transferee Company only to accommodate transactions and with the present scheme and amalgamation of the Transferor Company with Transferee Company would wipe out all the previous violations of the Company. Therefore, the present Scheme is prejudicial to public interest.
13. Subsequently, reply affidavit to the common report of RD & ROC have been filed by the petitioner companies vide diary No. 1434 dated 05.04.2022, inter alia stating as under:-
1. **Reply to point 2(a) of the report:** The fact that the Transferee Company is the holding company of the Transferor Company with 75% total shareholding is an admitted fact as already stated in paragraph (A) (v) of the Scheme.

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- 2. Reply to point 2(b) of the report:** It is submitted that in view of the observation made by the Registrar of Companies and Regional Director, the Petitioner submit that they have no objection if the Tribunal were to direct the change of the Appointed Date if it deems fit, from 01.04.2019 to 01.04.2021, subject to no terms of the Scheme being modified as a result. The respective Board of Directors of the Petitioners have also, subject to the Hon'ble Tribunal mandating the change in the Appointed Date, given their no objection to such change vide their respective Circular Resolutions dated 02.04.2022 and 01.04.2022.
- 3. Reply to point 2(c) of the report:** It is submitted that, in paragraph 16 of the petition it is mentioned that the Petitioners have received the no objections of BSE and NSE as per their respective observation letters dated 21.10.2020 and 22.10.2020. Copies of the observation letters issued by BSE and NSE, which also include the observations of the Securities and Exchange Board of India are produced at Annexure I to the Petition. It is further submitted that the Transferee Company currently holds 75% of the shares and voting rights and is in sole control of the Transferor Company. Since the proposed Scheme will not result in a transfer from joint control to sole control of the Transferor Company, the proposed transaction is exempted under paragraph 9 of Schedule I of the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations Regulations, 2011, and therefore no notice is required to be filed with Competition Commission of India under Section 6(2) of the Competition Act, 2002.
- 4. Reply to point 2(d) of the report:** It is submitted that the Scheme is in the best interest of the Petitioners, shareholders, employees and creditors as given in clause A(v) of Chapter 1 of the Scheme, and that the interest of all relevant stakeholders (including the dissenting shareholders and common shareholders) are fully protected under the Scheme.
- It is further submitted that the scheme has been approved with requisite majority by the shareholders of the Petitioners at the meetings held on 30.09.2021 and has been approved by a majority of public

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shareholders and there are no objections to the Scheme under Section 230(4) of the Companies Act, 2013.

The Petitioner further submits that there is no discriminatory treatment to any of the dissenting shareholders and all shareholders of the Transferor Company, including any dissenting shareholders, will be entitled to shares in the Transferee Company based on the swap ratio recommended by SRBC & Co LLP, an independent chartered accountant firm, and Manuj Singhal, Registered valuer and supported by the fairness opinions issued by SEBI registered merchant bankers.

Petitioner further submits that the rights of all shareholders are already protected under the Scheme, and no special provision are required to be made for dissenting or common shareholders.

**5. Reply to point 2(e) of the report:** It is submitted that, as mentioned in paragraph (A)(v) of the scheme, given the significant losses of the Transferor Company and its negative net worth, the continuity of the Transferor Company as a going concern, would be very difficult. Therefore, the amalgamation of the Transferor Company with the Transferee Company would be beneficial to both the Petitioners, including the amalgamated company having access to uninterrupted financial and technical support and also getting the full benefit of the Transferor Company's manufacturing facilities. Further, it is denied that at present, there is material uncertainty on the ability of the Transferor Company to continue as a going concern and the management and the board of directors have concluded that there is no material uncertainty, which impacts the ability of the Transferor Company to continue as a going concern.

It is further submitted that, write off of the loan as a part of the merger will not lead to any additional financial impact as the Transferee Company has made necessary provisions in its books of accounts in compliance with the relevant accounting policy, IND AS-36 (Impairment of Assets).

**6. Reply to point 2(f) of the report:** The Transferee Company has undertaken that the interest of the shareholders, particularly the small

shareholders, of both the Transferor Company and Transferee Company are safeguarded.

- 7. Reply to point 2(g) of the Report:** It is submitted that status regarding various claims against the Transferor Company classified as "Contingent Liabilities" in the financial statements are produced as Annexure E along with the Reply. It is further submitted that as per clause 8 of the Scheme, all legal proceedings by or against the Transferor Company pending and/or arising before the Effective Date, including those arising under the Income Tax, 1961 and any other indirect tax laws, shall not abate or be discontinued but shall be continued and enforced by or against the Transferee Company.
- 8. Reply to point 2(h) of the Report:** It is submitted that as per clause 5 of the Scheme, all the liabilities of the Transferor Company, shall be transferred or deemed to be transferred to the Transferee Company so as to become the liabilities of the Transferee Company. No statutory dues owned by the Transferor Company are being extinguished or cancelled as a part of the Scheme. Therefore, the Transferee Company undertakes to absorb all statutory dues and settle the same in accordance with the Scheme and applicable law.
- 9. Reply to point 2(i) of the Report:** It is submitted that as per Clause 5 of the scheme, all the liabilities of the Transferor Company, shall be transferred or deemed to be transferred to the transferee company so as to become the liabilities of the Transferee Company. No dues payable by the Transferor Company to MSMEs are being extinguished or cancelled as a part of the Scheme. Therefore, the Transferee Company undertakes to absorb all such dues and settle the same in accordance with the Scheme and applicable law.
- 10. Reply to point 2(j) of the Report:** It is submitted that there are no secured creditors in the Transferee Company, as also evidenced in the financial statements of the Transferee Company as on 31.03.2021. The certificate of the independent chartered accountant certifying that there are no secured creditors of the Transferee Company as on 31.12.2021 has been attached along with the Reply Affidavit.. It is further submitted that the

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liabilities of the Transferee Company are neither being reduced nor being extinguished under the Scheme and Transferee Company undertakes to take all efforts to rectify the charges showing in the MCA portal.

- 11. Reply to point 2(k) of the Report:** It is submitted that the Transferee Company will continue as a going concern after the Scheme takes effect. The liabilities of the Transferee Company are neither being reduced nor being extinguished under the Scheme. The Transferee Company accordingly undertakes that it shall pay the dues as and when the claims mentioned in the Independent Auditor's Report for the financial year ended 31.03.2021 crystallise and reach final adjudication, subject to its rights and remedies available under applicable law.
- 12. Reply to point 2(l) of the Report:** It is submitted that Independent Auditor Reports of the Petitioners for the financial year ended 31.03.2021 mentions that the Petitioners have entered into transactions with related parties in compliance with the provisions of Section 177 and 188 of the Companies Act, 2013. It is further submitted that all related party transactions involving the Transferor Company have been on arm's length basis and in ordinary course of business. Further, in accordance with the SEBI Listing Regulation, the Transferor Company and Transferee Company have also duly formulated policies on related party transaction.
- 13. Reply to point 2(m) of the Report:** (i) The details of the proceedings arising out of the inspection conducted by the MCA have been disclosed in each of the annual financial statements commencing from year ended 31.03.2016. Further, the details of the pending proceedings under the Companies Act, 1956 and Companies Act, 2013 are given in paragraph 36 of the Petition. The Transferee Company submits that it has complied with the necessary conditions imposed as arising out of each of the completed compounding proceedings, and further undertakes that it shall fully comply with the compounding/adjudication orders in the pending proceedings as may be applicable.

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**(ii)** It is submitted that the details of notices received from SEBI in relation to the initial inquiry, additional inquiry and matters arising out of an agreement entered into between the Transferee Company and Dr. Mallya have been disclosed in each of the annual financial statements commencing from year ended 31.03.2016. No directions or strictures have been passed against the Transferee Company pursuant to the said notices. SEBI has passed an order dated 01.06.2018 in relation to the matters specified in the notice and such order was passed only against Dr. Vijay Mallya and certain others. There were no orders or directions passed as against the Transferee Company.

**(iii)** It is submitted that the details of the notices received from Enforcement Directorate have been disclosed in each of the annual financial statements commencing from year ended 31.03.2016. It is submitted that the Transferee Company has not been named as an accused in any proceedings initiated by the Enforcement Directorate pursuant to its investigation. The Transferee Company has cooperated with, and undertakes to continue to cooperate with, the authorities in respect of any further investigation.

**(iv)** It is submitted that the Transferee Company has duly responded to the various queries that it has received in this regard. The Petitioners submit that these notices have no direct or indirect bearing on the Scheme. No further action has been taken by the RBI pursuant to any of the said notices. And also no proceedings have been initiated under the Foreign Exchange Management Act, 2000, in respect of the aforesaid transactions.

**(v)** It is submitted that the details in relation to the dispute with IDBI Bank has been disclosed in Annexure S to the Petition. As mandated by the observation letters issued by the Stock exchanges, this disclosure was also included in the notices issued to the shareholders of the Transferor Company and Transferee Company for the meetings convened to consider and approve the Scheme.

**(vi)** It is submitted that Dr. Vijay Mallya ceased to be a director of the Transferee Company on 25.02.2016 and currently holds only 0.015 in the Transferee Company. Further, it is submitted that merger

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envisages that equity shares are issued by the Transferee Company only to the public shareholders of the Transferor Company pursuant to the Scheme, and does not involve issuance of equity shares to Dr. Vijay Mallya or any of his associates/Group companies.

- 14. Reply to point 2(n) of the Report:** It is submitted that the Petitioners undertake and confirm that any liabilities as per Section 240 of the Companies Act, 2013 of the Transferor Company and its directors shall continue even after the amalgamation of the Transferor Company with the Transferee Company and the dissolution of the Transferor Company once the Scheme is made effective.
- 15. Reply to point 2(o) of the Report:** It is submitted that the Transferee Company has provided the complete details of all pending proceedings under the Companies Act, 1956/2013 to the Regional Director. The Report does not state what details are outstanding in relation to the investigation/inspection against the Transferee Company. Further, the pending proceedings under the Companies Act, 2013 initiated against the Transferee Company have been fully disclosed in paragraph 36 of the Petition and was also included in the notices issued to the shareholders of the Transferor Company and Transferee Company for the meetings convened to consider and approve the Scheme.
- 16. Reply to point 2 (p) of the Report:** It is submitted that the Report does not provide any reasons in support of its conclusion that the Scheme does not achieve the rationale for the Scheme, as provided in the Petition. It is also unclear as to what clarifications or justifications are required by the Registrar of Companies/Regional Director.
- 17. Reply to point 2(q) of the Report:** (i) It is submitted that the statement that all sales of the Transferor Company are to the Transferee Company is erroneous. The Transferor Company has made and continues to make sales to entities other than the Transferee Company. It is further submitted that the disclosure of the related party transactions in the financial statements of the Petitioners are accurate. It is submitted that the difference in the amounts of the related party transactions is on account of applicable levies in states which need separate accounting

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treatment in the books of the Transferor Company and Transferee Company. In the books of the Transferor Company, the amount reflected is towards the revenue being generated from sale of product/services to Transferee Company. On the other hand, in the books of the Transferee Company, the amount is based on total invoice value for product/ services.

**(ii)(iii)** As mentioned in Note 10 of the financial statements of the Transferor Company for financial year ended 31.03.2021, in accordance with the inter-company loan agreement, the term loan granted by the Transferee Company is repayable on 16.08.2026. The rate of interest on the term loan was 8% for the financial year ending 31.03.2021. The Transferor Company has accounted for the interest accrued but not due amounting to INR 10,737 lakhs in the financial statements. The Transferee Company has an unconditional right to defer the interest payments until the maturity date and accordingly, the accrued interest has been considered as “non-current”.

**(iv)** It is submitted that the Transferor Company works on an advance payment term basis with all their customers hence there are no trade receivables to be reflected in the annual financial statements of the Transferor Company.

**18. Reply to point 2(r) of the Report:** It is submitted that the Transferor Company is a direct subsidiary of the Transferee Company and that the Transferor Company does not have any subsidiaries. It is further submitted that as per Section 186(1) of the Companies Act, 2013, a company shall make investment through not more than two layers of investment companies. In this case, the Transferor Company is a subsidiary of the Transferee Company and there are no other layers of subsidiary in India. The holding companies of the Transferee Company outside India should not be considered for the purpose of determining the layers.

**19. Reply to point 2 (s) of the Report:** It is denied that the Petitioners have not disclosed the details of the status of certain members of the UB group and the proceedings. In fact, these very details have been provided in Annexure S to the petition and were also disclosed to the stock

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exchanges and as a part of the notice to the shareholders for the meetings to approve the Scheme.

**20. Reply to point 2(t) of the Report:** It is submitted that it is totally incorrect to state that the persons/members of the UB Group are the ultimate beneficial owners of the Petitioners.

The UB Group members do not hold any shares in the Transferor Company and only hold 0.80% shareholding in the Transferee Company. Further, the UB Group members only continue to be identified as promoters of the Transferee Company on account of their historical association with the Transferee Company, but they do not exercise any control whatsoever, whether directly or indirectly, over the affairs of the Transferee Company.

**21. Reply to point 2(u) of the Report:** It is vehemently denied that the Transferor Company is being used by the Transferee Company only to accommodate transactions or that the Scheme is prejudicial to public interest. It is submitted that both Petitioners are bona fide group companies. The Scheme only envisages the merger of the Transferor Company with the Transferee Company to enhance shareholder value, simplify the group structure and enable the continued operations of the Transferor Company. It is also submitted that the scheme has already received the no objections of SEBI and the stock exchanges and the requisite majorities of the shareholders of both Petitioners. It is further submitted that none of the liabilities of the Transferor Company or the Transferee Company are being extinguished or limited by the Scheme. Therefore, there is no question of the Scheme wiping out previous violations of the Petitioners.

**14.** The ROC and RD filed common supplementary report vide diary No 2284 dated 26.05.2022 in response to the Petitioner Companies reply dated 05.04.2022 wherein following observations were made:

- a. Para 2 (d): It is stated that the scheme is in best interest of stakeholders and there will not be any discriminatory treatment to any of the dissenting shareholders. As per the Petitioner Companies, no objections have been received under Section 240 of the Act.

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- b.** Para 2 (j) : The Transferee company will continue as a going concern even if the Merger is approved. The Transferee Company is required to provide an Undertaking stating that CHG-4 will be filed for satisfaction of charges after getting the delay condoned from appropriate authority.
- c.** Para 2 (m): A few matters were brought to the notice of NCLT by this office w.r.t. the Transferee company. The petitioner companies have undertaken to fully comply with the compounding/adjudication orders in the pending proceedings.
- d.** Para 2(0): As seen from the reply of the company, it has failed to mention the fact of pending cases in the scheme of Amalgamation. Hence, the details of the same may be furnished before the Hon'ble NCLT along with the present status of compounding applications before approval of the Scheme.
- e.** Para 2 (q): It is seen from the reply of the company that the company has clearly not accounted the interest from 2013 and interest free loan. Hence, the company has violated the provisions of section 185 and 188 of the Companies Act, 2013 and the company be directed to file necessary compounding applications before the approval of the scheme in this regard. Further, non- accounting of the same has reduced the loss of the Company for the period specified. Balance Sheet and Profit Loss Account are not portraying a true and fair view during this period and the same seems to be contrary to prudent business practices.
- f.** Para 2 (r) : The clarification of the company appears to be not based on the provisions of u/s 186(1) of the Companies Act, 2013. Hence reply of the company is not satisfactory and detailed justification with regard to the observation may be furnished before the Hon'ble NCLT.
- g.** Para 2 (s) The petitioner companies may be advised to furnish full facts with documentary evidence to the Hon'ble NCLT and the matter may be decided on merits.

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15. In response to the above observation made by the ROC and RD in the supplementary report dated 26.05.2022 the Petitioner companies have filed another response vide diary no.2967 dated 11.07.2022 wherein the following clarifications were given to the observation:

- a. Reply to Para 2 (d): It is submitted that the Scheme has been approved by requisite majorities of the shareholders, including the majority of the minority shareholders for each of the Petitioners. The Petitioners have not received any objections to the Scheme under Section 230(4) of the Scheme. The Petitioners further submit that all shareholders including any dissenting shareholders will be entitled to shares in the Transferee Company based on the share exchange ratio obtained from the registered valuer. Therefore, the Petitioners submit that the interest of all shareholders is already protected in the Scheme and no special provisions are required to be made for dissenting shareholders in accordance with Section 232(3)( e) of the Companies Act, 2013.
- b. Reply to Para 2 (j): It is submitted that the Transferee Company will continue as a going concern even after the Scheme is approved. Further, the Transferee Company submits that it has no secured creditors at present. The Transferee Company hereby undertakes that CHG-4 will be filed for satisfaction of charges after getting the delay condoned from the appropriate authority.
- c. Reply to Para 2 (m) : It is submitted that SEBI and RBI have already given their no objection to the Scheme. Further, the proceedings involving the ED and IDBI Bank mentioned are against the Transferee Company which will continue in the ordinary course. The Scheme has no bearing on such proceedings.
- d. Reply to Para 2 (o): It is reiterated that the pending cases have already been mentioned in paragraph 36 of the petition as well as the notice to the shareholders and a separate affidavit was filed on 14.07.2022.

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- e. Reply to Para 2 (q): It is denied that the balance sheet and profit loss account of the Petitioners do not portray a true and fair view for the relevant period. Extracts of the Audit Report issued by the independent Statutory Auditors of each of the Transferee Company as well as the Transferor Company confirming that the financial statements of the respective companies as of 31.03.2022.

It is submitted that the loans granted to and due from the Transferor Company aggregating to INR 135 crores is not currently due and matures only on 05.08.2026. Further, interest has also continued to accure, and the rate is benchmarked with the external rates which is subject to yearly review. It is denied that the loans are interest free or that the Petitioners have not accounted for interest on the loan from 2013. As of 31.03.2022, the total loan amount due stands at INR 135.39 crores along with accrued interest Amounting to INR 117.12 crores in the books of the Transferor Company, as evidenced in the notes 10 and 11 of the financial statements of the Transferor Company for the year ended 31.03.2022.

Similarly, to ensure compliance with Section 185 and Section 188 of the Companies Act, 2013, the Transferee Company also accrued the interest in its books of accounts. Further, the Transferor Company has been routinely deducting tax at source in accordance with Section 194(A) of the Income-Tax 1061 which has also been claimed by the Transferee Company while computing the Income Tax as per the prevailing Income Tax Rules. It is only to ensure compliance with the requirements under Ind AS 36 that the Transferee Company continues to impair the recoverability of its overall investment in the Transferor company and has accordingly created an appropriate provision as well.

- f. Reply to Para 2(r ): In accordance with Section 186(1), any company may make investments through not more than two layers of investment companies. It is submitted that both Petitioners are operating companies whose principal business is

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manufacture, sale and distribution of alcohol. Neither company is an "investment company", i.e., a company whose principal business is the acquisition of shares, debentures or other securities, as defined under Section 186(1). Therefore, the question does not arise of any violation of Section 186(1). In any case, the Transferee Company holds 75% of the shareholding of the Transferor Company and there are no further layers or step-down subsidiaries of the Transferor Company in India. It is reiterated that the Petitioners are in full compliance with section 186(1) of the Companies Act, 2013.

- g. Reply to Para 2(s): It is again reiterated that the relevant details regarding the status of certain members of the UB group and certain members of the UB group and certain proceedings against them has been mentioned in the petition at paragraph 42 and the relevant details have been furnished at Annexure S to the Petition which was also disclosed to SEBI and stock exchanges as well as the shareholders at the meeting for approving the Scheme.
16. The Income Tax department has filed its report vide diary No. 442 dated 04.02.2022 and diary No. 581 dated 15.02.2022 wherein it is observed that there is no demand outstanding against the Transferor Company and no objection in the amalgamation of the companies and further observed that there are demand outstanding against the Transferee Company and appeal proceedings are pending in respect of the Transferee company and condition should be imposed on the Transferor company that Revenue is entitled for continuation of appeal proceedings filed by Revenue in respect of Transferee Company. The Petitioner Companies filed its reply to IT Report vide diary No. 635 dated 18.02.2022 wherein it is stated that the Transferee Company will continue as a going concern, and all pending proceedings in respect of the Petitioner No.2/ Transferee Company will continue in accordance with applicable law.
17. Official Liquidator (OL) has filed its report vide diary No. 1287 dated 25.03.2022 and some of the relevant observations made by the OL and

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the response given by the Petitioner to the above observation are as follows:

- a. Observations regarding end use of funds disbursed by Deutsche Bank. Transferee Company has used the overdraft facility money for payment of loans to its holding company United Spirits Limited and capital expenses related to capitalization of building etc., in violation of the overdraft facility terms. Further, the Transferee Company has not been issuing any utilisation certificate to Deutsche Bank in relation to the overdraft facility being availed.

Response: The transferor Company had obtained an overdraft facility from Deutsche Bank as a pure short-term facility which was to be used for working capital requirements and/or for any other requirements of the Transferor Company acceptable to DB. It is submitted that the Transferor Company has not used any amounts under the facility in violation of the utilisation specified by DB. The payments made by the Transferor Company to the Transferee Company are the nature of return of trade advances in the normal course, which have in fact has been approved by DB. Further, apart from the facility granted by DB, the Transferor Company has availed an inter corporate loan of INR 13,500 lacs from the Transferee Company on the date of availing this facility which continues to remain as an outstanding as on date. The facilities granted by DB were not used to repay this inter-company loan. The Transferor Company has clarified regarding the utilisation of funds to DB, which has not raised any objection. Further, no separate utilization certificate was required to be submitted.

- b. It is observed that Transferee Company will continue as a going concern even if the Merger is approved. The Transferee Company is required to provide an undertaking stating that CHG-4 will be filed for satisfaction of charges after getting the delay condoned from the appropriate authority.

Response: The transferee Company will continue as a going concern even after the Scheme is approved. Further, the Transferee

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Company submits that it has no secured creditors at present. In any case, as prescribed by the Regional Director/ROC, the Transferee Company hereby undertakes that CHG-4 will be filed for satisfaction of charges after getting the delay condoned from the appropriate authority ( if such condonation of delay is required by applicable law)

- c.** Observation regarding land underlying the Dharmabad plant. Land measuring 7 acres approx. regarding regularizing the purchase of Inam land is being litigated before the High Court of Aurangabad and Hon'ble NCLT may have an independent inspection of the land/fixed assets and the original documents kept at the Dharmabad plant of the Transferor Company, and may also take confirmation from the Sub-Registrar Office of Dharmabad Taluk as required.
- d.** Response: In relation to the observation relating to paragraph IX (Land), the Petitioners submit that the proceedings before the High Court of Bombay at Aurangabad relate to only 7 acres out of 263 acres owned by the Transferor Company. Further the proceedings have no bearing whatsoever on the Scheme, and the same will continue in the name of the Transferee Company once the Scheme comes into effect. The matter is in relation to Writ Petitions No. 5634 and 5658 of 2016 pending before the High Court of Bombay (Aurangabad bench) wherein the Transferor Company filed a petition against the order of the Deputy Commissioner, Nanded which had confirmed an order of the Assistant District Commissioner, Nanded directing the Transferor Company to deposit 50% of the market value of the land amounting to INR 62,13,000 for regularization of the land. By way of interim order on 25.07.2017, the High Court granted a stay on the impugned order of the Deputy Commissioner, subject to the Transferor Company depositing INR 30,00,000 with the District Collector. The Transferor Company has since deposited this amount. On 25.09.2018, the Transferor Company gave an undertaking in court that this land will not be used for

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any non-agricultural purpose. The matter is still pending before the High Court of Bombay (Aurangadab bench).

18. OL filed its supplementary report vide diary No. 3357 dated 02.08.2022 and the Petitioner companies have replied to the supplementary reports vide diary No, 3401 dated 08.08.2022. The following are the relevant observations and responses:

- a. The Petitioner have submitted that Deutsche Bank is a private sector bank, and the terms of the overdraft facility were mutually agreed between Deutsche Bank and the transferor Company has no bearing on the scheme. It is humbly submitted that the Petitioner's cannot claim an exemption in lieu of Deutsche Bank being a private sector bank as the bank is a Scheduled Commercial Bank and still bound by the RBI regulations and Guidelines. Thus, an amalgamation scheme cannot be used to channel a huge amount of loan to the Transferee Company without any security/guarantee or collateral.

Response: it is submitted that the Petitioners reiterate that the terms of the overdraft facility were mutually agreed between Deutsche Bank and the Transferor Company, and that such contractual matters have no bearing on the Scheme. It is submitted there is no "exemption" as such which is being claimed by the Petitioners. There is also no question of the Scheme being used to "channel a huge amount of loan to the Transferee Company without any security/guarantee or collateral". It is relevant to note that not only has the overdraft facility been availed of by the Transferor Company in accordance with the existing guidelines issued by the Reserve Bank of India, there is an existing letter of comfort given by the Transferee Company (as parent company) to Deutsche Bank towards the overdraft facility availed by the Transferor Company. This is also noted by Deutsche Bank in its email dated 05.08.2022. further, pursuant to the letter dated 15.02.2022 of the Reserve Bank of India, by way of the reply affidavit dated 05.04.2022, the Petitioners have undertaken to ensure that while implementing the

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Scheme, they will comply with all requirements under applicable law, including those prescribed by the Reserve Bank of India.

- b.** That the Official liquidator reiterates that the Hon'ble tribunal may allow an independent inspection of the 263 acres of land owned by the Petitioners at the Dharmabad plant location and inspection of the original documents related thereto for the reasons stated in the report dated 25.03.2022. It is also submitted that the Tribunal may also instruct Petitioners to take confirmation from the Sub-Registrar Officer of Dharmabad Taluk as required.

Response: The Transferor Company has a manufacturing plant located in Dharmabad in Maharashtra, measuring a total of 263 acres. In relation to approximately 7 acres out of a total 263 acres, the Assistant Collector, Naded, had passed an order dated 22.09.2011 ordering regularization of the said portion of the land, subject to deposit of 50% of the market value of the land amounting to Rs. 62,13,000/-, which was confirmed on 12.01.2012. Aggrieved by this order, the Transferor Company preferred an appeal before the Deputy Commissioner, Naded, who confirmed the order dated 29.12.2016. Aggrieved by the said order, the Transferee Company has filed writ petitions in W.P No. 5634 and 5658 of 2016 pending before the Hon'ble High Court of Bombay (Aurangabad bench). By way of an interim order dated 25.07.2017 the Hon'ble High Court granted a stay on the impugned order of the Deputy commissioner, Nanded, subject to the Transferor Company depositing Rs. 30,00,000/- with the District Collector. The Transferor Company has since deposited this amount. The matter is still pending consideration.

It is submitted that the said proceedings will have no bearing on the Scheme, and the same will continue in the name of the Transferee Company once the Scheme comes into effect, as provided in the Scheme. Further, it is submitted that the Transferee or any demands made by the governmental authorities in relation Company bears the risk relating to the title over the said land, or

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any demands made by the governmental authorities in relation thereto. The Transferee Company undertakes to make good any such demands, subject to its rights and remedies in law.

19. RBI has issued letter dated 16.02.2022 and reply to the said letter is filed vide diary No1432 dated 05.04.2022.
20. On 03.08.2022 and 12.08.2022, we have heard the learned Counsel for Petitioner Companies and Counsel for the ROC and IT and directed the Petitioner companies to file affidavit regarding the CDR, Sectoral Regulators and legal proceedings pending on behalf of the Transferee Company and in compliance to the above order the Learned counsel for the Petitioner companies filed affidavit dated 14.07.2022 stating that the Scheme of Amalgamation furnished at Annexure A of the Joint Petition does not envisage Corporate Debt Restructuring or Capital Reduction or any kind of arrangement with the creditors of the Petitioners. And further submits that no investigation has been instituted or is pending in relation to the Petitioners under Chapter XIV of the Act or under the corresponding provisions of Section 235 to 251 of the Companies Act, 1956 and no investigation, litigation proceedings pending against the Transferee Company or its Directors as per the terms of Section 230(2)(a) of the Act. It is further submitted that the Petitioners have each obtained letters from NSE and BSE under Regulation 37 of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements), 2015, in respect of the Scheme dated October 22,2020 (NSE) and October 21, 2020 (BSE) where no objection have been raised with respect to the Scheme.
21. The reports and supplementary reports of the RoC, RD, OL and IT are taken on record. Similarly, reply filed by the petitioner companies to the above mentioned reports are also taken on record.
22. The Company Petition was reserved for orders on 12.08.2022 subject to certain compliances, However, it was noted that one of the observation (Point 2(b)) in ROC /RD report is that the appointed date mentioned in the Scheme is 1.04.2019 which is almost 3 years old. In reply to the RoC report vide diary No. 1434, the Petitioner Companies submit that they have no objection if the Tribunal were to direct the

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change of appointed date if it deems fit, from 1.04.2019 to 01.04.2021, subject to no terms of the Scheme being mentioned as a result. The respective Board of Directors have also given their no objection to such change vide Resolution dated 01.04.2022 and 02.04.2022. Accordingly this Tribunal directs to change the appointed date from 01.04.2019 to 01.04.2021. However, it is observed that the Petitioner companies have not filed revised scheme with the new appointed date. Therefore the matter was posted for being mentioned on 17.10.2022. When the matter was taken up, the learned counsel for the Petitioner submits that he may be permitted to file judgments wherein filing of revised scheme is not required when appointed date is changed in view of ROC's observation. This Tribunal directed the petitioner to file the same within One week, and the matter was again reserved for ordered subject to making the above compliance.

23. In compliance to the above direction the counsel for the petitioner filed various judgments vide diary No. 4461 dated 18.10.2022. This Tribunal in light of the judgments produced, hereby direct their filing of revised Scheme is not required. It was noted that the Audit financial statements of the Petitioner as on 31.03.2021 has already been filed. The appointed date of 01.04.2021 will therefore be adopted instead of 01.04.2019 in the Scheme.
24. In view of the above discussion, we conclude that the objections/observations to the Scheme received from RD, ROC, OL and IT have been adequately replied by the petitioner companies and hence there is no impediment in approval of the Scheme.
25. The Scheme in question as annexed at Annexure-A is approved and we declare the appointed date as 01.04.2021 and further declare that the Scheme is to be binding on all the shareholders and creditors of the Transferor as well as Transferee Companies. While approving the Scheme, it is clarified that this order should not be construed as an order in anyway granting exemption from payment of any stamp duty, taxes, or any other charges, if any, and payment in accordance with law or in respect of any permission/compliance with any other requirement which may be specifically required under any law. Moreover, the

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various investigation/legal proceedings under the Companies Act or any other law will be continued against the Transferee Company in accordance with the observation of the ROC and RD and other authorities especially those stated in para 2(m) of the ROC/RD report, dated 08.03.2022; and various undertaking given by the Petitioner Companies in their response filed on 05.04.2022 and 11.07.2022 including filing of compounding application, with reference to reports of various authorities have to be complied with in accordance with Law. With the sanction of the Scheme, the Transferor Company, namely Pioneer Distilleries Limited shall stand dissolved without undergoing the process of winding up resulting in increase in the authorised share capital of the Transferee Company, namely United Spirits Limited.

**AND THIS TRIBUNAL DOES FURTHER ORDER:**

- (i) That the petitioner companies do, within 30 days after the date of receipt of this Order, cause a certified copy of this Order to be delivered to the Registrar of Companies, Karnataka for registration and on such certified copy being so delivered, the Transferor Company shall be dissolved without undergoing the process of winding up. The concerned Registrar of Companies shall place all documents relating to the Transferor Company registered with him on the file relating to the said Transferee Company and the files relating to Transferor and Transferee Companies shall be consolidated accordingly, as the case may be; and
- (ii) That the Transferee Company shall deposit an amount of Rs.75,000/- with the Pay & Accounts Office, Chennai in respect of the Regional Director, South East Region, Ministry of Corporate Affairs, Hyderabad and Rs.25,000/- in favour of The Prime Minister's National Relief Fund, within a period of four weeks from the date of receipt of certified copy of this Order; and
- (iii) That any person interested shall be at liberty to apply this Tribunal in the above matter for any directions that may be necessary.
- (iv) The approval /sanctioning of the Scheme shall not be construed as an exemption from any of the provisions under the Income Tax Act, 1961 or the Companies Act,2013 and that the authorities under both the

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Acts, are at liberty to take appropriate action, in accordance with law, if so advised.

26. As per the directions, Form No.CAA-7 of Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, formal orders be issued on the petitioner companies on filing of the Schedule Property i.e., (i) freehold property of the Transferor Company and (ii) leasehold property of the Transferor Company by way of affidavit of the Transferor Company respectively.

27. Accordingly, CP (CAA) No.40/BB/2021, is disposed of. Copy of this Order be communicated to the Counsel for the Petitioner Companies.

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(MANOJ KUMAR DUBEY)  
MEMBER (TECHNICAL)

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(KISHORE VEMULAPALLI)  
MEMBER (JUDICIAL)