

Date: March 9, 2021

1.	National Stock Exchange of India Limited Exchange Plaza Plot No. C/1, G Block Bandra - Kurla Complex Bandra (E), Mumbai - 400 051 Tel: 2659 8452 Fax No.: 2659 8237-38	2.	BSE Limited Phiroze Jeejeebhoy Towers Dalal Street, Mumbai - 400 001. Tel: 2272 1233/8058 Extn- 8013 Fax No. 2272 2037/2039/ 2041/ 2061
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Sub.: NCLT sanction for scheme of merger of Everest Building Solutions Limited with Everest Industries Limited

Dear Sir/Madam,

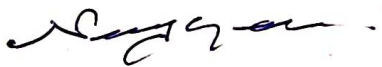
This is in reference to our letters dated May 1, 2019, February 2, 2020 and March 26, 2020 regarding scheme of merger under sections 230 to 232 of the Companies Act, 2013 ("Scheme") of Everest Building Solutions Limited (a wholly owned subsidiary company) with Everest Industries Limited. We are pleased to inform you that the National Company Law Tribunal, Mumbai Bench ("NCLT"), vide its order dated January 29, 2021, has sanctioned the said Scheme. The said order has been uploaded on the website of the NCLT today i.e. March 9, 2021.

Copy of the said order is enclosed herewith.

This is for your information and records.

Thanking You

Yours faithfully,
For EVEREST INDUSTRIES LIMITED



NEERAJ KOHLI
COMPANY SECRETARY & HEAD - LEGAL

Encl: As above

Through Videoconference

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT – I

C.P. (C.A.A.) 797/MB/2020
connected with
C.A. (C.A.A.) 3092/MB/2019

In the matter of

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

And

In the matter of

Scheme of Merger of Everest Building Solutions Limited (“Transferor Company”) and Everest Industries Limited (“Transferee Company”) and their respective shareholders and Creditors.

EVEREST BUILDING SOLUTIONS LIMITED

Having its Registered Office situated at
Gat No.152, Lakhmapur Taluka Dindori,
Nashik – 422 202

CIN: U45201MH2007PLC171720

... *Petitioner Company No.1*

EVEREST INDUSTRIES LIMITED

Having its registered office situated at
GAT 152, Lakhampur, Taluka Dindori,
Nashik – 422 202

CIN: L74999MH1934PLC002093

... *Petitioner Company No.2*

Order dated: 29th January, 2021

CORAM:

Hon'ble Janab Mohammed Ajmal, Member (Judicial)

Hon'ble Shri V. Nallasenapathy, Member (Technical)

Appearance:

For the Petitioner(s): Mr. Sushil Aggarwal, Advocate i/b S.A. & Associates, Advocates and Solicitors

For Regional Director: Ms. Rupa Sutar, Deputy Director, Office of the Regional Director, MCA (WR), Mumbai

Per: Janab Mohammed Ajmal, Member (Judicial)

ORDER

1. The sanction of this Tribunal is sought under Sections 230 to 232 and other applicable provisions of the Companies Act, 2013 (the Act) and the Rules framed thereunder for the Scheme of Merger (the Scheme) of Everest Building Solutions Limited with Everest Industries Limited and their respective shareholders and creditors.
2. We have heard the learned Counsel for the Petitioner Companies and the Deputy Director, WR, MCA. No objector has come before the Tribunal to oppose the Scheme and nor has any party controverted any averments made in the Petition to the Scheme.
3. The Board of Directors of the Petitioner Companies have approved the Scheme in their Board meetings held on 1st May, 2019.

4. The learned counsel for the Petitioner Companies submits that this tribunal by order dated 15.12.2020 allowed CA No. 1331 of 2020 and permitted amendment to the Scheme fixing the Appointed Date as 1st April, 2020 instead of 1st April, 2019.
5. The learned counsel for the Petitioner Companies submitted that the Petitioner Company No.1 is primarily engaged in the business of manufacturing and construction and the Petitioner Company No.2 is engaged in the business of manufacturing asbestos and other products.
6. The learned counsel for the Petitioner Companies submits that Everest Building Solutions Limited is a wholly owned subsidiary of Everest Industries Limited. The Merger of the Transferor Company with the Transferee Company would result in the following benefits:
 - *Achieving Business and administrative synergies;*
 - *Consolidation and Simplification of the group structure, costs, savings resulting from rationalization, standardization and simplification of business processes.*
 - *Improved organizational capability arising from pooling of financial resources.*
 - *Avoiding un-necessary duplication of costs of administration, distribution, selling and marketing and reduction in legal and regulatory compliances;*
 - *Maximize the overall shareholders value by strengthening its core competencies.*

7. The Company Petition is filed in consonance with sections 230 to 232 of the Act along with the Order dated 13th December, 2019 passed in C.A. (C.A.A.) 3092/MB/2019 by this Tribunal.
8. The learned counsel for the Petitioner Companies further states that the Petitioner Companies have complied with all requirements as per directions of the Tribunal and they have filed necessary affidavits of compliance with the Tribunal. Moreover, the Petitioner Companies undertake to comply with all statutory/regulatory requirements, if any, as required under the Act and the Rules made thereunder. The undertaking given by the Petitioner Companies is accepted.
9. The Regional Director (Western Region), Ministry of Corporate Affairs, Mumbai, has filed its report dated 10th November, 2020 *inter alia* stating therein the observations on the Scheme as stated in paragraph IV (a) to (e) of the report. In response to the observations made by the Regional Director, the Petitioner Companies have given necessary clarifications and undertakings. The observations made by the Regional Director and the clarifications and undertakings given by the Petitioner Companies are summarized in the table below :

Sr. No. Para (IV)	RD Report/Observations dated 10 th November, 2020	Response of the Petitioner Companies.
(a)	<i>In compliance of AS-14 (IND AS-103), the Petitioner Companies shall pass such accounting entries which are necessary in connection with the scheme</i>	As far as observations made in paragraph IV (a) of the Report of Regional Director is concerned, the Petitioner Companies undertakes that

	<p><i>to comply with other applicable Accounting Standards such as AS-5(IND AS-8) etc;</i></p>	<p>they shall pass necessary accounting entries in connection with the Scheme as per AS -14 (IND AS-103) as well as comply with other applicable Accounting Standards to the extent applicable.</p>
(b)	<p><i>As per Definition of the Scheme,</i></p> <p><i>"Appointed Date" means the 1st day of April 2019 being the date from which this scheme of Merger shall be deemed to be effective.</i></p> <p><i>"Effective Date" means the date on which authenticated/ certified copy of the order of NCLT sanctioning the scheme of Merger under Section 230 to 232 of the act is filed with Registrar of Companies having Jurisdiction over the state of Maharashtra.</i></p> <p><i>Any references in this Scheme to the date of "the Scheme becoming effective" or "effectiveness of the Scheme" shall mean the Effective Date.</i></p> <p><i>Further, the Petitioners may be asked to comply with the requirements as clarified vide circular no. F. No. 7/12/2019/CL-I dated 21.08.2019 issued by the Ministry of Corporate Affairs.</i></p>	<p>As far as observations made in paragraph IV (b) of the Report of Regional Director is concerned, the Petitioner Companies submit that the Appointed Date mentioned in the Scheme is 1st Day of April, 2019. However, a Miscellaneous Application being CA 1331/2020 has been filed to amend the appointed date from 1st April 2019 to 1st April 2020. In this regard, it is submitted that the Hon'ble National Company Law Tribunal, Mumbai Bench, vide its order dated 15.12.2020, has allowed the aforesaid CA 1331/2020 and allowed the Petitioner Companies to amend the Appointed date from 1st April, 2019 to 1st April, 2020. Therefore, now the Scheme shall take effect from the Appointed Date i.e., 1st day of April, 2020 in terms of provisions of Section 232(6) of the Companies Act, 2013. Further, the Petitioner Companies undertake that they will comply with the provisions and requirements clarified vide circular no. F. No 7/12/2019/CL-I dated 21-08-2019 issued by the Ministry of Corporate Affairs, if required.</p>

(c)	<i>Petitioner Company have to undertake to comply with Section 232(3)(i) of the Companies Act, 2013 where the transferor Company is dissolved, the fee, if any, paid by the transferor Company on its authorized capital shall be set off against any fees payable by the transferee Company on its authorized share capital subsequent to the amalgamation and therefore, Petitioners to affirm that they comply the provisions of the section.</i>	As far as observations made in paragraph IV (c) of the Report of Regional Director is concerned, the Transferee Company undertakes to comply with all applicable provisions of section 232(3)(i) of the Companies Act, 2013.
(d)	<i>Miscellaneous Application No. 1331 of 2020 in Company Scheme Petition No. 797 of 2020 filed by the Petitioner Company inter-alia prayed for the amendment in Appointed Date from 01.04.2019 to 01.04.2020 which has not yet decided by the Hon'ble Tribunal.</i>	As far as observations made in paragraph IV (d) of the Report of Regional Director is concerned, the Petitioner Companies state that the Hon'ble National Company Law Tribunal, Mumbai Bench has disposed of the CA 1331/2020 filed in CP. (CAA)/797/2020 and allowed change in Appointed date from 01.04.2019 to 01.04.2020 in the Scheme.
(e)	<i>ROC, Mumbai report dated 20.05.2020 has inter alia mentioned that there are no prosecution, no technical scrutiny, no inquiry, no inspection, no complaint are pending, further mentioned observation that Petitioner Companies has not filed form GNL-1 with o/o ROC, Mumbai and Interest of Creditors shall be credited. In this Regard, Petitioner Companies has to undertake to file the form GNL-1 with o/o ROC, Mumbai and submit the acknowledgment of the same with the Tribunal endorsing copy to this</i>	As far as observations made in paragraph IV (e) of the Report of Regional Director is concerned, the Petitioner Companies submit that the Petitioner Companies have filed the form GNL-1 with all attachments with ROC on 18.03.2020. The Petitioner Companies further undertakes to protect the interest of the creditors.

<i>Directorate's and o/o ROC, Mumbai And give detailed clarification regarding how the interest of the Creditor will be protected by the Petitioner Companies.</i>	
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10. The observations made by the Regional Director and the clarifications and undertakings given by the Petitioner Companies have been verified and accepted.
11. The Official Liquidator has filed his report on 30th September, 2020 *inter alia*, stating therein that the affairs of the Transferor Company have been conducted in a proper manner not prejudicial to the interest of the Shareholders of the Transferor Company.
12. From the material on record, the Scheme appears to be fair and reasonable and does not violate any provisions of law and is not contrary to public policy.
13. Since all the requisite statutory compliances have been fulfilled, C.P. (CAA) 797/MB/2020 is made absolute in terms of prayer made in the Petition. Hence ordered.

ORDER

The Petition be and the same is allowed subject to the following:

- i. The Scheme, with the Appointed Date fixed as 1st April, 2020 placed at Page Nos.26 to 53 (Annexure – A1) of the Company Petition is hereby sanctioned. It shall be binding on the Petitioner

Companies and their respective Shareholders, Secured Creditors, Unsecured Creditors/Trade Creditors and Employees.

- ii. The Transferor Company be dissolved without being wound up.
- iii. The Registrar of this Tribunal shall issue the certified copy of this Order along with the Scheme forthwith. The Petitioner Companies are directed to file a copy of this Order along with a copy of the Scheme with the Registrar of Companies concerned, electronically in e-Form INC-28 within 30 days from the date of receipt of order from the Registry.
- iv. The Petitioner Companies shall lodge a copy of this Order and the Scheme duly authenticated by the Registrar of this Tribunal within 60 days from the date of receipt of the Order, with the Superintendent of Stamps concerned, for the purpose of adjudication of stamp duty, if any, payable.
- v. The Petitioner Companies will comply with the undertakings given by them.
- vi. The Petitioner Companies shall, within 15 days of receipt of this Order, issue newspaper publications with respect to approval of the Scheme, in the same newspapers in which previous publications were issued.
- vii. The Petitioner Companies shall take all consequential and statutory steps required under the provisions of the Act in pursuance of the scheme.

- viii. All concerned shall act on a copy of this Order along with the Scheme duly authenticated by the Registrar of this Tribunal.
- ix. Any person interested in the above matter shall be at liberty to apply to the Tribunal for any direction that may be necessary.

Sd/-

V. Nallasenapathy
Member (Technical)

Sd/-

Janab Mohammed Ajmal
Member (Judicial)

Jenny D'Souza – Steno