SOMANY

3rd April, 2019

Corporate Relationship Dept.,
BSE Limited,
1st Floor, New Trading Ring,
Rotunda Building,
P. J. Towers, Dalal Street, Fort,
Mumbai-400 001

The Secretary,
National Stock Exchange of India Ltd.,
Exchange Plaza, 5th Floor,
Bandra Kurla Complex,
Bandra (East), Mumbai 400 051

Subject: Intimation under Regulation 30 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 regarding Order received from NCLT, Kolkata Bench.

Dear Sir/Madam,

This is in reference to our intimation dated 5th March, 2018, informing you about the decision of the Board of Directors of the Company approving the draft Scheme of Amalgamation ("Scheme") under Sections 230 and 232 of the Companies Act, 2013 of Bhilwara Holdings Limited ("BHL"), Sarvottam Vanijya Limited ("SVL") and Scope Vinimoy Private Limited ("SVPL") with Somany Ceramics Limited ("SCL"), subject to receipt of necessary approvals for the same from statutory authorities as may be required.

We would like to inform you that the National Company Law Tribunal Kolkata Bench, (NCLT) vide its order dated 2nd April, 2019 in Company Scheme Application No. CA(CAA)No.1154/KB of 2018 ("Order") has directed the Company to convene the below mentioned meetings on Monday, 27th May, 2019, at Somany Conference Hall of Merchants' Chamber of Commerce & Industry, 15B, Hemant Basu Sarani, 2nd Floor, Kolkata 700 001, for the purpose of considering and approving the said Scheme of Amalgamation:

a) Meeting of the Equity Shareholders of the Company at 11-00 A.M;
b) Meeting of the Secured Creditors of the Company at 1-00 P.M;
c) Meeting of the Unsecured Creditors of the Company at 1-30 P.M.

The copy of order dated 2nd April, 2019 is sent herewith.

We request you to take the above on record.

Thanking you,
Yours faithfully,
For Somany Ceramics Limited

Ambirsh Julka
DGM (Legal) and Company Secretary
M. No. F4484

IN THE NATIONAL COMPANY LAW TRIBUNAL

KOLKATA BENCH

KOLKATA

CA (CAA) No. 1154/ KB of 2018

In the matter of:

An application under Section 230 – 232 of the Companies Act, 2013 read with (Compromises, Arrangements and Amalgamations) Rules, 2016

AND

In the matter of:

M/S BHILWARA HOLDINGS LIMITED, a Company incorporated under the Companies Act, 1956, on the 23rd day of September, 1980 and having its registered office at 2, Red Cross Place, Kolkata - 700001;

...Applicant No. 1/(Transferor Company No. 1)

AND

In the matter of:

M/S SARVOTTAM VANIJYA LIMITED, a Company incorporated under the Companies Act, 1956, on the 26TH DAY OF October, 1981 and having its registered office at 2, Red Cross Place, Kolkata - 700001;

...Applicant No. 2/(Transferor Company No. 2)

PS

AND

In the matter of:

M/S SCOPE VINIMOY PRIVATE LIMITED, a Company incorporated under the Companies Act, 1956, on the 15th day of December, 2004 and having its registered office at 2, Red Cross Place, Kolkata - 700001;

...Applicant No. 3/(Transferor Company No. 3)

AND

In the matter of:

M/S SOMANY CERAMICS LIMITED, a Company originally incorporated under the name and style of Somany Pilkington's Limited on the 20th day of January 1968 and subsequently the name has been changed to Somany Ceramics Limited on the 18th day of October 1995 and having its registered office at 2, Red Cross Place, Kolkata - 700 001;

...Applicant No. 4/Transferee Company

AND

In the matter of:

1. **M/S BHILWARA HOLDINGS LIMITED : (TRANSFEROR CO. NO. 1)**
2. **M/S SARVOTTAM VANIJYALIMITED : (TRANSFEROR CO. NO. 2)**
3. **M/S SCOPE VINIMOY PRIVATE LIMITED : (TRANSFEROR CO. NO. 3)**
4. **M/S SOMANY CERAMICS LIMITED : (TRANSFEREE COMPANY)**

.... Applicants

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Counsels on record:

1. Mrs. Manju Bhuteria, Advocate]
2. Ms. Pooja Jewrajka, Advocate] For the applicants

Coram: Hon'ble Member, Shri Jinan K.R., Member (J)

Date of pronouncement of order: 02/04/2019

ORDER

1. This application had been filed by the Applicant Companies namely **M/S BHILWARA HOLDINGS LIMITED (TRANSFEROR CO. NO. 1), M/S SARVOTTAM VANIJYALIMITED (TRANSFEROR CO. NO. 2), M/S SCOPE VINIMOY PRIVATE LIMITED (TRANSFEROR CO. NO. 3)** (hereinafter referred to as the "Transferor Companies") And **M/S SOMANY CERAMICS LIMITED (** hereinafter referred to as "The Transferee Company"**)** under Section 230 to 232 of the Companies Act, 2013 read with relevant rules, for obtaining sanction of this Tribunal regarding Scheme of Amalgamation proposed to be made between the Transferee Company and the Transferor Companies and their respective shareholders. A copy of the Scheme of Amalgamation has been annexed with the Application marked as **Annexure –'A',** pages 27 to 52.

2. It is stated in the proposed Scheme of Amalgamation that the proposed Scheme would not only lead to simplification of the shareholding structure and reduction of the shareholding tiers, but also demonstrate the promoter group direct commitment to and engagement with the transferee company.

3. It is stated in the proposed Scheme of Amalgamation that there would be no change in the promoter shareholding of Transferee Company after the proposed amalgamation. The promoters would continue to hold the same percentage of shares collectively in transferee company, pre and post amalgamation of the transferor companies with the transferee company, the Scheme shall result in dedicated and specialized management focus on the specific needs of the respective businesses and Scheme shall benefit to all stakeholders, leading to growth and value creation in long run and maximizing the value and return to the shareholders, unlocking intrinsic value of assets, achieving cost efficiencies and operational efficiencies.

4. It is stated in the application that the Scheme is in the interest of all the Applicant Companies, including their respective stakeholders and creditors.

5. It is stated in the application that the Board of Directors of each of the Applicant Companies have, at their Board meeting held on **March 5, 2018** approved the Scheme. The Board Resolutions are annexed to the application and marked as **'Annexure E'** (Pages 136 to 138), **'Annexure L'** (Pages 263 to 265) **'Annexure S'** (Pages 332 to 334) and **'Annexure Z'** (Pages 678 to 681).

6. It is further stated in the application that the aggregate assets of all the Applicant Companies are more than sufficient to meet all the liabilities and the said Scheme will not adversely affect the rights of any of the creditors of the Applicant Companies, in any manner whatsoever and due provisions have been made for payment of all liabilities, as and when the same shall fall due in usual course.

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7. It is further stated in the application that no investigation proceedings are pending against the Applicant Companies under Sections 210, 213 to 217, 219, 220, 222 to 227 of the Companies Act, 2013 or any other provisions thereof.

8. It is further stated in the application that a Firm of Chartered Accountant has prepared a Report determining the Share Entitlement Ratio upon implementation of the Scheme. A copy of the Report is annexed to the application and marked as **'Annexure DD'** (Pages 727 to 730).

9. The Statutory Auditors of each of the applicant companies have provided a certificate to the effect that the Accounting Treatment in the Scheme is in compliance with the applicable Accounting Standards and the Generally Accepted Accounting Principles in India. Copies of such certificated are annexed to the application and marked as **'Annexure GG** (Page 766), **'Annexure HH'** [Page 767) **'Annexure II'** (Page 768) and **'Annexure JJ** (Page 769) .

10. It is also stated in the application that the said Scheme of Amalgamation is fair, reasonable and practicable and that the terms and conditions of the said Scheme will not adversely affect the shareholders or creditors of the Applicant Companies.

11. It is further stared in the application that the National Stock Exchange of India Limited, the stock exchange on which the equity shares of the Transferee Company are listed, has *vide* its observation letter dated November 14, 2018 granted its no objection to the filing of the Scheme before this Hon'ble Tribunal. A copy of the said letter is annexed to the application and marked as **'Annexure EE'** (Page 762).

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12. It is further stated in the application that the BSE Limited, the stock exchange on which the equity shares of the Transferee Company are also listed, has *vide* its observation letter dated November 6, 2018 granted its no objection to the filing of the Scheme before this Hon'ble Tribunal. A copy of the said letter is annexed to the application and marked as **'Annexure FF** (Page 764).

13. It is stated that the Scheme does not in any way violate, override or circumvent any provision of the Companies Act, 2013 and the rules and regulations issued thereunder.

14. It is further stated that the Scheme does not contemplate any scheme of corporate debt restructuring as provided for under Section 230(2)(c) of the Companies Act, 2013.

15. It is stated that as on September 30, 2018, the First Transferor Company has 15 equity shareholders and no preference shareholders, the Second Transferor Company has 13 equity shareholders and no preference shareholders the Third Transferor Company has 9 equity shareholders and no preference shareholders. I It is further stated that all the equity shareholders of the First, Second and Third Transferor Companies representing 100% in number and 100% in value of the issued, subscribed and fully paid-up equity share capital, have given their consent in writing agreeing to the Scheme and also consented to waive the holding and convening of the meeting of the shareholders. In this regard, a certificate issued by a Chartered Accountant certifying the list of shareholders of the First, Second and Third Transferor Companies as on September 30, 2018 along with the consent affidavits received from all the shareholders are

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annexed to the Application and marked as **'Annexure "F", Annexure – "M" and Annexure "T"** [Page 139, 266 and 335 respectively).

16. It is stated that as on September 30, 2018, the First, Second and Third Transferor Companies have no secured and unsecured creditors. In this regard, a certificate issued by a Chartered Accountant certifying that the First, Second and Third Transferor Companies have nil secured and unsecured creditors as on September 30, 2018, is annexed to the Application and marked as **'Annexure G'** (Page 170) , **Annexure 'H'** (Page 171), **Annexure 'N' (**Page 293), **Annexure 'O'** (Page 294), **Annexure 'U'** (Page 355) and **Annexure 'V'** (Page 356) respectively.

17. It is stated that as on September 30, 2018, the Transferee Company, a widely held, publicly listed company, has **11916 equity shareholders** holding a **total of 42,379,426 equity shares** having a face value of Rs. 2/- each. In this regard, a certificate issued by a Chartered Accountant certifying the Shareholding pattern of the Transferee Company as on September 30, 2018, is annexed to the Application and marked as **'Annexure AA' (**Page 682 to 689).

18. It is stated that the Transferee Company has a total outstanding **secured debt of Rs. 2,89,82,59,377/-** as on September 30, 2018. A certificate issued by a Chartered Accountant certifying the total outstanding secured debt of the Transferee Company as on September 30, 2018, is annexed to the Application and marked as **'Annexure BB'. (**Page 690 to 692) **.**

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19. It is stated that the Transferee Company has a total outstanding **unsecured debt** of Rs. **2,04,46,70,804/-** as on September 30, 2018. A certificate issued by a Chartered Accountant certifying the total outstanding unsecured debt of the Transferee Company as on September 30, 2018, is annexed to the Application and marked as **'Annexure CC'. (**Page 693 to 726)

20. It is further stated that in compliance with SEBI circular bearing no. CFD/DIL3/CIR/2017/21 dated March 10, 2017, the statutory auditor of the Transferee Company has issued a certificate dated November 29, 2018 of non applicability of requirements of Paragraph (I)(A)(9)(a) of Annexure I of the said SEBI circular. The said certificate issued by the statutory auditor is annexed to the Application and marked as **'Annexure KK'. (**Page 770).

21. Having perused the application and concerned documents annexed to the application including the scheme of Amalgamation and having heard the submissions made by the Ld. Counsel on behalf of the applicants the following orders are passed herein.

ORDER

(a) Separate meetings of the equity shareholders, secured creditors and unsecured creditors of the Transferee Company to be held at **Somany Conference Hall of Merchants' Chamber Of Commerce & Industry, 15B, Hemant Basu Sarani, 2nd Floor, Kolkata 700 001 on Monday, May 27, 2019 at 11 AM, 1 PM and 1:30 PM respectively** for the purpose of considering and if thought fit, approving, with or without modifications, the said Scheme.

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(b) The notices of each of the aforesaid meetings shall be advertised in Form no. CAA 2, in one English newspaper being **'Financial Express'** and in one Bengali newspaper being **'Aajkal'** not less than 30 days before the date fixed for meetings as per Rule 7 of the Companies (Compromises, Amalgamations and Amalgamation) Rules, 2016 with necessary variations, as may be required.

(c) That in addition, 30 (thirty) clear days before the meetings to be held as aforesaid, a notice convening the said meetings together with copy of the Scheme and statement as required under the Companies Act 2013 disclosing necessary details and the prescribed form of proxy shall be sent to each of the said Equity shareholder, Secured creditor and Unsecured creditors of the Transferee Company by registered post or by speed post or by courier or by email or through hand delivery at their respective last known addresses, as per Rule 6 of the Companies (Compromises, Amalgamations and Amalgamation) Rules, 2016.

(d) The applicant companies shall serve notice of the petition on the following authorities, namely,

i. Central Government through Regional Director, Eastern region, Ministry of Corporate Affairs, Kolkata.

ii. Registrar of Companies, West Bengal,

iii. The income Tax Department of the office having jurisdiction over the respective applicant companies,

iv. The official Liquidator, High Court, Calcutta and such other relevant and sectoral regulators/authorities, if applicable, which are likely to be affected by the proposed Scheme of

Amalgamation by sending the same by hand delivery through special messenger or by registered post or speed post within 7 days from the date of this order for filing their representations, if any, on the petition. Notice along with the copy of the application and other related documents with PAN numbers of the Applicant Companies should be served upon the Chief Commissioner of Income Tax by e-mail and Speed Post or by Messenger. Petitioner Companies are also directed to mention their respective PAN Number everywhere.

(e) In view of the observations of The National Stock Exchange of India Limited and the BSE Limited stating that *["It is to be noted that the petitions are filed by the Company before NCLT after processing and communication of comments/observations on draft scheme by SEBI/ stock exchange. Hence, the Company is not required to send notice for representation as mandated under section 230(5) of the Companies Act, 2013 to SEBI again for its comments/ observations/ representations."],* the requirement to service of notice under Section 230(3) read with Section 230(5) of the Companies Act, 2013 to the Securities and Exchange Board of India as well as The National Stock Exchange of India Limited and the BSE Limited, the stock exchanges on which the equity shares of the Transferee Company are listed, is dispensed with. The circular dated November 14, 2018 of NSE and of BSE dated 6 November 2018 are enclosed marked as **Annexure 'EE' & Annexure 'FF'** respectively.

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(f) The notice shall specify that representations, if any, should be filed before this Tribunal within 30 days of date of receipt of the notice with a copy of such representations being sent simultaneously to the petitioners and /or their authorized representatives. If no such representations are received by the Tribunal within the said period, it shall be presumed that such authorities have no representations to make on the Scheme of Amalgamation.

(g) That the quorum for aforesaid meetings shall be fixed in accordance with Section 103 of the Companies Act, 2013 present either personally or through proxy. If the Quorum as above is not present, the Chairman shall proceed with the meeting with one member Quorum, whether by person or by proxy.

(a) **SIDDHARTHA MURARKA, CS, Mobile No. 9903377959** is appointed as the chairperson for the aforesaid meetings of Equity shareholders, secured creditors and unsecured creditors of the Transferee Company at a consolidated remuneration of Rs. **60,000/-.**

(b) **V.K. TULSYAN, Mobile No. 9831054180** is appointed as the Scrutinizer for the aforesaid meetings of Equity shareholders, secured creditors and unsecured creditors of the Transferee Company at a consolidated remuneration **Rs. 50,000/-.**



(h) The chairperson appointed for the aforesaid meetings shall issue notices or shall authorise any officer of the company to issue notices of the aforesaid meetings. The said chairperson shall have all powers under the Companies (Compromises, Amalgamations and Amalgamation) Rules, 2016 in relation to conduct of the meetings including for deciding procedural questions that may arise or at any adjournment thereof or any other matter including an amendment to the Scheme, if any proposed at any meeting by any person(s).

(i) The Chairperson to file an affidavit not less than seven days before the date fixed for the holding of the meetings to report this Tribunal that the direction regarding the issue of notices and the advertisement of the applicants and all other directions given in this Order have been duly complied with as per Rule 12 of the Companies (Compromises, Amalgamations and Amalgamation) Rules, 2016.

(j) The Chairperson do report to this Tribunal the results of the said meetings within four weeks from the date of the conclusion of the said meetings and respective reports shall be in Form CAA 4 as per Rule 14 of the Companies (Compromises, Amalgamations and Amalgamation) Rules, 2016, verified by his Affidavit.

(k) In view of the consent affidavits given by all the equity shareholders of the First, Second and Third Transferor Companies, the requirement of holding and convening meeting of the equity

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shareholders of the First, Second and Third Transferor Companies, to consider and, if thought fit, to approve, with or without modification, the Scheme, is dispensed with.

(l) In view of the fact that there are no secured creditors in the First, Second and Third Transferor Companies, the requirement of holding and convening meeting of the secured creditors of the First, Second and Third Transferor Companies, to consider and, if thought fit, to approve, with or without modification, the Scheme, is dispensed with.

(m) In view of the fact that there are no unsecured creditors in the First, Second and Third Transferor Companies, the requirement of holding and convening meeting of the unsecured creditors of the First, Second and Third Transferor Companies, to consider and, if thought fit, to approve, with or without modification, the Scheme is dispensed with.

(n) All Petitioner Companies at least 7 days before the date of hearing of the petition shall file affidavit of service of notice on the Authorities specified above including the Sectoral Regulators.

(o) The authorised representative of the Applicant Companies shall furnish an affidavit of compliance of all directions contained. The applicants are directed to file **confirmation petition** within **four weeks** from the date of the order.

Sd/-

(p) That the Transferee Company and the Transferor Companies shall affirm by way of affidavit that no investigation or proceedings under the Companies Act, 1956 or Companies Act, 2013 have been instituted or are pending in relation to the Transferee Company and the Transferor Companies.

(q) Parties and Chairperson to act on the Order.

22. **CA (CAA) No. 1154/ KB of 2018 is disposed of** accordingly.

23. There shall be no orders as to cost.

24. Urgent certified copies of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

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2/4/19.

(Jinan K.R.)

Member (Judicial)

Signed this 02nd day of April, 2019.

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