

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,

MUMBAI BENCH, MUMBAI

COMPANY SCHEME PETITION NO. 91 OF 2017

CONNECTED WITH

HIGH COURT COMPANY SUMMONS FOR DIRECTION NO. 835 OF 2016

GAMMON INDIA LIMITED ...Petitioner Company

AND

COMPANY SCHEME PETITION NO. 92 OF 2017

CONNECTED WITH

HIGH COURT COMPANY SUMMONS FOR DIRECTION NO. 836 OF 2016

TRANSRAIL LIGHTING LIMITED ...Petitioner Company

In the matter of the Companies Act, 1956 (1 of 1956);

AND

In the matter of Sections 391 to 394 read with Section 100 of the Companies Act, 1956 AND Sections 230 to 232 read with Section 66 of the Companies Act, 2013;

AND

In the matter of Scheme of Arrangement between Gammon India Limited ('the Transferor Company') AND Transrail Lighting Limited ('the Transferee Company') AND their respective shareholders and creditors

CALLED FOR HEARING:

Mr. Hemant Sethi i/b Hemant Sethi & Co., Advocates for the Petitioner Company.

Mr Kersi Dastoor i/b Phoenix Legal for the Secured lenders

Mr. Ramakantha for the Regional Director

Coram: B.S.V. Prakash Kumar, Member (Judicial)

V .Nallasenapathy, Member (Technical)

Date: 30th March, 2017

MINUTES OF THE ORDER

1. Heard learned counsel for parties.

2. The present Scheme of Arrangement pertains to transfer of the T&D Undertaking (defined in the Scheme) of Gammon India Limited ("GIL" or "Transferor Company"), a company incorporated under the Act (hereinafter defined) with



registered office at Gammon House, Veer Savarkar Marg, Prabhadevi, Mumbai 400 025 and engaged in, *inter alia*, the business of civil engineering, design and construction of power transmission and distribution, into Transrail Lighting Limited ("TLL" or "Transferee Company"), a company incorporated under the Act with registered office at R: F, 3rd:W P: Hamilton House, J.N. Heredia Marg, Ballard Estate, Mumbai 400 038 and engaged in, *inter alia*, the business of designing, manufacturing, installation and supply of engineered galvanized steel monopoles for transmission and distribution of power, street light poles, HI-masts, stadium masts, telecom monopoles, swaged poles with a capacity of 40,000 MT per annum. Transfer of the T&D Undertaking by GIL to TLL would help in achieving the desired operating structure and shall *inter alia* have the following benefits (i) To create a sector focused company, (ii) To enable investment by a strategic investor, (iii) Ring-fence businesses from each other, and (iv) Deleverage the balance sheet of GIL.

3. The Petitioner Companies have approved the said Scheme of Arrangement by passing the Board Resolutions which are annexed to the respective Company Scheme Petitions.
4. By order dated 27th October, 2016 passed by the Hon'ble Bombay High Court in Company Summons for Direction Number 835 of 2016, meetings of equity shareholders, secured creditors and unsecured creditors (only those unsecured creditors having an outstanding balance of INR 100,000/- and above) of GIL were convened and held on December 2, 2016. The Scheme was approved by requisite majority of the shareholders, secured and unsecured creditors .
5. By the order dated 27th October, 2016, passed by the Hon'ble Bombay High Court in Company Summons for Direction Number 836 of 2016 convening of meetings of equity shareholders of TLL was dispensed with in view of consents given by all the equity shareholders of TLL. Also, convening of meetings of secured and unsecured creditors of TLL was dispensed with in view of the undertaking given by TLL that they would issue individual notice of hearing of the petition to all its secured creditors and unsecured creditors (only those unsecured creditors having an outstanding balance of INR 100,000/- and above).
6. The learned counsel for the Petitioner in Company Scheme Petition No. 92 of 2017, states that the Scheme includes reduction of share capital of TLL and the same shall be effected as an integral part of the Scheme and that the same does not involve either diminution of liability in respect of unpaid share capital or payment to any shareholder of any paid up share capital and that it also does not involve any compromise or arrangement with any creditors of TLL and the



procedure prescribed under section 101 (2) of the Companies Act, 1956 was dispensed with as per order dated 27th October, 2016 passed in Company Summons for Direction No. 836 of 2016. However, as per the undertaking given by TLL in respect of the Special Resolution, the same is attached as Exhibit I dated 24th November, 2016 to the Petition.

7. The Learned Advocate appearing on behalf of the Petitioners states that the Petitions have been filed in consonance with the order passed in Company Summons for Direction Nos. 835 of 2016 and 836 of 2016.
8. The Learned Advocate appearing on behalf of the Petitioners states that the Petitioner Companies have complied with all requirements as per directions of the Hon'ble Bombay High Court and they have filed necessary Affidavits of compliance in the Hon'ble Bombay High Court. Moreover, Petitioner Companies undertake to comply with all statutory requirements if any, as required under the Companies Act, 2013 and the Rules made there under whichever is applicable. The said undertaking is accepted.
9. The Regional Director has filed his Report dated March 27, 2017 stating therein that save and except as stated in paragraph IV(a) to IV (c) of the said Report, it appears that the Scheme is not prejudicial to the interest of shareholders and public.

Paragraph IV, of the said Report reads as follows:

- a. *In addition to compliance of AS-14 (IND AS-103) the Transferee Company shall pass such accounting entries which are necessary in connection with the Scheme to comply with other applicable Accounting Standards such as AS-5 (IND AS-8) etc.*
- b. *As per existing practice, the Petitioner Companies are required to serve Notice for Scheme of Arrangements to the Income Tax Department for their comments. It is observed that the Company vide letter dated 31.01.2017 has served a copy of the Company Scheme Petition No. 91 and 92 of 2017 along with relevant order etc. However, as on date there is no response from Income Tax Department. Further, the Regional Director has also issued a reminder on 22.03.2017 to respective IT Department. The tax implication if any arising out of the Scheme is subject to the final decision of the Income Tax Authorities. The approval of the Scheme by this Hon'ble Tribunal may not deter the Income Tax Authority to scrutinize the tax return filed by the Transferee Company after giving effect to the scheme. The decision of the Income Tax Authority is binding on the Petitioner Company.*

c. *Petitioner in the Clause No. 5.3 inter alia has mentioned that TLL shall, if necessary and to the extent required, increase its authorised share capital to facilitate the issue of equity shares under this Scheme. Therefore, Deponent prays that the Hon'ble Tribunal may pass orders to comply with the sec 61, r/w sec 13, sec 64 and other applicable sections of the Companies Act, 2013*

10. As far as observation of the Regional Director, as stated in paragraph IV(a) of his Report is concerned, the Petitioner Companies submit that in addition to compliance of AS -14 (IND AS -103), the Petitioner Companies undertakes to pass such accounting entries which are necessary in connection with the Scheme to comply with other applicable Accounting Standards such as AS-5 (IND AS-8) etc.

11. As far as observation of the Regional Director, as stated in paragraph IV(b) of his Report is concerned, the Petitioner Companies undertakes to comply with all applicable provisions of the Income Tax Act and all tax issues arising out of the Scheme of Amalgamation will be met and answered in accordance with law.

12. As far as observation of the Regional Director, as stated in paragraph IV(c) of his Report is concerned, the Petitioner Company in CSP 92 states that it is not required to increase to its authorized share capital to facilitate issue shares since on the Scheme becoming effective, there would be a reduction of capital in TLL and thereafter the Company shall have sufficient authorized share capital to facilitate issue of shares under this Scheme.

13. From the material on record, the Scheme appears to be fair, reasonable and is not violative of any provisions of law nor is not contrary to public policy.

14. Since all the requisite statutory compliances have been fulfilled, the Company Scheme Petition Nos. 91 of 2017 are made absolute in terms of prayer clause (a) of the petition.

15. Since all the requisite statutory compliances have been fulfilled, the Company Scheme Petition Nos. 92 of 2017 are made absolute in terms of prayer clause (a) and (c) of the petition.

16. Petitioners are directed to lodge a copy of this order along with a copy of the Scheme of Arrangement with the concerned Registrar of Companies, electronically along with E-Form INC-28, in addition to physical copy, as per the relevant provisions of the Companies Act 1956 / 2013.

17. The Petitioner Companies to pay costs of Rs. 25,000/- each to the Regional Director, Western Region, Mumbai.



18. Costs to be paid within four weeks from the date of receipt of the order.
19. All concerned regulatory authorities to act on a certified copy of this order along with Scheme duly certified by the Deputy Director, National Company Law Tribunal, Mumbai.

Sd-

B.S.V. Prakash Kumar, Member (Judicial)

Sd-

V. Nallasenapathy, Member (Technical)



Certified True Copy

Date of Application 10.4.2017

Number of Pages 5

Fee Paid Rs. 25

Applicant called for collection copy on 18.4.2017

Copy prepared on 18.4.2017

Copy issued on 18.4.2017

Deputy Director

National Company Law Tribunal, Mumbai Bench

SCHEME OF ARRANGEMENT

BETWEEN

GAMMON INDIA LIMITED

AND

TRANSRAIL LIGHTING LIMITED

AND

THEIR RESPECTIVE SHAREHOLDERS AND CREDITORS

(Under Sections 391 to 394 read with sections 100 to 103 of the Companies Act, 1956 or any re-enactment thereof) ("the Scheme")

(A) PREAMBLE

This Scheme of Arrangement is presented under Sections 391 to 394 read with sections 100 to 103 and other applicable provisions of the Companies Act, 1956 / Companies Act, 2013 for the transfer of the T&D Undertaking (*defined hereinafter*) of Gammon India Limited ("GIL" or "Transferor Company"), a company incorporated under the Act (hereinafter defined) with registered office at Gammon House, Veer Savarkar Marg, Prabhadevi, Mumbai 400 025 and engaged in, *inter alia*, the business of civil engineering, design and construction of power transmission and distribution, into Transrail Lighting Limited ("TLL" or "Transferee Company"), a company incorporated under the Act with registered office at R: F, 3rd:W P: Hamilton House, J.N. Heredia Marg, Ballard Estate, Mumbai 400 038 and engaged in, *inter alia*, the business of designing, manufacturing, installation and supply of engineered galvanized steel monopoles for transmission and distribution of power, street light poles, HI-masts, stadium masts, telecom monopoles, swaged poles with a capacity of 40,000 MT per annum.

The Company vide a business transfer agreement dated 27th October, 2015 (the "BTA"), has transferred one of the Company's undertakings essentially comprising of the division of conductor factory at Silvassa and the tower manufacturing facility at Deoli, Wardha District along with all the related assets and liabilities ("BTA Undertaking"). Simultaneously, GIL and TLL have also executed an investment cum shareholders agreement dated 27th October, 2015 with Bilav Software Private Limited ('Investor') pursuant to which GIL will transfer majority stake in TLL to the Investor.. Pursuant to this Scheme the Company proposes to transfer the T&D Undertaking to TLL as part of the effort to consolidate the entire T&D business in TLL.

This Scheme also provides for various other matters consequential to or otherwise integrally connected with the Scheme.

(B) DESCRIPTION OF THE SCHEME

In furtherance of the understanding between the Transferor Company and the Transferee Company, this Scheme, *inter alia*, deals with the transfer of the T&D Undertaking from the Transferor Company to the Transferee Company (more particularly described in Part II of this Scheme) and various other matters consequential to or otherwise integrally connected with the above, pursuant to the provisions of Sections 391 to 394 and other applicable provisions of the Companies Act, 1956 in the manner provided for in this Scheme.

(C) RATIONALE FOR THE SCHEME

Transfer of the T&D Undertaking by GIL to TLL would help in achieving the desired operating structure and shall *inter alia* have the following benefits:

- i. To create a sector focused company;
- ii. To enable investment by a strategic investor;
- iii. To discontinue businesses from each other; and
- iv. To deleverage the balance sheet of GIL.



(D) PARTS OF THE SCHEME:

This Scheme is divided into the following parts:

- i. PART I deals with the definitions and share capital;
- ii. PART II deals with Slump Exchange of T&D Undertaking into TLL;
- iii. PART III deals with Reduction of Existing Share Capital of TLL; and
- iv. PART IV deals with general terms and conditions and other miscellaneous provisions applicable to this Scheme.



PART I
DEFINITIONS AND SHARE CAPITAL

1. DEFINITIONS

In this Scheme, unless inconsistent with the subject or context, the following expressions shall have the following meaning:

- 1.1 "Act" or "the Act" means the Companies Act, 1956 and/or the Companies Act, 2013 (as the case may be and to the extent applicable) as in force from time to time; it being clarified that as on the date of approval of this Scheme by the Board of Directors of GIL and TLL, Sections 391 to 394 read with sections 100 to 103 of the Companies Act, 1956 continue to be in force with the corresponding provisions of the Companies Act, 2013 not having been notified. Accordingly, references in this Scheme to particular provisions of the Act are references to particular provisions of the Companies Act, 1956 / Companies Act, 2013 as may be in force;
- 1.2 "Appointed Date" means the opening of business hours on 1st day of January, 2016 or such other date as may be fixed or approved by the High Court;
- 1.3 "Applicable Law" means (a) all applicable statutes, enactments, acts of legislature or parliament, laws, ordinances, rules, bye-laws, regulations, listing agreements, notifications, guidelines or policies of any applicable country and/or jurisdiction, (b) administrative interpretation, writ, injunction, directions, directives, judgment, arbitral award, decree, orders or governmental approvals of, or agreements with, any governmental authority or recognized stock exchange, and (c) international treaties, conventions and protocols, as may be in force from time to time;
- 1.4 "Associated Transrail Structures Limited" or "ATSL" means Associated Transrail Structures Limited, a public company which was amalgamated with GIL with effect from 1st April, 2008.
- 1.5 "Effective Date" means the last of the dates on which all the conditions and matters referred to in Clause 16 of this Scheme occur or have been fulfilled or waived in accordance with this Scheme. Any references in the Scheme to "upon the Scheme becoming effective" or "effectiveness of the Scheme" shall mean the "Effective Date";
- 1.6 "High Court" means the High Court of Judicature at Bombay or such other authority having jurisdiction in the matter and shall include the National Company Law Tribunal, if and when applicable;
- 1.7 "Remaining Business of GIL" or "Remaining Undertaking of GIL" means all the undertakings, businesses, activities and operations of GIL other than the T&D Undertaking (as defined in Clause 1.11 below);
- 1.8 "Scheme" or "the Scheme" or "this Scheme" means this Scheme of Arrangement in its present form as submitted to the Honorable High Court or this Scheme with such modification(s), if any made, as per Clause 15 of the Scheme;
- 1.9 "Stock Exchanges" means BSE Limited and The National Stock Exchange of India Limited;
- 1.10 "Transferred Undertaking" means the T&D Business excluding BTA Undertaking ;
- 1.11 "T&D Business" means the engineering, procurement and construction business of the Transferor Company in the transmission and distribution sector, including the tower testing facility located at Deoli, and tower manufacturing facilities located at Baroda and Nagpur, division of conductor factory at Silvassa and the tower manufacturing facility at Deoli, Wardha District. It is hereby clarified that the T&D Business includes the business received on amalgamation of Associated Transrail Structures Limited with GIL with effect from 1st April, 2008.
- 1.12 "T&D Undertaking" means the Transferred Undertaking as a going concern with all properties, rights and powers and all debts, liabilities, duties and obligations of the Transferor Company comprised in and/ or pertaining to the Transferred Undertaking as on the Appointed Date, including:
- (i) all properties and assets, movable and freehold and leasehold immovable, , real and personal, tangible and intangible, corporeal and incorporeal, in possession, or in reversion, present and contingent of whatsoever nature, wheresoever situated; as on the Appointed Date relating to the Transferred Undertaking, leases, tenancies and agencies of the Transferor Company relating to the Transferred Undertaking, plant and machineries, electrical installations, vehicles, equipments, furnitures, investments including but not limited to identified investment in equity shares of the wholly owned subsidiaries of the Transferor Company to the extent relating to Transferred



Undertaking), sundry debtors, inventories, other current assets, cash and bank balances, bills of exchange, deposits, loans and advances and other assets as appearing in the books of account of the Transferor Company in relation to the Transferred Undertaking;

- (ii) all other interests or rights (including claims, arbitration awards, etc.) or accumulated experience and performance qualifications in or arising out of or relating to the T&D Business together with all respective powers, interests, charges, privileges, benefits, entitlements, building plans, drawings (including approvals obtained for such drawings or any pending applications for approvals), industrial and other registrations, licenses, quotas, brands and trademarks, patents, copyrights, other intellectual property rights, liberties, easements and advantages, subsidies, grants, taxes, tax credits/ incentives (including but not limited to credits/ incentives in respect of sales tax, value added tax, turnover tax, excise duty service tax etc.), tax holiday benefits and other benefits appertaining to the Transferred Undertaking and/or to which the Transferor Company is entitled to in respect of the Transferred Undertaking of whatsoever kind, nature or description held, applied for or as may be obtained thereafter together with the benefit of all respective contracts and engagements relating to the Transferred Undertaking and shall include ATSL's qualifications, references, records and financials transferred to, received by and merged into GIL as T&D Business at the time of merger of ATSL with GIL;
- (iii) powers and facilities of every kind, nature and description whatsoever, rights to use and avail of telephones, facsimile connections and installations, utilities, electricity, water and other services, and all other interests in connection with or relating to the Transferred Undertaking;
- (iv) all debts, liabilities, duties, funded and non-funded facilities, bank guarantees, letters of credit and obligations of the Transferor Company in relation to the Transferred Undertaking, including liabilities on account of loans, sundry creditors, sales tax, bonus, gratuity and other taxation and contingent liabilities of the Transferor Company pertaining to or relatable to the Transferred Undertaking;
- (v) all employees of the Transferor Company engaged in or in relation to the Transferred Undertaking, on the date immediately preceding the Effective Date; and
- (vi) all books, records, files, papers, computer software alongwith their licenses, manuals and backup copies, drawings, data catalogues, and other data and records, whether in physical or electronic form, directly or indirectly in connection with or relating to the Transferred Undertaking.

1A Construction

1A. 1 Any question that may arise as to whether a specified asset or liability pertains or does not pertain to the T&D Undertaking or whether it arises out of the activities or operations of the T&D Undertaking shall be decided by mutual agreement between the Board of Directors of GIL and TLL.

1A. 2 All terms and words not defined in this Scheme shall, unless repugnant or contrary to the context or meaning thereof, have the same meaning ascribed to them under the Act, the Securities Contract Regulation Act, 1956, Securities and Exchange Board of India Act, 1992 (including the Regulations made thereunder), the Depositories Act, 1996, other applicable laws, rules, regulations, bye-laws, as the case may be or any statutory modification or re-enactment thereof from time to time.



SHARE CAPITAL

The authorized, issued, subscribed and paid-up share capital of GIL as on December 31, 2015 is as under:

Share Capital	Amount in Rs. Crores
Authorized Share Capital	
74,710,000,000 Equity Shares of Rs. 2 each	14,942.00
3,000,000 6% Optionally Convertible Preference Shares of Rs. 350/- each	105.00
Total	15,047.00

Share Capital	Amount in Rs. Crores
Issued Share Capital	
288,409,341 Equity shares of Rs. 2/- each fully paid up	57.68
Total	57.68
Subscribed and Fully Paid up Capital	
286,828,801 Equity Shares of Rs. 2 each, fully paid up	57.37
Share Forfeiture Account	
Money received in respect of Right Shares of Rs.10/- each forfeited	0.34

The equity shareholders of GIL, in the Extra-Ordinary General Meeting held on 26th May 2015, have approved the issuance of 100 Unsecured Zero Coupon Compulsorily Convertible Debentures ("ZCCCD") of the face value of Rs.1,00,00,000/- each, aggregating to Rs.100 crores on a preferential basis to the promoters and their affiliates. Each ZCCCD is convertible into 395,256 equity shares of the face value of Rs.2 each at a price of Rs.25.50 (including premium of Rs.23.50) per share, aggregating to 3,95,25,600 Equity Shares. As on the date of the Scheme being approved by the Board of Directors of GIL, the said ZCCCD's have not been issued, pending necessary approval.

The shares of GIL are listed on Stock Exchanges.

- 2.2 The authorized, issued, subscribed and paid-up share capital of TLL as on December 31, 2015 is as under:

Share Capital	Amount in Rs.
Authorized Share Capital	
3,50,00,000 Equity Shares of Rs.10/- each	35,00,00,000
Total	35,00,00,000
Issued, Subscribed and Paid-up Share Capital	
3,10,00,000 Equity Shares of Rs.10/- each, fully paid-up	31,00,00,000
Total	31,00,00,000

Subsequent to the above date and till the date of the Scheme being approved by the Board of Directors of TLL, there has been no change in authorised, issued, subscribed and paid up share capital.

3. DATE OF TAKING EFFECT AND OPERATIVE DATE

The Scheme as set out herein in its present form or with any modification(s) approved or imposed or directed by the High Court shall be effective from the Appointed Date, but shall be operative from the Effective Date.

PART II

SLUMP EXCHANGE OF T&D UNDERTAKING INTO TLL

4. SLUMP EXCHANGE

- 4.1 Upon the Scheme becoming effective entire T&D Undertaking shall be transferred to and vested in TLL as a going concern from the Appointed Date, as detailed in Clause 4.2 below, against issue of shares specified in Clause 5 hereinafter.



4.2 TRANSFER AND VESTING OF T&D UNDERTAKING

Upon the Scheme becoming effective, with effect from the Appointed Date, the T&D Undertaking shall, in accordance with Sections 391 to 394 read with sections 100 to 103 of the Act and all other applicable laws, if any, stand transferred to and vested in or be deemed to be transferred to and vested in TLL on a going concern basis and in the following manner:

- 4.2.1 all the assets of T&D Undertaking, except for the portions specified in Clauses 4.2.2 and 4.2.3 below, of whatsoever nature and where so ever situated and incapable of passing by manual delivery and/or endorsement or otherwise, shall, under the applicable provisions of Sections 391 and 394 read with sections 100 to 103 and all other provisions, if any, of the Act, without any further act or deed be transferred to and vested in and/or deemed to be transferred to and vested in TLL.
- 4.2.2 all the moveable assets including cash in hand, if any, of T&D Undertaking, capable of passing by manual delivery or by endorsement and delivery shall be so delivered or endorsed as the case may be to TLL. On such delivery or endorsement and delivery, the same shall become the property of TLL to the end and intent that the ownership and property therein passes to TLL on such handing over in pursuance of the provisions of Section 394 of the Act.
- 4.2.3 in respect of the moveable properties of T&D Undertaking other than specified in Clause 4.2.2 above and any intangible assets, including sundry debtors, loans receivable, advances, if any, recoverable in cash or kind or for value to be received, bank balances and deposits, if any, with the government, semi-government, local and other authorities and bodies, companies, firm, individuals, trusts, etc., TLL may itself or require GIL and GIL shall upon such requisition from TLL, at any time after coming into effect of this Scheme in accordance with the provisions hereof, if so required under any law or otherwise, give notices in such form as it may deem fit and proper, to each person, debtors or depositors, as the case may be, that pursuant to the High Court having sanctioned the Scheme, the said debt, loan receivable, advance or deposit be paid or made good or held on account of TLL as the person entitled thereto to the end and intent that the right of GIL to recover or realize all such debts (including the debts payable by such persons or depositors to GIL) stands transferred to and vested in TLL and that appropriate entries should be passed in their respective books to record the aforesaid change.
- 4.2.4 all debts, liabilities, duties, obligations of every kind, nature and description including all excise duty, custom duty, sales tax, value added tax, service tax and other government and semi government liabilities of T&D Undertaking shall also, under the provisions of Sections 391 and 394 read with sections 100 to 103 of the Act without any further act or deed be transferred to and assumed by or deemed to be transferred to and assumed by TLL so as to become as from the Appointed Date the debts, liabilities, duties, obligations of TLL. It is hereby confirmed that the debts, liabilities and obligations of GIL pertaining to the BTA Undertaking, have been transferred to TLL pursuant to the BTA.
- 4.2.5 The transfer and vesting of the T&D Undertaking as aforesaid of GIL, shall be subject to the existing securities, charges and mortgages, if any, subsisting over or in respect of the property and assets or any part thereof.

Provided that in so far as the assets comprised in the T&D Undertaking are concerned, the security and charge over such assets relating to any loans or liabilities pertaining to the Remaining Undertaking of GIL shall, without any further act or deed, be released from such encumbrance and shall no longer be available as security in relation to such loans or liabilities.

Provided further that in so far as the assets comprised in the Remaining Undertaking of GIL are concerned, the security over such assets relating to the loans, borrowings, debts and financial assistance pertaining to the T&D Undertaking shall, without further act, instrument or deed, along with any guarantees, indemnities, or undertakings provided by GIL in relation to the T&D Undertaking, be released and discharged from the obligations and security relating to the same. With effect from the Appointed Date and upon the Scheme becoming effective, TLL undertakes to meet, discharge and satisfy the loans, borrowings, debts and financial assistance pertaining to the T&D Undertaking.

- 4.2.6 Without prejudice to the generality of the forgoing, it is clarified that upon the coming into effect of this Scheme, all permits, authorizations, licenses, consents, registrations, approvals, municipal permissions, industrial licenses, registrations, privileges, easements and advantages, facilities, rights, powers and interest (whether vested or



contingent), of every kind and description of whatsoever nature in relation to the T&D Undertaking, to which GIL is a party to or to the benefit of which GIL may be eligible and which are subsisting or having effect immediately before the Appointed Date shall stand transferred to and vested in or shall be deemed to be transferred to and vested in TLL as if the same were originally given or issued to or executed in favour of TLL, and the rights and benefits under the same shall be available to TLL. Further, GIL shall execute such further deeds or documents, as may be required to give effect to this Clause.

- 4.2.7 the work experience, qualifications, capabilities, logistics, turnover record and track record with National & International Companies, Central and State Government / Non-Government agencies / bodies, contracts with clients and with vendors (including technical parameters, past performance, track record, financials, etc.) of the Transferor Company acquired by reason of completion of various projects and works pertaining to the T&D Undertaking and certificates of completion of projects and works pertaining to T&D Undertaking issued by clients of the Transferor Company shall be deemed to be part of and belonging to TLL and shall for all purposes be regarded as the work experience, qualifications, capabilities, logistics, turnover record and track record (including technical parameters, past performance, track record, financials, etc.) and certificates of completion of TLL. It is hereby clarified that the work experience, qualifications, turnover record, track record etc. of GIL as stated above, shall include the work experience, qualifications, turnover record, track record etc. relating to ATSL transferred to, received by and merged with the T&D Undertaking of GIL at the time of merger of ATSL and shall stand transferred to and received by TLL.
- 4.2.8 All cheques and other negotiable instruments, payment order, electronic fund transfers (like NEFT, RTGS, etc.) received or presented for encashment which are in the name of GIL (in relation to T&D Undertaking) after the Effective Date shall be accepted by the banker(s) of TLL and credited to the account of TLL, if presented by TLL or received through electronic transfers. Similarly, the banker(s) of TLL shall honour all cheques / electronic fund transfer instructions issued by GIL (in relation to T&D Undertaking) for payment after the Effective Date. If required, the bankers of GIL and GIL shall allow maintaining and operating of the bank accounts (including banking transactions carried out electronically) in the name of GIL by TLL in relation to the T&D Undertaking for such time as may be determined to be necessary by TLL for presentation and deposition of cheques, pay order and electronic transfers that have been issued/made in the name of TLL.
- 4.2.9 Upon the Scheme becoming effective, GIL and TLL are expressly permitted to revise their respective financial statements and returns along with prescribed forms, filings and annexures under the Income Tax Act, 1961, central sales tax, applicable state value added tax, service tax laws, excise duty laws and other tax laws, and to claim refunds and/or credit for taxes paid (including, tax deducted at source, wealth tax, etc.) and for matters incidental thereto, if required, to give effect to the provisions of the Scheme.
- 4.2.10 Any tax liabilities under the service tax laws, excise duty laws, central sales tax, applicable state value added tax laws or other applicable laws/regulations dealing with taxes/duties/levies of T&D Undertaking whether or not provided for or covered by tax provision in the accounts made as on the date immediately preceding the Appointed Date or not shall be transferred to TLL.
- 4.2.11 Any refund / credit, under the service tax laws, excise duty laws, central sales tax, applicable state value added tax laws or other applicable laws/regulations in relation to the T&D Undertaking arising consequent to the assessment made on GIL whether recorded in the accounts as on the date immediately preceding the Appointed Date or not shall belong to by TLL upon this Scheme becoming effective.
- 4.2.12 Without prejudice to the generality of the above, all benefits, incentives, losses, credits (including, without limitation service tax, excise duty, central sales tax, applicable state value added tax etc.) to which T&D Undertaking is entitled to in terms of applicable laws, shall be available to and vest in TLL, upon this Scheme coming into effect.



5.

ISSUE OF SHARES

5.1

Upon coming into effect of the Scheme, TLL shall issue and allot 7,25,000 (Seven Lakh Twenty Five Thousand) fully paid up equity shares of Rs.10/- each to the Transferor Company.

- 5.2 Equity shares to be issued by TLL to the Transferor Company as above shall be subject to the Memorandum and Articles of Association of TLL and shall rank *pari passu* with the existing equity shares of TLL in all respects including dividends.
- 5.3 TLL shall, if necessary and to the extent required, increase its authorized share capital to facilitate the issue of equity shares under this Scheme.
- 5.4 Approval of this Scheme by the shareholders of TLL shall be deemed to be the due compliance with the provisions of Section 42/62 of the Companies Act, 2013 and the other relevant and applicable provisions of the Act for the issue and allotment of equity shares by TLL to the Transferor Company, as provided in this Scheme.
- 5.5 The approval of this Scheme by the shareholders of both the companies under Sections 391 and 394 read with sections 100 to 103 of the Act shall be deemed to have the approval under Sections 13, 14, 180 and 186 of Companies Act, 2013 and other applicable provisions of the Act and any other consents and approvals required in this regard.

6. ACCOUNTING TREATMENT IN THE BOOKS OF THE TRANSFEROR COMPANY AND TLL

6.1 IN THE BOOKS OF THE TRANSFEROR COMPANY

Upon the Scheme becoming effective, the Transferor Company:

- 6.1.1 shall reduce the book value of assets and liabilities pertaining to the T&D Undertaking as on the Appointed Date from its books of accounts;
- 6.1.2 shall record all the Equity Shares received pursuant to this Scheme at fair value;
- 6.1.3 the difference between the fair value of the Equity Shares received pursuant to this Scheme and the book value of assets of the T&D Undertaking as reduced by the aggregate book value of liabilities of the T&D Undertaking, if positive shall be credited to the Capital Reserve Account else shall be debited to the Profit & Loss Account.

6.2 IN THE BOOKS OF TLL

Upon the Scheme becoming effective,

- 6.2.1 TLL shall record the face value of the Equity Shares issued by it to the Transferor Company pursuant to this Scheme as capital;
- 6.2.2 The aggregate face value of the Equity Shares issued by TLL and the value of the liabilities of T&D Undertaking shall be apportioned to the various assets in same proportion as the fair values of the respective assets bears to the aggregate fair value of all the assets.

PART III

REDUCTION OF EXISTING SHARE CAPITAL OF TLL

7. REDUCTION OF EXISTING SHARE CAPITAL OF TLL

- 7.1 Upon the Scheme becoming effective, the the existing issued, paid-up and subscribed share capital of TLL of INR 31,00,00,000 (Rupees Thirty One Crores only) comprising of 3,10,00,000 equity shares of INR 10 each shall be reduced to INR 20,00,00,000 (Rupees Twenty Lacs only) comprising of 2,00,00,000 equity shares of INR 10 each/-. The reduced amount of INR 30,80,00,000 (Rupees Thirty Crores Eighty Lacs only), shall be utilized for adjusting the debit balance in the profit and loss account of TLL and excess, if any, shall be credited to the capital reserve account in TLL.

- 7.2 The cancellation of the existing 3,08,00,000 equity shares of INR 10/- each amounting to INR 30,80,00,000 (Rupees Thirty crores eighty lacs only) of TLL as mentioned in Clause 7.1 above shall be effected as an integral part of the Scheme without having to follow the process under Sections 100 to 103 of the Act separately and the Order of the High Court sanctioning the Scheme shall be deemed to be also the Order under Section 102 of the Act for the purpose of confirming the reduction. The reduction would not involve either a diminution of liability in respect of unpaid share capital or payment of paid-up share capital and hence the provisions of Section 101 of the Act will not be applicable. Further, TLL shall not be required to add the words "and reduced" as a suffix to its name consequent upon such reduction.



PART IV
GENERAL TERMS AND CONDITIONS

8. TRANSACTIONS UPTO THE EFFECTIVE DATE

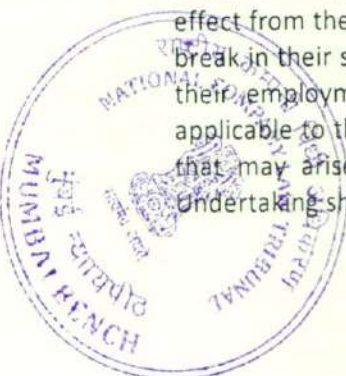
8.1 With effect from the Appointed Date and up to and including the Effective Date:

- (a) The Transferor Company shall carry on and be deemed to have carried on the business and activities in relation to the T&D Undertaking and shall stand possessed of their properties and assets relating to the T&D Undertaking for and in trust for the Transferee Company and all the profits / losses accruing on account of the T&D Undertaking shall for all purposes be treated as profits / losses of the respective Transferee Company.
- (b) All the debts, liabilities, duties, obligations, taxes etc. as aforesaid of the T&D Undertaking incurred/contracted during the period commencing from the Appointed Date till the Effective Date shall be deemed to have been incurred/contracted by the Transferee Company and shall be deemed to be the debts, liabilities and obligations of the Transferee Company and further that it shall not be necessary to obtain consent of any person in order to give effect to the provisions of this clause.
- (c) The Transferor Company shall not without the prior written consent of the Board of Directors of the Transferee Company or pursuant to any pre-existing obligation, sell, transfer or otherwise alienate, charge, mortgage or encumber or otherwise deal with or dispose of the undertaking relating to the T&D Undertaking or any part thereof except in the ordinary course of its business.
- (d) The Transferor Company shall not vary the terms and conditions of service of its permanent employees relating to the T&D Undertaking except in the ordinary course of its business.
- (e) The Transferee Company shall be entitled, pending sanction of the Scheme, to apply to the Central Government, State Government, Union Territories and all other concerned agencies, departments and authorities (statutory or otherwise) as are necessary under any law for such consents, approvals and sanctions, which they may require to carry on the business of the T&D Undertaking. Further, the Transferor Company shall extend all assistance to the Transferee Company, if requested by any of the Transferee Company, in obtaining the said consents, approvals and sanctions.
- (f) Any payments made or benefits received by GIL in respect of the T&D Undertaking shall be deemed to have been made or received, as the case may be, for and on behalf of TLL and GIL shall be entitled to recover such expenses from TLL and be obligated to pass on the benefits to TLL. Similarly, any payments made or benefits received by TLL in respect of the Remaining Undertaking of GIL shall be deemed to have been made or received, as the case may be, for and on behalf of GIL and TLL shall be entitled to recover such expenses from GIL or obligated to pass on the benefits to GIL.

8.2 With effect from the date of approval to the Scheme by Board of Directors of the Transferor Company and the Transferee Company until the Effective Date, the Transferor Company shall preserve and carry on the business and activities of T&D Undertaking with reasonable diligence and business prudence and the Transferor Company shall not, without the prior consultation with the Transferee Company, alienate, charge or otherwise deal with or dispose of the T&D Undertaking or any part thereof or recruit any new employee (in each case except in the ordinary course of business) or employees; further, the Transferor Company shall not engage in any corporate restructuring exercise including any merger and/or demerger or substantial expansion of the T&D Undertaking without prior written consent of the Transferee Company.

9. EMPLOYEES

9.1 On the Scheme becoming effective, all employees of the T&D Undertaking in service on the Effective Date, shall be deemed to have become employees of the Transferee Company with effect from the Appointed Date or their respective joining date, whichever is later, without any break in their service and on the basis of continuity of service, and the terms and conditions of their employment with the Transferee Company shall not be less favorable than those applicable to them with reference to the T&D Undertaking on the Effective Date. Any question that may arise as to whether any employee belongs to or does not belong to the T&D Undertaking shall be decided by Board of Directors of Transferor Company.



9.2 It is expressly provided that, on the Scheme becoming effective, the provident fund, gratuity fund, superannuation fund or any other special fund or trusts created or existing for the benefit of the employees of the T&D Undertaking shall be deemed to have been created by the respective Transferee Company in place of Transferor Company for all purposes whatsoever in relation to the administration or operation of such fund or funds or in relation to the obligation to make contributions to the said fund or funds in accordance with the provisions thereof as per the terms provided in the respective trust deeds, if any, to the end and intent that all rights, duties, powers and obligations of Transferor Company in relation to such fund or funds shall become those of the Transferee Company. It is clarified that the services of the employees of the T&D Undertaking will be treated as having been continuous and not interrupted for the purpose of the said fund or funds.

10. LEGAL PROCEEDINGS

10.1 All legal proceedings of whatsoever nature by or against Transferor Company pending and/or arising before the Effective Date and relating to the T&D Undertaking, shall not abate or be discontinued or be in any way prejudicially affected by reason of the Scheme or by anything contained in this Scheme but shall be continued and enforced by or against the Transferee Company, as the case may be in the same manner and to the same extent as would or might have been continued and enforced by or against Transferor Company.

10.2 After the Appointed Date, if any proceedings are taken against Transferor Company in respect of the matters referred to in the sub-clause 10.1 above, Transferor Company shall defend the same in accordance with advise and instructions of the Transferee Company at the cost of the Transferee Company, and the respective Transferee Company shall reimburse and indemnify Transferor Company against all liabilities and obligations incurred by Transferor Company in respect thereof.

10.3 The Transferee Company undertake to have all respective legal or other proceedings initiated by or against Transferor Company referred to in Clause 10.1 above transferred into its name and to have the same continued, prosecuted and enforced by or against the Transferee Company as the case may be, to the exclusion of Transferor Company and Transferor Company shall extend all assistance in such transfer into the Transferee Company's name, if required by the Transferee Company.

11. CONTRACTS, DEEDS, ETC.

11.1 Notwithstanding anything to the contrary contained in any contract, deed, bond, agreement or any other instrument, but subject to the other provisions of this Scheme, all contracts, deeds, bonds, agreements and other instruments, if any, of whatsoever nature and subsisting or having effect on the Effective Date and relating to the T&D Undertaking of the Transferor Company to which Transferor Company is a party or to the benefit of which Transferor Company may be eligible, shall continue in full force and effect against or in favour of the Transferee Company, and may be enforced effectively by or against the Transferee Company as fully and effectually as if, instead of Transferor Company, the Transferee Company had been a party thereto from inception.

11.2 The Transferee Company may, at any time after the coming into effect of this Scheme in accordance with the provisions hereof, if so required, under any law or otherwise, enter into, or issue or execute deeds, writings, confirmations, novations, declarations, or other documents with, or in favour of any party to any contract or arrangement to which Transferor Company is a party or any writings as may be necessary to be executed in order to give formal effect to the above provisions. The Transferee Company shall be deemed to be authorised to execute any such writings on behalf of Transferor Company and to carry out or perform all such formalities or compliances required for the purposes referred to above on the part of Transferor Company.

11.3 It is hereby clarified that (i) if any contract, deeds, bonds, agreements, schemes, arrangements or other instruments of whatsoever nature in relation to the T&D Undertaking to which Transferor Company is a party to, cannot be transferred to the Transferee Company for any reason whatsoever, Transferor Company shall hold such contract, deeds, bonds, agreements, schemes, arrangements or other instruments of whatsoever nature in trust for the benefit of the Transferee Company; and (ii) if any contract, deeds, bonds, agreements, schemes, arrangements or other instruments of whatsoever nature relate to the T&D Undertaking as well as Transferor Company (pursuant to the transfer of the T&D Undertaking), Transferor Company



and the Transferee Company shall both be entitled to all rights and benefits and be liable for all obligations under the said arrangements, each to the extent of its respective undertaking only.

12. REMAINING UNDERTAKING

12.1 The Remaining Undertaking and all the assets, properties, rights, liabilities and obligations thereto shall continue to belong to and be vested in and be managed by Transferor Company and the Transferee Company shall have no right, claim or obligation in relation to the Remaining Undertaking. From the Appointed Date, Transferor Company shall carry on the activities and operations of the Remaining Undertaking distinctly and as a separate business from the T&D Undertaking.

12.2 All legal, taxation and other proceedings whether civil or criminal (including before any statutory or quasi-judicial authority or tribunal) by or against Transferor Company under any statute, whether pending on the Appointed Date or which may be instituted at any time thereafter, and in each case pertaining to the Remaining Undertaking shall be continued and enforced by or against Transferor Company after the Effective Date. The Transferee Company shall in no event be responsible or liable in relation to any such legal or other proceeding against Transferor Company.

13. SAVING OF CONCLUDED TRANSACTIONS

The transfer and vesting of the T&D Undertaking as above and the continuance of proceedings by or against Transferor Company in relation to the T&D Undertaking shall not affect any transaction or proceedings already concluded on or after the Appointed Date till the Effective Date in accordance with this Scheme, to the end and intent that the Transferee Company accept and adopt all acts, deeds and things done and executed by Transferor Company in respect thereto as done and executed on their behalf.

14. APPLICATION TO HIGH COURT

The Transferor Company and the Transferee Company shall as may be required make applications and/or petitions under Sections 391 to 394, read with Sections 100 to 103 and other applicable provisions of the Act to the High Court for sanction of this Scheme and all matters ancillary or incidental thereto.

15. MODIFICATION OR AMENDMENTS TO THE SCHEME

The Transferor Company and the Transferee Company, by their respective Boards of Directors ('the Board', which term shall include Committee thereof), may assent to/make and/or consent to any modifications/amendments to the Scheme or to any conditions or limitations that the Court and/or any other Authority under law may deem fit to direct or impose, or which may otherwise be considered necessary, desirable or appropriate as a result of subsequent events or otherwise by them (i.e. the Board). The Transferor Company and the Transferee Company by their respective Boards are authorised to take all such steps as may be necessary, desirable or proper to resolve any doubts, difficulties or questions whatsoever for in relation to carrying out the Scheme, whether by reason of any directive or Orders of any other authorities or otherwise howsoever, arising out of or under or by virtue of the Scheme and/or any matter concerned or connected therewith. However any modification or amendment to the Scheme after the High Court has sanctioned the scheme will require the prior approval of the High Court.

16. CONDITIONALITY OF THE SCHEME

This Scheme is and shall be conditional upon and subject to:

16.1 The requisite consent, approval or permission of the Central Government including Stock Exchange and Securities and Exchange Board of India;

16.2 The Scheme being approved by the requisite majorities in number and value of such classes of persons including the respective members and/or creditors of the Transferor Company and the Transferee Company as may be directed by the Hon'ble High Court of Judicature at Bombay or any other competent authority, as may be applicable;



16.3 The Scheme being sanctioned by the High Court of Judicature at Bombay or any other authority under Sections 391 to 394 read with sections 100 to 103 of the Act;

16.4 Certified copy of the Order of the High Court of Judicature at Bombay sanctioning the Scheme being filed with the Registrar of Companies, Maharashtra, at Mumbai by the Transferor Company and the Transferee Company.

17. EFFECT OF NON-RECEIPT OF APPROVALS

17.1 In the event of any of the said sanctions and approvals referred to in the preceding clause not being obtained and/or the Scheme not being sanctioned by the High Court or such other competent authority and / or the Order not being passed as aforesaid before March 31, 2017 or within such further period or periods as may be agreed upon between GIL and TLL by their respective Board of Directors or any committee thereof (and which the Board of Directors of the companies are hereby empowered and authorised to agree to and extend the Scheme from time to time without any limitation), this Scheme shall stand revoked, cancelled and be of no effect, save and except in respect of any act or deed done prior thereto as is contemplated hereunder or as to any rights and/ or liabilities which might have arisen or accrued pursuant thereto and which shall be governed and be preserved or worked out as is specifically provided in the Scheme or as may otherwise arise in law.

18. COSTS, CHARGES & EXPENSES

All costs, charges, taxes including duties, levies and all other expenses, if any (save as expressly otherwise agreed) arising out of, or incurred in carrying out and implementing this Scheme and matters incidental thereto, shall be borne by the Transferee Company.

19. REGULATORY

19.1 SEBI has passed orders against GIL, the Chairman and the Managing Director of GIL, Mr. Abhijit Rajan from accessing capital market till 21-12-2007 and against Mr. Abhijit Rajan and Mr. Naval Chaudhary an Independent Director under the provisions of Insider trading regulations.

20. REPEALS AND SAVINGS

Any matter filed with Registrar of Companies, Regional Director, Income Tax authority or the Central Government under the Companies Act, 1956, before the notification of the corresponding provisions under the Companies Act, 2013 and not fully addressed at that time shall be concluded by the Registrar of Companies, Regional Director Income Tax authority or the Central Government, as the case may be, in terms of the Act. Any direction or order given by the Hon'ble High Court under the provisions of the Companies Act, 1956 and any act done by the Company based on such directions or order shall be deemed to be in accordance with and consistent with the provisions of the Companies Act, 2013. Accordingly, the provisions of the Companies Act, 2013, shall not apply to acts done by the Company as per direction or order of the Hon'ble High Court sanctioning the Scheme.



Certified True Copy

Date of Application 10.4.2017

Number of Pages 12

Fee Paid Rs. 60

Applicant called for collection copy on 18.4.2017

Copy prepared on 18.4.2017

Copy Issued on 18.4.2017

Deputy Director
National Company Law Tribunal, Mumbai Bench

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BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,

MUMBAI BENCH, MUMBAI

COMPANY SCHEME PETITION NO. 91 OF 2017

In the matter of the Companies Act, 1956 (1 of 1956);

AND

In the matter of Sections 391 to 394 read with Section 100 of the Companies Act, 1956 AND Sections 230 to 232 read with Section 66 of the Companies Act, 2013;

AND

In the matter of Scheme of Arrangement between Gammon India Limited ('the Transferor Company') AND Transrail Lighting Limited ('the Transferee Company') AND their respective shareholders and creditors

GAMMON INDIA LIMITED

...Petitioner Company

CERTIFIED COPY OF ORDER DATED 30TH DAY OF MARCH 2017 AND THE SCHEME ANNEXED TO THE PETITION



HS

**HEMANT SETHI & CO
ADVOCATES FOR PETITIONER**