

IN NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH, COURT- III

C.A. 32/MB/C-III/2024,  
C.A. 54/MB/C-III/2024,  
C.A. 55/MB/C-III/2024,  
C.A. 114/MB/C-III/2024

In  
C.P.(CAA)/209/MB/C-III/2022

Company Application under Rule 11 of the National Company Law Tribunal Rules, 2016;

*In the matter of*  
C.A. 32/MB/C-III/2024, C.A. 114/MB/C-III/2024

**ZEE ENTERTAINMENT ENTERPRISES**

**LIMITED**, a company incorporated under the Companies Act, 1956, having its registered office at 18th Floor, A Wing, Marathon Futurex, N. M. Joshi Marg, Lower Parel, Mumbai, Maharashtra 400013  
CIN: L92132MH1982PLC028767

...Applicant/  
Transferor Company 1

Versus

**BANGLA ENTERTAINMENT PRIVATE LIMITED**

**AND ANR.**, a company incorporated under the Companies Act, 1956, having its registered office at 4<sup>th</sup> Floor Interface, Building No. 7 Off Malad Link Road, Mumbai 400064  
CIN: U92199MH2007PTC270854

...Respondent 1/  
Transferor Company 2

And

**CULVER MAX ENTERTAINMENT PRIVATE**

**LIMITED** (formerly, Sony Pictures Networks India Private Limited) (SPNI), a company incorporated under the Companies Act, 1956, having its registered office at 4<sup>th</sup> Floor Interface, Building No. 7 Off Malad Link Road, Mumbai 400064  
CIN: U92100MH1995PTC111487

...Respondent 2/  
Transferee Company

*(Collectively referred to as Respondents)*

*In the matter of*  
C.A. 54/MB/C-III/2024, C.A. 55/MB/C-III/2024

**BANGLA ENTERTAINMENT PRIVATE LIMITED**

**AND ANR.**, a company incorporated under the Companies Act, 1956, having its registered office

at 4<sup>th</sup> Floor Interface, Building No. 7 Off Malad  
Link Road, Mumbai 400064  
CIN: U92199MH2007PTC270854

... Applicant 1/  
Transferor Company 2

And

**CULVER MAX ENTERTAINMENT PRIVATE LIMITED** (formerly, Sony Pictures Networks India Private Limited) (SPNI), a company incorporated under the Companies Act, 1956, having its registered office at 4<sup>th</sup> Floor Interface, Building No. 7 Off Malad Link Road, Mumbai 400064  
CIN: U92100MH1995PTC111487

... Applicant 2/  
Transferee Company

*(Collectively referred to as Applicants)*

Versus

**ZEE ENTERTAINMENT ENTERPRISES LIMITED**, a company incorporated under the Companies Act, 1956, having its registered office at 18th Floor, A Wing, Marathon Futurex, N. M. Joshi Marg, Lower Parel, Mumbai, Maharashtra 400013  
CIN: L92132MH1982PLC028767

... Respondent /  
Transferor Company 1

*(hereinafter Applicant and Respondents collectively referred to as 'Parties')*

**Order Pronounced on: 24.06.2024**

*Coram:*

**MS. LAKSHMI GURUNG, HON'BLE MEMBER (JUDICIAL)**

**SH. CHARANJEET SINGH GULATI, HON'BLE MEMBER (TECHNICAL)**

*Appearance:*

**For Applicant :** C.A. 32/2024 and C.A. 114/2024

Sr. Adv. Janak Dwarkadas a/w Adv. L. Viswanathan i/b  
Cyril Amarchand Mangaldas

C.A. 54/2024 and C.A. 55/2024

Sr. Adv. Darius Khambata a/w. Sr. Adv. Gaurav Joshi

**For Respondent :** C.A. 32/2024 and C.A. 114/2024

Sr. Adv. Darius Khambata a/w Sr. Adv. Gaurav Joshi

C.A. 54/2024 and C.A. 55/2024

Adv. Gathi Prakash a/w. Adv. Darshan Furia, Adv.  
Priyanka Desai i/b. Cyril Amarchand Mangaldas

**Per: Coram**

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**C.A. 32/MB/C-III/2024,**

1. This Application has been filed by M/s. Zee Entertainment Enterprises Limited (Applicant) against M/s. Bangla Entertainment Private Limited (Respondent 1) and M/s. Culver Max Entertainment Private Limited [(formerly, Sony Pictures Networks India Private Limited) (SPNI) (Respondent 2)] seeking the following reliefs:

- a. *THAT this Hon'ble Tribunal directs the Respondents to implement the Composite Scheme of Arrangement amongst Zee Entertainment Enterprises Limited (Transferor Company 1), Bangla Entertainment Private Limited (Transferor Company 2), Culver Max Entertainment Private Limited (formerly known as Sony Pictures Networks India Private Limited) (Transferee Company) and their respective shareholders and creditors under Sections 230 to 232 of the Companies Act, 2013, sanctioned by this Hon'ble Tribunal, vide its orders dated 10<sup>th</sup> and 11<sup>th</sup> August 2023;*
- b. *THAT pending the hearing and final disposal of the present Application, this Hon'ble Tribunal restrains the Respondents from taking any further steps/action that would prejudicially affect/be detrimental to/ directly or indirectly interfere with the implementation of the Composite Scheme of Arrangement amongst Zee Entertainment Enterprises Limited (Transferor Company 1), Bangla Entertainment Private Limited (Transferor Company 2), Culver Max Entertainment Private Limited (formerly known as Sony Pictures Networks India Private Limited) (Transferee Company) and their respective shareholders and creditors under Sections 230 to 232 of the Companies Act, 2013, sanctioned by this Hon'ble Tribunal, vide its orders dated 10<sup>th</sup> and 11<sup>th</sup> August 2023;*

- c. *THAT pending the hearing and final disposal of the present Application, this Hon'ble Tribunal directs the Respondents to maintain status quo insofar as the Composite Scheme of Arrangement amongst Zee Entertainment Enterprises Limited (Transferor Company 1), Bangla Entertainment Private Limited (Transferor Company 2), Culver Max Entertainment Private Limited (formerly known as Sony Pictures Networks India Private Limited) (Transferee Company) and their respective shareholders and creditors under Sections 230 to 232 of the Companies Act, 2013, sanctioned by this Hon'ble Tribunal, vide its orders dated 10<sup>th</sup> and 11<sup>th</sup> August 2023;*
- d. *THAT pending the hearing and final disposal of the present Application, this Hon'ble Tribunal appoint a committee comprising of two directors from the Applicant and two directors from the Respondents and direct such committee to submit its report to this Hon'ble Tribunal from time to time in relation to implementation of the Composite Scheme of Arrangement amongst Zee Entertainment Enterprises Limited (Transferor Company 1), Bangla Entertainment Private Limited (Transferor Company 2), Culver Max Entertainment Private Limited (formerly known as Sony Pictures Networks India Private Limited) (Transferee Company) and their respective shareholders and creditors under Sections 230 to 232 of the Companies Act, 2013, sanctioned by this Hon'ble Tribunal, vide its orders dated 10<sup>th</sup> and 11<sup>th</sup> August 2023, under the supervision of this Hon'ble Tribunal;*
- e. *THAT this Hon'ble Tribunal grants ad-interim reliefs in terms of prayer clauses (b) to (d) above; and*
- f. *THAT this Hon'ble Tribunal passes such further or other order(s) and/or directions), as it may deem fit and proper.*

## **2. Submissions of the Applicant, in brief:**

2.1. The Transferor and Transferee Companies (Parties) entered into a Merger Cooperation Agreement (MCA) on 22.12.2021. The MCA records the mutual understanding and agreement between Parties regarding the Scheme and sets forth the rights, obligations and certain mutually agreed representations and warranties that are relevant and necessary for the Scheme, including fulfilment of Closing Conditions Precedents (CCPs) and Joint Closing Conditions Precedents (JCCPs) by each party. The Parties were required to make efforts as may be required to fulfil the CCPs and JCCPs to secure the consummation of the Scheme.

- 2.2. To implement the Scheme and give effect to the Transactions thereunder, the approval of the Bombay Stock Exchange Limited (BSE) and the National Stock Exchange (NSE) on 29.07.2022, and approval of the Competition Commission of India (CCI) on 04.10.2022 was obtained. Thereafter, vide the Sanctioning Orders dated 10.08.2023 and 11.08.2023, the Scheme was approved by this Tribunal.
- 2.3. As the End Date of 24 (twenty-four) months from the Execution Date of MCA i.e. 22.12.2023 was approaching, the Applicant addressed an email dated 17.12.2023 to the Respondents inviting them to enter into negotiations with the Applicant and to extend the End Date by a reasonable period, as per Clause 8.2.5 of the MCA.
- 2.4. The Respondents issued a notice to the Applicant on 20.12.2023, *inter alia* raising several allegations against the Applicant for the non-fulfilment of Applicant's Closing Conditions Precedent (ZEEL CCPs), Applicant's warranties and standstill actions.
- 2.5. The Applicant responded to the Notice by its letter dated 27.12.2023 *inter alia* stating that the Applicant has taken all actions /efforts to fulfil ZEEL CCPs and the JCCPs and none of the ZEEL CCPs or JCCPs have remained unfulfilled due to acts or omissions by the Applicant. On 05.01.2024, the Respondents replied to the Applicant's said letter wherein *inter alia* they confirmed that they are committed to taking all steps required towards the consummation of the Scheme.
- 2.6. Subsequently, on 09.01.2024, the Applicant responded to the Respondent's Letter dated 05.01.2024 *inter alia* the Applicant stated that if Parties cooperate in good faith and work together, they will be able to achieve closure of all outstanding issues within the next 6 months. Further, the Respondents vide letter dated 22.01.2024

(Termination Notice) sought termination of the MCA and have *inter-alia* called upon the Applicant to withdraw the Scheme. The Applicant has vide its reply dated 23.01.2024 rejected the purported termination of the MCA and has called upon the Respondents to withdraw the same.

- 2.7. The Respondents vide their letter dated 22.01.2024 (Notice of Arbitration) invoked arbitration against the Applicant under the MCA and filed an application (Application before EA) seeking urgent interim reliefs to prevent the Applicant from filing any proceedings before this Tribunal seeking implementation of the Scheme.
- 2.8. Under the Scheme, Parties could withdraw the Scheme only before it was sanctioned by the Tribunal. Further, even if withdrawal applications are to be made as per the Termination Notice, this Tribunal is bound to take into consideration whether a withdrawal of the Scheme at this stage would be in the interest of shareholders, including minority shareholders, as well as in the larger public interest.
- 2.9. Further, under Rule 11 of the National Company Law Tribunal Rules, 2016 this Tribunal has inherent powers to make orders as may be necessary for meeting the ends of justice. The Applicant states that it is in the best interest of the Applicant including its shareholders and creditors, that this Tribunal passes an order so that the Scheme is made effective and implemented.

### **3. Submissions of the Respondents, in brief:**

- 3.1. Reply has been filed by Bangla Entertainment Pvt. Ltd. and Culver Max Entertainment Pvt. Ltd. (Respondents) without prejudice to their Applications dated 27.02.2024 (C.A. 54/ 2024 and C.A. 55/ 2024) challenging the maintainability of the present Application and the jurisdiction of this Tribunal and to seek reference to arbitration of the disputes raised in the Application under Section 45 of the Arbitration

and Conciliation Act, 1996, as per the arbitration agreement subsisting between the parties.

3.2. This Tribunal conditionally sanctioned the Scheme by order dated 10.08.2023 in the present Company Scheme Petition and order dated 11.08.2023 in the Company Scheme Petition No. (CAA) 214/MB/2022, recognizing the effectiveness of the scheme is subject to the fulfilment of the conditions set out in Clause 5.1 of Section V of the Scheme. The Parties have not agreed in writing that all the conditions for the Scheme to become effective have been fulfilled in accordance with the MCA and the 'Closing Date' as per the MCA has also not occurred. Accordingly, the Scheme cannot be made effective on its own terms.

3.3. On 22.01.2024, the Respondents terminated the MCA and invoked arbitration proceedings against Transferor Company 1 under the rules of the Singapore International Arbitration Centre (SIAC), being the dispute resolution mechanism under the MCA before a tribunal seated in Singapore.

**C.A. 54/MB/C-III/2024.**

4. This Application has been filed by M/s. Bangla Entertainment Pvt Ltd. (Applicant 1) and M/s. Culver Max Entertainment Pvt Ltd (Applicant 2) against M/s. Zee Entertainment Enterprises Limited (Respondent), seeking following reliefs:

- a. *dismiss Company Application No. 32 of 2024 dated 24 January 2024 in CP (CAA) No. 209 of 2022 (ZEEL Application) filed by the Respondent as being premature, not maintainable and/or infructuous or otherwise without jurisdiction;*
- b. *pending the final disposal of the present captioned Application, stay further proceedings in Company Application No. 32 of 2024 dated 24 January 2024 in CP (CAA) No. 209 of 2022 (ZEEL Application);*
- c. *ad interim relief in the nature of prayer (b); and*

## **5. Facts of the Case:**

- 5.1. The present Application has been filed by Applicants challenging the maintainability of Company Application No. 32 of 2024 (ZEEL Application) which was filed by M/s. Zee Entertainment Enterprises Limited (Respondent) and the jurisdiction of this Tribunal to entertain the ZEEL Application.
- 5.2. By way of the ZEEL Application, the Respondent seeks implementation of the scheme of arrangement entered into between the Applicants and Respondent and their respective shareholders and creditors (Scheme).
- 5.3. The Applicants and the Respondent had entered into a merger cooperation agreement dated 22.12.2021 (MCA). Under the MCA, the parties agreed to file the Scheme, as per the terms set out in Schedule 9 of the MCA, with this Tribunal. As per the provisions of the Scheme, the Scheme could become effective only once certain specific conditions in Clause 5.1 of Section V of the Scheme were fulfilled. Pertinently, Clauses 5.1(e) and (h) of Section V of the Scheme provided that the Scheme could become effective only upon satisfaction of the conditions mutually agreed between the parties in the MCA and the occurrence of the '*Closing Date*' in terms of the MCA respectively.
- 5.4. Pursuant to and in terms of the MCA, the Applicants and the Respondent respectively filed appropriate proceedings for approval/sanction of the Scheme before the National Company Law Tribunal (NCLT), the Scheme was conditionally sanctioned by the respective courts of this Tribunal by way of the ZEEL Scheme Approval Order and Culver Scheme Approval Order dated 10.08.2023 and 11.08.2023 respectively.



- 5.5. The Closing Conditions Precedent in the MCA had been negotiated between the parties, with the express understanding that the parties would be obligated to proceed with the Closing only upon the fulfilment and satisfaction of all, and not less than all, the Closing Conditions Precedent (as per the MCA), unless waived in writing in accordance with the MCA. The parties were required to make commercially reasonable efforts to fulfil their respective Closing Conditions Precedent and the Joint Closing Conditions Precedent, at least 15 (fifteen) Business Days prior to the 'End Date' (i.e., 24 (twenty-four) months from the date of execution of the MCA, i.e. 22.12.2021 (End Date)) in accordance with the MCA.
- 5.6. On account of the non-fulfilment of 'ZEEL Closing Conditions Precedent' by the Respondent, to the satisfaction of Applicant No. 2, in accordance with the terms of the MCA prior to the End Date, the Scheme could not become effective by the End Date in accordance with its terms.
- 5.7. Clause 5.1 of Section V of the Scheme provides that the Scheme shall become effective on the last of the conditions set out in paragraphs (a) to (h) being fulfilled in accordance with the terms of the MCA. It is undisputed that the fundamental conditions set out in Clauses 5.1(g) and (h) of Section V of the Scheme, upon which the very effectiveness of the Scheme is predicated, have not been satisfied. Admittedly, (i) the Applicants and the Respondent have not agreed in writing that all the conditions for the Scheme to become effective have been fulfilled in accordance with the MCA; and (ii) the '*Closing Date*' as per the MCA has also not occurred. This position is not disputed and, is admitted by the Respondent.
- 5.8. Accordingly, on 22.01.2024, the Applicants terminated the MCA and invoked arbitration proceedings against the Respondent under the rules of the Singapore International Arbitration Centre (SIAC) (being the

dispute resolution mechanism under the MCA) before a tribunal seated in Singapore.

- 5.9. The Respondent and Applicants have filed their intimation letters dated 07.09.2023 along with Form INC-28 to the Registrar of Companies, Mumbai (ROC).
- 5.10. Circular no. F.No.7/12/2009/CL-I dated 21.08.2019 (Circular) issued by the Ministry of Corporate Affairs clarifies *inter alia* that a scheme may identify an 'Appointed Date' in terms of Clause 232(6) of the Companies Act, based on the occurrence of a trigger event, upon which, the Scheme would become effective. The Appointed Date may be a specific calendar date or may be tied to the occurrence of an event such as the grant of licence by a competent authority or fulfilment of any pre-conditions agreed upon by the parties, or meeting any other requirement as agreed upon by the parties, etc., which are relevant to the scheme.
- 5.11. The Respondent's prayer seeking implementation of the Scheme, in effect, seeks to rewrite the Scheme in order to seek its implementation. If the Scheme is to be made effective, the entire Clause 5.1 of Section V of the Scheme would have to be rewritten.
- 5.12. Accordingly, the ZEEL Application is not maintainable and is liable to be dismissed. Also, this Tribunal lacks jurisdiction in respect of the relief for implementation of the Scheme and exclusively within the jurisdiction of the arbitral tribunal, as set out in detail in the Section 45 Application.
- 5.13. Clause 10 of the 'conditionally sanctioned' Scheme itself contemplates that the parties may be allowed to withdraw the Scheme upon the occurrence of certain events. The Scheme itself envisages that the Scheme may be withdrawn, either by the mutual consent of the parties or upon termination of the MCA.

5.14. The Respondent in its prayers has also sought implementation of the Culver Scheme Approval Order. The Culver Scheme Approval Order has been passed in the CP (CAA) No. 214 of 2022 (filed by the Applicants), by a different bench of this Tribunal; and has not been passed in the captioned Company Petition.

5.15. Accordingly, the Applicants submit that the ZEEL Application is premature, not maintainable and/or infructuous or otherwise without jurisdiction and deserves to be dismissed *in limine*.

**C.A. 55/MB/C-III/2024.**

6. This Application has been filed by M/s. Bangla Entertainment Pvt Ltd. (Applicant 1) and M/s. Culver Max Entertainment Pvt Ltd (Applicant 2) against M/s. Zee Entertainment Enterprises Limited (Respondent), seeking the following reliefs:

- a. *direct that the Respondent and/ or persons claiming through or under them, being party to the arbitration agreement contained in Clause 9.2.1. of the Merger Cooperation Agreement dated 22 December 2021 (MCA) (Annexure D), be referred to arbitration in accordance with the said arbitration agreement, and dismiss the Company Application No. 32 of 2024 dated 24 January 2024 in CP (CAA) No. 209 of 2022 filed by the Respondent (ZEEL Application) ;*
- b. *pending the final disposal of the present captioned Application, stay further proceedings in Company Application No. 32 of 2024 dated 24 January 2024 in CP (CAA) No. 209 of 2022 (ZEEL Application);*
- c. *ad interim relief in the nature of prayer (b);*

**7. Submissions of the Applicants, in brief:**

- 7.1. This Application is filed on behalf of Bangla Entertainment Private Limited (Applicant No. 1) and Culver Max Entertainment Private Limited (Applicant No. 2) (being Respondent Nos. 1 and 2 in the Company Application No. 32 of 2024) seeking reference to arbitration of the disputes raised in the ZEEL Application, under Section 45 of the Arbitration and Conciliation Act, 1996 (Arbitration Act), as per the arbitration agreement between the parties.
- 7.2. By way of the ZEEL Application, the Respondent seeks implementation of the scheme of arrangement entered into between the Applicants and Respondent and their respective shareholders and creditors (Scheme). The Scheme was conditionally sanctioned by this Tribunal by an order dated 10.08.2023 in the present Company Scheme Petition and an order dated 11.08.2023 in the Company Scheme Petition No. (CAA) No. 214/MB/2022.
- 7.3. The Applicants and Respondent had entered into a merger cooperation agreement dated 22.12.2021 (MCA). The MCA set out the parties' mutual commercial agreement, which included the filing of the Scheme with this Tribunal in terms of the MCA under Sections 230 and 232 and other relevant provisions of the Companies Act, 2013.
- 7.4. Under the MCA, the parties agreed to file the Scheme, in the form and the terms set out in Schedule 9 of the MCA, with this tribunal, *inter alia* for the amalgamation of Applicants and the Respondent. As per the provisions of the Scheme, the Scheme could become effective only once certain specified conditions in Clause 5.1 of Section V of the Scheme were fulfilled. Pertinently, Clauses 5.1(g) and (h) of Section V of the Scheme provided that the Scheme could become effective only upon satisfaction

of the conditions mutually agreed between the parties in the MCA and the occurrence of the '*Closing Date*' in terms of the MCA respectively.

- 7.5. The Applicant and the Respondents have not agreed in writing that all conditions for closure of the Scheme have been fulfilled. Further, the '*Closing Date*' as per the MCA has also not occurred. Hence, the Scheme never became effective.
- 7.6. On 22.01.2024, the Applicants terminated the MCA and invoked arbitration proceedings against the Respondent under the rules of the Singapore International Arbitration Centre (SIAC) (being the dispute resolution mechanism under the MCA) before a tribunal seated in Singapore.
- 7.7. The disputes raised in the ZEEL Application are required to be necessarily referred to arbitration by this Tribunal under Section 45 of the Arbitration Act.
- 7.8. The disputes between the parties under the MCA with respect to its termination and non-fulfilment of condition precedents, and breaches by the Respondent, have to necessarily be decided by way of arbitration in terms of Clause 9.2.1 of the MCA, in a Singapore seated arbitration.
- 7.9. The arbitration agreement contained in Clause 9.2.1 of the MCA is valid, enforceable, operative, and capable of being performed. The Respondent is a party to the MCA, and consequentially a party to the arbitration agreement contained in Clause 9.2.1 of the MCA. There is no impediment to this Tribunal from referring to arbitration. This Tribunal is obligated to refer the dispute to the arbitral tribunal, by the mandate of Section 45 of the Arbitration Act. The disputes under the MCA have arisen between the Applicants and Respondent and are pending in arbitration. The arbitral tribunal constituted under the SIAC Rules would have the exclusive jurisdiction to decide all such disputes between the parties.

- 7.10. In the ZEEL Application, the Respondent has contended that the termination of the MCA by the Applicants is invalid since there are no breaches on its part. However, whether (i) there is a breach under the MCA by the Respondent; and (ii) such breaches entitle the Applicants to terminate the MCA, are contractual disputes which must necessarily be resolved by arbitration, as expressly agreed between the parties under the MCA.
- 7.11. The MCA, although referred to in the Scheme, does not form part of the Scheme. The MCA was not even filed before this Tribunal in the captioned Company Petition by the Respondent. The disputes that have arisen between the parties need to necessarily be referred to arbitration as per the terms of the MCA.
- 7.12. Therefore, since the allegations made in ZEEL Application and the reliefs sought therein are in the realm of contractual disputes under the MCA, the parties ought to be referred to arbitration pursuant to Clause 9.2.1 of the MCA and under Section 45 of the Arbitration Act.

**C.A. 114/MB/C-III/2024**

8. The present Application has been filed by M/s. Zee Enterprises Entertainment Limited (Applicant) against M/s. Bangla Entertainment Private Limited and M/s. Culver Max Entertainment Private Limited, seeking following relief:
- a. *Allow the Applicant to withdraw Company Application No. 32 of 2024 dated 24 January 2024 filed by the Applicant before this Hon'ble Tribunal, i.e., the Implementation Application, with liberty to the Applicant to file a subsequent application before this Hon'ble Tribunal seeking necessary directions, as and when required;*
  - b. *In light of the withdrawal of the Implementation Application, dispose of the Company Application No. 54 of 2024 dated 27 February 2024 filed by the Respondents i.e., Maintainability Application, as infructuous;*

*c. In light of the withdrawal of the Implementation Application, dispose of the Company Application No. 55 of 2024 dated 27 February 2024 filed by the Respondents i.e., the Section 45 Application, as infructuous;*

**9. Submissions of the Applicant, in brief:**

- 9.1. On 10.08.2023, this Tribunal passed an order (Sanction Order) in CP CAA 209 of 2022 sanctioning the Scheme between Applicant and Respondents and their respective shareholders and creditors (Scheme). Pursuant to the sanctioning of the scheme, on 24.01.2024, the Applicant filed the Company Application no. 32 of 2024 seeking implementation of the Scheme (Implementation Application).
- 9.2. By way of the Withdrawal Application, the Applicant has sought to withdraw the Implementation Application with liberty to file a subsequent application before this Tribunal seeking necessary directions, as and when required.
- 9.3. The Applicant has disputed the Respondent's termination of the Merger Co-operation Agreement dated 22.12.2021 (MCA) and in the arbitration, the Applicant will also seek the substantial losses and damages sustained by the Applicant due to the Respondent's illegal conduct and breaches.
- 9.4. The decision to file the Withdrawal Application was taken by the Applicant's Board so that the Applicant can challenge the claims made by the Respondents in the arbitration, vindicate its position and validate its rights and thereafter approach this Tribunal, as and when required. This approach will ensure expeditious resolution of the issues between the Parties and will be in the interest of the Applicant and its shareholders.

- 9.5. Neither the Applicant nor the Respondents have sought any directions from this Tribunal in relation to the Sanction Order or the Scheme itself, and there are no pending proceedings concerning the same. The withdrawal of the Implementation Application does not, in any manner, impact the Sanction Order or the Scheme. The Sanction Order as well as the Scheme remain valid and subsisting.
- 9.6. Further, the Parties herein agree that only this Tribunal has the necessary jurisdiction to implement a scheme and to pass any directions in relation thereto. The Respondents in their own pleadings, acknowledged this Tribunal's jurisdiction over the implementation of the Scheme and the Applicant's right to approach this Tribunal pursuant to resolution of disputes in the arbitration.
- 9.7. It is stated that the Parties agree that upon allowing the Withdrawal Application, thereof, Company Application No. 54 of 2024 and Company Application No. 55 of 2024 filed by the Respondents can also be disposed of as infructuous.

**10. Joint Submissions of the Respondents, in brief:**

- 10.1. The Submissions made by the Applicant in the Withdrawal Application are strictly within the purview of the arbitration proceedings before the arbitral tribunal or are otherwise not relevant to the adjudication of the Withdrawal Application. The Respondents maintain that the Scheme cannot be given effect to and has otherwise become infructuous on account of several breaches and non-compliances of the merger cooperation agreement dated 22.12.2021 (MCA) by the Applicant.
- 10.2. The Respondents reserve their right to respond to the submissions made by the Applicant in the Withdrawal Application before the arbitral



tribunal constituted under the Singapore International Arbitration Centre (SIAC) Rules, 2016.

- 10.3. Further, the Respondents only object to liberty sought by Applicant to file a subsequent application before this Tribunal seeking necessary directions, as and when required.
- 10.4. The adjudication on the merits of the dispute between the Applicant and the Respondents is solely within the jurisdiction of the arbitral tribunal constituted under the SIAC Rules.
- 10.5. The Respondents do not object to the withdrawal of the Implementation Application, including the prayer for disposal of CA 54 of 2024 and CA 55 of 2024, subject to the incorrect allegations and averments made in the Withdrawal Application. The Respondents deny all allegations.
- 10.6. Accordingly, the Respondents pray that this Tribunal may allow the Withdrawal Application without granting the liberties sought by the Applicant.

### **FINDINGS**

11. Heard Learned Counsel for the parties and perused the record.
12. The Company Application 32 of 2024 has been filed by M/s. Zee Entertainment Enterprises Limited for implementation of the Scheme of Arrangement between M/s. Zee Entertainment Enterprises Limited, M/s. Bangla Entertainment Pvt Ltd. and M/s. Culver Max Entertainment Pvt Ltd sanctioned vide orders dated 10.08.2023 and 11.08.2023. The reply was filed by the Respondents in C.A. 32/2024. In addition to the reply M/s. Bangla Entertainment Pvt Ltd. and M/s. Culver Max Entertainment Pvt Ltd. also filed C.A. 54/ 2024 and C.A. 55/ 2024 to dismiss C.A. 32/ 2024. While matter was heard, M/s. Zee Entertainment Enterprises Limited filed C.A.

114/ 2024 seeking withdrawal of C.A. 32/ 2024 with liberty to file subsequent applications as and when required.

13. M/s. Bangla Entertainment Pvt Ltd. and M/s. Culver Max Entertainment Pvt Ltd have filed Company Application bearing no. C.A. 54/ 2024 with a prayer to dismiss and to stay proceeding of the C.A. 32/2024 as premature and non-maintainable.
14. Company Application 55 of 2024 has also filed by M/s. Bangla Entertainment Pvt Ltd. and M/s. Culver Max Entertainment Pvt Ltd to dismiss and to stay further proceedings in Company Application No. 32 of 2024 on the ground that there is subsisting Arbitration Agreement among the parties and the Applicants have invoked the Arbitration Proceeding against the Respondent in Singapore International Arbitration Centre. In terms of 9.2.1. of Merger Cooperation Agreement (MCA) dated 22.12.2021.
15. The MCA dated 22.01.2024 was terminated by M/s. Bangla Entertainment Pvt Ltd. and M/s. Culver Max Entertainment Pvt Ltd. The Applicant of C.A. 32/2024, M/s. Zee Entertainment Enterprises Limited disputed termination of MCA, however, seeks to withdraw C.A. 32/2024 so that it can challenge the claims made by the M/s. Bangla Entertainment Pvt Ltd. and M/s. Culver Max Entertainment Pvt Ltd in arbitration, vindicate its position and validate its rights and thereafter approach the Tribunal as and when required. In response M/s. Bangla Entertainment Pvt Ltd. and M/s. Culver Max Entertainment Pvt Ltd. have stated that the Scheme cannot be given effect to and has become infructuous on account of non-compliances of the MCA by M/s. Zee Entertainment Enterprises Limited.
16. The Company Application 114 of 2024 has been filed by M/s. Zee Entertainment Enterprises Limited for withdrawal of Company Application No. 32 of 2024 with liberty to the Applicant to file a subsequent application before this Tribunal seeking directions. Also, to dispose of the Company

Application No. 54 of 2024 and Company Application No. 55 of 2024 dated 27.02.2024 filed by the Respondents as infructuous.

17. In C.A. 114/ 2024, it is stated by Applicant that, the Board of Directors of the M/s. Zee Entertainment Enterprises Limited have taken decision to withdraw the Implementation Application (CA 32 of 2024) to avoid simultaneous litigation before multiple forum.
18. We have considered the withdrawal application moved by M/s. Zee Entertainment Enterprises Limited. It is stated that M/s. Zee Entertainment Enterprises Limited has moved present withdrawal application to challenge the claims made by M/s. Bangla Entertainment Pvt Ltd. and M/s. Culver Max Entertainment Pvt Ltd before Ld. Arbitration in the arbitration proceedings.
19. In response to above withdrawal application, M/s. Bangla Entertainment Pvt Ltd. and M/s. Culver Max Entertainment Pvt Ltd have submitted that they do not object to the withdrawal application however submitted that no liberties sought by M/s. Zee Entertainment Enterprises Limited be granted.
20. Considering the facts and circumstances in the present case, we deem it appropriate to allow the withdrawal application which will avoid multiplicity of litigation at the level of NCLT and at the level of Arbitral Tribunal at Singapore.
21. As we have not expressed our opinion on merits, the parties are at liberty to pursue their respective remedies as and when warranted and in accordance with law.
22. With above observation, C.A. 32 of 2024 is permitted to be **withdrawn**. Accordingly, C.A. 114 of 2024 is **allowed** and **disposed of**.

23. In view of the fact that the Company Application 32 of 2024 is permitted to be withdrawn, Company Application 54 of 2024 and Company Application 55 of 2024 have become **infructuous** and are **disposed of**.

24. Accordingly, C.A. 114 of 2024 is **allowed** and C.A. 32 of 2024 stands **disposed of as withdrawn**. Further, C.A. 54 of 2024 and C.A. 55 of 2024 are **disposed of as infructuous**.

Sd/-

**CHARANJEET SINGH GULATI**  
**MEMBER (TECHNICAL)**

(Saayli, LRA)

Sd/-

**LAKSHMI GURUNG**  
**MEMBER (JUDICIAL)**

