



DIVISION BENCH
COURT - II

S-4

**NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA**

C.P.(CAA)/9(KB)2024
IN
C.A.(CAA)/218(KB)2023

**CORAM: 1. HON'BLE MEMBER(J), SMT. BIDISHA BANERJEE
2. HON'BLE MEMBER(T), SHRI D. ARVIND**

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING ON 31ST JANUARY, 2024, 10:30 A.M

IN THE MATTER OF	SHREE CEMENT EAST PRIVATE LIMITED
UNDER SECTION	SEC. 230-232 - SECOND MOTION

Appearance (via video conferencing/physically)

Mr. D.N. Sharma, Adv.] For the Petitioner
Ms. Rusha Mitra, Adv.]

O R D E R

1. Learned Counsel for the Petitioner present.
2. The instant petition has been filed under Section 230(6) read with Section 232(3) of the Companies Act, 2013 (“Act”) for sanction of the Scheme of Amalgamation (“Scheme” or “Scheme of Amalgamation”) of Shree Cement East Private Limited (hereinafter referred to as the “Petitioner Company” or “Transferor Company 2”) and Shree Cement North Private Limited (hereinafter referred to as the “Transferor Company 1”) with Shree Cement Limited (hereinafter referred to as the “Transferee Company”) and their respective shareholders for amalgamation of the Transferor Company 1 and the Transferor Company 2 (collectively, the “Transferor Companies”) with the Transferee Company from the Appointed Date, viz opening business hours of 1st April 2023 in the manner and on the terms and conditions stated in the said Scheme of Amalgamation (**Annexure A; Pages 47 to 64**).
3. The Board of Directors of the Transferor Company 2 at its meeting held on 7th November 2023 by resolution passed unanimously, approved of the said Scheme of Amalgamation of the Transferor Company 1 and Transferor Company 2 with the Transferee Company. The Boards of Directors of the Transferor Company 1 and Transferee Company have also unanimously approved of the said Scheme of



Amalgamation at their meeting held on 7th November, 2023 (**Annexure – K of the petition at Pages 411 to 421**).

4. The Auditors of the Transferee Company have confirmed that the accounting treatment in the said Scheme is in conformity with the accounting standards prescribed under Section 133 of the Companies Act, 2013 (**Annexure – L of the petition at Pages 422 to 426**).
5. The Transferee Company as the listed holding company of the Transferor Companies was not required to take the approval of the Stock Exchanges to the Scheme in terms of the Master Circular No. SEBI/HO/CFD/POD-2/P/CIR/2023/93 dated 20 June 2023 issued by Securities and Exchange Board of India read with Regulation 37(6) of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 and has duly filed the Scheme with them for the purpose of disclosure. (**Annexure – S of the petition at Page 445**).
6. The Transferor Company 1 and the Transferee Company having their respective registered offices in the State of Rajasthan have taken necessary steps to file a similar petition in relation to the said Scheme under Section 230(6) read with Section 232(3) of the Companies Act, 2013 in the Hon'ble Jaipur Bench of the National Company Law Tribunal.
7. By an order dated 20 December 2023 made in Company Application (CAA) No.218/KB/2023, meetings of the shareholders and creditors of the Petitioner Company were dispensed with. (**Annexure T; Pages 446 to 452**)
8. Learned Counsel for the Petitioner Company submits that in terms of the said order of this Tribunal dated 20 December 2023 and in terms of Rule 8 of the Companies (Compromises, Arrangements and Amalgamation) Rules, 2016, notice in form No.CAA3 of the said Rules along with a copy of the Scheme of Arrangement, Statement and all documents accompanying the same were sent to the relevant Statutory authorities/regulatory bodies, including the (i) Regional Director, Ministry of Corporate Affairs; (ii) Registrar of Companies, West Bengal; (iii) Official Liquidator; and (iv) Income Tax Assessing Officer having jurisdiction over the Petitioner Company by email and also by hand delivery on 22 December 2023. None of the statutory Authorities, have filed their representation so far. (**Annexure U; Pages 453 to 467**)



9. Learned Counsel for the Petitioner submits that the Petitioner Company has complied with the directions of this Tribunal passed on 20 December 2023 in Company Application (CAA) No.218/KB/2023.
10. Upon perusing the records and documents in the instant proceedings and considering the submissions made on behalf of the Petitioner Companies, we admit the instant petition and fix the next date of hearing on 28th February, 2024.
11. At least 10 (ten) clear days before the said date fixed for hearing, the Petitioner Company shall cause notice of hearing to be advertised in the “Financial Express” in English and “Aajkal” in Bengali as per Rule 16(1) of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (“CAA Rules”).
12. Another notice pursuant to Section 230(5) of the Companies Act, 2013 along with accompanying documents, including the copies of the aforesaid Scheme and statement under the provisions of the Companies Act, 2013, as sent earlier, shall be served again on the aforesaid Statutory Authorities including the Regional Director, Registrar of Companies, West Bengal, Official Liquidator and Income Tax authorities having jurisdiction over the Petitioner Company by sending the same to them by hand delivery through special messenger or by post or by email within one week from the date of receiving this order. The notice shall specify the next date of hearing of the petition, as aforesaid, and state that representation, if any, and if not already filed, should be filed before this Tribunal no later than 7 (seven) days before the next date of hearing of the petition and a copy of such representation should be simultaneously sent to the Advocates of the said Petitioner Company. If no such representation is received by the Tribunal within such period, it shall be presumed that such Authorities have no representation to make on the said Scheme. Such notice shall be sent in Form No. CAA3 of the CAA Rules with necessary variations, incorporating the directions herein.
13. The Petitioner Company to file an affidavit confirming compliance of the abovementioned directions of this Tribunal, 3 (three) days before the next date of hearing.
14. The Petitioner Company may also file their rejoinder affidavit(s) dealing with the objections/ observations, if any, of the Authorities, 2 (two) days before the next date of hearing.

D. Arvind
Member (Technical)

Bidisha Banerjee
Member (Judicial)