

**23<sup>rd</sup> November 2023**

To,  
Department of Corporate Services  
**BSE Limited,**  
P. J. Towers, Dalal Street,  
Mumbai - 400 001

**Security Code: 542460**  
**Security ID: ANUP**

To,  
Listing Department  
**National Stock Exchange of India Limited,**  
Exchange Plaza, 5th Floor Plot No. C/1,  
G. Block Bandra - Kurla Complex,  
Bandra (E), Mumbai - 400 051

**Symbol: ANUP**

Dear Sir/Madam,

**Sub.: Intimation under Regulation 30 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, as amended (Listing Regulation)**

**Ref: Scheme of amalgamation of Anup Heavy Engineering Limited, Wholly Owned Subsidiary with The Anup Engineering Limited and their respective shareholders.**

Further to our letter dated 29<sup>th</sup> December 2022, we would like to inform you that the Order of National Company Law Tribunal (NCLT) dated 23<sup>rd</sup> November 2023 has been disseminated on the NCLT website today, 23<sup>rd</sup> November 2023. The copy of the said Order is enclosed, and we are awaiting the certified copy of the said Order.

The Appointed Date of the Scheme is 1<sup>st</sup> April 2022, and the Scheme will be made effective upon filing of certified copy of the Order of NCLT under Section 230 to 232 of Companies Act, 2013 ("Act") and other applicable provisions of the Act sanctioning the Scheme with the Registrar of Companies, Gujarat at Ahmedabad by the Transferor and Transferee Company.

This is for your information and record.

Thanking you,

**Yours faithfully,**  
**For, The Anup Engineering Limited**

**Chintankumar Patel**  
**Company Secretary**  
**Membership No. A29326**

**Encl.: As above**



**IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD**  
**COURT - 2**

ITEM No.301  
CP(CAA)/24(AHM)2023  
in  
CA(CAA)/32(AHM)2023

**Order under Section 230-232 of Co. Act, 2013**

**IN THE MATTER OF:**

Anup Heavy Engineering Ltd (Transferor Co.)  
The Anup Engineering Ltd  
(Transferee Co.)

.....Applicant

.....Respondent

**Order delivered on 23/11/2023**

**Coram:**

**Mrs. Chitra Hankare, Hon'ble Member(J)**  
**Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)**

**ORDER**

The case is fixed for pronouncement of order.

The order is pronounced in open Court vide separate sheet.

-Sd-

**DR. V. G. VENKATA CHALAPATHY**  
**MEMBER (TECHNICAL)**

-Sd-

**CHITRA HANKARE**  
**MEMBER (JUDICIAL)**



**NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD  
DIVISION BENCH  
COURT-2**

CP(CAA)/24(AHM)2023  
in  
CA(CAA)/32(AHM)2023

[Application under Sections 230-232 of the Companies Act, 2013 read with the Companies (Compromise, Arrangement and Amalgamation) Rules, 2016]

Scheme of Amalgamation  
of  
Anup Heavy Engineering Limited  
(Petitioner Company/Transferor Company)

With

The Anup Engineering Limited  
(Petitioner Company/Transferee Company)

And

Their respective shareholders and Creditors

**Order pronounced on 23.11.2023**

**CORAM:  
MRS.CHITRA HANKARE  
HON'BLE MEMBER (JUDICIAL)**

**DR. VELAMUR G VENKATACHALAPATHY  
HON'BLE MEMBER (TECHNICAL)**



In the matter of:

Anup Heavy Engineering Limited  
(CIN: U29100GJ2019PLC111583)  
Having its registered office situated at  
Behind 66 KV Electric Sub Station,  
Odhav Road, Ahmedabad,  
Gujarat, India-382415

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

AND

The Anup Engineering Limited  
(CIN: L29306GJ2017PLC099085)  
Having its registered office situated at  
Behind 66 KV, Electric Sub-Station,  
Odhav Road, Ahmedabad,  
Gujarat, India-382415

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

**Appearance:**

Ms. Swati Soparkar, Adv. for the Petitioner Companies  
Ms. Pankti Shah, Proxy Advocate for Ms. Maithili D.  
Mehta, Advocate for the Income Tax Department.  
Ishani Pandya, for the Office of the Regional Director.

**ORDER**

1. The petition has been filed under Sections 230-232 of the Companies Act, 2013 (hereinafter referred to as “the Act”) read with companies (Compromise, Arrangement and Amalgamation) Rules, 2016 seeking sanction to the proposed Scheme of Amalgamation with effect from 01.04.2022.



2. An affidavit in support of the petition has been sworn by Mr. Chintankumar Mahendrabhai Patel on behalf of the petitioner company duly authorized vide Board Resolution passed in the meeting of Board of Directors dated 29.12.2022 of the petitioner company.
  
3. The petitioner company had filed joint Company Application before this Tribunal being CA(CAA)/32(AHM)2023 sought dispensation of the meeting of equity shareholders, secured creditors and unsecured creditors of the transferor and transferee company. By an order dated 17.05.2023 passed in CA(CAA)/32(AHM)2023, this Tribunal dispensed with the meetings of Equity Shareholders, Secured Creditors and Unsecured Creditors of both the companies and directed the petitioner company to serve Notice of the Scheme in compliance with Section 230(5) of the Companies Act, 2013 to (i) the Central Government through the Regional Director, North Western Region, (ii) the Registrar of Companies, Gujarat, (iii) the Income Tax authorities with full details of the Assessing Officer, PAN of the Applicant Companies, with copy to the Chief Commissioner of Income Tax as well the advocate appearing for the Income Tax Dept.; for both the applicant companies and further to (iv) The Reserve Bank of India (v) BSE Limited (vi) National Stock Exchange Limited as well as (vii) Securities and Exchange Board of India; for only the applicant Transferee company and (viii) the Office of the Official Liquidator only for the applicant transferor company



stating that representations, if any, to be made by them shall be made within a period of 30 days from the date of receipt of such notice failing which it shall be presumed that they have no objection to make on the proposed scheme of Amalgamation.

4. In compliance of order dated 17.05.2023 the petitioner company served the notices to the Central Government through the Regional Director, North Western Region, the Registrar of Companies, Gujarat, the Income Tax Authority concerned, The Reserve Bank of India, BSE Limited, National Stock Exchange of India Limited, The Securities and Exchange Board of India Limited and the Official Liquidator. The affidavit of service of notice is placed on record.
  
5. The Petitioner Company had jointly filed the present Company Petition being CP(CAA) No. 24 of 2023 before this Tribunal seeking sanction of the proposed scheme. This Tribunal by order dated 14.06.2023, admitted the petition and directed for publication of hearing in "Financial Express" in English and Gujarati translation in vernacular language not less than ten days before the next date of hearing, calling for objections, if any, on or before the date of hearing. This Tribunal also directed to issue a notice of hearing of the petition to (i) Central Government through Regional Director, North-Western Region., (ii) Registrar of Companies, Gujarat, (iii)



concerned Income Tax Authorities; and (iv) the Official Liquidator.

6. Pursuant to direction contained in order dated 14.06.2023 passed by the Tribunal, the petitioner companies published the notice of hearing of the petition in “Financial Express” in English and Gujarati transition in vernacular language. The notice in respect of hearing of company petition was served upon all concerned statutory authorities. Affidavit to that effect is also filed by the petitioner companies on this Tribunal.
7. In response to such notice, the Regional Director (RD) filed its report dated 23.06.2023 along with report of the Registrar of Companies (RoC) dated 07.06.2023 on 23.06.2023. Following are the observation of the RD and the RoC:-

The petitioner transferee company is required to pay different amounts of fees payable on the enhanced authorized capital of Rs.65,35,00,000/-. Company be directed to comply with the provisions of 232(3)(i) of the Companies Act to pay fees. As per SEBI Circular, draft scheme shall be filed with the stock exchange and stock exchange shall disseminates the scheme documents on their website. As per SEBI circular, petitioner companies have submitted draft scheme with stock exchange on 29.12.2022.



There are no complaints against the petitioner companies against the scheme of amalgamation. There are four secured creditors of the companies Viz. ICICI Bank, Bank of Baroda, HDFC Bank and IndusInd Bank Ltd. RD also claim the expenses for submitting this report.

ROC Report:

It is stated that neither show-cause notice has been issued to the petitioner companies nor any technical scrutiny or inquiry pending against them also, no court case or any complaint is pending against them. Office has not scrutinized the documents of the petitioner companies for the purpose of pointing out violation of Companies Act. RoC also stated that the petitioner companies be directed to follow statutory provisions.

The Petitioner Company has given its undertaking by way of affidavit for compliance of aforesaid directions/observations of RD and ROC which is satisfactory.

8. In response to the notice served upon the Official Liquidator (OL), a representation is submitted by the Official Liquidator dated 08.06.2023 filed on 23.08.2023. Their observations are as follows:-





Transferor Company has filed annual audited accounts (Balance sheet) up to year ending 31.03.2022. OL has issued letter dated 23.05.2023 to the transferor company demanding documents and certain information. The transferor company submitted required details by letter dated 26.05.2023. OL has further stated that company is maintaining authorized statutory registers and books of account as per the provisions of Companies Act. According to him, the scheme is set out in the preamble of scheme of amalgamation of the companies. Transferor company has made provisions for transfer of employees of the transferor company in terms of Section 232(3)(g) of Companies Act. The transferor company has also submitted certificate dated 29.12.2022 u/s 133 of the Companies Act of the statutory auditor. He has further submitted that petitioner be directed to comply with statutory provisions of the Act. He has no objection if the transferor company is dissolved without following the process of winding up and stated that fee, if any, paid by the transferor company on its share capital shall be set off against any fees payable by the transferee company on its authorized capital subsequent to the amalgamation in terms of Section 232(3)(i) of the Companies Act. He has further demanded cost of the proceeding fees, office expenses amounting to Rs.15,000/- or any other amount.



Petitioner companies by filing additional affidavit submitted that they are duty bound to comply with the directions given by the Tribunal while sanctioning proposed scheme. The transferor company has conducted business in accordance with the objet clause and has not been conducted the same in any manner prejudicial to the interest of its members or public.

9. In response to the notice served upon the Income Tax Department, Income Tax Department filed its reports. The observations of the Income Tax Report are as under:

Income Tax Department submitted that the transferee company shall account for the merger in accordance with pooling interest method as laid down by Appendix-C of Ind AS 103 notified under the provisions of Companies Act and Rules. All intangible assets (including but not limited to goodwill) belonging to but not recorded in books of accounts of the transferor company and all intangible assets arising or recorded in the process of amalgamation, if any, in books of accounts of the transferee company be regarded as an intangible asset in terms of explanation 3B of Section 32(2) of the Income Tax Act. The transferee company shall be eligible for depreciation there under. It is further submitted that department would be at liberty to examine the books of transferee company after



amalgamation and depreciation of the assessee during the course of scrutiny assessment proceedings and to disallow any claim of depreciation by the assessee. They also reserved rights to invoke the provisions of Income Tax Act in any proceedings subsequent to the amalgamation.

It is further stated that liberty to examine allowability of depreciation in the books of amalgamated entity in accordance with 6th proviso of Section 32, explanation 7 of Section 43(1) and explanation 2(b) of Section 43(6)(c).

The petitioner company further submitted that they have no objection to comply with the requirements of Income Tax authorities in accordance with the applicable provisions after sanctioning of proposed scheme.

The Petitioner Transferor Company submits that the rights of the Income Tax Department remain intact to initiate appropriate proceedings regarding recovery of any tax in accordance with the income tax law. Further, once the Scheme has been sanctioned by this Tribunal, nothing precludes the Income Tax Department from recovering its legitimate and recoverable outstanding tax dues. The said principles have been stated in the decision dated 25th September 2019 passed by Hon'ble National Company Law Appellate Tribunal, New Delhi in Company Appeal (AT) No. 98 of 2019.



10. In response to the notice served upon the Reserve Bank of India, The Reserve Bank of India filed its Report. The Observations of the Reserve Bank of India are as under:

RBI submitted that companies undergoing amalgamation to comply requirement of various laws, rules and regulations and guidelines prescribed by RBI such as Foreign Exchange Amendment Act etc. They have further submitted that as of regulator, it will not be ethical on the part of RBI to vet individual cases, as it preclude it from taking again on contravention, if any, committed by said company.

The petitioner company has given its undertaking for compliance of observations of RBI.

11. No response or report received from the BSE Limited, National Stock Exchange Limited and the Securities and Exchange Board of India.
12. During the hearing on 10.10.2023, Ld. Counsel Ms. Pankti Shah, Ld. Proxy counsel appeared on behalf of Income Tax Department and stated that they have no objection to the approval of the Scheme. Ms. IshaniPandya, for the office of the Regional Director appeared and stated that they have no objection to the approval of the Scheme.
13. It is stated in the petition that no proceedings are pending under the Companies Act, 2013 or under the



corresponding provisions of the Companies Act, 1956 as well as Companies Act, 2013 against the petitioner transferor company and the transferee company. Further, no winding up proceedings have been filed or are pending against the petitioner transferor company and the transferee company under the Companies Act, 2013 or the corresponding provisions of the Companies Act, 1956.

14. It is also stated in the petition that the sanction of the Scheme in view of the facts mentioned hereinabove would be in the interest of petitioner Transferor Company, the transferee company, and its shareholders. The scheme will not prejudicially affect anyone nor will public interest in any manner be adversely affected.
15. It is submitted that the Statutory Auditor of the Petitioner Companies has certified that the Accounting Treatment of the scheme is in conformity with the applicable Accounting Standard. A copy of the certificate issued by the Statutory Auditor is annexed with company petition.
16. Heard Ld. Counsel Ms. Swati Soparkar, Advocate, for the Petitioner Companies and perused documents placed on record.
17. On the basis of above the facts and submissions made by the learned counsel and by considering the entire facts and circumstances of the aforesaid company petition and on perusal of the Scheme and the proceedings, it appears



that the requirements of the provisions of Sections 230 and 232 are satisfied by the petitioner company. We are of the considered view that the proposed Scheme of Amalgamation is bona fide and in the interest of the shareholders and creditors. In the result, Company Petition No. CP (CAA) No. 24 of 2023 is allowed. The Scheme envisages amalgamation of M/s. Anup Heavy Engineering Limited (the Transferor Company) with M/s. The Anup Engineering Limited (Transferee Company). It is declared that the said sanctioned scheme shall be binding on the Transferor Company and the Transferee Company and their shareholders, creditors and all concerned under the scheme.

18. Notwithstanding the above, if there is any deficiency found or, violation committed qua any enactment, statutory rule or regulation, the sanction granted by this Tribunal to the scheme will not come in the way of action being taken, albeit, in accordance with law, against the concerned persons, directors and officials of the Transferor Company and the Transferee Company.
19. While approving the Scheme as above, we further clarify that this order should not be construed as an order in granting any exemption from payment of stamp duty, taxes including income tax, GST etc. or any other charges, if any, and payment in accordance with law or in respect of any permission/compliance with any other requirement which may be specifically required under any law. It is



further clarified that Income Tax Department will be free to examine the aspect of any tax payable as a result of the sanction of the Scheme and sanction of the Scheme of Amalgamation given hereunder shall not adversely affect the rights of Income Tax Department on any past, present or future proceedings.

20. This Tribunal orders as under:-

**ORDER**

- i) The Scheme of Amalgamation as annexed herewith as **“Annexure-A”** is hereby sanctioned and **it is declared that** the same shall be binding on the Petitioner Companies and its shareholders and creditors and all concerned under the Scheme.
- ii) It is declared that the Petitioner Transferor Company shall be dissolved without winding up.
- iii) All the properties annexed herewith as **‘Annexure-B’**, rights and powers of the Transferor Company specified in the schedule hereto and all the other property, rights and powers of Transferor Company be transferred without further act or deed to the Transferee Company and accordingly the same shall pursuant to section 232 of the Companies Act, 2013 be transferred to and vested in the Transferee Company for all the estates and interest of the Transferor Company therein.



iv) Consideration:

The entire issued, subscribed and paid-up share capital of the Transferor Company is held by the Transferee Company (along with its Nominees). Upon the Scheme becoming finally effective, the entire share capital of the Transferor company shall get automatically cancelled/ extinguished. The Transferee Company shall not be required to issue and allot any shares as the Transferee Company and its nominees are themselves the only shareholders of the Transferor Company.

Upon the Scheme being effective, the investments in the shares of the Transferor Company appearing in the books of account of the Transferee Company or respective subsidiary company of the Transferee Company shall, without any further act, deed or instrument, stand cancelled.

- v) All the liabilities and duties of the Petitioner Transferor Company be transferred without further act or deed to the Transferee Company and accordingly the same shall pursuant to Section 232 of the Companies Act, 2013 become the liabilities and duties of the Transferee Company.





- vi) All proceedings now pending, if any, by or against the Petitioner Transferor Company be continued by or against the Transferee Company as per the terms of the Scheme.
- vii) All workers / employees of the Transferor Company shall be deemed to become the workers /employees of the Transferee Company with effect from the Appointed Date without any break, discontinuance or interruption in their service and on the basis of continuity of service, and the terms and conditions of their employment with the Transferee Company shall not be less favourable than those applicable to them with reference to the Transferor Company as on the Effective Date.
- viii) All concerned authorities to act on copy of this order along with the Scheme authenticated by the Registrar of this Tribunal. The Registrar of this Tribunal shall issue the certified copy of this order along with the Scheme immediately.
- ix) The Petitioner Company is directed to lodge a copy of this Order and the approved Scheme and Schedule of Assets attached as **Annexure-B**, duly authenticated by the Registrar of this Tribunal, with the concerned Superintendent of Stamps, for adjudication of stamp duty, if any, within 60 days from the date of the Order.
- x) The Petitioner Company is further directed to file a copy of this order along with the copy of the Scheme with the concerned the Registrar of Companies,



electronically, along with e-form INC-28 in addition to physical copy within 30 days from the date of issuance of the certified copy of the Order by the Registry as per relevant provisions of the Act.

- xi) The legal fees and expenses of the office of the Regional Director are quantified at Rs.10,000/-in respect of the Petitioner Company. The said fees to the Regional Director shall be paid by the Petitioner Company.
- xii) The legal fees and expenses of the office of the Official Liquidator are quantified at Rs.15,000/-in respect of the Petitioner Company. The said fees to the Official Liquidator shall be paid by the Petitioner Company.
- xiii) All concerned authorities to act on a copy of this order along with the Scheme duly authenticated by the Registrar of this Tribunal. The Registrar of this Tribunal shall issue the authenticated copy of this order along with Scheme immediately.
- xiv) Income Tax Department will be free to examine the aspect of any tax payable as a result of the sanction of the Scheme and if it is found that the Scheme of Arrangement ultimately results in tax avoidance or is not in accordance with the applicable provisions of Income Tax Act, then the Income Tax Dept. shall be at liberty to initiate appropriate course of action as per law. Any sanction of the Scheme of Arrangement under Sections 230-232 of the Companies Act, 2013 shall not adversely affect the rights of Income Tax



Department or any past, present or future proceedings and the sanction of the scheme shall not come in its way for the appropriate course of action as per law for the tax liabilities, if any.

xv) Any person aggrieved shall be at liberty to apply to the Tribunal in the above matter for any directions that may be necessary.

21. The Company Petition CP (CAA) No. 24 of 2023 connected with CA(CAA) No. 32 of 2023 is allowed and disposed of, in terms of above order.

-Sd-

**DR. V. G. VENKATA CHALAPATHY**  
**MEMBER (TECHNICAL)**

-Sd-

**CHITRA HANKARE**  
**MEMBER (JUDICIAL)**