



usha martin®

Usha Martin Limited

2A, Shakespeare Sarani, Kolkata - 700 071, India
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Date: 4th April 2022

The Secretary
National Stock Exchange of India Ltd
Exchange Plaza, 5th Floor,
Plot No.C/1, G Block,
Bandra Kurla Complex, Bandra (E)
Mumbai – 400 051
[Scrip Code: USHAMART]

The Secretary
The BSE Limited
Phiroze Jeejeebhoy
Towers,
Dalal Street
Mumbai – 400 001
[Scrip Code:517146]

Societe de la Bourse de
Luxembourg
35A Boulevard Joseph II
L-1840, Luxembourg
[Scrip Code: US9173002042]

Dear Sirs,

Sub : Intimation of receipt of Order of the Hon'ble National Company Law Tribunal, Kolkata Bench approving the Scheme of Arrangement between Usha Martin Limited ("Company") and its shareholders under Section 230 and other applicable provisions of the Companies Act, 2013 ("Act") ("Scheme").

With reference to the above cited subject, we would like to inform that the National Company Law Tribunal, Kolkata Bench ("Tribunal") had on 31st March, 2022 pronounced its' Order approving the Scheme of Arrangement between Usha Martin Limited ("Company") and its shareholders under Section 230 and other applicable provisions of the Companies Act, 2013 ("Act") ("Scheme").

The Tribunal has issued an electronic copy of the order sanctioning the Scheme on 4th April, 2022 which is enclosed and is also available on the website of the Company and Tribunal. The Company is awaiting certified copy of the Tribunal's Order.

The Scheme will be made effective subsequent to filing certified copy of the order of the Tribunal with the Registrar of Companies, Kolkata.

Yours faithfully,
For Usha Martin Limited


Shampa Ghosh Ray
Company Secretary

Encl: as above

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH -I
KOLKATA**

**Company Petition (CAA) No.41/KB/2022
Connected With
Company Application (CAA) No.187/KB/2021**

In the matter of

A Company Petition filed under sections 230(1) and 232(1) of the Companies Act, 2013.

And

In the matter of

Usha Martin Limited [CIN L31400WB1986PLC091621], a Company incorporated under the Companies Act, 1956, and being a Company within the meaning of the Companies Act, 2013, having its registered office at 2A, Shakespeare Sarani, Kolkata - 700 071, West Bengal.

. *Petitioner*

Date of hearing: 30 March, 2022

Date of pronouncing the order: 31 March, 2022

Coram:

Shri Rajasekhar V. K. : ***Member (Judicial)***
Shri Balraj Joshi : ***Member (Technical)***

Appearances :

For the Petitioners :

Mr. S N Mookherjee, Ld. AG and Senior Advocate
Mr. D N Sharma, Advocate
Ms. Rusha Mitra, Advocate
Mr. Yash Singhi, Advocate

For the Regional Director, Eastern Region :

Mr. Harihar Sahoo, Joint Director Ministry of Corporate Affairs

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ORDER

Per: Balraj Joshi, Member (Technical)

1. This court convened *via* video conference.
2. The instant petition has been filed under Section 230(6) of the Companies Act, 2013 (“*Act*”) for sanction of the Scheme of Arrangement between Usha Martin Limited, (“*Petitioner Company*”) and its shareholders, for reduction and reorganization of capital of the Petitioner Company. The Scheme provides for Arrangement from the Appointed Date, *viz.*, **01 April, 2021** in the manner and on the terms and conditions stated in the Scheme of Arrangement (‘*Scheme*’).
3. The Petition has now come up for final hearing. Learned AG and Senior Advocate for the Petitioner Company submits as follows:-
 - a) The Board of Directors of the Petitioner Company at its meeting held on 20 May 2021 by resolution passed unanimously, approved of the said Scheme of Arrangement.
 - b) The circumstances which justify and/or have necessitated the Scheme and the benefits of the same are, *inter alia*, as follows:-
 - i) The Petitioner Company has suffered substantial losses during the past few years. The Petitioner Company has generated profits in the financial years ended 31 March 2020 and 31 March 2021. As per the audited financial statements of the Company on 31 March 2021, the Petitioner Company continues to carry a negative balance of retained earnings, while it has unutilized balances lying under various reserves. Despite consistent profitability, the financial statements of the Company are not reflective of its true current financial health and therefore, it is necessary to reduce and reorganize the capital of the Petitioner Company. Accordingly, the Scheme has been proposed between the Petitioner Company and its shareholders under Section 230 and other applicable provisions of the Companies Act, 2013. The proposed reduction and reorganization of capital is in the interest of the Company and its shareholders, creditors and all concerned.

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- c) The Statutory Auditors of the Petitioner 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.
- d) No proceedings are pending under sections 210 to 227 of the Companies Act, 2013 against the Petitioner(s).
- e) The entitlement ratio of shares in consideration of the Arrangement has been fixed on a fair and reasonable basis.
- f) The BSE Limited and the National Stock Exchange of India Limited by their respective letters dated 24 August 2021 have confirmed that they have '*no adverse observation*' on the Scheme pursuant to the SEBI Master Circular SEBI/HO/CFD/DIL3/CIR/P/2020/249 dated 22 December 2020.
- g) By an order dated 20 December 2021 in Company Application (CAA) No.187/KB/2021, this Tribunal made the following directions with regard to meeting(s) of shareholders and creditors under section 230(1)
 - i) Meeting(s) dispensed: Meetings of the creditors of the Petitioner for considering the Scheme were dispensed with in view of consents to the Scheme having been given by way of affidavit by all the secured creditors of the Petitioner constituting 100% in value and by unsecured creditors of the Petitioner constituting over 92.94% in value.
 - ii) Meeting(s) directed to be held: Meeting of the Equity Shareholders of the Petitioner was directed to be held on 29 January 2022 for the purpose of considering and if thought fit with or without modification the said proposed Scheme of Arrangement.
- h) Pursuant to the said Order meeting of the Equity Shareholders of the Company was duly held virtually on Saturday, 29 January 2022 at 11:00 A.M. through Video Conferencing ("VC") / Other Audio Visual Means ("OAVM") in compliance with the directions of this Tribunal. Mr Jishnu Chowdhury, Advocate acted as the Chairperson of the said

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meeting. In terms of the order dated 20 December 2021 of this Tribunal, the Equity Shareholders of the Petitioner Company were given the option of e-voting on the Scheme including by remote e-voting during the voting period provided prior to the date of the meeting.

- i) The said Equity Shareholders of the Petitioner Company have duly at their meeting held on 29 January 2022 approved the Scheme by requisite majority with 17,56,90,226 votes having been cast in favour of the resolution by 441 Equity Shareholders and 175 votes having been cast against the resolution by 5 Equity Shareholders without any modification.
- j) In terms of the said order dated 20 December 2021, the Chairperson, Mr. Jishnu Chowdhury, Advocate had filed his report along with his affidavit verifying the same before the Tribunal on 7 February 2022.
- k) In compliance with Section 230(5) of the Companies Act, 2013 and the said order dated 20 December 2021 made in Company Application (CAA) No. 187/KB/2021, notice along with all accompanying documents has already been sent to the Statutory/Sectoral Authorities, as directed by the said order, including upon the Regional Director, Eastern Region, Ministry of Corporate Affairs, Kolkata; Registrar of Companies, West Bengal; Income Tax Department having jurisdiction over the Petitioner; Securities Exchange Board of India, BSE Limited and National Stock Exchange of India Limited.
- l) An affidavit proving service, as aforesaid, has been filed by the Petitioner Company on 20 January 2022. Further, in terms of the order dated 24 February 2022, notice under Section 230(5) of the Companies Act, 2013 was once again issued to the aforesaid statutory authorities.
- m) The Petitioner Company has also published advertisements of the date of hearing of the petition in the "*Financial Express*" and "*Aajkal*" in their respective issues dated 14 March 2022. An affidavit of compliance in this regard has also been filed by the Petitioner on 23 March 2022.

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- n) All statutory formalities requisite for obtaining sanction of the Scheme have been duly complied with by the Petitioner. The Scheme has been made *bona fide* and is in the interest of all concerned.
4. Pursuant to the said advertisements and notices, the Regional Director, Ministry of Corporate Affairs, Kolkata (“**RD**”) have filed their representations before this Tribunal.
5. The RD has made his representation by his reply affidavit dated 29 March 2022 (“**RD Affidavit**”). The observations of the RD have been dealt with by the Petitioner Company in their Rejoinder affidavit dated 29 March 2022 (“**Rejoinder**”). The responses of the Petitioner to the observations made by the RD are as under:-
- A. With reference to Paragraph 2(a) of the RD Affidavit with respect to no complaints and/or representation regarding proposed Scheme of Arrangement has been received against the Petitioner Company. As per available records, the Petitioner is updated in filing its Financial Statement and Annual Return for the year ended 31/03/2021 -
- Response as per Paragraph 3 of Rejoinder
- The contents of paragraphs 1 and 2(a) of the said Affidavit are matters of record.*
- B. With reference to Paragraph 2(b) and 2(c) of the RD Affidavit relating to pending inspection/investigation against the Petitioner Company disclosed in the Board of Directors’ Report and Auditors’ Report annexed to the Financial Statement as at 31/03/2021 -
- Response as per Paragraph 4 of Rejoinder
- With reference to paragraphs 2(b) and 2(c) of the said Affidavit, the Petitioner states that the contents thereof are matters of record. It is stated that all legal proceedings against the Petitioner Company, including purported complaints/ inspection/investigations referred to in the paragraph under*

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reference, which are pending on the date of the Scheme coming into effect, will continue against the Petitioner Company, as before, and will not be affected due to the Scheme. Such legal proceedings, pursuant to clause 9 of the said Scheme, shall not abate or be discontinued or be in any way prejudicially affected by reason of the Scheme or by anything contained in the said Scheme. The Petitioner further states and submits that all such legal proceedings will be dealt with by the Petitioner Company in accordance with law and the pendency of the same does not affect the merits of the Scheme.

- C. With reference to Paragraph 2(d) of the RD Affidavit on the validity of the Observation letters issued by the Stock Exchanges where the shares of the Petitioner Company are listed -

Response as per Paragraph 5 of Rejoinder

*With reference to paragraph 2(d) of the said Affidavit, it is stated that as indicated in paragraph 6.17 of the instant company petition, the BSE Limited (BSE) and the National Stock Exchange of India Limited (NSE) vide their respective letters dated 24 August 2021 have since confirmed that they have ‘**no adverse observation**’ on the Scheme pursuant to the said SEBI Master Circular. The aforesaid observation letters have been annexed as annexure “K” (at pages 544 to 547) to the instant company petition. As would be evident from the said letters, the validity of such observation letters issued by BSE and NSE was six months from 24 August 2021, being the date of issuance of the said observation letters within which the Scheme was required to be submitted to the National Company Law Tribunal, Kolkata Bench (“Hon’ble Tribunal”). It is stated that the Scheme was duly submitted to the Hon’ble Tribunal on 15 September 2021 as annexure “A” to the Company Application (CAA) No.187/KB/2021. The same is within the prescribed time period as indicated by the said Stock Exchanges in their respective*

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*observation letters. Copy of the filing receipt is enclosed herewith and **marked "A-1"**.*

- D. With reference to Paragraph 2(e) of the RD Affidavit, seeking an undertaking that the Scheme is approved by the requisite majority of members and creditors as per Section 230(6) of the Companies Act, 2013 in meeting duly held in terms of Section 230(1) read with sub-sections (3) to (5) of Section 230 of the said Act and the Minutes thereof are duly placed on record -

Response as per Paragraph 6 of Rejoinder

With reference to paragraph 2(e) of the said Affidavit, the Petitioner states and submits that all the secured creditors of the Petitioner Company constituting 100% in value and 92.94% in value of unsecured creditors of the Petitioner Company have given their consent to the Scheme by way of affidavits. In view of the aforesaid, it is stated and submitted that there is no further requirement of holding meetings for obtaining approval of the said secured creditors and unsecured creditors as per Section 230(6) of the Act read with Sub-sections (3) to (5) of Section 230 of the Act or placing the minutes thereof. By an order made on 20 December 2021 in Company Application CA(CAA) No. 187/KB/2021, this Hon'ble Tribunal, was pleased to give directions for convening and holding of meeting of the Equity Shareholders of the Petitioner Company on 29 January 2022 for the purpose of the said equity shareholders considering, and if thought fit, approving, with or without modification, the said Scheme. The said meeting of the Equity Shareholders of the Petitioner Company have since been held and Equity Shareholders at the said meeting have approved the said Scheme with requisite majority with 17,56,90,226 votes having been cast in favour of the resolution by 441 Equity Shareholders and 175 votes having been cast against the resolution by 5 Equity Shareholders without any modification as per Section 230(6) of the Act read with Sub-sections (3) to (5) of Section

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230 of the Act. Pursuant to the said order, the Chairperson appointed by the Hon'ble Tribunal, Mr. Jishnu Chowdhury, Advocate has filed his reports along with the affidavits verifying the same and the minutes of the meetings before this Hon'ble Tribunal on 7 February 2022.

- E. With reference to Paragraph 2(f) of the RD Affidavit, for filing of an affidavit to the extent that the Scheme enclosed to the Company Application and Company Petition are one and same and there is no discrepancy, or no change is made.

Response as per Paragraph 7 of Rejoinder

With reference to paragraph 2(f) of the said Affidavit, the Petitioner confirms that the Scheme enclosed to the Company Application and the Company Petition are one and same and there is no discrepancy and no change has been made.

- F. With reference to Paragraph 2(g) of the RD Affidavit, on notice being served on concerned authorities under Section 230(5) of the Companies Act, 2013 and approval of the scheme by the Tribunal may not deter such authorities to deal with any of the issues arising after giving effect to the Scheme -

Response as per Paragraph 8 of Rejoinder

With reference to paragraph 2(g) of the said Affidavit, the Petitioner confirms that notice under Section 230(5) of the Companies Act, 2013 has been already served on the concerned authorities. If any issues arise after giving effect to the Scheme, the same shall be dealt with in accordance with law.

- G. With reference to Paragraph 2(h) of the RD Affidavit, on a copy of Scheme being forwarded to the relevant Income Tax Authorities and no comments/observations/objections having been received so far from the said authorities-

Response as per Paragraph 9 of Rejoinder

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With reference to paragraph 2(h) of the said Affidavit, the same are matters of record. The Petitioner Company has duly issued notice under Section 230(5) of the Companies Act, 2013 on 28 December 2021 and 28 February 2022 to the relevant Income Tax Authorities having jurisdiction over the Petitioner Company. However, no reply/representation has been received till date. As such, it is presumed that the Income Tax Department has no objection to the sanction of the Scheme.

6. Heard submissions made by the Ld. AG and Senior Advocate appearing for the Petitioner Companies and the RD. Upon perusing the records and documents in the instant proceedings and considering the submissions, we allow the petition and make the following orders:-
 - i. the Scheme of Arrangement mentioned in paragraph 1 of this petition, being Annexure "A" to the Petition be sanctioned by this Tribunal with the Appointed Date fixed as 1 April 2021 ("***Appointed Date***") on the Petitioner Company, its respective shareholders and creditors and all concerned;
 - ii. The Petitioner Company shall within thirty days of the date of the receipt of this order sanctioning the Scheme of Arrangement, cause a certified copy to be delivered to the Registrar of Companies for registration;
7. The Petitioner shall supply legible print out of the scheme and schedule of assets in acceptable form to the Registry and the Registry will append such printout, after verification, to the certified copy of the order.
8. Company Petition (CAA) No. 41/KB/2022 connected with Company Application (CAA) No. 187/KB/2021 is disposed of accordingly.

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9. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

Balraj Joshi
Member (Technical)

Rajasekhar V.K.
Member (Judicial)

The order is pronounced on 31st day of March, 2022.

SA, LRA