THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

COMPANY PETITION Nos.312 & 313 of 2015

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Date:16.12.2015

C.P.No.312/2015

Between:

M/s. Penna Cement Industries Limited

R/o. Lakshmi Nivas Plot No.705,

Road No.3, Banjara Hills,

Hyderabad-500 034, Telangana

Rep. by its Director (Finance)

Sri Petluru Venugopal Reddy

………. Petitioner/

Transferor Company

C.P.No.313/2015

Between:

M/s. PCIL Power and Holdings Limited

R/o. Lakshmi Nivas

H.No.8-2-268/A/1/S & S1,

Plot No.705, Road No.3, Banjara Hills,

Hyderabad, Telangana

Rep. by its Director Sri V.R. Vasudevan

……Petitioner/

Transferee/Resulting Company

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COMMON ORDER:

C.P.No.312 of 2015 is filed by M/s. Penna Cement Industries Limited (Transferor/Demerged Company) and C.P.No.313 of 2015 is filed by M/s. PCIL Power and Holdings Limited (Transferee/Resulting Company) for sanction of the proposed scheme of arrangement between itself and the Resulting Company and their respective shareholders.

In C.P.No.312 of 2015 the Demerged Company averred that it was incorporated under the Act on 24.10.1991 with its registered office situated at Lakshmi Nivas, Plot No.705, Road No.3, Banjara Hills, Hyderabad, Telangana; that its authorized share capital as on 31.03.2015 is Rs.90,00,00,000/- divided into 9,00,00,000 equity shares of Rs.10/- each; that the issued, subscribed and paid up capital as on 31.03.2015 is Rs.13,38,00,000 divided into 1,33,80,000 equity shares of Rs.10/- each; that its main objects as set out in the Memorandum of Association are to produce, manufacture, refine, prepare, process, purchase, import, export, sell and generally to deal in all kinds of cement, cement products of any description, lime, limestone, gypsum, kankar and/or by-products thereof, etc.; and that it has 33 equity shareholders, 9 secured creditors and 8,287 unsecured creditors, out of whom 1,781 unsecured creditors having outstanding balance of Rs.1 lakh or above constitute 90% of the total outstanding amount of Rs.173.97 crores.

Therefore, the Demerged Company filed Comp.A.No.1298 of 2015 to convene the meetings of the equity shareholders, secured creditors and unsecured creditors of the Company. This Court by order, dated 24.08.2015 allowed the said

Company Application.

In C.P.No.313 of 2015 the Resulting Company averred that it was incorporated under the Act on 20.02.2003 with its registered office situated at Lakshmi Nivas, H.No.8-2-268/A/1/S, Plot No.705, Road No.3, Banjara Hills, Hyderabad, Telangana; that its authorized share capital as on 31.03.2015 is Rs.5,00,00,000/- divided into 50,00,000 equity shares of Rs.10/- each; that the issued, subscribed and paid up capital as on 31.03.2015 is Rs.5,00,000 divided into 50,000 equity shares of Rs.10/- each; that its main objects as set out in the Memorandum of Association, are to generate, harness, develop, accumulate, distribute, transmit and supply electricity by setting up power plants for th purpose of light, heat, motive power and fall other purposes for which electric energy can be employed, etc.; and that it has no secured and unsecured creditors and that it has seven equity share holders and all of them have given their No Objection affidavits to the proposed Scheme of Arrangement.

Therefore, the Resulting Company filed Comp.A.No.1299 of 2015 to dispense with conducting the meetings of its equity shareholders and this Court by order, dated 24.08.2015 allowed the said Company Application as all the share holders have given their no objection by means of affidavits.

The rationale of the proposed Scheme of Arrangement is to create a pure play cement manufacture with the intention of propelling collaboration, expansion and consolidation within the cement industry; that the demerger would assist in greater visibility of performance of individual businesses and attribution of appropriate value based on their respective risk-return profile and cash flows; and that the demerger of demerged undertaking would facilitate opportunity for induction of Joint Venture partner and/or pursue inorganic and organic growth opportunities by Penna Cement and would enable the management of both the companies to have more focus on their respective business verticals.

Both the Companies further pleaded that anticipating the above benefits, their Board of Directors in their respective meetings held on 13.08.2015 have resolved to approve the proposed Scheme of Arrangement and fixed the appointed date as 01.04.2015.

Both the Companies further pleaded that the reduction of shares shall be effected by canceling 50,000 equity shares of Rs.10/- each in the books of account of Resulting Company and no payment shall be made to the shareholders in respect of the equity shares, which are cancelled.

This Court by order, dated 04.11.2015 in both the Company Petitions ordered notices of the Company Petitions to the Regional Director, South Eastern Region, Ministry of Corporate Affairs, Hyderabad. Advertisement was also ordered in both the Company Petitions to be published in two newspapers, *viz*., 'Business Standard' (English daily) and 'Andhra Bhoomi' (Telugu daily) of Hyderabad edition having circulation in the State of Telangana.

In pursuance of the said order, the respective Companies carried out publications in the newspapers and filed proof of such publications through affidavit, dated 15.12.2015, vide USR.Nos.6424 and 6425 of 2015 and no objections/claims are stated to have been received.

In response to the notice, the Regional Director has submitted his report. In the common report, dated 11.12.2015, the Regional Director *inter alia* stated that in pursuance of General Circular No.1 of 2014, dated 15.01.2014, issued by the Ministry of Corporate Affairs, New Delhi, comments from the Income Tax Department were invited by him through letter, dated 10.11.2015, however no comments/objections of the Income Tax Department were received till date; that the Demerged Company and Resulting Company involved in the scheme of arrangement are regular in filing the statutory returns and no complaints, no investigation and no inspection are pending against both the Companies.

Having regard to the report of the Regional Director, South Eastern Region, Ministry of Corporate Affairs, Hyderabad, and all the shareholders of the respective companies have given their consent affidavits and no objections/claims have been received in pursuance of the advertisement got published by the Demerged Company and Resulting Company in the newspapers, this Court is of the opinion that the proposed scheme of arrangement is in conformity with the provisions of the Act and the same does not in any manner affect the interests of any of the stake holders including the public.

Therefore, the proposed Scheme of Arrangement between M/s. Penna Cement Industries Limited (Demerged Company) and M/s. PCIL Power and Holdings Limited (Resulting Company) is sanctioned with effect from the appointed date i.e., 01.04.2015. The petitioners in respective company petitions shall, , within 30 days of receipt of a copy of this order, cause a certified copy of this order to be delivered to the Registrar of Companies, Hyderabad and take all other consequential actions in pursuance of the approval of the scheme of arrangement.

Accordingly, the Company Petitions are allowed.

JUSTICE CHALLA KODANDA RAM

16th December, 2015

Js.