

**NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD  
Court 2**

**CA(CAA) 76/NCLT/AHM/2020**

**Coram: HON'BLE Ms. MANORAMA KUMARI, MEMBER JUDICIAL  
HON'BLE Mr. CHOCKALINGAM THIRUNAVUKKARASU, MEMBER TECHNICAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH  
OF THE NATIONAL COMPANY LAW TRIBUNAL ON 08.12.2020**

Name of the Company: Parsec Enterprise Pvt Ltd  
Saurashtra Cement Ltd

Section 230-232 of the Companies Act, 2013

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
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1.

2.

**ORDER**

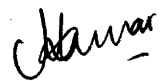
(Through Video Conferencing)

Advocate, Ms. Dharmishtha Raval is present on behalf of the petitioner.

The order is pronounced in the open court, vide separate sheet.



**CHOCKALINGAM THIRUNAVUKKARASU  
MEMBER (TECHNICAL)**



**MANORAMA KUMARI  
MEMBER (JUDICIAL)**

Dated this the 8<sup>th</sup> day of December, 2020.

**NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH**

**COMPANY APPLICATION (CAA.) NO. 76 OF 2020**

**In the matter of:**

**Parsec Enterprises Private Limited**

(CIN:U51900GJ2014PTC108162),

a company incorporated under the Companies Act, 1956 and having its registered office at B-402, Pelican House, Gujarat Chamber of Commerce Compound, Ashram Road, Gujarat

**... Applicant Transferor Company**

**Saurashtra Cement Limited**

(CIN: L26941GJ1956PLC000840),

a company incorporated under the Companies Act, 1956 and having its registered office Near Railway Station, Ranavav 360 560, Tal: Ranavav. Dist: Porbandar Gujarat

**... Applicant Transferee Company**

**Order delivered on 8<sup>th</sup> December 2020**

**Coram: Hon'ble Ms. Manorama Kumari, Member (J)**

**Hon'ble Mr. Chockolingam Thirunavukkarasu, Member (T)**

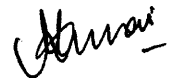
**Appearance:** Ms. Dharmishta N. Raval, along with Mrs. Kalpana K Raval are present for the Applicant Companies.

**ORDER**

**[Per: Hon'ble Ms. Manorama Kumari (Judicial)]**

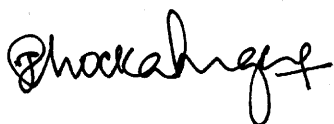
1. The instant application is filed by Parsec Enterprises Private Limited and Saurashtra Cement Limited (hereinafter jointly referred to as the





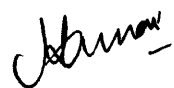
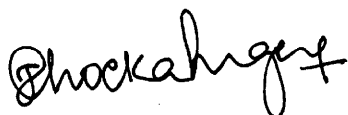
Applicant Companies) have preferred this application under sections 230-232 of the Companies Act, 2013 (hereinafter referred to as 'the Act') read with Companies (Compromise, Arrangement and Amalgamations) Rules, 2016 (hereinafter referred to as 'the rules'). By this application, the Applicant Transferor Company is seeking dispensation of the meeting of the Equity Shareholders, Secured Creditors and Unsecured Creditors, and Applicant Transferee Company is seeking dispensation of Secured Creditors and appropriate directions for holding and convening of meeting of Equity Shareholders and Unsecured Creditors in respect of the Scheme of Amalgamation of Parsec Enterprises Private Limited ("The Transferor Company") with Saurashtra Cement Limited ("The Transferee Company") and their respective Shareholders and Creditors ('the Scheme'), with effect from the Appointed Date on the agreed terms and conditions as set out in the Scheme annexed at ANNEXURE – F, in accordance with Sections 230 to 232 of the Companies Act, 2013 and other applicable provisions of the Act.

2. It is submitted that the rational is to amalgamate the Applicant Transferor Company into the Applicant Transferee Company by this Scheme, as a result of which the shareholders of the Transferor Company viz. the promoter group of the Transferor Company (who are also part of the promoter group of the Transferee Company) shall directly hold shares in the Transferee Company and the following benefits shall, inter alia, accrue to the Companies:
- To reduce the overlaps and administration and the managerial cost.
  - The amalgamation will result in the promoter group of the Transferor Company directly holding shares in the Transferee Company, which will lead to simplification of the shareholding structure and reduction of shareholding tiers of the Transferee Company.
  - The promoter group of the Transferee Company is desirous of streamlining its holding in the Transferee Company. As a step



towards such rationalization, it is proposed to merge the Transferor Company into the Transferee Company.

- The promoters would continue to hold the same percentage of shares in the Transferee Company, pre- and post-the amalgamation. There would also be no change in the financial position of the Transferee Company. All cost, charges and expenses relating to the Scheme would be borne out of the assets (other than shares of the Transferee Company) of the Transferor Company. Any expense, exceeding the assets of the Transferor Company would be borne by the shareholders of the Transferor Company directly.
  - Further, the Scheme also provides that the shareholders of the Transferor Company shall indemnify the Transferee Company and keep the Transferee Company indemnified for liability, claim, demand, if any, and which may devolve on the Transferee Company on account of this amalgamation.
3. The Board of Directors of both the Applicant Companies in their respective Board meeting held on 18th May 2020 passed a resolution approving the proposed Scheme as placed before the Board. Copies of the Board Resolutions are annexed with the application as **Annexure E (Colly.)**. The Applicant Companies have filed their audited balance sheet as on 31st March 2020 and same are annexed with the application. The Applicant Companies have also filed their Unaudited Financial Statement as on 30th June 2020 and same are annexed with the application. The Applicant Companies have also annexed certificate issued by their respective Statutory Auditors as **Annexure – G** certifying compliance with Section 133 of the Companies Act, 2013.
4. The Applicant Companies have submitted that there are no investigation or proceedings against the Applicant Companies under Section 210 to 226 of the Companies Act, 2013 are pending.



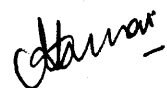
5. It is further submitted by the applicant companies that the provisions of the Competition Act, 2002 are not applicable in the present case. Hence, no notice is required to be served to the Competition Commission of India.
6. It is further submitted that the Transferee Company is a manufacturing Company and 100% FDI is allowed under automatic route in all manufacturing companies as per the Consolidated Policy on FDI of the Government of India and no approval under the FEMA is required. Further there will be no in-flow or out-flow of capital on approval of Scheme of Amalgamation. Hence no notice is required to be issued to the RBI.
7. The Applicant Transferor Company has stated that there are 3 Equity Shareholders in the Applicant Transferor Company. The list of Equity Shareholders as certified by the Chartered Accountant is produced at **Annexure J** with the Application. The Applicant Transferor Company has filed original consent affidavits of all the Equity Shareholders vide **Annexure K (Colly)** with the Application.
8. The Applicant Transferor Company has stated that there are no Secured and Unsecured Creditors in the Applicant Transferor Company. The Chartered Accountant Certificate certifying the number of Secured and Unsecured Creditors is produced at **Annexure L** with the Application.
9. The Applicant Transferee Company has stated that there are **12,162** Equity Shareholders in the Applicant Transferee Company as on 30th September 2020. The list of Equity Shareholders as certified by the Chartered Accountant is produced at **Annexure M** with the Application. The Applicant Transferee Company is seeking appropriate directions for holding and convening meeting of the Equity Shareholders of the Applicant Transferee Company.





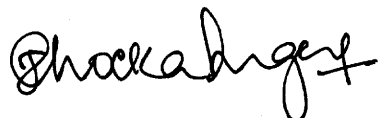
10. The Applicant Transferee Company has stated that there are 4 Secured Creditors in the Applicant Transferee Company. The Chartered Accountant Certificate certifying the number of Secured Creditors is produced at **Annexure O** with the Application. The Applicant Transferee Company has filed original consent Affidavits of 2 Secured Creditors representing **93.18%** of the total outstanding debt.
11. The Applicant Transferee Company has stated that as on 30th September 2020 there are **2,588** Unsecured Creditors amounting to **Rs. 58,22,35,278/-** in the Applicant Transferee Company. The list of Unsecured Creditors as certified by the Chartered Accountant is produced at **Annexure Q** with the Application. The Applicant Transferee Company is seeking appropriate directions for holding and convening meeting of the Unsecured Creditors of the Applicant Transferee Company.
12. Having heard the Learned Advocate Ms. Dharmishta Raval for the Applicant Companies and also perused the application, documents annexed therein. This Tribunal passes the following orders:
- i. The meeting of Equity Shareholders of the Applicant Transferor Company is dispensed with in view of filing of the consent by way of an affidavit.
  - ii. There are no Secured and Unsecured Creditors of Applicant Transferor Company hence holding of meeting and/or dispensation does not arise at all.
  - iii. The meeting of the Equity Shareholders of the Applicant Transferee Company as on 30th November 2020 shall be convened and held on the 5th day of February 2021 at 11:30 A.M. in case of a physical meeting at the Registered Office of the Company at Ranavav-Gujarat for the purpose of considering






and, if thought fit, approving with or without modifications the proposed Scheme.

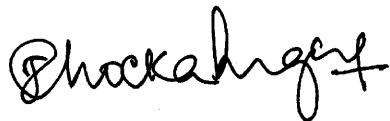
- iv. The meeting of the Secured Creditors of the Applicant Transferee Company is dispensed with in view of filing of consent by way of an affidavit.
- v. The meeting of the Unsecured Creditors of the Applicant Transferee Company as per the list of the unsecured creditors on the 30th November shall be convened and held on the 5th day of February 2021 at 3 :30 P.M. in case of a physical meeting at the Registered Office of the Transferee Company at Ranavav – Gujarat for the purpose of considering and, if thought fit, approving with or without modifications the proposed Scheme.
- vi. The Applicant Transferee Company being a listed public limited company, is governed by the SEBI circular no. CFD/DIL3/CIR/2017/21 dated March 10, 2017 and is required to provide the facility of e-voting to its shareholders.
- vii. In view of the recent circulars of Ministry of Corporate Affairs; viz. Circular No. 14 of 2020 dated 8th April 2020, Circular No. 17 of 2020 dated 13th April 2020 and Circular No. 20 of 2020 dated 5th May 2020, the meetings of Equity Shareholders and Unsecured creditors of the Applicant Transferee Company shall be convened and conducted through video conferencing or other Audio Visual Means or other means as may be permitted under law . The Applicant Transferee Company shall appoint agencies as mandated by law.
- viii. At least one month before by 5th of January 2021 i.e. the date of the aforesaid meeting, an advertisement about convening of the said meeting, indicating the day, date, place and time, as





aforesaid, shall be published in Business Standard English daily, Mumbai and Ahmedabad, Edition and a Gujarati translation thereof in Jai Hind Rajkot Edition. The publication shall indicate the time within which copies of scheme shall be made available to the concerned persons free of charge from the registered office of the Applicant Transferee Company. The publication shall also indicate that the statement required to be furnished pursuant to Section 102 of the Act read with Sections 230 to 232 of the Act and the prescribed form of proxy can be obtained free of charge at the registered office of the Applicant Transferee Company in accordance with second proviso to sub-section (3) of Section 230 and Rule 7 of the Companies (CAA) Rules, 2016.

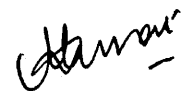
- ix. In addition, at least one month before the date of the meeting of the Equity Shareholders and Unsecured Creditors to be held as aforesaid, a notice convening the said meeting, indicating the day, date, place and time, as aforesaid, together with a copy of the scheme, a copy of statement required to be furnished pursuant to Section 102 of the Act read with Sections 230 to 232 and Rule 6 of the Companies (CAA) Rules, shall be sent to each of the Equity Shareholders and Unsecured Creditors of the Applicant Transferee Company at their respective registered or last known addresses either by Registered post or Speed Post/Airmail or E-Mail or by Courier or by Hand Delivery. The Notices shall be sent to the Equity Shareholders and Unsecured Creditors of the Applicant Transferee Company with reference to the list of the persons appearing on the record of the Applicant Transferee Company as on 30th November 2020 .However, the shareholders who are members on the record date fixed by the company will only be entitled to vote at the equity shareholders meeting.



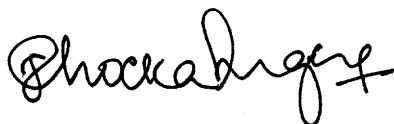


- x. Shri Ravi Kapoor and, in his absence Mr. Trupal Kumar Patel, and in his absence Shri Niren Morlidhar Nagri shall be the Chairman/Chairperson of the aforesaid meetings of the equity shareholders and unsecured creditors to be held on 5th February 2021 and in respect of any adjournment thereof.
- xi. Mr. Sachin Ahuja of M/s Sachin Ahuja & Associates, and in his absence , Ms. Ragini Chokshi of M/s Ragini Chokshi & Co is appointed as the Scrutinizer for the aforesaid meetings of the equity shareholders and unsecured creditors of the Applicant Transferee Company.
- xii. The Chairman or Chairperson appointed for the aforesaid meetings shall issue the advertisements and send out the notices of the meeting referred to above. The Chairman/Chairperson is free to avail the services of the Applicant Transferee Company or any agency for carrying out the aforesaid directions.
- xiii. The Chairman or Chairperson shall have all powers under the Articles of Association of the Applicant Transferee Company and also under the Rules in relation to the conduct of meetings, including for deciding any procedural questions that may arise at the meetings or adjournment(s) to the aforesaid scheme or resolution, if any, proposed at the aforesaid meeting by any person(s) and to ascertain the decision of the sense of the meeting of the Unsecured Creditors by polling paper/ballot.
- xiv. It is however clarified that in view of para A (x) of the MCA Circular No. 14/2020 dated 8th April 2020, that in case of meeting through video conference or other audio visual means, the voting through Proxy shall not be permitted. However, voting through Authorized Representative is permitted.





- xv. The quorum for the meeting of the Equity Shareholders and Unsecured Creditors shall be 30. Further if the quorum is not present within half-an hour from the time appointed for holding a meeting of the Applicant Transferee Company present shall be the quorum.
- xvi. The value of the Unsecured Creditors, as the case may be, shall be in accordance with the records or registers of the Applicant-company as on 30th of November 2020 and where the entries in the records or registers are disputed, the Chairman of the meeting shall determine the number or value, as the case may be for purposes of the meeting.
- xvii. The Chairman/Chairperson to file an affidavit of not less than 7(seven) days before the date fixed for the holding of the meetings and to report to this Tribunal that the directions regarding issuance of notices and advertisement of the meeting has been duly complied with as per Rule 12 of the Companies (CAA) Rules, 2016.
- xviii. It is further ordered that the Chairman or the Chairperson shall report to this Tribunal on the result of the meeting in Form No.CAA.4, verified by his affidavit, as per Rule 14 of the Companies (CAA) Rules, 2016 in from No. CAA.4 within seven days.
- 13.** In compliance of sub-section (5) of Section 230 and Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, the Applicant Companies shall send a notice in Form No.CAA.3 along with disclosures mentioned under Rule 6, to (i) the Central Government through the Regional Director, North Western Region, (ii) the Registrar of Companies, Gujarat, (iii) the Income Tax authorities concerned and (iv) Official Liquidator, 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. The said notices shall be sent forthwith by registered post or by speed post or by courier or by hand delivery or by an email at the office of the authority as required by sub-rule (2) of Rule 8 of the Companies (CAA) Rules, 2016. The aforesaid authorities, who desire to make any representation under sub-section (5) of Section 230, shall send the same to the Tribunal within a period of 30 days from the date of receipt of such notice, failing which it will be deemed that they have no representation to make on the proposed arrangement.

14. This Company Application is allowed and disposed of accordingly.



Mr. CHOKALINGAM  
THIRUNAVUKKARASU  
MEMBER (TECHNICAL)



Ms. MANORAMA KUMARI  
MEMBER (JUDICIAL)