

Dated: 10th May, 2019
 Place : Hyderabad

BSE Limited Phiroze Jeejeebhoy Towers Dalal Street, Fort Mumbai-400 001 K.A.: Ms Ishwari Vaidya Scrip Code: 539333	The National Stock Exchange of India Limited Bandra Kurla Complex Bandra East Mumbai – 400 051 K.A.: Ms. Snehal Scrip Symbol: PENPEBS
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Kind Attn: Listing Department/Corporate Relationship Department

Sub: Approval of the National Company Law Tribunal ('NCLT'), to the Scheme of Amalgamation of Pennar Engineered Building Systems Limited ("PEBS" or "First Transferor Company") and Pennar Enviro Limited ("PEL" or "Second Transferor Company") (hereinafter collectively referred to as "Transferor Companies") with Pennar Industries Limited ("PIL" or "Transferee Company") and their respective shareholders under section 230 to 232 of the Companies Act, 2013 ('Scheme').

Ref.: Disclosure under Regulation 30 of the SEBI (listing Obligations and Disclosure Requirements) Regulations, 2015.

Dear Sir/Madam,

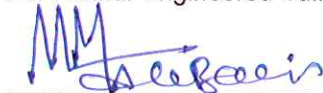
We refer to the captioned subject. In this connection, we wish to inform you that the final hearing of Company Petition No. CP(CAA)No.42/230/HDB/2018 and Company Petition No. CP(CAA)No.44/230/HDB/2018 and Company Petition No. CP(CAA)No.46/230/HDB/2018 was held on 29th day of April 2019 and on 8th May, 2019 the Order was Pronounced and the signed Order was uploaded on NCLT website 10th May, 2019.

In this regard, we are pleased to inform you, that, the NCLT, Hyderabad bench has sanctioned the amalgamation embodied in the Scheme and has approved the Appointed Date of the Scheme to be 1 April 2018. Order of the NCLT, Hyderabad bench is attached for your records.

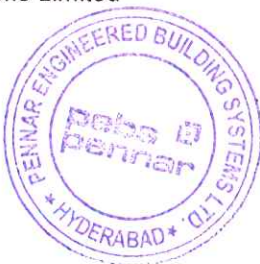
The Scheme will be effective on filing of the order passed by the NCLT, Hyderabad bench with the Registrar of Companies.

Kindly take the above on record.

For Pennar Engineered Building Systems Limited



Company Secretary



Corporate Office:
 Pennar Engineered
 Building Systems Limited
 9th Floor (West Wing),
 DHFLVC Silicon Towers,
 Kondapur, Hyderabad - 500084
 T: +91 40 4021 0525 / 26
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 E-mail: cs@pebspennar.com
 CIN: U45400AP2008PLC057182

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

**CP(CAA) NO.42/230/HDB/2018
(Connected with CA(CAA) NO.928/230/HDB/2018)**

&

**CP(CAA) NO.44/230/HDB/2018
(Connected with CA(CAA) NO.930/230/HDB/2018)**

&

**CP(CAA) NO.46/230/HDB/2018
(Connected with CA(CAA) NO.932/230/HDB/2018)**

Under sections 230 to 232 of the Companies Act, 2013

CP(CAA) NO.42/230/HDB/2018

Pennar Engineered Building Systems Limited
9th Floor, DHFLVC Silicon Towers,
Kondapur,
Hyderabad – 500 084.

... 1st Petitioner/Transferor Company-I

CP(CAA) NO.42/230/HDB/2018

Pennar Enviro Limited
186/A, IDA Mallapur,
Hyderabad – 500 076.

... 2nd Petitioner/Transferor Company-II

CP(CAA) NO.42/230/HDB/2018

Pennar Industries Limited
3rd Floor, DHFLVC Silicon Towers,
Kondapur,
Hyderabad – 500 084.

... 3rd Petitioner/Transferee Company

Date of Pronouncement of Order: 08.05.2019

Parties Present:

For the Petitioners : Shri Y. Suryanarayana, Advocate along with
Shri Naresh Kumar Sangam, Advocate

For the RD (SER): Shri B. Jithender, CGSC

For the OL : Shri M. Anil Kumar, CGSC



Per: K. Anantha Padmanabha Swamy, Member Judicial

COMMON ORDER

1. The Present Company Petitions i.e. CP(CAA)No.42/230/HDB/2018; CP(CAA)No.44/230/HDB/2018 and CP(CAA) No.46/230/HDB/2018, are filed under section 230 to 232 of the Companies Act, 2013 r/w the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, seeking sanction of Scheme of Amalgamation ("Scheme" in short) between the Petitioner Companies i.e. Pennar Engineered Building Systems Limited (Transferor Company-I) and Pennar Enviro Limited (Transferor Company-II) with Pennar Industries Limited (Transferee Company) and their respective Shareholders, Creditors and Employees.

2. Brief facts leading to the filing of present case are as follows:

I. In respect of Transferor Company-I:

The Transferor Company-I viz., Pennar Engineered Building Systems Limited, was incorporated as a public limited company under the name and style 'Pennar Engineered Building Systems Limited' in the State of Telangana on 17 January 2008, vide Corporate Identity Number L45400TG2008PLC057182. The equity shares of the Transferor Company-I are listed on BSE Limited ('BSE') and the National Stock Exchange of India Limited ('NSE'). The Registered Office of the Transferor Company-I is situated at 9th Floor, DHFLVC Silicon Towers Kondapur Hyderabad - 500084 in the State of Telangana. The main objects of the Transferor Company-I is to carry on the business of selling buildings systems including pre-engineered buildings, pre-fabricated structures, pre-stressed concrete assemblies and structures, high rise metal buildings, framing systems, heavy steel and metal structures for use as warehouses, commercial buildings, factories, aircraft hangers, sports facilities, insulated cold chains etc.

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The authorised capital of the Transferor Company-I as on 31.03.2018 is Rs.42,00,00,000/- divided into 3,60,00,000 Equity Shares of Rs.10/- each and 60,00,000 Compulsorily convertible preference shares of Rs.10/- each. The paid up capital of the Transferor Company-I as on 31.03.2018 is Rs.34,27,49,110/- divided into 3,42,74,911 fully paid up Equity Shares of Rs.10/- each. As per the Certificates given by M M Reddy & Co, Chartered Accountants, the Transferor Company-I has 7,559 Shareholders, 4 secured creditors amounting to Rs.80,34,41,432/- and 699 unsecured creditors amounting to Rs.58,37,37,892/-.

II. In respect of Transferor Company-II:

The Transferor Company-II viz., Pennar Enviro Limited, the Transferor Company-II, was originally incorporated as a public limited company under the name and style of 'Pennar Chemical Limited' in the State of Telangana on 14th March, 2008, vide Corporate Identity Number U74900TG2008PLC058171. Subsequently, the name was changed to 'Pennar Enviro Limited' and a fresh certificate of incorporation consequent upon change of name was issued by the Registrar of Companies, Andhra Pradesh on 16th December, 2011. The Registered Office of the Transferor Company-II is situated at 186/A, IDA Mallapur, Hyderabad - 500076 in the State of Telangana. The main objects of the Transferor Company-II is to carry on the business as general engineers, mechanical engineers, process engineers, civil engineers, general mechanical and civil contractors and to enter into contracts, joint ventures and special purpose vehicles (SPVs) in relation to and to erect, construct, supervise, maintain, alter, repair, pull down and restore, either alone or jointly with other companies or persons, works of all descriptions etc.

The authorised capital of the Transferor Company-II as on 31.03.2018 is Rs.9,00,00,000/- divided into 90,00,000 Equity Shares of Rs.10/- each. The paid up capital of the Transferor Company-II as on



31.03.2018 is Rs.8,36,82,590/- divided into 83,68,259 fully paid up Equity Shares of Rs.10/- each. As per the Certificates given by M M Reddy & Co, Chartered Accountants, the Transferor Company-II has 11 Shareholders, 2 secured creditors amounting to Rs.7,90,51,207/- and 301 unsecured creditors amounting to Rs.23,15,70,709/-.

III. In respect of Transferee Company:

The Transferee Company viz., Pennar Industries Limited, the Transferee Company, was originally incorporated as a public limited company under the name and style 'Pennar Steels Limited' in the State of Andhra Pradesh on 8th August, 1975, vide Corporate Identity Number L27109AP1975PLC001919. Subsequently, the name was changed to 'Pennar Industries Limited' and a fresh certificate of incorporation consequent upon change of name was issued by the Registrar of Companies, Andhra Pradesh on 30th September, 1998. The equity shares of the Transferee Company are listed on BSE Limited ('BSE') and the National Stock Exchange of India Limited ('NSE'). The Registered Office of the Transferee Company is situated at Floor No. 3, DHFLVC Silicon Towers, Kondapur, Hyderabad - 500084 in the State of Telangana. The main objects of the Transferee Company is to carry on the business as manufacturers and sellers of steel strips and sheets of all kinds, sizes, grades varieties, box strapping, stainless steel, strips and sheets, non-ferrous strips and sheets, tubes, doubled walled tubes, precision tubes, pipes, tin plates. Galvanized sheets and coils, colour coated strips and sheets, cold formed sections such as: door frames, window frames, collecting electrodes, structural, auto body components and welded and non-welded profile sections, panel boards, bimetal strips, clad strips, line blanking strips, nickel silver strips, hot rolled strips, foils, strips and formed components etc.



The authorised capital of the Transferee Company as on 31.03.2018 is Rs.100,00,00,000/- divided into 15,00,00,000 Equity Shares of Rs. 5/- (Rupees Five only) each and Series - A : 5,00,000 Cumulative Redeemable Preference Shares of Rs.100/- each and Series - B : 4,00,00,000 Cumulative Redeemable Preference Shares of Rs.5/- each. The paid up capital of the Transferee Company as on 31.03.2018 is Rs.60,17,47,570/- divided into 12,03,49,514 fully paid up Equity Shares of Rs.5/- each. As per the Certificates given by M M Reddy & Co, Chartered Accountants, the Transferee Company has 48,074 Shareholders, 4 secured creditors amounting to Rs.84,57,00,000/- and 977 unsecured creditors amounting to Rs.263,54,38,766/-.

3. The Petitioner Companies have earlier filed Company Applications i.e. CA(CAA)No.928/230/HDB/2018; CA(CAA) No.930/230/HDB/2018 and CA(CAA) No.932/230/HDB/2018, seeking directions to convene the meetings of the Shareholders & Unsecured Creditors of all the Petitioner Companies. It was also prayed for dispensation of the meetings of the Secured Creditors of all the Petitioner Companies.
4. This Tribunal in CA(CAA)No.928/230/HDB/2018; CA(CAA) No.930/230/HDB/2018 and in CA(CAA)No.932/230/HDB/2018, vide its common order dated 01.11.2018 :-
 - (i) dispensed with the requirement of convening the meetings of the Secured Creditors of all the Petitioner Companies;
 - (ii) directed that a meeting of the Equity shareholders and Unsecured Creditors of the Transferor Company-I be held on 14.12.2018 at 11:00 AM and on 15.12.2018 at 11:00 AM respectively, at Hotel Raddison, Gachibowli, Miyapur Road, Chota Anjaiah Nagar, Hyderabad – 500032 and appointed Mr. V. Venkata Rami Reddy, Advocate as Chairperson and Mr. P. Srikanth Kumar, Practicing Company Secretary as the Scrutinizer for convening the meeting

- of the Equity Shareholders and Mr. G. Bhupesh, Advocate, as Chairperson and Mr. Manish Kumar Singhania, Practicing Company Secretary as the Scrutinizer for convening the meeting of the Unsecured Creditors of the Transferor Company-I;
- (iii) directed that a meeting of the Equity shareholders and Unsecured Creditors of the Transferor Company-II be held on 14.12.2018 at 05:00 PM and on 15.12.2018 at 05:00 PM respectively, at Hotel Raddison, Gachibowli, Miyapur Road, Chota Anjaiah Nagar, Hyderabad – 500032 and appointed Mr. G. Kalyan Chakravarthy, Advocate as Chairperson and Mr. K. V. Raman, Advocate as the Scrutinizer for convening the meeting of the Equity Shareholders and Mr. P. Anil Mukherjee, Advocate as Chairperson and Mr. Lalith Jogi, Advocate as the Scrutinizer for convening the meeting of the Unsecured Creditors of the Transferor Company-II;
- (iv) directed that a meeting of the Equity shareholders and Unsecured Creditors of the Transferee Company be held on 14.12.2018 at 02:30 PM and on 15.12.2018 at 02:30 PM respectively, at Hotel Raddison, Gachibowli, Miyapur Road, Chota Anjaiah Nagar, Hyderabad – 500032 and appointed Mr. D. Narendar Naik, Advocate as Chairperson and Mr. M.B Suneel, Company Secretary as the Scrutinizer for convening the meeting of the Equity Shareholders and Mr. Amir Ali Bhavani, Advocate as Chairperson and Mr. Rajeev Ratna Surya Vamshi, Advocate as the Scrutinizer for convening the meeting of the Unsecured Creditors of the Transferee Company.
- (v) directed the Chairpersons appointed for convening the meetings of the Equity Shareholders and the Unsecured Creditors of the Petitioner Companies to send the notices of the aforesaid meetings through registered post / speed post / courier / registered email ID to the shareholders and the unsecured creditors and to

carry out an advertisement about the said meetings indicating the day, date, place and time in Business Standard (English Daily) and Nava Telangana (Telugu Daily) at least one month before the date of the aforesaid meetings and to file an affidavit not less than 7 days before the date fixed of the meetings with this Hon'ble Tribunal regarding the compliance of the directions of this Tribunal in relation to issuance of the notices and the advertisement of the meetings.

5. In pursuance of the said order the Chairpersons appointed for convening the meetings of the equity shareholders and unsecured creditors of the Petitioner Companies have served the individual notices convening the meeting of the equity shareholders on 09.11.2018 and carried out paper advertisement on 13.11.2018 in Business Standard (English Daily) and Nava Telangana (Telugu Daily) and further issued notice to statutory authorities viz., Income Tax Department, Registrar of Companies, Regional Director, Official Liquidator, BSE Limited, National Stock Exchange of India Limited and Securities and Exchange Board of India on 13.11.2018 & on 14.11.2018 and have filed their respective affidavits dated 26.11.2018, before this Tribunal reporting the compliance of directions of this Tribunal's dated 01.11.2018.
6. Accordingly, as per the directions of this Tribunal, a meeting of the **equity shareholders of the Transferor Company-I** was convened on 14.12.2019 at 11:00 AM at Hotel Raddison, Gachibowli, Miyapur Road, Chota Anjaiah Nagar, Hyderabad – 500032 and Mr. V. Venkata Rami Reddy, Chairperson, filed his report. From the report of the Chairperson, it is seen that the meeting was attended by 109 equity shareholders holding 2,69,49,664 equity shares constituting 78.63% of the total equity capital of the Transferor Company-I out of which 104 equity shareholders holding 2,69,47,452 equity shares voted in favour of the Scheme and 4 members holding 2,194 equity shares voted against

the Scheme and the votes cast by 1 member holding 10 shares was treated as invalid. Thus, it is clear that the members present and representing 99.99% equity shares voted in favour of the Scheme and members present and representing 0.01% equity shares voted against the Scheme.

7. Similarly, a meeting of the **equity shareholders of the Transferor Company-II** was convened on 14.12.2019 at 05:00 PM at Hotel Raddison, Gachibowli, Miyapur Road, ChotaAnjaiah Nagar, Hyderabad – 500032 and Mr. G. Kalyan Chakravarthy, Chairperson, filed his report. From the report of the Chairperson, it is seen that the meeting was attended by 8 equity shareholders holding 75,48,607 equity shares constituting 83.87% of the total equity capital of the Transferor Company-II and all of them voted in favour of the Scheme. Thus, it is clear that 100% of the total members present voted in favour of the Scheme.
8. Similarly, a meeting of the **equity shareholders of the Transferee Company** was convened on 14.12.2019 at 02:30 PM at Hotel Raddison, Gachibowli, Miyapur Road, Chota Anjaiah Nagar, Hyderabad – 500032 and Mr. D. Narendar Naik, Chairperson, filed his report. From the report of the Chairperson, it is seen that the meeting was attended by 165 equity shareholders holding 6,95,16,420 equity shares constituting 57.76% of the total equity capital of the Transferee Company out of which 148 equity shareholders holding 6,94,91,774 equity shares voted in favour of the Scheme and 17 members holding 24,646 equity shares voted against the Scheme. Thus, it is clear that the members present and representing 99.96% equity shares voted in favour of the Scheme and members present and representing 0.04% equity shares voted against the Scheme.



9. Similarly, a meeting of the **Unsecured Creditors of the Transferor Company-I** was convened on 15.12.2019 at 11:00 AM at Hotel Raddison, Gachibowli, Miyapur Road, Chota Anjaiah Nagar, Hyderabad – 500032 and Mr. G. Bhupesh, Chairperson, filed his report. From the report of the Chairperson, it is seen that the meeting was attended by 115 unsecured creditors entitled to Rs.35,00,41,598/- representing 59.97% of total value of the unsecured creditors of the Transferor Company-I out of which 111 unsecured creditors entitled to Rs.34,39,97,306/- voted in favour of the Scheme and 4 unsecured creditors entitled to Rs.60,44,292/- voted against the Scheme. Thus, it is clear that the unsecured creditors present and representing 98.23% of the value of unsecured debt voted in favour of the Scheme and unsecured creditors present and representing 1.77% of the value of unsecured debt voted against the Scheme.
10. Similarly, a meeting of the **Unsecured Creditors of the Transferor Company-II** was convened on 15.12.2019 at 05:00 PM at Hotel Raddison, Gachibowli, Miyapur Road, Chota Anjaiah Nagar, Hyderabad – 500032 and Mr. P. Anil Mukherji Chairperson, filed his report. From the report of the Chairperson, it is seen that the meeting was attended by 72 unsecured creditors entitled to Rs.17,19,31,538/- representing 74.25% of total value of the unsecured creditors of the Transferor Company-II out of which 68 unsecured creditors entitled to Rs.17,05,28,030/- voted in favour of the Scheme and 3 unsecured creditors entitled to Rs.99,073/- voted against the Scheme and the vote cast by 1 unsecured creditor entitled to Rs.13,04,435/- was treated as invalid. Thus, it is clear that the unsecured creditors present and representing 99.94% of the value of unsecured debt voted in favour of the Scheme and unsecured creditors present and representing 0.06% of the value of unsecured debt voted against the Scheme.
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11. Similarly, a meeting of the **Unsecured Creditors of the Transferee Company** was convened on 15.12.2019 at 02:30 AM at Hotel Raddison, Gachibowli, Miyapur Road, Chota Anjaiah Nagar, Hyderabad – 500032 and Mr. Amir Ali Bavani, Chairperson, filed his report. From the report of the Chairperson, it is seen that the meeting was attended by 59 unsecured creditors entitled to Rs.111,69,66,381/- representing 42.38% of total value of the unsecured creditors of the Transferee Company and all of them voted in favour of the Scheme. Thus, it is clear that 100% of the total unsecured creditors present voted in favour of the Scheme.
12. The Petitioner Companies then filed the present Company Petitions i.e. CP(CAA)No.42/230/HDB/2019; CP(CAA) NO.44/230/HDB/2019 and CP(CAA) NO.46/230/HDB/2019, before this Tribunal, seeking sanction of Scheme of Amalgamation of Pennar Engineered Building Systems Limited (Transferor Company-I) and Pennar Enviro Limited (Transferor Company-II) with Pennar Industries Limited (Transferee Company).
13. The Petitioner Companies have passed respective Board Resolutions on 10.11.2017 approving the Scheme of Amalgamation with the appointed date 01.04.2018.
14. The Shareholders and Unsecured Creditors of the Petitioner Companies have approved the Scheme of Amalgamation at their respective Tribunal Convened Meetings held on 14.12.2018 & 15.12.2018, respectively, with appointed date 01.04.2018 without any modifications, as evident by the reports filed by the Chairpersons.
15. According to the Petitioner Company, the Transferee Company holds 54% stake in the Transferor Company-I since October 2009, one of the Transferee Company's most successful initiatives since its inception.

The Transferor Company-I was set up in 2008 with a vision to emerge as a leader in the pre-engineered buildings and structural steel industry space. The Transferee Company acquired 51% stake in the Transferor Company-II in 30 November 2012, with the objective of entering into new areas of engineering services. The Transferor Company-II has strong references in a range of technologies including desalination, effluent treatment and recycling, demineralization and instrumentation. Accordingly, the merger of the PEBS and PEL with the PIL would have the following benefits:

- a) Enable the shareholders of all the companies to get direct participation in the promising combined business of the Transferee Company, the Transferor Company-I & the Transferor Company-II.
- b) Further, the merger would offer a greater potential to the combined entity to develop and further grow and diversify with better optimization of funds and efficient utilization of resources.
- c) Simplification of the management structure leading to better administration and reduction in costs from more focused operational efforts, rationalization, standardization and simplification of business processes.
- d) Synergies arising out of consolidation of business, such as enhancement of net worth of the combined business which shall lead to better ability to leverage the business including reduction in cost of capital.
- e) The Transferee Company will have an improved capital structure, which would enable it to access the Capital Market at better terms and will afford easier access to other resources and at a lower cost.
- f) The merger in general will have beneficial results for the Companies, their shareholders, employees and all concerned.



16. Upon hearing the matter, this Tribunal admitted the Petitions vide order dated 25.01.2019, and directed the Petitioner Companies publish the date of hearing of the Petition in Business Standard (English Daily) and Andhra Bhoomi (Telugu Daily) at least ten days before the date of the hearing and issue notices to the statutory authorities viz., RD, ROC, OL & IT Department, BSE, NSE & SEBI.
17. In pursuance of the said Order, the Petitioner Companies have issued the paper advertisement in Business Standard (English Daily) and Andhra Bhoomi (Telugu Daily) informing the date of hearing of the Petition as 06.03.2019 and a copy of the aforesaid petitions were served along with notice upon the statutory authorities (viz., Income Tax Department, Registrar of Companies, Regional Director, Official Liquidator, BSE Limited, National Stock Exchange of India Limited and Securities and Exchange Board of India) with regard to the date of hearing of the Petition and to this effect filed respective memos dated 18.02.2019, with this Tribunal on 20.02.2019, bearing SR 1452, 1451 & 1453 respectively.
18. The Official Liquidator in his report dated 08.03.2019, reiterated the averments made in the Petitions and further stated that the Official Liquidator is of the Opinion that the affairs of the Company appears to have not been conducted in a manner prejudicial to the interest of the members or to public interest.
19. The Regional Director in his report dated 05.03.2019, submitted that ROC, Hyderabad while conveying no objection to the proposed Scheme, pointed out certain observations: Vide para 30(a) that the Hon'ble Tribunal may be pleased to direct that the Petitioner company(s) to preserve its books of accounts and papers and records and shall not be disposed off without the prior permission of the Central

Government in terms of provisions of Section 239 of the Companies Act, 2013, Vide para 30(b) that the Hon'ble Tribunal may be pleased to direct that the Petitioner Company(s) to ensure statutory compliance of all applicable laws and also on sanctioning of the present scheme the applicant company shall not be absolved for any of its statutory liability in any manner, Vide para 30(c) that the Hon'ble Tribunal may be pleased to direct that the Petitioner Company(s), involved in the scheme to comply with Rule 17(2) of the Companies (Compromise, Arrangement and Amalgamation) Rules 2013 with respect to filing of order for confirmation of scheme to be filed in Form No.INC-28 with the concerned office of Registrar of Companies by the Petitioner Company.

20. Further the Regional Director inter-alia observed as followed:

- a) As per clause 1.2 of Part-I of the Scheme the appointed date is 1.04.2018. As per sec.232 (6) of the Companies Act, 2013, the scheme under this section shall clearly indicate an appointed date from which it shall be effective and the scheme shall be deemed to be effective from such date and not at a date subsequent to the appointed date. However Clause 1.4 of Part-I of the scheme is contrary to sec.232 (6) and needs modification. Hence, the Hon'ble Tribunal may issue necessary directions to the Petitioner Companies.
- b) Pennar Engineered Building Systems Limited, Transferor Company No.1 & Pennar Industries Limited, Transferee Company are listed companies. BSE Limited and NSE of India Limited both dated 26.04.2018 have furnished their observations regarding the draft scheme of amalgamation between Transferor and Transferee Companies and furnishing their comments on the draft scheme of arrangement and directed to comply with certain directions. Hence, the Hon'ble Tribunal may be pleased to direct the Petitioner

Companies to give an undertaking that they will comply with the directions of BSE, NSE/SEBI.

- c) As per Company reply at Point No.19 company has provided the details of shareholding pattern (i.e. list of non-NRIs, Foreign Portfolio Investors, Non Resident Indians non repatriable, Foreign Nationals. Hon'ble Tribunal may therefore, be pleased to direct the Petitioner Company to state whether they have complied/obtained the concerned Sectoral Regulator Approval i.e. FEMA/RBI.
- d) As per clause vii (c) of Annexure-B to the Independent Auditors Report attached to the Balance Sheet as at 31.03.2018 of Transferee Company, dispute is pending before the Excise Duty, Service Tax and Entry Tax. Hence, the Hon'ble Tribunal may be pleased to direct the Petitioner Company to give an undertaking to the effect that as and when the demand arises from the said authorities, Petitioner Company shall clear the demand.
- e) As per the Company Master Data obtained from MCA-Portal with respect to Transferor Company, there are five charges pending and the status of the said charges is shown as open.
- f) As per the Company Master Data obtained from MCA-Portal with respect to Transferor Company, there are two charges pending and the status of the said charges is shown as open.
- g) As per the Company Master Data obtained from MCA-Portal with respect to Transferee Company, there are twelve charges pending and the status of the said charges are shown as "Open" Hence, the Hon'ble Tribunal may be please to direct the Petitioner Companies to furnish the present status of the said charges / NOCs if any, obtained / consents taken from the said Creditors and that all those charge holders have been sent notices of the respective meeting.



21. In reply to the report filed by the Regional director, the Petitioner Company had filed a reply affidavit dated 18.03.2019, with this Tribunal stating & undertaking as follows:

- a) That the Petitioner Companies herein undertake that they will preserve the books of accounts and papers and records and the Petitioner Companies will not dispose off without the prior permission of the Central Government in terms of provisions of Section 239 of the Companies Act, 2013.
- b) That the Petitioner Companies undertakes that they will comply with all the applicable laws and will pay all the statutory liabilities as may be applicable to the Petitioner Companies, the Petitioner Companies further state that the sanctioning of the present, Scheme will not absolve for any of its statutory liabilities in any manner.
- c) That the Petitioner Companies undertake that they will file Form No. INC-28 with the concerned office of Registrar of Companies with respect to the filing of the order for confirmation of scheme in accordance with rule 17(2) of the Companies (Compromise, Arrangement and Amalgamation) Rules, 2013.
- d) That clause 2 of the Scheme reads as *“The Scheme set out herein in its present form with any modification or amendments approved imposed or directed by NCLT, shall be effective from the appointed date but shall be operative from effective date”*. From the above clause it is amply clear as stated in Section 232(6) the Scheme is effective from appointed date and that the Regional Director has taken the same objection in the matter of CP (CAA) No. 418/230IHDB/2018 and after clarification from the Company the Regional Director has accepted the same.
- e) That the Petitioner Companies undertake that they will comply with directions of BSE, NSE and SEBI.
- f) That as per the provisions of the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India)

Regulations, 2017, the Transferee Company is eligible to receive 100% equity under automatic route without any approval. Accordingly as per regulation 9 of the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017 once the Scheme of Amalgamation has been approved by the Hon'ble Tribunal the transferee company is allowed to issue shares to the shareholders of the transferor company resident outside India without seeking any approval upto 100% of the total paid-up equity share capital of the Transferee Company. Without prejudice to the above submission, the Petitioner herein undertakes that it will comply with all the provisions relating FEMA/RBI.

- g) That the Petitioner Companies undertake that the Transferee Company will subject to its legal rights will pay the statutory dues as and when the demand arise and becomes due for payment.
- h) That as per MCA Portal there are five charges still shown as pending. The charge which is shown as pending towards loan obtained from ICICI Bank was already repaid and NOC from other creditors to whom the Transferor Company-I owes were obtained and the National Company Law Tribunal was pleased to dispense with the meetings of the secured creditors. The Affidavits obtained from the Secured Creditors are enclosed at page No. 320 to 327 of the Petition.
- i) That as per MCA portal there are two charges still shown as pending. The Transferor Company-II has obtained consent affidavit from Axis Bank Limited which is holding 98.30% of the total secured creditors and the Hon'ble National Company Law Tribunal was pleased to dispense with the meetings of the secured creditors. The Affidavits obtained from the Secured Creditor is enclosed at page No. 168 and 169 of the Petition.



- j) That as per MCA Portal there are twelve charges still shown as pending. As on the date of filing Petition the Transferee Company has six Secured Creditors out of which the Transferee Company has obtained consent affidavits from three Secured Creditors which are holding 99.85% of the total secured creditors and the Hon'ble National Company Law Tribunal was pleased to dispense with the meetings of the secured creditors. The Affidavits obtained from the Secured Creditors are enclosed at page No. 250 and 254 of the Petition.
22. The Regional Director has also reported in his report that no reply has been received from the Income tax Department till date.
23. The Transferor Company-I and the Transferee Company being the listed Companies have obtained the observation letters from the stock exchanges i.e. BSE & NSE and the same are annexed at page no 270 to 273 and at page no. 188 to 191, to their respective Petitions.
24. The Petitioner Companies have also enclosed the certificates confirming Accounting Treatment proposed in the Scheme obtained from the Deloitte Haskins & Sells LLP, Chartered Accountants, and the same are annexed at page no 198 & 199, at 365 & 366 and at page no. 279 & 280 to their respective Petitions.
25. Heard the submissions made by the Counsel representing the Petitioner Companies.
26. At the final hearing took place on 29.04.2019, the counsel for the Regional Director and the counsel for the Official Liquidator have reported No-objections to the Scheme of Amalgamation.



27. During the hearings, this Bench directed the Petitioner Companies to file an Affidavit sworn by the Director of the Petitioner Companies with regard to service of notices of the meetings on the Equity Shareholders and on the Unsecured Creditors. In pursuance to the above directions, Managing Director/Directors of the Petitioner Companies filed Affidavits stating that the Petitioner Companies in accordance with the directions of this Tribunal had served the notice of the meetings of the Equity Shareholders and Unsecured Creditors through Courier/email. It is further stated that the mode of delivery of service of notice of the meetings of the equity shareholders and unsecured creditors is "Courier and E-mail", which is specified as one of the alternatives of service of notice at Paragraph No.22(u) appearing at page No.9 of the common order dated 01.11.2018, passed by this Tribunal in CA(CAA)No.928/230/HDB/2018; CA(CAA)No.928/230/ HDB/2018; and CA(CAA)No.928/230/HDB/2018. As also the aforesaid modes of services of notice are permitted in terms of Sub-Rule 2 of Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, for serving the notices on the Equity Shareholders and on the Unsecured Creditors of the Petitioner Companies. Further, the notices of the above said meetings were sent to all the statutory authorities and were also uploaded on the website of the Petitioner Companies, on the website of the BSE, NSE and SEBI. Further, the Petitioner Companies had issued the paper advertisement in Business Standard (English daily) and Andhra Bhoomi (Telugu daily) informing the date of hearing of the petition and also issued notices to statutory authorities i.e. Income Tax Department, ROC, RD, OL, BSE Limited, NSE of India Limited and SEBI. It is further declared in the affidavits that from the date of publication of notice of hearing date and till date of making this affidavit, the Petitioner Companies did not receive any objections or query with regard to the scheme of amalgamation from any shareholder, creditor or any other person/entity.
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28. Considering the facts and circumstances of the case and on perusal of the Scheme, the documents produced on record, Report of the RD and Report of the OL and various affidavit filed by the Petitioner Companies, it appears that the requirement of provisions of sections 230 to 232 of the Companies Act, 2013, are satisfied. The Scheme appears to be genuine and bonafide and in the interest of the Shareholders and Creditors.
29. In the result, the Petitions are allowed with the following directions:
- a) The Scheme of Amalgamation annexed as **Annexure C** to the respective petitions filed by the Petitioner Companies bearing Nos. CP(CAA)No.42/230/HDB/2018; CP(CAA) No.44/230/HDB/ 2018 and CP(CAA) No.46/230/HDB/2018, is hereby sanctioned with appointed date of 01.04.2018 and it is declared that the same shall be binding on the Petitioner Companies Viz., Pennar Engineered Building Systems Limited (Transferor Company-I), Pennar Enviro Limited (Transferor Company-II) and Pennar Industries Limited (Transferee Company) and their respective shareholders, creditors and all concerned under the Scheme.
 - b) All concerned authorities are directed to act on a copy of this order along with the Scheme duly authenticated by the Registrar of this Tribunal.
 - c) The Transferor Company-I and the Transferor Company-II shall be dissolved without winding up from the date of filing of the certified copy of this order with the ROC.
 - d) Upon receiving the certified copy of this order, the ROC, is directed to place all documents relating to the Transferor Companies with that of the Transferee Company and the files



relating to the Transferor Companies shall be consolidated with the files and records of the Transferee Company.

- e) The Petitioner Companies are directed to take appropriate steps to submit the said scheme to the Registrar of Companies within 30 days from the date of receipt of copy of this Order.
 - f) The Petitioner Companies are directed to take all consequential and statutory steps required in pursuance of the approved Scheme of Amalgamation under the provisions of the Act.
 - g) The Petitioner Companies are directed to issue newspaper publication with respect to approval of Scheme of Amalgamation, in the same newspapers in which previous publications were made in order to ensure transparency/dissemination of complete information to all concerned parties about the approval granted by the this Tribunal.
 - h) The Petitioner Companies are directed to strictly adhere to the above directions and applicable provisions of the Companies Act.
30. The Company Petitions i.e. CP(CAA)No.42/230/HDB/2018; CP(CAA)No.44/230/HDB/2018 and CP(CAA)No.46/230/HDB/2018 are disposed of accordingly.



K. ANANTHA PADMANABHA SWAMY
MEMBER JUDICIAL