



**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH - COURT III**

**CP (CAA)/315/MB/C-III/ 2023  
CONNECTED WITH  
CA (CAA)/240/ MB/ C-III/ 2023**

In the matter of the Companies Act,  
2013

And

In the matter of Section 230 to 232 and  
other applicable provisions of the  
Companies Act, 2013 read with  
Companies (Compromises,  
Arrangements and Amalgamation)  
Rules, 2016

And

In the matter of **Scheme of  
Amalgamation** of SPRINGWAY MINING  
PRIVATE LIMITED ('SMPL' or 'the  
Transferor Company 1') and NKJA  
MINING PRIVATE LIMITED ('NMPL' or  
'the Transferor Company 2') with JSW  
CEMENT LIMITED ('JCL' or 'the  
Transferee Company') and their  
respective Shareholders ('the Scheme'  
or 'this Scheme')

**SPRINGWAY MINING PRIVATE LIMITED,**

a Company incorporated under the  
Companies Act, 1956 and having registered  
office at McLeod House, 1st Floor 3, Netaji  
Subhas Road, Kolkata - 700001  
CIN: U10100WB2010PTC152849

...Transferor Company 1 /  
SMPL (Non- Petitioner Company)

**NKJA MINING PRIVATE LIMITED,**

a Company incorporated under the  
Companies Act, 1956 and having its  
Registered office at JSW Centre, Bandra  
Kurla Complex, Bandra (East) Mumbai -  
400051  
CIN: U10100MH2012PTC411293

... Transferor Company 2/  
First Petitioner Company/  
NMPL



THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH – COURT III

CP (CAA)/315/MB/C-III/ 2023

CONNECTED WITH

CA (CAA)/240/ MB/ C-III/ 2023



**JSW CEMENT LIMITED,**

a Company incorporated under the Companies Act, 1956 and having its Registered office at JSW Centre, Bandra Kurla Complex, Bandra (East) Mumbai – 400051

CIN: U26957MH2006PLC160839

... Transferee Company/Second  
Petitioner Company/JSW

*(Hereinafter Transferor Company 2 and Transferee Company are collectively referred to as the 'Petitioner Companies')*

**Order pronounced on 06.05.2024**

**Coram:**

Hon'ble Ms. Lakshmi Gurung

: Member (Judicial)

Hon'ble Shri Charanjeet Singh Gulati

: Member (Technical)

**Appearances:**

For the Petitioners

: Mr. Hemant Sethi, Ms. Devanshi Sethi  
i/b M/s. Hemant Sethi & Co.

For the Regional  
Director (WR)

: Mr. Bhagawati Prasad, Authorised Representative  
of Regional Director

**Per: Ms. Lakshmi Gurung, Member (Judicial)**

**ORDER**

1. Heard Ld. Counsel for the Petitioner Companies.
2. The sanction of this Tribunal is sought under Sections 230 to 232 and other applicable provisions of the Companies Act, 2013 to the Scheme of Amalgamation of Springway Mining Private Limited and NKJA Mining Private Limited with JSW Cement Limited and their respective Shareholders.







3. At the outset, it was noted that the registered office of the Transferor Company 1 is situated in the State of Kolkata and in not under jurisdiction of National Company Law Tribunal, Mumbai Bench.
4. The registered offices of the Transferor Company 2 and Transferee Company are situated in the State of Maharashtra and hence they are under the jurisdiction of the National Company Law Tribunal (NCLT), Mumbai Bench.
5. It is submitted that the Transferor Company 1 has filed a separate petition before the Hon'ble NCLT Kolkata Bench being CP (CAA) No. 1 (KB) / 2024 in CA (CAA) /196 (KB) /2023 seeking sanction for the Scheme. Further, submitted that the NCLT Kolkata Bench has sanctioned the Scheme vide order dated 12.03.2024.
6. It is further submitted that the Board of Directors of the Transferor Company 2 have approved the Scheme in their respective meetings held on 02.08.2023 and the Board of Directors of the Transferee Company approved the Scheme in their meeting held on 01.08.2023. Thereafter, the Board of Directors of Transferor Companies and Statutory Auditors of the Transferee Company have approved the modified Scheme of Amalgamation on 04.10.2023.
7. This bench sought clarification regarding the modification in scheme. Pursuant thereto it was submitted that, the Transferee Company vide its board resolution on 01.08.2023 approved the Scheme of Amalgamation. However, the accounting treatment for the Scheme was subject to confirmation from the Statutory Auditors of the Transferee Company at the time of approval of the Scheme by the Board of Directors of the Transferee Company on 01.08.2023. Also, the Transferor Companies vide their







respective board resolutions passed on 02.08.2023 passed the following resolution :

*“RESOLVED FURTHER THAT the Board of Directors of the Company be and are hereby authorized for making modifications, amendments, revisions, edits and all the other actions as may be required to finalize the Scheme pursuant to the certificate to be issued by the Statutory Auditors of the Transferee Company i.e., Deloitte Haskins & Sells LLP, Chartered Accountants, on the accounting treatment prescribed in the draft Scheme.”*

8. It is submitted that, based on the discussions with and recommendation of the Statutory Auditors, modification to the accounting treatment clause of the Scheme was made and approved by the Finance Committee of the Board of the Transferee Company, the Board of Directors of the Transferor Companies in their meetings held on 04.10.2023. The Statutory Auditors of the Transferee Company issued a certificate on 05.10.2023 certifying the accounting treatment specified in the Scheme is in conformity with the accounting standards prescribed under Section 133 of the Companies Act, 2013. The modified accounting treatment in the Scheme approved on 04.10.2023 is explained as below:

8.1. Upon this Scheme becoming effective, the Transferee Company shall give effect to the accounting treatment in the books of account in accordance with the accounting standards specified under Section 133 of the Act read with the Companies (Indian Accounting Standards) Rule, 2015 or any other relevant or related requirement under the Act to reflect the substance of the transaction.

8.2. The Transferee Company shall record all the assets and liabilities by allocating the purchase consideration to assets and liabilities existing as on the date of acquisition in proportion to their respective fair value as of that date. Accordingly, no goodwill or capital reserve will arise consequent to acquisition.







8.3. Inter-company balances (including investments held by the Transferee Company directly or indirectly in the Transferor Companies) between the Transferee Company and the Transferor Companies, if any, appearing in the books of the Transferee Company shall stand cancelled/eliminated.

8.4. Any change in the statement in financial position and increase/decrease in the net profit or loss of the Transferor Companies from the acquisition date till the date the Scheme become effective shall be recorded and presented in the books of the Transferee Company in the same manner as would be recorded and presented in the consolidated financial statements of the Transferee Company prepared in accordance with the accounting standards prescribed in accordance with the Companies Act, 2013

9. The Appointed Date fixed under the Scheme is **10<sup>th</sup> October 2022**. Upon query it was submitted that the acquisition of both Transferor Companies were completed on 10.10.2022.

**10. Nature of Business:**

10.1. The main object of the Transferor Company 1 is mining of limestone and provide integrated cement manufacturing facilities.

10.2. The Transferor Company 2 is set up as an investment holding company.

10.3. The Transferee Company is engaged in the business of manufacture and sale of cement, ground granulated blast furnace slag and clinker and trading of allied products, etc.





**The Rationale of the Scheme**

11. Ld. Counsel for the Petitioner Companies submits rationale mentioned in the Scheme is as under:

The amalgamation of the Transferor Company 1 and the Transferor Company 2 with the Transferee Company would have the following benefits:

- *There are several commonalities and synergistic linkages; as such the amalgamation will result in efficiency of management and maximization of value for the all stakeholders;*
- *Greater ability to access and raise funds for carrying on its business and completing projects and carrying on the operations on more favorable terms;*
- *Pooling of the financial, managerial and technical resources, personnel, capabilities, skills, expertise and technologies, leading to optimum use of infrastructure, cost reduction and efficiencies, productivity gains, logistic advantages, reduction of administrative and operational costs, thereby significantly contributing to the future growth.*
- *Greater potential to the combined entity to develop and further grow and diversify with better optimization of funds and efficient utilization of resources;*
- *Ensuring a streamlined group structure by reducing the number of legal entities in the group and reducing the multiplicity of legal and regulatory compliances required at present; and*
- *Administrative and operational convenience*

12. It is submitted that the Petition has been filed in consonance with sections 230 to 232 of the Companies Act, 2013 along with the order dated 25.10.2023 passed by this Tribunal in CA(CAA)/240/MB/2023.

13. Vide order dated 25.10.2023 convening of all meetings of Transferor Company 2 was dispensed with on account of consent affidavits of 100% equity Shareholders and 97.80% of Unsecured Creditors. There are no







Preference Shareholders and no Secured Creditors in Transferor Company 2.

14. The meetings of the shareholders and creditors of the Transferee Company were also dispensed with as the Transferor Company 2 is wholly owned subsidiary of the Transferee Company, relying on the judgment of **Mahaamba Investments Limited v/s. IDI Limited (2001) SCC Online Bom 1174** and other judgments and the Networth Certificate as on 31.03.2023.
15. Learned Counsel has stated that the Petitioner Companies have complied with all requirements as per directions of this Tribunal and have made requisite filings to demonstrate compliance. Moreover, the Petitioner Companies would undertake to comply with all the statutory requirements, if and to the extent applicable, as may be required under the Companies Act, 2013 and the rules made thereunder. The said undertaking is accepted.
16. The Regional Director (Western Region) has filed his report dated 29.01.2024 (hereinafter referred to as 'RD Report') inter-alia giving observations in paragraphs 2 (a) to (k). In response to such observations, the Petitioner Companies have given clarifications and undertakings vide their rejoinder affidavit. 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.	Regional Director Report/ Observations Dated 29.01.2024	Response of the Petitioner Companies vide affidavit dated 05 <sup>th</sup> February, 2024
Para (2) (a)	On examination of the report of the Registrar of Companies, Mumbai dated 26.12.2023 for Petitioner Transferor	As far as the observation of the Regional Director, as stated in 2(a) of the Report and the report of the







Company No. 2 (NKJA Mining Private Limited) and Petitioner Transferee Company (JSW Cement Limited) falls within the jurisdiction of ROC, Mumbai (Copy enclosed as Annexure -A1). It is submitted that no representation regarding the proposed scheme of Amalgamation has been received against the Petitioner Transferor Company. Further, the Petitioner Transferor Company has filed Financial Statements up to 31.03.2023.

The ROC, Mumbai has further submitted its report dated 26.12.2023 which as under:

i.No Inquiry, inspection, investigation & prosecution is pending against the petitioner companies.

ii.Notices should be served to the secured and unsecured creditors of the Transferee Company.

iii.26(Twenty-six) "Open" charges are there on the transferee company (list annexed).

iv. As per the provisions of 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

Registrar of Companies dated 26.12.2023 is concerned, it is stated that:

i.The Petitioner Company has no further comments to offer.

ii.The Tribunal vide its order dated 25.10.2023 in CA(CAA)/240/MB/2023

dispensed with the convening of the meeting of the creditors of the Transferee Company. Further vide the said order, the Tribunal directed the Transferee Company to serve notices only upon the regulatory authorities. The Transferee Company complied with the directions mentioned in the said order and filed an affidavit of service with the Tribunal on 20.12.2023 proving service of notices upon the regulatory authorities.

iii.The open charges pertain to borrowings of the Transferee Company during the ordinary course of business. Further, the Transferee Company will remain in existence post approval of the Scheme and the rights of the







	<p>its authorized capital subsequent to the amalgamation. Therefore, remaining fee, if any after setting-off the fees already paid by the Transferor Company on its authorized capital has to be paid by the Transferee Company on the increased authorized capital subsequent to the amalgamation</p> <p>v. Interest of creditors should be protected.</p> <p>vi. May be decided on merits.</p>	<p>pledgee will not be jeopardized pursuant to the Scheme. The Transferee Company undertakes that it would be paid off as per contractual arrangements in the ordinary course of business. Hence the rights of the pledgees will not be jeopardized pursuant to the Scheme.</p> <p>iv. The Scheme does not provide for combination of the Authorised share capital of the Transferor Company 1 and the Transferor Company 2 upon the Scheme becoming effective. Accordingly, the question of the Transferee Company paying the difference of fees and stamp duty does not arise.</p> <p>v. The Transferor Company 2 and the Transferee Company hereby undertake to protect the interest of the creditors, to the extent of dues payable as per the contractual arrangements with them in the ordinary course of business. Furthermore, the rights of creditors of the Transferee Company, the Transferor</p>
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THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH – COURT III

CP (CAA)/315/MB/C-III/ 2023

CONNECTED WITH

CA (CAA)/240/ MB/ C-III/ 2023



		<p>Company 1 and the Transferor Company 2 will not be affected as there is no compromise or arrangement with the creditors of the Transferee Company, Transferor Company 1 and the Transferor Company 2 pursuant to the Scheme. Further, the assets of the Transferee Company, post the Scheme, will be more than its liabilities and as such sufficient to discharge the liabilities in the normal course of business.</p> <p>vi. The Transferee Company has no further comments to offer.</p>
(b)	Transferee company should undertake to comply with the provisions of section 232(3)(i) of the Companies Act, 2013 through appropriate affirmation in respect of fees payable by Transferee Company for increase of share capital on account of merger of transfer of companies.	<p>As far as the observation of the Regional Director, as stated in 2(b) of the Report and reproduced hereinabove is concerned, the Transferee Company states that the Scheme does not provide for combination of the Authorised share capital of the Transferor Company 1 and the Transferor Company 2 upon the Scheme becoming effective. Accordingly, the question of the Transferee Company paying the difference of fees and stamp duty does not arise.</p>





THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH – COURT III

CP (CAA)/315/MB/C-III/ 2023

CONNECTED WITH

CA (CAA)/240/ MB/ C-III/ 2023



	In compliance of Accounting Standard-14 or IND-AS 103, as may be applicable, the resultant company shall pass such accounting entries which are necessary in connection with the scheme to comply with other applicable Accounting Standards including AS-5 or IND AS-8 etc.	As far as the observation of the Regional Director, as stated in 2(c) of the Report and reproduced hereinabove is concerned, the Transferee Company undertakes that in addition to compliance with IND AS 103 for accounting treatment, the Transferee Company shall pass such accounting entries as may be necessary in connection with the Scheme to comply with other applicable accounting standards including IND AS-8, etc.
(d)	The Hon'ble Tribunal may kindly direct the Petitioner Companies to file 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.	As far as the observation of the Regional Director, as stated in 2(d) of the Report and reproduced hereinabove is concerned, the Transferee Company undertakes that the Scheme enclosed to the Company Application and the Scheme enclosed to the Company Petition are one and the same and there is no discrepancy or no change is made.
(e)	The Petitioner Companies under provisions of section 230(5) of the Companies Act 2013 have to serve notices to concerned authorities which are likely to be affected by the Amalgamation or arrangement. Further, the approval of the scheme by the	As far as the observation of the Regional Director, as stated in 2(e) of the Report and reproduced hereinabove is concerned, the Transferee Company has served notices under provisions of section 230(5) of the Companies Act, 2013







	<p>Hon'ble Tribunal may not deter such authorities to deal with any of the issues arising after giving effect to the scheme. The decision of such authorities shall be binding on the petitioner companies concerned.</p>	<p>as directed by the Hon'ble Tribunal to all the concerned regulatory authorities. Further, the Transferee Company undertakes that the approval of the proposed Scheme by the Hon'ble Tribunal may not deter such authorities to deal with any issues arising after giving effect to the Scheme in accordance with the appropriate applicable law.</p>
(f)	<p>As per Definition of the Scheme, "Appointed Date" means 10th October, 2022 or such other date as may be approved by the National Company Law Tribunal or such other Appropriate Authority; and</p> <p>"Effective Date" or "coming into effect of this Scheme" or upon the scheme being effective" or "effectiveness of the Scheme" means the last of the date or dates on which all the conditions and matters referred to in Clause 16 are fulfilled, obtained or waived off and the certified copy of the order of the National Company Law Tribunal, Mumbai Bench sanctioning this Scheme of Amalgamation is filed by the Transferor Company 2 and the Transferee Company with the Registrar of Companies, Mumbai and the certified copy of the order of the National</p>	<p>As far as the observation of the Regional Director, as stated in 2(f) of the Report and reproduced hereinabove is concerned, the Transferee Company undertakes that the Appointed Date would be 10th October, 2022 as mentioned in Clause 1 under the Definition Clause of the Scheme which is in compliance with Section 232(6) of the Companies Act, 2013 and the Scheme shall take effect from such Appointed Date.</p> <p>Further, the Transferee Company undertakes that the aforesaid Appointed Date complies with the requirements specified in the Ministry of Corporate Affairs ('MCA') Circular F.No.7/12/2019/CL -I ('Circular') dated August 21, 2019</p>





THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH – COURT III

CP (CAA)/315/MB/C-III/ 2023

CONNECTED WITH

CA (CAA)/240/ MB/ C-III/ 2023



	<p>Company Law Tribunal, Kolkata Bench sanctioning this Scheme of Amalgamation is filed by the Transferor Company 1 with the Registrar of Companies, Kolkata.</p> <p>Further the Petitioners may be asked to satisfy the Hon'ble NCLT about compliance of circular no. F.No. 7/12/2019/CL-I dated 21.08.2019 issued by the Ministry of Corporate Affairs.</p>	
(g)	<p>Petitioner Companies shall undertake to comply with the directions of the concerned sectoral Regulatory, if so required.</p>	<p>As far as the observation of the Regional Director, as stated in 2(g) of the Report and reproduced hereinabove is concerned, the Transferee Company undertakes to comply with the directions, if any, of the specific sectoral regulator.</p>
(h)	<p>Petitioner Companies shall undertake to comply with the directions of the Income Tax Department &amp; GST Authorities, if any.</p>	<p>As far as the observation of the Regional Director, as stated in 2(h) of the Report and reproduced hereinabove is concerned, the Transferee Company undertakes to comply with all the provisions of Income Tax Act, 1961, Central Goods and Services Tax Act, 2017, Integrated Goods and Services Tax Act, 2017, State Goods and Services Tax Act, 2017, Union Territory Goods and Services Tax Act, 2017 and rules thereunder. Further, the</p>



THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH – COURT III

CP (CAA)/315/MB/C-III/ 2023

CONNECTED WITH

CA (CAA)/240/ MB/ C-III/ 2023



		Petitioner Company states that the tax implications, if any, arising out of the Scheme shall be dealt in accordance with the Income Tax Law and Goods and Service Tax Law.
(i)	Petitioner Companies may satisfy the Hon'ble NCLT that the interest of creditors shall be protected on implementation of the scheme.	<p>As far as the observation of the Regional Director, as stated in 2(i) of the Report and reproduced hereinabove is concerned, the Transferor Company 2 states that it has obtained consents from its unsecured creditors representing 97.80% of the total outstanding unsecured creditors as on June 30, 2023. The Transferee Company states that the Transferor Company 1 has obtained consents from its unsecured creditors representing 99.99% of the total outstanding unsecured creditors as on June 30, 2023.</p> <p>Furthermore, the Transferee Company submits that the rights of creditors of the Transferee Company, the Transferor Company 1 and the Transferor Company 2 will not be affected as there is no compromise or arrangement with the creditors of the Transferee Company, the Transferor Company</p>







		1 and the Transferor Company 2 pursuant to the Scheme. Further, the assets of the Transferee Company, post the Scheme, will be more than its liabilities and as such sufficient to discharge the liabilities in the normal course of business and the creditors would be paid off as per contractual arrangements with them in the ordinary course of business by the Transferee Company. Hence the rights of the creditors will not be jeopardized pursuant to the Scheme.
(j)	The First Transferor Company is registered in the jurisdiction of ROC, Kolkata, West Bengal, hence Petitioner Companies shall undertake to obtain approval from Hon'ble NCLT, West Bengal.	As far as the observation of the Regional Director, as stated in 2(j) of the Report and reproduced hereinabove is concerned, the Transferee Company submits that the Transferor Company 1 has filed a separate petition before the Hon'ble National Company Law Tribunal, Kolkata Bench being CP (CAA) No. 1 (KB)/2024 in C.A.(CAA)/196(KB)2023 seeking sanction for the Scheme. The Hon'ble National Company Law Tribunal, Kolkata Bench vide its order dated January 11, 2024 admitted the said petition and fixed the returnable date on February 19,



THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH – COURT III

CP (CAA)/315/MB/C-III/ 2023

CONNECTED WITH

CA (CAA)/240/ MB/ C-III/ 2023



		2024. The copy of the order dated December 20, 2023 admitting C.A.(CAA)/196(KB)2023 and copy of the order dated January 11, 2204 admitting C.P.(CAA) No. 1 (KB)/2024 is enclosed as Annexure B1-B2 to the affidavit in response to the Report.
(k)	It is observed from latest MGT-7 for the year ending 31.03.2023 filed by the petitioner Transferor Company No. 2 (NKJA Mining Private Limited) have corporate body shareholder namely JSW Cement Limited having 100% shareholding, but form Ben-2 has not been filed. Therefore, petitioner company may be directed to clarify and comply with the same as required u/ s. 90 of the Companies Act, 2013 r.w. companies (Significant Beneficial Owners) Rules, 2018	As far as the observation of the Regional Director, as stated in 2(k) of the Report and reproduced hereinabove is concerned, the Transferor Company 2 submits that as per Rule 8 of the Companies (Significant Beneficial Owners) Rules, 2018, the reporting requirements of Form BEN-2 are not applicable to a company if its holding company is a reporting company as per the said rules and section 90 of the Companies Act, 2013. The holding company of the Transferor Company 2 is the Transferee Company and the Transferee Company is a holding reporting company in terms of section 90 of the Companies Act, 2013 and said rules. The copy of challan of form BEN-2 filed by the Transferee Company is enclosed as Annexure C1.







		<p>Further, the said rules also provide that the details of such holding reporting company shall be reported in Form BEN-2. The Transferor Company 2 has filed Form BEN-2 to disclose the name of the holding reporting company. The copy of the form and challan of form BEN-2 filed by the Transferor Company 2 is enclosed as Annexure C2. Accordingly, the Transferor Company 2 submits that it is in compliance with the provisions of section 90 of the Companies Act, 2013 and Companies (Significant Beneficial Owners) Rules, 2018.</p>
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17. Mr. Bhagawati Prasad, Authorized representative for the Regional Director is present and submits that most of the observations in RD Report are routine in nature and after the undertakings and clarifications offered by the Petitioner Companies, Regional Director has no further observations/objection for approving the Scheme.

18. We note that the Transferee Company has given undertaking to protect the interest of the creditors of the Transferor Company No. 1 and Transferor Company No. 2 as payable to them in the ordinary course of business and their rights will not be affected in any manner. We also note that the Transferee Company's net worth is significant to honour the undertaking given by it.





19. The Official Liquidator, High Court, Bombay, has filed report dated 17.01.2024. A brief synopsis of the observations made by the Official Liquidator along with the response of the First Petitioner Company is given below:

<b>Observation made by the Official Liquidator</b>	<b>Response of the First Petitioner Company vide affidavit dated 05<sup>th</sup> February, 2024</b>
<p>As per the Financial Statements as at 31.03.2023 the company has negative net worth. Even when the company's net worth is negative, the Financial Statements has been prepared on the going concern basis. There may be breach of fundamental principle of accounting. Hon'ble Tribunal may require the company to explain in this respect.</p>	<p>With reference to paragraph 5 of the OL Report, the First Petitioner Company respectfully submits that the concept of going concern assumes that a company will continue operating in the future and will not be liquidated or discontinued. Accordingly, a going concern company may be a company with positive net worth or negative net worth.</p> <p>It is further submitted that the First Petitioner Company is a wholly owned subsidiary of JSW Cement Limited i.e., the Transferee Company. The negative net worth of the First Petitioner Company as on 31st March, 2023 is majorly on account of a loan taken from the Transferee Company amounting to Rs. 19,12,396/- (Rupees Nineteen Lakhs Twelve Thousand Three Hundred Ninety-Six only) for meeting</p>







	<p>working capital requirements. The Transferee Company has also agreed to provide continuous financial support to the First Petitioner Company to ensure that it continues to operate as a going concern and meets its liabilities as and when they fall due for payment. It is further submitted that the net worth of the Transferee Company is significantly positive and there is no real or substantial adverse impact on the financial position of the Transferee Company on account of the proposed Scheme.</p> <p>Accordingly, despite the negative net worth of the First Petitioner Company, the financial statements of the First Petitioner Company have been prepared on going concern basis and in respectful submission of the First Petitioner Company, there cannot be breach of principles of accounting.</p> <p>Therefore, there is no fundamental breach of principle of accounting. In any event there is no bar under the Companies Act, 2013 for a company with negative net worth to merge with</p>
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	its holding company. Furthermore, the First Petitioner Company undertakes to comply with all principles of accounting which may be applicable to it from time to time.
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20. The Statutory Auditors of the Transferee Company have examined the Scheme in terms of provisions Sections 230-232 and certified that the accounting treatment specified in the Scheme is in compliance with all applicable accounting standards specified under section 133 of the Companies Act, 2013.
21. The Learned Counsel for the Petitioner Companies states that as per clause 5 of the Scheme, the entire issued, subscribed and paid-up capital of the Transferor Company 1 is held by the Transferor Company 2 and the Transferee Company, and the entire issued, subscribed and paid-up capital of the Transferor Company 2 is held by the Transferee Company. Accordingly, no shares shall be issued by the Transferee Company to the shareholders of the Transferor Company 1 and the Transferor Company 2 pursuant to the Scheme becoming effective.
22. No objector has come before this Tribunal to oppose the Scheme in relation to the Petitioner Companies nor has any party controverted any averments made in the Petition.
23. From the material on record, the Scheme to the Company Scheme Petition appears to be fair and reasonable and is not violative of any provisions of law and is not contrary to public policy.







24. Since all the requisite statutory compliances have been fulfilled CP(CAA)/315/MB /2023 is made absolute in terms of the prayer clauses of the said Company Scheme Petition.
25. The Income Tax Department will be at liberty to examine the aspect of any tax payable because of this scheme and it shall be open to the income tax authorities to take necessary action as permissible under the Income Tax Law.
26. Further, effectiveness of this Scheme shall not deter any regulatory authorities to initiate action, proceedings, prosecution, investigation or any regulatory action against the Petitioner Companies.
27. The shareholders and Creditors of the Petitioner Companies are the best judges of their interest. Their decision should not be ordinarily interfered with by the Tribunal as per the decision of Hon'ble Supreme Court in **Miheer H. Mafatlal vs. Mafatlal Industries Ltd [JT 1996 (8) 205]**.

**ORDER**

28. The said Scheme of Amalgamation is hereby **sanctioned** with the Appointed date as 10.10.2022 and with following further directions:
- a. The Transferor Companies shall be dissolved without winding up.
- b. The Petitioner Companies are directed to file a certified copy of this Order along with a copy of the Scheme of Amalgamation with the concerned Registrar of Companies, electronically in e-Form INC-28 within 30 days from the date of receipt of the Certified copy of the Order from the Registry.





- c. The Petitioner Companies to lodge a copy of this Order and the Scheme duly authenticated by the Registrar with the concerned Superintendent of Stamps, for the purpose of adjudication of stamp duty payable, if any, within 60 days from the date of receipt of the Certified copy of the Order from the Registry.
- d. Petitioner Companies are directed to serve copy of this order to concerned Income Tax Authorities and GST Authorities.
29. While approving the Scheme, we clarify that this Order should not, in any way, be construed as an Order granting exemption from payment of stamp duty, taxes or other charges, if any, and payment in accordance with law or in respect of any permission or compliance with other requirements which may be specifically required under any law.
30. The Petitioner Companies shall comply with all the undertakings given by them.
31. The Petitioner Companies shall take all consequential and statutory steps required under the provisions of the Act in pursuance of the Scheme.
32. All the employees of the Transferor Companies in service, on the date immediately preceding the date on which the Scheme takes effect i.e. the Effective Date, shall become the employees of the Transferee Company on such date, without any break or interruption in service and upon terms and conditions not less favourable than those subsisting in the concerned Transferor Companies on the said date.
33. Any proceedings now pending by or against the Transferor Companies be continued by or against the Transferee Company.





THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH – COURT III

CP (CAA)/315/MB/C-III/ 2023

CONNECTED WITH

CA (CAA)/240/ MB/ C-III/ 2023



34. All the properties, rights, liabilities, duties and powers of the Transferor Companies, 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 vest in the Transferee Company.
35. The Registrar of Companies is entitled to proceed against the Transferee Company for violation/offences committed by Transferor Companies, if any.
36. All authorities concerned to act on a copy of this Order along with Scheme duly authenticated by the Deputy Director or Assistant Registrar, National Company Law Tribunal, Mumbai.
37. Any person interested shall be at liberty to apply to this Tribunal in the above matter for any directions that may be necessary.
38. Any concerned authorities are at liberty to approach this Tribunal for any further clarification as may be necessary.
39. Ordered accordingly. Thus, CP (CAA)/ 315/ MB/ C-III/ 2023 in CA (CAA)/ 240/ MB/ C-III/ 2023 shall stand to be **disposed of**.

‘Files to be Consigned to the Records’

Sd/-

**CHARANJEET SINGH GULATI**  
**MEMBER (TECHNICAL)**

(Saayli, LRA)

Sd/-

**LAKSHMI GURUNG**  
**MEMBER (JUDICIAL)**



Certified True Copy

Date of Application 08/5/2024

Number of Pages 23

Fee Paid Rs. 115/-

Applicant called for collection copy on 10/5/2024

Copy prepared on 10/5/2024

Copy issued on 10/5/2024

*R.S. Sonmal*  
10/5/2024  
Deputy Registrar

National Company Law Tribunal, Mumbai Bench





Ex. H

SCHEME OF AMALGAMATION

OF

000452

SPRINGWAY MINING PRIVATE LIMITED

("SMPL" OR "THE TRANSFEROR COMPANY 1")

AND

NKJA MINING PRIVATE LIMITED

("NMPL" OR "THE TRANSFEROR COMPANY 2")

WITH

JSW CEMENT LIMITED

("JCL" OR "THE TRANSFEREE COMPANY")

AND

THEIR RESPECTIVE SHAREHOLDERS

UNDER SECTIONS 230 TO 232 OF THE COMPANIES ACT, 2013 AND  
OTHER APPLICABLE PROVISIONS OF THE COMPANIES ACT, 2013

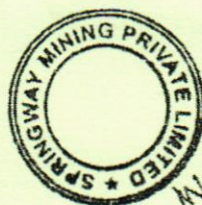
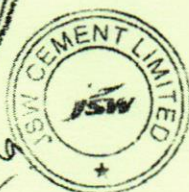
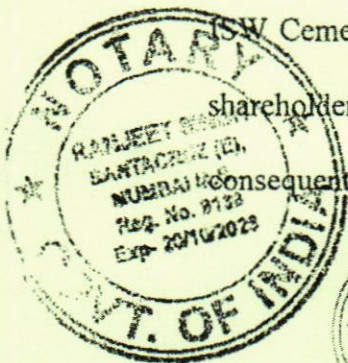
(A) PREAMBLE

This Scheme of Amalgamation is presented under Sections 230 to 232 of the Companies Act, 2013 and other applicable provisions, if any, of the Companies Act, 2013, as may be applicable, for amalgamation of Springway Mining Private Limited ("SMPL" or "the Transferor Company 1") and NKJA Mining Private Limited ("NMPL" or "the Transferor Company 2") [the Transferor Company 1 and the Transferor Company 2 are collectively referred to as the Transferor Companies] with

JSW Cement Limited ("JCL" or "the Transferee Company") and their respective shareholders ("the Scheme"). This Scheme also provides for various other matters

consequential or otherwise integrally connected therewith.

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## (B) BACKGROUND OF THE COMPANIES

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- i. The Transferor Company 1 is a private limited company set up for mining of limestone and provide integrated cement manufacturing facilities. The Transferor Company 2 holds 49% equity share capital of the Transferor Company 1 and the Transferee Company holds 51% equity share capital of the Transferor Company 1. The Transferee Company holds 100% equity share capital of the Transferor Company 2. Furthermore, the Transferee Company holds 100% of the total issued, subscribed and paid-up 9% non-convertible cumulative redeemable preference share capital of the Transferor Company 1. Accordingly, the Transferor Company 1 is an indirect wholly owned subsidiary of the Transferee Company.
- ii. The Transferor Company 2 is a private limited company acting as an investment holding company with investment in 49% equity share capital of the Transferor Company 1. It is a direct wholly owned subsidiary of the Transferee Company.
- iii. The Transferee Company is a public limited company engaged in the business of manufacture and sale of cement, ground granulated blast furnace slag and clinker and trading of allied products, etc.

## (C) RATIONALE FOR THE SCHEME

The Transferee Company is a well-established company engaged in the business of manufacturing variety of cements, ready mix concrete and various building products, and services. Its cement manufacturing units are located in Nandyal in the State of Andhra Pradesh, Bellary in the State of Karnataka, Raigad in the State of Maharashtra, Paschim Midnapore in the State of West Bengal, Jajpur in the State of Odisha and Salem in the State of Tamil Nadu. The Transferee Company has been able to significantly grow its cement manufacturing business over the years by installing and adding new manufacturing capacity. The



Transferor Companies were recently acquired by the Transferee Company. The Transferor Companies does not possess the financial, technical and other resources required for setting up large cement plants whereas the merged entity should be in a position to meet the desired objective. In order to integrate the business of the Transferor Companies with the business of the Transferee Company more beneficially, it is considered desirable and expedient to amalgamate the Transferor Companies with the Transferee Company in the manner and on the terms and conditions stated in this Scheme of Amalgamation.

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The amalgamation of the Transferor Company 1 and the Transferor Company 2 with the Transferee Company would have the following benefits:

- There are several commonalities and synergistic linkages; as such the amalgamation will result in efficiency of management and maximization of value for the all stakeholders;
- Greater ability to access and raise funds for carrying on its business and completing projects and carrying on the operations on more favourable terms;
- Pooling of the financial, managerial and technical resources, personnel, capabilities, skills, expertise and technologies, leading to optimum use of infrastructure, cost reduction and efficiencies, productivity gains, logistic advantages, reduction of administrative and operational costs, thereby significantly contributing to the future growth.
- Greater potential to the combined entity to develop and further grow and diversify with better optimization of funds and efficient utilization of resources;
- Ensuring a streamlined group structure by reducing the number of legal entities in the group and reducing the multiplicity of legal and regulatory compliances required at present; and
- Administrative and operational convenience





(D) PARTS OF THE SCHEME:

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This Scheme of Amalgamation is divided into the following parts:

- PART I Deals with Definitions, Interpretation and Share Capital;
- PART II Deals with the amalgamation of Springway Mining Private Limited and NKJA Mining Private Limited with JSW Cement Limited;
- PART III Deals with the general terms and conditions applicable to the Scheme

PART I

DEFINITIONS, INTERPRETATION AND SHARE CAPITAL

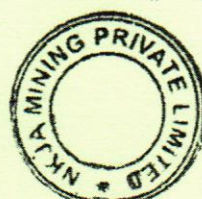
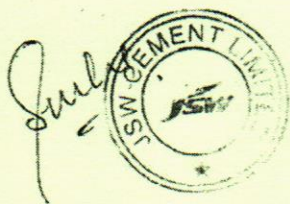
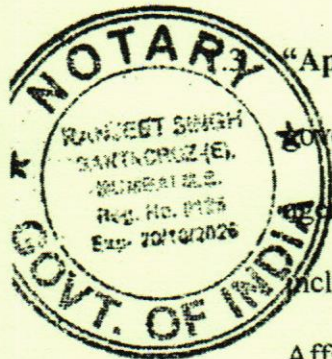
1 DEFINITIONS

In this Scheme of Amalgamation, unless inconsistent with the subject or context, the following expressions shall have the meaning respectively assigned against them:

- 1.1 "Act" or "the Act" means the Companies Act, 2013 and the rules and regulations made thereunder, as the case may be, and shall include any statutory modifications, amendments or re-enactment thereof for the time being in force;

- 1.2 "Appointed Date" means 10<sup>th</sup> October, 2022 or such other date as may be approved by the National Company Law Tribunal or such other Appropriate Authority;

"Appropriate Authority" means any applicable central, state or local Government, legislative body, regulatory, administrative or statutory authority, agency or commission or department or public or judicial body or authority, including, but not limited to the Regional Director, the Ministry of Corporate Affairs, the Registrar of Companies and the National Company Law Tribunal;



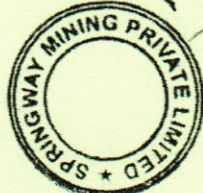
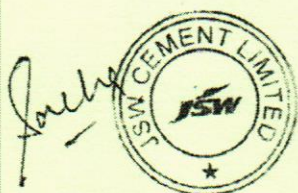
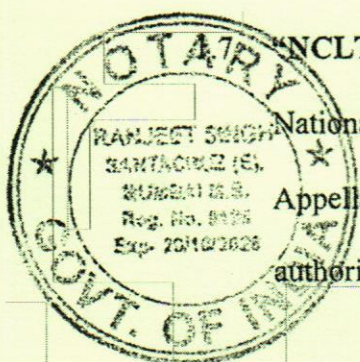


1.4 **"Board of Directors" or "Board"** means the Board of Directors of the Transferor Companies or of the Transferee Company as the context may require and shall, unless it be repugnant to the context or otherwise, include a duly constituted committee of directors or any person(s) authorised by the Board of Directors or such committee of directors;

1.5 **"Effective Date" or "coming into effect of this Scheme" or "upon the scheme being effective" or "effectiveness of the Scheme"** means the last of the date or dates on which all the conditions and matters referred to in Clause 16 are fulfilled, obtained or waived off and the certified copy of the order of the National Company Law Tribunal, Mumbai Bench sanctioning this Scheme of Amalgamation is filed by the Transferor Company 2 and the Transferee Company with the Registrar of Companies, Mumbai and the certified copy of the order of the National Company Law Tribunal, Kolkata Bench sanctioning this Scheme of Amalgamation is filed by the Transferor Company 1 with the Registrar of Companies, Kolkata

1.6 **"JCL" or "the Transferee Company"** means JSW Cement Limited (CIN: U26957MH2006PLC160839), a company incorporated under the Companies Act, 1956 and having its Registered Office at JSW Centre Bandra Kurla Complex, Bandra (East), Mumbai – 400051;

**"NCLT"** means the National Company Law Tribunal, Mumbai Bench, the National Company Law Tribunal, Kolkata Bench, the National Company Law Appellate Tribunal and any other competent authority as constituted and authorized as per the provisions of the Companies Act, 2013 for approving any





scheme of arrangement, compromise or reconstruction of companies under  
Section 230-232 of the Companies Act, 2013;

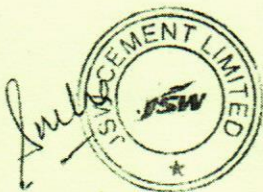
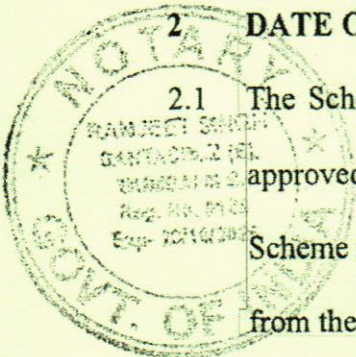
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- 1.8 "NMPL" or "the Transferor Company 2" means NKJA Mining Private Limited (CIN: U10100MH2012PTC411293), a company incorporated under the Companies Act, 1956 and having its Registered Office at JSW Centre Bandra Kurla Complex, Bandra (East), Mumbai - 400051
- 1.9 "Scheme" or "the Scheme" or "this Scheme" means this Scheme of Amalgamation in its present form or with any modification(s) made under Clause 14 of this Scheme as approved or directed by the NCLT;
- 1.10 "SMPL" or "the Transferor Company 1" means Springway Mining Private Limited (CIN: U10100WB2010PTC152849) a company incorporated under the Companies Act, 1956 and having its Registered Office at McLeod House, 1st Floor 3, Netaji Subhas Road, Kolkata -700001;
- 1.11 "Transferor Companies" means Springway Mining Private Limited and NKJA Mining Private Limited collectively termed as Transferor Companies.

All terms and words not defined in this Scheme shall, unless repugnant or contrary to the context or meaning thereof, have the same meaning ascribed to them under the Act and other applicable laws, rules, regulations, bye laws, as the case may be, including any statutory modification or re-enactment thereof from time to time.

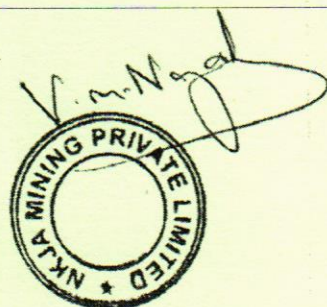
## 2. DATE OF TAKING EFFECT AND OPERATIVE DATE

- 2.1 The Scheme set out herein in its present form or with any modification(s) approved or imposed or directed by the NCLT or made under Clause 14 of this Scheme shall be effective from the Appointed Date but shall become operative from the Effective Date.



*V. M. Nigam*

Page 6 of 26





### 3 SHARE CAPITAL

3.1 The Authorized, Issued, Subscribed and Paid-up Share Capital of the Transferor Company 1 as on 31<sup>st</sup> March, 2023 is as under:

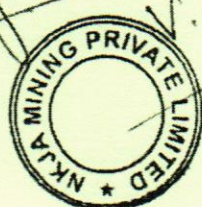
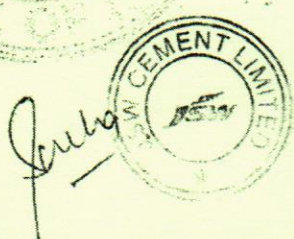
Particulars	Amount (in INR)
<b>Authorized Share Capital</b>	
1,00,00,000 Equity Shares of INR 10/- each	10,00,00,000
2,00,00,000 9% Non-Convertible Cumulative Redeemable Preference Shares of INR 10/- each	20,00,00,000
<b>Total</b>	<b>30,00,00,000</b>
<b>Issued, Subscribed and Paid-up Share Capital</b>	
10,000 Equity Shares of INR 10/- each, fully paid up	1,00,000
2,00,00,000 9% Non-Convertible Cumulative Redeemable Preference Shares of INR 10/- each	20,00,00,000
<b>Total</b>	<b>20,01,00,000</b>

Subsequent to 31<sup>st</sup> March, 2023, there has been no change in the Authorized, Issued, Subscribed and Paid-up Share Capital of the Transferor Company 1.

The entire issued, subscribed and paid-up equity share capital of the Transferor Company 1 is held by the Transferor Company 2 and the Transferee Company.

The Transferor Company 2 and the Transferee Company hold 49% and 51% respectively of the total issued, subscribed and paid-up equity share capital of the Transferor Company 1.

Further, the entire issued, subscribed and paid-up capital of the Transferor Company 2 is held by the Transferee Company.





Furthermore, the Transferee Company holds 100% of the total issued,  
subscribed and paid-up 9% non-convertible cumulative redeemable preference  
share capital of the Transferor Company 1.

Accordingly, the Transferor Company 1 is an indirect wholly owned  
subsidiary of the Transferee Company.

3.2 The Authorized, Issued, Subscribed and Paid-up Share Capital of the  
Transferor Company 2 as on 31<sup>st</sup> March, 2023 is as under:

Particulars	Amount (in INR)
<b>Authorized Share Capital</b>	
10,000 Equity Shares of INR 10/- each	1,00,000
49,00,000 9% Non-Convertible Cumulative Redeemable Preference Shares of INR 10/- each	4,90,00,000
<b>Total</b>	<b>4,91,00,000</b>
<b>Issued, Subscribed and Paid-up Share Capital</b>	
10,000 Equity Shares of INR 10/- each, fully paid up	1,00,000
<b>Total</b>	<b>1,00,000</b>

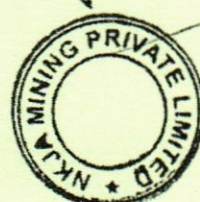
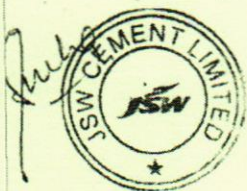
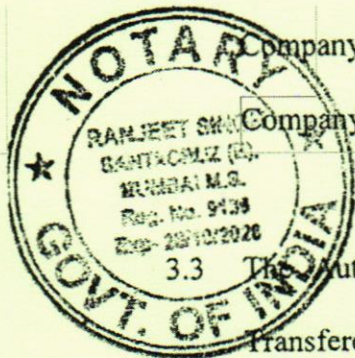
Subsequent to 31<sup>st</sup> March, 2023, there has been no change in the Authorized,  
Issued, Subscribed and Paid-up Share Capital of the Transferor Company 2.

The entire issued, subscribed and paid-up equity share capital of the Transferor

Company 2 is held by the Transferee Company. Accordingly, the Transferor

Company 2 is a wholly owned subsidiary of the Transferee Company.

3.3 The Authorized, Issued, Subscribed and Paid-up Share Capital of the  
Transferee Company as on 31<sup>st</sup> March, 2023 is as under:



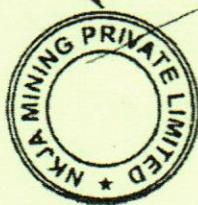
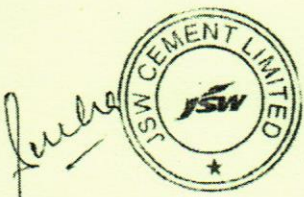
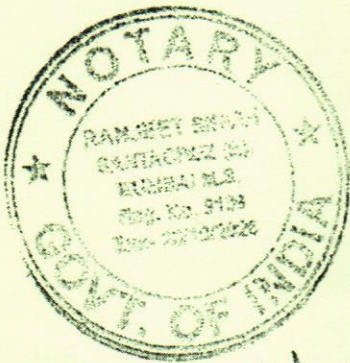


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Particulars	Amount (in INR)
<b>Authorized Share Capital</b>	
1,80,00,00,000 Equity Shares of INR 10/- each	18,00,00,00,000
17,00,00,000 Preference Shares of INR 100/- each	17,00,00,00,000
<b>Total</b>	<b>35,00,00,00,000</b>
<b>Issued, Subscribed and Paid-up Share Capital</b>	
98,63,52,230 Equity Shares of INR 10/- each, fully paid up	9,86,35,22,300
16,00,00,000 0.01% Compulsorily Convertible Preference Shares of INR 100/- each, fully paid up	16,00,00,00,000
<b>Total</b>	<b>25,86,35,22,300</b>

Subsequent to 31<sup>st</sup> March, 2023, there has been no change in the Authorized, Issued, Subscribed and Paid-up Share Capital of the Transferee Company.

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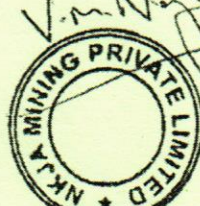
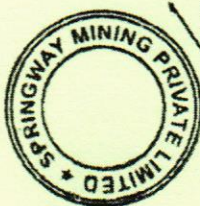
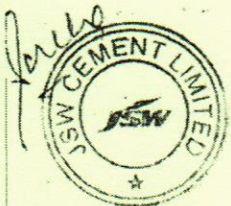
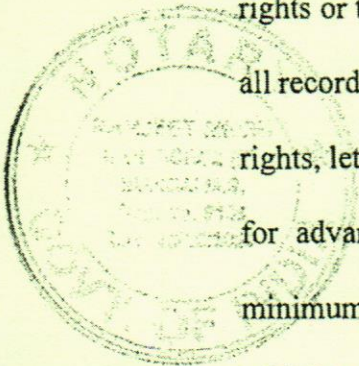




AMALGAMATION OF TRANSFEROR COMPANIES WITH  
TRANSFeree COMPANY

**4 TRANSFER AND VESTING OF UNDERTAKING**

4.1 Subject to the provisions of this Scheme as specified hereinafter and with effect from the Appointed Date, the entire business and the undertaking of the Transferor Companies including all their properties and assets, (whether movable or immovable, tangible or intangible), mines (including all clearances and approvals), leasehold assets and other properties, real, in possession or reversion, present and contingent assets (whether tangible or intangible) of whatsoever nature, all the receivables, advances, deposits etc., and assets of the Transferor Companies comprising amongst others all plant and machinery, investments, and business licenses (including mining licenses and prospecting licenses and applications therefor), permits, authorizations, sanctioned limits if any, rights and benefits of all agreements and all other interests, rights and powers of every kind, nature and description whatsoever, privileges, liberties, easements, advantages, benefits and approvals, advance and other taxes paid to the authorities, brand names, trademarks, copy rights, lease, tenancy rights, statutory permissions, consents and registrations, all rights or titles or interest in properties by virtue of any court decree or order, all records, files, papers, contracts, licenses, power of attorney, lease, tenancy rights, letter of intents, permissions, benefits under income tax, such as credit for advance tax, tax deducted at source, unutilized deposits or credits, minimum alternate tax, tax refunds, credit for service tax, sales tax / value added tax / goods and service tax and / or any other statutes, incentives under indirect taxes, if any, and all other rights, title, interest, contracts, consent, approvals or powers of every kind and description, agreements shall, pursuant



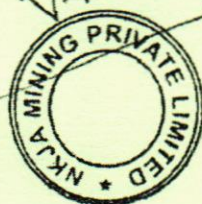
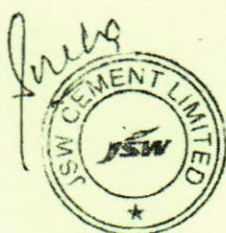
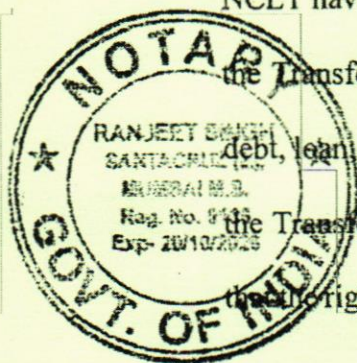


to the order of NCLT and pursuant to provisions of Sections 230 to 232 of the Act and other applicable provisions of the Act and without further act, instrument or deed, but subject to the charges affecting the same be vested and/or deemed to be vested in Transferee Company on a going concern basis so as to become the assets of the Transferee Company with all rights, title, interest or obligations of the Transferor Companies therein. 000462

4.2 In respect of all the movable assets of the Transferor Companies and the assets which are otherwise capable of transfer by physical delivery or endorsement and delivery, including cash on hand, shall be so transferred to the Transferee Company and deemed to have been physically handed over by physical delivery or by endorsement and delivery, as the case may be, to the Transferee Company to the end and intent that the property and benefit therein passes to the Transferee Company with effect from the Appointed Date pursuant to such delivery.

4.3 In respect of any assets of the Transferor Companies other than those mentioned in Clause 4.2 above, including actionable claims, sundry debtors, outstanding loans, advances recoverable in cash or kind or value to be received from other authorities and bodies and customers, the Transferor Companies may, if so required by the Transferee Company, issue notices in such form as the Transferee Company may deem fit and proper stating that pursuant to the NCLT having sanctioned this Scheme between the Transferor Companies and

the Transferee Company under Sections 230 to 232 of the Act, the relevant debt, loan, advance or other asset, be paid or made good or held on account of the Transferee Company, as the person entitled thereto, to the end and intent that the right of the Transferor Companies to recover or realize the same stands



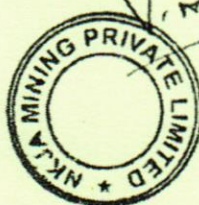
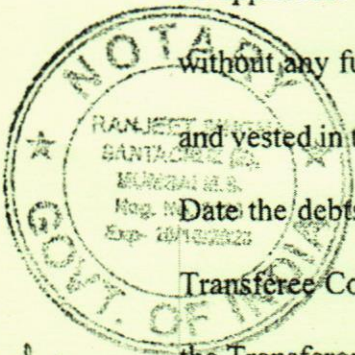


transferred to the Transferee Company and that appropriate entries should be passed in their respective books to record the aforesaid changes.

4.4 With effect from the Appointed Date, any statutory licenses, permissions, approvals, all allocations by the government, quotas, no objection certificates or consents to carry on the operations and business of the Transferor Companies and to which the Transferor Companies are entitled to in terms of the various statutes, schemes, policies etc., of the central or state governments, including, without prejudice to the generality of the foregoing, mining licenses and prospecting licenses and applications therefor, shall stand vested in or transferred to the Transferee Company without any further act or deed and shall be appropriately mutated by the statutory authorities concerned in favor of the Transferee Company. The benefit of all statutory and regulatory permissions, registrations or other licenses and consents shall vest in and shall be in full force and effect against or in favor of the Transferee Company and may be enforced as fully and effectually as if instead of the Transferor Companies, the Transferee Company had been the party thereto or the beneficiary or obligee thereof pursuant to this Scheme.

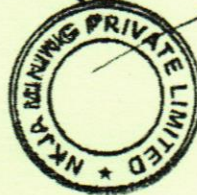
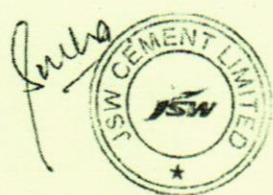
4.5 With effect from the Appointed Date, all debts, liabilities, contingent liabilities, duties and obligations of the Transferor Companies, whether provided for or not in the books of accounts of the Transferor Companies shall, pursuant to the Order of the NCLT or such other competent authority as may be applicable under Section 230 and other applicable provisions of the Act

without any further act or deed, be transferred or deemed to be transferred to and vested in the Transferee Company, so as to become as from the Appointed Date the debts, liabilities, contingent liabilities, duties and obligations of the Transferee Company on the same terms and conditions as were applicable to the Transferor Companies.





- 4.6 The transfer of assets and liabilities pursuant to Clause 4.1 and Clause 4.5 above and the continuance of proceedings by the Transferee Company pursuant to Clause 8 shall not affect any transaction or proceedings already concluded by the Transferor Companies on or before the Appointed Date or after the Appointed Date till the Effective Date to the end and intent that the Transferee Company accepts and adopts all acts, deeds and things done and executed by the Transferor Companies in regard thereto, as if done and executed by the Transferee Company on behalf of itself.
- 4.7 Where any of the debt, liabilities, duties and obligations of the Transferor Company as on the Appointed Date, deemed to be transferred to the Transferee Company have been discharged by the Transferor Company, as the case may be, after the Appointed Date and prior to the Effective Date, such discharge shall be deemed to have been for and on account of the Transferee Company.
- 4.8 All the existing securities, mortgages, charges, encumbrances or liens, if any, as on the Appointed Date and those created by the Transferor Companies over the assets of the Transferor Companies after the Appointed Date and subsisting as on the Effective Date shall, after the Effective Date, continue to relate and attach to such assets or any part thereof to which they are related or attached prior to the Effective Date. Such securities, mortgages, charges, encumbrances or liens shall not relate or attach or extend to any of the other assets of the Transferee Company.
- Provided always that the Scheme shall not operate to enlarge the security for any loan, deposit or facility availed of by the Transferor Companies, if any, and the Transferee Company shall not be obliged to create any further or additional security thereof after the Effective Date or otherwise.

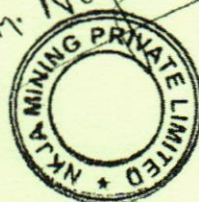
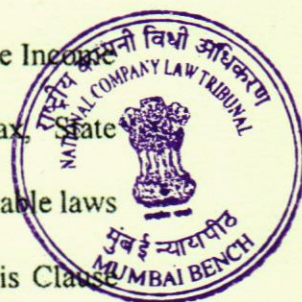




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4.9 Without prejudice to the provisions of the foregoing Clauses, the Transferor Companies and the Transferee Company shall execute all such instruments or documents or do all the acts and deeds as may be required, including the filing of necessary particulars and/or modification(s) of charge, with the Registrar of Companies, Mumbai and/ or with the Registrar of Companies, Kolkata, if any, to give formal effect to the above provisions, if required.

4.10 With effect from the Effective Date until such times the names of the bank accounts of the Transferor Companies would be replaced with that of the Transferee Company, the Transferee Company shall be entitled to operate the bank accounts of the respective Transferor Companies in the name of the respective Transferor Companies in so far as may be necessary. All cheques and other negotiable instruments, payment orders received or presented for encashment which are in the name of the respective Transferor Companies after the Effective Date shall be accepted by the bankers of the Transferee Company and credited to the account of the Transferee Company, if presented by the Transferee Company. The Transferee Company shall be allowed to maintain bank accounts in the name of respective Transferor Companies for such time as may be determined to be necessary by the Transferee Company for presentation and deposition of cheques and pay orders that have been issued in the name of the respective Transferor Companies.

4.11 All tax liabilities / refunds / credits / claims relating thereto under the Income Tax Act, Customs Act, Central Excise Act, Goods and Services Tax, State Sales Tax Laws, Central Sales Tax Act, Service Tax, or other applicable laws / regulations dealing with taxes / duties / levies (hereinafter in this Clause referred to as "Tax Laws") of the Transferor Companies to the extent not provided for or covered by tax provision in the financial statements made as



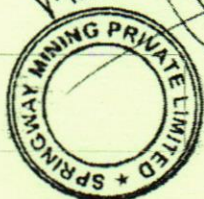
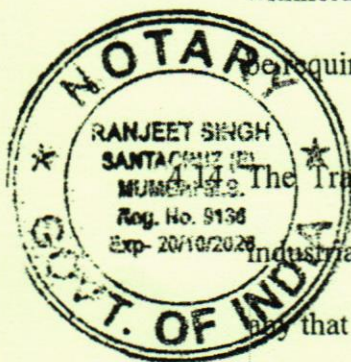


on the date immediately preceding the Appointed Date shall be treated as liabilities / refunds / credits / claims of the Transferee Company from the Appointed Date and shall be transferred to the Transferee Company. Any surplus in the provision for taxation/ duties/ levies account including advance tax and TDS, credit for minimum alternative tax/ service tax, Goods and Service Tax or such other credits as on the date immediately preceding the Appointed Date will also be transferred to and become the advance tax/other tax of the Transferee Company.

4.12 Without prejudice to the generality of the above, all benefits, credits, refunds, exemptions, incentives or concessions under Tax Laws as may be applicable to which the Transferor Companies are entitled to in terms of the applicable Tax Laws of the union and state governments in India, shall be available to and vest in the Transferee Company.

4.13 The Transferee Company shall be entitled to file / revise its income tax returns, service tax returns, Value Added Tax returns, Central Sales Tax returns, Goods and Service Tax Return, tax deducted at source certificates, tax deducted at source returns and other statutory returns and filings, if required under the Tax Laws, and shall have the right to claim or adjust refunds, advance tax credits, credit for minimum alternate tax / tax deducted at source / foreign taxes withheld/ paid, input tax credits, of the Transferor Companies if any, as may be required consequent to implementation of this Scheme.

The Transferee Company shall be entitled to avail various benefits under Industrial development incentive schemes and policies of the Government, if any that were being availed or were available to the Transferor Companies. It is declared that pursuant to this Scheme, all the benefits under such incentive





schemes and policies shall stand transferred and vested to the Transferee Company.

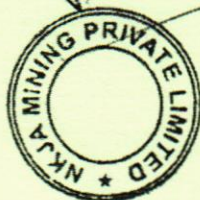
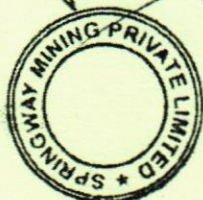
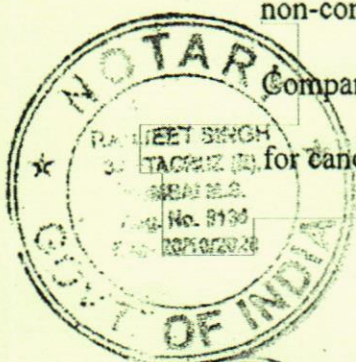
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## 5 CONSIDERATION

As the Transferor Company 1 is an indirect wholly owned subsidiary of the Transferee Company and the Transferor Company 2 is a direct wholly owned subsidiary of the Transferee Company, no shares of the Transferee Company shall be allotted towards discharge of consideration or in lieu or exchange of the equity shareholding in the Transferor Companies. Upon the coming into effect of this Scheme, the share certificates, if any, and/or the shares in electronic form representing the shares in the Transferor Companies shall be deemed to be cancelled without any further act or deed for cancellation thereof and shall cease to be in existence accordingly.

As the entire issued, subscribed and paid-up 9% non-convertible cumulative redeemable preference share capital of the Transferor Company 1 is held by the Transferee Company, no shares of the Transferee Company shall be allotted towards discharge of consideration or in lieu or exchange of the 9% non-convertible cumulative redeemable preference shareholding in the Transferor Company 1. Upon the coming into effect of this Scheme, the share certificates, if any, and/or the shares in electronic form representing the 9% non-convertible cumulative redeemable preference shares in the Transferor Company 1 shall be deemed to be cancelled without any further act or deed

for cancellation thereof and shall cease to be in existence accordingly.





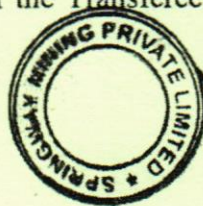
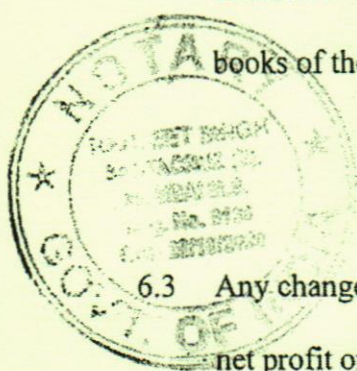
## 6 ACCOUNTING TREATMENT IN THE BOOKS OF THE TRANSFeree COMPANY

Notwithstanding anything to the contrary herein, upon 'this Scheme becoming effective, the Transferee Company shall give effect to the accounting treatment in the books of account in accordance with the accounting standards specified under Section 133 of the Act read with the Companies (Indian Accounting Standards) Rules, 2015, generally accepted accounting principles adopted in India, or any other relevant or related requirement under the Act to reflect the substance of the transaction. Accordingly, upon the Scheme becoming effective:

6.1 The Transferee Company shall record all the assets and liabilities by allocating the purchase consideration to assets and liabilities existing as on the date of acquisition in proportion to their respective fair value as of that date. Accordingly, no goodwill or capital reserve will arise consequent to acquisition.

6.2 Inter-company balances (including investments held by the Transferee Company directly or indirectly in the Transferor Companies) between the Transferee Company and the Transferor Companies, if any, appearing in the books of the Transferee Company shall stand cancelled/eliminated.

6.3 Any change in the statement in financial position and increase/decrease in the net profit or loss of the Transferor Companies from the acquisition date till the date the Scheme become effective shall be recorded and presented in the books of the Transferee Company in the same manner as would be recorded and





presented in the consolidated financial statements of the Transferee Company prepared in accordance with the accounting standards prescribed in accordance with the Companies Act, 2013.

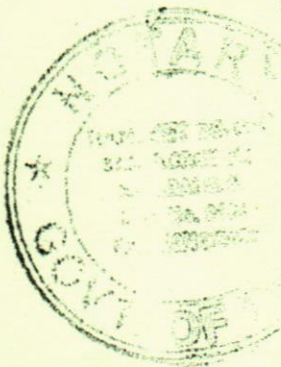
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## 7 CONDUCT OF BUSINESS TILL THE EFFECTIVE DATE

7.1 With effect from the Appointed Date and up to and including the Effective Date, the Transferor Companies shall carry on and be deemed to have been carrying on its business and activities and shall stand possessed of and hold all of the business for and on account of and for the benefit of and in trust for the Transferee Company. Further, all the profits or income accruing or arising to the Transferor Companies or expenditure, or losses arising to or incurred by the Transferor Companies, with effect from the Appointed Date shall for all purposes and intents be treated and be deemed to be and accrue as the profits or income or expenditure or losses of the Transferee Company, as the case may be.

7.2 With effect from the date of approval of this Scheme by the Board of Directors of the Transferee Company and up to and including the Effective Date:

- (a) The Transferor Companies shall carry on its business and activities in the ordinary course of business with reasonable diligence and business prudence and shall not make borrowings or undertake financial commitments either for itself or on behalf of group companies or any third party or sell, transfer, alienate, mortgage, charge, or encumber or otherwise deal with or dispose of its assets, business or undertaking or any part thereof, save and except in the ordinary course of business or with the prior written consent of the Transferee Company.





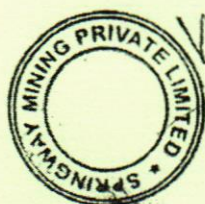
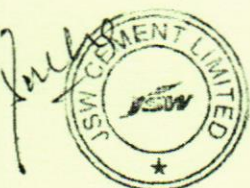
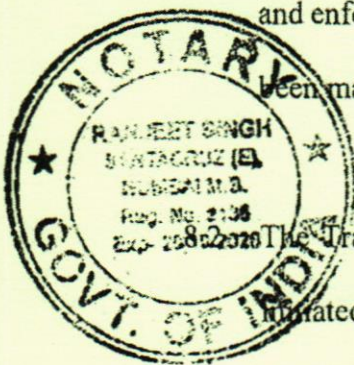
(b) The Transferee Company shall be entitled to apply to the Central Government and any other Government or statutory authorities/agencies/body concerned as are necessary under any law for such consents, approvals, licenses, registrations and sanctions which the Transferee Company may require to carry on the business of the Transferor Companies.

(c) The Transferor Companies shall not declare or pay any dividends, whether interim or final, to their respective equity shareholders in respect of the accounting period prior to the Effective Date, except with the prior approval of the Board of Directors of Transferee Company.

## 8 LEGAL PROCEEDINGS

8.1 If any suit, appeal or other proceeding of whatever nature by or against the Transferor Companies is pending, the same shall not abate or be discontinued or in any way be prejudicially affected by reason of or by anything contained in this Scheme, but the said suit, appeal or other proceeding may be continued and enforced by or against the Transferee Company, as the case may be, in the same manner and to the same extent as it would or might have been continued and enforced by or against the Transferor Companies as if this Scheme had not been made.

The Transferee Company undertakes to have all legal or other proceedings initiated by or against the Transferor Companies referred to in Clause 8.1 above transferred in its name respectively and to have the same continued prosecuted and enforced by or against the Transferee Company to the same extent as would or might have been continued and enforced by or against the Transferor Companies.





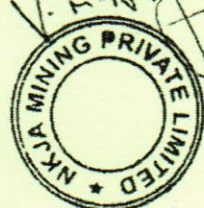
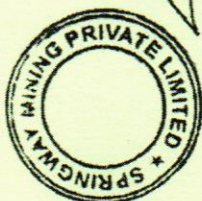
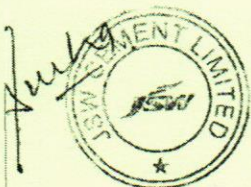
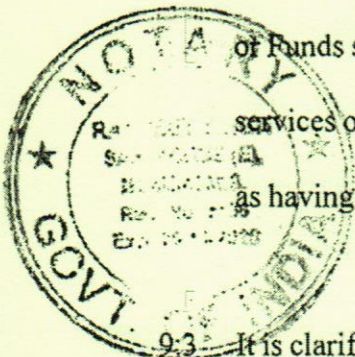
## 9 STAFF & EMPLOYEES

9.1 Upon this Scheme becoming effective, all employees, if any, of the Transferor Companies shall be deemed to have become 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 favorable than those applicable to them with reference to the Transferor Companies on the date on which the Scheme becomes effective.

9.2 It is expressly provided that, upon the Scheme becoming effective, the Provident Fund, Gratuity Fund, Pension Fund, Superannuation Fund or any other Special Fund or Trusts (hereinafter referred to as Fund or Funds) created or existing for the benefit of the employees of the Transferor Companies, if any, shall become trusts/funds of the Transferee Company for all purposes whatsoever in relation to the administration or operation of such Fund or Funds or in relation to obligation to make contributions to the said Fund or Funds in accordance with the provisions thereof as per the terms provided in the respective Trust Deeds, if any, to the end and intent that all rights, duties, powers and obligations of the Transferor Companies in relation to such Fund

or Funds shall become those of the Transferee Company. It is clarified that the services of the staff and employees of the Transferor Companies will be treated as having been continuous for the purpose of the said Fund or Funds.

9.3 It is clarified that save as expressly provided for in this Scheme, the employees of the Transferor Companies who become the employees of the Transferee Company by virtue of this Scheme, shall not be entitled to avail of any



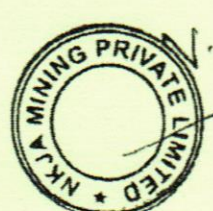
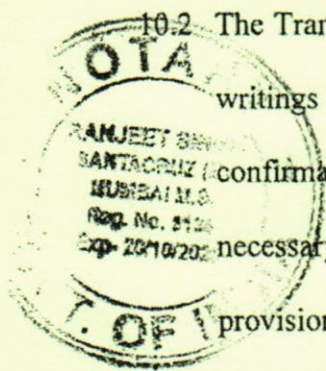


Schemes and benefits (including employee stock options) that may be applicable and available to any of the other employees of the Transferee Company (including benefits of or under any employee stock option schemes applicable to or covering all or any of the other employees of the Transferee Company), unless otherwise determined by the Transferee Company. The Transferee Company undertakes to continue to abide by any agreement/settlement, if any, entered into or deemed to have been entered into by the Transferor Companies with any employee of the Transferor Companies.

## 10 CONTRACTS, DEEDS, APPROVALS, EXEMPTIONS, ETC.

10.1 On and from the Appointed Date and subject to the other provisions of this Scheme, all contracts, deeds, bonds, insurance, letters of intent, undertakings, arrangements, policies, agreements and other instruments, if any, of whatsoever nature to which the Transferor Companies is a party and subsisting or having effect on the Effective Date, shall be in full force and effect against or in favour of the Transferee Company, as the case may be, and may be enforced by or against the Transferee Company as fully and effectually as if, instead of the Transferor Companies, the Transferee Company had been a party thereto.

10.2 The Transferee Company shall enter into and/or issue and/or execute deeds, writings or confirmations or enter into any tripartite arrangements, confirmations or novations, to which the Transferor Companies will, if necessary, also be a party (if applicable) in order to give formal effect to the provisions of this Scheme, if so required or if necessary. The Transferee Company shall be deemed to be authorised to execute any such deeds, writings or confirmations on behalf of the Transferor Companies and to implement or





carry out all formalities required on the part of the Transferor Companies to 000473  
give effect to the provisions of this Scheme.

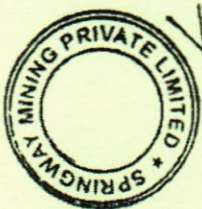
#### 11 SAVING OF CONCLUDED TRANSACTIONS

The transfer of assets, properties and liabilities under Clause 4 above and the continuance of proceedings by or against the Transferor Companies under Clause 8 above shall not affect any transaction or proceedings already concluded by the Transferor Companies on and after the Appointed Date till the Effective Date to the end and intent that the Transferee Company accepts all acts, deeds and things done and executed by and / or on behalf of the Transferor Companies as acts, deeds and things done and executed by and / or on behalf of the Transferee Company.

#### 12 DISSOLUTION OF THE TRANSFEROR COMPANIES

On the Scheme becoming effective, the Transferor Companies shall stand dissolved without being wound-up.

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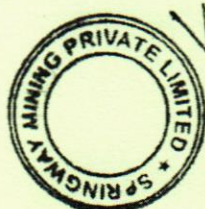
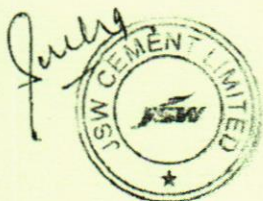
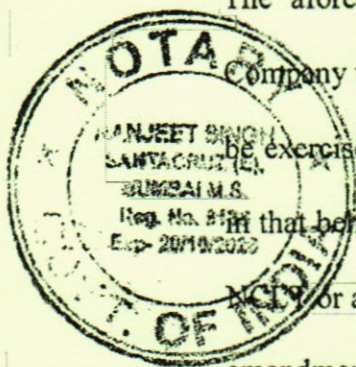
**PART III****GENERAL TERMS AND CONDITIONS****13 APPLICATION**

The Transferor Companies and the Transferee Company shall make necessary applications before the NCLT for the sanction of this Scheme under Sections 230 to 232 and other applicable provisions of the Act and for seeking orders for dispensing with or convening, holding and/or conducting of the meetings of the respective shareholders/creditors.

**14 MODIFICATIONS / AMENDMENTS TO THE SCHEME**

The Transferor Companies and the Transferee Company with approval of their respective Board of Directors may consent, from time to time, on behalf of all persons concerned, to any modifications / amendments or additions / deletions to the Scheme which may otherwise be considered necessary, desirable or appropriate by the said Board of Directors to resolve all doubts or difficulties that may arise for carrying out this Scheme and to do and execute all acts, deeds, matters and things necessary for bringing this Scheme into effect or agree to any terms and / or conditions or limitations that the NCLT or any other authorities under law may deem fit to approve of, to direct and / or impose.

The aforesaid powers of the Transferor Companies and the Transferee Company to give effect to the modification / amendments to the Scheme may be exercised by their respective Board of Directors or any person authorised in that behalf by the concerned Board of Directors subject to approval of the NCLT or any other authorities under the applicable law to such modification / amendments to the Scheme.





## 15 VALIDITY OF THE EXISTING RESOLUTIONS, ETC.

Upon the coming into effect of the Scheme, the resolutions of the Transferor Companies as are considered necessary by the Board of Directors of the Transferee Company which are validly subsisting be considered as resolutions of the Transferee Company. If any such resolutions have any monetary limits approved under the provisions of the Act or any other applicable statutory provisions, then the said limits, as are considered necessary by the Board of Directors of the Transferor Companies, shall be added to the limits, if any under the like resolutions passed by the Transferee Company.

## 16 CONDITIONALITY OF THE SCHEME

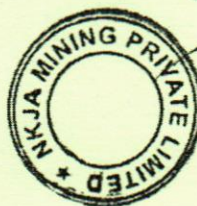
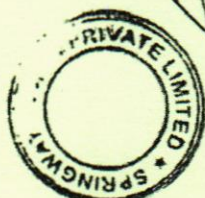
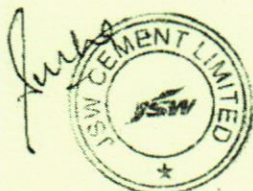
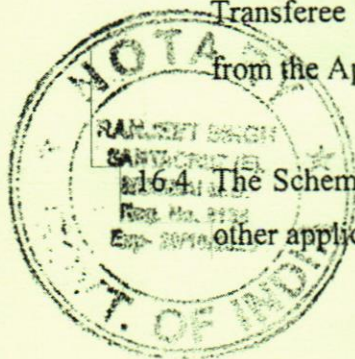
This Scheme is conditional upon and subject to the following:

16.1 The Scheme being approved by the requisite majorities in number and value of such classes of persons including the respective Shareholders and/or Creditors, if required, of the Transferor Companies and the Transferee Company, as may be directed by the NCLT or any other Appropriate Authority as may be applicable;

16.2 The requisite sanctions and approvals of any Appropriate Authority, as may be required by law, in respect of the Scheme being obtained;

16.3 The requisite sanctions and approvals of the Appropriate Authority to the transfer of the mining leases of the Transferor Company 1 in favor of the Transferee Company in terms of this Scheme, if and to the extent required from the Appropriate Authority;

16.4 The Scheme being sanctioned by the NCLT under Sections 230 to 232 and other applicable provisions of the Act; and



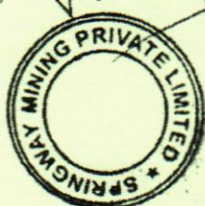
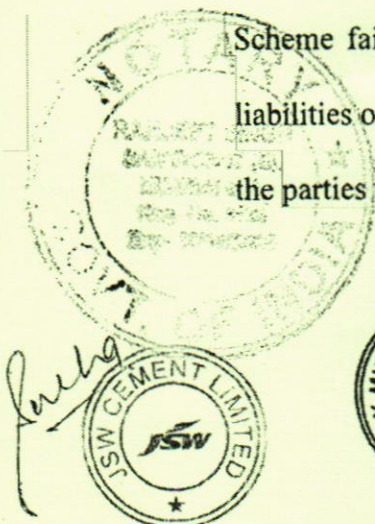


16.5 Certified copy of the Order of the NCLT sanctioning the Scheme, being filed with the Registrar of Companies, Mumbai and Registrar of Companies, Kolkata.

## 17 EFFECT OF NON-RECEIPT OF APPROVALS

17.1 In the event of any of the said sanctions and approvals referred to in the preceding Clause not being obtained and/ or the Scheme not being sanctioned by the NCLT or such other competent authority and / or the order not being passed as aforesaid before 31<sup>st</sup> December, 2024 or within such further period or periods as may be agreed upon between the Transferor Companies and the Transferee Company by their respective Board of Directors (and which the Board of Directors of the Company are hereby empowered and authorized to agree to and extend the Scheme from time to time without any limitation), the Scheme shall become null and void, and be of no effect, save and except in respect of any act or deed done prior thereto as is contemplated hereunder or as to any right, liability, or obligations which have arisen or accrued pursuant thereto and which shall be governed and be preserved or worked out as is specifically provided in the Scheme or as may otherwise arise in law and each party shall bear and pay its respective costs, charges and expenses in connection with the Scheme unless otherwise mutually agreed.

17.2 Save and except as mentioned in Clause 17.1 above, in the event of this Scheme failing to take effect or it becoming null and void, no rights and liabilities of whatsoever nature shall accrue to or be incurred inter-se to or by the parties to the Scheme or any of them.





18 COSTS, CHARGES & EXPENSES

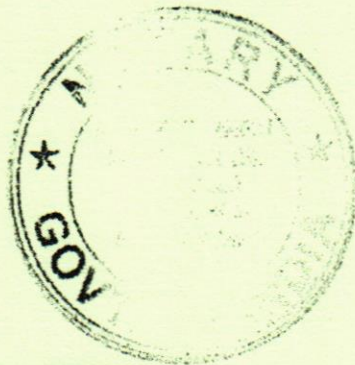
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All costs, charges, taxes including duties, levies and all other expenses, if any (save as expressly otherwise agreed) arising out of or incurred in carrying out and implementing this Scheme and matters incidental thereto shall be borne by the Transferee Company.

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Certified True Copy \_\_\_\_\_  
Date of Application 08/5/2024  
Number of Pages 26  
Fee Paid Rs. 130/-  
Applicant called for collection copy on 10/5/2024  
Copy prepared on 10/5/2024  
Copy Issued on 10/5/2024

*R. S. Sonawale*  
Deputy Registrar  
National Company Law Tribunal, Mumbai Bench



CERTIFIED TRUE COPY

