

JKCL/CS/SE/2025(BM6)

12th September, 2025

The BSE Ltd. Corporate Relationship Department, Phiroze Jeejeebhoy Towers, Dalal Street, Fort, Mumbai-400001 Scrip Code:532644 (ISIN.INE 823G01014) Through BSE Listing Centre	National Stock Exchange of India Ltd., Exchange Plaza, Bandra Kurla Complex, Bandra (E), Mumbai-400051 Scrip Code: JKCEMENT (ISIN.INE 823G01014) Through : NEAPS
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Dear Sirs,

Re: Update on Scheme of Amalgamation of Toshali Cements Pvt. Ltd (wholly owned Subsidiary) with JK Cement Ltd ('the Company').

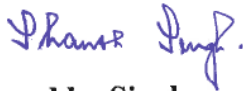
The Hon'ble National Company Law Tribunal, Allahabad Bench, Prayagraj, ("NCLT") by an order passed in Company Petition No. CP(CAA) 15/ALD/2025 connected with Company Application No. 04/ALD of 2025 pronounced today has sanctioned the Scheme of Amalgamation of Toshali Cements Pvt. Ltd (Wholly owned subsidiary) with the Company with effect from 1st January, 2024 (Appointed Date). The electronic copy of the order has since been received by the Company and is attached herewith.

In terms of the Scheme and the said order of the Hon'ble NCLT sanctioning the same, the Scheme shall become effective on the Effective Date, being the date on which the certified copies of the said order sanctioning the Scheme are received by the Companies and filed with the Registrar of Companies/Ministry of Corporate Affairs. The same are awaited.

The Company will intimate to the Stock Exchange, the Effective Date of the Scheme upon the same coming into effect.

Thanking you,

Sincerely,



Shambhu Singh
Vice President & Company Secretary
FCS: 5836

Encl: As above.

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Gurugram, Haryana-122102

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**JK SUPER
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Jharli (Haryana) | Panna, Ujjain, Katni (M.P.) | Balasinor (Gujarat)
Aligarh, Hamirpur, Prayagraj (U.P.)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ**

**CP (CAA) NO.15/ALD/2025 with
CA (CAA) NO.04/ALD/2025
(Second Motion)**

(Under Sections 230 & 232 of the Companies Act, 2013 read with the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 and other applicable provisions)

IN THE MATTER OF SCHEME OF AMALGAMATION OF:

TOSHALI CEMENTS PRIVATE LIMITED

A company incorporated under Companies Act, 1956, having its Registered Office at Kamla Tower, 29/1 Dwarikadheesh Road, Kanpur Nagar- 208001, Uttar Pradesh, India with PAN: AABCT8989K and the CIN: U26942UP2002PTC211282

.....Petitioner Company No.1/Transferor Company

with

J.K. CEMENT LIMITED

A company incorporated under Companies Act, 1956, having its Registered Office at Kamla Tower, 29/1 Dwarikadheesh Road Kanpur Nagar - 208001, Uttar Pradesh, India, with PAN: AABCJ0355R and the CIN: L17229UP1994PLC017199

.....Petitioner Company No.2/Transferee Company

AND

Their Respective Shareholders and Creditors

Order Pronounced On: 12.09.2025

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Coram:

Shri Praveen Gupta : Member (Judicial)
Shri Ashish Verma : Member (Technical)

Appearances:

Sh. Navin Sinha, Sr Adv assisted by Sh. Rahul Agarwal, Adv. : For the Petitioner

Sh Maneesh Kr. Pandey, proxy for Sh. Gaurav Mahajan Sr. S.C : For the IT Dept.

Sh. Mohd. Akhtar, STA : For the O.L. Allahabad

ORDER

- 1.** The present Joint Company Petition is filed by the Petitioner Companies above named under Sections 230 & 232 and other applicable provisions of the Companies Act, 2013 read with Rule 15 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, for sanction of the Scheme of Amalgamation (hereinafter referred to as the ‘**Scheme**’) of Toshali Cements Private Limited (Petitioner Company No.1/Transferor Company) with J.K. Cement Limited (Petitioner Company No.2/Transferee Company) (collectively referred to as ‘**Petitioner Companies**’).
- 2.** The main objects, date of incorporation, authorized and paid-up share capital of all the Transferor Company and Transferee Company, rationale of the Scheme and the required statutory compliances have been discussed in detail in the first motion order dated 05.03.2025.

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3. The first motion petition was initially filed vide Company Application No. CA (CAA) No. 04/ALD/2025 seeking directions of this Tribunal to dispense with the requirement of convening the meetings of Equity Shareholders and Secured Creditors of the Petitioner Company 1/Transferor Company, dispense with the requirement of convening the meetings of Equity Shareholders, Secured and Unsecured Creditors of the Petitioner Company 2/Transferee Company and to convene the meeting of the Unsecured Creditors of the Petitioner Company 1/Transferor Company.
4. Accordingly, this Tribunal vide its order dated 05.03.2025 allowed the above mentioned prayers by dispensing with the requirement of convening meetings of Equity Shareholders and Secured Creditors of the Petitioner Company No.1/Transferor Company and also of the Equity Shareholders, Secured and Unsecured Creditors of the Petitioner Company No.2/Transferee Company subject to publishing of notice inviting objections to the Scheme from the Secured and Unsecured Creditors of Petitioner Company 2 on its own website and on Stock Exchange Portals and directed to convene the meeting of the Unsecured Creditors of Petitioner Company 1/Transferor Company under the supervision of Mr. Rajasekhar V.K (Chairperson), Mr. Deependra Mohan (Alternate Chairperson) and Mr. Abhishek Mishra (Scrutinizer) on Saturday, 26th

April, 2025 at 11.00 A.M. through VC/OAVM for the purpose of considering and, if thought fit, approving, the proposed Scheme of Amalgamation.

5. The voting result as submitted in the Chairperson’s Report on the meeting of Unsecured Creditors of the Transferor Company is reproduced as under:

“The meeting of Unsecured Creditors was attended by 94 (ninety-four) unsecured creditors through video conferencing. Out of these, 16 (sixteen) unsecured creditors having aggregate outstanding debt of Rs. 148,64,64,400.56, had already cast their votes by remote e-voting prior to the NCLT-convened meeting. Further, two unsecured creditors having aggregate outstanding debt of Rs. 12,25,170.00 cast their votes through e-voting at the NCLT-convened meeting through VC/VOAC. The detailed results are as follows:

Voting Summary Table:

Particulars	No. of Creditors	Value of Debt (Rs.)	Percentage
<i>Total Unsecured Creditors entitled to vote</i>	<i>94</i>	<i>153,49,53,401.06</i>	<i>100.00</i>
<i>Voted in favour</i>	<i>17</i>	<i>148,25,58,799.98</i>	<i>96.59</i>
<i>Voted against</i>	<i>1</i>	<i>51,30,770.58</i>	<i>0.33</i>
<i>Abstained</i>	<i>76</i>	<i>4,72,63,830.50</i>	<i>3.08</i>
<i>Invalid</i>	<i>0</i>	<i>0.00</i>	<i>0.00”</i>

6. This Tribunal vide its order dated 02.06.2025 directed to issue notice of the Company Application along with Scheme of Amalgamation and related documents to the Statutory Authorities, viz., (a) the Central Government

through the office of the Regional Director (Northern Region), Ministry of Corporate Affairs, New Delhi Northern Region, Ministry of Corporate Affairs, B-2 Wing, 2nd Floor, Paryavaran Bhawan, CGO Complex, Lodhi Road, New Delhi-110 003 Email Id – rd.north@mca.gov.in; (b) Jurisdictional Registrar of Companies – Kanpur Uttar Pradesh, Ministry of Corporate Affairs, 37/17, Westcott Building, The Mall, Kanpur-208 001, Uttar Pradesh Email Id – roc.kanpur@mca.gov.in; (c) The Official Liquidator, Uttar Pradesh, Allahabad, Ministry of Corporate Affairs, 9th Floor, Sangam Place, Civil Lines, Allahabad-211 001 Email Id- ol.allahabad@mca.gov.in ; and (d) the Income-Tax Department having jurisdiction over the Petitioner Companies and to the Principal Chief Commissioner of Income Tax (PCCIT), Lucknow being the nodal officer; and to such other Sectoral Regulator(s) governing the business of the Petitioner Companies.

7. Furthermore, this Tribunal directed to issue notice of hearing by making paper publication in this respect in “Business Standard” (English) and “Dainik Jagran” (Hindi).
8. In compliance thereof, the Petitioner Companies have filed an Affidavit of Service and Publication vide Diary No. 1417 dated 29.07.2025, confirming that notices have been duly published in “Business Standard” (English,

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Lucknow Edition) and “Dainik Jagran” (Hindi, Kanpur Edition) on 23.07.2025, respectively. The Petitioner Companies have also served notice of the Company Petition to the Statutory Authorities as per the following details:

Sr. No.	Name and Address of the Authority	Date and Mode of submission
1.	The Regional Director, Northern Region, Ministry of Corporate Affairs, B-2 Wing, 2nd Floor, Paryavaran Bhawan, CGO Complex, Lodhi Road, New Delhi-110 003 Email Id – rd.north@mca.gov.in	Email on 12.06.2025 and speed post/ registered post/ hand delivery on 12.06.2025
2.	The Registrar of Companies- Kanpur, Uttar Pradesh, Ministry of Corporate Affairs, 37/17, Westcott Building, The Mall, Kanpur-208 001, Uttar Pradesh Email Id – roc.kanpur@mca.gov.in	Email on 12.06.2025 and speed post/ registered post/ hand delivery on 12.06.2025
3.	Official Liquidator, Allahabad, Ministry of Corporate Affairs, 9th Floor, Sangam Place, Civil Lines, Allahabad-211 001 Email Id- ol.allahabad@mca.gov.in	Email on 12.06.2025 and speed post/ registered post/ hand delivery on 16.06.2025
3.	Income Tax Office through Nodal Officer Principal Chief Commissioner of Income Tax (UP East), Pratyaksh Kar Bhawan, 57, Ramtirth Marg, Lucknow, UP-226001	Email on 12.06.2025 and speed post registered post/ hand delivery on 16.06.2025
4.	Income Tax Department through the Assessing Officer – Deputy Commissioner of Income Tax, Circle – 2(1), Hyderabad Room No. 514, 5 th Floor, Signature Towers, Kondapour, Hyderabad - 500084	Email on 12.06.2025 and speed post registered post/ hand delivery on 16.06.2025
5.	Income Tax Department through the Assessing Officer – Deputy Commissioner Income Tax Department, Circle 2(1)(1), Kanpur, IT Office, Civil Lines, Kanpur (U.P.)	Email on 13.06.2025 and speed post registered post/ hand delivery on 16.06.2025
6.	BSE Limited and National Stock Exchange of India Limited	Email on 17.06.2025 and speed post registered post/ hand delivery on 17.06.2025

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9. In response to the aforementioned notice, the Registrar of Companies, Ministry of Corporate Affairs, Uttar Pradesh (“ROC Report”) submitted its Report dated 03rd July, 2025 to the Regional Director (Northern Region), Ministry of Corporate Affairs, New Delhi which stated as follows:

“26.	Observation of ROC	<p>1. <i>The Transferor Company is a Wholly Owned Subsidiary of the Transferee Company. The Transferee Company is a Listed company.</i></p> <p>2. <i>No chairman's report and scrutinizers report attendance sheet, minutes of the meeting of unsecured creditors of the Transferor Company and the results of votes cast in favour and against is not found enclosed with the petition.</i></p> <p>3. <i>The financial position of the Applicant companies are as under (As per Balance Sheet as on 31.03.2024):-</i></p> <table border="1" data-bbox="555 891 1177 1066"> <thead> <tr> <th>Companies</th> <th>Paid Up capital</th> <th>Turnover</th> </tr> </thead> <tbody> <tr> <td>Transferor</td> <td>93,74,77,000</td> <td>660,500,000</td> </tr> <tr> <td>Transferee</td> <td>77,26,83,000</td> <td>89,985,990,000</td> </tr> </tbody> </table> <p>4. <i>As per MCA General Circular no. 9/2019 dated 21.08.2019, if the appointed date is significantly ante-dated beyond a Year from the date of filling, the justification for the same would have to be specifically brought out in the scheme and it should not be against public interest. In this case, the appointed date is 01.01.2024. However, the justification of the same being significantly ante-dated in terms of the above circular is not clearly brought out.</i></p> <p>5. <i>The Transferee company may kindly be directed to comply with the provisions of Section 232 (3) (i) of the Companies Act, 2013 regarding fee payable of its revised Authorized Share Capital.</i></p> <p><i>This office has prepared the above factual report/ representation based on the Scheme of Amalgamation/ Arrangement and annexures thereto as provided, records maintained, and documents filed by the concerned Company(s) from time to time.”</i></p>	Companies	Paid Up capital	Turnover	Transferor	93,74,77,000	660,500,000	Transferee	77,26,83,000	89,985,990,000
Companies	Paid Up capital	Turnover									
Transferor	93,74,77,000	660,500,000									
Transferee	77,26,83,000	89,985,990,000									

10. In response to the above stated notice, the Regional Director, Northern Region, Ministry of Corporate Affairs, New Delhi has filed its Representation Affidavit vide diary no. 1303 dated 18.07.2025 (“RD Affidavit”) which stated as follows:

“10. That as per the report of the Registrar of Companies, the Petitioner Companies have filed their Balance Sheet and Annual Return upto the financial year ended on 31.03.2024. No prosecution has been filed & no inspection or investigation has been conducted in respect of the Petitioner Companies.

11. The above submissions made in Para 1 to 11 are based on the proposed Scheme of Amalgamation and Report of Registrar of Companies. The Hon’ble Tribunal to satisfy itself with regard to the submissions before considering the Scheme and pass such order or orders as deemed fit and proper.”

11. The said observations as set out in the RD Affidavit have been dealt with by the Petitioner Companies by way of an Affidavit vide diary no. 1475 dated 03.08.2025 (“RD Reply Affidavit”). The observations of the Regional Director and the response of the Petitioner Companies are summarized as under:

1. “That the report submitted by the Regional Director, Northern Region, on behalf of the Central Government has referred to MCA General Circular No. 09/2019 dated 21.08.2019 to submit that

though the appointed date specified in the scheme being 01.01.2024 is significantly antedated, its justification has not been mentioned in the scheme.

- 2. That in reply to the said observation of the Regional Director, it is necessary to mention that MCA Circular No. 09/2019 specifically contemplates that the appointed date should be significantly antedated from the date of filing of the application and the justification is only required to be given where the appointed date is ante-dated beyond one year from the date of filing. A copy of the MCA Circular No. 09/2019 dated 21.08.2019 is enclosed and marked as Annexure-1 to this reply.*
- 3. That in the present case, the appointed is 01.01.2024 and the Company Application being CAA No. 4/ALD/2025 was e-filed on 20.12.2024 vide Filing No. 0902109014382024.*
- 4. That as on the date on which Company Application (CAA No. 4/ALD/2025) was filed, the appointed date was not more than one year from the date of its filing, the MCA Circular requiring a specific justification of the appointed date is not applicable in the present case.*
- 5. That further, the Regional Director has observed that the Chairman's report, Scrutinizer's report, attendance sheet, Minutes of Meeting and Result etc. of the meeting of the unsecured creditors were not found enclosed with the company petition.*
- 6. That in this respect, it is necessary to mention that the Chairman's report was filed with this Hon'ble Tribunal on 06.05.2025. The Scrutinizer's report, the Result of the Meeting etc. were all annexed to the Chairman's report and filed independently before this Hon'ble*

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Tribunal. It is very much available in the records of this Hon'ble Tribunal. As per prevailing practice, these documents are not once again annexed with the Company Petition, but only a brief summary of the outcome of the meeting is narrated in the body of the Petition.

7. *That the third observation of the Regional Director is a direction to the Transferee Company regarding the payability of fee on its revised authorized share capital. In this respect, the Transferee Company undertakes to pay the required fee as may be applicable for increase in its authorized share capital.”*

12. In response to the above stated notice, the Official Liquidator, Uttar Pradesh, has also submitted his Report vide diary no. 1512 dated 06.08.2025, wherein it has been stated that the Official Liquidator has no objection to the dissolution of the Petitioner Transferor Company without winding up pursuant to provisions of Sections 230 and 232 of the Companies Act, 2013 and other applicable sections and rules thereunder.

The relevant paras are reproduced below:

“11. That the Official Liquidator has examined documents and papers of Transferor Company submitted / produced and it appears that the affairs of the said Transferor Company as such have not been conducted in a manner prejudicial to the interest of their members or to public interest.

12. That the all taxes, duties, cess etc. payable by Transferor Companies under various laws including law pertaining to Income Tax, Wealth Tax, Service Tax/VAT and GST accruing to the

Transferor Companies should be treated as the liability of the Transferee Company. Similarly, pursuant to the Scheme of Amalgamation, all the employees and workmen of the Petitioner Transferor Company shall become employees and workmen of the Transferee Company without any break or interruption in their services.

13. That the Official Liquidator has no objection to the dissolution of the Transferor Company without winding up pursuant to provisions of section 230-232 of the Companies Act, 2013 and rules there under apart from submission made in preceding paras of this report.”

- 13.** In response to the notices served, the Income Tax Department has furnished its comments/reports as per the following details:

Sr. No	Name of the Company	Date of the Reports of the Jurisdictional Income Tax Department	Relevant Excerpt from the Reports Submitted by the Jurisdictional Income Tax Department
1.	Toshali Cements Private Limited (Petitioner Company No.1/Transferor Company)	Report on behalf of Deputy Commissioner of Income Tax, Circle-2(1), Hyderabad filed vide diary no. 1307 dated 18.07.2025	<u>“OBJECTIONS OF THE INCOME TAX DEPARTMENT</u> 3.1 As per the available records of this office, there is no demand in the case of M/s TOSHALI CEMENTS PRIVATE LIMITED ("Transferor Company"). In this regard, the details of assessment proceedings are under - a. The assessment was completed u/s.139(1) of the Act for the A.Y. 2024-25 on 12.11.2024 by raising NIL demand.

			<p><i>The above information is shared as per data on record as of today. However, in case of any adverse finding or tax implication arising in future, the transferee company shall be liable for the same as per GAAR provisions/Income-tax Act, 1961.</i></p> <p><i>4. In view of the foregoing, this Hon'ble NCLT may kindly take this affidavit on record and pass such order or orders as it may deem fit and proper in the matter."</i></p>
2.	JK Cement Limited (Petitioner Company No.2/Transferee Company)	Report on behalf of Dy. Commissioner of Income Tax, Circle-2 (1) (1), Kanpur (Assessing Authority) filed vide filing no. 0902109005492025/9 dated 05.08.2025	<p><i>"8. That it is, however most respectfully submitted that this Hon'ble Tribunal at the time of sanctioning of the Scheme of Amalgamation may be pleased to direct that all tax assessment proceedings which may arise or demand created against the Transferor Company subsequent to the sanction of the Scheme of Amalgamation, pending or arising as on the Effective Date shall be continued and or enforced by or against the Transferee Company in the same manner and to the same extent as would or might have been continued and enforced by or against the Transferor Company. Further the aforementioned proceedings shall never abate or discontinued nor be in any way prejudicially affected by reason of the Scheme of Amalgamation of the Transferor Company with the Transferee Company or anything contained in this Scheme.</i></p> <p><i>9. That to protect the interest of the Revenue, the Transferor Company be directed to furnish an undertaking on oath in the form of an affidavit duly approved by their respective Board of Directors that "any pending suits/appeals, all legal or other proceedings including before any statutory or quasi-judiciary authority or tribunal or other</i></p>

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		<p><i>proceedings of whatsoever nature pertaining to the Transferor Company, whether by or against the Transferor Company, whether pending on the Effective Date or which may be instituted at any time in the future if such proceedings are capable of bring continued by or against the Transferee Company, they shall not abate, be discontinued or in any way prejudicially be affected by reason of the amalgamation of the Transferor Company or because of the provisions contained in the Composite Scheme. The proceedings shall continue by or against the Transferee Company in the same manner and to the same extent as they would have been continued, prosecuted and/or enforced by or against the Transferor Company pertaining to the Transferor Companies, if this Scheme had not been implemented.</i></p> <p><i>10. That to protect the interest of the Revenue, the Transferee Company be directed to furnish an undertaking on oath in the form of an affidavit duly approved by their respective Board of Directors that that all tax assessment and consequential proceedings or any other proceedings under the Act pertaining to the period prior to the appointed date but initiated after the appointed date against the Transferor Company shall not be objected to on the ground of non-existence of the Transferor Company till the limitation to initiate and conclude such proceedings under the Act is available to the Department as per the statute.</i></p> <p><i>11. That it is therefore, most humbly prayed that apart from the above narrated facts, if in the esteemed opinion of this Hon'ble Tribunal</i></p>
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			<p><i>any other measure is required to be taken to protect the interest of the Revenue then the same may kindly be incorporated and may kindly be considered to safeguard the interest of the Department before taking a decision in the matter of sanction of Scheme of Arrangement u/s 230 to 232 of the Companies Act, 2013 as enclosed in the Company Petition.”</i></p>
		<p>Report on behalf of jurisdictional Pr. Commissioner of Income Tax-1, Kanpur filed vide diary no. 1583 dated 14.08.2025</p>	<p><i>“7. That after perusal of the assessment work list of this office in the ITBA, it has emerged that no demand is outstanding and proceedings under the Act is pending in the case M/s JK Cement Limited (Transferee Company) as on the date of swearing of this affidavit.</i></p> <p><i>8. That it is, however most respectfully submitted that this Hon'ble Tribunal at the time of sanctioning of the Scheme of Amalgamation may be pleased to direct that all tax assessment proceedings which may arise or demand created against the Transferor Company subsequent to the sanction of the Scheme of Amalgamation, pending or arising as on the Effective Date shall be continued and or enforced by or against the Transferee Company in the same manner and to the same extent as would or might have been continued and enforced by or against the Transferor Company. Further the aforementioned proceedings shall never abate or discontinued nor be in any way prejudicially affected by reason of the Scheme of Amalgamation of the Transferor Company with the Transferee Company or anything contained in this Scheme.</i></p>

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			<p>9. That it is therefore, most humbly prayed that there is “no objection” in the scheme of amalgamation, however, the above narrated facts may kindly be considered to safeguard the interest of the Department before taking a decision in the matter of sanction of Scheme of Arrangement u/s 230 to 232 of the Companies Act, 2013 as enclosed in the Company Petition.”</p>
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14. The Petitioner Companies filed separate Affidavits vide diary no. 1566 dated 12.08.2025 complying with the observations & requirements as set forth in reports of Income Tax Department and submitted as under:

“2. That further, the Petitioner Company 2/1 has gone through the report of the Income Tax Assessing Authority of the Petitioner Company 2, and noted that there is no observation adverse to the sanctioning of the Scheme, and there is at present, no enforceable outstanding demand against the Petitioner Company 2/1.

3. That further, the Petitioner Company No. 2/1 has no objection to a direction that all tax assessment proceedings which may arise or demand created against the Amalgamating Company subsequent to the sanction of the Scheme of Amalgamation, pending or arising as on the Effective Date shall be continued and/or enforced by/or against the Amalgamated Company in the same manner and to the same extent as would or might have been continued and enforced by/or against the Amalgamating Company. Further the aforementioned proceedings shall neither abate or discontinued nor be in any way

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prejudicially affected by reason of the Scheme of Amalgamation of the Amalgamating Company with the Amalgamated Company or anything contained in this Scheme.

4. That Petitioner Company No. 2/1 further undertakes that all tax assessment and consequential proceedings or any other proceedings under the Act pertaining to the period prior to the appointed date but initiated after the appointed date against the Amalgamating Company shall not be objected to on the ground of non-existence of the Amalgamating Company till the limitation to initiate and conclude such proceedings under the Act is available to the Department as per the Statute.”

- 15.** The Petitioner Company 2 also filed reply Affidavit vide diary no. 1567 dated 04.08.2025 in response to the Reports issued by the Income Tax Department and submitted as under:

“3. That further, the Petitioner Companies have gone through the report of the Income Tax assessing authorities of the petitioner companies, and note that there is no observation adverse to the sanctioning of the Scheme, and there is at present, no outstanding demand against the Petitioner Companies. However, the Petitioner Company No. 2 undertakes to discharge all dues as may arise in future on account of any order passed against the Petitioner Company No. 1, subsequent to the sanction of the Scheme by this Hon'ble Tribunal.”

- 16.** The Petitioner Companies also filed an Affidavit (“No Objection Affidavit”) vide diary no. 1567 dated 04.08.2025 and submitted as under:

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“2. That pursuant to the newspaper advertisement of the final hearing of the petition published by the Petitioner Companies on 23rd July, 2025, both the Petitioner Companies have not received any objection from any member of the public, either at their Registered Offices or at the office address of their counsel.”

- 17.** During the course of hearing held on 21.08.2025, the Authorized Representative of the Official Liquidator submitted that as per the RD report filed vide diary no.1303 dated 18.07.2025 vide para ‘11. (d)’, it has been observed by the RD that the appointed date has been shown as 01.01.2024, however the justification of the same being significantly ante-dated in terms of the above circular is not clearly brought out.
- 18.** Further, Ld. Sr. Standing Counsel representing the Income Tax Department that for the purpose of the financial and accounting purposes, and even for the purpose of filing of the balance sheet and assessment thereof by the Income Tax Department, it would only be in the interest of the public policy that the appointed date should be beginning of the financial year.
- 19.** Considering the aforementioned contentions of RD and Income Tax Department, this Bench vide its order dated 21.08.2025 asked the Petitioner Companies to file the justification as to continuance of the appointed date as 01.01.2024, or else to look into the aspect that the

appointed date should be at the beginning of the financial year, in which merger takes place, and therefore at best it could be 01.04.2024.

20. In compliance with the order dated 21.08.2025 the Petitioner Companies filed affidavit vide diary no. 1669 dated 28.08.2025 and stated as follows:

“That Sec 232(6) of the Companies Act, 2013 prescribes that "the scheme under this section shall clearly indicate an appointed date from which it shall be effective and the scheme shall be deemed to be effective from such date and not at a date subsequent to the appointed date".

That Para 5 of MCA Circular 09/2019 dated 21st August, 2019, in support of Sec 232(6) of the Companies Act, 2013 states that "section 232(6) of the Act states that the scheme shall be deemed to be effective from the 'appointed date' and not a date subsequent to the 'appointed date'. This is an enabling provision to allow the companies to decide and agree upon an 'appointed date' from which the scheme shall come into force"

That Para 6 of MCA Circular 09/2019 dated 21st August, 2019 reads as follows:

a) The provision of section 232(6) of the Act enables the companies in question to choose and state in the scheme an 'appointed date. This date may be a specific calendar date or may be tied to the occurrence of an event such as grant of license by a competent authority or fulfilment of any preconditions agreed upon by the parties, or meeting any other requirement as agreed upon between the parties, etc., which are relevant to the scheme

.....
c) where the 'appointed date' is chosen as a specific calendar date, it may precede the date of filing of the application for scheme of merger/ amalgamation in NCLT. However, if the 'appointed date' is significantly ante-dated beyond a year from the date of filing, the justification for the same would have to be specifically brought out in the scheme and it should not be against public interest.

.....”

That the Petitioner Companies humbly submits that, in the present case, the Appointed Date is 01st January, 2024 and the Company Scheme Application being CAA No. 04/ALD/2025 was e-filed on 20th December, 2024 vide Filing No. 0902109014382024. As the Company Scheme Application has been submitted within 1 year of the Appointed Date, there is no need to incorporate the justification for significant ante appointed date in the Scheme of Amalgamation. Thus, the appointed date of 1st January, 2024 is in sync with MCA Circular 09/2019 dated 21st August, 2019 r/w Sec 232(6) of Companies Act, 2013 and justification of the appointed date is not applicable in the present case.

That the Petitioner Companies further submits that the aforementioned contention has also been stated out in Reply to RD Report filed by the Petitioner Companies on 03rd August, 2025 vide Filing Acknowledgement No. 0902109005492025.

11. That the Petitioner Company 2 submits that process of acquisition of Petitioner Company 1 was commenced with the execution of Non-Disclosure Agreement in February, 2023 and acquisition was

completed in FY 23-24. Accordingly, the financial results of Petitioner Company 1 were consolidated with those of Petitioner Company 2 in the financial accounts for FY 23-24.

That the Petitioner Companies submit that before the acquisition of Petitioner Company 1, merger of Petitioner Company 1 with Petitioner Company 2 was always contemplated, which was evidenced, among others, by the letter dated 27th April, 2023 filed by JK Cement with Principal Secretary, Industries Department, Chairman, IPICOL & IDCO, Government of Odisha, whereby it was mentioned that all incentives/ benefits should be transferred in favour of Petitioner Company 2 upon amalgamation.

12. That the Petitioner Companies are engaged in the same line of business, namely, the manufacture and sale of cement and the proposed acquisition of Petitioner Company 1 by Petitioner Company 2 was duly communicated and was available in the public domain during the fourth quarter of the Financial Year 2023-24.

That, as stated in Paragraph 1 above, the Scheme of Amalgamation was unanimously approved by the respective Boards of Directors of the Petitioner Companies at their duly convened meetings held on 26th October, 2024. The intent and objective of Petitioner Company 2 has consistently been to effect the merger of Petitioner Company 1 at the earliest possible date in order to achieve operational synergies and to facilitate the preparation and presentation of consolidated financial statements.

However, at the time of the approval of the Scheme by the Boards of the Petitioner Companies on 26th October, 2024, Petitioner Company 2 was also required to comply with the provisions of MCA Circular, whereby the Appointed Date could not be fixed at a date earlier than one year prior to the date of submission of application with NCLT without specifying a reason in the Scheme of Amalgamation.

Thus, in view of the alignment of business operations, the effective control exercised by Petitioner Company 2 over Petitioner Company 1, and for reasons of accounting and operational convenience, as explained in Paragraphs 10 and 11 of this Affidavit, the Appointed Date of the Scheme of Amalgamation has been fixed as of 1st January, 2024.

.....

14. That the Petitioner Companies humbly submits that the Income Tax Act, 1961 does not provide any restrictions on the Appointed Date being a mid-year date. For the purposes of income tax and other fiscal laws, the accounting year is codified by statute and every accounting year has to begin from 01 April of a particular year and end on 31" March of the next year. However, it is not that such codification of the accounting year would put complete embargo upon the choice or discretion to be exercised by the company for entering into the scheme of amalgamation.

The aforementioned principle is also supported by Income Tax Act, 1961 in view of the sixth proviso to Sec 32 of Income Tax Act, 1961 which allows apportionment of depreciation between the amalgamating company and the amalgamated company in the ratio of

the number of days for which the assets were used by them respectively in the case of amalgamation during a particular year.

*That similar issues were raised in the case of **Shree Balaji Cinevision (India) Pvt. Ltd. (O.J. Appeal No. 65 of 2009]** whereby the Gujarat High Court has specifically held that "the Company Court has discretion to make modification in the proposed scheme of compromise, arrangement, etc. However, such discretion is required to be exercised for cogent reasons" and "the modification made by the learned Company Judge in respect of the Appointed Date proposed in the scheme of the amalgamation is set-aside*

15. That the Petitioner Companies humbly submits that in various past restructuring schemes, this Hon'ble NCLT Bench have approved the restructuring Scheme with a mid-year appointed date:

- *NCLT, Allahabad Bench in the matter of Scheme of Arrangement of **RTS Fashions Pvt. Ltd. (CP(CAA) No.16/ALD/2022]** with Appointed Date of 1st January, 2022*
- *NCLT, Allahabad Bench in the matter of Scheme of Arrangement of **Nihon Impex Private Limited [CP(CAA)No.12/ ALD/2022]** with Appointed Date of 1st November, 2021*

*16. That in the judgement of **Miheer H. Mafatlal vs Mafatlal Industries Ltd. (1997) 1 SCC 579]** the Hon'ble Supreme Court in Para 22 has earmarked the scope, powers and ambit of the jurisdiction of the Company Court. The broad contours of the jurisdiction of the Company Court/Hon'ble Tribunal have been emerged below:*

- "1. The sanctioning Court has to see to it that all the requisite statutory procedure for supporting such a scheme has been complied with and that the requisite meetings as contemplated by section 391 (1) (a) have been held.*
- 2. That the scheme put up for sanction of the Court is backed up by the requisite majority vote as required by section 391(2).*
- 3. That the concerned meetings of the creditors or members or any class of them had the relevant material to enable the voters to arrive at an informed decision for approving the scheme in question. That the majority decision of the concerned class of voters is just and fair to the class as a whole so as to legitimately bind even the dissenting members of that class.*
- 4. That all necessary material indicated by section 393(1)(a) is placed before the voters at the concerned meetings as contemplated by section 391(1).*
- 5. That all the requisite material contemplated by the proviso of sub section (2) of section 391 is placed before the Court by the concerned applicant seeking sanction for such a scheme and the Court gets satisfied about the same.*
- 6. That the proposed scheme of compromise and arrangement is not found to be violative of any provision of law and is not contrary to public policy. For ascertaining the real purpose underlying the Scheme with a view to be satisfied on this aspect, the Court, if necessary, can*

pierce the veil of apparent corporate purpose underlying the scheme and can judiciously X-ray the same.

7. That the Company Court has also to satisfy itself that members or class of members or creditors or class of creditors, as the case may be, were acting bona fide and in good faith and were not coercing the minority in order to promote any interest adverse to that of the latter comprising of the same class whom they purported to represent.

8. That the scheme as a whole is also found to be just, fair and reasonable from the point of view of prudent men of business taking a commercial decision beneficial to the class represented by them for whom the scheme is meant.

9. Once the aforesaid broad parameters about the requirements of a scheme for getting sanction of the Court are found to have been met, the Court will have no further jurisdiction to sit in appeal over the commercial wisdom of the majority of the class of persons who with their open eyes have given their approval to the scheme even if in the view of the Court there would be a better scheme for the company and its members or creditors for whom the scheme is framed. The Court cannot refuse to sanction such a scheme on that ground as it would otherwise amount to the Court exercising appellate jurisdiction over the scheme rather than its supervisory jurisdiction.

That Sec 231(1) of the Companies Act, 2013 states as follows:

"Where the Tribunal makes an order under section 230 sanctioning a compromise or an arrangement in respect of a company, it—

(a)

(b) may, at the time of making such order or at any time thereafter, give such directions in regard to any matter or make such modifications in the compromise or arrangement as it may consider necessary for the proper implementation of the compromise or arrangement

That this Scheme of Amalgamation has been approved by the shareholder, creditors, board of director of the Petitioner Companies, as applicable, by placing all the requisite materials

before them as averred in Paragraphs 1 to 4 to this Affidavit in compliance with the Law.

That this Scheme is not contrary to public policy as averred in Paragraphs 5 to 7 to this Affidavit in view of no objections received from public and regulatory authorities.

That this Scheme is in compliance with the provisions of law as averred in Paragraphs land 13 to this Affidavit.

17. That in the following judgements, the courts have held that it is the commercial wisdom and prerogative of Board of Directors and shareholder to select the Appointed Date:

- Para 6 in the judgement of High Court of Gujarat in the case of **Welspun Fintrade (P.) Ltd. [(2014) 49 taxmann.com 35 (Gujarat)]**
- Para 24 in the judgement of High Court of Delhi in the case of **Vodafone Spacetel Ltd. [(2014) 48 taxmann.com 103 (Delhi)]**

18. That the Petitioner Companies submits that in the following Schemes, regional director asked for justification/change in Appointed Date but the Hon'ble Tribunal did not changed the Appointed Date considering the commercial wisdom and rationale of the Scheme:”

- Para 10(c) and 11(c) in the matter of NCLT Bengaluru Bench in the Scheme of Arrangement of **Prestige Exora Business Parks Limited [CP(CA) No. 06/BB/ 2022]**

- Para 12(1) and Para 13(i) in the matter of NCLT, Bengaluru Bench in the Scheme of Amalgamation of

M/s Mitel Cloud Communications Pvt. Ltd. [CP(CAA) No. 17/BB/2023]

Further, the Petitioner Companies submits that there have been instances where NCIT has changed the Appointed Date, however, the NCLAT has reversed the order of NCLT. The cases have been referred below:

- Para 10 to 17 in the matter of NCLAT, Principal Bench in the Scheme of Amalgamation of **Marathon Nextgen Townships Pvt. Ltd. [Company Appeal (AT) No. 190 of 2023]**

- Para 12 to 16 in the matter of NCLAT, Principal Bench in the Scheme of Amalgamation of **Accelyst Solutions Pvt. Ltd. [Company Appeal (AT) No. 15/2021]**

That the Supreme Court in the case of **Re: Miheer H. Mafatlal** has categorically held in Para 22 of the judgement that "it is the commercial wisdom of the parties to the scheme who have taken an

informed decision about the usefulness and propriety of the scheme by supporting it by the requisite majority vote that has to be kept in view by the Court. The Court certainly would not act as a Court of Appeal and sit in judgment over the informed view of the concerned parties to the compromise as the same would be in the realm of corporate and commercial wisdom of the concerned parties.

The Court has neither the expertise nor the jurisdiction to delve deep into the commercial wisdom exercised by the creditors and members of the company who have ratified the Scheme by the requisite majority. Consequently, the Company Court's jurisdiction, to that extent is peripheral and supervisory and not appellate. The Court acts like an umpire in a game of cricket who has to see that both the teams play their game according to the rules and do not overstep the limits. But subject to that how best the game is to be played is left to the players and not to the umpire.

That the aforementioned view of Supreme Court in the case of Miheer H. Mafatlal has been supported in the following judgements:

- *Para 11 in the case of **Hindustan Lever & Anr vs. State of Maharashtra & Anr. [(2004) 9 SCC 438]***
- *Re: NCLAT, Principal Bench, New Delhi in the case of **Accelyst Solutions Pvt Ltd vs Freecharge Payment Technologies Pvt Ltd [COMPANY APPEAL (AT) No.15/ 2021]***
- *High Court of Punjab and Haryana in the case of **Highway Cycle Industries and Sunbeam Auto Limited [(1997) 97 Comp Case 846 (Punjab and Haryana)]***

20. That, the Petitioner Companies duly submit before this Hon'ble Tribunal to consider the averred submissions for justification of Appointed Date of 01st January, 2024 and not modify the Appointed Date to 01st April, 2024 and the Scheme of Amalgamation to be approved with the Appointed Date as 01st January, 2024."

21. Further, during the course of hearing on 28.08.2025, Ld. Sr. Counsel representing the Petitioner Companies submitted that the additional affidavit dated explaining the rationale for appointed date has been filed vide diary no.1669 dated 28.08.2025, whereby it has been averred as well as submitted by the Ld. Sr. Counsel representing the Petitioner Companies that the only requirement as stipulated under the MCA circular, is that the appointed date should be within one year of the date of filing of the application with NCLT. He further submitted that the application has been filed with NCLT on 20.12.2024, and the Appointed Date has been kept as 01.01.2024 in the best commercial prudence of the Petitioner Companies. Thus, Appointed Date of 01st January, 2024 is not significantly ante-dated beyond a year from the date of filing and is in compliance with MCA Circular 09/2019 dated 21st August, 2019 r/w Sec 232(6) of Companies Act, 2013.

22. We have carefully considered the submissions advanced by the Authorized Representative of the Regional Director, the Ld. Sr. Standing Counsel

representing the Income Tax Department, as well as the reply and additional affidavit filed on behalf of the Petitioner Companies. It is observed that the RD in para 11(d) of his report raised concern regarding the appointed date of 01.01.2024 being significantly ante-dated. The Income Tax Department has also contended that in the interest of financial reporting, accounting consistency, and public policy, the appointed date ought to be aligned with the commencement of the financial year. In response, the Petitioner Companies through affidavit filed vide diary No.1669 dated 28.08.2025 have explained that the only statutory requirement under Section 232(6) of the Companies Act, 2013 read with MCA Circular No.09/2019 dated 21.08.2019, is that the appointed date should fall within one year of the filing of the application before this Tribunal. Since the application was filed on 20.12.2024, the appointed date of 01.01.2024 is well within the permissible period, and therefore cannot be regarded as significantly ante-dated. The appointed date has been fixed keeping in mind the commercial prudence of the companies involved. In view of the above justification, and being satisfied with the compliance of statutory provisions, we find no infirmity in continuance of the appointed date as 01.01.2024.

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- 23.** We have also gone through the reports of the Ld. Regional Director (Northern Region), Ministry of Corporate Affairs, New Delhi; Ld. Registrar of Companies, Uttar Pradesh, Kanpur; Official Liquidator, Allahabad and the Income-Tax Department having jurisdiction over the Petitioner Companies along with the affidavits filed in response to the aforementioned reports and hearing the submissions made by the Ld. Authorized Representative representing the Petitioner Companies.
- 24.** In context of the above discussion the Scheme contemplated among the Petitioner Companies, appears to be prima facie in compliance with all the requirements stipulated under the relevant sections of the Companies Act, 2013. In the absence of any further objections before us and wherever it was necessary, necessary undertakings were also filed by the petitioner companies, if any, would be required in future and since all the requisite statutory compliances have been fulfilled, this Tribunal sanctions the Scheme of Amalgamation appended as Annexure 1 with the petition in terms of its Prayer Clause.
- 25.** In the result, the proposed Scheme of Amalgamation, which is annexed to the Company Petition stands approved and sanctioned and the same shall be binding on all the Shareholders and Creditors of the above-named Petitioner Companies and also on the Petitioner Companies with effect

from the Appointed Date, i.e., 1st January, 2024. The Petitioner Companies are required to act upon as per terms and conditions of the sanctioned Scheme of Amalgamation.

- 26.** While approving the Scheme of Amalgamation as above, it is clarified that this order should not be construed as, in any way, granting exemption from payment of stamp duty (if any, as applicable), taxes (including Income-Tax, GST or other charges, if any, as applicable) and payment in accordance with law or in respect to any permission/compliance with any other requirement which may be specifically required under any law. The transferee company shall also comply with the provisions of Section 170A of the Income Tax Act, 1961 for filing of modified tax returns if any required to be filed.

THIS TRIBUNAL DO FURTHER ORDER:

- 27.** With respect to the Amalgamation of the Transferor Company with and into the Transferee Company:
- i.** Upon the Scheme becoming effective, all the property, rights and powers of the Petitioner Company 1/Transferor Company specified in the Schedule annexed hereto and all other property, rights and powers of the Petitioner Company 1/Transferor Company be transferred, without further act or deed, to the Petitioner Company 2/Transferee Company and accordingly, the same shall, pursuant to

Sections 230 & 232 of the Companies Act, 2013, be transferred to and vested in the Petitioner Company 2/Transferee Company for all the estate and interest of the Petitioner Company 1/Transferor Company therein but subject nevertheless to all charges now affecting the same as provided in the Scheme of Amalgamation;

- ii.** Effective date is the date by which the merger/amalgamation of both Transferor and Transferee companies are completed subsequent to the 2nd motion orders are passed in respect of both transferor as well as transferee company. In respect of transferor company on which this tribunal has the jurisdiction, the 2nd motion order is passed vide the present order dated 12.09.2025.
- iii.** Upon the Scheme becoming effective, all the liabilities and duties of the Petitioner Company 1/Transferor Company be transferred, without further act or deed, to Petitioner Company 2/Transferee Company and accordingly, the same shall pursuant to Sections 230 & 232 of the Companies Act, 2013, be transferred to and become the liabilities and duties of the Petitioner Company 2/ Transferee Company as provided in the Scheme of Amalgamation;
- iv.** Upon the Scheme becoming effective, all the employees of the Petitioner Company 1/Transferor Company, in service on the Effective Date, shall be transferred to and shall become the employees of the Petitioner Company 2/Transferee Company as provided in the Scheme of Amalgamation;
- v.** Upon the Scheme becoming effective, all proceedings now pending by or against the Petitioner Company 1/Transferor Company be continued by or against the Petitioner Company 2/Transferee

Company;

- vi.** Upon this Scheme becoming effective / from the Effective Date, the Transferee Companies shall comply with the notices issued post amalgamation with respect to any income tax proceedings against the Transferor Company pertaining to the period prior to appointed date, for which notices may be issued post amalgamation, and to the effect that the Transferee Company shall not raise any objection on the ground that the Transferor Company no longer exists;
 - vii.** Upon the Scheme becoming effective, and in consideration for the transfer of and vesting of all the said properties, assets and liabilities of the Petitioner Company 1/Transferor Company to the Petitioner Company 2/Transferee Company in terms of this Scheme, the Petitioner Company 2/Transferee Company shall not be required to issue any shares, since Petitioner Company 1/Transferor Company is a wholly owned subsidiary of Petitioner Company 2/Transferee Company.
- 28.** The Petitioner Companies shall within thirty days of the date of the receipt of certified copy of this Order cause a copy of this order delivered to the Registrar of Companies, Uttar Pradesh, for registration and on such certified copy being so delivered, the Petitioner Company 1/Transferor Company shall stand dissolved without undergoing the process of winding up and the Registrar of Companies, Uttar Pradesh shall place all documents relating to the Petitioner Company 1/Transferor Company with him on the file kept by him in relation to the Petitioner Company

2/Transferee Company and the file relating to the said Petitioner Company
1/Transferor Company shall be consolidated accordingly.

- 29.** A certified copy of this Order in Form No. CAA-7 of Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 be supplied, if applied for, subject to compliance with usual formalities.
- 30.** The Petitioner Companies shall supply legible printouts of the Scheme and the Schedule of Assets in an acceptable form to the Registry within three weeks from the date of pronouncement of the order and the Registry will append such printouts, after verification, to the certified copy of the Order.
- 31.** The Petitioner Companies shall, within thirty days of the date of the receipt of this Order, cause a certified copy of this order to be delivered to the Registrar of Companies, Dehradun, for registration; and on such certified copy being so delivered, the Transferor Company shall stand dissolved without undergoing the process of winding up and the Registrar of Companies shall place all documents relating to the Transferor Company and registered with him on the file kept by him in relation to the Transferee Company and the files relating to the said two Companies shall be consolidated accordingly;
- 32.** That the Transferee Company shall file the revised memorandum and articles of association with the concerned Registrar of Companies and

further make the requisite payments of the differential fee (if any) for the enhancement of authorized capital of the Transferee Company; after setting off the fees paid by the Transferor Company;

- 33.** That the Transferee Company shall deposit an amount of Rs. 25,000/- (Rupees Twenty Five Thousand Only) in favour of “The Ministry of Corporate Affairs” within a period of four weeks from the date of receipt of the certified copy of this order and file affidavit of compliance thereof.
- 34.** All the concerned Regulatory Authorities and other persons to act on a copy of this Order annexed with the Scheme duly authenticated by the Registrar, National Company Law Tribunal, Allahabad Bench.
- 35.** Any person interested shall be at liberty to apply to the Tribunal in the above matter for any directions that may be necessary.
- 36.** Accordingly, the present Company Petition bearing **CP (CAA) No.15/ALD/2025** is allowed and stands disposed of.

-Sd-

Ashish Verma
Member (Technical)

-Sd-

Praveen Gupta
Member (Judicial)

Date: 12.09.2025

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(Second Motion)**

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