Research

M&A Lab

PVR–INOX:

Biggest Blockbuster at Box Office!

August 2022

Research

M&A Lab

PVR–INOX:

Biggest Blockbuster at Box Office!

August 2022

concierge@nishithdesai.com

Asia-Pacific
Most Innovative Law Firm: 2016
Second Most Innovative Firm: 2019
Most Innovative Indian Law Firm: 2019, 2017, 2016, 2015, 2014

Asia Pacific
Band 1 for Employment, Lifesciences, Tax, TMT:
2021, 2020, 2019, 2018, 2017, 2016, 2015

Tier 1 for Private Equity, Project Development: Telecommunications Networks:
2020, 2019, 2018, 2017, 2014

Deal of the Year: Private Equity, 2020

Asia-Pacific
Tier 1 for Dispute, Tax, Investment Funds, Labour & Employment, TMT, Corporate M&A:
2021, 2020, 2019, 2018, 2017, 2016, 2015, 2014, 2013, 2012

Asia-Pacific
Tier 1 for Government & Regulatory, Tax: 2020, 2019, 2018

Ranked
'Outstanding' for Technology, Labour & Employment, Private Equity, Regulatory, Tax:
2021, 2020, 2019

Global Thought Leader — Vikram Shroff
Thought Leaders, India — Nishith Desai, Vaibhav Parikh, Dr. Milind Antani
Arbitration Guide, 2021 — Vyapak Desai, Sahil Kanuga

Fastest growing M&A Law Firm: 2018

Asia Mena Counsel: In-House Community Firms Survey:
Only Indian Firm for Life Science Practice Sector: 2018

Disclaimer

Contact

For any help or assistance please email us on **concierge@nishithdesai.com**
or visit us at **www.nishithdesai.com**.

Acknowledgements

Sapna Kataria
sapna.kataria@nishithdesai.com

Eshvar Girish
eshvar.girish@nishithdesai.com

Vasavi Kaparthi
vasavi.kaparthi@nishithdesai.com

Nishchal Joshipura
nishchal.joshipura@nishithdesai.com

Contents

Prologue

The COVID – 19 pandemic posed various adversities on several industries across the world. One of the major industries that was adversely affected due to the pandemic and the resultant lockdown is the entertainment and cinema exhibition industry. Due to the lockdown, several small budgeted and medium sized budgeted movies released their movies on the OTT platform, instead of on the big screen. Even post the pandemic, the entertainment industry was not able to recover their losses as the consumers chose to stay in the safety of their homes instead of visiting a movie theatre/ multiplex. As a measure to curb the losses suffered, the cinema exhibition companies focused on cost optimization and preserving liquidity by adopting numerous measures such as bringing down cash burn by reducing fixed costs, seeking discounts from the landlord partners, posing restrictions on the number of new screens being rolled out, among others.[1]

In order to bounce back from the losses caused due to the pandemic and to counter the hardships faced by the cinema exhibition industry due to advent of OTT platforms, on March 27, 2022, two of the largest multiplex operators in India, INOX and PVR, Indian public companies listed on the BSE and NSE, released a joint media statement announcing the merger of both the companies[2], subject to the approval of the shareholders of both the companies and such other regulatory approvals, as may be required. The Merger might result in a win-win situation for both the companies as the combined entity will have a better balance sheet as PVR is a bigger player with diversified geographies in the cinema exhibition industry but with a debt issue, while INOX is a cash rich company.[3]

The focus of the Resultant Company is to leverage the strengths of both the organizations and to provide a phenomenal customer service to the users. Further, by combining the synergies of the companies, the Resultant Company aims to increase the pace of their expansion across Tier 2 (two) and 3 (three) cities and make the business more efficient together.[4] The consolidated balance sheet strength of the Resultant Company would help the companies to expand the growth all over India.

Post the Merger, the combined entity would be named 'PVR INOX Limited' and till the effective date, the existing screens would continue operations under the existing brands as PVR and INOX respectively.[5] As per the Scheme, for the initial 5 (five) years from the Effective Date, Ajay Bijli, chairman of PVR and owner of PVR Cinemas, would be appointed as the managing director and Sanjeev Kumar, joint managing director of PVR, would be appointed as the executive director of the Resultant Company. Further, the current chairman of INOX, Pavan Kumar Jain would be appointed as the non-executive chairman of the board and one of the directors of INOX, Siddharth Jain would be appointed as non-executive non-independent director in the Resultant Company.[6]

1 Annual Report 2021 – 2022, 23 PVR, available at https://originserver-static1-uat.pvrcinemas.com/pvrcms/financial/2021_1656420953953.pdf (last accessed July 13, 2022, 3:15 PM).

2 Press Release dated March 27, 2022, PVR and INOX available at https://archives.nseindia.com/corporate/PVR_27032022150923_PVR_PressRelease.pdf (last accessed July 10, 2022, 5:15 PM).

3 Sunainaa Chadha, Decoded: What the PVR-INOX merger means for investors, Times of India, available at https://timesofindia.indiatimes.com/business/india-business/decoded-what-the-pvr-INOX-merger-means-for-investors/articleshow/90508992.cms (last accessed July 15, 2022, 11:15 AM).

4 Annual Report 2021 – 2022, 48 PVR, available at https://originserver-static1-uat.pvrcinemas.com/pvrcms/financial/2021_1656420953953.pdf (last accessed July 15, 2022, 11:15 AM).

5 Clause 12, Scheme.

6 Clause 10, Scheme.

Additionally, along with the other promoters of both the companies, GFL Limited and INOX Infrastructure Limited would be included under the category of "Promoters".[7] As per the terms of the Scheme, as consideration of the amalgamation, the shareholders of INOX shall be issued 3 (three) fully paid up equity shares of INR 10 (Indian Rupees Ten) each of PVR for every 10 (ten) fully paid up equity shares of INR 10 (Indian Rupees Ten) each held by them in INOX.[8] Further, all the liabilities, assets, bank accounts, public deposits, debentures, bonds, registrations, trademarks, service marks, copyrights, logos, brand names of INOX would be transferred to PVR as part of the Merger.[9]

As of date, the companies have received an approval from NSE and BSE for the Merger.[10] The Resultant Company might take about 6 (six) months to obtain all the approvals from the shareholders of their respective companies and Court.

This M&A Lab dissects the legal, regulatory, tax and commercial considerations behind the Merger based on the information available in the public domain.

7 Clause 9, Scheme.

8 Clause 5, Scheme.

9 Clause 1.2, Scheme.

10 NSE Observation Letter dated June 20, 2022, available at https://originserver-static1-uat.pvrcinemas.com/pvrcms/financial/NSE_OBSERVATION_LETTER_21.06.2022.06.2022.pdf (last accessed July 09, 2022, 12:23 PM), and https://originserver-static1-uat.pvrcinemas.com/pvrcms/financial/BSE-OBSERVATION_LETTER_20.06.2022.06.2022.pdf (last accessed July 09, 2022, 12:23 PM).

Glossary of Terms

Abbreviation	Meaning / Full Form
BSE	BSE Limited
CCI	Competition Commission of India
Competition Act	Competition Act, 2002
INOX	INOX Leisure Limited
INR	Indian Rupee
ITA	Income-tax Act, 1961
MCA	Ministry of Corporate Affairs
Merger	The merger of INOX and PVR pursuant to the Scheme
NCLT	National Company Law Tribunal
NSE	National Stock Exchange of India Limited
OTT	Over the Top
PVR	PVR Limited
Resultant Company	PVR INOX Limited i.e. the resultant entity after the Merger pursuant to the Scheme
SEBI	Securities and Exchange Board of India
SEBI Listing Regulations	SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015
Scheme	Scheme of Amalgamation between INOX and PVR
Stock Exchanges	BSE and NSE
Takeover Code	SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 2011
USD	United States Dollar
Valuer	SSPA & Co., chartered accountant and Drushti Desai, registered valuer, jointly appointed by INOX and PVR to determine the share swap ratio

Details of the Deal

A. The Parties

INOX

Incorporated on November 9, 1999 under the Companies Act, 1956, INOX is a public limited company and is considered as one of the largest multiplex operators in India. It is primarily engaged in the business of cinema exhibition, related food & beverages and allied activities. The company's holding company is GFL Limited[1] (earlier known as Gujarat Fluorochemicals Limited), a renowned Indian conglomerate with diversified offerings in the field of entertainment, industrial gases, chemicals and renewable energy and its ultimate holding company is INOX Leasing and Finance Limited.

INOX commenced its operations in the year 2002 by setting up its first four-screen multiplexes at Pune and Vadodara. Thereafter, in the next decade, it opened five-screen multiplexes in Mumbai and Bangalore, and several other multiplexes in cities like Jaipur, Goa, Kolkata, Indore, Darjeeling, Nagpur, Chennai, Jaipur, Vijayawada, Bharuch, Lucknow, Faridabad, Nagpur, Burdwan and Kota.[2] In 2005, it signed several distribution agreements in selected territories and signed a memorandum of understanding with the Pantaloon Group to ensure that it gets preferential access to multiplex areas in all the real estate developments with which the Pantaloon Group is associated.[3]

INOX Leisure made its first public issue on January 27, 2006 of 16.5 million (sixteen decimal five million) equity shares of INR 10 (Indian Rupees Ten) each at a price of INR 120 (Indian Rupees One Hundred and Twenty) per share consisting of a fresh issue of 12 million (twelve million) equity shares of INR 10 (Indian Rupees Ten) each and an offer for sale of 4.5 million (four million five hundred thousand) equity shares of INR 10 (Indian Rupees Ten) each by GFL Limited.[4] It is currently listed on BSE and NSE. As on June 30, 2022, 44.04% (forty four decimal four per cent) of the share capital of INOX is held by its promoter group, comprising of GFL Limited, INOX Leasing and Finance Limited, and INOX Infrastructure Limited, and remaining 55.96% (fifty five decimal nine six per cent) is held by the public.[5]

In the past 20 (twenty) years, INOX has constantly expanded by adopting various strategies. In 2007 and 2008, Calcutta Cine Private Limited and Prime Skyline Developers Private Limited merged with the company. In 2014-2015, INOX acquired 100% (one hundred per cent) equity shares of Satyam Cineplexes Limited (“**SCL**”), a company in the business of setting up, operating and managing a chain of multiplex cinema theatres, thereby making SCL the wholly owned subsidiary of INOX. In the year 2015, INOX invested in Shouri Properties Private Limited (“**SPPL**”), entity engaged in the business of operating multiplex cinema theatres. Currently, INOX

1 About Us, GFL Limited, available at https://www.gfllimited.co.in/ (last accessed July 08, 2022, 2:32 PM).

2 Company History – INOX Leisure, Money Control, available at https://www.moneycontrol.com/company-facts/INOXleisure/history/ino01 (last accessed July 13, 2022, 12:23 PM).

3 Id.

4 Company Overview, INOX Leisure Limited, Business Standard, available at https://www.business-standard.com/company/INOX-leisure-22626/information/company-history (last accessed July 12, 2022, 11:55 AM).

5 Shareholding Pattern of INOX, available at https://s3.ap-southeast-1.amazonaws.com/cdn.inoxmovies.com/Downloads/570b9518-c3cd-4e8f-a296-a89aed3a7af3.pdf (last accessed July 28, 2022, 07:55 PM).

holds 99.29% (ninety nine decimal two nine per cent) equity shares of SPPL. Further, in 2016 and 2018, Satyam Cineplexes Limited and Swanston Multiplex Cinemas Private Limited merged with INOX, respectively. [6]

Over the past two decades, INOX won several awards such as ICICI Entertainment Retailer of the Year Award (2005), TAAL Multiplexer Award (2006), Emerging Super brand of the year 2006 – 07 Award (2007), Best Technology Adopter of the Year Award (2019) and Most Popular Multiplex Award (2019), among others.[7]

PVR

PVR, known for its qualitative showcase of movies, is the first company which established the multiplex cinema in India. PVR is a public limited company engaged in the business of cinema exhibition, movie distributions, related food & beverages and allied services.[8] It was incorporated on April 26, 1995, under the Companies Act, 1956 as a result of a joint venture between Priya Exhibitors Private Limited and Village Roadshow Limited and was initially named as Priya Village Roadshow Limited. In the year 2002, the company changed its name from Priya Village Roadshow Limited to PVR, owing to the disinvestment by Village Roadshow Limited.[9] PVR's main source of revenue is from box office collection and non-box office collection such as sale of food and beverages, advertisement income, convenience fees and income from movie production or distribution, among others.

It established its first multiplex cinema in Saket, New Delhi in the year 1997. In the first 10 (ten) years of its incorporation, PVR was able to establish itself in the major metropolitan cities by opening a single-screen cinema at Vasant Vihar, New Delhi, a four-screen multiplex cinema in New Delhi, a seven-screen multiplex cinema in Gurgaon, Haryana, eleven screens in Koramangla, Bangalore, a three-screen multiplex cinema in Faridabad, Haryana and many more multiplex projects in cities such as Hyderabad, Noida, Mumbai, Indore, Lucknow. In order to cater to the demands of public in class B & C cities, PVR launched a new brand of cinema called 'PVR Talkies' in 2006.[10] Recently, PVR opened India's first rooftop drive-in theatre 'Jio Drive-In' in association with Reliance at Mumbai.

PVR not only grew in the multiplex business, but also in other businesses such as production of movies, running bowling allies and setting up food courts. PVR was involved in the co-production of movies such as 'Taare Zameen Par' and 'Jaane Tu Ya Jaane Na'. Further, for the purpose of running, managing and operating food courts, PVR entered into a joint venture by signing a memorandum of understanding with Gyan Enterprises Private Limited through a special purpose vehicle namely Lite Bite Foods Private Limited. In 2008, pursuant to the joint venture with Major Cineplex Group, PVR incorporated PVR bluo Entertainment Limited as a subsidiary for carrying out the activities of setting-up and running bowling alleys, karaoke centers and ice-skating rinks across India.

In 2005, PVR announced its IPO of 7.7 million (seven decimal seven million) equity shares comprising a fresh issue of 5.7 million (five decimal seven million) equity shares by the company and an offer for sale of 2 million

6 Company History – PVR, Economic Times, available at https://economictimes.indiatimes.com/INOX-leisure-Limited/infocompanyhistory/companyid-1886.cms (last accessed July 12, 2022, 12:25 PM).

7 Annual Report 2021 – 2022, INOX, available at https://s3.ap-southeast-1.amazonaws.com/cdn.INOXmovies.com/Downloads/25c87c59-c7b2-4080-a254-ea32ef28c3ae.pdf (last accessed July 12, 2022, 11:59 AM).

8 About Us, PVR Cinemas, available at https://www.pvrcinemas.com/about (last accessed July 08, 2022, 2:32 PM).

9 Company History – PVR, Money Control, available at https://www.moneycontrol.com/company-facts/pvr/history/PVR (last accessed July 13, 2022, 12:23 PM).

10 Company Overview, PVR Limited, Business Standard, available at https://www.business-standard.com/company/pvr-14622/information/company-history (last accessed July 13, 2022, 12:45 PM).

(two million) equity shares held by Western India Trustee and Executor Company Limited.[11] The shares of PVR got listed on the BSE and the NSE for the first time in 2006. As on June 30, 2022, 16.99% (sixteen decimal nine nine per cent) of the shares of PVR is held by its promoter group comprising of Mr. Ajay Bijli, Mr. Sanjeev Kumar, Selena Bijli, Niharika Bijli, Nayana Bijli and Aamer Krishan Bijli and remaining 83.01% (eighty three decimal one per cent) of the shares is held by the public.[12]

Since the time of its incorporation, PVR has gone through several structural changes. PVR constantly made efforts to add screens across the country through strategic investments and acquisitions.[13] In 2006, PVR acquired the entire shareholding of Sunrise Infotainment Private Limited thereby making it a wholly owned subsidiary of PVR. In 2009, Sunrise Infotainment Private Limited merged with PVR and thereafter, PVR acquired DLF's DT Cinemas for approximately USD 54 million (United States Dollar Fifty Four Million)[14] in 2016. Further, PVR has 3 (three) more subsidiary companies, namely PVR Pictures Limited, PVR Lanka Limited and Zea Maize Private Limited and in the past, Lettuce Entertain You Limited and Bijli Holdings Private Limited have merged with PVR as well.[15]

PVR is expanding and opening new screens at a faster rate and currently operates 846 (eight hundred and forty six) screens in 176 (one hundred and seventy six) cinemas in 71 (seventy one) cities across India and Sri Lanka.[16] The Company aims to open 120 (one hundred and twenty) to 125 (one hundred and twenty five) new screens by 2023, highest ever in PVR's history.[17]

B. Chronology of Events

Date	Event
March 27, 2022	Resolutions regarding the amalgamation of the companies passed at the meetings of the respective board of directors' of INOX and PVR
March 27, 2022	INOX and PVR each released a press statement regarding their amalgamation
June 20, 2022	The companies received an observation letter from BSE with 'no adverse observations' on their respective filings before BSE
June 21, 2022	The companies received an observation letter from NSE with 'no objections' for their respective filings before NSE
December 2022/ March 2023 (estimated)[18]	Merger to be completed with required approvals from regulatory authorities and the court

11 Company History – PVR, Money Control, available at https://www.moneycontrol.com/company-facts/pvr/history/PVR (last accessed July 13, 2022, 12:23 PM).

12 Shareholding Pattern of PVR, available at https://originserver-static1-uat.pvrcinemas.com/pvrcms/financial/2022_1658744055440.06.2022.pdf (last accessed July 28, 2022, 07:55 PM).

13 Company History – PVR, Money Control, available at https://www.moneycontrol.com/company-facts/pvr/history/PVR (last accessed July 13, 2022, 12:23 PM).

14 For the purpose of this article, we have taken the USD to INR conversion as 1:80.

15 Company History – PVR, Money Control, available at https://www.moneycontrol.com/company-facts/pvr/history/PVR (last accessed July 13, 2022, 12:23 PM).

16 About Us, PVR Cinemas, available at https://www.pvrcinemas.com/about (last accessed July 13, 2022, 12:23 PM).

17 Annual Report 2021 – 2022, 23 PVR, available at https://originserver-static1-uat.pvrcinemas.com/pvrcms/financial/2021_1656420953953.pdf (last accessed July 13, 2022, 12:23 PM).

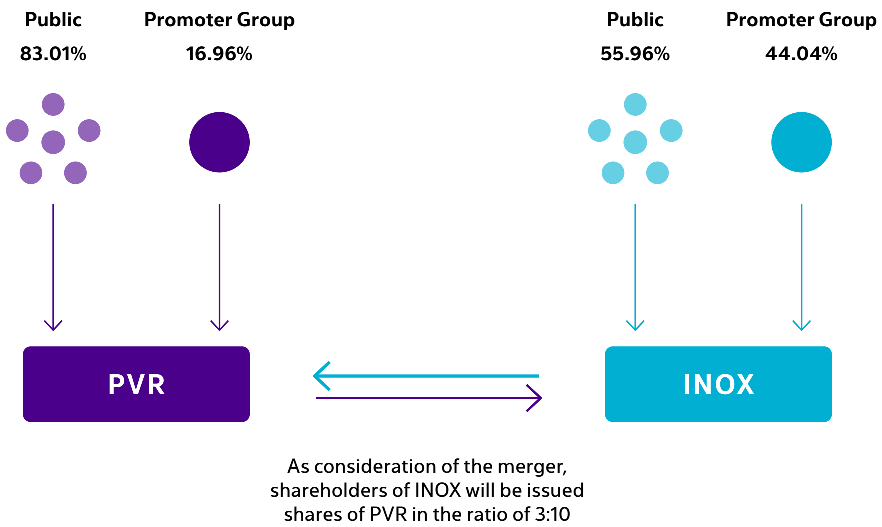
18 Maryam Farooqui, PVR-INOX merger to take 6-9 months, to add 200 screens every year, say Ajay Bijli and Siddharth Jain, Money Control, https://www.moneycontrol.com/news/business/companies/pvr-inox-merger-to-take-6-9-months-to-add-200-screens-every-year-say-ajay-bijli-and-siddharth-jain-8281621.html (last accessed July 28, 2022, 11.27 AM).

C. Deal Snapshot

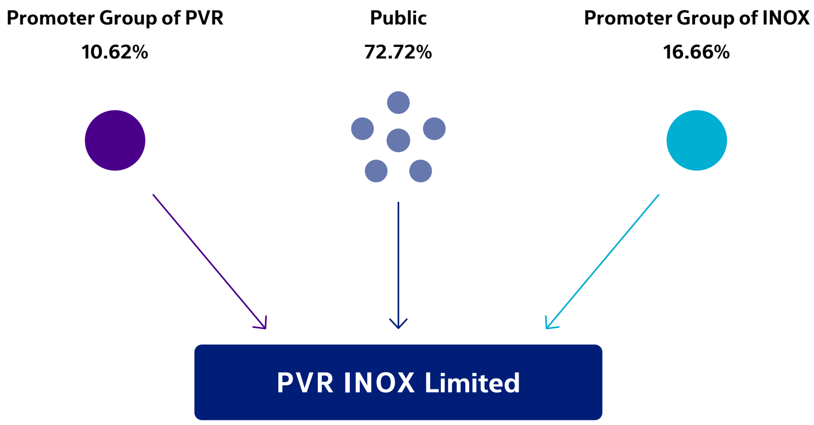
Merging Company	INOX		
Surviving Company	PVR		
Name of the Surviving Company post Merger	PVR INOX Limited		
Share Swap Ratio	Shareholders of INOX shall be issued 3 (three) fully paid up equity shares of INR 10 (Indian Rupees Ten) each of PVR for every 10 (ten) fully paid up equity shares of INR 10 (Indian Rupees Ten) each held by them in INOX.		
Board of Directors of the Resultant Company	Total strength of the board would be 10 (ten) with the promoter families of both INOX and PVR having equal representation with 2 (two) board seats each.		
Initial Management for first 5 years	Managing Director - Ajay Bijli Executive Director - Sanjeev Kumar Non- Executive Chairman - Pavan Kumar Jain Non-Executive Non-Independent Director - Siddharth Jain		
Promoter Share		Before Merger	After Merger (in the Resultant Company)
	INOX Promoters' Share	44.04% (forty four decimal four per cent) in INOX	16.66% (sixteen decimal six six per cent)
	PVR Promoters' Share	17% (seventeen per cent) in PVR	10.62% (ten decimal six two per cent)

D. Deal Structure

Before Merger



After Merger



Rising M&As in the Entertainment Sector

A. Overview of Entertainment and M&A

Since the 1990s, the Indian entertainment industry has evolved rapidly due to the policies implemented by the Central Government which primarily aimed at deregulating the media industry as part of the larger policy of privatisation.[1] Firstly, the Central Government allowed 100% (one hundred per cent) foreign direct investment in the theatrical exhibition industry.[2] Secondly, on May 14, 2001, the Reserve Bank of India formulated guidelines for banks to invest in the Indian film industry.[3] This allowed the theatrical exhibition industry to obtain the much-needed institutional financing from banks.[4] In 2001, the Indian film industry was granted the 'industry' status by the Government of India.[5] Furthermore, several state governments also introduced entertainment tax holiday policy in order to promote this industry.[6] Prior to this move, the multiplex owners had to pay up to 50% (fifty per cent) of ticket price as entertainment tax.[7]

Owing to the aforementioned policy changes, the Indian cinema has witnessed monumental growth wherein the erstwhile dominance of single screen players is currently being overshadowed by state-of-the-art multiplexes. The first multiplex was introduced in New Delhi by PVR in 1997.[8] It was established through a joint venture between Priya Exhibitors Private Limited and Village Roadshow Limited.[9] The popularity of PVR prompted other companies like INOX, Cinemax, Big Cinemas, etc., to enter the theatrical exhibition industry. As on date, India harbours a screen count of 9,423 (nine thousand four hundred and twenty three) as opposed to a mere 925 (nine hundred and twenty five) screens in 2009.[10]

The Indian film industry is generally dominated by the Hindi film industry, popularly known as Bollywood, contributing to 43% (forty three per cent) of the revenue generated by the theatrical exhibition industry.[11] The regional film industry comprising of Tamil, Telugu, Bengali, Kannada and Malayalam films prominently contributes 50% (fifty per cent) of the revenues and the remaining 7% (seven per cent) of the revenue is contributed by international films.[12] However, in 2021, the South Indian films dominated the box office revenue

1 Gita Viswanath, The Multiplex: Crowd, Audience and the Genre Film, Vol. 42, No. 32 Economic and Political Weekly, 3289-3291 (2007).

2 Press Note 2 (2000 series), available at https://dpiit.gov.in/sites/default/files/pn23_0.pdf (last accessed July 29, 2022, 11.27 AM).

3 Entertainment Industry – Bank Finance for Film Industry, Reserve Bank of India, available at https://rbidocs.rbi.org.in/rdocs/notification/PDFs/20730.pdf (last accessed July 16, 2022, 11.27 AM).

4 Corporatisation of Indian Film Industry – A Report on the Progress of the Indian Film Industry and the Impact of Corporatisation, India Brand Equity Foundation, available at https://www.ibef.org/download/corporatisation-of-indian-film-industry.pdf (last accessed July 28, 2022, 11.27 AM).

5 Id.

6 Lata Jha, The Multiplex revolution and beyond, Livemint, available at https://www.livemint.com/Consumer/VbhDs0dHTLmOdID8J1u6ZM/The-multiplex-revolution-and-beyond.html (last accessed July 8, 2022, 11.27 AM).

7 Id.

8 supra at 24.

9 PVR Limited, Business Standard, available at https://www.business-standard.com/company/pvr-14622/information/company-history (last accessed July 28, 2022, 11.27 AM)

10 Indian M&E sector recovered 16.4% to reach INR1.61 trillion in 2021; expected to exceed pre-Pandemic levels in 2022: EY-FICCI report, EY, available at https://www.ey.com/en_in/news/2022/03/indian-m-and-e-sector-recovered-16-4-percent-to-reach-inr-1-61-trillion-in-2021-expected-to-exceed-pre-Pandemic-levels-in-2022#:~:text=acquisitions%20in%202021Mumbai%2C%2021%20March%202022%3A%20According%20to%20the%20EY%2DFICCI,US%2421.5%20billion)%20in%202021 (last accessed July 29, 2022, 11.27 AM).

11 Neeraj Jain, Indywood The Indian Film Industry, Deloitte, available at https://www2.deloitte.com/content/dam/Deloitte/in/Documents/technology-media-telecommunications/in-tmt-indywood-film-festival-noexp.pdf (last accessed July 29, 2022, 11.27 AM).

12 Id.

raking in 24% (twenty four per cent) of the total box office revenue since there were lockdowns in the northern states of the country due to the pandemic thereby affecting the collections of Hindi films.[13]

In 2021, the Indian entertainment and media industry grew 16.4% (sixteen decimal four per cent) to reach approximately USD 2.14 trillion (United States Dollar Two decimal One Four Trillion). The sector is slated to expand at a compounded annual growth rate of 17% (seventeen per cent) between 2020 and 2023.[14] In particular, the theatrical exhibition industry earned USD 1.16 billion (United States Dollar One decimal One Six Billion) as box office revenues in 2021. Additionally, the industry is expected to grow at a rate of 32% (thirty two per cent) between 2021 and 2024.[15] It has been projected that by the end of 2023, the box office revenue of the Indian theatrical exhibition industry will be USD 26 million (United States Dollar Twenty Six Million).[16]

In recent times, there has been an alarming rise in the consumption of content from OTT platforms in Indian households[17] which was catapulted by the pandemic. From an economic standpoint, a simple comparison between the returns earned by the producers on a theatrical release of the movie as opposed to an OTT release indicate that theatrical releases are generally more lucrative.[18] In case, a movie is directly released on an OTT platform, it is likely to earn a mere 15% (fifteen per cent) – 20% (twenty percent) return on the cost of the production, whereas, if the movie is extended a theatrical release, not only are the returns much higher but also the OTT revenues get enhanced, subject to the movie being a success at the box office. Since the OTT platforms will be unable to generate as much revenue as the theatrical releases of movies, it is unlikely that OTT platforms will pose a threat to the growth of theatrical exhibition industry in India. *Au contraire*, it is also argued that due to the ease and convenience offered by OTT platforms, such platforms may be a threat to the theatrical exhibition industry in India. Additionally, OTT platforms are cheaper, and it enables individuals to watch movies from the convenience of their homes. Moreover, it is estimated that the Indian OTT market could reach USD 5 billion (United States Dollar Five Billion) in 5 (five years). With a rise of the OTT platforms at such an alarming rate, it is feared that OTT platforms could overpower the theatrical exhibition industry in the near future.

B. Other Mergers and Acquisitions in the Theatrical Exhibition Industry

Prior to the Merger, the Indian theatrical exhibition industry has seen very few mergers and acquisitions over the years. However, the last decade has seen some of the largest deals in the history of the sector. Various multiplex companies such as PVR, INOX, Cinepolis and Carnival Cinemas, in an attempt to increase the number of screens, which in turn would increase their revenues, either merged or acquired other smaller and regional multiplex chains.

One of the earliest acquisitions in the theatrical exhibition industry was the acquisition of INOX and Fame India Limited. In 2010, INOX acquired a 43.3% (forty three decimal three per cent) stake in Fame India Limited for USD

13 Supra at 34.

14 Media and Entertainment, India Brand Equity Foundation, available at https://www.ibef.org/industry/media-entertainment-india (last accessed July 29, 2022, 11.27 AM).

15 Supra at 34.

16 Id.

17 Zee Media Bureau, Here's how OTT platforms impact modern Indian families, ZEE News, available at https://zeenews.india.com/economy/heres-how-ott-platforms-impact-modern-indian-families-2424686.html (last accessed July 29, 2022, 11.27 AM).

18 Girish Pai, Film Exhibition Sector, Nirmal Bang, available at https://www.nirmalbang.com/Upload/Film-Exhibition-Sector-Update--26-September-2021.pdf (last accessed July 29, 2022, 11.27 AM).

8.38 billion (United States Dollar Eight decimal Three Eight Billion).[19] This acquisition resulted in the creation of the largest multiplex chain with a total of 257 (two hundred fifty seven) screens in India back then, overtaking the Reliance Group's Big Cinemas, which had 252 (two hundred fifty two) screens across India at that time.[20]

In 2012, PVR acquired a 69.27% (sixty nine decimal two seven percent) stake in Cinemax for USD 49.41 billion (United States Dollar Forty Nine decimal Four One Billion).[21] This deal enabled PVR to gain the top spot in the theatrical exhibition sector. PVR acquired 138 (hundred and thirty eight) screens of Cinemax, thus, making it the largest multiplex in India with 351 (three hundred and fifty one) screens.[22] Additionally, in 2014, INOX acquired a 100% (one hundred percent) stake in SCL for USD 22 million (United States Dollar Twenty Two Million).[23] This deal increased INOX's screen count to 358 (three hundred and fifty eight) and its presence to 50 (fifty) cities across India, allowing it to compete with PVR, which then had a screen count of 421 (four hundred and twenty one).[24]

In 2014, Carnival Films Private Limited ("**CFPL**") acquired a 100% (hundred percent) stake in Reliance MediaWorks Limited for USD 87 million (United States Dollar Eighty Seven Million) making it the biggest acquisition in the history of the theatrical exhibition industry.[25] This deal allowed CFPL to acquire 242 (two hundred and forty two) screens of Big Cinemas, becoming one of the top three multiplex companies in India.[26] This deal increased CFPL's influence and bargaining power in the theatrical exhibition industry.[27]

Further, in 2014, in a bid to increase its presence, the Mexican multiplex chain Cinepolis India Private Limited ("**Cinepolis**") completed the acquisition of Essel Group's Fun Cinemas ("**Fun Cinemas**").[28] Cinepolis, through its first acquisition since its inception in 2009, acquired 100% (one hundred percent) of Fun Cinemas for an undisclosed sum, thereby increasing Cinepolis' screens to 193 (hundred and ninety three).[29] According to sources, the deal was valued at around INR 480 crore (Indian Rupees Four Hundred and Eighty Crore).[30]

In 2016, PVR acquired 32 (thirty two) screens of DT Cinemas from Delhi Land and Finance Limited for a sum of approximately USD 60 million (United States Dollar Sixty Million). Recently, in 2018, PVR acquired a 71.69% (seventy one decimal six nine percent) stake in the South-India based multiplex chain SPI Cinemas Private Limited for USD 79 million (United States Dollar Seventy Nine Million).[31] SPI Cinemas operated 76 (seventy six)

---

19 INOX picks up 43% in Fame for Rs 67 cr, Hindustan Times, available at https://www.hindustantimes.com/business/INOX-picks-up-43-in-fame-for-rs-67-cr/story-cvOwLZFOjtzUP7TZtfEnxJ.html (last accessed July 29, 2022, 11.27 AM).

20 Varada Bhat, Fame set to Merge with INOX Leisure, Business Standard, available at https://www.business-standard.com/article/companies/fame-set-to-merge-with-INOX-leisure-112060800080_1.html (last accessed July 29, 2022, 11.27 AM).

21 Rajesh Mascarenhas, PVR-Cinemax merger offers arbitrage opportunities for existing PVR investors, The Economics Times, available at https://economictimes.indiatimes.com/markets/stocks/news/pvr-cinemax-merger-offers-arbitrage-opportunities-for-existing-pvr-investors/articleshow/23937738.cms?from=mdr (last accessed July 29, 2022, 11.27 AM).

22 PVR Cinemas to acquire Cinemax for Rs 395 cr, Business Standard, available at https://www.business-standard.com/article/companies/pvr-cinemas-to-acquire-cinemax-for-rs-395-cr-112113000021_1.html (last accessed July 29, 2022, 11.27 AM).

23 INOX acquires Satyam Cineplex for Rs 182 crore, Business Standard, available at https://www.business-standard.com/article/companies/INOX-acquires-satyam-cineplex-for-rs-182-cr-114073001489_1.html#:~:text=In%20line%20with%20its%20strategy,valued%20at%20Rs%20182%20crore (last accessed July 29, 2022, 11.27 AM).

24 Pooja Sarkar, INOX to acquire Satyam Cineplexes for Rs. 182 crore, Live Mint, available at https://www.livemint.com/Companies/3yAmtD8DnPJnPPEZrdCThP/INOX-to-acquire-Satyam-Cineplexes-for-Rs182-crore.html (last accessed July 29, 2022, 11.27 AM).

25 P.R. Sanjai, Pooja Sarkar, Reliance MediaWorks sells Big Cinemas to Carnival Films, Live Mint, available at https://www.livemint.com/Companies/9h0rA73UPr29nFtQDnAhNJ/Anil-Ambanis-Reliance-Group-sells-Big-Cinemas-to-Carnival-F.html (last accessed July 29, 2022, 11.27 AM).

26 Pooja Sarkar, P.R. Sanjai, Carnival Films close to buying majority stake in Big Cinemas, Live Mint, available at https://www.livemint.com/Companies/XGSS5qU9KXqxkBzwNR3CUJ/Carnival-Films-close-to-buying-majority-stake-in-Big-Cinemas.html (last accessed July 29, 2022, 11.27 AM).

27 Nandini Raghavendra & Arijit Barman, Blockbuster deal in multiplex space: Carnival acquires Anil Ambani's Big Cinemas for Rs 710 crore, The Economic Times, available at https://economictimes.indiatimes.com/industry/media/entertainment/blockbuster-deal-in-multiplex-space-carnival-acquires-anil-ambanis-big-cinemas-for-rs-710-crore/articleshow/45528442.cms (last accessed July 29, 2022, 11.27 AM).

28 Urvi Malvania, Cinepolis snaps us Fun Cinemas, Business Standard, available at https://www.business-standard.com/article/companies/cinepolis-snaps-up-fun-cinemas-114120100300_1.html (last accessed July 29, 2022, 11.27 AM).

29 Cinepolis acquires Fun Cinemas for an Undisclosed sum, The Economics Times, available at https://economictimes.indiatimes.com/industry/media/entertainment/cinpolis-acquires-fun-cinemas-for-an-undisclosed-sum/articleshow/46041988.cms?from=mdr (last accessed July 29, 2022, 11.27 AM).

30 Supra at 29.

31 PVR completes acquisition of 71.6% stake of SPI Cinemas, The Economics Times, available at https://economictimes.indiatimes.com/markets/stocks/news/pvr-completes-acquisition-of-71-6-stake-of-spi-cinemas/articleshow/65443395.cms (last accessed July 29, 2022, 11.27 AM).

screens across ten cities in India.[32] After this deal, PVR had a total of 706 (seven hundred and six) screens across 60 (sixty) cities in India, thereby strengthening its operations in South India.[33] From the aforementioned series of acquisitions made by PVR and INOX, it is evident that PVR and INOX have consistently been competing with each other to be the leader in the theatrical exhibition industry in India. Owing to the merger between the two giants, they are undoubtedly bound to have an edge over the other players in the space especially because of the myriad of screens amounting to 1,550 (one thousand five hundred and fifty) screens[34] owned by PVR and INOX together as on date.

32 Id.

33 Sangeetha Kandavel, PVR to acquire SPI Cinemas, The Hindu, available at https://www.thehindu.com/business/Industry/pvr-to-acquire-spi-cinemas/article24671691.ece (last accessed July 29, 2022, 11.27 AM).

34 Naini Thaker, PVR-INOX: How the big screen will get bigger, better, The Forbes India, available at https://www.forbesindia.com/article/take-one-big-story-of-the-day/pvrINOX-how-the-big-screen-will-get-bigger-better/75155/1#:~:text=Currently%2C%20out%20of%20the%209%2C500,160%20properties%20in%2072%20cities (last accessed July 29, 2022, 11.27 AM).

Commercial Considerations

A. Why did the two multiplex companies merge?

Due to the closure of theatres for a long time because of the pandemic and the rise of OTT platform, the multiplexes and cinema exhibition businesses, including INOX and PVR, have suffered huge losses. Due to the pandemic, the revenue of INOX and PVR took a huge beating. For the financial year 2020 – 2021, revenue of PVR fell by a whopping 91% (ninety one per cent) and INOX's revenue fell by 92% (ninety two per cent).[1] Further, the annual reports for the financial year 2020 - 2021 showed that the cash balance of PVR was approximately USD 91 million (United States Dollar Ninety One Million) and of INOX was approximately USD 9 million (United States Dollar Nine Million), while their debt was around USD 169 million (United States Dollar One Hundred Sixty Nine Million) and around USD 8 million (United States Dollar Eight Million) respectively.[2] Even though, the financial position of the companies improved in 2022, they continued to see losses. Hence, one of the major reasons for the Merger is to improve the financial position of the companies involved.

The primary source of revenue for these businesses is sale of movie tickets and the secondary source of revenue is the sale of food and beverages. With the strict restrictions imposed during the pandemic, INOX and PVR did not earn enough revenue and have been struggling to generate free cash flow as most of the profits earned by these businesses are through their secondary source of income, which was bare minimum during the pandemic.[3] Even though INOX and PVR earned revenue from other sources of operating revenue such as advertisement income, income from movie production and distribution, convenience fee, virtual print fee, among others, the revenue earned during the pandemic through such other sources was comparatively lesser than the previous years. The main aim of the Merger is to ensure sustainability of both the companies in the long run by surviving in the era of OTT platforms.

The Merger would help both the companies to grow in the Indian cinema exhibition industry by ensuring value creation for all interested stakeholders, such as customers, real estate developers, content producers, technology service providers, the state exchequer and the employees.[4] The rationale of the Merger is to consolidate the long term sustainability of both the businesses by setting up more cinema halls and to accelerate growth and expand the business into Tier 2 (two) and Tier 3 (three) cities. Currently, INOX focuses on eastern and central regions[5] and currently operates 692 (six hundred and ninety two) screens, 163 (hundred and sixty three) cinema halls in

---

1 Krishna Gopalan and Vidya S., Why Multiplex Biggies PVR and INOX are Coming Together, Business Today, available at https://www.businesstoday.in/interactive/longread/why-multiplex-biggies-pvr-and-INOX-are-coming-together-111-27-04-2022#:~:text=The%20proposed%20merger%20will%20need,Commission%20of%20India%20(CCI).&text=The%20background%20of%20both%20PVR,not%20have%20been%20more%20different (last accessed July 29, 2022, 11.27 AM).

2 Id.

3 Amit Mudgill, What PVR-INOX merger means for investors in the two stocks, The Economic, available at https://economictimes.indiatimes.com/markets/stocks/news/what-pvr-INOX-merger-means-for-investors-in-the-two-stocks/articleshow/90487301.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst (last accessed July 29, 2022, 11.27 AM).

4 Annual Report 2021 – 2022, 23 PVR, available at https://originserver-static1-uat.pvrcinemas.com/pvrcms/financial/2021_1656420953953.pdf (last accessed July 29, 2022, 11.27 AM).

5 Krishna Gopalan and Vidya S., Why Multiplex Biggies PVR and INOX are Coming Together, Business Today, available at https://www.businesstoday.in/interactive/longread/why-multiplex-biggies-pvr-and-INOX-are-coming-together-111-27-04-2022#:~:text=The%20proposed%20merger%20will%20need,Commission%20of%20India%20(CCI).&text=The%20background%20of%20both%20PVR,not%20have%20been%20more%20different (last accessed July 29, 2022, 11.27 AM).

approximately 73 (seventy three) cities,[6] while PVR dominates the north, south and west[7] and operates 846 (eight hundred and forty six) screens in 176 (hundred and seventy six) cinema halls in 71 (seventy one) cities.[8] Post the Merger, the combined entity of PVR and INOX would become the largest cinema exhibition company in India by expanding to most of the Tier 2 (two) and Tier 3 (three) cities and would operate approximately about 1,550 (one thousand five hundred and fifty) screens across 112 (one hundred and twelve) cities[9] and would have a market share of 16% (sixteen per cent) to 17% (seventeen per cent) in total screens (including single screens) and a 44% (forty four per cent) to 50% (fifty per cent) share in terms of multiplex screens.[10]

The companies have decided to merge in order to focus on cost optimization, reduce common costs of bulk negotiations, pool resources of the companies, provide material realizable cost and revenue synergies for the benefit of the Parties and to make optimal utilization of resources of economies of scale.[11] Further, due to the Merger, the combined entity would be able to provide better administration by combining the individual managerial strengths of both the companies.

B. What is the impact of the deal on the investors?

As an effect of the Merger, the combined entity would benefit from increased scale, innovations in technology, increased growth opportunities, higher cross selling opportunities to a larger base of customers, improvement in productivity and operational efficiencies, amongst others.[12] Consequentially, these benefits will help the company to generate more revenue and ensure tremendous value creation for all the investors.[13]

As per the share swap ratio of the Scheme, investors will get 3 (three) shares of PVR for every 10 (ten) shares held by them in INOX. As per the analysts, owing to INOX's zero net debt situation compared with PVR's net debt at approximately USD 107 million (United States Dollar One Hundred Seven Million), the ratio is slightly favourable to INOX investors by about 12% (twelve per cent).[14]

Just by the announcement made on March 27, 2022, the share prices of the companies surged to new highs. On March 28, 2022, PVR closed at INR 1,883.50 (Indian Rupees One Thousand Eight Hundred Eighty Three and Fifty Paisa), up by 3% (three per cent) from its previous close and INOX closed at 11% (eleven per cent) higher at INR 522.90 (Indian Rupees Five Hundred Twenty Two and Ninety Paisa).[15] Additionally, post the Merger, the management of the Resultant Company aims to add 200 (two hundred) screens per year at an outgo of USD 62

6 About Us, INOX Leisure Limited , available at https://www.INOXmovies.com/Corporate.aspx?Section=1 (last accessed July 28, 2022, 11.07 AM).

7 Krishna Gopalan and Vidya S., Why Multiplex Biggies PVR and INOX are Coming Together, Business Today, available at https://www.businesstoday.in/interactive/longread/why-multiplex-biggies-pvr-and-INOX-are-coming-together-111-27-04-2022#:~:text=The%20proposed%20merger%20will%20need,Commission%20of%20India%20(CCI).&text=The%20background%20of%20both%20PVR,not%20have%20been%20more%20different (last accessed July 28, 2022, 11.56 AM).

8 About Us, PVR Cinemas, available at https://www.pvrcinemas.com/corporate (last accessed July 28, 2022, 11.38 AM).

9 Annual Report 2021 – 2022, 23 PVR, available at https://originserver-static1-uat.pvrcinemas.com/pvrcms/financial/2021_1656420953953.pdf (last accessed July 29, 2022, 11.23 AM).

10 Amit Mudgill, What PVR-INOX merger means for investors in the two stocks, The Economic Times, available at https://economictimes.indiatimes.com/markets/stocks/news/what-pvr-INOX-merger-means-for-investors-in-the-two-stocks/articleshow/90487301.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst (last accessed July 9, 2022, 11.27 AM).

11 Annual Report 2021 – 2022, 23 PVR, available at https://originserver-static1-uat.pvrcinemas.com/pvrcms/financial/2021_1656420953953.pdf (last accessed July 28, 2022, 11.27 AM).

12 Clause 3.1, Scheme.

13 George Mathew, Explained: Significance of PVR-INOX merger, and its impact on entertainment industry, The Indian Express, available at https://indianexpress.com/article/explained/explained-pvr-INOX-merger-impact-entertainment-industry-7838927/ (last accessed July 19, 2022, 11.27 AM).

14 Krishna Gopalan and Vidya S., Why Multiplex Biggies PVR and INOX are Coming Together, Business Today, available at https://www.businesstoday.in/interactive/longread/why-multiplex-biggies-pvr-and-INOX-are-coming-together-111-27-04-2022#:~:text=The%20proposed%20merger%20will%20need,Commission%20of%20India%20(CCI).&text=The%20background%20of%20both%20PVR,not%20have%20been%20more%20different (last accessed July 19, 2022, 11.30 AM).

15 Id.

million (United States Dollar Sixty Two Million).[16] Further, due to the significant difference in food and beverage revenue per head between the two companies, there is likelihood of an increase of revenue. Additionally, due to higher convenience fees and advertising revenue, the revenue synergy might increase to approximately USD 7 million (United States Dollar Seven Million) and on costs, there might be synergy of approximately USD 12 million (United States Dollar Twelve Million).[17] This increase in the number of screens and better synergies would help the company to increase their primary and other source of income and generate more revenue for the investors.

C. How was the Merger valued? Who decided the Price?

For the purpose of determining the share swap ratio, the Valuers, appointed by INOX and PVR together, submitted a joint valuation report to the companies recommending the fair equity share exchange ratio. For the issue of PVR's equity shares to the equity shareholders of INOX, the Valuers determined the ratio independently and in accordance with ICAI Valuation Standards 2018 issued by the Institute of Chartered Accountants of India.[18]

The Valuers relied on the annual reports for the financial year ending March 31, 2021 and earlier years for PVR and INOX, the unaudited limited reviewed financials of PVR and INOX for the 9 (nine) months ended December 31, 2021, the business plan of PVR and INOX, discussions with the management of the companies to obtain requisite explanation and clarification of data to understand their perception of historical and expected future performance of the companies and other relevant information and documents for the purpose of valuation. Additionally, in order to determine the fair equity exchange ratio, the Valuers requested and received financial and qualitative information, used data available in public domain related to the companies and its peers, understood the strengths, weaknesses, opportunity and threats analysis and historical financial performance of the companies, undertook industry analysis.[19]

To arrive at the fair equity share exchange, the relative value of equity shares of PVR and INOX had to be determined. These values had to be determined independently, but on a relative basis, without considering the effect of the Merger. The valuation approaches adopted by both the Valuers for this Merger were the Income Approach and the Market Approach. Based on both the approaches, SSPA & Co. arrived at the conclusion that the relative value per equity share was USD 6.70 (United States Dollar Six decimal Seven Zero) share for INOX and USD 22.08 (United States Dollar Twenty Two decimal Eight) per share for PVR. Whereas, Drushti Desai arrived at the conclusion that the relative value per equity share was USD 6.59 (United States Dollar Six decimal Five Nine) per share for INOX and USD 21.85 (United States Dollar Twenty One decimal Eight Five) per share for PVR. Thereafter, in order to determine the fair equity share exchange ratio, the relative value per equity share of INOX was divided with the relative value per equity share of PVR. Post the division and rounding off, the fair equity share exchange ratio was determined by both the Valuers was 1 : 0.3. Based on this ratio, it was decided that shareholders of INOX shall be issued 3 (three) fully paid up equity shares of INR 10 (Indian Rupees Ten) each of PVR for every 10 (ten) fully paid up equity shares of INR 10 (Indian Rupees Ten) each held by them in INOX.[20]

16 Id.

17 Id.

18 Valuation Report, SSPA & Co. and Drushti Desai, dated March 27, 2022.

19 Id.

20 Id.

Post the valuation, Ernst & Young Merchant Banking Services LLP provided a fairness opinion to INOX[21] and Axis Capital provided a fairness opinion to PVR[22] stating that the share exchange ratio proposed by the Valuers was fair to the shareholders of INOX and PVR respectively, from a financial perspective.

D. Was there any opposition from any stakeholder to the Merger?

The various stakeholders to the current Merger include customers, investors, shareholders, real estate developers, competitors, content producers, technology service providers, the state exchequer and the employees, amongst others. As on the date of the paper, based on information available in the public domain, it appears that there have been no opposition from any of the stakeholders. The investors and shareholders are happy over the Merger as the Merger is expected to boost free cash flow, increase the Resultant Company's bargaining power, ensure stranglehold over real estate and bring in cost synergies.[23]

Even though there has been no formal opposition from the other stakeholders, it is safe to assume that producers, competitors and real estate developers leasing out their property to INOX and PVR would not be quite elated with the Merger. Post the Merger, the multiplex/ cinema exhibition industry will have only few players (apart from the Resultant Company) left in the market, such as Carnival and Cinepolis with approximately 400 (four hundred) screens each and Miraj with approximately 150 (one hundred and fifty) screens, in comparison to the Resultant Company which would have close to 2,000 (two thousand) screens.[24] This difference in number of screens would surely affect the buying and bargaining power with the producers and real estate developers and would create a situation of duopoly in the market. These issues might lead to a formal opposition in the future.[25]

21 Fairness Opinion, Ernst & Young Merchant Banking Services LLP, dated March 27, 2022.

22 Fairness Opinion, Axis Capital, dated March 27, 2022.

23 Amit Mudgill, What PVR-INOX merger means for investors in the two stocks, The Economic Times, available at https://economictimes.indiatimes.com/markets/stocks/news/what-pvr-INOX-merger-means-for-investors-in-the-two-stocks/articleshow/90487301.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst (last accessed July 14, 2022, 6:55 PM).

24 Krishna Gopalan and Vidya S., Why Multiplex Biggies PVR and INOX are Coming Together, Business Today, available at https://www.businesstoday.in/interactive/longread/why-multiplex-biggies-pvr-and-INOX-are-coming-together-111-27-04-2022#:~:text=The%20proposed%20merger%20will%20need,Commission%20of%20India%20(CCI).&text=The%20background%20of%20both%20PVR,not%20have%20been%20more%20different (last accessed July 15, 2022, 11:15 AM).

25 Id.

Legal and Regulatory Considerations

The SEBI Listing Regulations lays down guidelines and certain corporate governance requirements[1] for listed companies to make fair and transparent disclosures with the Stock Exchange(s) so as to allow the shareholders and public to evaluate the company's position and make informed decisions. The SEBI Listing Regulations states that the listed entity has to ensure that any scheme of arrangement/ amalgamation/ merger/ reconstruction/ reduction of capital etc. to be filed with the court or tribunal does not violate, override or limit the provisions of the securities laws or the requirements on the Stock Exchange(s).[2] Moreover, a listed entity desirous of undertaking a scheme of arrangement has to obtain an 'Observation Letter' or a 'No Objection Certificate' from the Stock Exchange(s) before filing the scheme of arrangement before a Court or Tribunal under Section 391-394 and 101 of the Companies Act, 1956 or Section 230-232 of the Companies Act, 2013 as may be applicable.[3]

PVR and INOX have complied with all the applicable regulations of the SEBI Listing Regulations and have disclosed the required documents to the Stock Exchange(s) on March 27, 2022.[4]

A. Chronology of events

- Every listed entity has to disclose all the events or information, that in the opinion of the board of directors, is material[5] to the Stock Exchange(s) within 24 (twenty four) hours of the occurrence of the event.[6] In the present case, the board of directors of PVR and INOX had passed resolutions for the amalgamation of the companies at their respective meetings on March 27, 2022.[7] PVR and INOX are in compliance with the SEBI Listing Requirements, since they had disclosed the required informed to the Stock Exchange(s) on March 27, 2022.[8]

- After the filing of the draft scheme of arrangement with the Stock Exchange(s), the listed entity has to disclose the draft scheme on its website within a period of 24 (twenty four) hours.[9] Further, the material event or information has to be hosted on the website of the listed entity for a minimum period of 5 (five) years.[10] On March 27, 2022, PVR and INOX had published a press release on their website announcing the amalgamation of the two companies, thus, complying with the SEBI circular dated March 10, 2017 and the SEBI Listing Requirements.[11]

---

1 Regulation 17-27, SEBI Listing Regulations.

2 Regulation 11, SEBI Listing Regulations.

3 Regulation 37, SEBI Listing Regulations.

4 Compliance report in connection with application filed for approval under Regulation 37 of SEBI (LODR) Regulations, 2015 for the proposed Scheme of INOX with PVR and their respective shareholders and creditors under Sections 230 to 232 of the Companies Act, 2013, INOX, available at https://origin-server-static1-uat.pvrcinemas.com/pvrcms/financial/Detailed_Compliance_Report_(certified_by_CS,_MD.pdf (last accessed July 19, 2022, 11.30 AM); Compliance report in connection with application flied for approval under Regulation 37 of SEBI (LODR) Regulations, 2015 for the proposed Scheme of INOX with PVR and their respective shareholders and creditors under Sections 230 to 232 of the Companies Act, 2013, INOX, available at https://s3.ap-southeast-1.amazonaws.com/cdn.INOXmovies.com/Downloads/906a60ea-a06c-45ff-be54-a596a6e22c2e.pdf (last accessed July 19, 2022, 11.30 AM)

5 Regulation 30, SEBI Listing Regulations.

6 Regulation 30 (6), SEBI Listing Regulations.

7 Corporate Filing Scheme Document, National Stock Exchange, available at https://www.nseindia.com/companies-listing/corporate-filings-scheme-document (last accessed July 19, 2022, 11.30 AM); NOC under Regulation 37, Bombay Stock Exchange, available at https://www.bseindia.com/corporates/NOCUnder.aspx (last accessed July 19, 2022, 11.30 AM)

8 Id.

9 Securities and Exchange Board of India, Circular on Schemes of Arrangement by Listed Entities, p. I (A) (7) (March 10, 2017).

10 Regulation 30 (8), SEBI Listing Regulations.

11 Press Release titled 'PVR and INOX Announce Merger,' National Stock Exchange India, available at https://archives.nseindia.com/corporate/PVR_27032022150923_PVR_PressRelease.pdf (last accessed July 19, 2022, 11.30 AM).

- After the scrutinization of the documents submitted by the listed entity to the Stock Exchange(s), the Stock Exchanges will issue the no objection letter or observation letter.[12] In the instant case, BSE and NSE had provided the no objection letter to PVR and INOX on June 20, 2022 and June 21, 2022 respectively.[13]

- The Companies Act, 2013 states that the parties to the scheme of arrangement have to make an application to the court/ tribunal.[14] We understand that PVR and INOX would have made an application to the court/ tribunal for approval of the Scheme since they have already received the no objection certificate from the Stock Exchange(s).

- According to the SEBI Circular no. CFD/DIL3/CIR/2017/21 dated March 10, 2017,[15] circular no. CFD/DIL3/CIR/2018/2 dated 3 January 2018,[16] circular no. SEBI/HO/CFD/DIL1/CIR/P/2020/215 dated 3 November 2020,[17] and circular no. SEBI/HO/CFD/DIL2/CIR/P/2021/0000000659 dated 18 November 2021,[18] the listed entities have to comply with certain obligations in relation to the scheme of arrangements. A few of these are as follows:

  - The listed entities have to submit to the Stock Exchange(s) the draft scheme of arrangement/ amalgamation/ merger/ reconstruction/ reduction of capital etc., valuation report by an independent chartered accountant, report from the audit committee, fairness opinion by a SEBI registered merchant banker, pre and post amalgamation shareholding pattern, audited financials of last three financial years, auditor's certificate and a detailed compliance report.[19]

  - The listed entities have to submit to the Stock Exchange(s) a report from the committee of independent directors recommending the draft scheme of arrangement, while taking into account that the draft scheme is not detrimental to the shareholders of the listed entity.[20]

  - The listed entities have to submit to the Stock Exchange(s) a no objection certificate from a lending scheduled commercial banks/financial institutions/debenture trustees.[21]

  - The listed entities have to ensure that the scheme of arrangement submitted with the NCLT has to provide for voting by public shareholders through e-voting after disclosing all material facts.[22]

---

12 Securities and Exchange Board of India, Circular on Schemes of Arrangement by Listed Entities, p. I (B) (March 10, 2017).

13 Observation Letter regarding the Scheme of INOX with PVR and their respective Shareholders and Creditors, Bombay Stock Exchange, available at https://www.bseindia.com/Download/NocUnder/20220621104213-PVR.pdf (last accessed July 19, 2022, 11.30 AM); Observation Letter regarding the Scheme of INOX with PVR and their respective Shareholders and Creditors, Bombay Stock Exchange, available at https://archives.nseindia.com/corporates/offerdocument/scheme/PVR_30591_PVR_OLSigned.pdf (last accessed July 19, 2022, 11.30 AM).

14 Companies Act, 2013, Act No. 18, Acts of Parliament, § 230.

15 Circular on Schemes of Arrangement by Listed Entities, Securities Exchange Board of India, available at https://www.sebi.gov.in/legal/circulars/mar-2017/circular-on-schemes-of-arrangement-by-listed-entities-and-ii-relaxation-under-sub-rule-7-of-rule-19-of-the-securities-contracts-regulation-rules-1957_34352.html (last accessed July 15, 2022, 11.30 AM).

16 Circular on Schemes of Arrangement by Listed Entities and (ii) Relaxation under Sub-rule (7) of rule 19 of the Securities Contracts (Regulation) Rules, 1957", Securities Exchange Board of India, available at https://www.sebi.gov.in/legal/circulars/jan-2018/circular-on-schemes-of-arrangement-by-listed-entities-and-ii-relaxation-under-sub-rule-7-of-rule-19-of-the-securities-contracts-regulation-rules-1957-_37265.html (last accessed July 16, 2022, 11.30 AM).

17 Schemes of Arrangement by Listed Entities and (ii) Relaxation under Sub-rule (7) of Rule 19 of the Securities Contracts (Regulation) Rules, 1957, Securities Exchange Board of India , available at https://www.sebi.gov.in/legal/circulars/nov-2020/schemes-of-arrangement-by-listed-entities-and-ii-relaxation-under-sub-rule-7-of-rule-19-of-the-securities-contracts-regulation-rules-1957_48064.html (last accessed July 17, 2022, 11.30 AM).

18 Addendum to SEBI Circular dated November 16, 2021 relating to Schemes of Arrangement by Listed Entities, Securities Exchange Board of India, available at https://www.sebi.gov.in/legal/circulars/nov-2021/addendum-to-sebi-circular-dated-november-16-2021-relating-to-schemes-of-arrangement-by-listed-entities_54056.html (last accessed July 18, 2022, 11.30 AM).

19 Securities and Exchange Board of India, Circular on Schemes of Arrangement by Listed Entities, p. I (A) (2) (March 10, 2017).

20 Securities and Exchange Board of India, Schemes of Arrangement by Listed Entities and (ii) Relaxation under Sub-rule (7) of Rule 19 of the Securities Contracts (Regulation) Rules, 1957, p. I (A) (2) (i) (November 03, 2020).

21 Securities and Exchange Board of India, Addendum to SEBI Circular dated November 16, 2021 relating to Schemes of Arrangement by Listed Entities, p. I (A) (2) (k) (November 18, 2021).

22 Securities and Exchange Board of India, Circular on Schemes of Arrangement by Listed Entities, p. I (A) (9) (March 10, 2017).

- PVR and INOX have complied with the aforementioned SEBI circulars and have submitted all the above documents to BSE and NSE on April 11, 2022.[23]

- After the scrutinization of the documents submitted by the listed entity to the Stock Exchange(s), the stock exchanges will issue the no objection letter or observation letter.[24] In the instant case, BSE and NSE had provided the no objection letter to PVR and INOX on June 20, 2022 and June 21, 2022 respectively.[25]

- The Companies Act, 2013 states that the parties to the scheme of arrangement have to make an application to the court/ tribunal.[26] PVR Limited and INOX Leisure Limited will have to make an application to the court/ tribunal for approval of the Scheme since they have already received the no objection certificate from the Stock Exchange(s).

B. What approvals and compliances are required for the Merger under applicable laws?

SEBI Listing Regulations states that a listed entity which is desirous of undertaking a scheme of arrangement has to obtain an 'observation letter' or a 'no objection certificate' from the Stock Exchange(s) before filing the scheme of arrangement before a court or tribunal under section 391-394 and section 101 of the Companies Act, 1956 or section 230-232 of the Companies Act, 2013, as may be applicable.[27]

In the present case, the scheme of arrangement undertaken by PVR and INOX has received the no objection certificate from BSE and NSE on June 20, 2022, and June 21, 2022, respectively.[28]

C. Why was the approval of CCI not required for the deal? Will the deal be subject to CCI review in the future?

In the last few years, the CCI has had quite a few opportunities to assess the mergers and acquisitions in the Indian theatrical exhibition industry due to the rising number of mergers and acquisitions in the sector. Generally, while dealing with these mergers and acquisitions, CCI adopts the 'appreciable adverse effect on competition' test (**"AAEC"**).[29] The CCI undertakes the assessment of the relevant product market and relevant geographic market and then proceeds to examine the AAEC on the identified relevant markets.[30] For instance, in the case of the PVR-DT merger, CCI considered that the proposed combination is likely to cause appreciable adverse effect on competition in the markets of (i) Gurgaon, (ii) South Delhi, (iii) North, West and Central Delhi,

---

23 Corporate Filing Scheme Document, National Stock Exchange, available at https://www.nseindia.com/companies-listing/corporate-filings-scheme-document (Last accessed July 19, 2022, 11.30 AM); NOC under Regulation 37, Bombay Stock Exchange https://www.bseindia.com/corporates/NOCUnder.aspx (last accessed July 19, 2022, 11.30 AM).

24 Securities and Exchange Board of India, Circular on Schemes of Arrangement by Listed Entities, p. I (B) (March 10, 2017).

25 Observation Letter regarding the Scheme of INOX with PVR and their respective Shareholders and Creditors, Bombay Stock Exchange, available at https://www.bseindia.com/Download/NocUnder/20220621104213-PVR.pdf (last accessed July 19, 2022, 11.30 AM); Observation Letter regarding the Scheme of INOX with PVR and their respective Shareholders and Creditors, Bombay Stock Exchange, available at https://archives.nseindia.com/corporates/offerdocument/scheme/PVR_30591_PVR_OLSigned.pdf (last accessed July 19, 2022, 11.30 AM).

26 Companies Act, 2013, Act No. 18, Acts of Parliament, § 230.

27 Securities and Exchange Board of India, SEBI (Listing Obligations and Disclosure Requirements) Regulations, Regulation 37 (2015).

28 Observation Letter regarding the Scheme of INOX with PVR and their respective Shareholders and Creditors, Bombay Stock Exchange, available at https://www.bseindia.com/Download/NocUnder/20220621104213-PVR.pdf (last accessed July 19, 2022, 11.30 AM); Observation Letter regarding the Scheme of INOX with PVR and their respective Shareholders and Creditors, Bombay Stock Exchange, (June 21, 2022), https://archives.nseindia.com/corporates/offerdocument/scheme/PVR_30591_PVR_OLSigned.pdf (last accessed July 19, 2022, 11.30 AM).

29 Competition Act, 2002, Act No. 13, Acts of Parliament, § 3.

30 Competition Act, 2002, Act No. 13, Acts of Parliament, § 3.

(iv) Noida, and (v) Chandigarh due to which the CCI had approved the PVR-DT transaction with modifications such as divestiture of 7 (seven) screens belonging to DT and a freeze on expansions.[31]

Currently, PVR and INOX are two of the biggest multiplex companies in the Indian theatrical exhibition industry. Currently, PVR operates 846 (eight hundred and forty six) screens across 71 (seventy one) cities[32] and INOX operates 692 (six hundred and ninety two) screens across 73 (seventy three) cities. [33] Accordingly, the combined entity will operate 1550 (one thousand five hundred and fifty) screens across 112 (one hundred and twelve) cities[34] and have up to 50% (fifty percent) market share in the Indian theatrical exhibition sector. Ideally, mergers of such magnitude are subject to CCI review wherein CCI examines the probability of any appreciable adverse effect on competition in the respective sector. Had it not been for the timing of the deal, the Merger would have been approved by CCI with certain restrictions or modifications as previously observed in the acquisition of DT Cinemas by PVR. However, in this case, PVR and INOX were not under an obligation to notify their Merger to the CCI owing to reason that the revenue of PVR and INOX was below the threshold prescribed in the notification issued by the MCA.

The MCA, vide notification dated March 27, 2017[35], had notified that the transactions wherein: (a) the value of assets being acquired, taken control of, merged or amalgamated is not more than INR 350 crore (Indian Rupees Three Fifty Crore) ("**Assets Threshold**") in India; or (b) the turnover of the target (i.e., the enterprise whose control, shares, voting rights or assets are being acquired) or the turnover attributable to the assets being acquired, taken control of, merged or amalgamated (as applicable), is not more than INR 1000 crore (Indian Rupees One Thousand Crore) ("**Revenue Threshold**") in India (the "**De Minimis Exemption**") are exempt from the notification requirements under the Competition Act. Further, the MCA, vide its notification dated March 16, 2022, has extended the De Minimis Exemption till March 28, 2027.[36]

Basis a review of the financial statements for the year ended 2020-21, the revenues for PVR was approximately INR 280 crore (Indian Rupees Two Hundred Eighty Crore) (i.e. USD 35 million (United States Dollar Thirty Five Million)), and INOX was approximately INR 106 crore (Indian Rupees One Hundred Six Crore) (i.e., USD 13 million (United States Dollar Thirteen Million)), respectively. Since the revenues of PVR and INOX did not breach the Revenue Threshold provided for under the De Minimis Exemption, the companies are able to avail the benefits of the aforesaid MCA notifications, thereby escaping the scrutiny and notification requirements of the CCI.

The primary reason for the Merger dodging CCI's regulatory lens is due to the companies' reduction in their revenues owing to the pandemic.

Nevertheless, pursuant to Section 20 of the Competition Act, 2002, the CCI has the power to inquire into any combination that is likely to cause AAEC in India within 1 (one) year from the date of the combination.[37] However, since the De Minimis Exemption is applicable to the Merger, CCI may not have the power to undertake an inquiry of the Merger.

---

31 Competition Registration No. C-2015/07/288.

32 Annual Report 2021 – 2022, 23 PVR, available at https://originserver-static1-uat.pvrcinemas.com/pvrcms/financial/2021_1656420953953.pdf (last accessed July 13, 2022, 12:23 PM).

33 About Us, INOX Leisure Limited , available at https://www.INOXmovies.com/Corporate.aspx?Section=1 (last accessed July 28, 2022, 11.07 AM).

34 Annual Report 2021 – 2022, 23 PVR, available at https://originserver-static1-uat.pvrcinemas.com/pvrcms/financial/2021_1656420953953.pdf (last accessed July 29, 2022, 11.23 AM).

35 Notification S.O. 989(E), Ministry of Corporate Affairs, available at https://www.mca.gov.in/Ministry/pdf/Notification_30032017.pdf (last accessed July 19, 2022, 11.30 AM); Competition Act, 2002, Act No. 13, Acts of Parliament,§ 5, 6.

36 Notification S.O. 1193(E), Ministry of Corporate Affairs, available at https://egazette.nic.in/WriteReadData/2022/234278.pdf (last accessed July 19, 2022, 11.30 AM).

37 Competition Act, 2002, Act No. 13, Acts of Parliament, § 20(1).

D. Why did the Takeover Code not get triggered?

The Takeover Code states that any acquisitions pursuant to a scheme

> *"of arrangement involving the target company as a transferor company or as a transferee company, or reconstruction of the target company, including amalgamation, merger or demerger, pursuant to an order of a court or a competent authority under any law or regulation, Indian or foreign".*

will be exempt from an obligation to make a takeover offer under the Takeover Code.[38]

Therefore, the Takeover Code would not be triggered if a merger or acquisition has been undertaken by way of a scheme of arrangement approved by a competent authority. In the present case, PVR and INOX have adopted the scheme of arrangement approach wherein the transaction was structured by way of a merger which is subject to the approval of the tribunal. Accordingly, the transaction falls within the ambit of Regulation 10(1)(d) of the Takeover Code. Thus, the Merger did not trigger the provisions of the Takeover Code.

E. What are the next steps to the merger?

I. Conditions precedent to the Merger

According to the Scheme, the Merger is conditional and subject to, in addition to the actions already undertaken by PVR and INOX as discussed hereinbefore:

- The Scheme being approved by the requisite majority of each classes of shareholders and/or creditors (where applicable) of each of the Parties in accordance with the Companies Act, 2013 and as may be directed by the competent authority, including seeking approval of the shareholders of the parties through e-voting, as applicable;
- NCLT having accorded its sanction to the Scheme;
- certified/authenticated copies of the orders of the Tribunal, sanctioning the Scheme, being filed by the parties with the relevant registrar of companies;
- receipt of such other sanctions and approvals including sanction of any other governmental authority or Stock Exchange(s) as may be required by applicable law in respect of the Scheme; and
- The Scheme shall not come into effect unless the aforementioned conditions are satisfied and in such an event, unless each of the conditions are satisfied, no rights and liabilities whatsoever shall accrue to or be incurred *inter se* the parties or their respective shareholders or creditors or employees or any other person.

38 Securities and Exchange Board of India, SEBI (Substantial Acquisition of Shares and Takeover) Regulations, Regulation 10 (1) (d) (2011).

II. Approvals required after the no objection certificate is provided by the Stock Exchange(s)

After the listed entities have received the no objection certificates from the Stock Exchange(s), the entities have to obtain the following approvals for the implementation of the Scheme-

- the parties have to make an application to the court/tribunal for approval of the Scheme.[39]
- on receipt of the application, the court/ tribunal may order a meeting of the creditors wherein the parties have to circulate the proposed terms of the Scheme adopted by the directors of the merging company, a confirmation that the draft Scheme has been filed with the relevant registrar of companies and a report by the directors of the parties explaining the effect of the scheme on shareholders, key managerial personnel, promoters and non-promoter shareholders declaring the share exchange ratio and any special valuation difficulties.[40] The parties have to also submit the valuation report and a supplementary accounting statement of the last annual accounts of any one of the parties relating to a financial year ending more than 6 (six) months before the first meeting of the company held for the purposes of approving the scheme.
- after being satisfied of the parties' compliance with the procedure specified above, the court/ tribunal can approve the application for the Scheme filed by the parties.[41]
- upon receiving the approval of the court/tribunal, the parties have to submit to the Stock Exchange(s) the copy of the Scheme approved by the court/ tribunal, result of voting of the shareholders for the approval of the Scheme, statement explaining changes to the Scheme, if any, status of compliance with the no objection letters received by the Stock Exchange(s) and the complaints report.[42]
- consequently, the parties have to file the certified copy of the order passed by the court/ tribunal with the relevant registrar of companies or registration within 30 (thirty) days of the receipt of the certified copy of the order.[43]
- thereafter, the Scheme will be implemented on and from the appointed date indicated in the Scheme; and[44]
- lastly, until the competition of Scheme, the parties have to file a statement with the relevant registrar of companies every year indicating whether the order by the court/tribunal is being complied with.[45] The statement has to be certified by an independent chartered accountant.[46]

39 Companies Act, 2013, Act No. 18, Acts of Parliament, § 230.

40 Companies Act, 2013, Act No. 18, Acts of Parliament, § 232(2).

41 Companies Act, 2013, Act No. 18, Acts of Parliament, § 232(3).

42 Securities and Exchange Board of India, Circular on Schemes of Arrangement by Listed Entities, p. II (March 10, 2017).

43 Companies Act, 2013, Act No. 18, Acts of Parliament, § 232(5).

44 Companies Act, 2013, Act No. 18, Acts of Parliament, § 232(6).

45 Companies Act, 2013, Act No. 18, Acts of Parliament, § 232(7).

46 Id.

Tax Considerations

A. What are the tax implications arising out of the Proposed Merger?

- The term 'merger' is not defined under ITA. However, the term 'amalgamation' is defined under Section 2 (1B) of the ITA as a merger of one or more companies into another company or a merger of two or more companies to form a new company in such a way that the following conditions should be fulfilled:

    i. all the properties of the amalgamating companies must become the properties of the amalgamated company by virtue of the amalgamation;

    ii. all the liabilities of the amalgamating companies must become the liabilities of the amalgamated company by virtue of the amalgamation; and

    iii. the shareholders holding not less than 3/4th (three – fourth) in value (i.e., 75% - seventy five per cent) of shares in the amalgamating company (apart from the shares already held by the amalgamating company or its nominees) must be shareholders in the amalgamated company by virtue of the amalgamation.

- Generally, any income from the sale or transfer of an asset / undertaking is subject to taxation. However, if a merger qualifies as an amalgamation, subject to fulfillment of certain additional conditions, the amalgamation can be regarded as tax-neutral and can be exempted from capital gains tax in the hands of the amalgamating company and its shareholders. In a scheme, if the amalgamated company is an Indian company, Section 47(vi) specifically exempts any transfer of a capital asset by the amalgamating company to the amalgamated company from the definition of 'transfer'. In such cases, the cost of acquisition of the capital assets for the amalgamated company will be deemed to be the cost for which the amalgamating company had acquired such assets, increased by the cost of any improvement incurred by the amalgamating company.[1] Further, the period of holding of such assets by the amalgamated company (for determination of short term or long term nature of gains arising at the time of their alienation) would include the period for which the assets had been held by the amalgamating company.[2]

- Further, Section 47 (vii) of the ITA also exempts any transfer by a shareholder, in a scheme, of a capital asset being a share or shares held by him in the amalgamating company, from the definition of '*transfer*', subject to fulfillment of the following conditions:

    i. the only consideration received by the shareholders must be the allotment of shares in the amalgamated entity; and

    ii. the amalgamated company must be an Indian company.

    In the above case, the cost of acquisition of shares of the amalgamated company will be deemed to be the cost at which the shares of the amalgamating company had been acquired by the shareholder.[3] Additionally, the period of holding of the shares of the amalgamated company will include the period for which shares of the amalgamating company has been held by the shareholders.[4]

1 Indian Tax Act, 1961, Act No. 43, Acts of Parliament, § 49, cl. 1.

2 Indian Tax Act, 1961, Act No. 43, Acts of Parliament, § 2, cl. 42A.

3 Indian Tax Act, 1961, Act No. 43, Acts of Parliament, § 49, cl. 2.

4 Indian Tax Act, 1961, Act No. 43, Acts of Parliament, § 2, cl. 42A.

While dealing with the tax implications of share swap in a merger, it is pertinent to refer to the decision of Supreme Court in the *Grace Collis* case.[5] In this case, the Court held that transfer of shares by an amalgamating company would lead to an "extinguishment of rights" in capital assets and therefore, such an act would fall under the definition of 'transfer' under Section 2(47) of the ITA. However, the same has been specifically exempted under Section 47 (vii) of ITA. Consequently, if an amalgamation does not meet the conditions of the exemption under Section 47, the transfer of shares could be regarded as a taxable transfer under the ITA.

In the case at hand, the Merger would be considered as an amalgamation under Section 2 (1B) of the ITA due to the following reasons:

i. all the properties of INOX immediately before the amalgamation would become properties of PVR INOX Limited;[6]

ii. all liabilities of INOX immediately before the amalgamation would become liabilities of PVR INOX Limited;[7] and

iii. the shareholders of INOX whose names are recorded in the register of members as a member, that is, all the shareholders of INOX, would become the shareholders of PVR INOX Limited. [8]

Further, since the only consideration that the shareholders of INOX would receive are the allotment of shares in the Resultant Company,[9] an Indian company, the conditions under Section 47 to receive an exemption are fulfilled. Hence, the transaction would be considered as a tax neutral transaction, thereby exempting INOX and its shareholders from taxation.

5 CIT v. Grace Collis, [2001] 248 ITR 323 (SC).

6 Clause 1.2, Scheme, PVR and INOX.

7 Id.

8 Clause 5, Scheme, PVR and INOX.

9 Id.

Epilogue

It is important to understand that India's theatre screen penetration is lower than other developed nations.[1] This will enable PVR and INOX to utilize each other's synergies, pursuant to the Merger, to expedite their expansion plans in order to create a larger than life pan India presence. Moreover, 2022 is anticipated to be the best year ever for the theatrical exhibition sector with a projected collection of approximately INR 12 billion (Indian Rupees Twelve Billion)[2] at the box office of which the Merger will undoubtedly be the biggest beneficiary, owing to the highest number of screens owned by them. Following the slew of lockdowns witnessed during the pandemic, theatres are noticing magnificent consumer footfalls which has not only increased the food and beverage revenues, but also advertising revenues.[3] These factors can play a huge role in driving the revenue growth for a massive player like the Resultant Company in the near future, who faced huge losses during the pandemic.

On the other hand, the dominant presence of the Resultant Company may act as a barrier for new players to enter the market. Further, the shutdown of single screens caused due to the pandemic may open new doors for multiplex operators to expand and their go-to multiplex companies is likely to be the Resultant Company. While, the Merger is a win-win for PVR and INOX, only time will tell if the Resultant Company will be able to challenge other low-cost streaming and OTT platforms in India which are on a steep rise.

We have always taken initiatives to provide updates and analysis on the latest legal developments. M&A Lab is one such initiative which provides insight and analysis of the latest M&A deals. We believe in knowledge sharing and hence would appreciate any feedback or comment. Feel free to direct your comments/views on this Lab to **concierge@nishithdesai.com**.

1 Maryam Farooqui, Despite its love for movies, India has very few theatres: What it can learn from China, Money Control, available at https://www.moneycontrol.com/news/trends/entertainment/despite-its-love-for-movies-india-has-very-few-theatres-what-it-can-learn-from-china-2524955.html (last accessed July 19, 2022, 11.30 AM).

2 Gaurav Laghate, Cinema halls rake in over Rs 4,000 crore in 4 months, eye blockbuster 2022, Economic Times, available at https://economictimes.indiatimes.com/industry/media/entertainment/cinema-halls-rake-in-over-rs-4000-crore-in-4-months-eye-blockbuster-2022/articleshow/91948586.cms (last accessed July 19, 2022, 11.30 AM).

3 Id.

About NDA

At Nishith Desai Associates, we have earned the reputation of being Asia's most Innovative Law Firm – and the go-to specialists for companies around the world, looking to conduct businesses in India and for Indian companies considering business expansion abroad. In fact, we have conceptualized and created a state-of-the-art Blue Sky Thinking and Research Campus, Imaginarium Aligunjan, an international institution dedicated to designing a premeditated future with an embedded strategic foresight capability.

We are a research and strategy driven international firm with offices in Mumbai, Palo Alto (Silicon Valley), Bangalore, Singapore, New Delhi, Munich, and New York. Our team comprises of specialists who provide strategic advice on legal, regulatory, and tax related matters in an integrated manner basis key insights carefully culled from the allied industries.

As an active participant in shaping India's regulatory environment, we at NDA, have the expertise and more importantly – the VISION – to navigate its complexities. Our ongoing endeavors in conducting and facilitating original research in emerging areas of law has helped us develop unparalleled proficiency to anticipate legal obstacles, mitigate potential risks and identify new opportunities for our clients on a global scale. Simply put, for conglomerates looking to conduct business in the subcontinent, NDA takes the uncertainty out of new frontiers.

As a firm of doyens, we pride ourselves in working with select clients within select verticals on complex matters. Our forte lies in providing innovative and strategic advice in futuristic areas of law such as those relating to Blockchain and virtual currencies, Internet of Things (IOT), Aviation, Artificial Intelligence, Privatization of Outer Space, Drones, Robotics, Virtual Reality, Ed-Tech, Med-Tech and Medical Devices and Nanotechnology with our key clientele comprising of marquee Fortune 500 corporations.

The firm has been consistently ranked as one of the Most Innovative Law Firms, across the globe. In fact, NDA has been the proud recipient of the Financial Times – RSG award 4 times in a row, (2014-2017) as the Most Innovative Indian Law Firm.

We are a trust based, non-hierarchical, democratic organization that leverages research and knowledge to deliver extraordinary value to our clients. Datum, our unique employer proposition has been developed into a global case study, aptly titled 'Management by Trust in a Democratic Enterprise,' published by John Wiley & Sons, USA.

Research@NDA

Research is the DNA of NDA. In early 1980s, our firm emerged from an extensive, and then pioneering, research by Nishith M. Desai on the taxation of cross-border transactions. The research book written by him provided the foundation for our international tax practice. Since then, we have relied upon research to be the cornerstone of our practice development. Today, research is fully ingrained in the firm's culture.

Over the years, we have produced some outstanding research papers, reports and articles. Almost on a daily basis, we analyze and offer our perspective on latest legal developments through our "Hotlines". These Hotlines provide immediate awareness and quick reference, and have been eagerly received. We also provide expanded commentary on issues through detailed articles for publication in newspapers and periodicals for dissemination to wider audience. Our NDA Labs dissect and analyze a published, distinctive legal transaction using multiple lenses and offer various perspectives, including some even overlooked by the executors of the transaction. We regularly write extensive research papers and disseminate them through our website. Our ThinkTank discourses on Taxation of eCommerce, Arbitration, and Direct Tax Code have been widely acknowledged.

As we continue to grow through our research-based approach, we now have established an exclusive four-acre, state-of-the-art research center, just a 45-minute ferry ride from Mumbai but in the middle of verdant hills of reclusive Alibaug-Raigadh district. Imaginarium AliGunjan is a platform for creative thinking; an apolitical eco-system that connects multi-disciplinary threads of ideas, innovation and imagination. Designed to inspire 'blue sky' thinking, research, exploration and synthesis, reflections and communication, it aims to bring in wholeness – that leads to answers to the biggest challenges of our time and beyond. It seeks to be a bridge that connects the futuristic advancements of diverse disciplines. It offers a space, both virtually and literally, for integration and synthesis of knowhow and innovation from various streams and serves as a dais to internationally renowned professionals to share their expertise and experience with our associates and select clients.

We would love to hear from you about any suggestions you may have on our research publications.
Please feel free to contact us at **research@nishithdesai.com**.

Recent Research Papers

Extensive knowledge gained through our original research is a source of our expertise.

July 2022

Metaverse: A New Universe

Legal, Regulatory and Tax Issues

July 2022

Make It or Fake It

Tackling Online Misinformation in India

July 2022

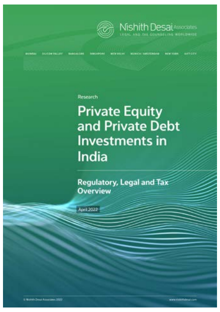
A Primer

Service of Foreign Judicial and Extrajudicial Documents in Civil and Commercial Matters in India

June 2022

Mergers & Acquisitions

An India Legal, Regulatory and Tax Perspective



April 2022

Private Equity and Private Debt Investments in India

Regulatory, Legal and Tax Overview

February 2022

The Indian Pharmaceutical Industry

Regulatory, Legal and Tax Overview

For more research papers **click here**.

Nishith Desai Associates
LEGAL AND TAX COUNSELING WORLDWIDE

MUMBAI

93 B, Mittal Court, Nariman Point
Mumbai 400 021, India

Tel +91 22 6669 5000

SILICON VALLEY

220 S California Ave., Suite 201
Palo Alto, California 94306, USA

Tel +1 650 325 7100

BANGALORE

Prestige Loka, G01, 7/1 Brunton Rd
Bangalore 560 025, India

Tel +91 80 6693 5000

SINGAPORE

Level 24, CapitaGreen
138 Market St
Singapore 048 946

Tel +65 6550 9855

NEW DELHI

13-H, Hansalaya Building, 15
Barakhamba Road, Connaught Place
New Delhi 110 001, India

Tel +91 11 4906 5000

MUNICH / AMSTERDAM

Maximilianstraße 13
80539 Munich, Germany

Tel +49 89 203 006 268

NEW YORK

1185 6th Avenue, Suite 326
New York, NY 10036, USA

Tel +1 212 464 7050

GIFT CITY

408, 4th Floor, Pragya Towers
GIFT City, Gandhinagar
Gujarat 382 355, India

M&A Lab

PVR–INOX: Biggest Blockbuster at Box Office!

concierge@nishithdesai.com